

MTA Board Meeting

Wednesday, 9/30/2026

9:00 AM - 12:00 PM ET

1. PUBLIC COMMENT PERIOD

2. SPECIAL PRESENTATION

3. APPROVAL OF MINUTES

July Meeting Minutes - Page 2

4. COMMITTEE ON CAPITAL PROGRAM

a. Procurements

C&D September 2026 Procurements - Page 9

5. COMMITTEE ON METRO-NORTH RAILROAD & LONG ISLAND RAIL ROAD

a. Procurements

MNR September 2026 Procurements - Page 20

LIRR September 2026 Procurements - Page 29

6. COMMITTEE ON NYCT & BUS (No Items)

7. COMMITTEE ON DIVERSITY (No Items)

8. COMMITTEE ON MTA BRIDGES & TUNNELS OPERATIONS

a. Action Item

Staff Summary & WIM Resolution 9-29-26 - Page 41

9. COMMITTEE ON FINANCE

a. Procurements

MTAHQ September 2026 Competitive Procurement - Page 48

MTAHQ September 2026 Procurement Report - Page 51

b. Real Estate Items

Real Estate September 2026 Action Items - Page 55

Real Estate September 2026 Info Items - Page 174

Joint Minutes of the Metropolitan Transportation Authority, the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Rapid Transit Operating Authority, the Metropolitan Suburban Bus Authority, the Triborough Bridge and Tunnel Authority, the Long Island Rail Road Company, Metro-North Commuter Railroad Company, MTA Construction and Development Company, the MTA Bus Company, Grand Central Madison Operating Company, and the First Mutual Transportation Assurance Company

**Regular Board Meeting Minutes
July 29, 2026
9:00 AM
2 Broadway
New York, New York**

The following Board Members were present:

Hon. Janno Lieber, Chair & CEO
Hon. Samuel Chu
Hon. Michael Fleischer
Hon. Daniel Garodnick
Hon. Marc Herbst
Hon. David Jones
Hon. Christopher Leathers
Hon. Haeda B. Mihaltses
Hon. Melva M. Miller
Hon. James O'Donnell
Hon. Dr. John-Ross Rizzo
Hon. Janette Sadik-Khan
Hon. John Samuelsen
Hon. Lisa Sorin
Hon. Edward Valente
Hon. Neal Zuckerman

The following alternate non-voting members were present:

Hon. Andrew Albert
Hon. Gerard Bringmann
Hon. Randolph Glucksmann

The following Board Members were not present:

Hon. Melanie Hartzog
Hon. Blanca Lopez
Hon. Matt Rand

Paige Graves, General Counsel, John McCarthy, Chief of External Relations & Policy, Lisette Camilo, Chief Administrative Officer, Jai Patel, Chief Financial Officer, Anita Miller, Chief Labor and Employee Relations Officer, Robert Free, LIRR President, Jamie Torres-Springer, MTA C&D President, Shanifah Rieara, Senior Advisor for Communications and Policy/Chief

Customer Officer, Catherine Sheridan, TBTA President, Demetrius Crichlow, New York City Transit President, Michael Kemper, Chief Security Officer, Monica Murray, Auditor General, also attended this meeting.

Chair Lieber called to order the July 2026 Board meeting.

A safety announcement was made.

1. PUBLIC SPEAKERS.

The following public speakers commented (*live virtual comments):

Iris Kelly, Disabled in Action
Matty Buchys Hyland, private citizen
Gian Padula, NYC Public Schools
Alexander Kemp*, TWU Local 100
Andy Pollack*, Passengers United
Lisa Daglian, PCAC
Michael Ring, Disabled in Action
Avrohom Weinstock, Agudath Israel of America
Montoya Clemmons*, private citizen
David Kupferberg, Passengers United
John Erickson, private citizen
Anna Humphrey, Center for Independence of the Disabled, New York
Aleta Dupree*, Team Folds
Rita Friedman, private citizen
Khalia Hayslett, private citizen
Rhannon Murphy, private citizen
Miriam Fisher*, private citizen
Vincent Pedulla*, NYCPS UFT
Bella Sabel, private citizen
Lauren Schandavel, Jobs to Move America
Debra Greif, private citizen
Charlton D'Souza*, Passengers United
Crispin Drakes, TWU Local 100
Mr. X, private citizen
Christopher Greif, private citizen

Refer to the video recording of the meeting produced by the MTA and maintained in MTA records for the details.

2. CHAIR'S REMARKS.

Chair Lieber opened the meeting by thanking the members of the public who provided comments.

He then previewed Chief Financial Officer Jai Patel's upcoming presentation on the MTA's July Financial Plan. Chair Lieber reported that the MTA budget remains balanced for 2026 and noted that the commitment made to Governor Hochul in 2023—four consecutive years of balanced budgets—has been achieved. He recognized the operating agencies and the Office of Strategic Initiatives for delivering \$600 million in annual savings. Chair Lieber cautioned that deficits are projected to return in 2027 due to external factors such as rising healthcare costs and geopolitical conditions affecting fuel prices. He reminded Board Members that the MTA continues to face a structural deficit and emphasized that leadership has begun early conversations with policymakers and stakeholders to ensure awareness of future challenges.

Chair Lieber highlighted the MTA's growing partnership with the City of New York to improve bus service. Together with Mayor Mamdani and Governor Hochul, the MTA released the Next Stop Bus Action Plan. He noted that NYC DOT, led by Commissioner Mike Flynn, has begun advancing long-delayed infrastructure commitments, including dedicated bus lanes on Fordham Road, with additional improvements anticipated across priority corridors. He stressed the importance of enhanced enforcement to prevent bottlenecks and maintain bus reliability.

Chair Lieber also recognized positive action by the New York City Council, which approved transit-oriented development on MTA-owned property at Monitor Point in Greenpoint, Brooklyn. The project will deliver over 1,000 new housing units, including affordable and senior housing, and fund transit upgrades such as ADA improvements at the Nassau Avenue G station and a new turnkey MTA facility in the North Brooklyn Industrial Business Zone.

He briefed the Board on several major capital projects underway this summer, including:

- Completion of the final track installation for the Park Avenue Viaduct project, finished five years ahead of schedule and \$195 million under budget.
- Opening of the newly relocated Yaphank–Brookhaven National Lab LIRR station.
- Ongoing design work for the Interborough Express (IBX), which will connect Brooklyn and Queens along a 14-mile route with ADA accessibility at every station from opening day.

In recognition of Disability Pride Month, Chair Lieber reaffirmed the MTA's year-round commitment to accessibility and noted continued expansion of accessible stations. He summarized recent developments, including the use of congestion pricing revenues to fund ADA upgrades at five additional Brooklyn subway stations and the settlement of a long-standing lawsuit with disability advocates, scheduled to be signed following adjournment of the meeting.

Chair Lieber recognized General Counsel Paige Graves, who is stepping down after four years in the role and fourteen years at the MTA, and invited Board Members to offer their acknowledgments and thanks.

General Counsel Paige Graves confirmed that a quorum of members was present.

3. PRESENTATION ON JULY FINANCIAL PLAN.

Jai Patel, Chief Financial Officer, provided a special presentation on the MTA's July 2026 Financial Plan. This provides a mid-year update to the financial plan that Board adopted in December 2025, and it serves as the foundation for the development of the 2027 preliminary budget.

Refer to the video recording of the meeting, produced by the MTA and maintained in MTA records for details and for Board members' questions and comments.

4. PRESENTATION ON ACCESSIBILITY.

Quemuel Arroyo, Chief Accessibility Officer, and Rachel Cohen, Vice President of Paratransit at New York City Transit, provided a special presentation on the MTA's journey toward full accessibility in honor of Disability Pride Month.

Refer to the video recording of the meeting, produced by the MTA and maintained in MTA records for details and for Board members' questions and comments.

5. PRESENTATION ON SUBWAY BOTTLENECKS REPORT.

Alyssa Cobb Konan, Chief Design Officer for Planning at MTA Construction & Development, and Liam O'Connell, Senior Planner, Asset Planning at MTA Construction & Development, provided a special presentation on the MTA's report on subway bottlenecks.

Refer to the video recording of the meeting, produced by the MTA and maintained in MTA records for details and for Board members' questions and comments.

6. MINUTES.

Upon motion duly made and seconded, the Board approved the minutes of the Board meeting held on June 24, 2026, as distributed.

7. SAFETY COMMITTEE.

The Safety Committee did not have any items for Board approval.

8. TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY COMMITTEE.

Upon motion duly made and seconded, the Board approved the following item:

- TransCore LP: Contract award for the All-Electronic Open-Road Tolling system; modification in order to extend the contract term, upgrade, and maintain the existing Open Road Toll collection system so that it aligns with the capacity and functional capabilities of the Central Business District Tolling system.

Refer to the staff summary and documentation filed with the records of this meeting, and the video recording of the meeting, produced by the MTA and maintained in MTA records for details on the approved items.

9. JOINT LONG ISLAND RAIL ROAD AND METRO-NORTH RAILROAD COMMITTEE.

The Joint Railroad Committee did not have any items for Board approval.

10. NEW YORK CITY TRANSIT COMMITTEE.

Upon motion duly made and seconded, the Board approved the following item:

- New Flyer of America, Inc.: The item includes three (3) contract modifications with New Flyer of America, Inc. in order to substitute 85 hybrid buses for 85 battery-electric buses, accelerate the delivery of existing bus orders and exercise an option for the purchase of 425 low-floor 60-foot clean diesel buses, totaling \$554.8 million.

Refer to the staff summary and documentation filed with the records of this meeting, and the video recording of the meeting, produced by the MTA and maintained in MTA records for details on the approved items.

11. CAPITAL PROGRAM COMMITTEE.

Upon motion duly made and seconded, the Board approved the following 9 actions totaling \$498.2 million:

- RFP Authorizing Resolution: Declaring competitive bidding impractical or inappropriate, pursuant to the New York Public Authorities Law and the All-Agency General Procurement Guidelines, and that it is in the public interest to authorize C&D to issue a competitive Request for Proposals (“RFP”) in lieu of sealed bids for the award of the contract for the systems, finishes, entrances and ancillary buildings for Second Avenue Subway - Phase 2 (“Contract 4”).
- Skanska USA Civil Northeast, Inc.: Design-Build Services for LIRR West Side Yard Flood Mitigation Measures.
- Scalamandre-Gramercy JV II: Design-Build Services for LIRR ADA Improvements Package III – Floral Park and Bellerose Stations.
- ECCO II Enterprises, Inc. and Atta Elevators: Design-Build Services for ADA Upgrades and Station Renewals at 3rd Ave – 138th Street and Brook Avenue Stations – Pelham (6) Line.
- American Bridge / Commodore JV (Fort Lee, NJ): Structural Rehabilitation of the East River Suspended Spans and Anchorages at the RFK Bridge.
- Parsons Transportation Group of New York (New York, NY): Consultant Construction Management and Inspection Services for CBTC West Phase I Signal System Modernization on the QBL Line.

- Phase 2 Partnership, a Joint Venture of WSP USA Inc. and STV Incorporated (New York NY): Design Consultant for Phase 2 of the Second Avenue Subway.
- Atkins-HNTB JV (New York, NY): General Engineering Services for NYC Transit Communications Based Train Control.

Refer to the staff summary and documentation filed with the records of this meeting, and the video recording of the meeting, produced by the MTA and maintained in MTA records for details on the approved items.

12. COMMITTEE ON FINANCE.

Upon motion duly made and seconded, the Board approved the following items:

- **Owner Controlled Insurance Program (OCIP):** The action item requests Board approval for the placement of an Owner Controlled Insurance Program (OCIP) for Second Avenue Subway Phase II, Contracts 3 and 4, with a not-to-exceed cost of \$151.5 million.
- **Miller Advertising Agency:** Contract modification of a competitively negotiated personal services contract with Miller Advertising Agency, increasing the aggregate contract amount by \$3 million.

Real Estate

- Lease with DKG Group, Inc. for a travel/convenience store at the Queens Plaza Subway Station in Long Island City, NY.
- Authorization to acquire property interests by negotiation or eminent domain for the Harmon to Poughkeepsie Signal System Phase II Project in Westchester, Putnam, and Dutchess Counties.
- Lease with Newburgh Industrial Associates, LLC for warehouse space at 3 Enterprise Drive, Newburgh, NY.
- Lease with Westbury Station Market, Inc. for the retail unit at Westbury Station in Westbury, NY.
- Lease with Rockville Centre Station Market, Inc. for the rental unit at Rockville Centre Station in Rockville Centre, NY.

Refer to the staff summary and documentation filed with the records of this meeting, and the video recording of the meeting, produced by the MTA and maintained in MTA records for details on the approved items.

13. AUDIT COMMITTEE.

Upon motion duly made and seconded, the Board approved the following items:

- The 2025 Management Letter Reports;
- The Single Audit Report;
- The Pension Audits; and

- The First Quarter 2026 consolidated financial statements.

Refer to the staff summary and documentation filed with the records of this meeting, and the video recording of the meeting, produced by the MTA and maintained in MTA records for details on the approved items.

14. ADJOURNMENT.

Paige Graves thanked Board Members for their partnership throughout her tenure as General Counsel at the MTA and delivered brief remarks in recognition of her last Board meeting.

Upon motion duly made and seconded, the Board voted to adjourn the meeting.

Contracts Department

Evan Eisland, Executive Vice President and General Counsel

PROCUREMENT PACKAGE SEPTEMBER 2026

PROCUREMENTS

The Procurement Agenda this month includes 22 actions for a proposed expenditure of \$ 34.4 M.

Staff Summary

Page 1 of 2

Subject Request Authorization for Several Procurement Actions					
Contracts Department					
Evan Eisland, Executive Vice President and General Counsel					
Board Action					
Order	To	Date	Approval	Info	Other
1	Capital Program Committee	9/28/26	X		
2	Board	9/30/26	X		

Date: September 21, 2026			
Internal Approvals			
	Approval		Approval
X	Deputy Chief Development Officer, Delivery	X	President
X	Deputy Chief Development Officer, Development	X	Executive Vice President & General Counsel

Purpose

To obtain the approval of the Board to award several procurement actions and to inform the Capital Program Committee of these procurement actions.

Discussion

MTA Construction & Development proposes to award Competitive Procurements in the following categories:

<u>Schedules Requiring Two-Thirds Vote</u>	<u># of Actions</u>	<u>\$</u>	<u>Amount</u>
A. Non-competitive Purchases and Public Work Contracts	1	\$	0
SUBTOTAL	1	\$	0

MTA Construction & Development proposes to award Competitive Procurements in the following categories:

<u>Schedules Requiring Two-Thirds Vote</u>	<u># of Actions</u>	<u>\$</u>	<u>Amount</u>
B. Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)	1	\$	TBD
SUBTOTAL	1	\$	TBD

<u>Schedules Requiring Majority Vote</u>	<u># of Actions</u>	<u>\$</u>	<u>Amount</u>
L. Budget Adjustment to Estimated Quantities Contracts	20	\$	34,350,000
SUBTOTAL	20	\$	34,350,000
TOTAL	22	\$	34,350,000

Budget Impact

The approval of these procurement actions will obligate capital and operating funds in the amounts listed. Funds are available in the capital program and operating budgets for this purpose.

Recommendation

That the procurement actions be approved as proposed. (The items are included in the resolution of approval at the beginning of the Procurement Section.)

MTA Construction & Development

BOARD RESOLUTION

WHEREAS, in accordance with Sections 559, 2879, 1209 and 1265-a of the Public Authorities Law and the All Agency General Contract Procurement Guidelines, the Board authorizes the award of certain non-competitive purchase and public works contracts, and the solicitation and award of request for proposals in regard to purchase and public work contracts; and

WHEREAS, in accordance with the All Agency Service Contract Procurement Guidelines and the All Agency General Contract Procurement Guidelines, the Board authorizes the award of certain non-competitive miscellaneous service and miscellaneous procurement contracts, certain change orders to purchase, public work, and miscellaneous service and miscellaneous procurement contracts; and

WHEREAS, in accordance with Section 2879 of the Public Authorities Law and the All-Agency Guidelines for Procurement of Services, the Board authorizes the award of certain service contracts and certain change orders to service contracts.

NOW, the Board resolves as follows:

1. As to each purchase and public work contract set forth in annexed Schedule A, the Board declares competitive bidding to be impractical or inappropriate for the reasons specified therein and authorizes the execution of each such contract.
2. As to each request for proposals (for purchase and public work contracts) set forth in Schedule B for which authorization to solicit proposals is requested, for the reasons specified therein, the Board declares competitive bidding to be impractical or inappropriate, declares it is in the public interest to solicit competitive request for proposals and authorizes the solicitation of such proposals.
3. As to each request for proposals (for purchase and public work contracts set forth in Schedule C for which a recommendation is made to award the contract), the Board authorizes the execution of said contract.
4. As to each action set forth in Schedule D, the Board declares competitive bidding impractical or inappropriate for the reasons specified therein, and ratifies each action for which ratification is requested.
5. The Board authorizes the execution of each of the following for which Board authorization is required: i) the miscellaneous procurement contracts set forth in Schedule E; ii) the personal service contracts set forth in Schedule F; iii) the miscellaneous service contracts set forth in Schedule G; iv) the modifications to personal/miscellaneous service contracts set forth in Schedule H; v) the contract modifications to purchase and public work contracts set forth in Schedule I; vi) the modifications to miscellaneous procurement contracts set forth in Schedule J.
6. The Board ratifies each action taken set forth in Schedule K for which ratification is requested.

SEPTEMBER 2026

LIST OF NON-COMPETITIVE ACTIONS FOR BOARD APPROVAL

Procurements Requiring Two-Thirds Vote:

Schedule A. Non-Competitive Purchases and Public Work Contracts
(Staff Summaries required for all items greater than: \$1M.)

**1. Siemens Mobility, Inc.
Contract No. W32813**

MTA Construction and Development requests that the Board approve an extension to the contract term of 275 days to facilitate equipping the R160 and R179 subway fleets with 5G DCS equipment. There is no change in price associated with this extension.

Staff Summary

Schedule A: Non-Competitive Purchases and Public Work Contracts

Page 1 of 1

Item Number: 1

Vendor Name (& Location) Siemens Mobility, Inc.	Contract Number W32813	Renewal? ☐ Yes ☒ No
Description ATS-B Upgrades and Deployment of 5G Equipment on the R160 and R179 Fleets	Total Amount: \$120,950,000	
Contract Term (including Options, if any) 1,370 Calendar Days	Funding Source ☐ Operating ☒ Capital ☐ Federal ☐ Other:	
Option(s) included in Total Amount? ☐ Yes ☐ No ☒ N/A	Requesting Dept/Div & Dept/Div Head Name: Delivery, Gregoire Sulmont, Senior Vice President, Signals and Train Control	
Procurement Type ☐ Competitive ☒ Non-competitive		
Solicitation Type ☒ RFP ☐ Bid ☐ Other:		

ACTION REQUESTED:

MTA Construction and Development (“C&D”) requests that the Board amend its prior approval of a non-competitive contract for upgrades to New York City Transit’s (“NYCT’s”) Automatic Train Supervision system for its B-Division (the “Contract”) and approve an extension to the Contract term by 275 days to facilitate equipping the R160 and R179 subway fleets with 5G DCS equipment.

DISCUSSION:

In March 2026, the Board approved an award to Siemens Mobility, Inc. to provide for the development and implementation of enhancements to the Automatic Train Supervision system for NYCT’s B-Division and installation of 5G-based carborne Data Communication System (“DCS”) equipment for 347 R160 and 73 R179 subway trains to enable these trains to operate on the Crosstown, Fulton-Liberty, and 6th Avenue/63rd Street lines as they become equipped for Communications Based Train Control. The duration of the contract reported to the Board of 1,095 days, inadvertently omitted the additional time required to equip the R160 and R179 subway car fleets with 5G DCS equipment. Accounting for this work will extend the Contract term from the originally reported duration of 1,095 days to a duration of 1,370 calendar days but does not otherwise alter the terms or price of the Contract. Authorization is requested to award the Contract based upon the corrected duration.

SEPTEMBER 2026

LIST OF COMPETITIVE ACTIONS FOR BOARD APPROVAL

Procurements Requiring Two-Thirds Vote:

Schedule B. Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)

(Staff Summaries required for all items estimated to be greater than \$1M.)

- | | | | |
|----|--|--------------|--------------------------------------|
| 2. | TBD
Contract No. C40521 | \$TBD | <u>Staff Summary Attached</u> |
|----|--|--------------|--------------------------------------|

MTA Construction and Development requests that the Board adopt a resolution declaring competitive bidding impractical or inappropriate, pursuant to the New York Public Authorities Law and the All-Agency General Procurement Guidelines, and that it is in the public interest to authorize C&D to issue a competitive Request for Proposals in lieu of sealed bids for the award of the contract for the rehabilitation of essential structures and systems at the Michael J. Quill Bus Depot in Manhattan.

Procurements Requiring Majority Vote:

Schedule L. Budget Adjustments to Estimated Quantity Contracts

(Expenditures which are anticipated to exceed \$1,000,000, including any contract modifications.)

- | | | | |
|-------|--|---------------------------------|--------------------------------------|
| 3-12. | Various
Contracts Nos. CM-1641 – CM-1648, CM-1705, CM-1706 | \$20,000,000 (aggregate) | <u>Staff Summary Attached</u> |
| | a. Core Environmental Consultants
b. EnTech Engineering, PC
c. EPM-HVA Joint Venture
d. LiRo Engineers, Inc.
e. STV Incorporated | | |

MTA Construction and Development requests that the Board approve an increase of the total aggregate budget for its series of indefinite quantity contracts for asbestos and lead disturbance management and air monitoring services.

- | | | | |
|--------|--|---------------------------------|--------------------------------------|
| 13-22. | Various
Contracts Nos. D81691, D81694 – D81700, D81702, D81703 | \$14,350,000 (aggregate) | <u>Staff Summary Attached</u> |
| | a. AI Engineers, Inc.
b. Enovate Engineering, PLLC
c. EnTech Engineering, PC
d. Garg Consulting Services, Inc.
e. Gedeon Engineering, PC
f. Infrastructure Engineering, Inc. PC
g. Kheops Architecture, Engineering & Survey, DPC
h. KS Engineering, P.C.
i. PACO Group, Inc.
j. Ronnette Riley Architect | | |

MTA Construction and Development requests that the Board approve an increase of the total aggregate budget for its series of indefinite quantity contracts with New York State-certified Minority and Women-Owned Business Enterprises and Service-Disabled Veteran-Owned Businesses for architectural and engineering design, project management and inspection services.

Staff Summary

Schedule B: Request to Use RFP for Procurement of Purchase and Public Works in lieu of Sealed Bids

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Item Number 2					
Department, Department Head Name: Delivery, Peter Kohner, SVP, Program Executive, Infrastructure					
Board Reviews					
Order	To	Date	Approval	Info	Other
1	Capital Program Committee	09/28/26	X		
2	Board	09/30/26	X		
Internal Approvals					
Order	Approval	Order	Approval		
X	Deputy Chief, Development	X	Executive Vice President & General Counsel		
X	Deputy Chief, Delivery	X	President		

SUMMARY INFORMATION	
Vendor Name	Contract Number
RFP Authorizing Resolution	C40521
Description	
Michael J. Quill Bus Depot: Rehabilitation of Essential Structures and Systems	
Total Amount	
To Be Determined	
Contract Term (including Options, if any)	
To Be Determined	
Option(s) included in Total Amount?	☐ Yes ☐ No
Renewal?	☐ Yes ☒ No
Procurement Type	
☒ Competitive ☐ Noncompetitive	
Solicitation Type	
☒ RFP ☐ Bid ☐ Other:	
Funding Source	
☐ Operating ☒ Capital ☐ Federal ☐ Other:	

ACTION REQUESTED

MTA Construction and Development ("C&D") requests that the Board adopt a resolution declaring competitive bidding impractical or inappropriate, pursuant to the New York Public Authorities Law and the All-Agency General Procurement Guidelines, and that it is in the public interest to authorize C&D to issue a competitive Request for Proposals ("RFP") in lieu of sealed bids for the award of the contract for the rehabilitation of essential structures and systems at the Michael J. Quill ("MJQ") Bus Depot in Manhattan.

DISCUSSION

The Michael J. Quill Bus Depot operates 24 hours a day, seven days a week, supporting approximately 269 buses. It is also an aging facility with widespread structural deterioration. This project addresses this deterioration by delivering essential structural, architectural, mechanical, electrical, environmental, and life-safety-system rehabilitation. The scope includes repairing deteriorated concrete, replacing expansion joints, installing new structural steel framing on the West ramp, and restoring critical building finishes and systems.

All construction activities must be executed while maintaining full depot operations, ensuring employee safety, and preserving uninterrupted bus circulation on both the east and west sides of the facility. In order to ensure that the selected contractor can address the complex technical and integration issues associated with this Contract, C&D must be able to evaluate, along with price, proposers' technical qualifications, approaches and proposed project schedules to ensure the MTA receives the best value for this work, which cannot be done through a sealed bid process. Rather a competitive RFP is the appropriate procurement process for this work.

M/W/DBE INFORMATION

MTA's Department of Diversity and Civil Rights will assign applicable goals prior to issuance of the Request for Proposals.

IMPACT ON FUNDING

Funding for the Contract will be from NYCT's portion of the 2025-2029 Capital Program.

ALTERNATIVES

The use of a sealed bid process, in which factors other than cost and project duration cannot be considered, is not recommended as it does not provide the flexibility to assess proposers' technical approaches and project schedules for accomplishing this project in a complex environment. An RFP is a better means to evaluate and consider alternative proposals or creative solutions. A negotiated procurement in this situation would better serve the public interest and offer C&D the best overall value.

RECOMMENDATION

That the Board adopt a resolution declaring competitive bidding impractical or inappropriate and that it is in the public interest to authorize C&D to issue competitive Requests for Proposals in lieu of sealed bids for the award of the contract for the rehabilitation of essential structures and systems at the Michael J. Quill Bus Depot in Manhattan.

Staff Summary

Schedule L: Budget Adjustments to Estimated Quantity Contracts

Page 1 of 1

Item Number: **3-12**

Vendor Name: Various	Original Amount: \$ 100,000,000
	Prior Modifications: \$ 0.00
Contracts Numbers: CM-1641 – CM-1648, CM-1705, CM-1706	Prior Budgetary Increases: \$ 0.00
	Current Amount: \$ 100,000,000
Description: All-Agency Indefinite Quantity Asbestos and Lead Disturbance Management and Air Monitoring Services	This Request: \$ 20,000,000
Contract Term (including Options, if any): April 7, 2022 – April 30, 2027	% of This Request to Current Amount: 20%
Requesting Dept/Div & Dept/Div Head Name: Delivery, Mark Roche, Deputy Chief Development Officer	% of Modifications (including This Request) to Original Amount: 20%

DISCUSSION:

MTA Construction and Development (“C&D”) requests that the Board approve an increase of the total aggregate budget for its series of indefinite quantity contracts for Asbestos and Lead Disturbance Management and Air Monitoring Services in the amount of \$20 million.

On March 30, 2022, the Board approved the award of ten publicly solicited and competitively negotiated zero-dollar, indefinite quantity contracts to provide asbestos and lead disturbance management and air monitoring services on an as-needed basis for a period of 36 months and an aggregate budget of \$100 million. One federal and one state contract was awarded to each of Core Environmental Consultants, EnTech Engineering, PC, EPM-HVA Joint Venture, LiRo Engineers, Inc. and STV Incorporated. These contracts form a pool of pre-qualified environmental teams to compete for task orders. In April 2025, the contracts were extended for an additional 24 months to April 30, 2027. To date, 457 task orders have been issued with a total value of \$95.1 million.

This budget adjustment will support the continuing need for hazardous materials abatement services while a replacement series is procured.

Staff Summary

Schedule L: Budget Adjustments to Estimated Quantity Contracts

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Item Number: **13-22**

Vendor Name: Various	Original Amount:	\$	30,000,000
	Prior Modifications:	\$	0.00
Contracts Numbers: D81691, D81694 – D81703	Prior Budgetary Increases:	\$	0.00
	Current Amount:	\$	30,000,000
Description: All Agency Discretionary Contract Utilizing New York State Certified Minority and Women-Owned Business Enterprises and Service-Disabled Veteran-Owned Businesses for Architectural and Engineering Design, Project Management and Inspection Services	This Request:	\$	14,350,000
Contract Term (including Options, if any): October 21, 2022 – October 31, 2027	% of This Request to Current Amount:		47.8%
Requesting Dept/Div & Dept/Div Head Name: Delivery, Mark Roche, Deputy Chief Development Officer	% of Modifications (including This Request) to Original Amount:		47.8%

DISCUSSION:

MTA Construction and Development (“C&D”) requests that the Board approve an increase in the total aggregate budget for its series of discretionary contracts with New York State-certified Minority and Women-Owned Business Enterprises (“MWBE”) and Service-Disabled Veteran-Owned Businesses (“SDVOB”) for architectural and engineering design, project management and inspection services. The requested budget increase is in the amount of \$14,350,000.

On September 21, 2022, the Board approved the award of 13 publicly solicited and competitively negotiated zero-dollar indefinite quantity contracts to AI Engineers, Inc., Arora Engineers, LLC (“Arora”), CSA Group NY Architects and Engineers, P.C. (“CSA”), Enovate Engineering, PLLC, EnTech Engineering, PC, Garg Consulting Services, Inc., Gedeon Engineering, PC, Infrastructure Engineering, Inc. PC, Kheops Architecture, Engineering & Survey, DPC, KS Engineering, P.C., Naik Consulting Group (“Naik”), PACO Group, Inc., Ronnette Riley Architect. The term of each contract was 36 months and the total aggregate budget approved by the Board was \$30 million. On October 24, 2025, a 24-month extension of the Contracts was approved for ten of the firms. The remaining three firms, Arora, CSA and Naik, no longer met the minority certification requirements.

To date, 55 task orders have been issued with a total value of \$33,476,598.57. This modification increases the aggregate budget by \$14,350,000 to \$44,350,000 to fund nine task orders that will exceed the original aggregate budget and provide additional budget to allow for continued use of these MWDBE and SDVOB firms in Capital Program while a replacement contract series is procured. C&D anticipates awarding the replacement contracts in the fourth quarter of 2027.

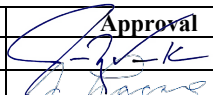
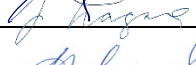
Metro-North Railroad Procurements

Thomas Voytek, Acting Assistant Deputy Chief Procurement Officer – MTA Office of the Chief Procurement Officer

PROCUREMENTS

The Procurement Agenda this month includes 2 actions for a proposed estimated expenditure of \$19.1 M.

Subject Request for Authorization to Award Various Procurements					
Department MTA Procurement					
Department Head Name Thomas Voytek					
Department Head Signature 					
Project Manager Name Rose Davis					
Board Action					
Order	To	Date	Approval	Info	Other
1	Committee	9/28/26			
2	Board	9/30/26			

September 21, 2026			
Department			
Department Head Name			
Department Head Signature			
Internal Approvals			
	Approval		Approval
	President		
	SVP Operations Support		
	Acting VP & General Counsel		

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval

PURPOSE

To obtain approval of the Board to award various contracts and purchase orders, and to inform the Metro-North Committee of these procurement actions.

DISCUSSION

Metro-North proposes to award Noncompetitive procurements in the following categories: None

Metro-North proposes to award Competitive procurements in the following categories: None

Metro-North proposes to award Ratifications in the following categories:

<u>Schedules Requiring Two-Thirds Vote:</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule D: Ratification of Completed Procurement Actions	1	\$ 1.8 M
<u>Schedules Requiring Majority Vote:</u>		
Schedule K: Ratification of Completed Procurement Actions	1	\$ 17.4 M
SUBTOTAL	2	\$ 19.1 M
TOTAL	2	\$ 19.1 M

COMPETITIVE BIDDING REQUIREMENTS: The procurement actions in Schedules A, B, C, and D are subject to the competitive bidding requirements of PAL 1209 or 1265-a relating to contracts for the purchase of goods or public work. Procurement actions in the remaining Schedules are not subject to these requirements.

BUDGET IMPACT: The purchases/contracts will result in obligating funds in the amounts listed. Funds are available in the current operating/capital budgets for this purpose.

RECOMMENDATION: That the purchases/contracts be approved as proposed. (Items are included in the resolution of approval at the beginning of the Procurement Section.)

BOARD RESOLUTION

WHEREAS, in accordance with Sections 1265-a and 1209 of the Public Authorities Law and the All-Agency General Contract Procurement Guidelines, the Board authorizes the award of certain noncompetitive purchase and public work contracts, and the solicitation and award of requests for proposals regarding purchase and public work contracts; and

WHEREAS, in accordance with the All-Agency Service Contract Procurement Guidelines and General Contract Procurement Guidelines the Board authorizes the award of certain noncompetitive miscellaneous service and miscellaneous procurement contracts, certain change orders to purchase, public work, and miscellaneous service and miscellaneous procurement contracts, and

WHEREAS, in accordance with Section 2879 of the Public Authorities Law and the All-Agency Service Contract Procurement Guidelines, the Board authorizes the award of certain service contracts and certain change orders to service contracts.

NOW, the Board resolves as follows:

1. As to each purchase and public work contract set forth in annexed Schedule A, the Board declares competitive bidding to be impractical or inappropriate for the reasons specified therein and authorizes the execution of each such contract.

2. As to each request for proposals (for purchase and public work contracts) set forth in Schedule B for which authorization to solicit proposals is requested, for the reasons specified therein, the Board declares competitive bidding to be impractical or inappropriate, declares it is in the public interest to solicit competitive request for proposals, and authorizes the solicitation of such proposals.

3. As to each request for proposals (for purchase and public work contracts) set forth in Schedule C for which a recommendation is made to award the contract, the Board authorizes the execution of said contract.

4. As to each action set forth in Schedule D, the Board declares competitive bidding impractical or inappropriate for the reasons specified therein and ratifies each action for which ratification is requested.

5. The Board authorizes the execution of each of the following for which Board authorization is required: (i) the miscellaneous procurement contracts set forth in Schedule E; (ii) the personal service contracts set forth in Schedule F; (iii) the miscellaneous service contracts set forth in Schedule G; (iv) the modifications to personal/miscellaneous service contracts set forth in Schedule H; (v) the contract modifications to purchase and public work contracts set forth in Schedule I; and (vi) the modifications to miscellaneous procurement contracts set forth in Schedule J.

6. The Board ratifies each action taken set forth in Schedule K for which ratification is requested.

SEPTEMBER 2026

LIST OF RATIFICATIONS FOR BOARD APPROVAL

Procurements Requiring Two-Thirds Vote:

D. Ratification of Completed Procurement Actions

(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- | | | |
|---|-------------|-------------------------------|
| 1. Systra/AECOM JV
Four years
Contract # 533784 | \$1,778,747 | <i>Staff Summary Attached</i> |
|---|-------------|-------------------------------|

Contract award for General Engineering Consultant services for Positive Train Control upgrades of Metro-North Commuter Railroad Locomotive fleet for Penn Station Access service: Ratification of an Immediate Operating Need.

Procurements Requiring Majority Vote:

K. Ratification of Completed Procurement Actions (Involving Schedule E-J)

(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- | | | |
|---|--------------|-------------------------------|
| 2. Siemens Mobility Inc.
Eight years
Contract # 244941 Mod 24 | \$17,350,000 | <i>Staff Summary Attached</i> |
|---|--------------|-------------------------------|

Contract award of a change order to provide Positive Train Control upgrades of Metro-North Commuter Railroad Locomotive fleet for Penn Station Access service: Ratification of an Immediate Operating Need.

Item Number: 1

Vendor Name (Location) Systra/AECOM JV – (New York, NY)	Contract Numbers 533784	Renewal? ☐ Yes ☒ No
Description General Engineering Consultant (GEC) Services for Positive Train Control (PTC) Upgrades	Total Amount: \$1,778,747	
Contract Terms (including Options, if any) 4 Years	Funding Source ☐ Operating ☒ Capital ☐ Federal ☐ Other:	
Option(s) included in Total Amount? ☐ Yes ☐ No ☒ n/a	Requesting Department: MNR Operations, Joseph Lagana – SVP Operations	
Procurement Type ☐ Competitive ☒ Noncompetitive		
Solicitation Type ☐ RFP ☐ Bid ☒ Other: ION		

Discussion

It is requested that the Board ratify the declaration of an Immediate Operating Need (“ION”) dated June 26, 2026 approved by the Chief Procurement Officer, MTA Procurement, waiving competitive bidding pursuant to Article III, Paragraph A, of the All-Agency Procurement Guidelines and Public Authorities Law 1209, subsection 9(a) and approve the award of a General Engineering Consultant (“GEC”) Service contract for Positive Train Control (“PTC”) upgrades of Metro-North Commuter Railroad (“MNR”) Locomotive fleet for Safety and Operational Requirements for Penn Station Access (“PSA”) service, to Systra AECOM Joint-Venture (“Systra”) in the agreed total amount of \$1,778,747.00.

Prior to the start of PSA service, MNR must conduct extensive equipment testing and operating employee training to ensure compliance with operational, regulatory, and safety requirements regarding the rolling stock that will be used to provide PSA service. As a result of a scope change eliminating the installation of the third rail, the previously planned use of MNR’s M8 Electric Multiple Unit (“EMU”) fleet as a primary option for PSA service is no longer an option. This unanticipated change now requires that MNR use its new Siemens Charger 4200 Horsepower Dual Mode (“SC42-DM”) Locomotive and Charger Battery + Alternating Current (“Charger B+AC”) Locomotive fleets to provide PSA service. To address this immediate operating need, MNR has determined that the locomotives require PTC software upgrades. In addition, this non-competitive award was awarded to Systra to provide the following services as MNR’s consultant project oversight: (1) Technical review of Siemens design and onboard documentation; (2) Support of the Change Control Board (“CCB”) process; (3) Witness the Factory Acceptance Test and Field Testing; (4) Conduct safety reviews for the onboard subsystem; (5) Advanced Civil Speed Enforcement System (ACES) II countdown modification of the Track Speed Indicator (TSI); and (6) Support MNR’s Request for Amendment (“RFA”) submission processing when modifying an approved PTC safety plan to the Federal Railroad Administration (“FRA”).

In accordance with Federal mandate 236.1005 of FRA 49 CFR 236 subpart I, “*When operating as a tenant train in another host railroad territory, the tenant railroads ACSES equipment vehicles are required to interface with the PTC subsystems of the host Railroads and maintain the same level of protection or greater to be considered interoperable*”. The SC42-DM & Charger B+AC locomotives will now be utilized within different territories than originally planned in order to support PSA service and provide necessary operational flexibility to Metro-North.

Systra, with extensive GEC service experience with software and PTC upgrades supporting Amtrak and LIRR, is uniquely qualified to provide the required services within the required timeline. MNR was able to negotiate with Systra to achieve more than \$200k in savings from the initial proposal, while ensuring that the total price is within one percent of the internal estimate. Systra has the experience, technical capability, and resources to perform the consulting services required. Metro-North’s PTC Project Management team found Systra’s past performance to be satisfactory.

The MTA Cost Price Analysis Group has concurred with MTA Procurement that this award is fair and reasonable.

In connection with a previous contract awarded to AECOM, a member of the Systra-AECOM JV, AECOM was found to be responsible notwithstanding significant adverse information (“SAI”) pursuant to the All-Agency Responsibility Guidelines and such responsibility finding was approved by the MTA Chair, with concurrence of the MTA General Counsel in January 2021. No new SAI has been found relating to AECOM and AECOM has been found to be responsible.

Systra has certified that pursuant to EO 16 it is not doing business in Russia. Systra has agreed to cybersecurity requirements, approved by MTA Cyber & Legal.

Impact on Funding

This non-competitive award will be Capitally funded using New York State funds.

Item 2

Vendor Name (Location) Siemens Mobility Inc (Sacramento, CA)		Contract Number 244941	AWO/Modification # 24
Description Positive Train Control Upgrades of New MNR Locomotive Fleet for Penn Station Access Service			
Contract Term (including Options, if any) 8 years		Original Amount:	\$ 253,740,796.00
Option(s) included in Total Amount? ☒ Yes ☐ No ☐ n/a		Prior Modifications:	\$ 802,262,272.10
Procurement Type ☒ Competitive ☐ Noncompetitive		Prior Budgetary Increases:	\$ 0
Solicitation Type ☒ RFP ☐ Bid ☐ Other:		Current Amount:	\$ 1,086,830,712.57
Funding Source ☐ Operating ☒ Capital ☒ Federal ☒ Other: NYS		This Request:	\$ 17,350,000.00
Requesting Dept/Div & Dept/Div Head Name: MNR Operations, Joseph Lagana – SVP Operations		% of This Request to Current Amount:	
		% of Modifications (including This Request) to Original Amount:	

Discussion

It is requested that this Board ratify the declaration of an Immediate Operating Need (“ION”) dated January 13, 2026 and approved by the Chief Procurement Officer, MTA Procurement, waiving competitive bidding pursuant to Article III, Paragraph A, of the All-Agency Procurement Guidelines and Public Authorities Law 1209, subsection 9(a) and approve the award of a change order to provide Positive Train Control (“PTC”) upgrades of Metro-North Commuter Railroad (“MNR”) Locomotive fleet for Penn Station Access (“PSA”) service to Siemens Mobility Inc. (“Siemens”) in the agreed total amount of \$17,350,000. In December 2020, the MTA Board approved MNR Contract 244941 to purchase SC-42 Dual-Mode (“SC-42 DM”) locomotives on behalf of itself, Connecticut Department of Transportation (“CTDOT”), Long Island Rail Road (“LIRR”) and New York State Department of Transportation (“NYSDOT”).

Prior to the start of PSA service, MNR must conduct extensive equipment testing and operating employee training to ensure compliance with operational, regulatory, and safety requirements regarding the rolling stock that will be used to provide PSA service. As a result of a scope change eliminating the installation of the third rail, the previously planned use of MNR’s M8 Electric Multiple Unit (“EMU”) fleet as a primary option for PSA service is no longer an option. This unanticipated change now requires that MNR use its new Siemens Charger 4200 Horsepower Dual Mode (“SC42-DM”) Locomotive and Charger Battery + Alternating Current (“Charger B+AC”) Locomotive fleets to provide PSA service. To address this immediate operating need, MNR has determined that the locomotives require PTC software upgrades, which include the following (1) Back-to-back (“B2B”) interlocking functionality, (2) Base Communications Package (“BCP”) zone counts, (3) Territory specific degraded Speed, (4) Territory Specific ATC aspect decoding, (5) ACSES II Annunciator count down, (6) ACSES II Annunciator modifications for Construction Zone Mode, (7) Degraded Mode Speed enforcement of 59 mph, (8) Remote download, and (9) ATC 250 Hz Filter Amplifier PCB, along with field commissioning.

In accordance with Federal mandate 236.1005 of FRA 49 CFR 236 subpart I, “*When operating as a tenant train in another host railroad territory, the tenant railroads ACSES equipment vehicles are required to interface with the PTC subsystems of the host Railroads and maintain the same level of protection or greater to be considered interoperable*”. The SC42-DM & Charger B+AC locomotives will now be utilized within different territories than originally planned in order to support PSA service and provide necessary operational flexibility to Metro-North.

Siemens is the sole proprietor of the software and PTC upgrades provided to Amtrak and LIRR near and around the territory of PSA. MNR is leveraging its existing locomotive contract terms and conditions, cybersecurity agreement, and milestone structure to execute this change order. MNR was able to agree on a technical scope of work that met its operational timeframes by leveraging an existing Amtrak safety plan during the testing and commissioning phase. MNR was also able to achieve more than \$1M in savings through its negotiations and the MTA Cost Price Analysis Group has concurred with MTA Procurement that this change order is fair and reasonable.

Siemens has certified that pursuant to EO 16 it is not doing business in Russia.

Siemens has agreed to cybersecurity requirements, approved by MTA Cyber & Legal. Siemens has the experience, technical capability, resources, and facilities to perform the work required. The MTA Controller's Office found that there is reasonable financial assurance Siemens can continue to perform the work under this option. Metro-North's Project Management team found Siemens' overall performance to be satisfactory.

Impact on Funding

The base contract is Federal Transit Authority ("FTA")-funded, therefore subject to federal terms and conditions. Siemens continues to comply with the FTA Transit Vehicle Manufacturer program. This change order will be capitally funded using New York State funds.



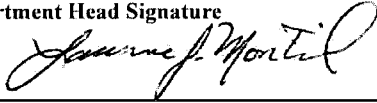
Long Island Rail Road Procurements

Lawrence Montreuil, Assistant Deputy Chief Procurement Officer – LIRR Procurement



PROCUREMENTS

The Procurement Agenda this month includes 5 actions for a proposed estimated expenditure of \$77.7 M.

Subject Request for Authorization to Award Various Procurements					
Department LIRR Procurement					
Department Head Name Lawrence Montreuil					
Department Head Signature 					
Project Manager Name Rose Davis					
Board Action					
Order	To	Date	Approval	Info	Other
1	Committee	09/28/26			
2	Board	09/30/26			

September 23, 2026			
Department			
Department Head Name			
Department Head Signature			
Internal Approvals			
	Approval		Approval
1	VP, General Counsel & Secretary <i>Halley Stein</i>	4	President <i>MTA</i>
2	VP Capital Delivery & Oversight <i>Wesley Perkins</i>		
3	SVP Operations <i>Pat Smith</i>		

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval

PURPOSE

To obtain approval of the Board to award various contracts and purchase orders, and to inform the Long Island Rail Road Committee of these procurement actions.

DISCUSSION

LIRR proposes to award Noncompetitive procurements in the following categories:

Schedules Requiring Majority Vote:

	<u># of Actions</u>	<u>\$ Amount</u>
Schedule I: Modification to Purchase and Public Work Contracts	2	\$ 64 M
SUBTOTAL	2	\$ 64 M

LIRR proposes to award Competitive procurements in the following categories:

Procurements Requiring Two-Thirds Vote:

Schedule C: Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)	2	\$ 5 M
--	---	--------

Schedules Requiring Majority Vote:

Schedule G: Miscellaneous Service Contracts	1	\$ 8.7 M
SUBTOTAL	3	\$ 13.7 M

LIRR proposes to award Ratifications in the following categories: None

TOTAL	5	\$ 77.7 M
--------------	----------	------------------

COMPETITIVE BIDDING REQUIREMENTS: The procurement actions in Schedules A, B, C, and D are subject to the competitive bidding requirements of PAL 1209 or 1265-a relating to contracts for the purchase of goods or public work. Procurement actions in the remaining Schedules are not subject to these requirements.

BUDGET IMPACT: The purchases/contracts will result in obligating funds in the amounts listed. Funds are available in the current operating/capital budgets for this purpose.

RECOMMENDATION: That the purchases/contracts be approved as proposed. (Items are included in the resolution of approval at the beginning of the Procurement Section.)

BOARD RESOLUTION

WHEREAS, in accordance with Sections 1265-a and 1209 of the Public Authorities Law and the All-Agency General Contract Procurement Guidelines, the Board authorizes the award of certain noncompetitive purchase and public work contracts, and the solicitation and award of requests for proposals regarding purchase and public work contracts; and

WHEREAS, in accordance with the All-Agency Service Contract Procurement Guidelines and General Contract Procurement Guidelines the Board authorizes the award of certain noncompetitive miscellaneous service and miscellaneous procurement contracts, certain change orders to purchase, public work, and miscellaneous service and miscellaneous procurement contracts, and

WHEREAS, in accordance with Section 2879 of the Public Authorities Law and the All-Agency Service Contract Procurement Guidelines, the Board authorizes the award of certain service contracts and certain change orders to service contracts.

NOW, the Board resolves as follows:

1. As to each purchase and public work contract set forth in annexed Schedule A, the Board declares competitive bidding to be impractical or inappropriate for the reasons specified therein and authorizes the execution of each such contract.

2. As to each request for proposals (for purchase and public work contracts) set forth in Schedule B for which authorization to solicit proposals is requested, for the reasons specified therein, the Board declares competitive bidding to be impractical or inappropriate, declares it is in the public interest to solicit competitive request for proposals, and authorizes the solicitation of such proposals.

3. As to each request for proposals (for purchase and public work contracts) set forth in Schedule C for which a recommendation is made to award the contract, the Board authorizes the execution of said contract.

4. As to each action set forth in Schedule D, the Board declares competitive bidding impractical or inappropriate for the reasons specified therein and ratifies each action for which ratification is requested.

5. The Board authorizes the execution of each of the following for which Board authorization is required: (i) the miscellaneous procurement contracts set forth in Schedule E; (ii) the personal service contracts set forth in Schedule F; (iii) the miscellaneous service contracts set forth in Schedule G; (iv) the modifications to personal/miscellaneous service contracts set forth in Schedule H; (v) the contract modifications to purchase and public work contracts set forth in Schedule I; and (vi) the modifications to miscellaneous procurement contracts set forth in Schedule J.

6. The Board ratifies each action taken set forth in Schedule K for which ratification is requested.

SEPTEMBER 2026

LIST OF NON-COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

I. Modifications to Purchase and Public Works Contracts

(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- | | | |
|--|--------------|-------------------------------|
| 1. Knorr Brake Company | \$64,000,000 | <i>Staff Summary Attached</i> |
| 2. Merak North America | | |
| July 1, 2021 – July 1, 2026 | | |
| Contract # 4%2497 Mod. 1 | | |
| Contract award for OEM purchase agreements for spare parts; Modification in order to add funding to cover an extension of the contract period. | | |

Schedule I: Modifications to Purchase and Public Works Contracts



Item Number: 1-2

Vendor Name (& Location) Knorr and Merak (OEMs) (Westminster, MD)	
Description OEM Purchase Agreements for Spare Parts – LIRR, MNR & NYC Transit	
Contract Term (including Options, if any) 5 Years (July 1, 2021 – July 1, 2026)	
Option(s) included in Total Amount? ☐ Yes ☒ No ☐ n/a	
Procurement Type ☐ Competitive ☒ Non-competitive	
Solicitation Type ☐ RFP ☐ Bid ☒ Other: SSRFP	
Funding Source ☒ Operating ☐ Capital ☐ Federal ☐ Other:	
Requesting Dept/Div & Dept/Div Head Name: Maintenance of Equipment – John Stolz	

Contract Number	AWO/Modification #
400000000002497	1
Original Amount:	
	\$ 164,460,000
Prior Modifications:	
	\$ 0
Prior Budgetary Increases:	
	\$ 0
Current Amount:	
	\$ 164,460,000
This Request:	
	\$ 64,000,000
% of This Request to Current Amount:	
	38.9%
% of Modifications (including This Request) to Original Amount:	
	38.9%

Discussion

Long Island Rail Road (“LIRR”), on behalf of itself and Metro-North Railroad (“MNR”) and New York City Transit (“NYC Transit”) (collectively “the Agencies”), requests Board approval to modify the purchase procurement contracts awarded to Knorr Brake Company (“KBC”) and Merak North America (“Merak”) in order to add funding to cover an extension of the contract period. This contract was extended in July of 2026 and will expire in January 2028. The contract extension will enable the Agencies to develop a single agreement that is acceptable to all KBC business units.

KBC and Merak are the original equipment manufacturers (“OEMs”) and the sole responsible sources for the parts, repairs and services that will be provided under these purchase agreements. Other vendors do not have access to the proprietary designs, specifications and drawings for these systems or materials and therefore cannot readily provide these parts and repair services. Under these purchase agreements, the OEMs will continue to supply, on an as needed basis, complete systems, parts, other equipment, technical/field support and repair services required to (1) support the Agencies’ Reliability Centered Maintenance (“RCM”) programs, and (2) perform unscheduled maintenance and repairs to the Agencies’ fleet of locomotives, coaches and electric cars. To maintain car reliability and improved customer service through on-time performance, the Agencies must implement their respective RCM programs, which require parts to be replaced at prescribed intervals. The KBC companies will continue to supply parts required to perform unscheduled maintenance and repairs on the cars.

On July 1, 2021, the Agencies awarded the base contracts to KBC and Merak through a Sole Source Request for Proposal (“SSRFP”). The original award values are listed below:

<u>Supplier</u>	<u>LIRR</u>	<u>MNR</u>	<u>NYCT</u>	<u>Purchase Agreement Totals</u>
Knorr Brake Co.	\$84.86 M	\$54.5 M	\$20 M	\$159.36 M
Merak	\$4.7 M	\$.40 M	-----	\$5.1 M
Grand Total	\$89.56 M	\$54.9 M	\$20 M	\$164.46 M

MNR does not require additional funds for the extension. NYC Transit will require an additional \$44M to the KBC contract. LIRR is requesting an additional \$20M for the KBC contract. The total contract values after the modification are listed below:

<u>Supplier</u>	<u>LIRR</u>	<u>MNR</u>	<u>NYCT</u>	<u>Purchase Agreement Totals</u>
Knorr Brake Co.	\$104.86 M	\$54.5 M	\$64 M	\$223.86 M
Merak	\$4.7 M	\$.40 M	-----	\$5.1 M
Grand Total	\$109.56 M	\$54.9 M	\$64 M	\$228.96 M

The total dollars outlined above are based upon historical data and projected usage. In order to be prepared for possible unscheduled events and occurrences, the agencies may reallocate funds between OEMs under the following limitation; any reallocated amount may not exceed the grand total approved herein.

The contracts were extended by 18 months in order to allow time to negotiate a new contract with unified terms and conditions to all KBC entities. This request for additional funds is to cover costs for the extension of the contract. KBC has agreed to extend the contract for 18 months with no changes to the terms and conditions. Extending the agreement also maintains the base pricing of the contract, subject to the annual economic price adjustment that is described in the agreement.

A vendor responsibility check was completed, and all required documentation and reviews were thoroughly evaluated. The vendor met all responsibility standards, demonstrated the capacity to perform the required work, and showed satisfactory performance based on prior projects.

The modified contracts have been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, have been included in the contract terms and conditions.

KBC and Merak have each certified that pursuant to EO 16, neither is doing business in Russia.

Impact on Funding

These purchase agreements will be funded by each Agencies' Operating Budget.

M/W/DBE INFORMATION

No goals were assigned to this solicitation due to the nature of this procurement commodity purchase.

ALTERNATIVES

The alternative to not extending the existing contracts would result in paying higher, off-contract prices for the same goods and lengthening the procurement process with new terms and conditions.

Recommendation

It is recommended that the Board approve the issuance of the modification to the purchase contracts awarded to KBC and Merak, in order to fund the remaining contract period.

SEPTEMBER 2026**LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL****Procurements Requiring Two-Thirds Vote:****C. Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)**

(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- | | | | |
|----|---|-------------|-------------------------------|
| 3. | Posillico Civil, Inc. | \$5,000,000 | <i>Staff Summary Attached</i> |
| 4. | Railroad Construction Company, Inc. | | |
| | Three-year base with option to extend two additional 1-year terms | | |
| | Contract # 534324 | | |

Contract award for the provision of Rapid Response Contractors for as-needed miscellaneous construction, maintenance, and repair work through task order releases.

Procurements Requiring Majority Vote:**G. Miscellaneous Service Contracts**

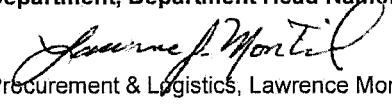
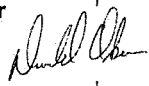
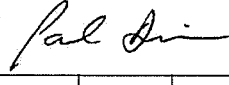
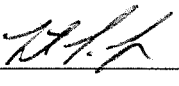
(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- | | | | |
|----|-----------------|-------------|-------------------------------|
| 5. | Dematic Corp | \$8,748,562 | <i>Staff Summary Attached</i> |
| | 1.5 years | | |
| | Contract # 6540 | | |

Contract award for the provision of urgently needed upgrades for the Automated Material Handling System.

Staff Summary

Page 1 of 2

Item Number 3-4			
Department, Department Head Name:  Procurement & Logistics, Lawrence Montreuil			
Internal Approvals			
Order	Approval	Order	Approval
1	VP, General Counsel & Secretary		
2	Chief Engineer		
3	SVP Operations		
4 X	President		
5			

SUMMARY INFORMATION	
Vendor Name Posillico Civil, Inc. Railroad Construction Company, Inc.	Contract No. 534324
Description Rapid Response Contractors for as-needed miscellaneous construction, maintenance and repair work.	
Total Amount: \$5,000,000.00	
Contract Term (including Options, if any) Three-year base with LIRR option to extend for two additional one-year terms	
Option(s) included in Total Amount? ☐ Yes ☒ No ☐ N/A	
Renewal? ☐ Yes ☒ No	
Procurement Type ☒ Competitive ☐ Noncompetitive	
Solicitation Type ☒ RFP ☐ Bid ☐ Other:	
Funding Source ☒ Operating ☒ Capital ☒ Federal ☐ Other:	

Purpose

The Long Island Rail Road Company ("LIRR") requests MTA Board approval to award a three-year public works master contract, with an option for the LIRR to extend for two additional one-year terms. The three-year base term has a total estimated aggregate value of \$5 million and will be awarded to a pool of two qualified contractors. The contract was competitively solicited through a Request for Proposals ("RFP") process and will provide Rapid Response Contractors for as-needed miscellaneous construction, maintenance, and repair work through task order releases.

Each contract will be established with a zero-dollar base value. Individual task order releases will be awarded through a mini-Invitation for Bid ("IFB") process to the lowest lump-sum bidder deemed both responsive and responsible.

The following qualified firms were selected to participate in this contract:

1. Posillico Civil, Inc.
2. Railroad Construction Company, Inc.

Discussion

Under the Rapid Response Contractor contract, qualified contractors will be retained to provide as-needed miscellaneous construction, maintenance and repair services for the LIRR. While the majority of anticipated projects are small-scale in nature, the contract structure also allows the agency to efficiently accommodate a diverse range of services as needed.

In June 2026, LIRR issued a Request for Proposal. The RFP was publicly advertised in the New York State Contract Reporter, New York Daily News, and on the MTA website, resulting in the submission of five proposals in response to the RFP requirements.

The Selection Committee ("SC") comprised of representatives from LIRR Railroad Support Group, LIRR Quality Assurance and LIRR Engineering evaluated the five proposal submissions utilizing the following pre-established selection criteria, as set forth in the RFP: (1) Demonstrated Experience and Expertise; (2) Qualifications of the Key Personnel; (3) Safety Record; and (4) Vendor Diversity Practice. There were no restrictions on the size of the selected pool. Final selections were made on a pass/fail basis.

Staff Summary

Page 2 of 2

Based on the evaluation criteria set forth in the RFP, the SC determined that the two recommended firms demonstrated the requisite technical experience, qualifications and capabilities to successfully perform the work. Three proposers were eliminated because they did not meet the RFP requirements. Each of the two remaining proposers presented a clearly defined track record in providing construction services of similar scope and complexity, including experience with rail projects. The proposers demonstrated compliance with the RFP's requirements for key personnel, including Project Managers/Superintendents and Safety and Quality Assurance Control staff, each possessing the required years of experience and demonstrated performance on comparable projects. In addition, their safety submissions met the stated requirements and reflected an understanding of the critical safety considerations inherent in railroad construction work. Accordingly, the SC unanimously concluded that these two proposers are qualified, capable, and suitable for inclusion in the contractor pool. The two contractors will be invited to participate in mini-IFBs issued for defined scopes of work.

Below are some elements of the work:

- **Reinforced Structural Concrete:** repairs to or installation of abutments, equipment pads, foundations, ramps, retaining wall structures, curbs and cement concrete breaking & removal.
- **Electrical:** installing new electrical panels, conduits and wiring (including relocation of buried electric service connections) and lighting.
- **Platform:** pedestrian overpasses, shelters, pigeon control, canopies, safety/warning flooring, signage and structural/surface repairs.

A responsibility review of the two contractors conducted pursuant to the All-Agency Responsibility Guidelines revealed no Significant Adverse Information, and both contractors were determined to be responsible.

The two proposers have certified that, pursuant to EO 16, they are not doing business in Russia.

This contract has been evaluated to determine the necessity and appropriate scope of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, have been included in the contract terms and conditions.

There are no reports of unsatisfactory performance by these firms in the performance of prior contracts with the MTA.

D/M/WBE/SDVOB Information

The MTA Department of Diversity and Civil Rights (DDCR) has established zero percent goals participation for this procurement.

Impact on Funding

This contract may utilize Operating, Capital or Federal funds.

Alternatives

None recommended. MTA lacks available in-house technical personnel to perform the scope of work associated with this contract.

Recommendations

It is recommended that the MTA Board approve the award of this competitively solicited master contract to the listed firms for the provision of Rapid Response Contractors for as-needed miscellaneous construction, maintenance and repair work for the LIRR.

Schedule G: Miscellaneous Service Contracts

Item Number: 5

Vendor Name (Location) Dematic Corp (Grand Rapids, MI)
Description Automated Material Handling Systems Upgrade
Contract Term (including Options, if any) 1.5 years
Option(s) included in Total Amount? ☐ Yes ☐ No ☒ n/a
Procurement Type ☒ Competitive ☐ Non-competitive
Solicitation Type ☒ RFP ☐ Bid ☐ Other:

Contract Number 6540	Renewal? ☐ Yes ☒ No
Total Amount: \$8,748,562	
Funding Source ☐ Operating ☒ Capital ☐ Federal ☐ Other:	
Requesting Dept/Div & Dept/Div Head Name: Procurement, Lawrence Montreuil	

Purpose

The Long Island Rail Road Company ("LIRR") hereby requests MTA Board approval to award a miscellaneous service contract in the total estimated amount of \$8,748,562 to Dematic Corp. for urgently needed upgrades for the Automated Material Handling System ("AMHS"). These upgrades include software and hardware components of both the Unit Load and Mini-Load systems of the AMHS. The contract was competitively solicited through a Request for Proposals ("RFP") process and will provide needed upgrades to maintain a State of Good Repair ("SOGR"). Dematic Corp. is the original manufacturer of AMHS. The contract will utilize New York State and Capital Funding.

Discussion

The AMHS is a high-density, automated storage and retrieval system that manages over 117,000 parts and components used to support railcar maintenance, supplies for the Stations, Corporate Safety and the Transportation departments. The operating departments rely heavily on the AMHS for critical materials, processing thousands of transactions per day to support 24/7 service for our customers. The AMHS was installed in 2005 and experiences frequent breakdowns due to the obsolescence of the software and hardware that drives the system.

In April 2026, LIRR issued a Request for Proposal to engage a contractor who can affect the required upgrades and improve the reliability of the AMHS. The RFP was publicly advertised in the New York State Contract Reporter, New York Daily News, and on the MTA website, resulting in the submission of one proposal in response to the RFP requirements.

A Selection Committee ("SC") comprised of representatives from LIRR Shops, LIRR Corporate Quality, and LIRR IT evaluated the proposal submission utilizing the following pre-established selection criteria, as set forth in the RFP: (1) Demonstrated Experience and Expertise; (2) Qualifications of the Key Personnel; and (3) Vendor Diversity Practice. There were no restrictions on the size of the selected pool. Final selections were made on a pass/fail basis.

One firm, Dematic Corp, the manufacturer of LIRR's AMHS, responded to the RFP. The SC determined that firm demonstrated the requisite experience, expertise, and capabilities to successfully perform the work. A proposer presented a clearly defined track record in providing services of similar scope and complexity, including experience with Automatic Material Handling Projects. The proposer demonstrated compliance with the RFP's requirements for key personnel, including Project Managers/Superintendents and Safety and Quality Assurance Control staff, each possessing the required years of experience and demonstrated performance on comparable projects. Dematic is an incumbent. Accordingly, the Selection Committee unanimously concluded that single proposer is qualified, capable, and suitable.

The following is a high-level list required for the Phase 1 upgrade:

- Upgrade and replacement of the mini and unit load conveyor components assemblies include:
 - Steel Frames
 - Rollers and Bearings
 - Motors
 - Chains
 - Sprockets
 - Safeguards
 - Pneumatic Components
 - Staircases and crossovers to access and troubleshoot the equipment.

- Upgrade and Replacement of Existing software and Controls
 - Warehouse Management System (WMS)
 - Central Monitoring System (CMS)
 - Programmable Logic Control System (PLC)

The original proposal of \$8,977,394 was below LIRR's internal estimate. However, subsequent negotiations yielded an additional reduction of \$228,832.

The proposer has certified that, pursuant to EO 16, they are not doing business in Russia.

This contract has been evaluated to determine the necessity and appropriate scope of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, will be included in the contract terms and conditions prior to award.

There are no reports of unsatisfactory performance by this firm in the performance of prior contracts with the MTA.

M/WBE/SDVOB Information

Based on our review, the nature of this procurement a zero goal was recommended.

Impact on Funding

This procurement action will utilize State / Capital Funding.

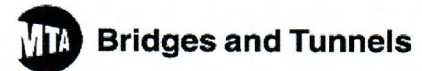
Alternatives

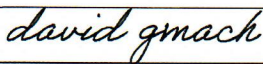
None recommended. MTA lacks available in-house technical personnel to perform the scope of work associated with this contract.

Recommendations

It is recommended that the MTA Board approve the award of this competitive (single proposal) miscellaneous service contract to Dematic Corp. for the provision of SOGR work in support of the Unit Load and Mini-Load AMHS systems upgrade.

Staff Summary



Subject	Date
Height and Width limitations for Vehicles and Liability for Overweight Vehicles pursuant to the Weigh-in-Motion Program on RFK Bridge	September 23, 2026
Department	Vendor Name
Tolling Management	N/A
Department Head Name	Contract Number
Stephen Knapp	N/A
Department Head Signature	Contract Manager Name
	N/A
Project Manager	Table of Contents Ref #
David Gmach 	N/A

Board Action					Internal Approvals	
2	Board	9/30/26			4	 President
1	B&T Comm	9/28/26			3	 Chief Operating Officer
					2	Sr. VP Toll Operations

I. PURPOSE:

To obtain the Board's approval of the annexed Resolution which will repeal and replace the Triborough Bridge and Tunnel Authority (TBTA) regulations (Part 1021.2 of Title 21 New York Codes, Rules and Regulations (TBTA Regulations)) to revise the height and width limitations for vehicles travelling on TBTA bridges and tunnels, to set rates for special handling of vehicles exceeding the set vehicle height, width and weight limitations, and to include a new subsection 1021.2(c) to establish a Weigh-in-Motion Violation Monitoring System (WIM) for the Robert F. Kennedy (RFK) Bridge pursuant to Section 385-a of the Vehicle and Traffic Law (VTL), and to impose liability on overweight vehicles in the sum of \$650 for each violation.

II. DISCUSSION:

New York State amended Section 385-a of the Vehicle and Traffic Law (VTL) in 2025 to allow TBTA to install and operate a Weigh-in-Motion demonstration program on the RFK Bridge. After conducting two public hearings on October 6 and 7, 2025, the Board adopted a resolution establishing the WIM program

on October 29, 2025. Now the Board is requested to amend the TBTA Regulations to update height and weight limitations for vehicles, set rates for special handling of vehicles exceeding the set vehicle height, weight and width limitations, implement regulations to establish the WIM violation monitoring system at the RFK Bridge and set flat rate liability for overweight vehicles at \$650 for each violation.

Implementing a WIM violation monitoring system and setting flat rate fines for violations at the RFK Bridge will reduce overweight vehicle traffic and will preserve bridges and roadways from damage caused by overweight vehicle traffic. Section 385-a of the VTL which authorizes the TBTA to install and operate a WIM violation monitoring system at the RFK Bridge, provides that trucks exceeding the maximum allowable gross weight by more than 10% and/or the maximum axle weights by more than 20% will be subject to a violation. A violation of weight limitations will result in fines which increase based on the percentage of excess weight that the vehicle is found to have. VTL 385(19). In implementing the WIM monitoring system, which will use roadway sensors to weigh the vehicles along with cameras to identify the vehicles, the TBTA desires to promulgate a flat fine for violations pursuant to the WIM monitoring system, in order to simplify the violation process and to set a flat rate that is identical to the WIM fine of \$650 promulgated by the City of New York in 2022 for its WIM violation monitoring system located on a section of I-278 (BQE) in Brooklyn NY. See Rules of the City of New York 39-22. The New York City Department of Finance Parking Violations Bureau will conduct WIM violation appeals and adjudications.

The proposed regulation will also amend the rate for permits issued for overweight/over-dimensional passage at the applicable toll plus either \$55 or the applicable Tolls by Mail rate, whichever is greater. This overweight/over-dimensional permit fee will replace the current regulation which requires payment of a double toll which since the removal of toll booths on TBTA facilities half of which has not been collected. The vehicle will still pay the required toll to cross our facilities.

Finally, the vehicle clearances for TBTA bridges and tunnels set in 21 New York Codes, Rules and Regulations, Section 102.2 have been updated to reflect current height clearances.

The proposed changes to the TBTA Regulations would 1) authorize the TBTA to implement its WIM violation monitoring system with fines consistent with those of the City of New York, would increase the longevity of bridges and tunnels, and the safety of the public through decreasing the use of overweight vehicles, and 2) implement a toll for special handling of over-dimensional and overweight vehicles to replace the current double toll regulation. The vehicle will still pay the toll rate to cross our facilities.

A public hearing was conducted in which members of the public were invited to comment on the proposed program. Information was also posted on the MTA website offering the public the opportunity to submit written comments online, and by email and mail. Transcripts of the hearing testimony and copies of written and recorded statements have been distributed to Board members for their consideration.

If approved, the program is anticipated to commence in the first quarter of 2027.

III. IMPACT ON FUNDING:

Adoption of this Resolution and the proposed TBTA regulations establishing the WIM monitoring system is anticipated to raise revenues in of more than \$15 million in 2027 and more than \$25 million annually in subsequent years through the collection of fines. TBTA will receive 80% of the fines collected. After paying operating costs, 100% of the remaining funds are to be allocated to MTA B&T capital projects.

IV. RECOMMENDATION:

It is recommended that the Board adopt and approve the attached Resolution repealing TBTA Regulations and establishing new TBTA Regulations to revise the height and width limitations for vehicles travelling on TBTA bridges and tunnels, to set rates for special handling of vehicles exceeding the set vehicle height, width and weight limitations, and to include a new subsection 1021.2(c) to establish a WIM Violation Monitoring System for the RFK Bridge pursuant to Section 385-a of the VTL, and to impose liability on overweight vehicles in the sum of \$650 for each violation.

RESOLUTION

WHEREAS, Section 385-a of the Vehicle and Traffic Law was amended in 2025 to establish a demonstration weigh-in-motion (WIM) program to impose vehicle owner liability for failure of an operator to comply with gross vehicle weight and/or axle weight restrictions on the Robert F Kennedy (RFK) Bridge and requires the approval of a majority of the members of the Triborough Bridge and Tunnel Authority (Authority) board prior to implementation of the WIM program; and

WHEREAS, on October 29, 2025, the Board authorized the President of the Authority to implement a demonstration program imposing owner liability for failure of an operator to comply with maximum allowable gross weights and/or maximum allowable axle weights, known as the Weigh-in-Motion program; and

WHEREAS, following a public hearing and approval of the WIM program by the Board, the President of the Authority was authorized to establish a WIM demonstration program on the RFK Bridge; and

WHEREAS, to implement the WIM program, authority is now requested to amend Part 1021.2 of Title 21 New York Codes, Rules and Regulations (TBTA Regulations) to update height and weight limitations for vehicles, set rates for special handling of vehicles exceeding the set vehicle height, weight and width limitations, establish the WIM violation monitoring system at the RFK Bridge and set flat rate liability for overweight vehicles at \$650 for each violation; and

Whereas, a notice of the proposed rule making was published in the New York State Register on June 17, 2026 and the public was invited to submit comments to the Authority.

WHEREAS, advertisements of public hearing on the proposed changes to the TBTA Regulations to establish the WIM program were published by the Authority in 22 print media outlets, including the *New York Daily News*, the *Daily Challenge*, the *Jewish Press*, the *Bronx Times*, *El Diario*, *Haiti Liberte*, *Weekly Bangalee*, the *New Amsterdam News*, the *Staten Island Advance*, the *Straus Manhattan*, the *Riverdale Press*, the *Chinese World Journal*, the *Russkaya Reklama*, the *Harlem Community News*, the *Queens Chronicle*, the *Rockaway Wave*, *Newark Star Ledger (Digital)*, *Korea Daily New York*, *El Especialito*, *Allewaa Alarabi*, *Der Yid* and the *Italian Tribune*. The Metropolitan Transportation Authority (MTA) and TBTA also provided notice of the hearings in two press releases, on the MTA website, and via Instagram Stories, Facebook, Threads, BlueSky, and LinkedIn.

WHEREAS, one hybrid public hearing was conducted by the Authority at the Metropolitan Transportation Authority, New York, NY on August 17, 2026, at the time set forth in the aforesaid notices of public hearing, at which all persons who wished to comment on the proposed changes to the TBTA Regulations to establish the WIM program were permitted to speak and written comments for inclusion in the record of the proceeding were invited and accepted until August 27, 2026; and

WHEREAS, the Board has considered the testimony of the public at the hybrid public hearing and the written comments that were submitted; and

WHEREAS, the Board has considered the recent amendments authorizing a WIM program on the RFK Bridge, pursuant to Section 385-a of the Vehicle and Traffic Law, current practices of the New York City Department of Transportation in implementing a WIM Program on I-278 in Brooklyn in 2023 that has reduced overweight truck traffic Queens-bound by 60 percent in the first year of WIM enforcement, as well as safety impacts; and considers that WIM will reduce non-compliance with weight restrictions on the RFK Bridge; and

WHEREAS, the Board has considered all of the above.

NOW, THEREFORE, upon motion duly made and seconded, the following resolution is adopted by the Board:

RESOLVED, that the Board of the Triborough Bridge and Tunnel Authority (Authority) in accordance with Section 385-a of the Vehicle and Traffic Law, hereby repeals the prior Part 1021.2 of Title 21 of the New York Codes, Rules and Regulations entitled Vehicle Limitations and hereby adopts the new Part 1021.2 of Title 21 of the New York Codes, Rules and Regulations entitled Vehicle Limitations and Weigh-in-Motion Violation Monitoring, as set forth in the attachment to this resolution, to be implemented effective immediately; and be it further

RESOLVED, that the Authority further hereby fully authorizes and directs the President of the Authority or her designee to take such steps as may be necessary or desirable to repeal the prior Part 1021.2 of Title 21 of the New York Codes, Rules and Regulations entitled Vehicle Limitations and establish, implement and adopt the proposed Part 1021.2 of Title 21 of the New York Codes, Rules and Regulations entitled Vehicle Limitations and Weigh-in-Motion Violation Monitoring, annexed hereto, pursuant to law.

September 30, 2026

New York, New York

21 NYCRR § 1021.2 Vehicle limitations and Weigh-in-Motion Violation Monitoring

(a) The toll rates set forth in section 1021.1 of this Part are applicable only to vehicles which do not exceed the following limits:

(1) Width-overall, including load:

Tunnels-8 ft. 6 in.

Bridges-9 ft 6 in.

(2) Height-overall, from roadway:

Tunnels-12 ft. 1 in.

Bridges:

Robert F. Kennedy

Harlem River Lift Span:

From Manhattan: 12 ft 11 in.

To Manhattan: 14 ft.

Bronx Truss Spans

From the Bronx: 13 ft. 3 in.

To the Bronx: 14 ft.

Queens Suspended Span:

From Queens: 15 ft. 2 in.

To Queens: 14 ft. 9 in.

Bronx-Whitestone

Bronx-bound: 15 ft

Queens-bound: 15 ft 1 in

Throgs Neck

Bronx-bound: 15 ft 2 in

Queens-bound: 14 ft 11 in

Cross Bay Veterans Memorial

Northbound

From 94 St: 15 ft 2 in

From Beach Channel Dr traveling west: 13 ft 10 in

From Beach Channel Dr traveling east: 14 ft 1 in

Southbound

To 95 St: 15 ft 2 in

To Beach Channel Dr traveling west: 15 ft 2 in

To Beach Channel Dr traveling east: 14 ft

Marine Parkway Gil Hodges Memorial

Northbound

From Beach Channel Dr traveling west: 14 ft 1 in

From Beach Channel Dr traveling east: 15 ft 1 in

Southbound

To Beach Channel Dr traveling west: 15 ft 1 in
To Beach Channel Dr traveling east: 12 ft 11 in

Henry Hudson-12 ft.

Verrazzano-Narrows

Lower level:

Westbound: 13 ft 7 in

Eastbound: 13 ft 6 in

Upper level:

Westbound: 14 ft 6 in

Eastbound: 14 ft 5 in

(3) Weight:

Tunnels and bridges-limits as prescribed by 34 Rules of the City of New York section 4-15(b).

(b) No vehicles exceeding the limits set forth in this section shall be permitted in or upon the facilities, except by prior arrangement made through the Metropolitan Transportation Authority Central Permit Office. In addition to paying the crossing charge set forth in section 1021.1 of this Part, vehicles requiring special handling shall also pay a further toll at the greater amount of either: (1) the applicable rate for using fare media other than NYCSC E-ZPass, commonly referred to as Tolls by Mail, set forth in section 1021.1 of this Part ; or (2) the rate of \$55, which latter rate may be subject to adjustment at the authority's sole discretion in order to cover its costs attributable to such vehicles.

(c) Weigh-in-Motion Violation Monitoring System.

(1) Liability. The liability of an owner pursuant to section 385-a of the Vehicle and Traffic Law for a violation of section 385 of such law shall be \$650 for each such violation.

(2) Additional penalties. If the owner fails to respond to the notice of liability within 30 days after the mailing of the notice of liability, an additional penalty of \$25 may be assessed pursuant to subdivision (e) of section 385-a of the Vehicle and Traffic Law.

(3) Notice of liability. The notice of liability must be in accordance with the requirements of subdivision (g) of section 385-a of the Vehicle and Traffic Law and in such form and substance as prescribed by the director of the New York City Parking Violations Bureau.

(4) Effective dates. This section will remain in effect for as long as section 385-a of the Vehicle and Traffic Law shall remain in effect.

SEPTEMBER 2026

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

E. Miscellaneous Procurement Contracts

(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- | | | |
|--|---------------------|--------------------------------------|
| 1. IDSC Holdings LLC, d/b/a Snap-on In. | \$27,633,165 | <i>Staff Summary Attached</i> |
| Seven Years (includes two 1-year Options) | | |
| Contract # 0000016389 | | |

Contract award for the as-needed supply and delivery of Snap-on industrial tools, proprietary equipment, and MRO supplier services.

Schedule E: Miscellaneous Procurement Contracts

Item Number: 1

Vendor Name (Location) IDSC Holdings LLC, d/b/a Snap-on Industrial (Kenosha, WI)	Contract Number 0000016389	Renewal? ☒ Yes ☐ No
Description As-Needed Supply & Delivery of Snap-on items & Related Services	Total Amount: \$27,633,165.11	
Contract Term (including Options, if any): Seven years (includes two 1-year Options)	Funding Source ☒ Operating ☐ Capital ☐ Federal ☐ Other:	
Option(s) included in Total Amount? ☒ Yes ☐ No ☐ n/a	Requesting Department: MTA Procurement, Peter Lau	
Procurement Type ☒ Competitive ☐ Noncompetitive		
Solicitation Type ☒ RFP ☐ Bid ☐ Other:		

Discussion

MTA Headquarters requests Board approval to award a competitively negotiated estimated quantity miscellaneous procurement contract to IDSC Holdings LLC, d/b/a Snap-on Industrial (“Snap-on”), in the total estimated amount of \$27,633,165.11 for the as-needed supply and delivery of Snap-on industrial tools, proprietary equipment, and Maintenance, Repair, and Operating (“MRO”) supplier services. The contract period is five years, with two 1-year options to be exercised at MTA’s sole discretion.

The MTA and its agencies currently purchase MRO supplies and related products and services via 10 MRO contracts, each with its own distinct category of MRO products. This contract award covers the renewal of the Snap-on Proprietary Products category, which includes specialized professional tools and proprietary diagnostic equipment used across multiple agencies, other services include vendor hosted MTA-Marketplace catalog and vendor managed vending machines.

A Request for Proposals (“RFP”) was publicly advertised, and letters notifying potential proposers of the RFP were sent directly to 14 firms. One proposal was received from Snap-on (the incumbent) for the Snap-on Proprietary Products category. Other vendors declined to propose considering the manufacturer’s direct involvement in the solicitation.

The Selection Committee (“SC”) was comprised of representatives from NYC Transit, Long Island Rail Road, Metro-North Railroad, the Triborough Bridges and Tunnels Authority, and MTA Headquarters. The evaluation criteria included capabilities, experience, diversity practices, and cost. Following the technical evaluation, the SC determined that an oral presentation from the incumbent was unnecessary, as there were no capability concerns and past performance has been satisfactory. The SC considered Snap-on to be technically qualified and recommended procurement to enter into negotiations.

The RFP was structured for proposers to submit unit pricing for a market basket of 298 most-often-ordered items under the current Snap-on Proprietary Products MRO contract and its annualized quantities. Snap-on’s original proposal on all 298 items has an annualized total value of \$1,193,035. Cost Price analysis of Snap-on’s original proposal revealed the following: (1) for all items, Snap-on offered an average 37.39 percent discount off its List Price; (2) in comparison to the historical price of the current contract, the straight average increase from the last price is 11.22 percent and the weighted average increase is 11.58 percent; (3) in comparison to Snap-on’s online market price on 277 items found, Snap-on’s offered value in the proposal is 37.41 percent less than its market value for the same items; and (4) when compared to the total value of the 250 similar items found in the online market, Snap-on’s offered value in the proposal is 1.97 percent higher than the online market value for similar items. Snap-on products are known in the industry for exceptional durability and quality; similar items from other brands may not be an exact equivalent.

Procurement negotiated with Snap-on to reduce unit pricing. Negotiations determined that Snap-on is contractually obligated to provide the federal government with its most favorable pricing under its GSA contract. However, Snap-on is unable to extend GSA pricing under the MRO contract terms because the MTA requires timely delivery of contracted items within six business days and contracted pricing for Snap-on’s entire catalog of items; Whereas the GSA terms allow for lead times of up to 90 days, and the products available under the contract may be limited at the supplier’s discretion. Snap-on offered its best alternative by submitting a Best and Final Offer

(“BAFO”) based on the unit pricing established under its Sourcewell contract., a cooperative purchasing program administered by the State of Minnesota. The Sourcewell contract establishes negotiated net pricing on Snap-on's entire catalog of products. Procurement performed an analysis of Snap-on’s BAFO, which resulted in the following: (1) when compared to the original proposal, the straight average is 9.3 percent less, and the weighted average is 9.6 percent less with Sourcewell pricing; (2) when compared with historical pricing of the current contract, the straight average increase is 1.9 percent and the weighted average increase is 2.0 percent, whereas the CPI inflation rate over the same period is 4.0 percent. As part of the RFP process, a spend amount attributed to non-market basket spend was included for the purpose of calculating an estimated award amount. The estimated contract value is based on historical spend and adjusted using an annual escalation factor of 3.2 percent, which is derived from the 2025 Producer Price Index (PPI). Based on the foregoing and in concurrence with Cost Price, Snap-on’s BAFO provided the lowest cost with the best possible value to the MTA; it is considered fair and reasonable.

The contract resulting from this procurement has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, have been included in the contract terms and conditions and verified by the MTA Cybersecurity group.

Snap-on has certified that pursuant to EO 16, they are not doing business in Russia.

D/M/WBE Information

DDCR assigned zero goals for this procurement, it was determined this solicitation does not allow for subcontracting opportunities.

Impact on Funding

Funding will be made available from the agencies’ operating budgets



MTA Headquarters Procurements

Sergio Paneque, Chief Procurement Officer

PROCUREMENTS

The Procurement Agenda this month includes 1 action for a proposed estimated expenditure of \$27.6 M.

Subject Request for Authorization to Award Various Procurements						September 24, 2026			
Department MTA Procurement						Department			
Department Head Name Sergio Paneque						Department Head Name			
Department Head Signature <i>Sergio Paneque</i>						Department Head Signature			
Project Manager Name Rose Davis						Internal Approvals			
Board Action									
Order	To	Date	Approval	Info	Other		Approval		Approval
1	Committee	09/28/26					CAO		
2	Board	09/30/26					Legal		
							CFO		
Internal Approvals (cont.)									
Order	Approval	Order	Approval	Order	Approval	Order	Approval	Order	Approval

PURPOSE
To obtain approval of the Board to award various contracts and purchase orders, and to inform the MTA Headquarters Committee of these procurement actions.

DISCUSSION
MTA Headquarters proposes to award Noncompetitive procurements in the following categories: None

MTA Headquarters proposes to award Competitive procurements in the following categories:

<u>Schedules Requiring Majority Vote:</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule E: Miscellaneous Procurement Contracts	1	\$ 27.6 M

MTA Headquarters proposes to award Ratifications in the following categories: None

TOTAL	1	\$ 27.6 M
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COMPETITIVE BIDDING REQUIREMENTS: The procurement actions in Schedules A, B, C, and D are subject to the competitive bidding requirements of PAL 1209 or 1265-a relating to contracts for the purchase of goods or public work. Procurement actions in the remaining Schedules are not subject to these requirements.

BUDGET IMPACT: The purchases/contracts will result in obligating funds in the amounts listed. Funds are available in the current operating/capital budgets for this purpose.

RECOMMENDATION: That the purchases/contracts be approved as proposed. (Items are included in the resolution of approval at the beginning of the Procurement Section.)

BOARD RESOLUTION

WHEREAS, in accordance with Sections 1265-a and 1209 of the Public Authorities Law and the All-Agency General Contract Procurement Guidelines, the Board authorizes the award of certain noncompetitive purchase and public work contracts, and the solicitation and award of requests for proposals regarding purchase and public work contracts; and

WHEREAS, in accordance with the All-Agency Service Contract Procurement Guidelines and General Contract Procurement Guidelines the Board authorizes the award of certain noncompetitive miscellaneous service and miscellaneous procurement contracts, certain change orders to purchase, public work, and miscellaneous service and miscellaneous procurement contracts, and

WHEREAS, in accordance with Section 2879 of the Public Authorities Law and the All-Agency Service Contract Procurement Guidelines, the Board authorizes the award of certain service contracts and certain change orders to service contracts.

NOW, the Board resolves as follows:

1. As to each purchase and public work contract set forth in annexed Schedule A, the Board declares competitive bidding to be impractical or inappropriate for the reasons specified therein and authorizes the execution of each such contract.

2. As to each request for proposals (for purchase and public work contracts) set forth in Schedule B for which authorization to solicit proposals is requested, for the reasons specified therein, the Board declares competitive bidding to be impractical or inappropriate, declares it is in the public interest to solicit competitive request for proposals, and authorizes the solicitation of such proposals.

3. As to each request for proposals (for purchase and public work contracts) set forth in Schedule C for which a recommendation is made to award the contract, the Board authorizes the execution of said contract.

4. As to each action set forth in Schedule D, the Board declares competitive bidding impractical or inappropriate for the reasons specified therein and ratifies each action for which ratification is requested.

5. The Board authorizes the execution of each of the following for which Board authorization is required: (i) the miscellaneous procurement contracts set forth in Schedule E; (ii) the personal service contracts set forth in Schedule F; (iii) the miscellaneous service contracts set forth in Schedule G; (iv) the modifications to personal/miscellaneous service contracts set forth in Schedule H; (v) the contract modifications to purchase and public work contracts set forth in Schedule I; and (vi) the modifications to miscellaneous procurement contracts set forth in Schedule J.

6. The Board ratifies each action taken set forth in Schedule K for which ratification is requested.

SEPTEMBER 2026
MTA REAL ESTATE
MTA C&D TRANSIT ORIENTED DEVELOPMENT
FINANCE COMMITTEE AGENDA ITEMS

1. TRANSACTIONAL ACTION ITEMS

MTA New York City Transit

- a. Ground lease (NYCT as the lessor) with GO Quay LLC and adoption of SEQRA Findings for the development of 40 Quay Street in Brooklyn; and

Ground lease (NYCT as the lessee) with 190 Brooklyn Holdings LLC and Varick Meadow Holdings LLC for 190 and 208 Varick Avenue and 213 Meadow Street in Brooklyn

MTA Metro-North Railroad

- b. Agreement with RLF II Bassett LLC to construct temporary access improvements and reimburse for costs incurred in connection with the construction of the south entrance to the Morris Park Station as part of the Penn Station Access Project in the Bronx
- c. Acquisition of easements from the New York State Thruway Authority for the Penn Station Access Co-op City Station in the Bronx
- d. Use and occupancy permit from the New York State Department of Transportation for property along Bruckner Boulevard in support of the Penn Station Access Project in the Bronx
- e. Lease renewal with 42nd Street Gorp Property LLC for Employee Assistance Program (EAP) office space at 110 East 42nd Street, New York

MTA Long Island Rail Road

- f. Authorization to acquire property interests by negotiated settlement or eminent domain for the LIRR Backup Operations Command Center in Jamaica

2. INFORMATION ITEMS

- a. Report on agreements entered into directly by the Real Estate Department pursuant to board policy
- b. Amendment to the Clear Channel Outdoors License Agreement for outdoor billboards

<u>Legal Name</u>	<u>Popular Name</u>	<u>Abbreviation</u>
<u>New York City Transit Authority</u>	<u>MTA New York City Transit</u>	<u>NYC Transit</u>
<u>The Long Island Rail Road Company</u>	<u>MTA Long Island Rail Road</u>	<u>LIRR</u>
<u>Metro-North Commuter Railroad Company</u>	<u>MTA Metro-North Railroad</u>	<u>MNR</u>
<u>Triborough Bridge and Tunnel Authority</u>	<u>MTA Bridges and Tunnels</u>	<u>MTA B&T</u>
<u>MTA Construction and Development Company</u>	<u>MTA Construction and Development</u>	<u>MTA C&D</u>
<u>MTA Bus Company</u>	<u>MTA Bus Company</u>	<u>MTA Bus</u>
<u>MTA Grand Central Madison Operating Company</u>	<u>Grand Central Madison</u>	<u>GCMC</u>

Staten Island Rapid Transit Operating Authority is a subsidiary of the Metropolitan Transportation Authority. Its popular name is MTA Staten Island Railway (abbreviated as SIR).

Manhattan and Bronx Surface Transit Operating Authority is a subsidiary of the New York City Transit Authority (abbreviated as MaBSTOA).

MTA NEW YORK CITY TRANSIT

Staff Summary

Subject GROUND LEASE (NYCT AS THE LESSOR) WITH GO QUAY LLC AND ADOPTION OF SEQRA FINDINGS FOR THE DEVELOPMENT OF 40 QUAY STREET; AND GROUND LEASE (NYCT AS THE LESSEE) WITH 190 BROOKLYN HOLDINGS LLC AND VARICK MEADOW HOLDINGS LLC FOR 190 AND 208 VARICK AVENUE AND 213 MEADOW STREET IN BROOKLYN	Date SEPTEMBER 30, 2026
Department TRANSIT ORIENTED DEVELOPMENT	Vendor Name
Department Head Name MIRIAM HARRIS	Contract Number
Department Head Signature	Contract Manager Name
Project Manager Name JOHN COYNE	Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	09/28/26	X		
2	Board	09/30/26	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Development Officer		
3	Chief Financial Officer		

- AGENCY:** Metropolitan Transportation Authority (“MTA”) and New York City Transit Authority (“NYCT”; and together with MTA, the “Authority”)
- LOCATIONS:**
- (a) 40 Quay Property: 40 Quay Street, Brooklyn, New York (Block 2590, Lot 1)
 - (b) Relocation Property: 190 and 208 Varick Avenue and 213 Meadow Street (a/k/a 209 Stewart Avenue), Brooklyn, New York (Block 2951, Lots 1, 5 and 45)
 - (c) Monitor Museum Property: 56 Quay Street, Brooklyn, New York (Block 2590, Lot 25)
 - (d) Surrender Property: 65 Commercial Street, Brooklyn, New York (Block 2472, Lot 415)
- COUNTERPARTIES; PRINCIPAL PROJECT DOCUMENTS:**
- (a) 40 Quay Lease, Relocation Property Development Agreement, guaranties, environmental indemnity and related documents (in relation to the 40 Quay Property and the Relocation Property): GO Quay LLC (“Developer”) and Gotham Organization, Inc. (“Guarantor” or “Gotham”), as applicable;
 - (b) Relocation Property Lease and Tri-Party Agreement (in relation to the Relocation Property): 190 Brooklyn Holdings LLC, a Delaware limited liability company (“Relocation Property Lessor”); Varick Meadow Holdings LLC, a Delaware limited liability company (“Relocation Property Owner”); Developer;
 - (c) Documents relating to the Rezoning of the 40 Quay Property and the Monitor Museum Property, including:

FINANCE COMMITTEE MEETING

GROUND LEASE (NYCT AS THE LESSOR) WITH GO QUAY LLC AND ADOPTION OF SEQRA FINDINGS FOR THE DEVELOPMENT OF 40 QUAY STREET; AND GROUND LEASE (NYCT AS THE LESSEE) WITH 190 BROOKLYN HOLDINGS LLC AND VARICK MEADOW HOLDINGS LLC FOR 190 AND 208 VARICK AVENUE AND 213 MEADOW STREET IN BROOKLYN (Cont'd)

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- i. Declaration of Zoning Lot Restrictions (in relation to the 40 Quay Property and the Monitor Museum Property): Developer; The Monitor Museum, a New York not-for-profit corporation ("Monitor Museum");
- ii. Zoning Lot Development and Easement Agreement (in relation to the 40 Quay Property and the Monitor Museum Property): Monitor Museum; Developer;
- iii. Restrictive Declaration (in relation to the 40 Quay Property and the Monitor Museum Property): Developer; Monitor Museum; and
- iv. Waterfront Public Access Area ("WPAA") Maintenance Agreement (in relation to the 40 Quay Property and the Monitor Museum Property): Developer; Monitor Museum; City of New York

ACTION REQUESTED:

- (a) Adoption by the MTA Board and the NYCT Board, acting in their respective capacities, of the joint Determination and Findings Statement attached as Attachment 4 ("Findings Statement")
- (b) Approval of the Project and Transaction (as such terms are defined below); authorization for NYCT to transfer fee title to the 40 Quay Property to MTA and for MTA to accept title; and authorization to finalize, execute, deliver and perform the 40 Quay Lease and the other Project Documents (as defined below)
- (c) Authorization to execute the Declaration of Zoning Lot Restrictions, Zoning Lot Development and Easement Agreement, and any necessary waivers and documents related to Developer's purchase of air rights from Monitor Museum ("Monitor Museum Air Rights Purchase Documents")
- (d) Authorization to execute the Restrictive Declaration
- (e) Authorization to execute the WPAA Maintenance Agreement
- (f) Authorization for MTA and/or NYCT, as applicable, to execute, enter into, and/or accept (as applicable) the 40 Quay Lease, Relocation Property Lease, Relocation Property Development Agreement, guaranties, environmental indemnities, agreements and documents with Relocation Property Owner in connection with the Relocation Property Lease ("Relocation Property Owner Documents"), entry permits and expense reimbursement documents, and any and all other ancillary or supplemental agreements contemplated by the foregoing documents and/or otherwise necessary or appropriate in connection with the Transaction, and to execute and/or acknowledge permitted leasehold financing, recognition, subordination, non-disturbance, severance, collateral and other ancillary instruments on the material parameters described below (the foregoing, together with the documents described in clauses (c), (d) and (e) above, collectively, "Project Documents")

COMPENSATION:

- (a) 40 Quay Property Rent: NPV of \$61,094,195 (discounted at 5%), comprised of Upfront Rent of \$10,500,000, together with annual Base Rent initially equal to \$2,114,275, increasing by 10% every five years and subject to reset in Years 26, 51 and 76. The 40 Quay Property rent is more fully set forth in Attachment 1.

FINANCE COMMITTEE MEETING

GROUND LEASE (NYCT AS THE LESSOR) WITH GO QUAY LLC AND ADOPTION OF SEQRA FINDINGS FOR THE DEVELOPMENT OF 40 QUAY STREET; AND GROUND LEASE (NYCT AS THE LESSEE) WITH 190 BROOKLYN HOLDINGS LLC AND VARICK MEADOW HOLDINGS LLC FOR 190 AND 208 VARICK AVENUE AND 213 MEADOW STREET IN BROOKLYN (Cont'd)

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- (b) Offsetting Relocation Property Rent: Authority rental-expense NPV of \$22,138,436 (discounted at 5%), comprised of initial annual rent of \$700,000, increasing by 10% every five years and subject to applicable 25-year rent reset provisions. Developer pays the Relocation Property rent during the Developer Performance Period (the construction period for the Replacement Facility under the Relocation Property Development Agreement) before Authority rent commences, as set forth in Attachment 2.
- (c) Net Rent Value: \$38,955,759 NPV before PILOT, PILOST and the in-kind value of the Replacement Facility at the Relocation Property for NYCT's benefit and use under the Relocation Property Lease.
- (d) Additional Rent: Developer will make additional rent payments for PILOT (calculated and allocated as described below), PILOST, reimbursement of specified Authority costs, and capital transaction payments as follows:
 - \$50,000 for each refinancing and each mezzanine financing (other than the initial refinancing of construction financing with permanent financing)
 - \$100,000 for each equity interest disposition
 - \$100,000 for each leasehold disposition
- (e) In-Kind Value of Replacement Facility / Relocation Property Facility: Delivery by Developer to the Authority of an approximately 189,000 gross square foot, three-story turnkey facility at the Relocation Property with an estimated value of \$54 million

BACKGROUND

On May 9, 2019, MTA issued a request for proposals for the redevelopment of the 40 Quay Property and relocation of the NYCT operations currently conducted there. Following a competitive selection process, MTA and Gotham Property Acquisitions, LLC, an affiliate of Developer, entered into a Conditional Designation Letter dated September 17, 2021, and the MTA Board preliminarily approved the conditional designation on October 20, 2021. The 40 Quay Property is an approximately 80,730 square foot waterfront parcel currently improved with an approximately 72,600 square foot warehouse used by NYCT's Mobile Wash and Material Control operations.

On March 15, 2024, MTA, NYCT and Developer entered into the Pre-Lease, Relocation and Development Planning Agreement (the "Pre-Lease Agreement"). The Pre-Lease Agreement establishes the conditions to closing the transactions contemplated thereunder, requires Developer to obtain required public approvals for the contemplated redevelopment of the 40 Quay Property and secure the Relocation Property, and includes substantially negotiated forms of the principal Project Documents, subject to certain modifications to be made based on the commitment letter from Developer to the New York City Council dated June 22, 2026 (the "Developer Commitment Letter"). Execution of the 40 Quay Lease at closing will not result in simultaneous delivery of possession of the 40 Quay Property to Developer; rather, possession of the 40 Quay Property and the 99-year term of the 40 Quay Lease will begin only after the Replacement Facility at the Relocation Property has been completed and accepted by the Authority and the applicable NYCT operations have been relocated to the Replacement Facility.

The principal components (collectively, the "Project") of the integrated transaction (the "Transaction") are described below:

- (a) **40 Quay Street Redevelopment (the "40 Quay Project")**: At closing, NYCT will transfer fee title to the 40 Quay Property to MTA, and MTA and Developer will execute a triple-net ground lease of the 40 Quay Property (with delivery of possession tied to when the NYCT operations have been relocated to the Replacement Facility at the Relocation Property) (the "40 Quay Lease"). Following delivery of possession of the 40 Quay Property, Developer

FINANCE COMMITTEE MEETING

GROUND LEASE (NYCT AS THE LESSOR) WITH GO QUAY LLC AND ADOPTION OF SEQRA FINDINGS FOR THE DEVELOPMENT OF 40 QUAY STREET; AND GROUND LEASE (NYCT AS THE LESSEE) WITH 190 BROOKLYN HOLDINGS LLC AND VARICK MEADOW HOLDINGS LLC FOR 190 AND 208 VARICK AVENUE AND 213 MEADOW STREET IN BROOKLYN (Cont'd)

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will demolish the existing improvements thereon and construct the East and West Buildings on the 40 Quay Property. A separate museum building will be constructed on the Monitor Museum Property (immediately adjacent to the west of the 40 Quay Property) and the Monitor Museum will convey excess development rights to the 40 Quay Property to be incorporated into the development through the zoning lot documents.

- (1) The Developer Commitment Letter provides for approximately 1,324 rental dwelling units, approximately 662 of which (50 percent) will be permanently affordable, including approximately 161 senior units. The approximately 958-unit West Building will include approximately 296 Mandatory Inclusionary Housing units; the approximately 366-unit East Building will be entirely affordable and will include the senior units and approximately 110 supportive-housing units. The project also includes approximately 140 below-grade parking spaces. The foregoing commitments in the Developer Commitment Letter will be reflected in the 40 Quay Lease executed at closing.
- (2) The Project includes approximately 18,000 zoning square feet for the Greenpoint Monitor Museum, approximately 2,700 square feet of additional community facility space, and up to approximately 19,850 gross square feet of local retail.
- (3) The Project also includes approximately 52,500 square feet of publicly accessible waterfront open space, including a continuous 40-foot-wide esplanade completing the connection between the Bushwick Inlet Park to the south and the Shore Public Walkway to the north; waterfront-resiliency and shoreline improvements;. The commitments to construct, operate and maintain these waterfront public access areas are contained in the Restrictive Declaration and WPAA Maintenance Agreement.

(b) Relocation Property Facility (the “Relocation Property Project”): Developer will design, perform site remediation, finance and construct the Replacement Facility at the Relocation Property to consolidate NYCT’s Mobile Wash, Material Control and Emergency Response Unit (ERU) operations. At closing, MTA or NYCT (as determined by MTA), will enter into the Relocation Property Lease, and Developer, MTA and NYCT will enter into the Relocation Property Development Agreement. Developer will be responsible for turnkey delivery under the Relocation Property Development Agreement and will pay the compensation due to the Relocation Property Lessor during the Developer Performance Period. Payment of rent by the Authority will commence only as provided in the Relocation Property Lease after completion and MTA’s acceptance of the Replacement Facility.

(c) 65 Commercial Street Surrender: After NYCT occupies the Relocation Property (and in conjunction therewith vacates the existing location of ERU operations at 65 Commercial Street in Brooklyn), Developer will demolish the specified existing improvements and pave the site (the “65 Commercial Street Surrender Improvements”), at a cost to be reviewed and approved by the Authority and credited against the Upfront Rent under the 40 Quay Lease (described below). Upon completion of the 65 Commercial Street Surrender Improvements, NYCT will surrender its leasehold interest in the City-owned property at 65 Commercial Street for incorporation into the planned Box Street Park. In December 2015, the MTA Board authorized such surrender subject to completion of a suitable replacement facility.

On May 13, 2026, the New York City Planning Commission (“CPC”) approved zoning map amendment C 260105 ZMK, zoning text amendment N 260106 ZRK, large-scale general development special permit C 260107 ZSK, and City Map amendment C 250326 MMK.¹ Waterfront certification N 260108 ZCK and related action 260110 LDK also form part of the land use approval record. The City Council approved the applications subject to its review, with modifications, on July 16, 2026. Subject to satisfaction or waiver of the conditions in the Pre-Lease Agreement, the Project Documents will be executed at closing following the applicable Board approvals.

¹ CPC also approved application C 260109 ZSK for a special permit to reduce loading requirements. However, this application was withdrawn during the City Council review process.

FINANCE COMMITTEE MEETING

GROUND LEASE (NYCT AS THE LESSOR) WITH GO QUAY LLC AND ADOPTION OF SEQRA FINDINGS FOR THE DEVELOPMENT OF 40 QUAY STREET; AND GROUND LEASE (NYCT AS THE LESSEE) WITH 190 BROOKLYN HOLDINGS LLC AND VARICK MEADOW HOLDINGS LLC FOR 190 AND 208 VARICK AVENUE AND 213 MEADOW STREET IN BROOKLYN (Cont'd)

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TRANSACTION SEQUENCE

During the first stage of the Transaction, the Relocation Property Lease, Relocation Property Development Agreement, guaranties, indemnity and related documents will become effective, and Developer will construct and deliver the Replacement Facility in accordance with the terms of such documents while NYCT continues to occupy the 40 Quay Property. The 40 Quay Lease will be signed at closing and will be effective during the first stage, but possession of the 40 Quay Property will not be delivered to Development until the second stage below.

In the second stage of the Transaction, after the Authority receives (or issues) the required occupancy and completion approvals with respect to the Replacement Facility, accepts the Replacement Facility and relocates the NYCT operations to the Replacement Facility, the Authority will tender possession of the 40 Quay Property to Developer and the 99-year term of the 40 Quay Lease will commence (the date of such commencement, the "40 Quay Term Commencement Date").

ENVIRONMENTAL FINDINGS

CPC served as lead agency for the coordinated review under SEQRA and CEQR, CEQR No. 25DCP068K. CPC issued the Positive Declaration on March 21, 2025, issued a Notice of Completion for the Draft Environmental Impact Statement on December 12, 2025, issued a Notice of Completion for the Final Environmental Impact Statement ("FEIS") on April 30, 2026, and adopted its written findings on May 13, 2026. Technical Memorandum 001, dated July 9, 2026, evaluated the proposed Council modifications and concluded that they would not result in new or greater significant adverse environmental impacts or require a supplemental environmental impact statement. MTA and NYCT independently reviewed the FEIS, CPC findings, Council-modified approval record, Technical Memorandum, the Restrictive Declaration required by the final City approvals and other relevant materials and prepared the attached Findings Statement.

The FEIS identified traffic and pedestrian impacts and temporary construction traffic, pedestrian and noise impacts, some of which can be mitigated. Applicable mitigation and project components related to the environment are secured through CEQR (E) Designations E-138 and E-870, the Restrictive Declaration and the Project Documents, including Authority inspection, cure, self-help, guaranty, indemnification, termination and other enforcement rights.

MATERIAL BUSINESS TERMS

The material economic and other business terms of the Transaction negotiated with Developer are consistent with or more favorable to the Authority than the terms evaluated through the competitive selection and conditional designation process. The current terms are summarized below.

40 Quay Lease and Related Documents

Compensation and Tax-Equivalent Payments

- (a) Upfront Rent (during construction period): Developer will pay MTA a total of \$10,500,000 in installments as follows:
- \$1,500,000 on the 40 Quay Term Commencement Date (i.e., the possession delivery date of the 40 Quay Property);
 - \$1,750,000 on each of the first and second anniversaries of the 40 Quay Term Commencement Date;
 - \$2,500,000 on the third anniversary of the 40 Quay Term Commencement Date; and
 - \$1,000,000 on each of the first three successive anniversaries of the 40 Quay Term Commencement Date as the affordable housing component of Upfront Rent ("Affordable Housing Upfront Rent"). Any unpaid Affordable Housing Upfront Rent balance accelerates upon the closing of construction financing for the affordable housing (East) building and in specified early termination circumstances (in each case prior to the third anniversary of the 40 Quay Term Commencement Date).

FINANCE COMMITTEE MEETING

GROUND LEASE (NYCT AS THE LESSOR) WITH GO QUAY LLC AND ADOPTION OF SEQRA FINDINGS FOR THE DEVELOPMENT OF 40 QUAY STREET; AND GROUND LEASE (NYCT AS THE LESSEE) WITH 190 BROOKLYN HOLDINGS LLC AND VARICK MEADOW HOLDINGS LLC FOR 190 AND 208 VARICK AVENUE AND 213 MEADOW STREET IN BROOKLYN (Cont'd)

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- The sum of the final Authority-approved cost of the 65 Commercial Street Surrender Improvements will be deducted from (as a credit against) the foregoing Upfront Rent amounts.
- (b) Base Rent (as more fully set forth at Attachment 1): \$61,094,195 present value (discounted at 5%) (which present value amount is inclusive of the \$10,500,000 in Upfront Rent). Base Rent will commence on the fourth anniversary of the earlier of (i) the 40 Quay Term Commencement Date and (ii) 120 days after substantial completion of the Relocation Property Facility. Initial annual Base Rent is \$2,114,275, payable monthly and increasing by 10% every five years. For the scheduled resets of Base Rent in Years 26, 51 and 76, the scheduled 10% increase is applied first, with the Base Rent then resetting in Years 26, 51 and 76 to the greater of the resulting adjusted baseline or 6% of Land Value, but not more than 120% of the adjusted baseline.
- (c) PILOT: Developer will pay MTA amounts equal to the real property taxes that would otherwise be payable but for the Authority's exemption from real property taxes by virtue of its ownership of the 40 Quay Property, subject during the agreed construction and abatement periods to the assessed value methodology set forth in the 40 Quay Lease and, for the affordable component, the contemplated Real Property Tax Law § 420-c treatment. The PILOT payments will be allocated between MTA and the City under a formula that distinguishes development permitted before the rezoning obtained in connection with the public approvals for the 40 Quay Project from incremental development enabled by such rezoning.
- (d) PILOST and Other Payments: Developer will pay MTA amounts equal to applicable State and local sales and compensating-use taxes which are otherwise not payable by virtue of the Authority's exemption on qualifying construction materials due to its ownership of the 40 Quay Property, on terms set forth in the 40 Quay Lease.
- (e) Replacement Facility: The Authority will be the beneficiary of the in-kind value of construction improvements at the Relocation Property for NYCT's benefit (estimated at approximately \$54 million) for use as the newly constructed Relocation Property Facility for NYCT's Mobile Wash, Material Control and Emergency Response Unit operations.

Term and Development Schedule

The 40 Quay Lease and Relocation Property Lease will each be executed and effective at closing, but Developer will not receive possession of the 40 Quay Property until the Authority tenders vacant possession thereof after the Replacement Facility at the Relocation Property has been completed and accepted by the Authority and NYCT has fully relocated its applicable operations/units to the Replacement Facility. The lease term of the 40 Quay Lease runs for 99 years from the 40 Quay Term Commencement Date. Developer must commence construction of the 40 Quay Project by the fifth anniversary of the 40 Quay Term Commencement Date (the "Required Initial Construction Commencement Date") and achieve Substantial Completion within 40 months after the Required Initial Construction Commencement Date, subject to Unavoidable Delay, followed by Final Completion in accordance with the 40 Quay Lease.

Relocation Property Lease and Replacement Facility

Facility Delivery & Cost Allocation:

- Developer will design, perform site remediation, finance, construct, fit out, commission and turn over the approximately 189,000 gross square foot Replacement Facility on the Relocation Property in accordance with Authority approved plans, with Developer responsible at its expense (except as provided in the following bullet point) for turnkey delivery pursuant to the provisions of the Relocation Property Development Agreement.
- The Authority will be responsible only for costs arising from agreed discretionary Authority scope changes, as provided in the Relocation Property Development Agreement.

Relocation Property Lease Economics:

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- The Relocation Property Lease will be effective at closing. The Rent Commencement Date will occur when 60 days have elapsed after issuance of the Certificate of Substantial Completion for the Relocation Property Facility and Developer has completed all punch list work and cured all violations required to be cured under the Relocation Property Development Agreement, but (unless the Relocation Property Lease is terminated in accordance with its terms) no later than 120 days after issuance of such certificate.
- The Authority will pay initial annual rent of \$700,000 after Rent Commencement, increasing by 10% every successive five years and subject to rent resets in Years 26, 51 and 76 calculated using the applicable 110% floor, 6% of land value test and applying a 120% cap on the rent reset increase in each of Years 26, 51 and 76.
- Developer will pay the corresponding compensation (i.e., rents under the Relocation Property Lease) during the Developer Performance Period.
- The lease expires on the last day of the month containing the day immediately preceding the 99th anniversary of the Rent Commencement Date and is a triple net lease after the Rent Commencement Date.

Security and Remedies:

- The Project Documents include, among other things, a rent guaranty, completion guaranty and environmental indemnity with respect to the 40 Quay Lease, a guaranty of Developer's payment and performance obligations under the Relocation Property Lease during the Developer Performance Period and Developer's completion and warranty obligations with respect to the Replacement Facility under the Relocation Property Development Agreement, an environmental indemnity with respect to the Relocation Property, and other recognition and non-disturbance agreements with respect to the Authority's leasehold interest under the Relocation Property Lease. Various of the Project Documents also include, as applicable, provisions in favor of the Authority regarding payment and performance security, collateral assignments, inspection and self-help rights, termination rights, indemnities and specific performance remedies.
- In addition to any other remedies available to the Authority, delay payments of \$150,000 per month apply if substantial completion of the Replacement Facility is not achieved by the agreed substantial completion deadline (24 months after execution of the Relocation Property Development Agreement, subject to extension for Unavoidable Delay not to exceed 6 months in the aggregate).

Financing, Severance and Fee Title Transfer

The requested authorization includes the transfer of fee title to the 40 Quay Property from NYCT to MTA and MTA's acceptance of title. It also includes provisions (as set forth in the 40 Quay Lease) for permitted leasehold financing and contemplated subdivision of the 40 Quay Property into separate tax lots for the West (mixed income) and East (affordable) buildings and severance of the 40 Quay Lease into separate ground leases for such components. Recognition, cure, non-disturbance and new lease rights set forth in the 40 Quay Lease will be limited to qualified institutional lenders and will preserve the rent, PILOT, PILOST, construction, guaranty and other material Authority protections. Severance documents may establish separate market rate and affordable ground leases after subdivision, without extending the aggregate term.

The Authority may also execute the Declaration of Zoning Lot Restrictions, Zoning Lot Development and Easement Agreement, any necessary waivers and any related documents to effectuate the Monitor Museum Air Rights Purchase Documents, the Restrictive Declaration and the WPAA Maintenance Agreement, together with any related subordination, non-disturbance, recognition, collateral assignment and recording instruments that are materially consistent with, and no less favorable to the Authority than, the parameters described in this Staff Summary and the Board resolution.

Closing Conditions

Closing remains subject to satisfaction or waiver in the Authority's discretion of the closing conditions in favor of the Authority set forth in the Pre-Lease Agreement, including final public and Board approvals, execution of conformed and final Project Documents in form acceptable to the Authority, issuance of acceptable title insurance with respect to the Relocation Property, Authority approval of the 100 percent complete schematic design documents for the Relocation

FINANCE COMMITTEE MEETING

GROUND LEASE (NYCT AS THE LESSOR) WITH GO QUAY LLC AND ADOPTION OF SEQRA FINDINGS FOR THE DEVELOPMENT OF 40 QUAY STREET; AND GROUND LEASE (NYCT AS THE LESSEE) WITH 190 BROOKLYN HOLDINGS LLC AND VARICK MEADOW HOLDINGS LLC FOR 190 AND 208 VARICK AVENUE AND 213 MEADOW STREET IN BROOKLYN (Cont'd)

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Property Facility, completion of the tax lot merger for the Relocation Property merging the three existing tax parcels into a single tax parcel, and the absence of specified defaults or any finding of prohibited persons.

The value of the Authority's total consideration for the Transaction equals or exceeds the Authority's estimate of the fair market value thereof based on an independent appraisal obtained by the Authority.

RECOMMENDATION

Based on the foregoing, MTA Transit-Oriented Development recommends that, acting in their respective capacities and following adoption of the Findings Statement:

- 1) each of the MTA Board and the NYCT Board adopt the Findings Statement attached as Attachment 4;
- 2) each applicable Board approve the Project and Transaction on the material terms described in this Staff Summary;
- 3) the NYCT Board authorize the transfer of fee title to the 40 Quay Property to MTA, and the MTA Board authorize acceptance of such title;
- 4) each applicable Board authorize MTA and/or NYCT, as applicable, to finalize, execute, deliver, accept and/or perform (as applicable) the Project Documents, including the 40 Quay Lease, Relocation Property Lease, Relocation Property Development Agreement, Tri-Party Agreement, guaranties, indemnities, Relocation Property Owner Documents, Restrictive Declaration, WPAA Maintenance Agreement, Zoning Lot Development and Easement Agreement and related Monitor Museum Air Rights Purchase Documents, entry permits, expense reimbursement documents, any recognition, subordination, non-disturbance, severance and collateral instruments described above and/or related to the foregoing, and any other ancillary agreements, documents, affidavits and/or certificates necessary or appropriate in connection with the closing and implementation of the Transaction; and
- 5) NYCT's previously authorized surrender of its leasehold interest in 65 Commercial Street to the City of New York be implemented following completion of a suitable replacement facility.

Each Board agrees that the officers and delegates identified in the attached resolution may negotiate, finalize, make conforming revisions to and execute the Project Documents including any and all ancillary and supplemental agreements and documents, which may include the negotiation of final changes and the making of conforming revisions to such documents as such officers and delegates may deem necessary or appropriate in connection with consummating the Transaction, and take related implementation actions, provided that the final documents are materially consistent with, and no less favorable to the Authority than, the terms and parameters described in this Staff Summary and the attached resolution.

Attachments

- Attachment 1: 40 Quay Street Rent Schedule
- Attachment 2: Relocation Property Rent Schedule
- Attachment 3: Staff Summary dated October 20, 2021
- Attachment 4: Joint Determination and Findings Statement and CPC Environmental Materials
- Attachment 5: Joint MTA and NYCT Board Resolution

ATTACHMENT 1: 40 Quay Street Rent Schedule

- Upfront Rent of \$10,500,000, payable in installments as follows: (1) \$1,500,000 on the 40 Quay Term Commencement Date, \$1,750,000 on each of the first and second anniversaries of the 40 Quay Term Commencement Date, and \$2,500,000 on the third anniversary of the 40 Quay Term Commencement Date; and (2) \$1,000,000 of Affordable Housing Upfront Rent on each of the first three anniversaries following the 40 Quay Term Commencement Date, with the unpaid balance accelerated upon the closing of construction financing for the affordable housing (East) building or specified early termination (in each case prior to the third anniversary of the 40 Quay Term Commencement Date)
- Initial Annual Base Rent: \$2,114,275, commencing on the fourth anniversary of the earlier of (1) the 40 Quay Term Commencement Date and (2) 120 days after substantial completion of the Relocation Property Facility (the “Base Rent Commencement Date”)
- 10% increase every five years
- Reset in Years 26, 51 and 76, after applying the scheduled 10% increase, to the greater of that adjusted amount or 6% of Land Value, but not more than 120% of that adjusted amount
- NPV at 5%: \$61,094,195 in value to MTA

YEAR	UPFRONT RENT	ANNUAL BASE RENT
40 Quay Term Commencement Date	\$1,500,000.00	
1st Anniversary of 40 Quay Term Commencement Date	\$1,750,000.00	
2nd Anniversary of 40 Quay Term Commencement Date	\$1,750,000.00	
3rd Anniversary of 40 Quay Term Commencement Date	\$2,500,000.00	
Affordable Housing Upfront Rent (three annual installments; subject to acceleration)	\$3,000,000.00 total	
Years 1 – 5		\$2,114,275.00
Years 6 – 10		\$2,325,703
Years 11 – 15		\$2,558,273
Years 16 – 20		\$2,814,101
Years 21 – 25		\$3,095,511
Year 26+	In Years 26, 51 and 76, after applying the scheduled 10% increase, rent resets to the greater of (i) that adjusted amount or (ii) 6% of Land Value, but not more than 120% of that adjusted amount; 10% increases apply every five years between resets.	

FINANCE COMMITTEE MEETING

GROUND LEASE (NYCT AS THE LESSOR) WITH GO QUAY LLC AND ADOPTION OF SEQRA FINDINGS FOR THE DEVELOPMENT OF 40 QUAY STREET; AND GROUND LEASE (NYCT AS THE LESSEE) WITH 190 BROOKLYN HOLDINGS LLC AND VARICK MEADOW HOLDINGS LLC FOR 190 AND 208 VARICK AVENUE AND 213 MEADOW STREET IN BROOKLYN (Cont'd)

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ATTACHMENT 2: Relocation Property Rent Schedule

- Initial annual rent: \$700,000 from the Rent Commencement Date; Developer pays corresponding compensation during the Developer Performance Period²
- 10% increase every five years
- Reset in Years 26, 51 and 76 to the greater of 110% of prior rent or 6% of Land Value, but not more than 120% of prior rent
- NPV at 5%: \$22,138,436

YEAR	ANNUAL BASE RENT
Years 1 – 5	\$700,000.00
Years 6 – 10	\$770,000.00
Years 11 – 15	\$847,000.00
Years 16 – 20	\$931,700.00
Years 21 – 25	\$1,024,870.00
Year 26+	In Years 26, 51 and 76, rent resets to the greater of (i) 110% of prior rent or (ii) 6% of Land Value, but not more than 120% of prior rent; 10% increases apply every five years between resets.

² If the Relocation Property Lease has not been executed on or before March 15, 2029 (i.e., the fifth (5th) anniversary of the effective date of the Pre-Lease, Relocation and Development Planning Agreement between MTA and Developer), which date shall be extended due to Unavoidable Delays not to exceed six (6) months in the aggregate, then Annual Base Ground Rent due and payable for Year 1 through Year 25 shall be at the increased annual base rate starting in Years 1 through Year 5 of \$770,000 annual base rent, as increased by 10% every five years and subject to the rent resets in Years 26, 51 and 76.

Staff Summary

FINANCE COMMITTEE MEETING

GROUND LEASE (NYCT AS THE LESSOR) WITH GO QUAY LLC AND ADOPTION OF SEQRA FINDINGS FOR THE DEVELOPMENT OF 40 QUAY STREET; AND GROUND LEASE (NYCT AS THE LESSEE) WITH 190 BROOKLYN HOLDINGS LLC AND VARICK MEADOW HOLDINGS LLC FOR 190 AND 208 VARICK AVENUE AND 213 MEADOW STREET IN BROOKLYN (Cont'd)

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ATTACHMENT 3: Staff Summary October 20, 2021

[Begins on Following Page]

Staff Summary

Subject 40 QUAY STREET DEVELOPMENT AND RELATED RELOCATION OF EXISTING NYCT MOBILE WASH AND NYCT MATERIAL STORAGE UNITS	Date OCTOBER 20, 2021
Department REAL ESTATE	Vendor Name
Department Head Name FREDERICKA CUENCA	Contract Number
Department Head Signature	Contract Manager Name
Project Manager Name JOHN COYNE	Table of Contents Ref. #

Board Action						Internal Approvals			
Order	To	Date	Approval	Info	Other	Order	Approval	Order	Approval
1	Finance Committee	10/18/21	X			1	Legal		
2	Board	10/20/21	X			2	Chief Development Officer		
						3	Chief Financial Officer		

AGENCY: MTA New York City Transit ("NYCT")

COUNTERPARTIES: Developer: Gotham Property Acquisition LLC ("Gotham");
NYCT Relocation Property Owner: Meadow Street Realty Corp. and 190 Varick Avenue Realty Corp. (collectively, the "NYCT Relocation Property Owner")

LOCATION: Development Site: 40 Quay Street, Brooklyn, Block 2590 Lot 1 (the "Quay Street Property")
NYCT Relocation Site: 190 Varick Ave, 208 Varick Ave, and 517 Ten Eyck Street, Brooklyn, Block 2951 Lots 1, 5, and 16 (collectively, the "NYCT Relocation Property")

ACTIVITY:

- (a) Conditional designation of Gotham to: re-develop the Quay Street Property pursuant to a 99-year triple net lease (the "Lease") commencing on the possession date and ending 99 years from rent commencement, secure a 99-year triple net lease of the NYCT Relocation Property (the "Relocation Lease"), and deliver a turnkey facility at the NYCT Relocation Property for the relocation of the NYCT Functions (described below) pursuant to a "Relocation Development Agreement"; and
- (b) Negotiation and execution of an agreement to enter into a lease and a relocation lease and development agreement (the "Pre-Lease, Relocation and Development

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

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Agreement") covering such transactions, which will include as exhibits the agreed upon forms of the transaction documents named above.

ACTION REQUESTED: Authorization to conditionally designate Gotham as the successful proposer to the RFP (described below) and to negotiate and enter into the Pre-Lease, Relocation and Development Agreement as well as to negotiate the terms and forms of the Lease, the Relocation Lease, the Relocation Development Agreement and such other agreements related to this transaction. Entering into the Lease and other transaction documents will be conditioned on compliance by NYCT and all other involved governmental agencies with the State Environmental Quality Review Act ("SEQRA") as it relates to the Lease, the Relocation Lease and the Relocation Development Agreement, and subsequent approval following such SEQRA compliance of the overall transaction by NYCT Board.

COMPENSATION:

- (a) Base Rent: \$61,094,195 present value (discounted at 5%) payable to NYCT if the Quay Street Property is rezoned, as described below, reflecting up-front payments during the construction period of \$10,500,000 plus annual ground rental revenue from the Quay Street Property, as set forth in the attached **Schedule A-1**; or \$29,241,822 present value (discounted at 5%) if the rezoning is not successful, which reflects up-front payments during the construction period of \$5,500,000 plus annual ground rental revenue, as set forth in the attached **Schedule A-2**.
- (b) Offsetting Relocation Rent: \$22,138,436 present value (discounted at 5%) reflecting NYCT rental expense related to the NYCT Relocation Property, as set forth in the attached **Schedule B**.
- (c) Additional Rent: Developer to make additional rent payments to NYCT that will equal real property taxes over the Lease term, as though the same continued to be benefitted by abatements that exist as of the date of this staff summary, known as "Affordable New York", applicable to large scale affordable housing development projects in the area without regard to whether such abatements continue to be applicable in the future; and payments in lieu of sales taxes, equal to the sales tax Developer would incur with respect to its construction costs but for NYCT's exemption from such sales tax with respect to permanent improvements.
- (d) Additional Compensation: (i) NYCT will be the beneficiary of \$26,775,303 in estimated construction improvements to the NYCT Relocation Property, and (ii) NYCT will be entitled to 0.5% of any Net Profit upon the closing of all capital transactions at the Quay Street Property which occur from time to time.

BACKGROUND

MTA Construction & Development ("MTA C&D") identified the Quay Street Property as part of a broader strategic evaluation of MTA/NYCT facilities where increasing property values could be captured by MTA/NYCT through the relocation of operational functions to lower cost locations, allowing for the disposition and monetization of the legacy industrial site for another use.

The Quay Street Property, an 80,617sf ± industrial property, was purchased by NYCT in 1998 for \$2.5 million and is located on the East River waterfront in the Greenpoint neighborhood of Brooklyn. The property currently houses the headquarters of the NYCT Mobile Wash Division and the NYCT Material Storage Unit (the "NYCT Functions"). In 2006, the City of New York (the "City") rezoned a large section of the Williamsburg and Greenpoint neighborhoods that included the Quay Street Property from light manufacturing to higher-density multi-family residential.

In May 2019, MTA C&D issued a request for proposals ("RFP") to re-develop the Quay Street Property conditioned on relocating the NYCT Functions to a new facility and location.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

SELECTION PROCESS

MTA C&D received proposals from six entities:

- Gotham Property Acquisition, LLC
- TF Cornerstone, Inc.
- Criterion Group, LLC
- FOLXCO, LLC
- Bluewater 1 (joint venture between Jones Lang LaSalle, Shorewood Real Estate Group, and Cogsville Group)
- Inlet Park, LLC (joint venture between Hakimian Organization and SB Development)

All proposers submitted proposals that involved rezoning the Quay Street Property to R8 or its equivalent, which allows a maximum 6.0 floor area ratio ("FAR"), which is consistent with the zoning context of the surrounding properties on the East River waterfront. All rezoning proposals included community benefits that anticipate community needs, such that the proposed compensation values noted below would be net of developer costs to provide such community benefits.

Because this density requires approval from the New York City Planning Commission and the New York City Council, all proposers submitted alternative development proposals for projects based on existing as-of-right zoning of R6, which allows a maximum 2.4 FAR, in the event their rezoning applications failed.

All proposals also identified a site to relocate the NYCT Functions and proposed to construct a replacement facility. MTA C&D interviewed each proposer and visited each proposed relocation property. Each proposer was then given an opportunity to improve its proposal. The final proposals based on a rezoned parcel are as follows:

PROPOSER	NYCT Relocation Site	NYCT Relocation Proposal Details	Relocation Cost to MTA (NPV @ 5% for leases)	Ground Rent Paid to MTA As Rezoned (NPV @ 5%)	NET COMP TO MTA	COMPETITIVE CONSIDERATION
Gotham Property Acquisition	190 Varick Ave, East Williamsburg, Brooklyn	Proposed to construct new facility at the lowest cost and assign 30-year lease to NYCT.	-\$22,138,436	\$61,094,195	\$ 38,955,759	Agreed to perform \$26.8M of in-kind improvements to NYCT Relocation Property on a turnkey basis, at developer risk.
Inlet Park	7-27 Franklin Street, Greenpoint, Brooklyn	Proposed to relocate NYCT Functions at base of new building at Quay Street Property.	-\$50,487,850	\$87,066,360	\$ 36,578,510	Relocation proposal not feasible due to traffic and space considerations.
TF Cornerstone	55-30 58th Street, Maspeth, Queens	Proposed to purchase property, construct new facility, and convey ownership to NYCT.	-\$48,418,314	\$81,220,000	\$ 32,801,686	Proposer unwilling to commit to securing relocation property for NYCT until after rezoning, and as-of-right scenario resulted in negative compensation.
Criterion	47-00 Northern Blvd, LIC, Queens	Proposed to construct new facility and assign 30-year lease to NYCT.	-\$50,820,469	\$77,861,976	\$ 27,041,507	Proposer unable to grant a lease longer than 30 years on relocation property.
FOLXCO	742 Clinton, Red Hook, Brooklyn	Proposed to purchase property, construct new facility, and convey ownership to NYCT.	-\$69,336,901	\$90,918,327	\$ 21,581,426	Proposer's as-of-right scenario results in a negative net compensation to MTA after accounting for relocation costs.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

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Bluewater1	23/49 Ash Street, Red Hook, Brooklyn	Proposed to purchase property, construct new facility, and convey ownership to NYCT.	-\$40,477,260	\$39,186,167	(\$1,291,093)	Proposal results in a negative net compensation to MTA after accounting for relocation costs.
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The evaluation criteria for this request for proposals were:

- Financial returns to NYCT, based primarily on the ground rent in a successful rezoning scenario, and the financial feasibility of the proposal,
- Acceptability of relocation site and contribution to relocation of NYCT Functions, and
- Completeness and quality of overall proposal.

MTA C&D determined that Gotham's proposal, assuming a successful rezoning, would provide the highest economic value compared to the other proposals and that Gotham's alternative proposal if rezoning was unsuccessful still offered positive net compensation to NYCT. In the event the rezoning is successful, Gotham's development program provides community benefits including multi-family housing with a mix of affordable, senior, and market-rate units, and retail, community, and public open space. Included in the public open space will be a waterfront accessway that will connect Quay Street to East River waterfront and provide access from both the south and the north to the Greenpoint waterfront for users of the new Bushwick Inlet Park.

MTA C&D further determined that the following proposals were not competitive due to certain features of their plan to relocate the NYCT functions:

- Inlet Park LLC proposed relocating the NYCT functions to a newly constructed facility located at the base of their proposed development on the Quay Street Property which was unacceptable because of traffic flow and space constraint issues that could not be resolved.
- Criterion Group's relocation proposal was unacceptable because they could not offer a lease term greater than 30 years.
- TF Cornerstone was unwilling to commit to securing a relocation property for the NYCT Functions until after rezoning.

Having determined that Gotham's proposal provided the highest economic value and was the most competitive with respect to other proposed terms and conditions, MTA C&D commenced targeted negotiations with Gotham.

The transaction that resulted from these negotiations involves the following:

- Gotham will enter into a Pre-Lease, Relocation and Development Agreement with NYCT, whereby it will pursue rezoning the Quay Street Property to an R8 or equivalent zoning. If Gotham's rezoning application is denied, they will have the right to pursue development of the Quay Street Property under the as-of-right zoning.
- Gotham will negotiate the Relocation Lease for the NYCT Relocation Property and commence design of the Relocation Facility based on terms approved by NYCT.
- Upon completion of the SEQRA process and subject to approval of the NYCT Board of either Gotham's rezoned or as-of-right project, NYCT will:
 - enter into, either directly or via assignment from Gotham, the Relocation Lease with the NYCT Relocation Property Owner for the NYCT Relocation Property based on the ground rent set forth on **Schedule B**;
 - execute the Relocation Development Agreement, pursuant to which Gotham will construct the NYCT-approved facility on the NYCT Relocation Property, at an estimated cost to Gotham of \$26,775,303, and be responsible for all costs of carry for the NYCT Relocation Property, including rent, during the construction of the facility; and
 - execute the Lease with Gotham for the Quay Street Property, providing for the delivery of possession when Gotham completes and delivers the NYCT Relocation Property in turnkey condition pursuant to the Relocation Development Agreement, following which Gotham will construct a mixed-use development project on the Quay Street Property, and operate and maintain the same for 99 years.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

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- **Base Rent (Rezoning):** If rezoning is successful, Gotham will pay NYCT fixed base rent under the Lease as set forth at **Schedule A-1** (projected present value discounted at 5% of \$61,094,195).
- **Base Rent (As-of-Right):** If rezoning is unsuccessful, Gotham will pay fixed base rent under the Lease as forth in **Schedule A-2** (projected present value discounted at 5% of \$29,241,822).
- **Additional Rent:** The Lease will provide for additional rent payments to NYCT that will equal real property taxes over the Lease term, as though the same continued to be benefitted by abatements that exist as of the date of this staff summary, known as "Affordable New York", applicable to large scale affordable housing development projects in the area without regard to whether such abatements continue to be applicable in the future; and payments in lieu of sales taxes, equal to the sales tax Developer would incur with respect to its construction costs but for NYCT's exemption from such sales tax with respect to permanent improvements.

POTENTIAL RELOCATION OF NYCT EMERGENCY RESPONSE UNIT

The City is in the process of developing certain City-owned property, which is subject to the NYCT Master Lease, located at 65 Commercial Street, Brooklyn ("65 Commercial Street"), into a new public park ("Box Street Park"). NYCT has agreed to surrender this NYCT Master Lease property back to the City, provided that the City relocates, at the City's cost, the NYCT Paratransit Operations and the NYCT Emergency Response Unit ("ERU") located at 65 Commercial Street, to other suitable locations. While the City has provided a replacement property and is currently constructing a replacement facility for the NYCT Paratransit Operations at 65 Commercial Street (as previously approved by the NYCT Board on December 14, 2015 (see **Exhibit 1**, attached), the City has yet to find a suitable relocation site for the ERU.

The City and Gotham have been in discussions about the potential relocation of the ERU from 65 Commercial Street to a portion of the Quay Street Property within the improvements to be constructed by Gotham under the Lease. These discussions are ongoing and subject to further negotiation and agreement on the framework for Gotham's facilitating the City's relocation of the ERU. Subject to finalizing the framework, NYCT is willing to cooperate with the City and Gotham to allow for the relocation of the ERU as part of the Quay Street Property development under the Lease, provided that the ERU will continue to occupy the site at 65 Commercial Street until the Quay Street Property Development is completed, unaffected by the conversion by the City of the Paratransit Operations site to park use, and that the ERU is constructed to meet all specifications of NYCT and relocated to the Quay Street Property at no cost to NYCT or MTA.

TOTAL VALUE TO MTA

Given the zoning contingency and taking into account the potential relocation of the ERU described above, the range of total values MTA will realize from this transaction are shown in the table, below:

	Rezoning	As-of-Right
Quay Street Ground Rent (NPV @ 5%)	\$ 61,094,195	\$ 29,241,822
Offsetting NYCT Relocation Rent (NPV @ 5%)	\$ (22,138,436)	\$ (22,138,436)
Effective MTA Cash Net	\$ 38,955,759	\$ 7,103,386
<i>In-Kind Compensation:</i>		
NYCT Relocation Property	\$26,775,303	\$26,775,303
NYCT ERU Facility	\$26,546,961	n/a
TOTAL VALUE TO MTA	\$ 65,731,062 (without ERU) \$ 92,278,023 (with ERU)	\$ 33,878,689

The compensation proposed by Gotham is consistent with an independent appraisal that MTA C&D has obtained from Goodman-Marks Associates, Inc.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

RECOMMENDATION

Based upon the foregoing, MTA C&D recommends this transaction as outlined. The NYCT Board will be given an opportunity to approve of this transaction in the future, following the completion of the necessary SEQRA actions and development of the documentation as noted below.

MTA C&D requests authorization for the following actions:

- (1) conditionally designate Gotham as the selected proposer under the RFP process;
- (2) to enter into a Pre-Lease, Relocation and Development Agreement with Gotham on the above-described terms and conditions and such other terms and conditions as the Chief Development Officer or such officer's designee deems necessary or appropriate;
- (3) to negotiate the terms of the Lease for the Quay Street Property with Gotham, the terms of the NYCT Relocation Lease with the NYCT Relocation Property Owner as landlord for the NYCT Relocation Property, and the Relocation Development Agreement with Gotham;
- (4) to execute and deliver any and all other necessary or appropriate agreements, documents, writings and other instruments, including modifications and supplements, and to take all such actions as shall be necessary or desirable in order to pursue satisfaction of the above-described pre-conditions to Lease execution, **it being understood that the Lease, the Relocation Lease, the Relocation Development Agreement, and the agreements related to any potential new ERU facility at the Quay Street Property will be presented to the Board as described above for approval following review and compliance by the MTA and all other involved governmental agencies with SEQRA as it relates to the Lease, the Relocation Lease for the NYCT Relocation Property, the Relocation Development Agreement, and (if applicable) the necessary ERU documentation.**

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

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Schedule A-1: Quay Street Property Ground Rent to MTA (Rezoning)

- Construction Period Rent of \$10,500,000 payable in two components: (1) \$7.5 Million in four annual installments (*) from delivery of possession of the Quay Street Property to Developer and (2) \$3 Million payable at the earliest of closing of AIRS financing, start of construction of senior housing, or start of construction of the most easterly section of the main building (†)
- Year 1 Annual Base Rent: \$2,114,275 commencing upon earlier of construction completion or 52 months from the possession date (i.e., the Base Rent Commencement Date)
- 10% increase every five years
- Revaluation every 25 years, with a minimum of a 10% increase, maximum of 20% increase
- NPV at 5%, \$61,094,195 in value to MTA

	YEAR	CONSTRUCTION PERIOD RENT	ANNUAL BASE RENT
	Possession date	\$1,500,000 (*)	
	1st anniversary of possession date	\$1,750,000 (*)	
	2nd anniversary of possession date	\$1,750,000 (*)	
	3rd anniversary of possession date	\$2,500,000 (*)	
	Closing of AIRS loan/start of construction	\$3,000,000 (†)	
	Base Rent Commencement Date: Year 1		\$2,114,275
	2		\$2,114,275
	3		\$2,114,275
	4		\$2,114,275
	5		\$2,114,275
	6		\$2,325,703
	7		\$2,325,703
	8		\$2,325,703
	9		\$2,325,703
	10		\$2,325,703
	11		\$2,558,273
	12		\$2,558,273
	13		\$2,558,273
	14		\$2,558,273
	15		\$2,558,273
	16		\$2,814,101
	17		\$2,814,101

Staff Summary

FINANCE COMMITTEE MEETING
40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING
Quay Street Development (Cont'd)

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	18		\$2,814,101
	19		\$2,814,101
	20		\$2,814,101
	21		\$3,095,511
	22		\$3,095,511
	23		\$3,095,511
	24		\$3,095,511
	25		\$3,095,511

For Informational Purposes Only

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

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Schedule A-2: Quay Street Property Ground Rent to MTA (As-of-Right)

- Construction Period Rent paid over four annual installments (*) from delivery of possession of the Quay Street Property to Developer
- Year 1 rent: \$1,000,000 commencing upon earlier of construction completion or 52 months from the possession date (i.e., the Base Rent Commencement Date)
- 10% increase every five years
- Revaluation every 25 years, with a minimum of a 10% increase, maximum of 20% increase
- NPV at 5%: \$29,241,822 in value to MTA

	YEAR	CONSTRUCTION PERIOD RENT	ANNUAL BASE RENT
	Possession date	\$1,000,000 (*)	
	1st anniversary of possession date	\$1,250,000 (*)	
	2nd anniversary of possession date	\$1,250,000 (*)	
	3 rd anniversary of possession date	\$2,000,000 (*)	
	Base Rent Commencement Date: Year 1		\$1,000,000
	2		\$1,000,000
	3		\$1,000,000
	4		\$1,000,000
	5		\$1,000,000
	6		\$1,100,000
	7		\$1,100,000
	8		\$1,100,000
	9		\$1,100,000
	10		\$1,100,000
	11		\$1,210,000
	12		\$1,210,000
	13		\$1,210,000
	14		\$1,210,000
	15		\$1,210,000
	16		\$1,331,000
	17		\$1,331,000
	18		\$1,331,000
	19		\$1,331,000

Staff Summary

FINANCE COMMITTEE MEETING
40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING
Quay Street Development (Cont'd)

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	20		\$1,331,000
	21		\$1,464,100
	22		\$1,464,100
	23		\$1,464,100
	24		\$1,464,100
	25		\$1,464,100

For Informational Purposes Only

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

Schedule B: NYCT Relocation Site Ground Rent (paid by MTA)

- Year 1 rent: \$700,000 from delivery of possession to the Quay Street Property to Developer
- 10% increase every five years
- Revaluation every 25 years, with a minimum of a 10% increase, maximum of 20% increase
- NPV at 5%, \$22,138,436 in cost to MTA

	YEAR	ANNUAL BASE RENT
	1	\$700,000
	2	\$700,000
	3	\$700,000
	4	\$700,000
	5	\$700,000
	6	\$770,000
	7	\$770,000
	8	\$770,000
	9	\$770,000
	10	\$770,000
	11	\$847,000
	12	\$847,000
	13	\$847,000
	14	\$847,000
	15	\$847,000
	16	\$931,700
	17	\$931,700
	18	\$931,700
	19	\$931,700
	20	\$931,700
	21	\$1,024,870
	22	\$1,024,870
	23	\$1,024,870
	24	\$1,024,870
	25	\$1,024,870

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

Exhibit A: Staff Summary for the Surrender of 65 Commercial Street

Staff Summary

Subject SURRENDER & ACQUISITION OF MASTER LEASE PROPERTY		Date December 14, 2015	
Department REAL ESTATE		Vendor Name	
Department Head Name JEFFREY B. ROSEN		Contract Number	
Department Head Signature		Contract Manager Name	
Project Manager Name MICHAEL T. THADATHIL		Table of Contents Ref. #	

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	12/14/15	X		
2	Board	12/16/15	X		

Internal Approvals			
Order	Approval	Order	Approval
		1	Legal <i>FP</i>
3	Chief of Staff <i>NAME</i>		
2	Chief Financial Officer <i>NAME</i>		

AGENCY: MTA New York City Transit ("NYCT")
LESSOR: The City of New York (the "City")
LOCATION: 65 Commercial Street, Brooklyn (Block 2472, Lot 425)
2401 Watson Avenue, aka 1120 Commerce Ave, Bronx (p/o Block 3838, Lot 60)
ACTIVITY: Release and addition of property to/from NYCT Master Lease
ACTION REQUESTED: Approval of terms
TERM: Indefinite
COMPENSATION: Trade and exchange

COMMENTS:

The City desires to develop the City-owned property located at 65 Commercial Street in Greenpoint, Brooklyn ("65 Commercial") into a New York City public park. The property is currently used pursuant to the 1953 master lease between the City and NYCT (as amended, the "Master Lease"), for NYCT's paratransit operations ("Paratransit Operations") and as a facility for the Department of Subways, Division of Car Equipment's Emergency Response Unit ("ERU"). Paratransit occupies 2.14 acres of the 2.56 acre site, and ERU occupies the remaining .42 acres. In order to convert 65 Commercial into a public park, the City has requested that NYCT surrender its Master Lease interest in the property to the City. The City has identified a relocation site for the Paratransit Operations at 2401 Watson Ave (aka 1120 Commerce Ave), Bronx (the "Bronx Site"), which the City owns and would add to the Master Lease after NYCT accepts a new facility to be built there by the City at its cost. The City and NYCT are continuing efforts to locate a suitable site for the relocation of the ERU.

NYCT has confirmed that the Bronx site is a suitable relocation site for the Paratransit Operations. The new facility at the Bronx Site would be comprised of a 5,000 sq. ft. building for administrative office and training uses, 150 parking spaces for long-term vehicle storage, and facilities for maintenance and refueling of paratransit mini-vans that have been converted to provide transportation access for disabled users.

The proposed relocation of the Paratransit Operations would be undertaken by the New York City Economic Development Corporation ("EDC") on behalf of the City using City capital funding. The Bronx Site contains soil contamination that requires remediation pursuant to an agreement between the City and New York State Department of Environmental Conservation ("NYSDEC"). Subject to the terms and conditions of the relocation agreement, the City would agree to be

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

Staff Summary

FINANCE COMMITTEE MEETING Quay Street Development (Cont'd)

Staff Summary

FINANCE COMMITTEE MEETING Surrender / Acquisition of City Property (Cont'd.)

responsible for the environmental remediation of the Bronx Site and construction of the Bronx Site to NYCT standards/requirements. Based on a review of information contained in an Environmental Assessment Statement (EAS) dated October 14, 2015, the Office of the Deputy Mayor for Housing and Economic Development, which assumed the role of the lead agency for the environmental review, has determined that the proposed action would not have a significant adverse impact on the environment.

The exchange transaction, as outlined above, would result in NYCT securing new and improved facilities for the Paratransit Operations and the ERU. The City requires approval of the transaction at this time in order to allocate funding for the construction of the new Paratransit facility.

The ERU will continue to occupy its site at 65 Commercial Street until a suitable new site has been located. The ERU is physically separated from the Paratransit Operations site and has its own ingress and egress. The operations of the ERU will not be affected by the conversion by the City of Paratransit Operations site to park use.

Based on the foregoing, MTA Real Estate requests authorization to surrender to the City the portion of 65 Commercial that is occupied by Paratransit Operations (subject to the relocation of Paratransit Operations at the City's cost) and the addition to the Master Lease of the Bronx Site and whatever substitute site is identified for the ERU.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

ATTACHMENT 4: SEQRA Findings Statement

FINDINGS STATEMENT ADOPTING AND INCORPORATING ENVIRONMENTAL FINDINGS FOR THE 40 QUAY STREET (MONITOR POINT) PROJECT

This Findings Statement has been prepared jointly by the Metropolitan Transportation Authority (“MTA”) and the New York City Transit Authority (“NYCT”, and together with MTA, the “Authority”) in accordance with Article 8 of the Environmental Conservation Law, the State Environmental Quality Review Act (“SEQRA”), and its implementing regulations at 6 NYCRR Part 617.

Nature of Action: Approval by the MTA Board and the NYCT Board, of the transfer of fee title to the NYCT-owned 40 Quay Street property to MTA; MTA’s approximately 99-year ground lease of that property to GO Quay LLC for the Monitor Point development; the long-term lease, development and delivery of a replacement NYCT facility at the Varick Avenue/Meadow Street properties; the related guaranties, indemnities, entry permits, reimbursement agreements and leasehold-financing, recognition, subordination, non-disturbance, collateral and other instruments described in the Staff Summary and Project Documents; and adoption of this Findings Statement.

INTRODUCTION

The action covered by these Findings would permit the disposition and redevelopment of the approximately 80,730-square-foot NYCT property at 40 Quay Street, Brooklyn (Block 2590, Lot 1) as part of the Monitor Point mixed-use waterfront project (the “Project”) and the prior relocation of NYCT operations to a new consolidated facility. The Project developer is GO Quay LLC (“Developer”), an affiliate of Gotham Organization, Inc. The transaction transfers fee title to the 40 Quay Property from NYCT to MTA, provides for MTA to ground lease said property to Developer, and requires Developer to lease, design, construct and deliver the replacement facility at 190 and 208 Varick Avenue and 213 Meadow Street (also known as 209 Stewart Avenue) before NYCT vacates the 40 Quay Street property.

The New York City Planning Commission (“CPC”) served as lead agency for the coordinated environmental review under SEQRA and City Environmental Quality Review (“CEQR”). CPC issued the Positive Declaration on March 21, 2025, issued a Notice of Completion for the Draft Environmental Impact Statement (“DEIS”) on December 12, 2025, issued a Notice of Completion for the Final Environmental Impact Statement (“FEIS”) on April 30, 2026, and adopted its reports and written findings on May 13, 2026 (the “Lead Agency Findings”). The City Council approved the principal land-use applications, with modifications, on July 16, 2026. Technical Memorandum 001, dated July 9, 2026 (the “Technical Memorandum”), evaluated those modifications and concluded that they would not result in new or greater significant adverse environmental impacts. The Lead Agency Findings and related environmental materials are identified in Exhibit A hereto.

MTA and NYCT have independently reviewed the FEIS, the Lead Agency Findings, the Council-modified approval record, the Technical Memorandum, the Restrictive Declaration required by the final City approvals and the other relevant materials. They find that the SEQRA process was properly conducted and considered the impacts relevant to the Authority action. Accordingly, MTA and NYCT incorporate by reference the FEIS and Technical Memorandum into this Findings Statement.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

PROJECT DESCRIPTION

The final Council commitments provide for approximately 1,324 rental dwelling units, approximately 662 of which (50 percent) will be permanently affordable, including approximately 161 senior units. The approximately 958-unit West Building would contain approximately 296 Mandatory Inclusionary Housing units; the approximately 366-unit East Building would be entirely affordable and would include the senior units and approximately 110 supportive housing units. The Project also includes approximately 18,800 zoning square feet for the Greenpoint Monitor Museum, approximately 2,700 square feet of additional community-facility space, up to approximately 19,850 gross square feet of local retail, approximately 52,500 square feet of publicly accessible waterfront open space including a continuous 40-foot-wide esplanade, and approximately 140 below-grade parking spaces. The West Building would rise to approximately 640 feet including bulkhead and the East Building to approximately 380 feet including bulkhead. For conservative analysis, the Technical Memorandum evaluated an envelope of up to 1,335 dwelling units, up to 668 affordable units and approximately 1,289,250 gross square feet.

The Council modifications incorporated an approximately 9,536-square-foot segment of former Quay Street into the zoning lot, permitted additional floor area in the East Building, reallocated floor area from the museum and West Building commercial space to residential use, increased the affordable-housing commitment to 50 percent, and eliminated the need for the requested waterfront-yard and loading waivers. Although CPC had approved loading special permit C 260109 ZSK, that application was withdrawn from Council consideration and the corresponding item was filed pursuant to the withdrawal on June 30, 2026; the final Project does not rely on that special permit.

Before the 40 Quay Property is delivered to Developer, Developer must construct and obtain the required occupancy and completion approvals for an approximately 189,000-gross-square-foot, three-story facility at Meadow Street to consolidate NYCT Mobile Wash, Material Control and Emergency Response Unit operations. NYCT will continue operating at 40 Quay Street until the replacement facility is accepted, after which the Authority will relocate the operations and tender possession of 40 Quay Street. The ground-lease term begins upon that tender. Developer must commence the initial 40 Quay construction by the fifth anniversary of the 40 Quay term commencement date and achieve substantial completion no later than 40 months after that required commencement date, subject to unavoidable delay. The transaction documents secure these obligations through bonds, completion and rent guaranties, collateral assignments, inspection and access rights, self-help, default, termination, indemnification and other remedies.

ENVIRONMENTAL IMPACTS AND MITIGATION

The FEIS examined the full range of potential impacts from the Project, including land use, zoning and public policy; socioeconomic conditions; community facilities; open space; shadows; historic and cultural resources; urban design and visual resources; natural resources; hazardous materials; water and sewer infrastructure; solid waste; energy; transportation; air quality; greenhouse-gas emissions and climate change; noise; public health; neighborhood character; construction; alternatives; mitigation; and unavoidable adverse impacts. It also considered effects on disadvantaged communities under ECL 8-0109(2-k), and the City and State coastal-consistency requirements.

The FEIS found that, with the identified project components related to the environment (“PCREs”), CEQR (E) designations and mitigation, the Project would not result in significant adverse impacts in most technical areas.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

It identified significant operational traffic and pedestrian impacts and temporary construction traffic, pedestrian and noise impacts, some of which could be mitigated only partially and some of which could not be practicably mitigated. The principal residual impacts are localized intersection and pedestrian effects and temporary construction-noise effects at the future residential receptor at 3 West Street. Those impacts would be outweighed by the Project's housing, affordable-housing, waterfront-access, museum, park, resilience, facility-modernization and other benefits.

Existing CEQR (E) Designation E-138 will continue to govern hazardous materials at 40 Quay Street, and CEQR (E) Designation E-870 will govern hazardous materials and air quality at the relocation site. The Restrictive Declaration required by the final City approvals will require the applicable PCREs and practicable mitigation, including hazardous-materials investigation and remediation, operational air-quality and building-noise controls, construction air-quality and noise controls, publicly accessible open-space obligations and transportation mitigation. The Project Documents independently require compliance with the public approvals, Restrictive Declaration, (E) designations, PCREs and mitigation and provide for plans and reports, Authority access and inspection, bonds and guaranties, cure and self-help rights, termination, specific performance, indemnification and cumulative remedies.

MTA and NYCT completed the consultation required for the Authority action under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law (the State Historic Preservation Act), and no unresolved State historic-preservation issue remains. The Authority also completed the applicable State coastal-consistency review and finds the action consistent to the maximum extent practicable with the New York City Waterfront Revitalization Program and the New York State Coastal Management Program. The Technical Memorandum confirmed that the final modifications remain within the scope of the FEIS, do not alter its mitigation or alternatives conclusions, and do not require a supplemental environmental impact statement. Due to its location in a transit-rich area of New York City and design, the Project complies with the criteria of the State Smart Growth Public Infrastructure Policy Act (ECL § 6-0101 et seq.). Pursuant to section 7[2] of the Climate Leadership and Community Protection Act, and based on the information set forth in the FEIS and Technical Memorandum, MTA and NYCT have determined that the Project: (a) is not inconsistent with and will not interfere with the attainment of the statewide greenhouse gas emissions limits established in article 75 of the environmental conservation law, (b) will not disproportionately burden disadvantaged communities as identified pursuant to subdivision 5 of section 75-0101 of the environmental conservation law, and (c) prioritizes reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities as identified pursuant to such subdivision 5 of section 75-0101 of the environmental conservation law.

ENVIRONMENTAL FINDINGS

Having considered the FEIS, the Lead Agency Findings, the Technical Memorandum and the other relevant environmental materials, and having weighed the environmental impacts against the social, economic, operational and other essential considerations associated with the Authority action, MTA and NYCT each find and certify that:

1. MTA and NYCT hereby adopt and incorporate the Lead Agency Findings, together with FEIS and Technical Memorandum 001 dated July 9, 2026, to the extent applicable to their respective decisions and on the basis of their own review and judgment.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

2. The SEQRA review took the required hard look at the relevant areas of environmental concern; the requirements of Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617 have been met; the environmental impacts were evaluated in relation to the Project's social, economic, operational and other essential considerations; and the review considered reasonable alternatives, disadvantaged communities and applicable coastal policies. The environmental impacts of the Project are outweighed by the substantial social, operational and economic benefits of the Project.

3. Consistent with those essential considerations, from among the reasonable alternatives available, the Project avoids or minimizes adverse environmental impacts to the maximum extent practicable. The No Action, Existing Zoning and No Unmitigated Significant Adverse Impacts alternatives would not achieve the Authority's operational and property objectives or the Project's principal housing, affordable-housing, waterfront, museum, park, resilience and facility-modernization benefits to the same degree. The Boards further find that the disposition is for not less than fair market value, that the material terms described in the Staff Summary are consistent with or more favorable to the Authority than the terms previously evaluated, and that the transaction protects continuity of NYCT operations while assigning principal delivery and completion risks to Developer.

4. The adverse environmental impacts identified in the FEIS will be avoided or minimized to the maximum extent practicable by incorporating as conditions of the Authority approval all applicable PCREs, CEQR (E) designations, practicable mitigation measures, Restrictive Declaration requirements, permit conditions and Project Document obligations. MTA and NYCT recognize that certain operational traffic and pedestrian impacts and temporary construction traffic, pedestrian and noise impacts cannot be fully mitigated, but find that the residual impacts are acceptable after balancing them against the Project's essential benefits. All practicable means to avoid or minimize adverse environmental impacts have been incorporated as conditions of approval as required by 6 NYCRR 617.11(e).

5. Based on the Technical Memorandum, the final City-approved program and the Authority transaction, to the extent they implement the physical program analyzed in the environmental record, remain within the scope of the FEIS, would not result in any new or greater significant adverse environmental impacts, and do not require a supplemental environmental impact statement. Any later material change will be evaluated under 6 NYCRR 617.9(a)(7).

Date: September 30, 2026

Metropolitan Transportation Authority and
New York City Transit Authority

Signature of Responsible Individual

Staff Summary

**FINANCE COMMITTEE MEETING
40 QUAY STREET: SEQRA & TRANSACTION APPROVALS**

EXHIBIT A: CEQR Lead Agency Findings and Related Environmental Materials

[Begins on Following Page]

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

CITY PLANNING COMMISSION



May 13, 2026 / Calendar No. 15

C 260109 ZSK

IN THE MATTER OF an application submitted by GoQuay LLC and New York State Metropolitan Transportation Authority pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-745 of the Zoning Resolution to modify the loading berth requirements of Section 36-62 (Required Accessory Off-street Loading Berths), in connection with a proposed mixed-use development, within a large-scale general development located on the west side of Franklin Street between Quay Street and its westerly centerline prolongation, the U.S. Bulkhead Line, and Inlet Park (Block 2590, Lots 1 and 25), in R6/C2-4, R8/C2-4 and R8 Districts.

This application for a zoning special permit (C 260109 ZSK) by Go Quay LLC and NYS Metropolitan Transit Authority was filed on September 18, 2025. This application, in conjunction with the related actions, would facilitate the construction of approximately 939,600-square-foot mixed-use large-scale general development (LSGD) containing approximately 1,150 residential units, 300 of which would be permanently income-restricted, 36,000 square feet of community facility uses, 25,700 square feet of commercial space, 45,400 square feet of publicly accessible open space, and 140 off-street parking spaces located in the Greenpoint neighborhood of Brooklyn, Community District 1.

RELATED ACTIONS

In addition to the zoning special permit (C 260109 ZSK) that is the subject of this report, the proposed project also requires action by the City Planning Commission (CPC) on the following applications, which are being considered concurrently with this application:

C 260105 ZMK Zoning map amendment to a) rezone an M3-1 to an R8 and R6 zoning district and b) rezone R6, R6/C2-4 districts to R8/C2-4 zoning district.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

- N 260106 ZRK** Zoning text amendment to establish the project area as a Mandatory Inclusionary Housing (MIH) area; incorporate MIH requirements to Zoning Resolution (ZR) Section 62-36 within the Greenpoint-Williamsburg Waterfront Access Plan (WAP) area; remove a parks designation in the WAP in ZR 62-931; and allow a reduction of loading berths pursuant to ZR 74-745.
- C 260107 ZSK** Zoning special permit pursuant to ZR Section 74-743 to modify height and setback, and yards regulations within a large-scale general development.
- C 250326 MMK** City Map change to remove the entirety of Block 2590, Lot 25 and the northern half of Former Quay Street as park in the City Map.

BACKGROUND

A full background discussion and description of this application appear in the report for the related zoning map amendment (C 260105 ZMK).

ENVIRONMENTAL REVIEW

This application (C 260109 ZSK), in conjunction with the related applications (C 260105 ZMK, N 260106 ZRK, C 260107 ZSK, and C 250326 MMK), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et. seq.* and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is: 25DCP068K. The lead is the CPC.

A summary of the environmental review, including the Final Environmental Impact Statement (FEIS) dated April 30, 2026, appears in the report on the related application for a zoning map amendment (C 260105 ZMK).

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY

This application (C 250278 ZSK) was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resource Act of 1981 (New York State Executive Law, Section 910 *et seq.*). The designated WRP number is: 24-097. The action was determined to be consistent with the policies of the New York City Water Revitalization Program.

UNIFORM LAND USE REVIEW

This application (C 260109 ZSK) was certified as complete by the Department of City Planning on December 15, 2025 and was duly referred to Brooklyn Community Board 1 and the Brooklyn Borough President in accordance with Title 62 of the rules of the City of New York, Section 2-02(b), along with the related applications (C 260105 ZMK, N 260106 ZRK, C 260107 ZSK, and C 250326 MMK).

Community Board Public Hearing

Brooklyn Community Board 1 held a public hearing on this application (C 260109 ZSK) in conjunction with related actions (C 260105 ZMK, N 260106 ZRK, C 260107 ZSK, and C 250326 MMK) on January 20, 2026 and, on February 10, 2026, by a vote of 24 in favor, nine in opposition, and none abstaining. A summary of the Community Board's recommendation appears in the report for the related zoning map amendment (C 260105 ZMK).

Borough President Recommendation

On March 11, 2026, the Brooklyn Borough President held a public hearing on this application (C 260109 ZSK), along with the related applications (C 260105 ZMK, N 260106 ZRK, C 260107 ZSK, and C 250326 MMK), and on March 18, 2026, issued a recommendation to approve the application with conditions. A summary of the Borough President's recommendation appears in the report for the related zoning map amendment (C 260105 ZMK).

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

City Planning Commission Public Hearing

On March 4, 2026 (Calendar No. 7), the CPC scheduled March 18, 2026, for a public hearing on this application (C 260109 ZSK), along with the related applications (C 260105 ZMK, N 260106 ZRK, C 260107 ZSK, and C 250326 MMK). The hearing was duly held on March 18, 2026 (Calendar No. 19). There were 48 speakers in favor of the application and 34 opposed, and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed zoning special permit (C 260109 ZSK) in conjunction with the applications for the related actions (C 260105 ZMK, N 260106 ZRK, C 260107 ZSK, and C 250326 MMK), is appropriate. A full consideration and analysis of the issues and the reasons for approving the application appears in the report for the related zoning map amendment (C 260105 ZSK).

FINDINGS

The Commission hereby makes the following findings pursuant to ZR Section 74-745 of the zoning resolution:

- (1) curbside deliveries will not create or contribute to serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not interfere with the efficient functioning of nearby #uses#;
- (2) an efficient goods receiving system will be implemented within the #commercial# establishment to expedite the movement of goods from the curb to areas within the establishment;
- (3) such modification allows for a better relationship of the #street walls# of the #building# containing such establishment with the adjacent sidewalk and surrounding area; and
- (4) such modification will not impair or adversely affect the development of the surrounding area.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

RESOLUTION

RESOLVED, that having considered the FEIS, for which a Notice of Completion was issued on April 30, 2026, with respect to this application (CEQR No. 25DCP068K), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. The environmental impacts disclosed in the FEIS were evaluated in relation to the social, economic, and other considerations associated with the actions that are set forth in this report; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
3. The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration attached as Exhibit A, those project components related to the environment and mitigation measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS, issued April 30, 2026, constitutes the written statement of findings that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 201 of the New York City Charter that based on the environmental determination, and the consideration and

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

findings described in this report, the application submitted by GoQuay LLC and NYS Metropolitan Transportation Authority pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-745 of the Zoning Resolution to modify the loading berth requirements of Section 36-62 (Required Accessory Off-street Loading Berths) in connection with a proposed mixed-use development, within a large-scale general development located on the west side of Franklin Street between Quay Street and its westerly centerline prolongation, the U.S. Bulkhead Line, and Inlet Park (Block 2590, Lots 1 and 25), in R6/C2-4, R8/C2-4 and R8 Districts, Borough of Brooklyn, Community District 1, is approved and subject to the following terms and conditions:

1. The property that is the subject of this application (C 260109 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by FX Collaborative Architects, LLP and Scape Landscape Architecture, DPC, filed with this application and incorporated in this Resolution:

Z-Series Drawing Set

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-001	<u>Zoning Analysis</u>	<u>11/20/2025</u>
Z-002	<u>Zoning Lot Site Plan</u>	<u>11/20/2025</u>

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

4. Development pursuant to this resolution shall be allowed only after the restrictive declaration attached hereto as Exhibit A, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the Register, Kings County. Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.
5. The development shall include those project components related to the environment and mitigation measures identified in the Final Environmental Impact Statement (CEQR No. 25DCP068K) issued on April 30, 2026, and in accordance with the restrictive declaration attached hereto as Exhibit A.
6. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this report and resolution and any subsequent modifications shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
7. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
8. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any

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FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the restrictive declaration.

9. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

The above resolution (C 260109 ZSK), duly adopted by the City Planning Commission on May 13, 2026 (Calendar No. 15), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-c and 201 of the New York City Charter.

SIDEYA SHERMAN, *Chair*

KENNETH J. KNUCKLES, Esq., *Vice Chairman*

GAIL BENJAMIN, ANTHONY W. CROWELL, Esq.,

JOSEPH I. DOUEK, RASMIA KIRMANI-FRYE, DAVID GOLD, Esq.,

RAJU MANN, ORLANDO MARÍN, RAJ RAMPERSHAD, *Commissioners*

LEAH GOODRIDGE, Esq., *Commissioner, VOTING NO*

ALFRED C. CERULLO III, Esq., *Commissioner, RECUSED*

Staff Summary

**FINANCE COMMITTEE MEETING
40 QUAY STREET: SEQRA & TRANSACTION APPROVALS**



Metropolitan Transportation Authority

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RESTRICTIVE DECLARATION

KINGS COUNTY

Dated as of May 13, 2026

Block 2590, Lots 1 and 25

RECORD AND RETURN TO:

Herbert Smith Freehills Kramer (US) LLP
1177 Avenue of the Americas
New York, NY 10036

Attention: Adam Taubman, Esq.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

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RESTRICTIVE DECLARATION

THIS DECLARATION (this “**Declaration**”), made as of the ____ day of _____, 20__, by NEW YORK CITY TRANSIT AUTHORITY, a New York public benefit corporation (“**Lot 1 Owner**”), having an address at 2 Broadway, New York, New York 10004, GO QUAY LLC, a New York limited liability company (“**Developer**”), having an address at c/o The Gotham Organization, 111 Fifth Avenue, 9th Floor, New York, New York 10003, and THE GREENPOINT MONITOR MUSEUM, a New York non-profit education organization (“**Museum**”), having an address at P.O. Box 220378, Brooklyn, New York 11222 (Lot 1 Owner, Developer, and Museum, collectively, “**Declarant**”).

WITNESSETH:

WHEREAS, Lot 1 Owner is the fee owner of certain real property located in the Borough of Brooklyn, County of Kings, City and State of New York, identified on the Tax Map of the City of New York, County of Kings (“**Tax Map**”) as Block 2590, Lot 1, which real property is more particularly described in **Exhibit A-1** annexed hereto and made a part hereof (“**Lot 1**”); and

WHEREAS, Developer is the contract vendee of a ground lease interest in Lot 1 pursuant to that certain Pre-Lease Agreement, dated as of March 15, 2024, between Developer and Lot 1 Owner; and

WHEREAS, Museum is the fee owner of certain real property located in the Borough of Brooklyn, County of Kings, City and State of New York, identified on the Tax Map as Block 2590, Lot 25, which real property is more particularly described in **Exhibit A-2** annexed hereto and made a part hereof (“**Lot 25**” and, together with Lot 1, the “**Subject Property**”); and

WHEREAS, Declarant desires to improve the Subject Property as a “large-scale general development” meeting the requirements of the definition of “large-scale general development” set forth in Section 12-10 of the Zoning Resolution of the City of New York, effective December 15, 1961, as amended to date (as the same may hereafter be amended, the “**Zoning Resolution**” or “**ZR**”) in accordance with the Development Plans (as hereinafter defined) (such proposed improvement of the Subject Property, the “**Large-Scale General Development**”); and

WHEREAS, in connection with the development of the Large-Scale General Development on the Subject Property, (a) Developer intends to develop (i) a mixed-use building, shown on the Development Plans as “Building 1,” on the eastern portion of Lot 1 (the “**East Building**”) and (ii) a mixed-use building, shown on the Development Plans as “Building 2,” on the western portion of Lot 1 (the “**West Building**”), and (b) Museum intends to develop a community facility building, shown on the Development Plans as “Building 3,” on Lot 25 (the “**Museum Building**”) (the East Building, West Building, and Museum Building, collectively, the “**Proposed Development**”); and

WHEREAS, in connection with the Proposed Development, Declarant (a) is required to provide waterfront public access areas (collectively, the “**Waterfront Public Access Area**” or “**WPAA**”) consisting of (i) a shore public walkway pursuant to Section 62-50 of the Zoning Resolution, labeled “Shore Public Walkway” or “SPW” on the Waterfront Public Access Area

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Plans (the “Shore Public Walkway”), and (ii) an upland connection pursuant to Section 62-50 of the Zoning Resolution, labeled “Upland Connection” or “UC” on the Waterfront Public Access Area Plans (the “Upland Connection”), and (b) intends to provide (i) certain additional public access areas not required by the Zoning Resolution, adjoining the Shore Public Walkway or Upland Connection and labeled “PAA” on the Development Plans (collectively, the “Public Access Area” or “PAA”), and (ii) a portion of a vehicular turnaround the balance of which is located within Quay Street, as shown on the Development Plans (such portion, the “Vehicular Turnaround Segment”); and

WHEREAS, Declarant acknowledges that the Vehicular Turnaround Segment would be accessible via a privately owned and maintained portion of Quay Street, unless and until such street is ever acquired by the City; and

WHEREAS, the conditions of this Declaration include, *inter alia*, (a) a requirement that the Responsible Party (as hereinafter defined) shall be responsible for the maintenance and capital repair of the WPAA, the PAA, and Vehicular Turnaround Segment and (b) provisions that guarantee public access to the WPAA, the PAA, and Vehicular Turnaround Segment; and

WHEREAS, the Subject Property is located within a waterfront block, as such term is defined in Section 62-11 of the Zoning Resolution, and is subject to the regulations of Article VI, Chapter 2 of the Zoning Resolution; and

WHEREAS, the New York City Planning Commission (the “Commission” or “CPC”) and the New York City Council have adopted, pursuant to Section 62-80 of the Zoning Resolution, “Waterfront Access Plan BK-1; Greenpoint-Williamsburg” and have designated Lot 1 as Parcel 15 and Lot 25 as Parcel 19 under said Waterfront Access Plan BK-1; and

WHEREAS, pursuant to Section 62-811(c) of the Zoning Resolution, no excavation or building permit may be issued for development of the Subject Property until the Chairperson (as hereinafter defined) has certified to the Department of Buildings (as hereinafter defined) that a site plan has been submitted showing compliance with the requirements of Article VI, Chapter 2 of the Zoning Resolution and that a restrictive declaration has been executed and recorded pursuant to Section 62-74 of the Zoning Resolution; and

WHEREAS, in connection with the Certification, Declarant shall execute a maintenance and operation agreement (the “WPAA Maintenance Agreement”) with the Department of Parks and Recreation (“DPR”) which WPAA Maintenance Agreement shall be incorporated by reference into this Declaration and made an enforceable part hereof, and which is attached hereto as Exhibit F; and

WHEREAS, from and after execution and recordation of this Declaration, Declarant may convey portions of the Subject Property to one or more Persons;

WHEREAS, in connection with the Proposed Development and the construction of the Waterfront Public Access Areas, Public Access Area, and Vehicular Turnaround Segment, Developer and Lot 1 Owner have filed applications with the New York City Department of City Planning (hereinafter “DCP”) for approval by the Commission and the Chairperson of the Commission, as applicable, of: (i) a zoning map amendment to change a portion of the Subject

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Property from an R6 zoning district to an R8/C2-4 zoning district, a portion of the Subject Property from an R6/C2-4 zoning district to an R8/C2-4 zoning district, and a portion of the Subject Property from an M3-1 district to an R8 district (C 260105 ZMK) (the “Zoning Map Amendment”); (ii) a zoning text amendment to modify Sections 62-361, 62-363, 62-931, and 74-745 and Appendix F of the Zoning Resolution (N 260106 ZRK); (iii) special permits pursuant to Sections 74-743(a)(2) (C 260107 ZSK) and 74-745 (C 260109 ZSK) of the Zoning Resolution (collectively, the “Large-Scale Special Permits”); (iv) a certification of the Chairperson of the Commission pursuant to Section 62-811 of the Zoning Resolution (N 260108 ZCK) (the “Certification”); and (v) as co-applicant with Museum, an amendment to the City Map to eliminate a park designation from Lot 25 and a previously demapped portion of Quay Street (all of the foregoing, as the same may be amended, supplemented, or otherwise modified, collectively, the “Applications”); and

WHEREAS, this Declaration is entered into (a) pursuant to Section 74-743(b)(10) of the Zoning Resolution, which requires that a declaration, with regard to the ownership requirements set forth in paragraph (b) of the definition of “large-scale general development” in Section 12-10 of the Zoning Resolution, be filed with the Commission and set forth the commitments related to the public access areas, if any, provided in relation to the Large-Scale Special Permits; and (b) pursuant to Section 62-74 of the Zoning Resolution to set forth the commitments of Declarant to provide for (i) the construction of the Waterfront Public Access Area in accordance with the requirements of the Zoning Resolution and the terms of this Declaration, (ii) the grant to the City and the general public of permanent access easements over the Waterfront Public Access Area upon substantial completion thereof, and (iii) the maintenance, operation, and repair of the Waterfront Public Access Area upon the substantial completion thereof; and

WHEREAS, to ensure that the development of the Subject Property is consistent with the analysis in the Final Environmental Impact Statement issued for City Environmental Quality Review Application No. 25DCP068K (the “FEIS”) pursuant to Executive Order No. 91 of 1977, as amended, and the regulations promulgated thereunder at 62 RCNY § 5-01 et seq. (“CEQR”) and the State Environmental Quality Review Act, New York State Environmental Conservation Law § 8-0101 et seq. and the regulations promulgated thereunder at 6 NYCRR Part 617 (“SEQRA”) and incorporates (i) certain requirements for mitigation of significant adverse environmental impacts (“Mitigation Measures”) and (ii) certain project components related to the environment which were material to the analysis of environmental impacts in the FEIS (“PCREs”), Declarant has agreed to restrict the development, operation, use, and maintenance of the Subject Property in certain respects, which restrictions are set forth in this Declaration; and

WHEREAS, all parties in interest (as such term is defined in the definition of “zoning lot” in ZR Section 12-10) to the Subject Property as shown on the Certification of Parties in Interest prepared by _____, dated _____, 20____, and attached hereto as Exhibit D, have joined in this Declaration or have waived their respective rights to execute this Declaration by written instruments annexed hereto as Exhibit E (which instruments are intended to be recorded in the Register’s Office simultaneously with the recordation of this Declaration), or have previously waived their right to do so; and

WHEREAS, Declarant desires to restrict the manner in which the Subject Property may be developed, redeveloped, maintained and operated now and in the future and intends such

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restrictions to benefit all land owners and tenants, including the City of New York (the “**City**”), owning or leasing property within one-half mile of the Subject Property.

NOW, THEREFORE, Declarant hereby declares that the Subject Property shall be held, sold, conveyed, developed, used, occupied, operated and maintained subject to the following restrictions, covenants, obligations and agreements, which shall run with the Subject Property and bind the heirs, successors and assigns of Declarant as long as they have any right, title, or interest in the Subject Property or any part thereof.

Article I.

CERTAIN DEFINITIONS

1.01 Definitions. For purposes of this Declaration:

“**Affordable Housing Unit**” shall have the meaning set forth in the Zoning Resolution.

“**Applications**” shall have the meaning given in the Recitals to this Declaration.

“**Approvals**” shall mean approvals of the Applications by the Commission and City Council relating to the Subject Property.

“**Approval Date**” shall mean the date that the Applications are approved by the New York City Council.

“**Association**” shall have the meaning set forth in Section 17.02 of this Declaration.

“**Association Members**” shall have the meaning set forth in Section 17.04 of this Declaration.

“**Association Obligation Date**” shall have the meaning set forth in Section 17.03 of this Declaration.

“**Attorney General**” shall mean the Attorney General of the State of New York.

“**Building Permit**” shall mean the issuance of a permit by DOB (as herein defined) whether in the form of (i) an excavation permit, authorizing excavations, including those made for the purposes of removing earth, sand, gravel or other material from the Subject Property; (ii) a foundation permit, authorizing foundation work at the Subject Property; (iii) a work permit issued by DOB under a new building application authorizing construction of the Proposed Development or (iv) any other permit (other than a Demolition Permit) normally associated with the development of a building.

“**Business Day**” shall mean any day other than a Saturday, Sunday or other day on which banks in the State of New York are authorized or required by Legal Requirements to be closed.

“**CEQR**” shall have the meaning set forth in the Recitals to this Declaration.

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“**Chairperson**” shall mean the Chairperson of the Commission from time to time or any successor to the jurisdiction thereof.

“**City**” shall mean the City of New York.

“**City Council**” shall mean the City Council of the City of New York or any successor to the jurisdiction thereof.

“**City Recommendations**” shall have the meaning set forth in Section 4.05 of this Declaration.

“**CMM Default Notice**” shall have the meaning set forth in Section 3.06(f) of this Declaration.

“**CO Notice**” shall have the meaning set forth in Section 3.08(c) of this Declaration.

“**Commission**” shall have the meaning set forth in the Recitals to this Declaration.

“**Commissioner**” shall mean the Commissioner of the New York City Department of Parks and Recreation or any successor to the jurisdiction thereof.

“**Completion Letter of Credit**” shall have the meaning set forth in Section 7.04 of this Declaration.

“**Construction Commencement**” shall mean the issuance of the first Building Permit by DOB to Declarant for the commencement of work to develop the Subject Property, in whole or in part, with the Proposed Development or any portion thereof.

“**CPC**” shall have the meaning set forth in the Recitals to this Declaration.

“**DCP**” shall have the meaning set forth in the Recitals to this Declaration.

“**DEC**” shall mean the New York State Department of Environmental Conservation, or any successor to its jurisdiction.

“**Declarant**” shall have the meaning given in the Preamble to this Declaration, and shall include heirs, successors and assigns of the named Declarant.

“**Declaration**” shall mean this Declaration, as the same may be amended or modified from time to time in accordance with its provisions.

“**Delay Notice**” shall have the meaning set forth in Section 9.01 of this Declaration.

“**Demolition Permit**” shall mean a permit authorizing the dismantling, razing or removal of a building or structure, including the removal of structural members, floors, interior bearing walls and/or exterior walls or portions thereof, on the Subject Property.

“**DEP**” shall mean the New York City Department of Environmental Protection or any successor to its jurisdiction.

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“Design Submission Report” shall have the meaning set forth in Section 4.05 of this Declaration.

“Development Plans” shall have the meaning set forth in Section 2.01(b) of this Declaration.

“DOB” shall mean the New York City Department of Buildings or any successor to its jurisdiction.

“DOT” shall mean the New York City Department of Transportation or any successor to its jurisdiction.

“DPR” shall have the meaning set forth in the Recitals of this Declaration.

“East Building” shall have the meaning set forth in the Recitals of this Declaration.

“Effective Date” shall mean the date on which this Declaration is recorded in the Register’s Office.

“Entity” means any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association.

“Federal/State Approval” shall have the meaning set forth in Section 4.07 of this Declaration.

“FEIS” shall have the meaning set forth in the Recitals to this Declaration.

“Final Approval” shall mean approval of the Applications by the Commission pursuant to New York City Charter Section 197-c, which shall be effective on the date that the City Council’s period of review has expired, unless (a) pursuant to New York City Charter Section 197-d(b), the City Council reviews the decision of the Commission approving the Applications and takes final action pursuant to New York City Charter Section 197-d approving the Applications, without an appeal by the applicant to the Affordable Housing Appeals Board or a determination by no fewer than two members of the Affordable Housing Appeals Board to review such action pursuant to New York City Charter Sections 197-d(e-1) and 197-g(b), in which event “Final Approval” shall mean such approval of the Applications by the City Council, (b) pursuant to New York City Charter Sections 197-d(b) and 197-g(d), the City Council reviews the decision of the Commission approving the Applications and takes action with respect to the Applications, following which the applicant appeals such action of the City Council to the Affordable Housing Appeals Board or no fewer than two members of the Affordable Housing Appeals Board determine to review such action pursuant to New York City Charter Sections 197-d(e-1) and 197-g(b), in which event “Final Approval” shall mean the final action taken by the Affordable Housing Appeals Board pursuant to New York City Charter Section 197-g, or (c) the City Council disapproves the decision of the Commission and the Office of the Mayor files a written disapproval of the City Council’s action pursuant to New York City Charter Section 197-d(e), and the City Council does not override the Office of the Mayor’s disapproval, in which event “Final Approval” shall mean the Office of the Mayor’s written disapproval of the City Council’s action pursuant to such New York City Charter Section 197-d(e). Notwithstanding anything to the contrary contained in this Declaration, “Final

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Approval" shall not be deemed to have occurred for any purpose of this Declaration if the final action taken pursuant to New York City Charter Section 197-d is disapproval of the Applications.

"Final Completion" or **"Finally Complete"** shall mean the completion of all relevant items of work, including any Punch List or other items that remain to be completed after Substantial Completion.

"Force Majeure" shall mean that a Force Majeure Event has occurred and Declarant has provided the Delay Notice.

"Force Majeure Event" shall mean an occurrence, or occurrences, beyond the reasonable control of Declarant which causes delay in the performance of Declarant's obligations hereunder, provided that Declarant has taken all reasonable steps necessary to control or to minimize such delay, and which occurrences shall include, but not be limited to: (i) a strike, lockout or labor dispute; (ii) the inability to obtain labor or materials or reasonable substitutes therefor; (iii) acts of God; (iv) restrictions, regulations, orders, controls or judgments of any Governmental Authority; (v) undue material delay in the issuance of approvals by any Governmental Authority, including delays in the execution of agreements required pursuant to this Declaration, provided that such delay is not caused by any act or omission of Declarant; (vi) enemy or hostile government action, civil commotion, insurrection, terrorism, revolution or sabotage; (vii) fire or other casualty; (viii) a taking of the whole or any portion of the Subject Property by condemnation or eminent domain; (ix) unusual or reasonably unforeseeable inclement weather substantially delaying construction of any relevant portion of the Subject Property; (x) unforeseen underground or soil conditions, provided that Declarant did not and could not reasonably have anticipated the existence thereof as of the date hereof; (xi) the denial of access to adjoining real property, notwithstanding the existence of a right of access to such real property in favor of Declarant arising by contract, this Declaration or Legal Requirements; (xii) failure or inability of a public utility to provide adequate power, heat or light or any other utility service; (xiii) the pendency of any litigation relating to the Applications or to the underlying provisions of the Zoning Resolution; (xiv) orders of any court of competent jurisdiction, including, without limitation, any litigation which results in an injunction or restraining order prohibiting or otherwise delaying the construction of any portion of the Subject Property or the implementation of any PCREs or Mitigation Measures; or (xv) a pandemic, epidemic, or other public health or other emergency declared by the Governor of the State of New York or the Mayor of the City of New York.

"Governmental Authority" shall mean any governmental authority (including any Federal, State, City or County governmental authority or quasi-governmental authority, or any political subdivision of any thereof, or any agency, department, commission, board or instrumentality of any thereof) having jurisdiction over the matter in question.

"Individual Assessment Interest" shall have the meaning set forth in Section 13.03 of this Declaration.

"Inspector" or **"Inspectors"** shall have the meaning set forth in Section 8.03 of this Declaration.

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“Issued for Construction Drawings” shall include, but not be limited to, the entire bid book including all finalized specifications and final contract documents for performance of the WPAA Work. The submission should consist of two (2) sets of half-scale plans plus an electronic file containing the above items. The Responsible Party shall submit complete final plans and specifications drawings to DPR upon completion of work. Acceptable submittals of such drawings shall conform to DPR’s then existing standards for such record drawings. The finalized Issued for Construction Drawings record drawings shall include the following: The Responsible Party’s company name, address and telephone number, Subject Project Name, Address, drawing date, the term Issued for Construction Drawings, signature of the principal of the Responsible Party, and a statement certifying that the Issued for Construction Drawings record drawings are accurate and correct. For the avoidance of doubt, the Issued for Construction Drawings shall not be required to include drawings, details, specifications or contract documents for the construction of the Proposed Development, the PAA, the Vehicular Turnaround Segment, or any portion of either of the foregoing or any other improvement on the Subject Property that is not included in the WPAA Work.

“Large-Scale General Development” shall have the meaning set forth in the Recitals to this Declaration.

“Large-Scale Special Permits” shall have the meaning set forth in the Recitals to this Declaration.

“Legal Requirements” shall mean all applicable laws, statutes and ordinances, and all orders, rules, regulations, interpretations, directives and requirements, of any Governmental Authority having jurisdiction over the Subject Property.

“LPC” shall mean the New York City Landmarks Preservation Commission or any successor to its jurisdiction.

“Maintenance Obligation” shall have the meaning set forth in Section 11.02 of this Declaration.

“Maintenance Security” shall have the meaning set forth in Section 7.03 of this Declaration.

“Mitigation Measures” shall have the meaning set forth in the Recitals to this Declaration.

“Modification Request” shall have the meaning set forth in Section 3.05(c) of this Declaration.

“Mortgage” shall mean a mortgage given as security for a loan in respect of all or any portion of the Subject Property, other than a mortgage secured by any individual residential dwelling unit located within the Subject Property.

“Mortgagee” shall mean the holder of a Mortgage for all or any portion of the Subject Property set forth in a recorded mortgage agreement.

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“**MTA Party**” shall mean any of (i) the New York City Transit Authority, a public benefit corporation of the State of New York, and its subsidiaries and affiliates and (ii) the Metropolitan Transportation Authority, a public benefit corporation of the State of New York, and its subsidiaries and affiliates.

“**Museum Building**” shall have the meaning set forth in the Recitals of this Declaration.

“**New Building**” shall mean any building to be constructed or redeveloped in the Proposed Development, including, without limitation, the East Building, West Building, or Museum Building.

“**New Building Permit**” shall mean, with respect to any New Building, a work permit issued by DOB under a “New Building” application authorizing construction of a New Building.

“**New Cure Period**” shall have the meaning set forth in Section 3.06(f) of this Declaration.

“**Notice of Final Completion**” shall have the meaning set forth in Section 8.02 of this Declaration.

“**Notice of Substantial Completion**” shall have the meaning set forth in Section 7.02 of this Declaration.

“**OER**” shall mean the Mayor’s Office of Environmental Remediation or any successor to its jurisdiction.

“**Party-in-Interest**” shall have the meaning set forth in subdivision (d) of the definition of the term “zoning lot” in Section 12-10 of the Zoning Resolution.

“**PCO**” shall mean a permanent certificate of occupancy issued by DOB.

“**PCRE**” shall have the meaning set forth in the Recitals of this Declaration.

“**Permit Notice**” shall have the meaning set forth in Section 3.08(a) of this Declaration.

“**Person**” shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person as the context may require.

“**Proposed Cure Period**” shall have the meaning set forth in Section 3.06(f) of this Declaration.

“**Proposed Development**” shall have the meaning set forth in the Recitals to this Declaration.

“**Protected PAA Portion**” shall have the meaning set forth in Section 7.02 of this Declaration.

“**Public Access Area**” or “**PAA**” shall have the meaning set forth in the Recitals to this Declaration.

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“Public Access Easement” shall have the meaning set forth in Section 10.01 of this Declaration.

“Punch List” shall have the meaning set forth in Section 7.02 of this Declaration.

“Register’s Office” shall mean the City Register’s Office, New York County.

“Responsible Party” shall mean the ground tenant under any ground lease governing Lot 1, provided that, during any period of time in which Lot 1 is not subject to a ground lease, (i) if Lot 1 Owner (including any successor in interest thereto) is an MTA Party, then “Responsible Party” for Lot 1 or the portion of the WPAA, PAA, or Vehicular Turnaround Segment located thereon shall mean Lot 1 Owner and “Responsible Party” for Lot 25 or the portion of the WPAA or PAA located thereon shall mean the Museum, and (ii) if Lot 1 Owner (including any successor in interest thereto) is not an MTA Party, then “Responsible Party” shall mean Lot 1 Owner.

“Section 3.05 Request” shall have the meaning set forth in Section 3.05(b) of this Declaration.

“SEORA” shall have the meaning set forth in the Recitals to this Declaration.

“Shore Public Walkway” shall have the meaning set forth in the Recitals to this Declaration.

“State” shall mean the State of New York, its agencies and instrumentalities.

“Subject Property” shall have the meaning set forth in the Recitals to this Declaration.

“Substantial Completion” or **“Substantially Complete”** shall mean that the WPAA, the PAA, or the Vehicular Turnaround Segment, as applicable, has been constructed substantially in accordance with the Waterfront Public Access Area Plans or the Development Plans, as applicable, and have been completed to such an extent that all portions of the applicable improvement may be operated and made available for public use, notwithstanding that (a) minor or insubstantial items of construction, decoration or mechanical adjustment remain to be performed or (b) the Responsible Party has not completed any relevant planting or vegetation or other tasks that may be required to occur seasonally.

“50% Submission” and **“80% Submission”** shall have the respective meanings set forth in Section 4.02 of this Declaration, where:

(i) **50% Submission** may include, but not be limited to, drawings, furnishing details, and a complete set of contract drawings and specifications, including all custom specifications for performance of the WPAA Work; and

(ii) **80% Submission** may include, but not be limited to, all bid items, all specifications and all drawings for performance of the WPAA Work.

The 50% Submission and 80% Submission should each consist of two (2) sets of half scale plans plus an electronic file containing the above items. For the avoidance of doubt, neither the

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50% Submission nor the 80% Submission shall be required to include drawings, details, specifications or contract documents for the construction of the Proposed Development, the PAA, the Vehicular Turnaround Segment, or any portion of either of the foregoing or any other improvement on the Subject Property that is not included in the WPAA Work.

“**TCO**” shall mean a temporary certificate of occupancy issued by DOB.

“**Unit Interested Party**” shall have the meaning set forth in Section 16.01(a) of this Declaration.

“**Upland Connection**” shall have the meaning set forth in the Recitals to this Declaration.

“**Vehicular Turnaround Segment**” shall have the meaning set forth in the Recitals to this Declaration.

“**Waterfront Public Access Area**” or “**WPAA**” shall have the meaning set forth in the Recitals to this Declaration.

“**Waterfront Public Access Area Plans**” shall mean the following plans and drawings, prepared by _____, each of which is annexed hereto as **Exhibit C**:

Drawing No.	Title	Date

“**West Building**” shall have the meaning set forth in the Recitals of this Declaration.

“**WPAA Maintenance Agreement**” shall have the meaning set forth in the Recitals of this Declaration.

“**WPAA Obligation**” shall mean the obligation of Declarant to provide the WPAA, or portions thereof, as set forth in this Declaration.

“**WPAA Work**” shall mean the work necessary to construct the Waterfront Public Access Area in accordance with this Declaration. This shall include any work on substructure elements, which may include, but not be limited to, the bulkhead, pilings and platform.

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“Zoning Map Amendment” shall have the meaning set forth in the Recitals to this Declaration.

“Zoning Resolution” shall have the meaning set forth in in the Recitals to this Declaration.

Article II.

DEVELOPMENT

2.01 Development of the Subject Property.

(a) **Designation of Large-Scale General Development.** Declarant hereby declares and agrees that, following the Effective Date, the Subject Property, if developed pursuant to the Large-Scale Special Permits, shall be treated and developed as a “large-scale general development,” as such term is defined in the Zoning Resolution in effect on the Effective Date, and shall be developed and enlarged as a single unit.

(b) **Development Plans.** If Declarant develops the Subject Property in whole or in part in accordance with the Large-Scale Special Permits, Declarant covenants and agrees that any development of the Subject Property shall occur only if it is in substantial conformity with the following plans and drawings prepared by FX Collaborative Architects LLP and Scape Landscape Architecture DPC, approved as part of the Large-Scale Special Permits and annexed hereto in **Exhibit B** and made a part hereof (the **“Development Plans”**), subject to the modification provisions of Article XIV hereof:

Drawing No.	Title	Last Date Revised
Z-001	Zoning Analysis	11/20/2025
Z-002	Zoning Lot Site Plan	11/20/2025
Z-020	Waiver Plan	11/20/2025
Z-021	Tower Width (Building 1 at HT +100', Building 2 at HT +85') Waiver Plan	11/20/2025
Z-022	Tower Width (Building 1 at HT +152', Building 2 at HT +130 and 190') Waiver Plan	11/20/2025
Z-023	Waiver Sections	11/20/2025
Z-024	Waiver Sections	11/20/2025
Z-025	Waiver Sections	11/20/2025
Z-026	Waiver Sections	11/20/2025
Z-027	Northwest Axonometric	11/20/2025
Z-028	Southeast Axonometric	11/20/2025

(c) **Development in Absence of Large-Scale General Development.** If the Subject Property is not developed in any manner in reliance on the Large-Scale Special Permits, then Declarant shall have the right to either (i) develop the Subject Property in accordance with the provisions of the Zoning Resolution applicable to the Subject Property as of the date of such

development, in which event such development shall be subject to the provisions of Article III hereof, or (ii) develop the Subject Property in accordance with the provisions of the Zoning Resolution applicable to the Subject Property immediately prior to the date of Final Approval of the Zoning Map Amendment (to the extent such development is then permitted), in which event such development shall not be subject to the provisions of Article III hereof.

2.02 Performance of the WPAA Work.

(a) **Construction of Waterfront Public Access Area.** If Declarant develops the Subject Property in whole or in part in accordance with the Large-Scale Special Permits, or otherwise with a development that is not exempt from waterfront public access area requirements under Section 62-52 of the Zoning Resolution, then the Responsible Party shall be required to perform the WPAA Work and construct the Waterfront Public Access Area substantially in accordance with the Waterfront Public Access Area Plans, the Issued for Construction Drawings, and this Declaration and, once constructed, shall maintain the WPAA as set forth herein. The WPAA shall be accessible by the public as shown on the Waterfront Public Access Area Plans, during the hours of operation of the WPAA, as delineated in Section 11.01. The WPAA Work associated with the Waterfront Public Access Area shall be required at such time as Declarant develops the Subject Property as set forth in this Declaration.

(b) **Performance of WPAA Work.** Declarant agrees that the WPAA Work shall be performed in accordance with all Legal Requirements and with the provisions of this Declaration.

2.03 Construction of the Public Access Area.

(a) The Responsible Party shall construct the Public Access Area substantially in accordance with the design and specifications set forth in the Development Plans.

(b) The Responsible Party, at its sole cost and expense, shall diligently apply for and prosecute the applications for all City, State, and Federal permits and approvals to fully construct the Public Access Area.

(c) Declarant shall not accept a TCO or PCO for the Proposed Development until the Chairperson has determined that the Public Access Area is Substantially Complete in accordance with Section 7.02 or Section 8.02, as applicable.

Article III.

ENVIRONMENTAL PROTECTION MEASURES

3.01 Development of the Subject Property. Subject to the provisions of Section 2.01(c) of this Declaration, if the Subject Property is developed pursuant to either the Zoning Map Amendment or the Large-Scale Special Permits, as approved or approved with modifications in accordance with New York City Charter Section 197-c, Section 197-d or Section 197-g, Declarant covenants and agree that the PCREs set forth in Section 3.02 shall be implemented in accordance with the provisions of this Declaration.

3.02 Project Components Related to the Environment for Construction. In addition to measures that are already required by law, any Declarant party constructing a New Building shall, at its sole cost and expense, implement and incorporate as part of such construction, as appropriate, the following PCREs, which may be modified as set forth herein, in accordance with the FEIS and as further set forth in this Section

(a) Construction Air Quality PCRE. Such Declarant party shall require contractors, under contract specifications, to implement an emissions reduction program to minimize the air quality effects from construction of the Proposed Project, consisting of the following components, and agrees to not commence construction on the Proposed Project unless and until such Declarant party affirms under the penalty of perjury to DCP that these measures relating to construction air quality reduction have been and/or will be implemented:

(i) All diesel-powered non-road construction equipment with model years 2006-2011 and engine sizes between 50 and 600 horsepower must meet at least the Tier 3 emissions standard and be retrofitted with diesel particulate filters.

(b) Construction Noise PCRE. Such Declarant party shall require contractors, under contract specifications, to implement a plan to minimize the noise effects from construction of the Proposed Project, consisting of the following components, and agrees to not commence construction on the Proposed Project unless and until such Declarant party affirms under the penalty of perjury to DCP that these measures relating to construction noise reduction have been and/or will be implemented:

(i) Where grid power is sufficient and available, such Declarant party shall use grid power instead of generators during Foundation, Superstructure, and Finishing phases.

3.03 Project Components Related to the Environment. Any Declarant party constructing a New Building shall implement and incorporate the following PCREs relating to the design and operation of the New Buildings:

(a) Vehicular Turnaround Segment.

(i) Design and Construction

(A) The Responsible Party shall construct, improve, and maintain the Vehicular Turnaround Segment in substantial conformity with the Development Plans and in accordance with the requirements of DOT and the New York City Fire Department, as applicable, so as to provide a means of pedestrian approach from, and vehicular turnaround for, the adjoining portion of Quay Street shown on the City Map and thereby perform the functions typically associated with a way shown on the City Map.

(B) The Responsible Party, at its sole cost and expense, shall diligently apply for and prosecute the applications for all City, State, and Federal permits and approvals to fully construct the Vehicular Turnaround Segment.

(C) Declarant shall not accept a TCO or PCO for the West Building until the Chairperson has determined that the Vehicular Turnaround Segment is Substantially Complete in accordance with Section 7.02 or Section 8.02, as applicable.

(ii) Vehicular Turnaround Easement. In the event that the City takes title to the portion of Quay Street providing access to the Proposed Development or such portion otherwise becomes publicly accessible, and subject to the provisions of this Section 3.03(a), Declarant covenants that, immediately upon Substantial Completion of the Vehicular Turnaround Segment, the City shall hereby enjoy, wield, and have the right to and the benefit of and be granted, conveyed and transferred a non-exclusive easement in perpetuity, for the benefit of the general public, encompassing the area of the Vehicular Turnaround Segment, unobstructed from the surface of the Vehicular Turnaround Segment to an elevation of 15 feet above the roadbed, for the purposes of pedestrian and vehicular access over and through the Vehicular Turnaround Segment to and from Quay Street and for general vehicular maneuvering by the public (the "Vehicular Turnaround Easement").

(iii) Liens. Declarant covenants that all liens, including but not limited to judgment liens, mortgage liens, mechanics' liens and vendees liens, and all burdens, covenants, encumbrances, leases, licenses, easements, profits, security interests in personal property or fixtures, and all other interests subsequent thereto, excepting governmental tax liens and assessments, and public utilities and related easements, shall be, at and after the time of vesting of the Vehicular Turnaround Easement in the City, subject and subordinate to the rights, claims, entitlements, interests and priorities created by Vehicular Turnaround Easement.

(iv) Maintenance. The Responsible Party shall operate, maintain and repair the Vehicular Turnaround Segment until such time as the City expressly assumes responsibility for such operation, maintenance and repair. During such period, the Responsible Party shall maintain the Vehicular Turnaround Segment in a good state of repair and cleanliness, including, without limitation, by (i) maintaining the paved surfaces of the Vehicular Turnaround Segment in good repair; (ii) maintaining any required storm and sanitary drainage systems within the Vehicular Turnaround Segment in a clear, workable, and efficient manner; (iv) clearing snow from the Vehicular Turnaround Segment at such times as the accumulated snowfall in any 12-hour period exceeds two inches; (v) maintaining signage that the Vehicular Turnaround Segment is privately owned and maintained and that through traffic must use Quay Street; (vi) maintaining any road markings within the Vehicular Turnaround Segment; and (vii) maintaining all required utilities within the Vehicular Turnaround Segment in good working order, to the extent public utilities or municipal agencies are not obligated to maintain such utilities.

(v) Closure of Vehicular Turnaround Segment. Notwithstanding anything to the contrary in this Section 3.02(b), Declarant shall be entitled to and hereby reserves and retains the right to close to the public any portion of the Vehicular Turnaround Segment to the extent and for the period of time that such closure is reasonably required (i) to allow for the construction, repair and maintenance of a New Building and/or the Subject Property in a safe, efficient, and reasonable manner, (ii) to make necessary repairs or replacements within the Vehicular Turnaround Segment (including repairs or replacements of pipes, utility lines or conduits, or other equipment on or under the roadbed of the Vehicular Turnaround Segment), or (iii) in the event of an emergency or hazardous condition. Except in cases of emergency, Declarant

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shall provide five (5) days advance notice to DOT and the public of any temporary closure of the Vehicular Turnaround Segment (or portions thereof), by posting signs at appropriate locations. In cases of emergency, Declarant shall provide such public notice as soon as practicable and shall promptly, but in no event more than two (2) business days after such closure, give notice to DOT that such portion has been closed, which notice shall describe the nature of the emergency or hazardous condition causing the closure, the portion to be closed and the anticipated duration thereof. Notwithstanding other limitations contained in this Declaration, Declarant shall have the right to close all or any portions of the Vehicular Turnaround Segment to the City and the general public one (1) calendar day, other than a Saturday, Sunday or legal holiday, in each year to preserve its ownership interest therein.

(b) New Building Noise Attenuation.

(i) Declarant shall not accept a Building Permit for any New Building on the Subject Property that permits construction or alteration of the superstructure of such New Building until Declarant has submitted a noise remedial action plan to OER for review (the “Noise RAP”), demonstrating compliance with the applicable noise attenuation requirements for New Buildings set forth in Section 3.03(b)(i)(A) through 3.03(b)(i)(D) below (the “Noise Controls”) and OER has issued a Notice of No Objection as set forth in Section 3.03(b)(iv)(A) below, or a Notice to Proceed as set forth in Section 3.03(b)(iv)(B) below:

(A) East Building: All residential and community facility uses shall provide a closed-window condition with a minimum of 28 dBA window/wall attenuation on building facades.

(B) West Building: All residential uses must provide a closed-window condition with a minimum of 28 dBA window/wall attenuation on all facades.

(C) Museum Building: All future community facility use must provide a closed-window condition with a minimum of 28 dBA window/wall attenuation on all facades.

(D) For all New Buildings, an alternate means of ventilation shall be provided in residential and community facility uses.

(ii) Declarant shall not accept a TCO or PCO for any New Building on the Subject Property until OER has issued to DOB, as applicable, a Notice of No Objection set forth in Section 3.03(b)(iv)(A) below, a Notice of Satisfaction set forth in Section 3.03(b)(iv)(C) below or a Final Notice of Satisfaction set forth in Section 3.03(b)(iv)(D) below. OER approval of the Noise Controls for each New Building on the Subject Property may proceed independently of any other New Building(s) and therefore it is expected that OER may issue Notices of No Objection, Notices to Proceed, Notices of Satisfaction and/or Final Notices of Satisfaction, and DOB may issue Building Permits or TCOs and/or PCOs, on a New Building by New Building basis, irrespective of the construction sequence of the New Buildings on the Subject Property. OER may issue Notices of No Objection, Notices to Proceed, Notices of Satisfaction or Final Notices of Satisfaction if OER determines that the DOB filing requires either minor alteration work or other work occurring within the New Building that does not affect any Noise Controls.

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(iii) OER may, with the consent of the lead agency, modify the Noise Controls based upon new information, additional facts or updated standards, as applicable, provided that such modifications are equally protective. Such modification shall not require an amendment of this Declaration.

(iv) Notices.

(A) Notice of No Objection. OER shall issue a Notice of No Objection related to the Noise Controls, for any New Building on the Subject Property (i) after OER has determined that no Noise RAP is required for such Building Permit or other DOB approval or (ii) OER has determined that the DOB filing requires either minor alteration work or other work occurring on the New Building or Subject Property that does not affect the Noise Controls.

(B) Notice to Proceed. OER shall issue a Notice to Proceed related to the Noise Controls for any New Building on the Subject Property after it determines that: (i) the Noise RAP has been approved by OER and (ii) any Building Permit with respect to such New Building that permits construction of the superstructure is necessary to further the implementation of the OER approved Noise RAP.

(C) Notice of Satisfaction. OER shall issue a Notice of Satisfaction related to the Noise Controls for any New Building on Subject Property after OER has determined in writing that the Noise RAP that has been prepared and accepted by OER has been implemented to the satisfaction of OER.

(D) Final Notice of Satisfaction. OER shall issue a Final Notice of Satisfaction for the Noise Controls for any New Building on Subject Property (i) if such New Building has been built to the maximum FAR allowed under the Zoning Resolution and (ii) the Noise RAP that has been prepared for and accepted by OER provides for the most restrictive Noise Controls for such New Building and OER has set forth in writing the Noise RAP has been implemented to the satisfaction of OER.

(c) Operational Air Emissions Controls.

(i) Declarant shall not accept a Building Permit for any New Building on the Subject Property that permits construction or alteration of the superstructure of such New Building until Declarant has submitted a remedial plan to OER for review (the "Air RAP") demonstrating that any new residential or commercial development on the Subject Property shall utilize only electrically powered heating and hot water systems with no associated venting or stacks (the "Air Emissions Control") and OER has issued to DOB, as applicable, either a Notice of No Objection as set forth in Section 3.03(c)(iv)(A) below or a Notice to Proceed as set forth in Section 3.03(c)(iv)(B) below.

(ii) Declarant shall not accept a TCO or PCO for any New Building on the Subject Property until OER has issued to DOB, as applicable, a Notice of No Objection set forth in Section 3.03(c)(iv)(A) below, a Notice of Satisfaction set forth in Section 3.03(c)(iv)(C) below or a Final Notice of Satisfaction set forth in Section 3.03(c)(iv)(D) below. OER approval of the Air Emissions Control for each New Building on the Subject Property may proceed

independently of any other New Building(s) and therefore it is expected that OER may issue Notices of No Objection, Notices to Proceed, Notices of Satisfaction or Final Notices of Satisfaction, and DOB may issue Building Permits, or TCOs and/or PCOs, on a New Building by New Building basis, irrespective of the construction sequence of each New Building on the Subject Property. OER may issue Notices of No Objection, Notices to Proceed, Notices of Satisfaction or Final Notices of Satisfaction if OER determines that the DOB filing requires either minor alteration work or other work occurring within the New Building that does not affect Air Emissions Controls.

(iii) In no event shall this Section 3.03(c) be construed as prohibiting or preventing Declarant from undertaking any maintenance, repair or replacement of any portion of the heating and hot water system or generator for a New Building (including replacement of any element with a more efficient or cleaner system), provided same is consistent with the terms of this Section 3.03(c). OER may, with the consent of the lead agency, modify the Air Emissions Control based upon new information, additional facts or updated standards, as applicable, provided that such modifications are equally protective. Such modification shall not require an amendment of this Declaration.

(iv) Notices.

(A) Notice of No Objection. OER shall issue a Notice of No Objection related to the Air Emissions Control, for any New Building on the Subject Property (i) after OER has determined that no Air RAP is required for such Building Permit or other DOB approval or (ii) OER has determined that the DOB filing requires either minor alteration work or other work occurring on the New Building or Subject Property that does not affect the Air Emissions Control.

(B) Notice to Proceed. OER shall issue a Notice to Proceed related to the Air Emissions Control for any New Building on the Subject Property after it determines that: (i) the Air RAP has been approved by OER and (ii) any Building Permit with respect to such New Building that permits construction of the superstructure is necessary to further the implementation of the OER approved Air RAP.

(C) Notice of Satisfaction. OER shall issue a Notice of Satisfaction related to the Air Emissions Control for any New Building on Subject Property after OER has determined in writing that the Air RAP that has been prepared and accepted by OER has been implemented to the satisfaction of OER.

(D) Final Notice of Satisfaction. OER shall issue a Final Notice of Satisfaction for the Air Emissions Control for any New Building on Subject Property (i) if such New Building has been built to the maximum FAR allowed under the Zoning Resolution and (ii) the Air RAP that has been prepared for and accepted by OER provides for the most restrictive Air Emissions Control for such New Building and OER has set forth in writing the Air RAP has been implemented to the satisfaction of OER.

3.04 Environmental Mitigation. Declarant shall, in accordance with the FEIS, undertake the Mitigation Measures as follows:

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(a) Construction Traffic Mitigation. Declarant shall not apply for or accept a permit allowing for Construction Commencement for the Proposed Development until 30 days after Declarant has sent written notice to DOT requesting that DOT implement the construction traffic mitigation measures set forth in Tables 19-10 through 19-11 of the FEIS and as listed below:

(i) Implementation of signal timing modifications at the following intersections:

(A) Franklin Street and Quay Street, to fully mitigate the significant adverse impacts to this intersection during the weekday AM and weekday PM construction peak hours;

(B) Franklin Street and Greenpoint Avenue, to fully mitigate the significant adverse impacts to this intersection during the weekday AM and weekday PM construction peak hours;

(C) McGuinness Boulevard and Greenpoint Avenue to fully mitigate the significant adverse impacts to this intersection during the weekday AM construction peak hour, and to partially mitigate the significant adverse impacts to this intersection during the weekday PM construction peak hour; and

(D) Franklin Street and Calyer Street, to fully mitigate the significant adverse impacts to this intersection during the weekday PM construction peak hour.

(ii) Implementation of signal timing modifications are subject to review and approval by DOT.

(b) Operational Traffic Mitigation. Declarant shall not apply for or accept a TCO or PCO for a New Building in the Proposed Development until 30 days after Declarant has sent written notice to DOT requesting that DOT implement the operational traffic mitigation measures set forth in Tables 19-3 through 19-6 of the FEIS and as listed below:

(i) Implementation of signal timing modifications at the following intersections:

(A) Franklin Street and Calyer Street to the southbound approach to mitigate the significant adverse impacts to this intersection during the weekday AM, weekday midday, weekday PM, and Saturday peak hours;

(B) Franklin Street and Greenpoint Avenue to fully mitigate the significant adverse impacts to this intersection during the weekday midday, weekday PM, and Saturday peak hours, and to partially mitigate the significant adverse impacts to this intersection during the weekday AM peak hour;

(C) Manhattan Avenue and Greenpoint Avenue to mitigate the significant adverse impacts to this intersection during the weekday PM peak hour; and

(D) McGuinness Boulevard and Greenpoint Avenue to mitigate the significant adverse impacts to this intersection during the weekday AM, weekday midday, and weekday PM peak hours.

(ii) Implementations of the signal timing modifications are subject to review and approval by DOT.

3.05 Inconsistencies with the FEIS. If this Declaration inadvertently fails to include a PCRE or Mitigation Measure set forth in the FEIS, such PCRE or Mitigation Measure shall be deemed incorporated in this Declaration by reference. If there is any inconsistency between a PCRE or Mitigation Measure as set forth in the FEIS and as incorporated in this Declaration, the more restrictive provision shall apply.

3.06 Innovation; Alternatives; Modifications Based on Further Assessments.

(a) **Innovation and Alternatives.** In complying with Sections 3.01, 3.02, 3.03 or 3.04 of this Declaration, Declarant may, at its election, implement innovations, technologies or alternatives that are or become available, which Declarant demonstrates to the satisfaction of DCP would result in equal or better methods of achieving the relevant PCRE or Mitigation Measure, than those set forth in this Declaration.

(b) **Process for Innovations, Alternatives and Modifications Pursuant to Section 3.06.** Following the delivery of a Notice to DCP requesting an Innovation, Alternative or Modification pursuant to this Section 3.06 (the “**Section 3.06 Request**”), Declarant shall meet with DCP to respond to any questions or comments with respect to such request and any accompanying materials submitted with such Section 3.06 Request, and shall provide additional information as may reasonably be requested by DCP in writing in order to allow DCP to determine whether to grant such request, acting in consultation with City agency personnel, as necessary in relation to the subject matter of the Section 3.06 Request.

(c) **Modifications Based on Further Assessments.** In the event that Declarant believes, in good faith, based on changed conditions, that a PCRE or Mitigation Measure required under Sections 3.01, 3.02, 3.03, or 3.04 of this Declaration could be eliminated or modified without diminishment of the environmental standards which would be achieved by implementation of the PCRE or Mitigation Measure, it shall set forth the basis for such belief in an analysis submitted to DCP and other relevant City agencies such as DOT or DEP (the “**Modification Request**”). Following the delivery of the Modification Request, Declarant shall meet with DCP and the relevant City agencies to respond to any questions or comments with respect to such request and any accompanying materials submitted with such Modification Request and shall provide additional information as may be reasonably requested by DCP, if applicable. Upon reviewing the Modification Request and any other materials submitted, DCP shall issue a written determination within ten (10) business days of DCP’s confirmation that it has received all materials it needs to respond to such request. In the event that, based upon review of such analysis, DCP determines that the relevant PCRE or Mitigation Measure should not apply or could be modified, Declarant may eliminate or modify the PCRE or Mitigation consistent with the DCP determination.

(d) If Declarant implements any Section 3.06 Request or Modification Request, a notice indicating such change shall be recorded against the Subject Property in the Register's Office, in lieu of modification to this Declaration.

3.07 Uncontrollable Circumstances Involving a PCRE or Mitigation Measure. Notwithstanding any provision of Article IX of this Declaration to the contrary, where the obligation as to which an Uncontrollable Circumstance applies is a PCRE or Mitigation Measure set forth in this Article III of this Declaration, Declarant may not be excused from performing such PCRE or Mitigation Measure that is affected by an Uncontrollable Circumstance unless and until the Chairperson has made a determination in his or her reasonable discretion that not implementing the PCRE or Mitigation Measure during the period of the Uncontrollable Circumstance, or implementing an alternative proposed by Declarant, would not result in any new or different significant adverse environmental impact not addressed in the FEIS.

Article IV.

DESIGN DEVELOPMENT OF WATERFRONT PUBLIC ACCESS AREA

4.01 Modifications to Waterfront Public Access Area Plans. The Responsible Party agrees that any Design Submission that is not in substantial conformity with the Waterfront Public Access Area Plans shall require the prior written approval of DPR and DCP. Such written approval by DPR and DCP shall constitute acceptance by the Chairperson of any modifications to the Waterfront Public Access Area Plans, which the Chairperson thereafter will, if necessary, incorporate into a recertification pursuant to Zoning Resolution Section 62-811 that the Waterfront Public Access Area Plans, as so modified, comply with the requirements of Article VI, Chapter 2 of the Zoning Resolution upon application by Declarant as hereinafter set forth. Concurrent with submission of Issued for Construction Drawings pursuant to Section 4.11, the Responsible Party shall, if the Waterfront Public Access Area Plans have been so modified, file an application pursuant to Section 62-811 of the Zoning Resolution revising the Waterfront Public Access Area Plans to incorporate all such modifications which have been previously approved in accordance with this Section, whereupon the Chairperson shall certify that the revised Waterfront Public Access Area Plans comply with the requirements of Article VI, Chapter 2 of the Zoning Resolution, except to the extent an authorization for modification pursuant to Section 62-822 has been obtained.

4.02 Submission of Construction Drawings. The Responsible Party shall submit to DPR construction drawings for the WPAA Work: (i) at 50% completion of such construction drawings (such submission, the "50% Submission"); and (ii) at 80% completion of such construction drawings (such submission, the "80% Submission") (the 50% Submission and the 80% Submission herein referred to individually as a "Design Submission" and collectively as the "Design Submissions"). Each Design Submission shall include a schedule of estimated costs and designs showing how the Shore Public Walkway will relate to the adjoining properties and shall identify on each page of the submission whether it is part of the 50% Submission, or the 80% Submission. The 80% Submission shall include a lifecycle maintenance cost estimate of the portion of the WPAA covered by the 80% Submission. Additionally, the Design Submissions must include specifications for the WPAA Work as set forth in Section 4.03, along with such other specifications as the Responsible Party wishes to include. Nothing in this Section shall prevent

the Responsible Party from submitting construction drawings of any portion of the Waterfront Public Access Area to DPR at other times as may be agreed by the Responsible Party and DPR.

4.03 Marine Structures and Engineered Shoreline Edge Requirements. The Design Submissions shall include drawings for marine structures and engineered shoreline edges for DPR review and approval, to include but not be limited to a detailing of the performance specifications for the concrete mix design, rebar type and sizing, pile placement and elevations, load capacity, and assessment (maximum of two years old) of any existing structural components proposed to remain in place, as applicable. The design load of any marine structures and engineered shoreline edges, as applicable, is not to be less than three hundred and fifty (350) pounds per square foot (100 pounds per square foot live load and 250 pounds per square foot superimposed dead load) unless a licensed engineer certifies in writing to DPR that a lesser design load is structurally appropriate for particular portions of the improvements assuming an expected service life of no less than fifty (50) years, assuming customary maintenance and repair throughout the term and a capital maintenance and repair cycle of not less than twenty (20) years and consistent with the uses of such portions of the improvements as reflected in the most recent construction drawings and the anticipated programming for that portion of the marine structures and engineered shoreline edges, in which case such portion of the improvements can be designed to such lesser design load provided that DPR agrees with such certification. Submission of the Final Plans and Specifications/100% Construction Drawings shall include a licensed engineer's statement indicating a projection of (i) the expected service life of the improvements assuming customary maintenance and repair throughout the term and a twenty (20) year capital maintenance and repair cycle (which expected service life shall not be less than fifty (50) years), (ii) the anticipated construction schedule of the improvements, (iii) life cycle cost of the improvements and (iv) confirmation that the structural design meets the loading requirements of the improvements, as applicable, including requirements for emergency vehicle access as required by the New York City Fire Department. Upon completion of such work, the Responsible Party shall provide DPR with copies of the applicable sign-offs from any involved City or State entities as they become available and true and complete copies of the final construction drawings.

4.04 Administration. DPR shall manage and coordinate on behalf of the City the review of the Design Submissions. All documents prepared by the Responsible Party pursuant to this Article IV shall be sent simultaneously to DPR and DCP.

4.05 Agency Review Time Periods. DPR shall review the Design Submissions and shall approve or disapprove the same by written notice to the Responsible Party no later than thirty (30) calendar days after delivery to DPR. No separate approval of DCP or the Chairperson shall be required. DPR shall approve the Design Submissions that are consistent with the Waterfront Public Access Area Drawings with respect to the Waterfront Public Access Area, subject to Section 4.06(a) hereof. If DPR disapproves of, or cannot adequately evaluate, a particular feature or element of a Design Submission, then DPR shall set forth in detail the reasons for such disapproval, indicate why DPR was not able to adequately evaluate the particular Design Submission feature or element, or identify items that were not addressed in the Design Submission that should be addressed in the Responsible Party's next required Design Submission (the "**Design Submission Report**"). The Responsible Party shall thereafter submit a revised Design Submission responsive to DPR's Design Submission Report and, upon receipt thereof, DPR shall approve or disapprove all revised Design Submissions within fifteen (15) calendar days after receipt thereof.

DPR may approve a Design Submission with recommendations for modifications (the “**City Recommendations**”) and the Responsible Party shall incorporate the City Recommendations in a revised Design Submission unless the Responsible Party submits to DPR a written explanation of why it believes that such modifications would unreasonably increase the cost of the WPAA Work or are otherwise not in conformity with the Waterfront Public Access Area Drawings. DPR shall, within fifteen (15) calendar days after receipt of a revised Design Submission incorporating the City Recommendations in a manner satisfactory to DPR, approve such Design Submission, or if the Responsible Party’s written explanation or revised Design Submissions are not satisfactory, disapprove such Design Submission and issue a Design Submission Report. If DPR fails to respond to any submission by the Responsible Party within the time periods set forth in this Section, the Responsible Party shall send a reminder notice requesting DPR’s approval within seven (7) days of receipt of such reminder notice. If DPR fails to respond within such seven (7) day period, the Responsible Party may provide a second reminder notice requesting DPR’s approval within seven (7) days of receipt of the second reminder notice. If DPR fails to respond within such second seven (7) day notice period, then provided that such reminder notices have been sent to DPR, DPR shall be deemed to have approved such Design Submission, including all of the construction drawings which comprise such Design Submission.

4.06 Standards for Review.

(a) The Responsible Party acknowledges that DPR may disapprove any Design Submission that:

- (i) would, in DPR’s reasonable judgment, make the Waterfront Public Access Area too costly or impractical to maintain;
- (ii) would, in DPR’s reasonable judgment, create an unusual risk to public safety;
- (iii) does not, in DPR’s reasonable judgment following consultation with DCP, substantially conform to the most recently approved Design Submission or the Waterfront Public Access Area Plans, as may have been previously modified with the approval of DPR and DCP pursuant to Section 4.01.

(b) Upon approval by DPR of the 50% Submission, or the 80% Submission, each such approval shall be binding on DPR, and DPR may not disapprove a feature or element on a subsequent Design Submission or on the Issued for Construction Drawings, which has not been revised or modified by the Responsible Party on such subsequent Design Submission or on the Issued for Construction Drawings, except where such disapproval is based on information that was not reasonably available at the time of the initial approval, or new conditions have arisen since the initial approval that materially affect the ability to proceed with the design set forth in the previously approved Design Submission. Notwithstanding the foregoing, nothing in this Declaration is intended to release the Responsible Party from its obligation to ensure that the WPAA conforms with all relevant provisions of the Zoning Resolution.

(c) In reviewing any Design Submission, DPR shall work with the Responsible Party to avoid changes that increase the cost of the WPAA Work and in any event shall use reasonable efforts to minimize any requested changes that increase the cost of the WPAA Work.

4.07 State and Federal Permits.

(a) The Responsible Party has advised the City that construction of the Waterfront Public Access Area, including the WPAA Work, will require certain permits and approvals from the New York State government and the Federal government (collectively, the **Federal/State Approvals**). If Declarant develops the Subject Property, the Responsible Party, at its sole cost and expense, covenants to proceed in good faith and to diligently apply for and prosecute applications for all Federal/State Approvals and for any City permits and approvals necessary for the WPAA Work. In connection with its efforts to obtain the Federal/State Approvals, the Responsible Party shall not file or otherwise formally submit to any federal or state agency any plans, drawings or illustrative representations of the Waterfront Public Access Area that do not conform with the Waterfront Public Access Area Plans or any Design Submission submitted and approved pursuant to this Declaration unless the same shall have been approved in writing by DPR and DCP.

(b) The Responsible Party shall submit to DPR copies of all associated permits relating to any waterfront structural work such as construction, reconstruction, and/or rehabilitation of the bulkhead, pier and/or platform, prior to such work being performed.

4.08 Schedule. In order to ensure that DPR and DCP have adequate time to prepare for the review process contemplated by this Article IV, the Responsible Party shall notify DPR and DCP in writing of its intention to commence the design process for the WPAA Work at least thirty (30) days prior to submitting the 50% Submission, such notification to include an anticipated schedule for: (i) submission of the 50% Submission; (ii) submission of the 80% Submission; (iv) submission of the Issued for Construction Drawings; (v) commencement of construction of the portion of the Waterfront Public Access Area that is the subject of the notice; and (vi) commencement of any private development associated with the Waterfront Public Access Area that is the subject of the notice. After notifying DPR and DCP as outlined above, the Responsible Party shall make a good faith effort to timely notify DPR of any material changes in the previously anticipated schedule. The Responsible Party shall not submit the 50% Submission and the 80% Submission simultaneously.

4.09 Modifications Due to Failure to Obtain Permits.

(a) If the Responsible Party determines that, despite its good faith efforts, it will be unable to obtain the Federal/State Approvals for all or any portion of the WPAA Work at the time required to obtain TCOs by the date that the Proposed Development is eligible for issuance of TCOs, the Responsible Party shall so notify DPR and DCP. Provided that, exercising their reasonable judgment, DPR and DCP concur that (i) the Responsible Party has exercised good faith in seeking to obtain the Federal/State Approvals, and (ii) the Responsible Party is unlikely to obtain the Federal/State Approvals by a date upon which approvals are needed in order to obtain a TCO by the date that the Proposed Development is anticipated to be eligible for issuance of TCOs, the Responsible Party may submit to DPR and DCP for their approval a proposed modification to the

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Drawings to provide a substitute site plan and public amenity. Approval of such substitute site plan and public amenity shall serve as a determination by the Chairperson that he/she is prepared to recertify the Drawings pursuant to Section 62-811 to incorporate the substitute site plan and public amenity. In the event that, due to delays caused by provision of the substitute site plan and public amenity approved by DCP and DPR, Substantial Completion of the WPAA Work does not occur by the date that the Proposed Development is eligible for issuance of TCOs, Declarant may obtain TCOs for the Proposed Development notwithstanding the requirements of Section 7.01 provided that the Responsible Party is proceeding expeditiously towards Substantial Completion of the substitute public amenity; and provided further that as a condition to issuance of any TCO, DPR and DCP may require the Responsible Party to provide an alternative form of security as reasonably necessary to assure completion of the substitute public amenity.

(b) Notwithstanding Section 4.09(a), DPR and DCP may decline to make such determination where the conditions set forth in such Section are met and direct the Responsible Party by written notice to continue to seek the Federal/State Approvals; provided, however, that such direction shall constitute a Force Majeure Event subject to the provisions of Article IX. In the event that DPR and DCP direct the Responsible Party to continue to seek the Federal/State Approvals pursuant to this subdivision and the Responsible Party is unable to obtain such Federal/State Approvals within six (6) months thereafter, DPR and DCP may at any time thereafter direct the Responsible Party to provide a substitute site plan and public amenity in the manner provided for in Section 4.09(a).

4.10 Modification of Waterfront Public Access Area Plans. In the event that, in connection with a Design Submission, the Responsible Party and DCP and DPR agree that one or more modifications of the Waterfront Public Access Area Plans are appropriate, DCP shall issue a written approval thereof. Such written approval by DCP shall serve as a determination by the Chairperson that he/she is prepared to recertify the Waterfront Public Access Area Plans to incorporate the modification. Together with its application for approval of Issued for Construction Drawings, the Responsible Party shall file an application pursuant to Section 62-811 of the Zoning Resolution requesting that the Chairperson certify that the revised Waterfront Public Access Area Plans comply with the applicable requirements of Article VI, Chapter 2. The Chairperson shall issue such certification within thirty (30) days of such complete application.

4.11 Issued for Construction Drawings. No later than thirty (30) calendar days prior to the date on which the Responsible Party intends to commence construction of any portion of the WPAA Work, the Responsible Party shall submit to DPR the Issued for Construction Drawings for such portion of the WPAA Work. The Issued for Construction Drawings shall be reviewed in accordance with the time periods and standards set forth in Sections 4.04 and 4.05 hereof. If DPR fails to respond in such thirty (30) day period, the Issued for Construction Drawings shall be deemed approved in all respects and for all purposes of this Declaration. Nothing contained in this Declaration shall be construed to give the City or any agency thereof (including an Inspector, as defined herein, or any engineers or field inspectors) the right to require changes to the Issued for Construction Drawings. Upon completion of WPAA Work, the Responsible Party shall submit copies of the applicable sign-offs from any involved City or State entities and complete Issued for Construction Drawings to DPR. Submittals shall be delivered to:

New York City, Parks and Recreation

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Map File, Olmsted Center
Flushing Meadows - Corona Park
Flushing, New York 11368

Acceptable submittals of such Issued for Construction Drawings shall conform to DPR's then existing standards for such record drawings. It shall be the Responsible Party's obligation to inquire with DPR as to its current standards for such record drawings prior to submitting the Issued for Construction Drawings. The final "Issued for Construction Drawings" record drawings shall include the following: the Responsible Party's company name, address and telephone number, Subject Project Name, Address, drawing date, the word "Issued for Construction Drawings", the Responsible Party's signature, and a statement certifying that the "Issued for Construction Drawings" drawings are accurate and correct, provided that the Responsible Party shall be permitted to use CSI 2004 specification system for the bidding package.

4.12 As-Built Drawings. The Responsible Party shall submit complete as-built record drawings to DPR once it believes that the WPAA Work has been Finally Complete. Submittals shall be delivered to:

New York City, Parks and Recreation
Map File, Olmsted Center
Flushing Meadows - Corona Park
Flushing, New York 11368.

Acceptable submittals of "As-Built" record drawings shall conform to DPR's then existing standards for such record drawings. It shall be the Responsible Party's obligation to inquire with DPR as to its existing standards for such record drawings prior to submitting the "As-Built". The final "As-Built" record drawings shall include the following: the Responsible Party's company name, address and telephone number, Subject Project Name, Address, drawing date, the word "As-Built", the Responsible Party's signature, and a statement certifying that the "As-Built" drawings are accurate and correct, provided that the Responsible Party shall be permitted to use CSI 2004 specification system for the bidding package.

Article V.

CONSTRUCTION OF WATERFRONT PUBLIC ACCESS AREA

5.01 Manner of Performance of the WPAA Work; Permits. The Responsible Party shall, at its sole cost and expense, undertake the performance of the WPAA Work so as to construct the Waterfront Public Access Area substantially in accordance with the approved Issued for Construction Drawings, except as modified in accordance with the provisions of this Article. The Responsible Party shall perform the WPAA Work in a good and workmanlike manner, free from mechanics' and materials providers' liens (other than liens which have been bonded over) and in accordance with any applicable Legal Requirements.

5.02 Modifications of Issued for Construction Drawings. The Responsible Party shall have the right to make non-material modifications to the Issued for Construction Drawings to respond to unanticipated field conditions. All material modifications to the Issued for Construction

Drawings may be modified only upon the written approval of DPR, which approval shall not be unreasonably withheld or delayed. DPR shall, within fifteen (15) calendar days after receipt of a request for approval of a material modification to Issued for Construction Drawings, approve or deny such request. If DPR fails to respond to any request by the Responsible Party within such thirty (30) day period, the Responsible Party shall send a reminder notice requesting DPR's approval within seven (7) days of receipt of such reminder notice. If DPR fails to respond within such seven (7) day notice period, then provided that such reminder notices have been sent to DPR, DPR shall be deemed to have approved such request in all respects and for all purposes under this Declaration.

5.03 Security for Construction Defects. The Responsible Party hereby guarantees the construction of the Waterfront Public Access Area against all defects for a period of one year from the date of the Notice of Final Completion. To secure this obligation, the Responsible Party shall make DPR and the City third party beneficiaries of all construction guarantees under its construction contracts for the WPAA Work and shall assign any warranties related thereto.

Article VI.

INSURANCE AND INDEMNIFICATION FOR WATERFRONT PUBLIC ACCESS AREA

6.01 Insurance. The Responsible Party shall, at all times, maintain insurance pursuant to the terms of Article IX of the WPAA Maintenance Agreement, such terms which may be updated and revised, as necessary, by DPR.

6.02 Indemnification by the City.

(a) Upon issuance of the Notice of Substantial Completion of the WPAA, and subject to the Responsible Party's compliance with the requirements set forth in Section 6.02(b) directly below, in accordance with Section 62-72 (Performance and Maintenance Requirements) of the Zoning Resolution with respect to the WPAA, the City shall indemnify and hold harmless Declarant, its officers, agents, employees, successors, and assigns, for any judgment or settlement arising out of a claim for injury to persons who are members of the public (i.e., not agents or employees of Declarant while acting within their agency or employment) as a result of any defect or otherwise dangerous condition in or on the WPAA to the extent not covered by the insurance required under this Article VI, provided that the City's obligation to indemnify and hold harmless hereunder shall not arise: (i) to the extent that the Responsible Party has not fully complied with the design and maintenance obligations with respect to the WPAA set forth in this Declaration and WPAA Maintenance Agreement; or (ii) to the extent that the injury is determined by a court of competent jurisdiction in a final judgment not subject to appeal to have resulted from intentional wrongdoing or recklessness on the part of the Declarant or its employees.

(b) The City's obligation under Section 6.02(a) with respect to the WPAA is conditioned upon: (1) the Responsible Party's compliance with the insurance provisions of the WPAA Maintenance Agreement, and with the requirements of all insurance policies; (2) Declarant's delivery of a copy of any summons, complaint, process, notice, demand or other pleading initiating an action or proceeding, together with any other correspondence with an

insurance company relating to the incident, within ten (10) business days after Declarant's receipt thereof of documents, to the Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007; (3) the Responsible Party's adherence to the notice requirement under its insurance policies concerning the occurrence and claim at issue in (2) above, together with such pleading or other document; (4) the Responsible Party's full cooperation with DPR and the New York City Law Department, including the provision of such information and documentation as either may reasonably require, including without limitation, that which relates to (a) the incident or claim at issue, (b) the Responsible Party's compliance with the insurance requirements of this Article or any insurance policy, and (c) the Responsible Party's compliance with its design and maintenance obligations set forth in the Declaration and the WPAA Maintenance Agreement; and (5) the Responsible Party's prompt notification to the Insurance Claims Specialist, Affirmative Litigation Division of any settlement demand that may not be covered by insurance.

(c) Subject to the Responsible Party's compliance with the above requirements, and after exhaustion of the underlying insurance required by this Article VI and subject to Article IX of the WPAA Maintenance Agreement, the City shall assume Declarant's defense with respect to the WPAA. Thereafter, Declarant shall not make or communicate to the claimant an offer of settlement nor shall Declarant or its counsel admit liability or waive any material right, including right to appeal, or otherwise prejudice the rights of Declarant or the City with regard to the claim. After assuming responsibility for defense of the claim(s), the City shall not enter into any settlement without obtaining a complete release of any liability on the part of Declarant.

Article VII.

TEMPORARY CERTIFICATES OF OCCUPANCY

7.01 Waterfront Public Access Area.

(a) Subject to Force Majeure, Declarant shall not apply, upon the completion of any inspections, for the issuance of a TCO for any New Building until the following conditions have been met with respect to construction of such New Building:

(i) DPR and Declarant have executed the WPAA Maintenance Agreement;

(ii) DPR has issued a Notice of Substantial Completion for the WPAA;

(iii) the Responsible Party has provided to DPR the Maintenance Security in accordance with the terms of Section 62-72 of the Zoning Resolution and Section 5.06 of the WPAA Maintenance Agreement;

(iv) the Responsible Party has provided to DPR the Certificates of Insurance or certified copies required under Article VI of this Declaration and under Article IX of the WPAA Maintenance Agreement; and

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(v) the Responsible Party has provided to the City the Completion Letter of Credit.

(b) The TCO shall include an appropriate description of the WPAA to the extent permitted by DOB.

(c) Within ten (10) calendar days after satisfaction of all of the conditions set forth in Section 7.01(a), the Commissioner shall certify such satisfaction in writing to DOB with a copy to Declarant, and DOB may issue a TCO.

(d) In the event that due to a Force Majeure Event Declarant has obtained a TCO, subject to the conditions in Section 4.09, prior to completion of the conditions set forth in Section 7.01(a), upon cessation of the Force Majeure Event Declarant shall, as promptly as possible, satisfy the conditions of Section 7.01(a).

(e) Notice of Substantial Completion. The Responsible Party shall notify DPR and DCP at such time as it reasonably believes that construction of the Waterfront Public Access Area is Substantially Complete and shall request that DPR issue a certificate, in the form of Exhibit G (a "Notice of Substantial Completion"), to Declarant certifying Substantial Completion of construction. Not later than twenty (20) calendar days after receipt of such request, DPR shall either issue the Notice of Substantial Completion or deliver to the Responsible Party a notice setting forth the reasons why construction is not Substantially Complete and the items which need to be completed. If DPR notifies the Responsible Party that construction has not been Substantially Completed in accordance with the approved Issued for Construction Drawings, such notice shall contain a detailed statement of the reasons for such non-acceptance in the form of a so-called "punch list" of items remaining to be completed or unsatisfactorily performed ("Punch List"). The Punch List shall not include items which, pursuant to the definition of Substantial Completion in Section 1.01, are not required to be completed prior to Substantial Completion. The Responsible Party shall promptly perform the work specified on the Punch List, after which it shall notify DPR of such completion. Not later than twenty (20) calendar days after receipt of such notice, DPR shall either issue the Notice of Substantial Completion or notify the Responsible Party that it has not completed the Punch List. If DPR fails to respond to any such request within the time period set forth in this Section, then DPR shall be deemed to have issued a Notice of Substantial Completion.

(f) Security for Maintenance of WPAA. As a condition precedent to the issuance and acceptance of a TCO for any New Building, the Responsible Party shall deliver to the City security pursuant to the terms of Section 62-72 of the Zoning Resolution and Section 5.06 of the WPAA Maintenance Agreement (the "Maintenance Security"), which security shall be renewed as set forth therein.

(g) Security for Final Completion. Upon issuance of the Notice of Substantial Completion, the Responsible Party shall deliver to DPR one or more irrevocable letters of credit or other security in a form reasonably acceptable to the City, naming the City as beneficiary, in an amount that has been certified by the Responsible Party's architect or landscape architect as being 150% of the cost of achieving Finally Completion of the Waterfront Public Access Area (the "Completion Letter of Credit"). The Responsible Party shall notify the Commissioner as to the

proposed amount of the Completion Letter of Credit and within ten (10) Business Days of receipt of such notification, the Commissioner shall approve or disapprove said amount, using his or her reasonable judgment. If the Commissioner disapproves such amount then the Commissioner shall state, in writing and with specificity, the reasons such estimate does not adequately reflect the required amount. The Responsible Party's architect or landscape architect may then submit a revised estimate to the Commissioner, who, exercising reasonable judgment, shall within ten (10) business days of such submittal approve or disapprove such amount, provided that any disapproval shall include a writing as set forth above. In the event of further disapproval, the Responsible Party's architect or landscape architect shall submit further revised security amounts and the Commissioner shall approve or disapprove such revisions, in the same manner set forth herein. If the Commissioner fails to approve or disapprove any amount within the time periods set forth in this Section, then the Responsible Party shall re-submit such request for approval or disapproval, and if the Commissioner fails to respond to such resubmission within ten (10) business days, then the Commissioner shall be deemed to have approved the amount of the Completion Letter of Credit.

7.02 Public Access Area and Environmental Protection Measures.

(a) Subject to Force Majeure, Declarant shall not apply, upon the completion of any inspections, for the issuance of a TCO for any New Building until the following conditions have been met with respect to construction of such New Building:

(i) DCP has issued a Notice of Substantial Completion for the Public Access Area in accordance with paragraph (c) of this Section 7.02;

(ii) Any PCREs and Mitigation Measures set forth in Article III required at the time of issuance of such TCO pursuant to the EIS are substantially completed, except that this requirement is waived if: the Chairperson has determined pursuant to Section 3.07 that not implementing the PCRE or Mitigation Measure during the period of an Uncontrollable Circumstance, or implementing an alternative proposed by Declarant, would not result in any new or different significant adverse environmental impact not addressed in the FEIS.

(b) The TCO shall include an appropriate description of the PAA to the extent permitted by DOB.

(c) Notice of Substantial Completion. The Responsible Party shall notify the Chairperson at such time as it believes that the PAA is Substantially Complete and shall request that the Chairperson issue to Declarant and DOB a Notice of Substantial Completion with respect to the PAA. No later than twenty (20) calendar days following receipt of a request for a Notice of Substantial Completion, the Chairperson or designee shall either: (i) issue a Notice of Substantial Completion; or (ii) deliver to Declarant written notice setting forth the reasons why the PAA is not Substantially Complete and the items that need to be completed in order to determine that the PAA is Substantially Complete. Notwithstanding anything in this Declaration to the contrary, in the event that there is a valid site safety plan issued in connection with the development of a New Building, pursuant to which access to one or more portions of the Public Access Area has been restricted or materially impeded within the six (6)-month period immediately preceding the Responsible Party's request for a Notice of Substantial Completion (collectively, the "Protected

PAA Portion”), the Chairperson or designee shall issue a Notice of Substantial Completion notwithstanding that the Protected PAA Portion may not then be Substantially Complete, provided that (i) all other portions of the Public Access Area shall then be Substantially Complete, and (ii) the Final Completion of the Protected PAA Portion shall remain a condition to issuance of the Notice of Final Completion as set forth in Section 8.02. Upon completing the outstanding work specified by the Chairperson to achieve Substantial Completion of the PAA, the Responsible Party shall notify the Chairperson or designee of such completion. No later than twenty (20) calendar days of the receipt of such notice, the Chairperson shall either: (A) issue a Notice of Substantial Completion for the PAA; or (B) notify Declarant in writing of items that have not been completed or satisfactorily performed. This process shall continue until the Chairperson or designee has issued a Notice of Substantial Completion for the PAA. In the event the Chairperson or designee fails to respond to a request for a Notice of Substantial Completion or any follow up request under this paragraph (c) hereof within the time frames and in the manner set forth in this paragraph (c), as applicable, the Notice of Substantial Completion shall be deemed issued.

Article VIII.

PERMANENT CERTIFICATES OF OCCUPANCY

8.01 Waterfront Public Access Area.

(a) Subject to Force Majeure, Declarant shall not apply, upon the completion of any inspections, for the issuance of a PCO for any New Building until DPR has issued a Notice of Final Completion for the Waterfront Public Access Area.

(b) **Notice of Final Completion.** The Responsible Party shall notify DPR and DCP when it believes construction of the Waterfront Public Access Area is Finally Complete and shall request that DPR issue a certificate in the form of **Exhibit H** annexed hereto (a “**Notice of Final Completion**”) to Declarant certifying Final Completion. Not later than twenty (20) calendar days after receipt of such request, DPR shall either issue the Notice of Final Completion or deliver to the Responsible Party a notice setting forth the reasons construction is not Finally Complete. Such notice shall include a Punch List of items remaining to be completed or unsatisfactorily performed. The Responsible Party shall promptly perform the work specified on the Punch List, after which it shall notify DPR of such completion. No later than twenty (20) calendar days after receipt of such notice, DPR shall either issue the Notice of Final Completion or notify the Responsible Party that it has not completed the Punch List. If DPR fails to provide a notice to the Responsible Party within the time periods set forth in this Section, then DPR shall be deemed to have issued a Notice of Final Completion. The issuance of a Notice of Final Completion or DPR’s inaction, in accordance with the provisions of this Section 8.01(b), shall be conclusive evidence with respect to Declarant that the Waterfront Public Access Area has been constructed in accordance with the design and construction specifications approved by DPR, including the Issued for Construction Drawings. The Completion Letter of Credit shall be deemed cancelled and shall be returned to the Responsible Party upon the issuance of the Notice of Final Completion.

(c) **Failure to Perform.**

Subject to Force Majeure, the Responsible Party shall within ninety (90) days after issuance of a Notice of Substantial Completion, Finally Complete construction of the WPAA, unless certified by an independent third-party engineer holding a professional or engineering degree and with significant experience in the design, construction and inspection of marine structures (each an “Inspector”, and, collectively, the “Inspectors”) in writing, that it will take longer than ninety (90) days to Finally Complete construction of the WPAA; provided that if Final Completion requires planting or other tasks that may be required to occur seasonally and the Notice of Substantial Completion is issued after October 1st, then the Responsible Party shall have until June 1st to Finally Complete construction of the WPAA. In the event that the Responsible Party fails to Finally Complete construction within such time period, then DPR may, at its option, upon not less than thirty (30) days written notice to the Responsible Party, (i) Finally Complete construction in accordance with the Issued for Construction Drawings; (ii) cause the Responsible Party to remove all of its equipment and any other items impeding DPR’s completion of construction; and (iii) draw upon the Completion Letter of Credit for so much of the proceeds as is necessary to pay for the reasonable costs and expenses incurred in performing the uncompleted construction, and, if necessary, removing such equipment and impediments. If the full amount of the Completion Letter of Credit is not drawn upon, then DPR shall return the balance of the proceeds of the Completion Letter of Credit to the Responsible Party within thirty (30) calendar days after Final Completion. Declarant hereby grants the City and its contractors, agents, employees, and sub-contractors a license to enter upon the Waterfront Public Access Area portion of the Subject Property for the purposes of exercising its rights under this Section 8.02(a) as may be necessary to Finally Complete construction.

(d) Pursuant to 62-74 of the Zoning Resolution, as a condition of the issuance of a PCO for any building, the PCO shall reflect the amount of the Waterfront Public Access Area to be provided in relation to such building, to the extent permitted by the DOB.

8.02 Public Access Area.

(a) Subject to Force Majeure, Declarant shall not apply, upon the completion of any inspections, for the issuance of a PCO for any New Building until the Chairperson has issued a Notice of Final Completion for the Public Access Area in accordance with paragraph (c) of this Section 8.02.

(b) The PCO shall include an appropriate description of the PAA to the extent permitted by DOB.

(c) Notice of Final Completion. The Responsible Party shall notify the Chairperson at such time as it believes that the PAA is Finally Complete and shall request that the Chairperson issue to Declarant and DOB a Notice of Final Completion with respect to the PAA. No later than twenty (20) calendar days following receipt of a request for a Notice of Final Completion, the Chairperson or designee shall either: (i) issue a Notice of Final Completion; or (ii) deliver to the Responsible Party written notice setting forth the reasons why the PAA is not Finally Complete and the items that need to be completed in order to determine that the PAA is Finally Complete. Upon completing the outstanding work specified by the Chairperson to achieve Final Completion of the PAA, the Responsible Party shall notify the Chairperson or designee of such completion. No later than ten (10) Business Days of the receipt of such notice, the

Chairperson shall either: (A) issue a Notice of Final Completion for the PAA; or (B) notify the Responsible Party in writing of items that have not been completed or satisfactorily performed. This process shall continue until the Chairperson or designee has issued a Notice of Final Completion for the PAA. In the event the Chairperson or designee fails to respond to a request for a Notice of Final Completion or any follow up request under this paragraph (c) hereof within the time frames and in the manner set forth in this paragraph (c), as applicable, the Notice of Final Completion shall be deemed issued.

Article IX.

FORCE MAJEURE

9.01 Force Majeure. If Declarant is unable to Substantially Complete construction of the WPAA, the PAA, or the Vehicular Turnaround Segment by the time the associated portion of the Proposed Development is ready for a TCO, or a Mitigation Measure or PCRE required by the FEIS, by reason of a Force Majeure Event, Declarant shall so notify DCP and DPR as soon as Declarant learns of such circumstances. Notwithstanding anything in this Declaration to the contrary, a Force Majeure Event with respect to any obligations hereunder to construct and maintain the WPAA, the PAA, or the Vehicular Turnaround Segment shall include the application of any future DOB site safety requirements for the construction of a New Building that impede, in any unforeseeable respect or to any unforeseeable degree, access to one or more portions of the Subject Property designated as such WPAA, PAA, or Vehicular Turnaround Segment. Declarant's written notice (a "Delay Notice") shall include a description of the Force Majeure Event, its cause and probable duration (if known to Declarant), and the impact it is reasonably anticipated to have on the completion of work in question (as reasonably determined by Declarant). The Chairperson, in consultation with relevant agencies, shall, within ten (10) calendar days of its receipt of the Delay Notice, (i) certify that a Force Majeure Event has occurred, or (ii) notify Declarant that it does not reasonably believe a Force Majeure Event has occurred, in which case the Chairperson shall state with particularity the reasons it believes Force Majeure has not occurred. Such certification or notice shall constitute a final determination. If the Chairperson certifies that a Force Majeure Event has occurred, the Chairperson shall grant Declarant appropriate relief for such delay, including certifying in writing to the DOB that the Chairperson has no objection to the issuance of a Demolition Permit, Building Permit, TCO or a PCO (as applicable) may be issued for any building(s), or portions thereof, located within the Subject Property; provided, however, that any relief granted shall not result in any new or different significant environmental impacts that were not addressed in the FEIS. Any delay arising by reason of a Force Majeure Event shall be deemed to continue only so long as the Force Majeure Event continues. Upon cessation of the Force Majeure Event, Declarant shall promptly recommence construction of the WPAA, the PAA, the Vehicular Turnaround Segment or performance of the PCRE or Mitigation Measure, as applicable. As a condition of granting such relief with respect to construction of the WPAA, the Chairperson may require that Declarant post a bond or other security in a form and amount reasonably acceptable to the Chairperson in order to ensure that the WPAA Work is Finally Completed and that all other requirements of Section 7.01(a), as applicable, are satisfied. Such security shall be in a sum equal to 150% of the cost of the remaining work in order to Finally Complete such WPAA Work. Such estimated cost is subject to the reasonable approval of DPR. Declarant shall be obligated to Substantially Complete or Finally Complete the WPAA, the PAA, and/or the Vehicular Turnaround Segment within the period of time specified in the Delay Notice,

or such lesser period of time as the Chairperson reasonably determined in its response to the Delay Notice; provided, however, that if the Force Majeure Event has a longer duration than as set forth in the Delay Notice or as reasonably determined by the Chairperson, the Chairperson may grant additional time for Substantial Completion or Final Completion, as the case may be.

Article X.

PUBLIC ACCESS EASEMENT

10.01 Public Access Easement. Declarant agrees that it shall grant the City and the general public a perpetual and non-exclusive public access easement over the WPAA and the PAA unobstructed (except for such obstructions, objects, amenities and other items as are shown on the Drawings or as are otherwise permitted by the City) from the ground surface up to the sky (the “**Public Access Easement**”). Declarant further agrees that liens, including but not limited to judgment liens, mortgage liens, mechanics liens and vendees’ liens, shall be subject to and subordinate to the rights, claims, entitlements, interests, and priorities created by the easements granted herein.

10.02 Closing of Public Access Easement. Notwithstanding anything contained in Section 10.01, and subject to Section 6.03 of the WPAA Maintenance Agreement, each of Lot 1 Owner, Developer, and Museum (as applicable) may close all or any portion of the Public Access Easement located on its property (i) for the repair, restoration, rehabilitation, renovation or replacement of pipes, utility lines or conduits or other equipment on or under the WPAA or the PAA, or for the repair of the WPAA or the PAA, (ii) as may be approved by DOB, DOT, or DPR in connection with work on any of the buildings on the Subject Property, or (iii) in the event of an emergency or hazardous condition; provided that each of Lot 1 Owner, Developer, and Museum (as applicable) will close or permit to be closed only those portions of the WPAA or the PAA which must or should reasonably be closed to effect the repairs or remediation in a safe and expeditious manner, will exercise due diligence in the performance of such repairs or mitigation so that it is completed expeditiously and the temporarily closed areas are re-opened to the public promptly, and will, wherever reasonably possible, perform such work in such a manner that the public will continue to have access to the WPAA or the PAA, as the case may be. Except in cases of emergency, each of Lot 1 Owner, Developer, and Museum (as applicable) shall provide seven (7) days advance notice to the public and to DCP and DPR of any temporary closure of the WPAA or the PAA (or portions thereof), by posting signs at appropriate locations. In cases of emergency, each of Lot 1 Owner, Developer, and Museum (as applicable) shall provide such public notice as soon as practicable and shall promptly, but in no event more than two (2) business days after such closure, give notice to DCP and DPR that such portion has been closed, which notice shall describe the nature of the emergency or hazardous condition causing the closure, the portion to be closed and the anticipated duration thereof.

10.03 Preservation of Ownership Interest. Each of Lot 1 Owner, Developer, and Museum (as applicable) shall have the right to close all or any portions of the Public Access Easement to the City and the general public one (1) calendar day, other than a Saturday, Sunday or legal holiday, in each year to preserve its ownership interest therein.

Article XI.

ADMINISTRATION OF WATERFRONT PUBLIC ACCESS AREA AND PUBLIC ACCESS AREA

11.01 Hours of Operation of Waterfront Public Access Area and the Public Access Area.

(a) Subject to its rights under Sections 10.02 and 10.03 hereof, Declarant covenants not to impede or interfere with public access through the Waterfront Public Access Area or the Public Access Area during the hours of operation of the Waterfront Public Access Area, as established in accordance with Section 6.01 of the WPAA Maintenance Agreement.

(b) Declarant acknowledges that the Substantially Completed area(s) of the WPAA and the PAA shall be open to the public during the hours of operation of the WPAA, as established in accordance with Section 6.01 of the WPAA Maintenance Agreement. Notwithstanding the foregoing, Declarant and the owners, tenants, residents, employees and invitees of the Subject Property shall have the right to use the WPAA and the PAA at all times in connection with the egress and ingress to buildings located on the Subject Property.

(c) Notwithstanding anything in this Section 11.01 to the contrary, in the event that the hours of operation of the Waterfront Public Access Area are temporarily varied in accordance with Section 6.01 of the WPAA Maintenance, Declarant may also apply such varied hours of operation to the Public Access Area, provided that Declarant shall have provided reasonable advance written notice of such variation to the Chairperson.

11.02 Maintenance of WPAA and PAA. The Responsible Party shall be solely responsible for the maintenance of and capital repairs to the WPAA and the PAA (the “**Maintenance Obligation**”). The Maintenance Obligation requires that the Responsible Party maintain the WPAA in accordance with the WPAA Maintenance Agreement.

11.03 Use of the WPAA. Use of the WPAA shall be governed by and consistent with the WPAA Maintenance Agreement.

Article XII.

ENFORCEMENT; DEFAULTS AND REMEDIES

12.01 Enforcement by the City.

(a) Declarant acknowledges that the City is an interested party to this Declaration, and consents to enforcement by the City, administratively or at law or equity, of the restrictions, covenants, easements, obligations and agreements contained herein.

(b) No person or entity other than the Declarant, its successors and assigns, or the City shall have any right to enforce the provisions of this Declaration. Nothing contained herein shall be deemed to allow any other person or entity, public or private, any interest or right of enforcement of any provision of this Declaration or any Exhibit hereto, including any claim by any public or private landowner to be the beneficiary of an easement appurtenant to lands adjoining

the Subject Property which could or might be affected by the enforcement of the provisions of this Declaration with respect to the Subject Property.

(c) In any proceedings brought by the City against Declarant seeking to deny or revoke a Building Permit, TCO or PCO, with respect to a New Building, or to impose a lien, fine or other penalty, or to pursue any other remedy available to the City, if the event or occurrence which is the basis of an allegation of a failure to comply by Declarant is associated with one or more New Buildings, but not the entire Proposed Development, then the City shall only deny or seek the revocation of Building Permits, TCOs or PCOs for such one or more New Buildings and only seek to impose a fine, lien or other penalty on such one or more New Buildings; any such event or occurrence shall not provide the basis for denial or revocation of the Building Permits, TCOs or PCOs, or the imposition of any fine, lien or other penalty, with respect to other New Buildings or development sites within the Proposed Development for which no such failure to comply has occurred.

12.02 Additional Remedies. Declarant also acknowledges that the remedies set forth in this Declaration are not exclusive, and that the City and any agency thereof may pursue other remedies not specifically set forth herein.

12.03 Enforcement by Declarant. Lot 1 Owner, Developer, and Museum (individually or together) shall have the right to pursue any remedy available to Declarant, both administrative and judicial and at law and equity, to enforce its rights under this Declaration.

12.04 Notice and Cure.

(a) Before any agency, department, commission or other subdivision of the City institutes any proceeding or proceedings to enforce the terms or conditions of this Declaration with respect to an alleged violation, it shall give Declarant notice pursuant to the terms of Section 7.04 of the WPAA Maintenance Agreement.

(b) Notwithstanding the foregoing, if DPR has reason to believe that the use and enjoyment of the Waterfront Public Access Area by any member of the public has, without reasonable cause, been denied by Declarant, and the City determines that such denial of access with respect to the right of public access under the Public Access Easement was in violation of the provisions of this Declaration and Section 7.08 of the WPAA Maintenance Agreement, the City shall have, after notice to Declarant and an opportunity for Declarant to present evidence disputing such alleged denial of access, in addition to such other rights as may be available at law or equity, the right to seek civil penalties at the New York City Environmental Control Board for a violation relating to privately owned public space.

(c) If after due notice as set forth in this Section, Declarant or Mortgagee fails to cure a violation, the City may exercise any and all of its rights, including those delineated in this Section and may disapprove any amendment, modification, or cancellation of this Declaration on the sole grounds that Declarant is in default of a material obligation under this Declaration.

(d) Notwithstanding the foregoing, in the event of a denial of public access of an ongoing nature or interference on a continuing basis with the City's rights pursuant to this Declaration, the City may immediately exercise any and all of its rights hereunder, including but

not limited to the issuance of violations and seeking a mandatory injunction; in such an event, the notice and cure provisions of this Section 12.4 shall not apply.

Article XIII.

MISCELLANEOUS

13.01 Effective Date; Recordation.

(a) Effective Date. This Declaration and the provisions and covenants hereof shall become effective only upon the Effective Date.

(b) Recordation. Prior to any application for any Building Permit relating to the Subject Property, Declarant shall file and record this Declaration (together with all of the exhibits hereto) in the Register's Office, indexing this Declaration against the Subject Property, and deliver to the DCP Office of the General Counsel within ten (10) business days from any such submission for recording, either (i) a copy of such documents as submitted for recording, together with an affidavit of submission for recordation or (ii) a copy of all such documents, as recorded, certified by the Register, upon recordation of such documents by the register. If Declarant fails to so record such documents, then the City may record duplicate originals of such documents. However, all fees paid or payable for the purpose of recording such documents, whether undertaken by Declarant or by the City (as permitted in accordance with this paragraph), shall be borne by Declarant.

(c) In the event that the Final Approval includes modifications to this Declaration, Declarant shall prepare a revised declaration incorporating such modifications which shall be recorded in accordance with paragraph (b) of this Section. If Declarant does not prepare and record a revised declaration, the City may record a duplicate original of this Declaration, which shall have the sole effect of applying the provisions of Section 2.01(c), governing development permitted by the Rezoning, pending the filing of a revised declaration. Development pursuant to the Special Permits shall not be permitted unless and until such revised declaration is executed and recorded.

13.02 Binding Nature; Successors.

(a) The restrictions, covenants, rights and agreements set forth in this Declaration shall run with the land and shall inure to the benefit of, and be binding upon any respective heirs, successors, legal representatives and assigns of Declarant, including Mortgagees (provided that no Mortgagee shall have any performance or payment obligations under this Declaration unless and until such Mortgagee succeeds to a possessory interest in the Subject Property or any portion thereof or the lessee's estate in a ground lease of the Subject Property or any portion thereof), provided that the Declaration shall be binding on Declarant only for the period during which such Declarant, or any successor, legal representatives or assign thereof, is the holder of an interest in the Subject Property and only to the extent of Declarant's interest in the Subject Property, and references to Declarant shall be deemed to include such heirs, successors, legal representatives and assigns as well as the successors to its interest in the Subject Property subject to the further provisions of this Section 13.02. For the avoidance of doubt, except in any such

party's capacity as the Responsible Party, Lot 1 Owner and Developer shall not be subject to any restrictions, covenants or agreements set forth in this Agreement, including, without limitation, the indemnity provisions of Section 13.08, with respect to Lot 25 or any portion of the Waterfront Public Access Area or Public Access Area located thereon, and Museum shall not be subject to any restrictions, covenants or agreements set forth in this Agreement, including, without limitation, the indemnity provisions of Section 13.08, with respect to Lot 1 or any portion of the Waterfront Public Access Area, Public Access Area, or Vehicular Turnaround Segment located thereon, provided that nothing in this Agreement shall prohibit Lot 1 Owner, Developer and/or Museum from assigning or reallocating any of their respective rights, obligations, or liabilities under this Agreement to one another by private agreement. At such time as Declarant or any successor to Declarant no longer holds an interest in the Subject Property or a portion thereof, Declarant's or Declarant's successor's obligations and liabilities under this Declaration shall wholly cease and terminate for such portion and the party succeeding Declarant or Declarant's successor shall assume the obligations and liabilities of Declarant pursuant to this Declaration with respect to actions or matters occurring subsequent to the date such party assumes an interest in the Subject Property to the extent of such party's interest in the Subject Property. For purposes of this Declaration, any successor to Declarant shall be deemed Declarant for such time as such successor holds all or any portion of any interest in the Subject Property. For the avoidance of doubt, the implementation of all environmental protection measures set forth in Article III shall be the sole responsibility of Declarant and its heirs, successors, legal representatives and assigns as well as the successors-in-interest to its interest in the Subject Property pursuant to this Section 13.02.

(b) Reference in this Declaration to agencies or instrumentalities of the City shall be deemed to include agencies or instrumentalities succeeding to jurisdiction thereof pursuant to the laws of the State and the Charter of the City.

13.03 Limitation of Liability.

(a) The City shall look solely to the fee estate and interest of Declarant and any and all of its successors and assigns in the Subject Property, on an in rem basis only, for the collection of any money judgment recovered against Declarant or its successors and assigns, and no other property of Declarant or its principals, partners, shareholders, directors, members, officers or employees or successors and assigns shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City or any other Person with respect to this Declaration, and Declarant shall have no personal liability under this Declaration.

(b) In the event that any building in the Proposed Development is converted to condominium form of ownership, each owner of a condominium unit (other than the owner of an Affordable Housing Unit, except as set forth in Section 16.04), as successor-in-interest to Declarant, shall be subject to levy or execution for the satisfaction of any monetary remedies of the City, to the extent of the percentage interest owned by such unit owner in the common elements of the condominium in which the condominium unit is located, applied to the assessment imposed by the Board of Managers or other governing body of the condominium in which such condominium unit is located (the "**Individual Assessment Interest**"), and provided that such enforcement procedures shall be taken simultaneously against all the condominium units in the Proposed Development and not against selected individual units only. In the event of a default in the obligations of the condominium, the City shall have a lien upon the property owned by each

Unit Interested Party solely to the extent of each such Unit Interested Party's unpaid Individual Assessment Interest, which lien shall include such Unit Interested Party's obligation for the costs of collection of such Unit Interested Party's unpaid Individual Assessment Interest. Such lien shall be subordinate to the lien of any Mortgage, the lien of any real property taxes, the lien of the board of managers of any such condominium for unpaid common charges of the condominium. The City agrees that, prior to enforcing its rights against a Unit Interested Party, the City shall first attempt to enforce its rights under this Declaration against Declarant and the boards of managers of any condominium association. In the event that a condominium shall default in its obligations under this Declaration, the City shall have the right to obtain from the boards of managers of the condominium association the names of the Unit Interested Parties who have not paid their Individual Assessment Interests.

(c) The restrictions, covenants and agreements set forth in this Declaration shall bind Declarant and any successor-in-interest only for the period during which Declarant and any such successor-in-interest is the holder of a fee interest in, or is a Party-in-Interest of, the Subject Property and only to the extent of such fee interest or the interest rendering Declarant a Party-in-Interest. At such time as the named Declarant has no further fee interest in the Subject Property and is no longer a Party-in-Interest of the Subject Property, such Declarant's obligations and liability with respect to this Declaration shall wholly cease and terminate from and after the conveyance of Declarant's interest and Declarant's successors-in-interest in the Subject Property by acceptance of such conveyance automatically shall be deemed to assume Declarant's obligations and liabilities here-under to the extent of such successor-in interest's interest.

13.04 Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State.

13.05 Severability. In the event that any provision of this Declaration shall be deemed, decreed, adjudged or determined to be invalid or unlawful by a court of competent jurisdiction and the judgment of such court shall be upheld on final appeal, or the time for further review of such judgment on appeal or by other proceeding has lapsed, such provision shall be severable, and the remainder of this Declaration shall continue to be of full force and effect.

13.06 Applications. Declarant shall reference this Declaration in any application pertaining to the Subject Property submitted to DOB or any other interested City agency or department have jurisdiction over the Subject Property.

13.07 Offering Plan. In the event that cooperative or condominium units are offered for sale in any building in the Proposed Development, a summary of the terms of this Declaration shall be included in any offering plan issued in connection therewith. Such offering plan shall clearly identify the rights and obligations pursuant to this Declaration of any cooperative or condominium that may be formed.

13.08 Indemnification. If Declarant is found by a court of competent jurisdiction to have been in default in the performance of its obligations under this Declaration and such finding is upheld on final appeal, or the time for further review of such finding on appeal or by other proceeding has lapsed, Declarant shall indemnify and hold harmless the City from and against all of its reasonable legal and administrative expenses arising out of or in

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connection with the enforcement of Declarant's obligations under this Declaration. If any judgment is obtained against Declarant from a court of competent jurisdiction in connection with this Declaration and such judgment is upheld on final appeal or the time for further review of such judgment or appeal by other proceeding has lapsed, Declarant shall indemnify and hold harmless the City from and against all of its reasonable legal and administrative expenses arising out of or in connection with the enforcement of said judgment. Notwithstanding anything in this Section 13.08 to the contrary, as between Developer and Museum, the party responsible for the acts or omissions giving rise to such indemnification obligation shall be liable to the other party for contribution and/or reimbursement.

13.09 Exhibits. Any and all exhibits, appendices or attachments referred to herein are hereby incorporated fully and made an integral part of this Declaration by reference.

13.10 Right to Sue.

(a) Nothing contained herein shall prevent Lot 1 Owner, Developer, and Museum (individually or together) from asserting any claim or action against the City, or any of its agencies or any of its officials, arising out of the performance by the City, or agency thereof, or failure of the City or agency thereof, to perform any of the obligations of the City, or agency thereof, under this Declaration or the exercise, by the City, or any agency thereof, of any of its rights under this Declaration.

(b) Nothing contained herein shall prevent the City or any of its officials from asserting any claim or action against Declarant arising out of Declarant's performance of, or failure to perform, any of its obligations under this Declaration, or the exercise by Declarant of any its rights under this Declaration.

13.11 Approvals. Wherever in this Declaration the certification, consent or approval of Declarant or the Chairperson is required or permitted to be given, it is understood that time is of the essence and such certification, consent or approval will not be unreasonably withheld or delayed.

13.12 Acknowledgement of Covenants. Declarant acknowledges that the restrictions, covenants, easements, obligations and agreements in this Declaration will benefit the City of New York and all property owners within a one-half mile radius of the Subject Property.

13.13 Further Assurances. Declarant and the City each agree to execute, acknowledge and deliver such further instruments, and take such other or further actions as may be reasonably required in order to carry out and effectuate the intent and purpose of this Declaration or to confirm or perfect any right to be created or transferred hereunder, all at the sole cost and expense of the party requesting such further assurances.

13.14 Estoppel Certificates. Whenever requested by any Party-in-Interest, DCP shall within ten (10) Business Days thereafter furnish to the requesting party a written certificate setting forth: (i) that this Declaration is in full force and effect and has not been modified (or, if this Declaration has been modified, that this Declaration is in full force and effect, as modified) and (ii) whether or not, to the best of its knowledge, the Declarant is in default under any provisions of this Declaration and if such a default exists, the nature of such default.

13.15 Counterparts. This Declaration may be executed in one or more counterparts, each of which shall be an original and all of which, together, shall constitute one agreement.

13.16 Representations. Declarant represents and warrants that Declarant is aware of no restrictions of record on the use of the Subject Property, present or presently existing future estates or interest in the Subject Property, or liens, obligations, covenants, easements, limitations or encumbrances of any kind, the requirements of which have not been waived or subordinated, which would prevent or preclude, presently, or potentially, the imposition of the restrictions, covenants, obligations and agreements of this Declaration.

Article XIV.

AMENDMENT, MODIFICATION AND CANCELLATION

14.01 This Declaration may be modified, amended or canceled only upon application by Declarant and subject to the approval and upon express written consent of the Commission or an agency succeeding to the Commission's jurisdiction, and no other approval or consent by any other public body shall be required for such modification, amendment or cancellation. This Declaration shall not be modified so as to make any Affordable Housing Unit subject to any costs for the Maintenance Obligation or any assessment attendant hereto, during the term of any mandatory inclusionary housing restrictive declaration entered into by Declarant and approved by the City, acting through its Department of Housing Preservation and Development, if applicable. Notwithstanding the foregoing, in the event that a building is subject to an affordable housing regulatory agreement entered into between the Declarant and the City, acting through its Department of Housing Preservation and Development, such building may be responsible for no more than its pro rata share of the Maintenance Obligation based on the floor area (as defined in the Zoning Resolution) of such building, which Maintenance Obligation imposed on such building may not increase by more than three percent (3%) per year.

14.02 Notwithstanding anything to the contrary contained in Section 14.01 hereof, any change to this Declaration proposed by Declarant and submitted to the Chairperson, which the Chairperson deems to be a minor modification of this Declaration, may, by express written consent, be approved administratively by the Chairperson and no other approval or consent shall be required from the Commission, any public body or Person, including, without limitation, any present or future Party-in-Interest.

14.03 Notwithstanding anything to the contrary contained in this Declaration, for so long as Declarant (including any successor to its interest as fee owner or ground lessee of all or any portion of the Subject Property, other than a Unit Interested Party) shall hold any fee interest or ground lease interest, as applicable, in the Subject Property, or any portion thereof, (i) all Unit Interested Parties, (ii) all boards of managers of any condominium association, (iii) the Association, and (iv) any other "party in interest" (as defined in the Zoning Resolution) to the Subject Property (other than Declarant) hereby (x) irrevocably consent to any amendment, modification, cancellation, revision or other change in this Declaration by Declarant; (y) waive and subordinate any rights they may have to enter into an amended Declaration or other instrument amending, modifying, canceling, revising or otherwise changing this Declaration and (z) nominate, constitute and appoint Declarant, their true and lawful attorney-in-fact, coupled with an interest,

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to execute any document or instruments that may be required in order to amend, modify, cancel, revise or otherwise change this Declaration.

14.04 Notwithstanding anything to the contrary contained in this Declaration, if the Approvals are declared invalid or otherwise voided by a final judgment of any court of competent jurisdiction from which no appeal can be taken or for which no appeal has been taken within the applicable statutory period provided for such appeal, then, upon entry of said judgment or the expiration of the applicable statutory period for such appeal, this Declaration shall be cancelled and shall be of no further force or effect and an instrument discharging it may be recorded. Prior to the recordation of such instrument, Declarant shall notify the Chairperson of Declarant's intent to discharge this Declaration and request the Chairperson's approval, which approval shall be limited to ensuring that such discharge and termination is in proper form and provides that the proper provisions which are not discharged survive such termination. Upon recordation of such instrument, Declarant shall provide a copy thereof to the Chairperson. If some of the Approvals are declared invalid, then Declarant may apply to the Chairperson for a modification (pursuant to Section 14.02), an amendment or the cancellation of this Declaration.

14.05 Declarant may cancel the Declaration, subsequent to the issuance by the DOB of a building permit for the Large-Scale Development Project, if Declarant demonstrates to the Chairperson that no construction pursuant to the building permit has commenced. In such event, Declarant acknowledges that the future development of the Subject Property will be subject to a new certification pursuant to the New York City Zoning Resolution Section 62-811.

Article XV.

NOTICES

15.01 Notices.

(a) All notices, demands, requests, consents, waivers, approvals and other communications which may be or are permitted, desirable or required to be given, served or deemed to have been given or sent hereunder shall be in writing and shall be sent as follows:

If intended for Declarant, to:

With a copy to:

With a copy to:

If intended for the City or
DCP, to:

Chairperson
City Planning Commission
120 Broadway, 31st Floor
New York, New York 10271

With a copy to:

Office of the General Counsel
New York City Department of City Planning

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120 Broadway, 31st Floor
New York, New York 10271

If intended for DPR, to: Commissioner,
New York City Department of Parks & Recreation
The Arsenal, Central Park
830 Fifth Avenue
New York, New York 10065

With a copy to: Deputy Commissioner for Environment and Planning
Department of Parks & Recreation
The Arsenal, Central Park
830 Fifth Avenue
New York, New York 10065

And to: Office of the General Counsel
New York City Department of Parks & Recreation
The Arsenal, Central Park
830 Fifth Avenue
New York, New York 10065

(i) If intended for a Mortgagee, by mailing or delivery to such Mortgagee at the address given in its notice to DCP.

(ii) From and after an Association Obligation Date, a copy of all notices to Declarant shall include a copy to the Association, and the Association shall give notice to the City and DCP of its address for notice.

(b) Declarant, City, DCP, DPR, or DOT or their respective representatives, by notice given as provided in this paragraph, may change any address for the purposes of this Declaration. Each notice, demand, request, consent, approval or other communication shall be either sent by registered or certified mail, postage prepaid, overnight courier or delivered by hand, and shall be deemed sufficiently given, served or sent for all purposes hereunder five (5) business days after it shall be mailed or, if delivered by hand, when actually received.

Article XVI.

CONDOMINIUMS AND COOPERATIVE CORPORATIONS

16.01 Filing Requirements.

(a) In the event that any part of the Proposed Development shall be subject to a condominium declaration, or if any part of the Proposed Development shall be owned or otherwise held by a cooperative corporation in accordance with the provisions of the laws of the State of New York (in either instance, referred to herein as the “Coop/Condominium,” and such term shall refer to either organizational form), from and after the date the declaration of condominium has been recorded in the Office of the City Register, or the date that the Proposed

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Development (or some portion thereof) shall be in title to the cooperative corporation (the “**Coop/Condominium Obligation Date**”), under the directorship of a duly elected or appointed Board of Directors or Board of Managers, as the case may be (the “**Board**”), the Coop/Condominium shall thereafter be deemed to be a Declarant under this Declaration. The owners of the shares of stock of the cooperative corporation, the holder of a lien encumbering any such shares, the holder of a proprietary lease or of any other right to occupancy or other interest therein, the owner of any residential or commercial unit in the condominium, or the holder of a lien encumbering any such condominium unit and the holder of any lease, right of occupancy or any other interest in such condominium unit, or the holder of any Affordable Housing Unit (each of the foregoing, hereinafter, a “**Unit Interested Party**”) shall not be deemed to be a Declarant or a Party in Interest, except to the extent that such Unit Interested Party was a Declarant hereunder and retains the right under Applicable Law to control the Board. For the avoidance of doubt, the provisions of this Article XVI shall not apply to condominiums formed pursuant to a “No Action Letter” issued by the New York State Attorney General’s Office.

(b) Notwithstanding anything herein to the contrary, in the event that the Responsible Party becomes a Unit Interested Party and the WPAA is not Finally Complete, such party shall continue to be deemed the Responsible Party irrespective of Board control.

(c) The initial Declarant (or any successor entity to the balance and entirety of Declarant’s fee interest in the Subject Property (the “**Successor Declarant**”)) together with the Coop/Condominium, shall be considered Declarants until the WPAA is Finally Complete. At such time as the initial Declarant or any Successor Declarant no longer holds a fee interest in the Subject Property (unless such interest is solely that of a Unit Interested Party and Declarant no longer retains the right to control the Board) and provided that the WPAA is Finally Complete, the initial Declarant or the Successor Declarant shall no longer be deemed a Declarant, and the Coop/Condominium shall be deemed to be the sole Declarant and Party in Interest under this Declaration, subject to the provisions of Article XVII. In such event, the Board of the Coop/Condominium shall be the sole party with any right to amend, modify, cancel, revise or otherwise change the Declaration, or make any application therefor, subject to the provisions of Article XVII.

(d) Each and every Unit Interested Party hereby (x) irrevocably consents to any amendment, modification, cancellation, revision or other change in this Declaration by the Board; (y) waives and subordinates any rights it may have to enter into an amended Declaration or other instrument amending, modifying, canceling, revising or otherwise changing this Declaration; and (z) nominates, constitutes and appoints the Board its true and lawful attorney-in-fact, coupled with an interest, to execute any documents or instruments that may be required in order to amend, modify, cancel, revise or otherwise change this Declaration and Exhibits hereto.

(e) From and after the Association Obligation Date (hereinafter defined): (i) the Board of any Coop/Condominium shall be responsible for satisfying its obligations as an Association Member (hereinafter defined), and (ii) any Coop/Condominium shall continue to be considered a Declarant, provided that, (x) prior to Final Completion of the WPAA, any party that constitutes a Declarant under this Article 16 or Article 17 shall be jointly and severally responsible for the construction and Final Completion of the WPAA, and (y) upon Final Completion of the WPAA, the liability of any Coop/Condominium that is a Declarant shall be limited to the extent of

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its proportionate share of the Maintenance Obligation assessed by the Association pursuant to Section 17.06.

16.02 Offering Plans. Upon the marketing and sale of securities appurtenant to units in a Coop/Condominium constructed or otherwise included in the Proposed Development as is contemplated in this Article, a summary of the terms of this Declaration shall be included in any offering plan or “red herring” issued in connection therewith (the “**Offering Plan**”). Such Offering Plan shall clearly identify the rights and obligations of the unit owners or the owners of shares of stock in the cooperative corporation, as the case may be, under this Declaration, as well as the obligations of the Association Members (hereafter defined) with respect to the assessment of maintenance fees for the ongoing operation and maintenance of the WPAA. The cost of maintenance of the Waterfront Public Access Area and the obligations of the Coop/Condominium under this Declaration are essential elements of the City actions permitting the development of the Proposed Development in accordance with the provisions of this Declaration, and in accordance with any other approvals granted by the City, shall be described in any Offering Plan and copies of the Declaration and WPAA Maintenance Agreement shall be provided as exhibits thereto.

16.03 Common Elements. Any condominium declaration shall, upon filing, contain provisions describing the Shore Public Walkway and all areas within the WPAA as “common elements,” as that term is constructed under RPL 339-I, or, alternatively, as elements owned jointly by multiple Coops/Condominiums on the zoning lot in their capacity as members of a property owners’ association, for which Unit Interested Parties are obligated to pay assessments, as provided in Article XVII.

16.04 Affordable Housing and Common Expenses. No Affordable Housing Unit which may be constructed in the Proposed Development shall have any obligation to pay any costs for the Maintenance Obligation or Maintenance Security. Notwithstanding the foregoing, in the event that a building is subject to an affordable housing regulatory agreement entered into between the Declarant and the City, acting through its Department of Housing Preservation and Development, such building may be responsible for no more than its pro rata share of the Maintenance Obligation based on the floor area (as defined in the Zoning Resolution) of such building, which Maintenance Obligation imposed on such building may not increase by more than three percent (3%) per year.

16.05 Estoppel. The Declarant party responsible for the Coop/Condominium shall certify in writing to the Chairperson and the Commissioner, or any individual succeeding to their jurisdiction, that all governing documents of the Coop/Condominium are in full compliance with the requirements of this Declaration and shall provide the Chairperson with copies of such governing documents within twenty (20) days of the AG’s acceptance for filing of the Offering Plan for such Coop/Condominium. If such Declarant fails to comply with the provisions of this Section 16.05, the City may proceed with any available enforcement measures.

Article XVII. **PROPERTY OWNERS’ ASSOCIATION**

17.01 Applicability. The provisions of this Article XVII shall only apply if Declarant shall form an Association with respect to the Subject Property.

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17.02 Formation of Property Owners' Association. In order to perform Declarant's obligations under this Declaration, Declarant may form a property owners' association under the New York State Not-For-Profit Corporation Law, a cooperative corporation under the New York State Business Corporation Law, or an unincorporated association (any of the entities in any combination thereof hereinafter referred to separately or collectively as the "**Association**"). Declarant shall have sole and absolute discretion as to whether or not to create the Association, provided that until such time as the Association is formed in accordance with this Article XVII and assumes the obligations of Declarant under this Declaration, Declarant shall be responsible in all respects for the performance of Declarant's obligations under this Declaration.

17.03 Assumption of Obligations. If the Association is formed, it shall assume all of the obligations of Declarant under this Declaration and shall be organized with all of the powers that may be necessary and proper to allow the Association to carry out the duties, obligations and requirements of this Declaration. Notwithstanding the foregoing, Declarant at its option may exclude from the obligations assumed by the Association those obligations of this Declaration that apply to any specific portion of the Subject Property, in which event the obligations applicable to such excluded portion shall be the obligation of (a) the tenant under a ground lease, if any, governing such excluded portion, (b) if such excluded portion is not at the applicable time subject to a ground lease, the fee owner of such excluded portion, (c) if such excluded portion is subject to a declaration of condominium or contains a New Building that is subject to a declaration of condominium, the board of managers of such condominium, or (d) if such excluded portion is subject to a cooperative regime or contains a New Building that is subject to a cooperative regime, the board of directors of such cooperative regime. The obligations of the Association under this Declaration, to the extent assumed by the Association pursuant to this Section 17.03, shall commence on the date on which a Declaration of Covenants, Restrictions and Easements establishing the Association (the "**DCRE**") is recorded in the Register's Office (the "**Association Obligation Date**").

17.04 Members. The members of the Association (the "**Association Members**") shall consist of the fee owners of the Subject Property or any portion thereof, provided that (a) if any portion of the Subject Property is subject to a ground lease, then the Association Member with respect to such portion shall instead be the tenant under such ground lease, (b) if any portion of the Subject Property is subject to a declaration of condominium, then the Association Member with respect to such portion shall instead be the board of managers of such condominium, and (c) if any portion of the Subject Property is subject to a cooperative regime, then the Association Member with respect to such portion shall instead be the board of directors of such cooperative regime.

17.05 Powers. To the extent permitted by law, Declarant shall cause the Association to be established with the power and authority to:

(a) construct, maintain, repair, and operate the WPAA, the PAA, and the Vehicular Turnaround Segment to the extent required by this Declaration and the terms of any license, easement or other agreement that may hereafter be executed by the City and Declarant with respect to the WPAA, the PAA, or the Vehicular Turnaround Segment;

(b) impose fees or assessments against the Association Members, for the purpose of collecting funds reasonably necessary to satisfy the obligations of the Association pursuant to this Declaration;

(c) collect, receive, administer, protect, invest and dispose of funds;

(d) bring and defend actions and negotiate and settle claims to recover fees or assessments owed to the Association pursuant to this Declaration;

(e) exercise any of its duties or obligations pursuant to this Declaration without seeking the consent of any Unit Interested Parties; and

(f) to the extent permitted by law, impose liens, fines or assessments against individual lot or unit owners for the purpose of collecting funds reasonably necessary and sufficient to fund the obligations of the Association pursuant to this Declaration; and

(g) exercise any and all of such powers as may be necessary or appropriate for purposes of this Declaration and as may be granted to the Association in furtherance of the Association's purposes pursuant to the New York State Not-for-Profit Corporation Law, the New York State Business Corporation Law, or such other Legal Requirements as may be applicable.

17.06 Assessments; Association Member Obligations.

(a) The Association shall assess real property constituting each Coop/Condominium or fee parcel within the Subject Property (the "**Assessment Property**") for its proportionate share of the Maintenance Obligation as provided in the DCRE, in order to obtain funds for the performance of the Maintenance Obligation of Declarant pursuant to this Declaration. The Assessment Property shall be assessed on a reasonable prorated basis as determined by Declarant, in compliance with Applicable Law. For Association Members who are Boards, a reasonable basis for such proration shall be conclusively established if the AG accepts for filing an offering plan for the sale of interests in such Association and the Coop/Condominium, as applicable, which plan describes such proration. The Boards of each Coop/Condominium shall collect such assessments from the owners of individual residential or commercial units, other than the Affordable Housing Units, for delivery to the Association in accordance with the DCRE and the governing documents of each Coop/Condominium.

(b) Each periodic assessment by the Association, together with such interest, costs and reasonable attorney's fees as may be assessed in accordance with the provisions of this Declaration, shall be the obligation of the Association Members against whom the assessment is charged at the time such assessment falls due and may not be waived by such Association Member.

(c) The periodic assessments shall be a charge on the land and a continuing lien upon the property owned by the Association Member against which each such assessment is made, except that if the Association Member is a Board, such lien shall be subordinate to the lien of any prior recorded mortgage in respect of such property given to a bank or other institutional lender (including but not limited to a governmental agency), the lien of any real property taxes, and the lien of the Board for unpaid maintenance or common charges. The periodic assessments charged to an Association Member which is a Board shall be included within the common charges of the

Condominium. The Association may bring an action to foreclose the Association's lien against the property owned by such Association Member, or a Unit Interested Party (other than the owner of an Affordable Housing Unit), as the case may be, to recover such delinquent assessment(s), including interest and costs and reasonable attorneys' fees of any such action. Any Unit Interested Party, other than the owner of an Affordable Housing Unit, by acceptance of a deed or a lease to a portion of the Subject Property, thereby agrees to the provisions of this Section 17.06. Any unit owner may eliminate the Association's lien described above on his or her unit by payment to the Condominium of such unit owner's prorated share of the periodic assessment by the Association to the Condominium in which such Unit is located. No Association Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Waterfront Public Access Area or abandonment of the Association's property, or by renunciation of membership in the Association, provided, however, that an Association Member's liability with respect to future assessments shall end upon the valid sale or transfer of such Association Member's interest in the Subject Property.

(d) Association Members who may be assessed for the Maintenance Obligation shall not include the holder of a mortgage or other lien encumbering (i) the fee estate in the Subject Property or any portion thereof, (ii) the lessee's estate in a ground lease of all or substantially all of the Subject Property or all or substantially all of any parcel or portion thereof, or (iii) any single building to be built on the Subject Property, unless and until any such mortgagee succeeds to either (x) a fee interest in the Subject Property or any portion thereof or (y) the lessee's estate in a ground lease of all or substantially all the Subject Property or all or substantially all of any parcel or portion thereof (the interests described in sub-clauses (x) or (y) immediately preceding being each referred to as a "**Possessory Interest**") by foreclosure of the lien of the mortgage or other lien or acceptance of a deed or other transfer in lieu of foreclosure or exercise of an option to convert an interest as mortgagee into a Possessory Interest in any such fee or ground leasehold estate in the Subject Property or by other means permitted under Applicable Law from time to time and no such mortgagee or lien holder shall be liable for any assessment imposed by the Association pursuant to this Article 14 until the mortgagee or lien holder succeeds to such Possessory Interest.

(e) Upon acceptance for filing of an Offering Plan by the AG allowing the sale or transfer of membership interests in the Association, the Association shall certify in writing to the Chairperson and the Commission, or to any individual succeeding to their positions, that all governing documents of the Association are in full compliance with the requirements of this Declaration and shall provide the Chairperson with a copy of such governing documents. If Declarant fails to comply with the provisions of this Section 17.06, the City may proceed with any available enforcement measures.

(f) Association Members shall be considered Declarants. Notwithstanding the foregoing, upon Final Completion of the WPAA, the liability of any Association Member shall be limited to such Association Member's proportionate share of the Maintenance Obligation assessed by the Association pursuant to Section 17.06(a). In the event of a default by the Association, the City shall, prior to enforcing any rights against any Association Members, seek enforcement against the Association and, if applicable, the initial Declarant or a Successor Declarant, pursuant to the notice and cure provisions of Section 12.02.

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

(g) Notwithstanding anything to the contrary in this Section 17.06, in the event that a building is subject to an affordable housing regulatory agreement entered into between the Declarant and the City, acting through its Department of Housing Preservation and Development, such building may be responsible for no more than its pro rata share of the Maintenance Obligation based on the floor area (as defined in the Zoning Resolution) of such building, which Maintenance Obligation imposed on such building may not increase by more than three percent (3%) per year.

17.07 Successors. For purposes of this Declaration, any Association shall be deemed a successor and assign of Declarant and shall succeed to the obligations of Declarant under this Declaration with respect to the portions of the Subject Property that are governed by the Association.

[Signature Page Follows]

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first above written.

DECLARANT

NEW YORK CITY TRANSIT AUTHORITY

By: _____

Name:

Title:

GO QUAY LLC

By: _____

Name:

Title:

THE GREENPOINT MONITOR MUSEUM

By: _____

Name:

Title:

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

STATE OF)
) SS:
COUNTY OF)

On the ____ day of _____, in the year 20__, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacities, and that by his/her/their signature(s) on the instruments, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF)
) SS:
COUNTY OF)

On the ____ day of _____, in the year 20__, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacities, and that by his/her/their signature(s) on the instruments, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

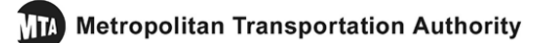
Notary Public

[Notary Page to Restrictive Declaration]

KL3 3763447.20

FINANCE COMMITTEE MEETING

40 QUAY STREET: SEQRA & TRANSACTION APPROVALS



Notary Public

Staff Summary

FINANCE COMMITTEE MEETING
40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

EXHIBIT A-2

DESCRIPTION OF LOT 25

Staff Summary

FINANCE COMMITTEE MEETING
40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

EXHIBIT B

DEVELOPMENT PLANS

[Attached Behind]

Staff Summary

FINANCE COMMITTEE MEETING
40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

EXHIBIT C

WATERFRONT PUBLIC ACCESS AREA PLANS

[Attached Behind]

Staff Summary

FINANCE COMMITTEE MEETING
40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

EXHIBIT D

PARTIES-IN-INTEREST CERTIFICATION

[Attached Behind]

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

ATTACHMENT 5: MTA AND NYCT BOARD RESOLUTION

WHEREAS, the New York City Transit Authority (“NYCT”) owns the real property known as 40 Quay Street, Brooklyn, New York, designated as Block 2590, Lot 1 on the Tax Map for the Borough of Brooklyn (the “40 Quay Property”); capitalized terms not otherwise defined in this Resolution have the meanings set forth in the staff summary accompanying this Resolution dated September 30, 2026, titled “40 Quay Street: SEQRA & Transaction Approvals” (the “Staff Summary”) or in the Pre-Lease Agreement (defined below); and

WHEREAS, on May 9, 2019, the Metropolitan Transportation Authority (“MTA,” and together with NYCT, the “Authority”) issued a Request for Proposals seeking proposals for the redevelopment of the 40 Quay Property and the relocation of the NYCT operations conducted there to suitable alternate facilities, and, after evaluating the responses and supplemental submissions, MTA and GO Quay LLC (“Developer”) entered into a Conditional Designation Letter dated September 17, 2021, pursuant to which MTA, with the preliminary approval of the MTA Board, conditionally designated Developer to negotiate definitive transaction documents; and

WHEREAS, MTA, NYCT and Developer entered into that certain Pre-Lease, Relocation and Development Planning Agreement dated as of March 15, 2024 (the “Pre-Lease Agreement”), which contemplates, subject to certain conditions, among other things, (i) a ground lease of the 40 Quay Property to Developer for a term ending immediately before the ninety-ninth anniversary of the commencement date of the term thereof (the “40 Quay Lease”), (ii) demolition of the existing improvements on the 40 Quay Property after the NYCT operations have been relocated and construction of a new mixed-use development (the “Quay Street Project”), and (iii) the lease, design and construction of a replacement NYCT facility (the “Relocation Property Project,” and together with the Quay Street Project, the “Project”); and

WHEREAS, the Quay Street Project will improve the waterfront site with residential uses, including a substantial permanently affordable component, local retail and other commercial uses, community-facility space including a permanent home for the Greenpoint Monitor Museum, publicly accessible waterfront open space and connections to Bushwick Inlet Park, shoreline stabilization, and flood-resilient design features, all as more particularly described in the Staff Summary and Findings Statement; the final commitments made in connection with Council approval and reflected in the commitment letter from Developer to the New York City Council dated June 22, 2026 (the “Developer Commitment Letter”) provide for approximately 1,324 rental dwelling units, approximately 662 of which (50 percent) will be permanently affordable, including approximately 161 senior units; approximately 18,000 zoning square feet for the Greenpoint Monitor Museum and approximately 2,700 square feet of additional community facility space in the East Building; up to approximately 19,850 gross square feet of local retail; approximately 52,500 square feet of publicly accessible waterfront open space, including a continuous 40-foot-wide esplanade; and approximately 140 below-grade parking spaces. For conservative CEQR analysis, the Technical Memorandum (defined below) evaluated a modified development envelope that adds approximately 83,659 zoning square feet to the East Building and includes up to 1,335 dwelling units, up to 668 affordable units, approximately 1,289,250 gross square feet of total development, an East Building of approximately 35 stories and 380 feet including bulkhead, and a West Building that would be 640 feet in height including bulkhead; the modification adds an estimated three months to East Building

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

construction but does not change the total Project construction duration or the peak construction period assumed for analysis purposes; and

WHEREAS, as part of the Relocation Property Project, Developer will secure for MTA or NYCT a long-term leasehold interest in the properties known as 190 Varick Avenue, 208 Varick Avenue, and 213 Meadow Street (also known as 209 Stewart Avenue), designated as Block 2951, Lots 1, 5, and 45 (collectively, the “Relocation Property”), and will design and construct thereon an approximately 189,000 gross square foot, three story facility (the “Replacement Facility”) to consolidate the Mobile Wash and Material Control operations currently conducted at 40 Quay Street and the Emergency Response Unit currently located at 65 Commercial Street; the Replacement Facility will be completed before the NYCT operations are relocated and the existing improvements at the 40 Quay Property are demolished; and

WHEREAS, the New York City Planning Commission (“CPC”) approved the principal land use applications for the Project on May 13, 2026, including zoning map amendment C 260105 ZMK, zoning text amendment N 260106 ZRK, large-scale general development special permit C 260107 ZSK, and City Map amendment C 250326 MMK, and waterfront certification N 260108 ZCK and related action 260110 LDK also form part of the land use approval record; the New York City Council approved the applications subject to its review with modifications on July 16, 2026. The Council modifications expanded the zoning lot to incorporate the approximately 9,536-square-foot portion of Quay Street contiguous to the 40 Quay Property, allowing approximately 68,659 zoning square feet to be added to the East Building; reallocated approximately 15,000 zoning square feet from the Museum to residential use in the East Building; reduced the Museum footprint and eliminated the need for a waterfront yard waiver; reallocated approximately 16,650 gross square feet in the West Building from commercial to residential use; and increased the affordable housing commitment to 50 percent of the dwelling units. Although CPC approved a loading waiver pursuant to special permit C 260109 ZSK on May 13, 2026, that application was withdrawn at the Council and, on June 30, 2026, the corresponding land use item was withdrawn pursuant to a letter of withdrawal because the modified program eliminated the need for the loading waiver; the final Project therefore does not rely on C 260109 ZSK. The Project will conform to the final modified land use and waterfront certification drawings referenced in Exhibit C to the Developer Commitment Letter and to the Restrictive Declaration required by the final approvals, which will be executed and recorded as a condition to the applicable permits and certificates of occupancy; and

WHEREAS, CPC, as lead agency under the State Environmental Quality Review Act (“SEQRA”) and City Environmental Quality Review (“CEQR”), issued a Positive Declaration on March 21, 2025, accepted the Draft Environmental Impact Statement as complete on December 12, 2025, accepted the Final Environmental Impact Statement (“FEIS”) as complete on April 30, 2026, and on May 13, 2026 adopted written findings for the Project (the “Lead Agency Findings”); and

WHEREAS, the MTA Board and the NYCT Board have reviewed the Draft Environmental Impact Statement, the FEIS, the Lead Agency Findings, the land-use approval record, and Technical Memorandum 001 for the Monitor Point project, CEQR No. 25DCP068K, dated July 9, 2026 (the “Technical Memorandum”), which concluded that the Council modifications would not result in any new or greater significant adverse environmental impacts not already identified in the FEIS, and have considered the relevant environmental, social, economic, operational, and other factors, and MTA and NYCT have prepared the Determination and Findings Statement Adopting and Incorporating Environmental Findings

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

for the 40 Quay Street (Monitor Point) Project, CEQR No. 25DCP068K, attached to the Staff Summary (the “Findings Statement”), which each Board desires to adopt before acting on the Transaction; and

WHEREAS, as described in the FEIS, the Lead Agency Findings and the Findings Statement, the Project incorporates project components related to the environment and practicable mitigation measures secured through CEQR (E) Designations E-138 and E-870, the Restrictive Declaration, and the Project Documents, while certain localized operational and construction traffic and pedestrian impacts and temporary construction noise impacts cannot be fully mitigated; and

WHEREAS, the Pre-Lease Agreement includes substantially negotiated forms of the 40 Quay Lease, the 40 Quay Rent Guaranty, the Relocation Property Environmental Indemnity, the Relocation Property Lease, the Relocation Property Owner Documents, the Relocation Property Development Agreement, and the Relocation Property Guaranty, together with the Entry Permits, Expense Reimbursement Agreement, and other documents, instruments and agreements relating to the Project (collectively, the “Project Documents”), which forms are to be conformed as needed to reflect the SEQRA commitments, final public approvals, the Developer Commitment Letter, and final facts and circumstances; and

WHEREAS, the material economic and other business terms set forth in the Staff Summary are consistent with or more favorable to the Authority than the terms evaluated through the competitive selection and conditional-designation process, and all material changes since conditional designation and execution of the Pre-Lease Agreement, including changes which may be necessary to implement the final affordability program and the contemplated subdivision and leasehold-financing structure and related recognition and subordination arrangements, and to reflect the commitments in the Developer Commitment Letter, are described in the Staff Summary; and

WHEREAS, an independent appraisal of the fee simple estate in the 40 Quay Property was prepared by Goodman-Marks Associates, Inc., dated August 4, 2016, with a valuation date of May 4, 2016, and is included in the record of the Transaction; the appraisal concluded that the “as is” market value of the fee simple estate was \$55,000,000, and, based on the appraisal, the competitive selection process, and the final material terms described in the Staff Summary, the proposed disposition is for not less than fair market value and is proposed to be made upon proper terms and conditions; and

WHEREAS, the Transaction will provide a modern replacement facility for essential NYCT operations without interruption of those operations; relocate non-water-dependent transit uses from the waterfront to the Replacement Facility; facilitate the planned Box Street Park by relocating the Emergency Response Unit from 65 Commercial Street to the Replacement Facility; generate long-term revenues and other consideration for the Authority on the principal rent, payment, reimbursement, and facility delivery terms described in the Staff Summary; provide new housing, including permanently affordable housing; create public waterfront access, community facility space and a permanent home for the Greenpoint Monitor Museum; and improve shoreline resilience; and

WHEREAS, the disposition and acquisition of the property and contract rights contemplated by the 40 Quay Lease and the other Project Documents, as described in the Staff Summary, are intended to further the public welfare and advance the transportation interests of MTA and NYCT by modernizing and consolidating transit support operations, securing replacement facilities, and providing revenues and other

Staff Summary

FINANCE COMMITTEE MEETING 40 QUAY STREET: SEQRA & TRANSACTION APPROVALS

value for transit purposes, and are also intended to advance the economic development and transit-oriented development interests of the State and City by replacing underutilized waterfront improvements with a mixed-use, mixed-income, publicly accessible and resilient waterfront development;

NOW THEREFORE, BE IT RESOLVED, that:

1. Each of the MTA Board and the NYCT Board, acting in its applicable capacity, hereby adopts the Findings Statement.
2. Following and subject to the adoption of the Findings Statement, each of the MTA Board and the NYCT Board, acting in its applicable capacity, hereby approves the Project and the Transaction on the material terms and conditions described in the Staff Summary and authorizes the execution, delivery, acceptance and performance, as applicable, by MTA and/or NYCT, as applicable, of the 40 Quay Lease and the other Project Documents.
3. The Chair and Chief Executive Officer of MTA, the President of NYCT, the President and Chief Development Officer of MTA Construction & Development, the Senior Vice President, Transit-Oriented Development of MTA/MTA Construction & Development, or any designee of any of the foregoing senior officers, acting alone, are authorized to execute and deliver the 40 Quay Lease and the other Project Documents with Developer, Gotham Organization, Inc., 190 Brooklyn Holdings LLC, Varick Meadow Holdings LLC, and any other applicable parties, on the material terms and conditions described in the Staff Summary, substantially in the forms attached to the Pre-Lease Agreement, with such modifications as are necessary or appropriate to conform the Project Documents to the Findings Statement, SEQRA commitments, final public approvals, completed exhibits and factual information, the Developer Commitment Letter, and changes in facts and circumstances, as the case may be, and with such other terms or conditions as the authorized signatory deems necessary or appropriate; and each such officer is further authorized to execute and deliver any other necessary or appropriate agreements, documents, writings and instruments, including modifications and supplements, and to take all actions necessary, desirable or convenient to satisfy the conditions to closing, consummate the Transaction, and perform the Authority's obligations under the Project Documents. Without limiting the foregoing, the authorized officers may (i) effect the transfer of fee title to the 40 Quay Property from NYCT to MTA on the material terms described in the Staff Summary and (ii) consent to leasehold financing and execute and deliver any recognition, subordination, non-disturbance, severance, collateral, or related agreements contemplated by the 40 Quay Lease and the Staff Summary, in each case subject to the material parameters set forth in the Staff Summary and/or the terms and conditions of the 40 Quay Lease.
4. The Chair and Chief Executive Officer of MTA, the President of NYCT, the President and Chief Development Officer of MTA Construction & Development, the Senior Vice President, Transit-Oriented Development of MTA/MTA Construction & Development, or any designee of any of the foregoing senior officers, acting alone, are hereby further authorized to take any and all actions necessary, desirable or convenient to satisfy applicable legal or regulatory requirements in connection with the foregoing actions.

This Resolution shall take effect immediately upon its adoption by each applicable Board.

Dated: September 30, 2026

MTA METRO-NORTH RAILROAD

Staff Summary

Subject AGREEMENT TO CONSTRUCT TEMPORARY ACCESS IMPROVEMENTS AND REIMBURSE RLF II BASSETT LLC FOR COSTS INCURRED IN CONNECTION WITH THE CONSTRUCTION OF THE SOUTH ENTRANCE TO MNR RAILROAD'S MORRIS PARK STATION AS PART OF THE PENN STATION ACCESS
Department TRANSIT ORIENTED DEVELOPMENT
Department Head Name MIRIAM G. HARRIS
Department Head Signature
Project Manager Name NICHOLAS ROBERTS

Date SEPTEMBER 30, 2026
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	09/28/26	X		
2	Board	09/30/26	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Development Officer		
3	Chief Financial Officer		

AGENCY: Metropolitan Transportation Authority ("MTA") and MTA Construction & Development Company ("C&D")

PROPERTY OWNER: RLF II BASSETT LLC ("Real Term")

LOCATION: 1502 Bassett Avenue, Bronx, New York (the "Property")

ACTIVITY: Agreement for MTA to construct a temporary curb cut and related access improvements at the Property (the "Access Improvement Agreement") to provide Real Term and its tenant Amazon.com Services LLC ("Amazon") with an alternative means of access to the Property during the construction of the south entrance of Metro-North Railroad's new Morris Park Station

ACTION REQUIRED: Authorization for MTA to enter into the Access Improvement Agreement and pay up to \$120,000 as reimbursement for Amazon's costs of reviewing and approving the Access Improvement Agreement and related improvements to the Property

CONSTRUCTION AREA: Temporary curb cut at Marconi Street and related access improvements at the Property

COMPENSATION: \$120,000.

COMMENTS:

At its December 2025 meeting, the Board authorized MTA Transit Oriented Development ("TOD") to negotiate and enter into a series of agreements (the "Pedestrian Overpass Agreements") with Real Term in support of the new Morris Park Station being constructed by C&D as part of MTA's Penn Station Access ("PSA"). A copy of the December 2025 Staff Summary for the Pedestrian Overpass Agreements is attached for reference. The Pedestrian Overpass agreements include a permanent easement and related construction access licenses tied to the construction and eventual use of a

FINANCE COMMITTEE MEETING

AGREEMENT TO CONSTRUCT TEMPORARY ACCESS IMPROVEMENTS AND REIMBURSE RLF II BASSETT LLC FOR COSTS INCURRED IN CONNECTION WITH THE CONSTRUCTION OF THE SOUTH ENTRANCE TO MNR RAILROAD'S MORRIS PARK STATION AS PART OF THE PENN STATION ACCESS PROJCT (Cont'd)

pedestrian overpass (the "Pedestrian Overpass") above a private road, Bassett Avenue, located at the Property. The Pedestrian Overpass will connect Morris Park Station's island platform, to be sited within the Hell Gate Line right-of-way, to the Station's south entrance, to be sited on private property adjacent to the Property. As noted in the December 2025 Staff Summary, Bassett Avenue is the sole means of ingress and egress to a 367,000 square foot last-mile distribution facility (the "Amazon Facility") that Real Term leases to Amazon. Among other things, the Board's authorization gave the MTA permission to construct a temporary curb cut at Marconi Street, which is the nearest public street to the Amazon Facility, and related access improvements at the Property (collectively, the "Marconi Access Improvements") to provide Amazon with an alternative means of access to the Amazon Facility during periods when MTA will close Bassett Avenue to construct the Pedestrian Overpass. The Access Improvement Agreement requires the MTA to, among other things, reimburse Real Term for the costs and expenses incurred by Amazon not to exceed \$120,000 (the "Amazon Cost Reimbursement") to review and approve the design and construction of the Marconi Access Improvements and prepare and file with the New York City Department of Buildings an updated site plan of the Property that reflects that Marconi Access Improvements. Real Term has conditioned the execution of the Pedestrian Overpass Agreements and the Access Improvement Agreement on the payment of the Amazon Cost Reimbursement by MTA.

Based on the foregoing, TOD hereby requests authorization for the MTA to enter into the Access Improvement Agreement with Real Term and pay Real Term the Amazon Cost Reimbursement pursuant to the terms of the Access Improvement Agreement.

Staff Summary

Subject ACQUISITION OF PERMANENT EASEMENT AND CONSTRUCTION LICENSE FROM RLF BASSETT II LLC IN THE BRONX, NEW YORK IN SUPPORT OF THE PENN ACCESS PROJECT
Department TRANSIT ORIENTED DEVELOPMENT
Department Head Name MIRIAM G. HARRIS
Department Head Signature
Project Manager Name NICHOLAS ROBERTS

Date DECEMBER 17, 2025
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	12/15/25	X		
2	Board	12/17/25	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Development Officer		
3	Chief Financial Officer		

AGENCY: Metropolitan Transportation Authority ("MTA") and MTA Construction & Development Company ("C&D")

GRANTOR: RLF II BASSETT LLC (the "Grantor")

LOCATION: 1502 Bassett Avenue, Bronx, New York (the "Property")

ACTIVITY: Acquisition of a permanent easement and construction license for a pedestrian overpass at the south entrance of Metro-North Railroad's new Morris Park Station as part of the Penn Access Project (the "Property Interest")

ACTION REQUIRED: Authorization to acquire the Property Interest, construct a new entrance to the Grantor's Property, and enter into the Pedestrian Overpass Agreements (as defined below)

EASEMENT AREA: 2,203 square feet

LICENSED AREA: Private Bassett Avenue between Eastchester Road and Metro Atrium Drive

COMPENSATION: \$1,000,000.00, plus construction of a new entrance to the Grantor's Property.

COMMENTS:

Penn Station Access ("PSA") is a new Metro-North Railroad ("MNR") link to Penn Station that will provide one-seat passenger rail service to Penn Station for MNR's New Haven Line customers. In October 2021, the MTA Board authorized MTA Real Estate to proceed with property acquisitions in support of PSA by negotiated agreement or condemnation, with the terms of any negotiated agreement subject to further MTA Board approval.

The Property is in the Morris Park section of the Bronx and is improved with a 367,000 square foot last-mile distribution facility that is leased by the Grantor to Amazon. The Property is further improved by a private road known as Bassett Avenue ("Bassett Avenue") that is adjacent to Amtrak's right of way for the Hell Gate Line (the "Hell Gate ROW") which will serve as the trackage for the PSA project. Bassett Avenue is the sole means of ingress and egress to the Property. The platform for the future Morris Park Station (the "Station Platform") will be sited within the Hell Gate ROW while its south entrance (the "South Station Entrance") will be sited on separate privately owned property adjacent to Bassett

FINANCE COMMITTEE MEETING

ACQUISITION OF PERMANENT EASEMENT AND CONSTRUCTION LICENSE FROM RLF BASSETT II LLC IN THE BRONX, NEW YORK IN SUPPORT OF THE PENN ACCESS PROJECT (Cont'd.)

Page 2 of 2

Avenue. A pedestrian overpass (the "Pedestrian Overpass") will be constructed to connect the Station Platform with the South Station Entrance. The only viable location for the Pedestrian Overpass is above Bassett Avenue.

To construct the Pedestrian Overpass and to allow for its eventual use by MNR customers, MTA will be required to enter into a permanent easement agreement and a construction license with the Grantor (collectively, the "Pedestrian Overpass Agreements"). The Grantor has conditioned its willingness to enter into the Pedestrian Overpass Agreements on receipt of a one-time, lump sum payment of \$1M from the MTA and the MTA's willingness to construct at its own expense a new entrance to the Property from an adjacent public street (the "New Property Entrance").

MTA Transit Oriented Development ("TOD") has concluded, based on the recommendation of legal counsel and an independent appraisal of the Property Interest, that the payment of the \$1M and the cost of constructing the New Property Entrance, estimated at \$310,943, is materially less expensive than condemning the Property Interest and avoids the litigation risk and associated costs associated that may otherwise be incurred by the MTA. Further, the Pedestrian Overpass is critical to the design and use of the future Station; it is not feasible to construct the Station without it.

Based on the foregoing, TOD requests authorization for the MTA to acquire the Property Interest from the Grantor on the above-described terms and conditions, including payment of the \$1M compensation to the Grantor and the construction of the New Property Entrance at the MTA's expense.

Staff Summary

Subject ACQUISITION OF EASEMENTS FROM THE NEW YORK STATE THRUWAY AUTHORITY FOR THE CO-OP CITY STATION IN THE BRONX
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name ANGELA SZU

Date SEPTEMBER 30, 2026
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Othe
1	MNR Committee	09/28/26		X	
2	Finance Committee	09/28/26	X		
3	Board	09/30/26	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Administrative Officer		
3	Chief Financial Officer		

AGENCY: MTA Metro-North Railroad ("MNR")

GRANTOR: New York State Thruway Authority ("NYSTA")

LOCATION: Under the I-95/New England Thruway bridge near Erskine Place, Bronx, NY

EASEMENT AREAS: Portions of NYSTA's Map 277 Parcel 354 to be conveyed as:

- (1) Map 294 Parcel 376: 411± square feet permanent easement
 - (2) Map 295 Parcel 377: 692± square feet permanent easement
 - (3) Map 296 Parcel 378: 3,371± square feet permanent easement
- (Collectively, the "Easements")

USE: Construction, operation, and maintenance of the Co-op City Station underground utilities, access to utilities, service and emergency driveway, and E-80 loading influence

ACTION REQUESTED: Authorization to acquire permanent easements

TERM: Permanent

COMPENSATION: \$181,300

COMMENTS:

MTA Construction and Development ("MTA C&D"), is undertaking to bring MNR service from the Bronx to Penn Station (the "Project"). As part of the Project, MTA C&D is modernizing portions of Amtrak's railroad infrastructure on its Hell Gate Line by realigning tracks, optimizing overhead catenary systems, building electrical power systems inclusive of substations, replacing and installing signal equipment, and constructing four (4) new MNR passenger stations along said line.

The above-described easements are required for the new Co-op City Station in the Bronx. Portions of the future station's service and emergency driveway and underground utilities will be constructed within the Easement Areas.

FINANCE COMMITTEE MEETING

ACQUISITION OF EASEMENTS FROM THE NEW YORK STATE THRUWAY AUTHORITY FOR THE CO-OP CITY STATION IN THE BRONX IN SUPPORT OF THE PENN STATION ACCESS PROJECT

(Cont'd.)

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NYSTA has determined the compensation for the Easement Areas to be \$181,300, which is in line with internal estimates based on prior and proximate MTA Real Estate appraisals of comparable easements.

Based on the foregoing, MTA Real Estate hereby requests authorization to enter into a sales agreement on behalf of MNR with NYSTA to acquire the Easements under the above-described terms and conditions.

Subject USE AND OCCUPANCY PERMIT WITH NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR PROPERTY ALONG BRUCKNER BOULEVARD IN SUPPORT OF THE PENN STATION ACCESS PROJECT IN THE BRONX
DEPARTMENT REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name ANGELA SZU

Date SEPTEMBER 30, 2026
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	MNR Committee	09/28/26		X	
2	Finance Committee	09/28/26	X		
3	Board	09/30/26	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Administrative Officer		
3	Chief Financial Officer		

AGENCY: MTA Metro-North Railroad ("MNR")
PERMITTOR: New York State Department of Transportation ("NYSDOT")
LOCATION: A portion of the Bruckner Boulevard right-of-way between Southern Boulevard and East 144th Street, Bronx, NY
PREMISES: 10,861± square feet of property consisting of a portion of NYSDOT's Map 29, Parcel 71
USE: Construction, operation, and maintenance of an electric power substation
ACTION REQUESTED: Authorization to enter into a Use & Occupancy Permit with NYSDOT
TERM: Month-to-month
COMPENSATION: Year 1: \$103,000 per annum with two percent (2%) annual escalations

COMMENTS:

MTA Construction and Development ("MTA C&D"), is undertaking to bring MNR service from the Bronx to Penn Station (the "Project"). As part of the Project, MTA C&D is modernizing portions of Amtrak's railroad infrastructure on its Hell Gate Line by realigning tracks, optimizing overhead catenary systems, building electrical power systems inclusive of substations, replacing and installing signal equipment along the Hell Gate Line, and constructing four (4) new MNR passenger stations along said line.

An upgrade to the power systems will be needed at various sites along the corridor to provide adequate power for the expected increase in train traffic. At the Location, a new electric substation is needed to support the additional AC power demands on the railroad right-of-way.

The MTA initially approached NYSDOT with a request to purchase the entire Map 29, Parcel 71 property (19,405± square feet) for the new electric substation. NYSDOT has agreed to convey 8,544± square feet to the MTA but the remaining

FINANCE COMMITTEE MEETING

USE AND OCCUPANCY PERMIT WITH NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR PROPERTY ALONG BRUCKNER BOULEVARD IN SUPPORT OF THE PENN STATION ACCESS PROJECT IN THE BRONX (Cont'd.)

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10,861± must be retained by NYSDOT for the construction, reconstruction, and maintenance of the Bruckner Expressway (I-278) adjacent and above the site of the new substation. Under Highway Law §52, NYSDOT is prohibited from allowing permanent structures or conveyances within state highway rights-of-way. Consequently, NYSDOT is not permitted to grant permanent rights, but has agreed to issue a Use & Occupancy Permit for the remaining 10,861± square feet.

NYSDOT has determined the first-year annual permit fee for the MTA's use and occupancy of the Premises to be \$103,000 (\$9.48 per square foot), which is less than the MTA's appraisal.

Based on the foregoing, MTA Real Estate hereby requests authorization to enter into the Use & Occupancy Permit agreement on behalf of MNR with NYSDOT under the above-described terms and conditions.

Staff Summary

Subject LEASE RENEWAL WITH 42ND STREET GORP PROPERTY LLC FOR EMPLOYEE ASSISTANCE PROGRAM OFFICE SPACE AT 110 EAST 42ND STREET, NEW YORK
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name ANDREW D. GREENBERG

Date SEPTEMBER 30, 2026
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	MNR Committee			X	
2	Finance Committee		X		
3	Board		X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Administrative Officer		
3	Chief Financial Officer		

AGENCY: MTA Metro-North Railroad ("MNR")
LESSOR: 42nd Street Gorp Property LLC (d/b/a Meadow Partners) successor to Gotham 42nd Street, LLC
LOCATION: 110 East 42nd Street, Suite 1301, New York, NY
PREMISES: Approximately 1,840 rentable square feet on a portion of the 13th floor.
USE: Offices for MNR Employee Assistance Program ("EAP")
ACTION REQUESTED: Authorization to enter into a lease renewal.
TERM: Five (5) years commencing November 1, 2026, through October 31, 2031 with one (1) five (5) year renewal option at 100% of the then fair market valuation.
REAL ESTATE TAXES: MNR to pay its proportionate share of real estate taxes increases over the 2027 calendar year.
OPERATING EXPENSES: MNR to pay fixed 2.0% annual increases.
UTILITIES: MNR shall continue to pay an electrical rent inclusion factor of \$3.25 per square foot per annum subject to periodic survey.
LESSOR WORK: Within 60 days of execution, Lessor will perform improvements including paint and patch, new blinds, replace all broken or stained ceiling tiles, replace all light bulbs, deep clean all flooring, replace missing door saddle, and will handle moving furniture and equipment as needed to facilitate these improvements.
RENT COMMENCEMENT: November 1, 2026 with a two (2) month rent abatement.
BASE RENT: \$99,360.00 per annum (\$54.00 per square foot) with 2.0% annual increases.

FINANCE COMMITTEE MEETING

LEASE RENEWAL WITH 42ND STREET GORP PROPERTY LLC FOR EMPLOYEE ASSISTANCE PROGRAM OFFICE SPACE AT 110 EAST 42ND STREET, NEW YORK, NY (Cont'd.)

Page 2 of 2

COMMENTS:

MNR's EAP has occupied the Premises since 2014 to provide confidential counseling services to all MNR employees as well as employees of MTA HQ, BSC, C&D and MTA PD. The EAP provides assistance for employees struggling with alcohol and drug-related issues as well as providing fitness for duty evaluations. The EAP has further requested that the term be limited to five (5) years as they assess their future occupancy needs and locations.

MTA Real Estate engaged the services of its exclusive broker CBRE, Inc. to evaluate potential renewal terms and conditions against potentially cost-effective new office locations. CBRE identified eight (8) buildings for consideration from which MNR viewed three (3) of the alternative locations and it was determined that, due to the required five (5) year term, once relocation capital costs are considered, the proposed renewal terms and conditions provide the most cost-effective option.

Based on the foregoing, MTA Real Estate hereby requests authorization for MNR to enter into a lease renewal with 42nd Street Gorp Property LLC under the above-described terms and conditions.

MTA LONG ISLAND RAIL ROAD

Staff Summary

Subject AUTHORIZATION TO ACQUIRE PROPERTY INTERESTS BY NEGOTIATED SETTLEMENT OR EMINENT DOMAIN FOR THE LONG ISLAND RAIL ROAD COMPANY BACKUP OPERATIONS COMMAND CENTER IN JAMAICA
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name ANDREW GREENBERG

Date SEPTEMBER 30, 2026
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	LIRR Committee	09/28/26		X	
2	Finance Committee	09/28/26	X		
3	Board	09/30/26	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
3	Chief Administrative Officer		
2	Chief Financial Officer		

AGENCY: MTA Long Island Rail Road ("LIRR")

GRANTOR: S&S Developers LLC

LOCATION: 182-12 93rd Avenue, Jamaica, NY, (Queens County Tax Map as, Block 10328, Lot 25) comprised of approximately 24,280 square feet of land

ACTIVITY Fee simple acquisition of property to facilitate construction of the LIRR back-up Operations Control Center

ACTION REQUESTED: Authorization to acquire real property through negotiated agreement or eminent domain

COMPENSATION: To be determined via negotiation or condemnation

COMMENTS:

In connection with the LIRR's Operations Control Center back-up project, MTA Real Estate is seeking to acquire a property located at 182-12 93rd Avenue, Jamaica, NY (the "Property"). The Property is approximately 24,280 square feet of vacant land. Once acquired, the LIRR will utilize the lot to construct a new operations control center back-up and training facility. After a review of alternative properties in the vicinity, it was determined that the Property is the best suited location that satisfies the location and size requirements.

The MTA will endeavor to acquire the Property through a negotiated agreement. However, the MTA Real Estate may not be able to reach agreement with the Seller and may be compelled to acquire the Property by eminent domain as no viable alternative sites have been identified. Thus, MTA Board approval is being sought for the MTA Real Estate to begin taking steps to satisfy the requirements of Eminent Domain Procedure Law in order to preserve the MTA's rights and lessen the potential for future delays to the Project and ensure the timely acquisition of the Property. If a negotiated agreement to acquire the Property is reached prior to the filing of condemnation papers with the court, the terms of any such agreement will be presented to the Finance Committee and MTA Board for further approval.

Based on the foregoing, MTA Real Estate hereby requests authorization to proceed with the acquisition of 182-12 93rd Avenue, Jamaica, NY agreement or condemnation on the above-described terms and conditions.

BOARD RESOLUTION

WHEREAS, in connection with LIRR's Backup Operations Control Center project the acquisition of fee simple title to 182-12 93rd Avenue, Jamaica, NY, (Queens County Tax Map as, Block 10328, Lot 25) comprised of approximately 24,280 square feet of vacant land is required.

WHEREAS, the MTA will endeavor to acquire the real property interests through negotiated voluntary agreement with the affected property owner. In order to preserve the MTA's rights and lessen the potential for future delays to the project if acquisition cannot be negotiated in a timely manner, the MTA must take preliminary steps under the Eminent Domain Procedure Law to secure the property.

WHEREAS, if a negotiated agreement to acquire any of the property interests is reached prior to the filing of condemnation papers with the court, the terms of any such agreements will be presented to the Finance Committee and the MTA Board for further approval.

NOW THEREFORE, BE IT RESOLVED that in accordance with the Eminent Domain Procedure Law and Section 1267 of the Public Authorities Law, the Chairman or designated staff member of the MTA is authorized to proceed with the acquisition of real property interests in the properties described above by negotiated agreements or eminent domain and to schedule and undertake such preliminary steps, including holding a public hearing, as may be required under the Eminent Domain Procedure Law, in connection with these acquisitions.

BE IT FURTHER RESOLVED that the proposed acquisitions will be subject to prior, satisfactory completion of any required environmental reviews and that the terms of any negotiated agreements will be presented to the Finance Committee and the MTA Board for further approval.

This resolution shall take effect immediately upon its adoption.

INFORMATION ITEMS

Agency	Agreement Type/ Counterparty	Location/Premises	Use	Term	Compensation	RFP Proposals	Transaction Manager
MNR GCT	<u>Kiosk Retail License Agreement</u> Licensee: ASKAN, LLC	Grand Central Terminal / Graybar Passage Kiosk	Retail sale of men's apparel, t-shirts, sweatshirts, jackets, and athletic-casual wear, produced by the owner in New York City	One (1) Year	\$37,200	N/A	Kim Trevisan
LIRR	<u>Temporary License Agreement</u> Licensor: Coland Realty LLC	11-07 Redfern Ave, Far Rockaway, NY 11691	Installation of five (5) borings for soil investigation and future remediation of environmental contamination	One (1) day	None	N/A	Selina Storz
MNR	<u>Permit Agreement</u> Permittee: Parks & Trails NY, Inc.	Maybrook Trailway for approx. 580 North Main Street in Brewster, NY to 22 Railroad Avenue in Hopewell Junction, NY	Use of greenway on MNR property as part of a mass cycling event on the Empire State Trail	August 6, 2026	None	N/A	Garrett Burger
B&T	<u>Permit Agreement</u> Permittee: National September 11 Memorial and Museum at the World Trade Center	Battery Parking Garage, 56-70 Greenwich Street, New York, NY 10006	Use of approximately one hundred parking spaces in connection with the annual September 11, 2001 memorial ceremonies	One (1) day	None	None	Garrett Burger

Staff Summary

Subject AMENDMENT TO THE CLEAR CHANNEL OUTDOORS LICENSE AGREEMENT FOR BILLBOARD CONCESSION
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name ISABEL REYES

Date SEPTEMBER 28, 2026
Vendor Name CLEAR CHANNEL OUTDOORS, LLC
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	09/28/26		X	
2	Board	09/30/26		X	

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Administrative Officer		
3	Chief Financial Officer		

AGENCY: Metropolitan Transportation Authority ("MTA"), MTA Metro-North Railroad, MTA Long Island Rail Road, MTA New York City Transit, and Triborough Bridge and Tunnel Authority

LICENSEE: Clear Channel Outdoors, LLC ("CCO")

LOCATION: Multiple MNR, LIRR, and NYCT properties listed in Exhibit A to the license agreement

USE: Licensee is permitted to build, maintain, remove, and sell billboard space on MTA properties to display advertising and provide advertising revenue to the MTA. Construction work includes structural engineering, electrical engineering, and road closures where necessary.

PURPOSE: Amendment to the billboard agreement to reduce Minimum Annual Guarantee ("MAG") License payment to MTA due to changed circumstances (described below)

TERM: November 1, 2024 to October 31, 2039

COMPENSATION: Under the agreement, Licensee pays the MTA a MAG payment, payable in monthly installments. The MAG amount escalates every year by a CPI adjustment. If billboard advertising revenues exceed the MAG amount, MTA will receive 80% of the billboard revenues generated above the MAG. Per comments below, the amended MAG payment is adjusted as set forth in the following table:

License Year	Original Annual MAG	Amended Annual MAG
1	\$26,000,000	\$25,739,270
2	\$26,780,000	\$25,185,876
3-15	The Annual MAG is CPI-adjusted at the beginning of each subsequent year. The CPI-adjusted MAG is equal to the MAG of the prior license year multiplied by (1 + Consumer Price Index for NY-NJ-PA). CPI shall be no less than 0.0% and capped at 3.0%.	

Staff Summary

FINANCE COMMITTEE MEETING

AMENDMENT TO THE CLEAR CHANNEL OUTDOORS LICENSE AGREEMENT FOR BILLBOARD CONCESSION (Cont'd)

Page 2 of 2

COMMENTS:

A license agreement was entered into between Clear Channel Outdoors, the MTA, NYCT, LIRR, MNR and TBTA for billboard concessionaire services, including selling space, building, maintaining, and removing billboards on MTA property; gross revenue from billboard advertising is shared with the MTA. The License commenced on November 1, 2024, and will expire on October 31, 2039.

The original license agreement included an inventory list containing 36 billboards located in the State of Connecticut; 34 are on MNR right-of-way and operated by Licensee, and 2 are owned and operated through a land lease agreement with another park. When Licensee took control of the billboard concession in November 2024, Connecticut Department of Transportation ("CTDOT's") permit requirements imposed upon Licensee to access and operate the Connecticut billboards created financial and operational burdens that made continuing the Connecticut billboard operations impractical, leading the MTA to decide not to pursue the permits and instead remove the billboards from its inventory. As a result, the MTA and Licensee stopped administering, operating, and maintaining the Connecticut billboard assets on March 1, 2026.

Due to lack of access to the Connecticut billboards, the MTA and Licensee have amended the license agreement to (i) remove Connecticut billboards from the license inventory, (ii) credit for lost revenue, and (iii) adjust the MAG payment. The MTA and Licensee negotiated a credit of \$260,730 to compensate for amounts paid to or lost from advertisers on the Connecticut Billboards in License Year 1 and reduced the License Year 2 MAG payment to \$25,185,876. The \$260,730 credit and the resulting \$1,062,749 credit for 8 months of MAG overpayment in Year 2 (which total \$1,323,479) were subtracted from CCO's \$2,098,823 August MAG payment to MTA, netting an August MAG payment of \$775,344. The adjusted MAG payment of \$25,185,876 will be paid in monthly increments of \$2,098,823 on the first of each month starting September 1, 2026, paid in arrears for the prior license month.

The portion of the credit dating from November 1, 2024, to February 28, 2026, will be split between the MTA and CTDOT, as all costs and expenses are split under the Amended and Reinstated Service Agreement ("ARSA"). The portion of the credit from March 1, 2026, to July 31, 2026, will be MTA's responsibility, as Connecticut billboard operations ceased on March 1, 2026, and CTDOT-shared billboards were no longer actively managed within the CCO license agreement.