

APPENDIX D:

**THE METROPOLITAN TRANSPORTATION AUTHORITY LETTER OF RESOLUTION
(NO. 7 SUBWAY)**

LETTER OF RESOLUTION

AMONG

The METROPOLITAN TRANSPORTATION AUTHORITY,
NEW YORK CITY TRANSIT AUTHORITY,
MTA CAPITAL CONSTRUCTION COMPANY

and

The NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC
PRESERVATION

REGARDING THE NUMBER 7 SUBWAY EXTENSION

NEW YORK, NEW YORK COUNTY

~~WHEREAS, pursuant to Section 14.00 of the New York State Historic Preservation Act of 1980, the New York City Transit Authority ("NYCT"), an affiliated agency of the Metropolitan Transportation Authority of the State of New York ("MTA"), and MTA Capital Construction Company ("CCC"), a subsidiary of MTA, have requested that the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") review potential impacts to architectural and archaeological resources from construction and operation of a proposed extension of the Number 7 subway, a key part of the proposed Number 7 Subway Extension—Hudson Yards Rezoning and Development Program (all associated actions under said Program being referred to collectively hereafter as the "Proposed Action"); and~~

WHEREAS, MTA and the City of New York City Planning Commission ("CPC") are Co-Lead Agencies under the State Environmental Quality Review Act ("SEQRA") in preparing a Generic Environmental Impact Statement ("GEIS") for the Proposed Action; and

WHEREAS, the GEIS for the Proposed Action identifies and evaluates environmental impacts associated with certain proposals for redeveloping the Hudson Yards area, which generally encompasses the area bounded by West 43rd Street on the north, Hudson River Park on the west, West 30th and West 28th Streets on the south, and Seventh and Eighth Avenues on the east. The CPC rezoning proposal for Manhattan's far west side is solely a City action, and there are no actions to be undertaken by MTA, NYCT, and CCC associated with the rezoning proposal; and

WHEREAS, as part of the Proposed Action, CCC, on behalf of NYCT and with funding provided by the City of New York, would construct the Number 7 Subway Extension (hereafter, the "Number 7 Subway Extension" or the "Project") westward from the Times Square Subway Station across West 41st Street with an intermediate station at Tenth Avenue and West 41st Street, then continuing southward on Eleventh Avenue with a terminal station at Eleventh Avenue and West 34th Street, and NYCT would be responsible for operating and maintaining the Project; and

WHEREAS, the Times Square Subway Station has been determined eligible for listing on the State and National Registers of Historic Places (S/NR); and

WHEREAS, construction activities associated with the Number 7 Subway Extension that could potentially affect adjacent architectural resources include: possible vibration effects during construction from drill-and-blast excavation for access and ventilation shafts, subway station caverns, rail interlocking chambers, and ancillary space; cut-and-cover construction activities for

10/20/04

Number 7 Subway Extension—Hudson Yards Rezoning and Development Program

the portion of the subway alignment under West 41st Street between Ninth Avenue and Times Square, which could require underpinning of structures along West 41st Street; and construction of station entrances and ventilations shafts; and

WHEREAS, MTA and NYCT, in consultation with the OPRHP and the New York City Landmarks Preservation Commission ("LPC"), have determined that construction of the Project's subway tunnels by tunnel boring machine excavation would have no impacts on architectural resources, because such construction activity would occur within bedrock, at least 40 feet below grade, and no vibration impacts from construction or operation of the Project would be expected; and

WHEREAS, the nine architectural resources identified below are located within 90 feet of other construction activities for the Number 7 Subway Extension (i.e., construction activities other than tunnel boring excavation that have the potential for adverse impacts), close enough to experience adverse construction-related impacts from ground-borne, construction-period vibrations or other accidental construction damage:

- the McGraw-Hill Building at 330 West 42nd Street, a New York City Landmark ("NYCL"), National Historic Landmark ("NHL"), and S/NR property; and
- eight buildings and structures that have been determined to meet eligibility criteria for S/NR listing and/or NYCL designation, including the B&O Railroad Warehouse (NYCL-eligible, S/NR-eligible) at Eleventh Avenue and West 26th Street, the S/NR-eligible loft building at 323-327 West 39th Street, the S/NR-eligible Zion Building at 210 Eleventh Avenue, St. Raphael's Roman Catholic Church and Rectory (NYCL-eligible, S/NR-eligible) at 502 West 41st Street, the former Otis Elevator Company building (NYCL-eligible, S/NR-eligible) at 246-260 Eleventh Avenue, the S/NR-eligible garage at 537-547 West 26th Street, the former Standard Oil office building (S/NR-eligible) at 551-555 West 25th Street, and the Lincoln Tunnel entrance plaza (S/NR-eligible); and

WHEREAS, the LPC and OPRHP have determined that the proposed alignment for the Number 7 Subway Extension is not sensitive for archaeological resources; and

WHEREAS, a Historical Resource Management Protection Plan is being developed by NYCT for the Number 7 Subway Extension that will be submitted to the OPRHP for review and that will include measures to protect architectural resources prior to and during the Project's construction; and

WHEREAS, the northward expansion of the Jacob K. Javits Convention Center as part of the Proposed Action by the New York Convention Center Development Corporation ("NYCCDC"), a subsidiary of the New York State Urban Development Corporation d/b/a the Empire State Development Corporation ("ESDC"), could require that MTA's Quill Bus Depot be displaced from its current site between West 40th and West 41st Streets, Eleventh and Twelfth Avenues and relocated to the John D. Caemmerer West Side Yard (the "Caemmerer Yard"), a commuter rail storage yard on the north side of West 30th Street between Tenth and Twelfth Avenues that is operated by MTA's subsidiary, the Long Island Rail Road Company ("LIRR") and owned by MTA and MTA's affiliate, Triborough Bridge and Tunnel Authority ("TBTA"); and

WHEREAS, the High Line is an unused freight railroad viaduct that is owned and managed by the Consolidated Rail Corporation ("Conrail") and CSX Corporation ("CSX"), is partially located on the Caemmerer Yard pursuant to easement agreements with MTA's predecessors

(with respect to that part of the High Line running over and through the Metal Purchasing Building at West 30th Street between Tenth and Eleventh Avenues) and with TBTA (with respect to all other portions of the Caemmerer Yard), and runs along the north side of West 30th Street between Tenth and Twelfth Avenues, then loops northward and runs along the east side of Twelfth Avenue between West 30th and West 33rd Streets; and

WHEREAS, the OPRHP has determined that the full length of the High Line between West 34th Street and Gansevoort Street meets National Register eligibility Criterion A as a significant transportation structure from the 20th-century industrial development of the City; and

WHEREAS, construction of a proposed Multi-Use Facility as part of the Proposed Action by NYCCDC on and over that part of the Caemmerer Yard between West 30th and West 33rd Streets and Eleventh and Twelfth Avenues, construction of a deck to accommodate development on the eastern portion of Caemmerer Yard between Tenth and Eleventh Avenues, and relocation of the Quill Bus Depot to an area of the Caemmerer Yard beneath the deck along the north side of West 30th Street between Tenth and Twelfth Avenues, would require removing all or portions of the High Line that ran east-west on West 30th Street and then north-south along Twelfth Avenue between West 30th and West 33rd Streets, and it has been determined that such removal would be an adverse impact to a historic resource; and

WHEREAS, ESDC, as a state entity separate from MTA and MTA's subsidiaries and affiliates, will be party to a separate Letter of Resolution with the OPRHP regarding mitigation measures associated with removing portions of the High Line for purposes of constructing the Multi-Use Facility; and

WHEREAS, it is anticipated that the City of New York would take ownership of the section of the High Line on West 30th Street between Tenth and Eleventh Avenues when, and if, that section is to be removed and would therefore be responsible for implementing certain stipulations below pertaining to the High Line, although MTA will be responsible for insuring that such stipulations are implemented by the City or other party; and

WHEREAS, the City of New York has acknowledged such responsibility by its execution of this Letter of Resolution.

NOW, THEREFORE, in accordance with Section 14.09 of the New York State Historic Preservation Act, and provided that final agreements are reached among the necessary parties in order to finance, construct, and operate the Project, the OPRHP and MTA, NYCT, and CCC agree that the Project may proceed subject to the stipulations below.

STIPULATIONS

ARCHITECTURAL RESOURCES

1. The extension of the proposed subway would necessitate modifying the current terminus of the Number 7 Subway at the S/NR-eligible Times Square Station. Although design and engineering for the Project are not finalized, all work to extend the subway under current construction plans would begin at the end of the tail tracks approximately 250 feet from the Times Square Station, beyond the distance where adverse impacts to the station could occur. NYCT will continue to consult with the OPRHP as the design progresses in an effort to avoid—to the extent practicable—adverse impacts to the significant features of the Times Square Station, and design plans shall be submitted to the OPRHP for review and comment. The OPRHP shall have 30 calendar days in which to provide comments. Should the OPRHP fail to respond within the 30 calendar day period, the plans shall be deemed approved. If potential

Number 7 Subway Extension—Hudson Yards Rezoning and Development Program

adverse impacts are identified during design that may not be avoidable, appropriate mitigation would be developed and implemented, if required by the OPRHP.

2. To avoid project-related construction damage to architectural resources, NYCT, in consultation with the OPRHP and/or LPC and all other appropriate City agencies, will develop Construction Environmental Protection Plans ("CEPPs") for architectural resources. A Historical Resource Management Protection Plan currently being developed by NYCT will provide a list of procedures that will be included in each CEPP that will be developed prior to project construction. The CEPPs will provide protocols and stipulations for protecting architectural resources adjacent to construction activities during demolition, excavation, and construction phases of the project. NYCT shall ensure that any architectural resource that could be adversely impacted by project construction will be included in a CEPP, and NYCT shall implement such plans as appropriate.

THE HIGH LINE

~~3. If the section of the High Line structure over the Caemmerer Yard between Tenth and Eleventh~~
Avenues is removed in connection with the construction of the deck over the eastern portion of Caemmerer Yard, the relocation of the Quill Bus Depot, or any other development under the Proposed Action, it will be documented, prior to its removal, in accordance with Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) Level 2 standards. In the event that no existing drawings are available, there will be no requirement for measured drawings to be prepared. All photographs will be keyed to a sketch site plan. A recognized professional credentialed for preparing such reports will conduct this documentation. The HABS/HAER report will be reviewed for its completeness and acceptance prior to removal. Copies of the documentation will be provided to the New-York Historical Society, the OPRHP, the New York State Archives (sent to the OPRHP for forwarding to the State Archives), Friends of the High Line, and the Museum of the City of New York. If final agreement is reached to construct the Multi-Use Facility, ESDC's Letter of Resolution with the OPRHP provides that the foregoing HABS/HAER report and associated activities will be undertaken by the developer of the Multi-Use Facility, Jets Development LLC, for both the Tenth to Eleventh Avenue segment and the Eleventh to Twelfth Avenue segment of the High Line. ESDC's Letter of Resolution also stipulates that, through a consultation process led by ESDC, an interpretive exhibit on the High Line will be developed using historic photographs and text; design plans shall be submitted to the OPRHP for design review. The OPRHP shall respond in 30 calendar days, or earlier, of the submission, and should OPRHP fail to comment within the 30 calendar day period, the submitted plans shall be deemed approved. Such exhibit shall be installed in an appropriate location in the vicinity of the portions of the High Line to be removed. Otherwise, MTA and NYCT, in consultation with the OPRHP, will be responsible for insuring that such HABS/HAER report and associated activities for the Tenth to Eleventh Avenue segment of the High Line is undertaken prior to removal of the High Line at this location and that the interpretive exhibit is developed, either directly by MTA and NYCT or by agreement with the City of New York, NYCCDC or ESDC, and/or the developer of this site.

4. Furthermore, if the section of the High Line structure between Tenth and Eleventh Avenues is removed in connection with the construction of the deck over the eastern portion of Caemmerer Yard, the relocation of the Quill Bus Depot, or any other development under the Proposed Action, selected features of the High Line that can be salvaged will be identified, in consultation with the OPRHP. Best efforts will be made to find an appropriate repository for salvageable features. MTA and NYCT, in consultation with the OPRHP, will be responsible for insuring that

Letter of Resolution

such efforts are undertaken prior to removal of the High Line at this location, either directly by MTA and NYCT or by agreement with the City of New York, NYCCDC or ESDC, and/or the developer of this site. The objective is to provide a place of safe keeping in the event that salvaged features can be reused in a future High Line project. As currently contemplated, a pedestrian entrance to the Multi-Use Facility would be built along West 30th Street at the location formerly occupied by the section of the High Line to be removed. This pedestrian access way could connect to the High Line south of West 30th Street in the event that the High Line is improved as publicly accessible open space by the City.

ARCHAEOLOGICAL RESOURCES

5. In the event of any unanticipated discoveries during construction of the Number 7 Subway Extension, all activities will be suspended in the area of discovery. NYCT will contact the OPRHP and/or LPC no more than 48 hours after the discovery. NYCT and the OPRHP and/or LPC will consult to agree upon any appropriate treatment of the discovery prior to the resumption of construction activities in the area of discovery.

In compliance with and satisfaction of the requirements of Section 14.09 of the State Historic Preservation Act, execution of this Letter of Resolution by MTA, NYCT, CCC, the City of New York, and the OPRHP and implementation of its terms evidences that the parties have taken into account the Project's impact on historic resources.

METROPOLITAN TRANSPORTATION AUTHORITY on behalf of

NEW YORK CITY TRANSIT and MTA CAPITAL CONSTRUCTION COMPANY

By: *Mysore Nagaraja* Date: 10-28-04

Mysore Nagaraja

President, MTA Capital Construction Company

THE CITY OF NEW YORK *

By: _____ Date: _____

Name

Title

THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

By: *Ruth L. Pierpont* Date: 10/28/04

Name *Ruth L. Pierpont*

Title *Director, Field Services Bureau*

* See following page for signature of Daniel Doctoroff, New York City Deputy Mayor.