

THIS PARKING AGREEMENT made this 12th day of July 2022 by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601(hereinafter, the "County")

and

METROPOLITAN TRANSPORTATION AUTHORITY, a public benefit corporation of the State of New York with its principal office located at 2 Broadway, New York, New York 10004, acting for itself and by and on behalf of the Metro-North Commuter Railroad Corporation ("Metro-North"), a public benefit corporation of the State of New York, with its principal office located at 2 Broadway, New York, New York, 10004 (hereinafter, collectively referred to as the "MTA")

WITNESSETH:

WHEREAS, the County desires to make certain facilities available for the accommodation of the public; and

WHEREAS, the MTA desires access to its facilities through Westchester County parkland on the Bronx River Reservation adjacent to the North White Plains Railroad Station; and

WHEREAS, the MTA desires to allow its facilities to be available for commuter parking at the North White Plains Railroad Station in addition to the parking lot owned by the County on the Bronx River Reservation; and

WHEREAS, the MTA desires to continue to allow the County to administer the commuter parking lot on MTA property including collecting fees and providing maintenance in addition to County property; and

NOW, THEREFORE, the parties hereto in consideration of the terms and conditions herein contained do agree as follows:

1. Grant of License: The County's parking lot is the area encapsulated in Green on Exhibit "A" attached hereto and made a part hereof. The "Metro-North Parking Lot" is the area encapsulated in Red on said Exhibit "A" which comprises an aggregate of 175,000 square feet, more or less, located south of Fisher Lane and on the westerly side of the MTA's Harlem Line right-of-way, in the City of White Plains, County of Westchester, and State of New York .

(a) The County hereby permits the MTA and its employees, contractors and agents to cross the asphalt area of the County's parking lot on foot or in vehicles, and to cross the County's property to and from Fisher Lane. The MTA shall permit the County to utilize the Metro-North Parking Lot, solely and exclusively for commuter parking facilities, in conjunction with the County's operation of the County's parking lot. Notwithstanding the foregoing, the MTA reserves unto itself the right to utilize twenty five (25) parking spaces for Metro-North employee parking at the southern end of the Metro-North Parking Lot, as more particularly depicted and encapsulated in yellow on Exhibit "A" hereto (the "MNR Employee Spaces") (i.e., such twenty five (25) spaces shall not be included in the commuter parking spaces set forth herein, unless and until the MTA notifies the County that the MTA no longer requires such spaces). The County shall continue to permit the MTA to use twenty five (25) spaces in the County's parking lot, at no cost to the MTA, for Metro-North employee parking while construction and staging for construction is taking place in the Metro-North Parking Lot, until the first day after the date hereof that the County's parking lot reaches 90% commuter occupancy, at which time the MTA shall again use the MNR Employee Spaces as reserved above.

(b) The County shall not open access to the Metro-North Parking Lot for commuters until commuter occupancy of the County's parking lot has reached 90% on any given day, or upon mutual agreement of the parties. To gauge occupancy of the County's parking lot, upon the commencement of this Parking Agreement the County will provide monthly space utilization counts of the County's parking lot (a "Utilization Report") to MTA or the MTA's tenant management vendor at an email address to be provided subsequent to the execution of this Parking Agreement or to such other address as the MTA may otherwise designate from time to

time. Notwithstanding the requirements of Section 18, the email address referenced in the immediately preceding sentence or any subsequent address provided by the MTA for same may be provided to the applicable County representative via email and shall be deemed given on the day sent. The County will provide each monthly Utilization Report by no later than the fifteenth day of the month following the month such Utilization Report accounts for. The MTA reserves the right to perform an audit on the monthly Utilization Reports provided by the County up to and not to exceed one (1) time annually. The County shall cooperate in good faith to produce any and all documentation required in the MTA's performance of an audit or make available said documentation for review by the MTA at a location designated by the County within the County of Westchester. Upon the opening of the Metro-North Parking Lot for commuters, the County will open any and all barriers, gates and/or remove any relevant signage previously installed on the County's property and/or the Metro-North Parking Lot that may prohibit access to the Metro-North Parking Lot by commuters. Furthermore, the MTA reserves unto itself the right for its contractors to utilize a portion of the Metro-North Parking Lot for construction staging in conjunction with the North White Plains Railroad Station platform rehabilitation project.

2. **Term:** The term of this Parking Agreement shall be for five (5) years commencing July 1, 2022 and terminating on June 30, 2027 (hereinafter the "Term") unless terminated sooner as hereinafter provided.

3. **License Fee:** To compensate the MTA for the use of the Metro-North Parking Lot, upon the County's opening of the Metro-North Parking Lot to commuters, the County shall pay to the MTA a fee based upon forty percent (40%) of the gross revenue obtained from the Metro-North Parking Lot only, which will be derived from the daily rate for each commuter vehicle in the Metro-North Parking Lot based on a daily physical count.

The fee paid by the County shall be payable in four (4) payments, to be received by the MTA on or before the following dates for the three-month period ending in the prior month before the occurrence of such dates: August 15, November 15, February 15 and May 15. With each payment pursuant to the immediately preceding sentence, the County shall provide a statement which includes the number of spaces used in the Metro-North Parking Lot for the covered period

and the calculations for all fee payments during such period (a "Statement Report"). All Statement Reports provided by the County pursuant to this paragraph shall be transmitted to MTAaccounting@Greyco.com or to such other address as the MTA may otherwise designate from time to time. Notwithstanding the requirements of Section 18, the MTA may designate such other address referenced in the immediately preceding sentence via email to the applicable County representative and the same shall be deemed given on the day sent. The MTA reserves the right to perform an audit on the Statement Reports up to and not to exceed one (1) time annually. The County shall cooperate in good faith to produce any and all documentation required in the MTA's performance of an audit or make available said documentation for review by the MTA at a location designated by the County within the County of Westchester.

(a) **VENDOR DIRECT PAYMENT:** All payments made by the County to the MTA will be made by electronic funds transfer ("EFT") pursuant to the County's Vendor Direct program and in accordance with the MTA's transaction routing instructions for ACH and wire transfers attached hereto as Exhibit "D". Vendors doing business with the County, who are not already enrolled in the Vendor Direct Program, will be required to fill out and submit an EFT Authorization Form prior to receiving an award or purchase order. The EFT Authorization Form, Instructions and related information are attached hereto as Exhibit "E". Payments will be automatically credited to the MTA's designated bank account at the MTA's designated financial institution. Payments are anticipated to be deposited two (2) business days after the voucher/invoice is processed for payment. Saturdays, Sundays, and legal holidays are not considered business days. Under the Vendor Direct program, the MTA will receive an e-mail notification from the County at an email address provided by the MTA or the MTA's tenant management vendor subsequent to the execution of this Parking Agreement or as the MTA may otherwise designate from time to time via email, notwithstanding the requirements of Section 18, two (2) days prior to the day the payment will be credited to the MTA's designated account. The County's e-mail notification to the MTA email address described in the immediately preceding sentence will come in the form of a remittance advice with the same information that currently appears on the County's check stubs and will contain the date that the funds will be credited to the MTA's account. All information received will be treated and handled as strictly confidential. To the extent not already provided, the completed Authorization Form must be

returned by the MTA or the MTA's tenant management vendor to the Department of Parks, Recreation and Conservation prior to payment issuance by the County. In rare cases, a hardship waiver may be granted. For a Hardship Waiver Request Form, please contact the County's Finance Department.

Notwithstanding the above, should the MTA not be able to accept payment as set forth above, the County will provide payment via check or other means mutually acceptable to the MTA and the County as follows: Compensation shall be paid in lawful money of the United States by check payable to "Metro-North Commuter Railroad Company". Said checks shall be sent to MTA/Metro-North, P.O. Box 2318, Grand Central Station, New York, New York 10163, or to such other address as the MTA may designate from time to time.

4. Parking Fees: The County shall set maximum daily fees and maximum permit fees for parking (collectively the "Parking Fees") at the Metro-North Parking Lot. The parties hereto acknowledge that as of May 1, 2022, the maximum Parking Fees at the Metro-North Parking Lot and the County's parking lot are as follows:

Daily Fee:	\$ 8.00
Monthly Permits:	\$ 105.00
Quarterly Permits:	\$ 315.00
Semi-Annual Permits:	\$ 630.00
Annual Permits:	\$ 1,205.00

All Parking Fees include State and local sales tax, if any. With regard to the Parking Fees at the Metro-North Parking Lot, the County agrees not to exceed the Parking Fees charged at the MTA parking garage located on the east side of the North White Plains Railroad Station by more than ten percent (10%) at any time during the term of this Parking Agreement. To establish a cap on the County's monthly permit fee, the calculation will be premised upon one third (1/3) of the quarterly permit fee set at the MTA parking garage.

5. Maintenance and Repair: The County, at its sole expense, shall continue to maintain the County's parking lot and the Metro-North Parking Lot as set forth in the attached Exhibit "B", including snow plowing and snow removal of the south end sidewalk/underpass. The

County shall also continue to maintain and repair the curbs and sidewalks located in the Metro-North Parking Lot. The County's maintenance obligation on the Metro-North Parking Lot shall continue even when the Metro-North Parking Lot is closed to commuter parking. The County shall not be held responsible for any damage caused by the negligence of MTA employees or MTA or Metro North Railroad contractors.

6. Alterations: The MTA shall not make any alterations, additions or improvements to the Metro-North Parking Lot that would materially impact the County's operations in the Metro-North Parking Lot without the prior written approval of the County's Commissioner of the Department of Parks, Recreation and Conservation (the "Commissioner"), which approval shall not be unreasonably withheld, conditioned or delayed. Any alterations, additions and improvements undertaken by the MTA on the Metro-North Parking Lot shall be made at the MTA's sole cost and expense and shall become the property of the MTA immediately upon their annexation to the Metro-North Parking Lot. The County shall not make any alterations, additions or improvements to the Metro-North Parking Lot without the prior written approval of the MTA, which approval shall not be unreasonably withheld, conditioned or delayed. Any alterations, additions and improvements undertaken by the County on the Metro-North Parking Lot shall be made at the County's sole cost and expense and shall become the property of the MTA immediately upon their annexation to the Metro-North Parking Lot.

7. Inspection: The Commissioner or the Commissioner's authorized representative shall be entitled to enter the Metro-North Parking Lot at any time for the purpose of inspecting, observing and monitoring any aspect of the MTA's operations. The MTA shall also permit inspection, observation and monitoring of same by any federal or state officer having jurisdiction. The MTA, at its sole cost and expense, shall promptly remedy any and all violations issued as a result of such inspection.

8. Inflammables: Neither the County nor the MTA shall use or store any explosives, toxic materials or flammables on or about the Metro-North Parking Lot.

9. Condemnation: In the event that the Metro-North Parking Lot, or such a substantial part thereof so as to render impossible the operation of this Parking Agreement, are taken by eminent domain, this Parking Agreement shall terminate on the date upon which title vests in the condemnor and neither party shall have any further liability to the other hereunder or on account of such termination.

10. Fire Damage, Destruction: In the event that, due to damage by fire or other casualty, the County notifies the MTA that the County elects to discontinue the operation of this Parking Agreement, this Parking Agreement shall terminate effective as of the last day of the month in which such notice is given and the County shall have no liability to the MTA hereunder on account thereof; provided, however, that should such damage result from any act or omission of the MTA, then this Parking Agreement shall continue in full force and effect and the MTA, at its sole cost and expense, shall repair the damage, and further provided that should such damage result from any act or omission of the County, then this Parking Agreement shall continue in full force and effect and the County, at its sole cost and expense, shall repair the damage. Upon the failure of the MTA or the County to make such repairs as such party is required to make hereunder, the other party hereto may repair such damage at the responsible party's commercially reasonable cost and expense.

11. Termination:

(a) Either party hereto, upon thirty (30) days' written notice to the other party hereto, may terminate this Parking Agreement when such party deems it to be in its best interest, without liability, and in such event, the MTA shall be compensated for the money due to the MTA covering all operations under this Parking Agreement, prorated to the effective date of such termination.

(b) In the event that either party hereto defaults in the performance of any term, condition or covenant herein contained on its part to be performed, the other party hereto, at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this Parking Agreement upon ten (10) days' written notice to the defaulting party; provided, however, that the defaulting party may defeat such

notice by curing the default complained of within such notice period, or, if any such default is not curable within such notice period, by promptly commencing to cure the default and diligently pursuing all necessary and appropriate action to effect such cure. Upon a second default by the defaulting party of the same term or condition hereof, the other party hereto, at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this Parking Agreement upon written notice to the defaulting party, such notice to be effective on the third day following delivery thereof.

12. Compliance with Laws: The MTA shall comply with all applicable statutes, ordinances, rules, orders, regulations, codes and requirements of the Federal and State governments, including, without limitation, those applicable to the prevention and abatement of nuisances and other grievances in or upon the Metro-North Parking Lot, and shall also comply with all sanitary rules and regulations of the State Health Department. The County shall comply with all statutes, ordinances, rules, orders, regulations, codes and requirements of the Federal, State, County and municipal governments and of the Westchester County Department of Parks, Recreation and Conservation, including, without limitation, those applicable to the prevention and abatement of nuisances and other grievances in or upon the Metro-North Parking Lot, and shall also comply with all sanitary rules and regulations of the State and County Health Departments.

13. No Sales: The MTA shall not sell, offer for sale, nor permit the sale of any food, commodity, ware or merchandise of any kind, nature or description on the Metro-North Parking Lot without the prior written consent of the Commissioner, which shall not be unreasonably withheld, conditioned or delayed. However, nothing in this Parking Agreement shall prevent the County from selling, offer to sell or permit the sale of any food, commodity, ware or merchandise on any County-owned land.

14. Advertising: Neither party hereto shall erect or allow the erection of any advertising signs in or on the Metro-North Parking Lot without obtaining the prior written approval of the other party hereto, which shall not be unreasonably withheld, conditioned or delayed.

15. Security: The County shall be responsible for the security of the Metro-North Parking Lot and shall, continuously throughout the Term, police the area of the Metro-North Parking Lot.

16. Hazardous Substances:

(a) The County shall not cause or permit any Hazardous Substance (as hereinafter defined) to be used, stored, generated, or disposed of on or in the Metro-North Parking Lot by the County, the County's agents, employees, contractors or invitees, without first obtaining the MTA's written consent, which may be withheld in the MTA's sole and absolute discretion. If Hazardous Substances are used, stored, generated, or disposed of on or in the Metro-North Parking Lot, and this results in contamination, the County shall indemnify, defend (with staff of the County Attorney's Office or counsel retained by the County, provided however such non-County Attorney's Office lawyer or law firm does not have a conflict of interest with the MTA), and hold harmless the MTA and Metro-North from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the Metro-North Parking Lot, the North White Plains Railroad Station or the building(s) of which the Metro-North Parking Lot is a part, damages because of adverse impact on marketing of the space, and any and all sums paid for settlement of claims and for attorneys', consultants', and experts' fees) arising during or after the Term and arising as a result of such contamination by the County. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal or restoration required or requested by a federal, state or local agency or political subdivision or by any organized labor group, including, without limitation, any such costs associated with the contamination of adjacent property or ground water as a result of such contamination. In addition, if the County causes or permits the presence of any Hazardous Substance on the Metro-North Parking Lot and this results in contamination, the County shall promptly, at its sole expense, take any and all necessary actions to return the Metro-North Parking Lot to the condition existing before the presence of any such Hazardous Substances on the Metro-North Parking Lot, provided, however, that the County shall first obtain the MTA's approval for any such remedial action.

(b) As used herein, "Hazardous Substance" means (i) any substance which is

toxic, ignitable, reactive, or corrosive and which is regulated by any applicable local government, the State of New York, or the United States government, (ii) any "hazardous waste," "extremely hazardous waste," "hazardous substance," "toxic substance," "hazardous material," "pollutant" or "contaminant," as defined in state, federal or applicable governmental law or (iii) any substance whose presence could be detrimental to the Metro-North Parking Lot or hazardous to health or the environment, including but not limited to radioactive materials, including radon, natural gas, natural gas liquids (all of the foregoing gas called "Natural Gas Products"), liquefied natural gas, synthetic gas or mixtures of Natural Gas Products and synthetic gas, lead, asbestos containing materials, polychlorinated biphenyls ("PCBs"), and petroleum products.

(c) The MTA shall not cause or permit any Hazardous Substance (as hereinafter defined) to be used, stored, generated, or disposed of on or in the County Lot by the MTA, the MTA's agents, employees, contractors or invitees, without first obtaining the County's written consent, which may be withheld in the County's sole and absolute discretion. If Hazardous Substances are used, stored, generated, or disposed of on or in the County Lot, and this results in contamination, the MTA shall indemnify, defend (with staff of the MTA's Office of General Counsel or counsel retained by the MTA, provided however such non-MTA Office lawyer or law firm does not have a conflict of interest with the County), and hold harmless the County from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the County Lot, the Bronx River Reservation or the building(s) of which the County Lot is a part, damages because of adverse impact on marketing of the space, and any and all sums paid for settlement of claims and for attorneys', consultants', and experts' fees) arising during or after the Term and arising as a result of such contamination by the MTA. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal or restoration required or requested by a federal, state or local agency or political subdivision or by any organized labor group, including, without limitation, any such costs associated with the contamination of adjacent property or ground water as a result of such contamination. In addition, if the MTA causes or permits the presence of any Hazardous Substance on the County Parking Lot and this results in contamination, the MTA shall promptly, at its sole expense, take any and all necessary actions to return the County Lot to the condition existing before the

presence of any such Hazardous Substances on the County Lot, provided, however, that the MTA shall first obtain the County's approval for any such remedial action.

17. Insurance and Indemnification: The MTA agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Exhibit "C", entitled "Standard Insurance Provisions", which is attached hereto and made a part hereof. In addition to, and not in limitation of the insurance provisions contained in Exhibit "C", the MTA agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, the MTA shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss payable to a third-party arising directly or indirectly out of the acts of the MTA (or third parties under the direction or control of the MTA) on the County's parking lot. In no event shall either party hereto be liable to the other party hereto for any indirect, consequential, special or punitive damages.

(b) Notwithstanding anything in this Parking Agreement to the contrary, the MTA may elect not to carry insurance and to self-insure (or maintain any self-insured retention and/or deductible amount) as to the insurance coverage required above pursuant to any plan of self-insurance maintained by the MTA. If the MTA elects to act as a self-insurer in lieu of procuring coverage from an insurance company, the MTA agrees that it will provide the same insurance coverage and protection for the benefit of the County as an additional insured, in the same amount and under the same terms set forth above as it would provide to the County if the MTA were to purchase commercial insurance from a third-party insurer meeting the insurance coverage requirements set forth in Exhibit "C" hereto and name the County as an additional insured thereunder. The MTA further agrees that the limits of insurance set forth herein and any right to self-insure, or self-insured retention and/or deductible amounts shall not be construed as limiting or expanding the indemnification, hold harmless and rights to defense provisions of this Parking Agreement. The MTA's option to self-insure does not extend to any contractor the MTA may hire for the work to be performed under this Parking Agreement. Contractors hired by the MTA must adhere to all insurance terms and conditions as set forth on Exhibit "C" hereto.

(c) In accordance with the County's maintenance of the area of the Metro-North Parking Lot, to the fullest extent permitted by law, unless resulting from the negligence of the Indemnified Parties or Indemnitees (as hereinafter defined), the County shall indemnify, defend, and hold harmless Metro-North, MTA, MTA's subsidiaries and affiliates, Metro-North Railroad ("MNRR"), MTA Grand Central Madison Concourse Operating Company (GCMCOC), State of Connecticut and Connecticut Department of Transportation ("CDOT") National Railroad Passenger Corporation ("AMTRAK"), CSX Transportation, Inc. & New York Central Lines, LLC, and Providence & Worcester Railroad Company ("P&W"), LAZ Parking New York/New Jersey, LLC. (where applicable) and the respective affiliates and subsidiaries existing currently or in the future of and successors to each Indemnified Parties listed herein. (each an "Indemnatee" and collectively, the "Indemnitees") from and against, any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including without limitation, reasonable attorney's fees, disbursements, and other charges (whether incurred in connection with any action or proceeding between the County and any Indemnatee(s), or in connection with any action or proceeding between a third party and any Indemnatee(s), or otherwise), that may be imposed upon or incurred by or asserted against any of the Indemnitees by reason of (i) this Parking Agreement, (ii) construction, repair, replacement, restoration or improvement work done by or on behalf of the County; (iii) the use, possession or operation of the Metro-North Parking Lot by the County or any of its principals, agents, employees, contractors, licensees or invitees (in the case of each of the foregoing, however characterized) (each a "County Party" and collectively the "County Parties"), (iv) any act or omission by the County or any County Party, (v) any accident, injury (including death) or damage to any person or party occurring in, on, or about the Metro-North Parking Lot, the North White Plains Railroad Station, or any party thereof or any property adjacent thereto or (vi) any default hereunder by the County. In addition, the County shall indemnify the MTA and the Indemnitees from and against, any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including without limitation, reasonable attorney's fees, disbursements, and other charges arising out of or in connection with the following:

(i) **Construction Work.** The County's Work or any other construction, repair, replacement, restoration or improvement work done by or on behalf of the County in, on or about the Metro-North Parking Lot or any part thereof;

(ii) **Use.** The use, occupation, alteration, condition, operation, maintenance or management of all or any portion of the Metro-North Parking Lot during the Term, or the affected portion thereof, by the County, including without limitation, any liability with respect to the maintenance of streets or sidewalks adjoining the Metro-North Parking Lot and any violations imposed by any governmental authorities in respect of any of the foregoing;

(iii) **Acts or Failure to Act by the County.** Any act performed by, or any failure to perform any act required to be performed by, the County or any of its officers, shareholders, directors, agents, contractors, servants, employees, licensees or invitees in connection with this Parking Agreement or the Metro-North Parking Lot;

(iv) **Accidents, Injury to Person or Property.** Any accident, injury, (including death at any time resulting therefrom) or damage to any person, including, without limitation, employees of the MTA, or any other Indemnitees, or property occurring in, on, or about the Metro-North Parking Lot or any part thereof, or in, on or about any street, alley, sidewalk, curb, vault, passageway or space comprising a part thereof or adjacent thereto (for which the County, the MTA or a fee owner or occupant of the Metro-North Parking Lot has or would have responsibility pursuant to this Parking Agreement or under applicable law, except for contamination due to Hazardous Substances which indemnity is covered in Article 16 hereunder; or

(v) **The County's Obligations.** The County's failure, within any applicable grace period, to perform or comply with any of the covenants, agreements, terms or conditions contained in this Parking Agreement on the County's part to be kept, observed, performed or complied with within any applicable grace period shall constitute a default hereunder by the County.

(d) **The MTA's Obligation to Indemnify for the Metro-North Parking Lot.**

Notwithstanding Section 17(c) and Article 16 hereunder, in the event a damage, loss, injury or death occurs due to (i) the MTA exercising its reservations under this Parking Agreement, or (ii) an occurrence or condition resulting by or from the Indemnitees' or their contractor's negligence as set forth in General Obligations Law Section 5-321 on the Metro-North Parking Lot, or (iii) an occurrence or condition on the Metro-North Parking Lot resulting by or from the Indemnitees' or their contractor's willful misconduct, the MTA shall indemnify and defend the County, its officers, employees, agents, servants and directors from and against, any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including without limitation, reasonable attorney's fees, disbursements, and other charges (in connection with any action or proceeding between a third party and any Indemnatee(s), or otherwise), that may be imposed upon or incurred by or asserted against the County in connection with the Metro-North Parking Lot.

(e) **No Liability on the MTA's Part.** The Indemnitees shall not be liable for (a) any damage to property of the County or of others entrusted to the County or its employees or for the loss of or damage to any property of the County by theft; (b) any injury or damage to persons or property resulting from fire, explosion, falling plaster or from the malfunctioning of steam, gas, electricity, air-conditioning systems, equipment or fixtures or from water, rain or snow or leaks from the Metro-North Parking Lot or from the pipes, appliances or plumbing works included therein or from the roof, street or sub-surface or from any other place or by dampness or by any other cause of whatever nature, unless caused by or due to the negligence or intentionally tortious acts of any of the Indemnitees; nor shall any Indemnatee be liable for any such damage caused by other licensees or persons on the Metro-North Parking Lot; (c) any latent defect in the Metro-North Parking Lot; or (d) notwithstanding whether the injury or damage is caused by any act or failure to act of any Indemnatee, any injury or damage for which the County would have been reimbursed under policies of insurance required by the terms of this Parking Agreement to be maintained by the County (i) had the County not failed to procure or maintain such policies of insurance or (ii) had the County not failed to procure or maintain such policies of insurance with at least the limits herein specified; or (e) injury to or interruption of the County's business by reason of any of the foregoing events.

(f) In accordance with the County's maintenance of the Metro-North Parking Lot, the County shall provide on an annual basis to the MTA a letter of self-insurance wherein the County's obligation to defend and indemnify the Indemnitees as detailed in Section 17(c) of this Parking Agreement is recognized and assured.

(i) All letters of self-insurance and certificates of insurance shall be forwarded to the following address for review and approval by the MTA:

MTA Risk and Insurance Management Department Standards Enforcement
& Claims Unit
2 Broadway, 21st Floor
New York, New York 10004

(ii) In the event the County no longer self-insures, the County will obtain insurance coverage as required by the provisions of Section 17(g) below.

Construction for any other type of work provided by a contractor CANNOT BEGIN WITHOUT APPROVAL OF THE COUNTY'S INSURANCE BY MTA RISK AND INSURANCE MANAGEMENT.

(g) **Insurance Requirements.** In the event the County causes any of the County's work, alterations, improvements, modifications to be made to the Metro-North Parking Lot by a third-party contractor, the County will require that such contractor carry insurance in the amounts and types set forth below. The County shall provide to any and all contractors used at the Metro-North Parking Lot a copy of this Section 17(g) whether or not such contractors shall request a copy to assure knowledge of and compliance with the insurance provisions of this Parking Agreement.

(i) **Liability Insurance.** Commercial general liability insurance written on an occurrence basis against all liability with respect to the Metro-North Parking Lot and the operations related thereto, whether conducted on or off the Metro-North Parking Lot, in an amount not less than \$2,000,000 combined single limit per occurrence for bodily injury (including death) and damage to or destruction of property, designating the County as named insured and designating each of the Metropolitan Transportation Authority, Metro-North Commuter Railroad Company and Midtown TDR Ventures, LLC. (and its affiliates)

as additional insureds. Such insurance shall contain (i) a contractual liability endorsement specifically covering the County's obligation to indemnify the Indemnitees as required under Section 17(c) of this Parking Agreement; (ii) a sublimit for water damage or sprinkler leakage legal liability of not less than \$1,000,000; (iii) a products liability endorsement; (iv) a broad form personal injury endorsement covering claims arising out of false arrest, false imprisonment, malicious prosecution, libel, slander, wrongful eviction, discrimination or invasion of privacy, without exclusion of coverage for claims by employees, agents or contractors of an insured; (v) a broad form property damage endorsement; and (vi) no exclusions other than those included in the basic forms described herein unless approved by the MTA and (vii) any employer liability exclusion which may exclude in any way claims for bodily injury asserted by an employee of an additional insured shall be voided. If there is imposed under such insurance an annual aggregate, such annual aggregate shall be not less than twice the per occurrence limit. If the Metro-North Parking Lot is located within fifty (50) feet of railroad tracks any contractual liability exclusion to work being performed within fifty (50) feet of railroad tracks shall be voided.

(ii) **Construction Insurance.** Builder's risk insurance covering all risk of loss to the work performed by or for the County incorporated in the North White Plains Railroad Station and materials or equipment in or about the Metro-North Parking Lot used or to be used in connection therewith, such builder's risk insurance to be on a completed value (non-reporting) form in an amount sufficient to cover the full value of such work, including the interests of each of the Indemnitees, as those interests may appear. In the event that the County engages a contractor for the performance of the County's work or any subsequent construction work and is named as an insured on an "Owner's-Contractor's Protective" policy procured for it by such contractor, the Indemnitees shall also be named as insured or additional insureds (as appropriate) thereon. In the event that any work is to be subcontracted, independent contractor's coverage shall be provided. In the event that any work is to be performed on or adjacent to operating railroad tracks, the MTA shall have the right to require the County and its contractor to procure Railroad Protective Liability Insurance instead of an "Owner's-Contractor's Protective" policy.

(iii) **Property Insurance.** Property insurance protecting the County and

each of the Indemnitees (as their respective interests may appear) against all risk of loss to the County's property on the Metro-North Parking Lot and fixtures installed by the County therein, in the amount of the full replacement value of such property and fixtures, including any increase in value from increased costs.

(iv) **Workers' Compensation Insurance.** Workers' Compensation Insurance, as required by law, and employer's liability insurance with limits of not less than \$1,000,000, such policies to name each of the Indemnitees as an additional insured.

(h) **General Requirements Applicable to Insurance Policies.**

(i) **Insurance Companies.** All of the insurance required by Section 17(g) shall be with companies licensed or authorized to do business in the State of New York in a financial size category of not less than IV and with general policy holder's ratings of not less than A, as rated in the most currently available Best's insurance reports, or, any successor rating company. If the County cannot obtain the insurance required by Section 17(g) from companies licensed or authorized to do business in the State of New York, after exercising reasonable efforts to do so, the County may use non-admitted companies reasonably acceptable to the MTA.

(ii) **Required Forms.** All references to the types and forms of insurance referred to in Section 17(g) shall be detailed on the County's Certificate of Insurance. All such insurance shall contain only such deductibles as are reasonably acceptable to the MTA.

(iii) **Required Certificates.** Certificates of insurance or other documents or instruments reasonably satisfactory to the MTA evidencing the issuance of all insurance required by Section 17(g), describing the coverage and guaranteeing (i) at least ten (10) days' prior notice to the MTA of cancellation or non-renewal for non-payment of premium and (ii) at least sixty (60) days' prior notice to the MTA of cancellation or non-renewal for any other reason, shall be delivered to the MTA upon issuance of such insurance or, in the case of new or renewal policies replacing any policies expiring during the Term, not later than (x) ten (10) days before the expiration dates of any expiring policy (if no notice of

cancellation or non-renewal with respect to such expiring policy has been sent by the insurance company issuing such policy) or (y) twenty (20) days before the expiration date of any expiring policy (if a notice of cancellation or non-renewal with respect to such expiring policy has been sent by the insurance company issuing such policy). The certificates of insurance or other documents or instruments shall be issued by the insurance company or an authorized agent thereof and signed by an officer having the authority to issue the certificate or other documents or instruments. The insurance company or agent issuing the insurance shall also deliver to the MTA, together with the certificates, proof reasonably satisfactory to the MTA that the premiums for at least the first year of the term of each policy (or installment payments then required to have been paid on account of such premiums) have been paid. The MTA may require the submission of the entire original policy or, as to insurance with respect to which the MTA or another Indemnitee is an additional named insured, certified copies of the entire original policy. In the event of any failure by the County to maintain the insurance required hereunder, the MTA may (but shall be under no obligation to) procure the required insurance for the account of the County but without any liability to the County therefor, and any insurance premiums or other sums incurred by the MTA in procuring the required insurance shall constitute an additional fee hereunder and shall be payable by the County to the MTA upon demand. Failure to make such payment of said additional fee shall constitute a default hereunder by the County in accordance with the terms hereof.

(iv) **Compliance with Policy Requirements.** The County shall not violate or permit to be violated any of the conditions, provisions or requirements of any insurance policy required by this Article, and the County shall perform, satisfy and comply with or cause to be performed, satisfied and complied with the conditions, provisions and requirements of the insurance policies.

(v) **Required Insurance Policy Clauses: Waiver of Subrogation.** Each policy of insurance required to be carried pursuant to the provisions of Section 17(g) shall contain (i) a provision that no act or omission of the County, the County's contractor, the MTA or Metro-North shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained (other than acts intended to cause the damage insured

against and except insofar as the loss is caused by an uninsurable risk), and (ii) if the insurer would otherwise have a right to subrogation, a written acknowledgment by the insurance company that its right to subrogation has been waived with respect to all of the named insureds and additional insureds named in such policy.

(vi) **Blanket and/or Master Policies.** The insurance required to be carried by the County pursuant to the provisions of this Article 17 may be effected by so-called "blanket", "wrap-up" and/or "master" policies issued to the County covering the Metro-North Parking Lot and other properties owned or licensed by the County, provided such policies (a) otherwise comply with the provisions of this Parking Agreement and (b) by endorsement, allocate to the Metro-North Parking Lot the specified coverage and limits of coverage herein required for all insureds required to be named as insureds hereunder.

(vii) **No Limit on the County's Liability.** The minimum amounts of insurance required under Section 17(g) shall not be construed to limit the extent of the County's liability under this Parking Agreement.

(viii) **The County's Insurance Primary Coverage.** The County shall not carry any separate or additional insurance concurrent in form or contributing in the event of any loss or damage with any insurance required to be maintained by the County under this Parking Agreement, and all policies of insurance procured by the County shall be written as primary policies not contributing with nor in excess of coverage that the MTA or any Indemnatee may carry.

18. Notices: All notices of any nature referred to in this Parking Agreement shall be in writing and either sent by registered or certified United States mail postage pre-paid, Return Receipt Requested, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail, postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

If to the County:

Commissioner, Department of Parks, Recreation and Conservation
450 Saw Mill River Road
Ardsey, New York 10502

with a copy to:

County Attorney
Michaelian Office Building
Room 600
148 Martine Avenue
White Plains, New York 10601

If to the MTA:

Metropolitan Transportation Authority
2 Broadway
4th Floor
New York, New York 10017
Attention: Chief Real Estate Transactions and Operations Officer

with copies to:

Metropolitan Transportation Authority
2 Broadway
20th Floor
New York, NY 10017
Attention: General Counsel

Metro-North Commuter Railroad Company
525 North Broadway
North White Plains, NY 10603
Attn: Assistant Director, Station Operations & Parking

19. Assignment: (a) The MTA shall not assign, sublet, subcontract or otherwise dispose of this Parking Agreement, or any right, duty or interest herein, without the prior written consent of the Commissioner, which shall not be unreasonably withheld, conditioned or delayed, nor shall this Parking Agreement be transferred by operation of law, it being the purpose and spirit of this instrument to grant the rights and privileges hereunder personally and solely to the MTA. No assignment, subcontracting, subletting or other such disposition of this Parking Agreement, either with or without such consent of the Commissioner, shall serve to relieve the MTA of its

obligations hereunder. Notwithstanding the foregoing, the Commissioner's consent shall not be required for an assignment or transfer of the MTA's rights hereunder to any entity that is an affiliate or subsidiary of the MTA or is under common control with the MTA.

(b) The County shall not assign, sublet, subcontract or otherwise dispose of this Parking Agreement, or any right, duty or interest herein, without the prior written consent of the MTA, which shall not be unreasonably withheld, conditioned or delayed, nor shall this Parking Agreement be transferred by operation of law, it being the purpose and spirit of this instrument to grant the rights and privileges hereunder personally and solely to the County. No assignment, subcontracting, subletting or other such disposition of this Parking Agreement, either with or without such consent of the MTA, shall serve to relieve the County of its obligations hereunder.

20. **Force Majeure:** No party hereto shall be liable for any default or delay in the performance of its obligations under this Parking Agreement (i) if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; a court order which substantially interferes with the ability of either party hereto to enjoy the benefits of this Parking Agreement; or any other cause beyond the reasonable control of such party hereto, (ii) provided the non-performing party hereto is without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party hereto through the use of alternate sources, work-around plans or other means.

In such event the non-performing party hereto shall be excused from further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party hereto continues to use diligent, reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any party hereto so delayed in its performance shall immediately notify the other party hereto by telephone (to be confirmed in writing within two (2) days of the inception of such delay) and describe at a reasonable level of detail the circumstances causing such delay.

21. **No Lease:** It is expressly understood and agreed that no building, structure, equipment or space is leased to the MTA by this Parking Agreement, and no greater privilege for the use and occupancy of the County's parking lot is granted by the County, except as expressly set forth herein. The MTA's privilege to use and occupy the County's parking lot shall continue only so long as the MTA shall comply with each and every term and condition of this Parking Agreement and the County does not elect to terminate this Parking Agreement earlier. It is also expressly understood and agreed that no building, structure, equipment or space is leased to the County by this Parking Agreement, and no greater privilege for the use and occupancy of the Metro-North Parking Lot is granted by the MTA, except as expressly set forth herein. The County's privilege to use and occupy the Metro-North Parking Lot shall continue only so long as the County shall comply with each and every term and condition of this Parking Agreement and the MTA does not elect to terminate this Parking Agreement earlier.

22. **Risk of Operation:** Intentionally Omitted.

23. **Non-Discrimination:** The MTA expressly agrees that neither it nor any MTA subconsultant, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Parking Agreement, as those terms may be defined in Federal or New York State Laws. The MTA acknowledges and understands that the County maintains a zero-tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, or others.

24. **Required Disclosure of Relationships to County:** Attached hereto and forming a part hereof as Exhibit "F" is a questionnaire entitled "Required Disclosure of Relationships to County". The MTA agrees to complete and sign said questionnaire as part of this Parking Agreement. In the event that any information provided in the completed questionnaire changes during the term of this Parking Agreement, the MTA agrees to notify the County in writing within ten (10) business days of such event.

25. **Remedies Cumulative:** The failure of either party hereto to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment for the future of such term or condition, but the same shall remain in full force and effect. Acceptance by either party hereto of payment of any fee due hereunder with knowledge of a breach of any term or condition hereof, shall not be deemed a waiver of any such breach and no waiver by such party hereto of any provision hereof shall be implied.

26. **Entire Agreement:** This Parking Agreement and its attachments constitute the entire agreement between the parties hereto with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties hereto.

27. **Choice of Law/Venue:** This Parking Agreement and any disputes hereunder shall be governed by the laws of the State of New York. Westchester County, New York shall be the venue for any legal disputes arising under this Parking Agreement.

28. **Approval:** This Parking Agreement shall not be enforceable until signed by both parties hereto and approved by the Office of the County Attorney and duly executed and delivered by the MTA.

IN WITNESS WHEREOF, the parties hereto have executed this Parking Agreement on the day and year first above written.

THE COUNTY OF WESTCHESTER

By: 

Kathleen M. O'Connor
Commissioner of Parks,
Recreation and Conservation

METROPOLITAN TRANSPORTATION AUTHORITY

By: 

Name: David Florio


Date

Title: Chief Real Estate Transactions and Operations Officer

Approved by the Board of Acquisition and Contract of the County of Westchester on the 23rd day of June, 2022.

Approved as to form and
manner of execution:



Sr. Assistant County Attorney
The County of Westchester

METROPOLITAN TRANSPORTATION AUTHORITY
NEW YORK CITY TRANSIT AUTHORITY
MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY
TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY
THE METRO-NORTH COMMUTER RAILROAD COMPANY
THE LONG ISLAND RAIL ROAD COMPANY
STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY
MTA CONSTRUCTION AND DEVELOPMENT COMPANY (formerly known as MTA
CAPITAL CONSTRUCTION COMPANY)
MTA BUS COMPANY
MTA GRAND CENTRAL MADISON CONCOURSE OPERATING COMPANY
(together, the "Authorities")

DESIGNATION OF AUTHORITY

Pursuant to the authority vested in me as Chair/Chief Executive Officer of the Metropolitan Transportation Authority ("MTA") and its affiliates and subsidiaries, pursuant to Public Authorities Law ("PAL") §1263(4)(a), PAL §1266(5), PAL §1201(2), PAL §1203-a(2), PAL §552(1), and the By-Laws of the Authorities, I, John N. Lieber, do hereby designate the following duly appointed senior officers of MTA and/or of MTA Construction and Development Company ("MTAC&D"), its subsidiary, in such officer's capacity as such duly appointed senior officer of MTA and/or MTAC&D, or any person fulfilling the role of such officer on an acting or interim basis, or the designee(s) of such officer, acting singly, the authority, in my stead, to execute and deliver any duly authorized contract, contract amendment, document or instrument in the name and on behalf of each of the Authorities with relation to matters concerning (i) the real property and facilities now or hereafter owned, leased, licensed, used or operated by the Authorities[, and (ii) any advertising, promotional, or telecommunications concessions, licenses or leases utilizing or affecting the real property, facilities or equipment now or hereafter owned, leased, licensed, used or operated by the Authorities:

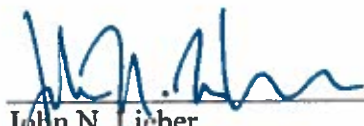
A. Effective as of January 20, 2022:

- Jamie Torres-Springer, the duly appointed and qualified Chief Development Officer of MTA and President of MTAC&D;
- David Florio, the duly appointed and qualified Chief Real Estate Transactions and Operations Officer of MTA (and in such officer's former capacity as Director, Real Estate Transactions and Operations of MTA and MTAC&D);
- Fredicka Cuenca, the duly appointed and qualified Deputy Chief Development Officer – Planning of MTA;
- Robert Paley, the duly appointed and qualified Senior Director, Transit-Oriented Development of MTA and MTAC&D; and
- Evan Eisland, the duly appointed and qualified Executive Vice President and General Counsel of MTAC&D.

B. Effective as of each of the following officer's respective employment commencement dates with the MTA and/or MTAC&D, as applicable:

- Kevin Willens, the duly appointed and qualified Chief Financial Officer of MTA;
- Lisette Camillo, the duly appointed and qualified Chief Administrative Officer of MTA;

Prior to the execution and delivery of any such contract, contract amendment, document or instrument, it shall be subject to the review and approval of the Legal Department of MTA and/or MTAC&D, as applicable.



John N. Lieber,

Chair/Chief Executive Officer of Metropolitan Transportation Authority

Dated: As of April 26, 2022

EXHIBIT "A"

LICENSED PREMISES



NORTH WHITE PLAINS PARKING LOT- SCHEDULE A
WESTCHESTER COUNTY
DEPARTMENT OF PARKS, RECREATION AND CONSERVATION

EXHIBIT "B"
MAINTENANCE STANDARDS

EXHIBIT B

Metro-North Parking Facility Maintenance Standards

Task	Frequency Required by Metro-North						
	Daily	Weekly	Monthly	Quarterly	Semi-Annually	Annually	Other
Sweeping truck for lot					X		
Empty & clean trash cans	X						
Window cleaning		X					
Sweep all stairs and landings		X					
Sweep all designated sidewalks in and around facility		X					
Remove all gum & foreign matter		X					
Clean attendant's booth	X						
Remove all graffiti from facility surfaces							within 24 hrs
Mop up all liquid spills							Immediately
Wash interior of all trash receptacles			X				
Landscaping maintenance (mowing as needed, pruning, replanting, etc.)							As needed (no less than 3x/yr)
Inspect & clean all signs		X					
Remove all oil stains						X	Prior to resealing
Restripe spaces with DOT approved reflective pavement paint							Every 3 years
Repair pavement potholes & cracks							As needed / temperature permitting
Repair and maintain curbs and sidewalks							
Clean all photoelectric cells							As needed
Inspect & clean storm drains and lines					X		
Inspect & repair all rails, guide rails & fencing					X		
Remove all snow & ice from facility							per specifications
Replace lamps / reprogram timers							within 36 hrs
Repair / replace signage							within 36 hrs

EXHIBIT "C"

STANDARD INSURANCE PROVISIONS

1. Prior to commencing work, and throughout the term of the Parking Agreement, the MTA shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. The MTA shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the MTA and identify the Parking Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the MTA shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the MTA to furnish, deliver and maintain such insurance, the Parking Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the MTA to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the MTA from any liability under the Parking Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the MTA concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of the MTA's negligent acts or omissions under the Parking Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the MTA until such time as the MTA shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the MTA maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the MTA. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The MTA shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Parking Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$2,000,000 (c.s.l) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:
 - i. Premises - Operations.
 - ii. Broad Form Contractual.
 - iii. Independent Contractor and Sub-Contractor.
 - iv. Products and Completed Operations
- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:
 - (i) Owned automobiles.
 - (ii) Hired automobiles.
 - (iii) Non-owned automobiles.

3. All policies of the MTA shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the MTA.

EXHIBIT "D"

MTA TRANSACTION ROUTING INSTRUCTIONS (ACH AND WIRE)

J.P.Morgan

March 30, 2020

Josiane Codio
Metropolitan Transportation Authority
2 Broadway
Treasury Department C1511
New York NY 10004

IMPORTANT | Transaction Routing Instructions (ACH and Wire)

Dear Josiane,

Thank you for your request for account and bank routing number information for Metropolitan Transportation Authority. Please provide the below routing instructions for ACH and wire transactions to remitters who send transactions to the company account.

For accurate and timely processing of transactions, it is very important that remitters correctly identify the company account number and the applicable routing number.

For ACH delivery:

Bank Routing Number:	021000021
Account Number:	1087851
Account Name:	Metropolitan Transportation Authority Comm. Fac. Rev Fund
MNRR Real Estate Acct	

For Wire Transfers:

Bank Routing Number:	021000021
SWIFT Code:	CHASUS33
General Bank Reference Address:	JPMorgan Chase New York, NY 10017
Account Number:	1087851
Account Name:	Metropolitan Transportation Authority Comm. Fac. Rev Fund
MNRR Real Estate Acct	

We are here to help.

Please call me if you have any questions. Thank you for your business and the opportunity to serve you.

Sincerely,

Yocasta Baksh

Yocasta Baksh
Client Service Associate Sr.
JPMorgan Chase Bank, N.A.
4 New York Plaza
718 242 0143

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The information in this letter is provided as an accommodation to the inquirer. This letter and any information provided in connection therewith are furnished on the condition that they are strictly confidential, that no liability or responsibility whatsoever in connection therewith shall attach to Bank or any of its officers, employees or agents, that this letter makes no representations regarding the general condition of the companies named herein, their management or their future ability to meet their obligations, and that information provided in this letter or in connection therewith is subject to change without notice.



yocasta.baksh@jpmorgan.com

J.P.Morgan

EXHIBIT "E"

EFT AUTHORIZATION FORM

Electronic Funds Transfer (EFT) Vendor Direct Payment Authorization Form

Authorization is:
(check one)

 New

☐ Change

INSTRUCTIONS: Please complete both sections of this Authorization Form and attach a voided check. See the reverse side for more information and instructions.

Mail to: Westchester County, Department of Finance, Treasury Division, 148 Martine Avenue, White Plains, NY 10601
Attention: Vendor Direct

Section I - Vendor Information

1. Vendor Name:

2. Taxpayer ID Number or Social Security Number:

--	--	--	--	--	--	--	--

3. Vendor Primary Address

4. Contact Person Name:

Contact Person Telephone Number:

5. Vendor E-Mail Addresses for Remittance Notification:

6. Vendor Certification: I have read and understand the Vendor Direct Payment Program and hereby authorize payments to be received by electronic funds transfer into the bank that I designate in Section II. I further understand that in the event that an erroneous electronic payment is sent, Westchester County reserves the right to reverse the electronic payment. In the event that a reversal cannot be implemented, Westchester County will utilize any other lawful means to retrieve payments to which the payee was not entitled.

Authorized Signature

Print Name/Title

Date _____

Section II- Financial Institution Information

7. Bank Name:

8. Bank Address:

9. Routing Transit Number:

Country	Year	Population (millions)	Urban population (millions)	Urban population (%)	Population density (per sq km)	Population density (per sq mile)
Algeria	1990	10.5	5.5	52.4	166	428
Algeria	2000	12.5	6.5	51.6	166	428
Algeria	2010	14.5	7.5	51.7	166	428
Algeria	2020	16.5	8.5	51.5	166	428
Algeria	2030	18.5	9.5	51.4	166	428
Algeria	2040	20.5	10.5	51.2	166	428
Algeria	2050	22.5	11.5	51.1	166	428
Algeria	2060	24.5	12.5	51.0	166	428
Algeria	2070	26.5	13.5	50.9	166	428
Algeria	2080	28.5	14.5	50.9	166	428
Algeria	2090	30.5	15.5	50.8	166	428
Algeria	2100	32.5	16.5	50.8	166	428
Algeria	2110	34.5	17.5	50.7	166	428
Algeria	2120	36.5	18.5	50.7	166	428
Algeria	2130	38.5	19.5	50.6	166	428
Algeria	2140	40.5	20.5	50.6	166	428
Algeria	2150	42.5	21.5	50.6	166	428
Algeria	2160	44.5	22.5	50.6	166	428
Algeria	2170	46.5	23.5	50.5	166	428
Algeria	2180	48.5	24.5	50.5	166	428
Algeria	2190	50.5	25.5	50.5	166	428
Algeria	2200	52.5	26.5	50.5	166	428
Algeria	2210	54.5	27.5	50.5	166	428
Algeria	2220	56.5	28.5	50.4	166	428
Algeria	2230	58.5	29.5	50.4	166	428
Algeria	2240	60.5	30.5	50.4	166	428
Algeria	2250	62.5	31.5	50.4	166	428
Algeria	2260	64.5	32.5	50.4	166	428
Algeria	2270	66.5	33.5	50.4	166	428
Algeria	2280	68.5	34.5	50.4	166	428
Algeria	2290	70.5	35.5	50.4	166	428
Algeria	2300	72.5	36.5	50.4	166	428
Algeria	2310	74.5	37.5	50.4	166	428
Algeria	2320	76.5	38.5	50.4	166	428
Algeria	2330	78.5	39.5	50.4	166	428
Algeria	2340	80.5	40.5	50.4	166	428
Algeria	2350	82.5	41.5	50.4	166	428
Algeria	2360	84.5	42.5	50.4	166	428
Algeria	2370	86.5	43.5	50.4	166	428
Algeria	2380	88.5	44.5	50.4	166	428
Algeria	2390	90.5	45.5	50.4	166	428
Algeria	2400	92.5	46.5	50.4	166	428
Algeria	2410	94.5	47.5	50.4	166	428
Algeria	2420	96.5	48.5	50.4	166	428
Algeria	2430	98.5	49.5	50.4	166	428
Algeria	2440	100.5	50.5	50.4	166	428
Algeria	2450	102.5	51.5	50.4	166	428
Algeria	2460	104.5	52.5	50.4	166	428
Algeria	2470	106.5	53.5	50.4	166	428
Algeria	2480	108.5	54.5	50.4	166	428
Algeria	2490	110.5	55.5	50.4	166	428
Algeria	2500	112.5	56.5	50.4	166	428
Algeria	2510	114.5	57.5	50.4	166	428
Algeria	2520	116.5	58.5	50.4	166	428

10. Account Type:
(check one)

 Checking

Savings

11. Bank Account Number:

12. Bank Account Title:

13. Bank Contact Person Name:

Telephone Number:

14. **FINANCIAL INSTITUTION CERTIFICATION** (required **ONLY** if directing funds into a Savings Account **OR** if a voided check is not attached to this form): *I certify that the account number and type of account is maintained in the name of the vendor named above. As a representative of the named financial Institution, I certify that this financial Institution is ACH capable and agrees to receive and deposit payments to the account shown.*

Authorized Signature

Print Name / Title

Date _____

(Leave Blank - to be completed by
Westchester County) - Vendor number assigned

	1	2	3	4	5
1	1				
2		1			
3			1		
4				1	
5					1

EXHIBIT "F"

REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

(Prior to execution of a contract by the County, a potential County contractor must complete, sign and return this form to the County)

Contract Name and/or ID No.:

(To be filled in by County)

Name of Contractor:

(To be filled in by Contractor)

A.) Related Employees:

1. Are any of the employees that you will use to carry out this contract with Westchester County also an officer or employee of the County, or the spouse, or the child or dependent of such County officer or employee?

Yes _____ No _____

If yes, please provide details: _____

B.) Related Owners:

1. If you are the owner of the Contractor, are you or your spouse, an officer or employee of the County?

Yes _____ No _____

If yes, please provide details: _____

To answer the following question, the following definition of the word "interest" shall be used:

Interest means a direct or indirect pecuniary or material benefit accruing to a county officer or employee, his or her spouse, child or dependent, whether as the result of a contract with the county or otherwise. For the purpose of this chapter, a county officer or employee shall be deemed to have an "interest" in the contract of:

- i. His/her spouse, children and dependents, except a contract of employment with the county;
- ii. A firm, partnership or association of which such officer or employee is a member or employee;
- iii. A corporation of which such officer or employee is an officer, director or employee; and

iv. A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

2. Do any officers or employees of the County have an **interest** in the Contractor or in any subcontractor that will be used for this contract?

Yes _____ No _____

If yes, please provide details: _____

Authorized Company Official shall sign below and type
or print information below the signature line:

Name:

Title:

Date:



George Latimer
County Executive

John M. Nonna
County Attorney

Office of Risk Management

Kandy Davenport
Director

June 28, 2022

MTA Risk and Insurance Management Department
Standards Enforcement & Claims Unit
2 Broadway, 21st Floor
New York, New York 10004

Re: Disclosure Required by Section 3101 of the Civil Practice Law and Rules

To Whom It May Concern:

In accordance with Section 6-n of the New York General Municipal Law and Chapter 295 of the Laws of Westchester County, the County of Westchester self-funds certain liability exposures, including any that may arise from the incident about which you have inquired. The County does not purchase liability insurance coverage from an insurance company to insure these exposures. Accordingly, there are no insurance policies or other information to disclose pursuant to Section 3101.

Sincerely,

Paul L Gionta

Paul Gionta
Office of Risk Management

DESCRIPTION OF OPERATION:

-Agreement from 1/1/22 through 12/31/27 to cross County property
-MTA/Metro-North Railroad for the southern part of the North White Plains Parking Lot on the east side of the tracks at the North White Plains train station

CC: John Condon; PRC





Metropolitan Transportation Authority

State of New York

June 30, 2022

The County of Westchester
148 Martine Avenue
White Plains, NY 10601

Reference: MTA Metro-North Railroad

Subject: Parking Agreement from July 1, 2022 to June 30, 2027. The Southern Part of the North White Plains Parking Lot on the East Side of the Tracks at the North White Plains Train Station

To Whom It May Concern:

Please be advised that Metro-North Railroad (MNR) is self-insured for general liability risks.

MNR is not subject to Worker's Compensation but is subject to Federal Employers Liability Act (FELA) which falls under the federal jurisdiction and is self-insured.

Should you have questions or concerns, please do not hesitate to contact me at 646-252-1142.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy Hsu".

Tracy Hsu
Department of Risk and Insurance Management

CC:

MTA RED: N. Mastropietro

MTA RIM: C. Reuben



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/30/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Marsh USA, Inc.
1166 Avenue of the Americas
New York, NY 10036
Attn: NewYork.Certs@marsh.com Fax: 212-948-0500

CONTACT
NAME:
PHONE:
(A/C, No, Ext):
E-MAIL:
ADDRESS:

FAX
(A/C, No):

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A : N/A

N/A

INSURER B : Travelers Indemnity Company of Connecticut

25682

INSURER C :

INSURER D :

INSURER E :

INSURER F :

INSURED
METROPOLITAN TRANSPORTATION AUTHORITY
METRO NORTH RAILROAD
2 BROADWAY
NEW YORK, NY 10004

COVERAGES

CERTIFICATE NUMBER:

NYC-011349270-02

REVISION NUMBER: 5

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD YWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY					
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR					EACH OCCURRENCE \$
						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
						MED EXP (Any one person) \$
						PERSONAL & ADV INJURY \$
						GENERAL AGGREGATE \$
						PRODUCTS - COMP/OP AGG \$
						\$
B	AUTOMOBILE LIABILITY		HC2ECAP-477M0330-22	03/01/2022	03/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS ONLY	<input type="checkbox"/> NON-OWNED AUTOS ONLY				PROPERTY DAMAGE (Per accident) \$
						\$
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR				EACH OCCURRENCE \$
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$
	DED	RETENTION \$				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	<input type="checkbox"/> Y/N				PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input checked="" type="checkbox"/> N N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Parking Agreement from July 1, 2022 to June 30, 2027 The Southern Part of the North White Plains Parking Lot on the East Side of the Tracks at the North White Plains Train Station

7/1/22 - 6/30/27

CERTIFICATE HOLDER

The County of Westchester
148 Martine Avenue
White Plains, NY 10601

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Marsh USA Inc.

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Contract Cover Sheet



Dept Contract No: PRC-1379



Start Date: 07/01/2022



End Date: 06/30/2027



Agency Code: 42



Vendor ID: 997516



Law Docket Number: 126930



OnBase ID: 41574



Page Count: 53

Return to:

John Condon
Westchester PRC
450 Saw Mill River Road
Ardsley, NY 10502



CONTACT MEMO - A&C RESOLUTION/IMA

DEPARTMENT:	420000 Parks, Recreation and Conservation	<input type="button" value="v"/>
DEPARTMENT:	Select Department	<input type="button" value="v"/>
DEPARTMENT:	Select Department	<input type="button" value="v"/>
DEPARTMENT:	Select Department	<input type="button" value="v"/>
PERSON:	JOHN CONDON	USER ID: JMCC
PHONE #:	231-4520	
RESOLUTION SUBJECT: (Please limit to 4 lines)	ENTER INTO A PARKING AGREEMENT WITH THE MTA WHERE THE MTA WILL GRANT ACCESS TO THE COUNTY ADJACENT TO THE NORTH WHITE PLAINS STATION AND THE COUNTY WILL PERMIT THE MTA TO CROSS COUNTY PROPERTY BETWEEN FISHER LANE AND MTA PROPERTY.	
VENDOR NAME:	METROPOLITAN TRANSPORTATION AUTHORITY	
VENDOR #:		
CONTRACT #:	PRC-1379	
CONTRACT AMOUNT:	\$200,000.00	(enter dollar and cents amount or 0)
ADDED STARTER?	<input type="radio"/> YES <input checked="" type="radio"/> NO	
MULTIPLE VENDORS?	<input type="radio"/> YES <input checked="" type="radio"/> NO	

IMA (INTER-MUNICIPAL AGREEMENT)IS THIS AN IMA? ☐ YES ☒ NO

DATE OF PREBOARD: 6/17/2022 **RESOLUTIONS MUST BE MICROSOFT WORD FORMAT**
FOR A&C DATE: 6/23/2022

(Resolutions are due Wednesday by Noon and will be scheduled for Pre-Board 12 business days after.)

Is this related to: ☐ IT ☐ Security ☐ Real Estate ☐ MWBE (DPW entry only) ☐ SVDDBWho will prepare this contract? ☐ My Department ☒ Law Department**Funding Sources**

Will this contract be funded out of (select all that apply):

☐ Federal ☐ State ☐ Operating / Tax Levy ☐ Capital**Charge Information**

	Fund	Dept	Major Program, Program & Phase or Unit	Sub Unit	Object/Sub Object	Trust Account	Dollar Amount to be Charged or Credited
Account to be Charged/Credited	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Account to be Charged/Credited	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Account to be
Charged/Credited

Are you including?

1. ☒ Copy of Previous Resolution
2. ☐ Check if no previous exists
3. ☐ If prior contract was a Short Form - is copy of previous contract attached?
4. ☐ Public Purpose, Fiscal Responsibility, Public Safety, Public Health or Environment statement?
5. ☒ Goals, Objectives and Tracking Method of the Contract?
6. ☐ Copy of Bid List with pricing or RFP list?

APPROVED BY:

NAS1

DATE: 6/1/2022

APPROVED BY:

DATE:

APPROVED BY:

DATE:

APPROVED BY:

DATE:

93547

Submit

Rev. 04/12/2022

Department of Parks, Recreation
& Conservation

ID 93547

May 31, 2022

TO: Board of Acquisition and Contract

FROM: Kathleen M. O'Connor
Commissioner, Department of Parks, Recreation and Conservation

RE: Resolution Authorizing the County of Westchester to enter into a parking agreement with the Metropolitan Transportation Authority ("MTA") pursuant to which (1) the MTA will grant to the County access for the use of approximately 175,000 square feet, more or less, of MTA land located on the westerly side of the MTA's Harlem Line right-of-way, in the City of White Plains; and (2) the County will permit the MTA, its contractors, agents and customers, to cross adjacent County land located at the North White Plains Train Station, west of the North White Plains Railroad Station and south of Fisher Lane, for the period of July 1, 2022 through June 30, 2027.

Authority is hereby requested for the County of Westchester, acting by and through the Department of Parks, Recreation and Conservation, to enter into a agreement with the Metropolitan Transportation Authority ("MTA") pursuant to which (1) the MTA will permit the County to use of approximately 175,000 square feet, more or less, of MTA land located on the westerly side of the MTA's Harlem Line right-of-way, in the City of White Plains ("Metro-North Parking Lot"); and (2) the County will permit the MTA, its contractors, agents and customers to cross adjacent County land located at the North White Plains Train Station, west of the North White Plains Railroad Station and south of Fisher Lane ("the County Parking Lot"), for the period of July 1, 2022 through June 30, 2027.

To compensate the MTA for the use of the Metro-North Parking Lot, upon the County's opening of the Metro-North Parking Lot to commuters, the County shall pay to the MTA a fee based upon forty percent (40%) of the gross revenue obtained from the Metro-North Parking Lot only, which will be derived from the daily rate for each commuter vehicle in the Metro-North Parking Lot based on a daily physical count.

The County shall continue to permit the MTA, its contractors, agents and customers to cross the adjacent County land identified on the Schedule attached to the proposed Resolution, to access Metro-North Lot.

In the agreement, the MTA reserves unto itself the right to utilize twenty-five parking spaces in the County Lot until the lot reaches 90% capacity. When the County Lot reaches 90% capacity, the twenty-five spaces used by the MTA shall be moved to a designated area in the Metro-North Lot, at the southern end of the Licensed Premises for railroad purposes including, but limited to, employee parking, project staging and contractor laydown. The MTA shall also install signage

for the twenty-five spaces and will be responsible for enforcement in the case of use by any unauthorized vehicles in the twenty-five designated spaces.

The County shall maintain both the County Lot and the Metro-North Lot at its own expense.

When the County considers increasing fees for the North White Plains Parking Lot, the County agrees not to exceed the parking fees charged at the MTA parking garage located on the east side of the North White Plains Railroad Station by more than ten (10%) percent at any time during the term of the parking agreement and shall establish a cap on the County's monthly permit fee; the calculation will be premised upon one third (1/3) of the quarterly permit fee set at the MTA parking garage.

In accordance with the County's operation and maintenance of the area of the Metro-North Parking Lot, the following language shall be included in the Parking Agreement to the fullest extent permitted by law, unless resulting from the negligence of the Indemnified Parties or Indemnitees (as hereinafter defined), the County shall indemnify, defend, and hold harmless Metro-North, MTA, MTA's subsidiaries and affiliates, Metro-North Railroad ("MNR"), MTA Grand Central Madison Concourse Operating Company (GCMCOC), State of Connecticut and Connecticut Department of Transportation ("CDOT") National Railroad Passenger Corporation ("AMTRAK"), CSX Transportation, Inc. & New York Central Lines, LLC, and Providence & Worcester Railroad Company ("P&W"), LAZ Parking New York/New Jersey, LLC. (where applicable) and the respective affiliates and subsidiaries existing currently or in the future of and successors to each Indemnified Parties listed herein (each an "Indemnatee" and collectively, the "Indemnitees") from and against, any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including without limitation, reasonable attorney's fees, disbursements, and other charges (whether incurred in connection with any action or proceeding between the County and any Indemnatee(s), or in connection with any action or proceeding between a third party and any Indemnatee(s), or otherwise), that may be imposed upon or incurred by or asserted against any of the Indemnitees by reason of (i) this Parking Agreement, (ii) construction, repair, replacement, restoration or improvement work done by or on behalf of the County; (iii) the use, possession or operation of the Metro-North Parking Lot by the County or any of its principals, agents, employees, contractors, licensees or invitees (in the case of each of the foregoing, however characterized) (each a "County Party" and collectively the "County Parties"), (iv) any act or omission by the County or any County Party, (v) any accident, injury (including death) or damage to any person or party occurring in, on, or about the Metro-North Parking Lot, the North White Plains Railroad Station, or any party thereof or any property adjacent thereto or (vi) any default hereunder by the County. In addition, the County shall indemnify the MTA and the Indemnitees from and against, any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including without limitation, reasonable attorney's fees, disbursements, and other charges arising out of or in connection with the following:

(i) **Construction Work.** The County's Work or any other construction, repair, replacement, restoration or improvement work done by or on behalf of the County in, on or about the Metro-North Parking Lot or any part thereof;

(ii) **Use.** The use, occupation, alteration, condition, operation, maintenance or management of all or any portion of the Metro-North Parking Lot during

the Term, or the affected portion thereof, by the County, including without limitation, any liability with respect to the maintenance of streets or sidewalks adjoining the Metro-North Parking Lot and any violations imposed by any governmental authorities in respect of any of the foregoing;

(iii) **Acts or Failure to Act by the County.** Any act performed by, or any failure to perform any act required to be performed by, the County or any of its officers, shareholders, directors, agents, contractors, servants, employees, licensees or invitees in connection with this Parking Agreement or the Metro-North Parking Lot;

Accidents, Injury to Person or Property. Any accident, injury, (including death at any time resulting therefrom) or damage to any person, including, without limitation, employees of the MTA, or any other Indemnitees, or property occurring in, on, or about the Metro-North Parking Lot or any part thereof, or in, on or about any street, alley, sidewalk, curb, vault, passageway or space comprising a part thereof or adjacent thereto for which the County, the MTA or a fee owner or occupant of the Metro-North Parking Lot has or would have responsibility pursuant to this Parking Agreement or under applicable law."

In addition to the above indemnification, the following shall be included in the Parking Agreement "If Hazardous Substances are used, stored, generated, or disposed of on or in the Metro-North Parking Lot, and this results in contamination, the County shall indemnify, defend (with staff of the County Attorney's Office or counsel retained by the County, provided however such non-County Attorney's Office lawyer or law firm does not have a conflict of interest with the MTA), and hold harmless the MTA and Metro-North from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the Metro-North Parking Lot, the North White Plains Railroad Station or the building(s) of which the Metro-North Parking Lot is a part, damages because of adverse impact on marketing of the space, and any and all sums paid for settlement of claims and for attorneys', consultants', and experts' fees) arising during or after the Term and arising as a result of such contamination by the County. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal or restoration required or requested by a federal, state or local agency or political subdivision or by any organized labor group, including, without limitation, any such costs associated with the contamination of adjacent property or ground water as a result of such contamination. In addition, if the County causes or permits the presence of any Hazardous Substance on the Metro-North Parking Lot and this results in contamination, the County shall promptly, at its sole expense, take any and all necessary actions to return the Metro-North Parking Lot to the condition existing before the presence of any such Hazardous Substances on the Metro-North Parking Lot, provided, however, that the County shall first obtain the MTA's approval for any such remedial action."

The ultimate goal of this agreement will be for the public good as it will allow the County to use an area adjacent to the County-owned portion of the parking lot to continue to provide commuter parking to encourage the use of mass transit, provide overflow parking for County events, provide parking for access to the Bronx River Parkway on weekends while at the same time providing revenue to the County.

The objectives of this agreement will be monitored through revenue reports and site visits from Parks, Recreation and Conservation.

This agreement is exempt from the Westchester County procurement policy pursuant to Section 3-(b), thereof.

Accordingly, your favorable action on the annexed Resolution is most respectfully urged and recommended.

APPROVED BOARD OF ACQUISITION & CONTRACT - 06/23/2022 - RAYMOND SCULKY, SECRETARY

RESOLUTION

Upon a communication from the Commissioner of Parks, Recreation and Conservation, be it hereby

RESOLVED, that the County of Westchester is hereby authorized to enter into a parking agreement with the Metropolitan Transportation Authority ("MTA"), 2 Broadway New York, NY 10004 pursuant to which (1) the MTA will permit the County the use of approximately 175,000 square feet, more or less, of MTA land located on the westerly side of the MTA's Harlem Line right-of-way, in the City of White Plains for commuter parking; and (2) the County will permit the MTA, its contractors, agents and customers to cross the adjacent County land located at the North White Plains Train Station, west of the railroad tracks and south of Fisher Lane, for the period of July 1, 2022 through June 30, 2027; and be it further

RESOLVED, that the County shall continue to permit the MTA, its contractors, agents and customers to cross the adjacent County land identified on the Schedule attached to the proposed Resolution, to access Metro-North Lot.

RESOLVED, that in consideration for permitting the County to use the Metro-North Lot, the County shall pay to the MTA a fee based upon forty percent (40%) of the gross revenue obtained from the Metro-North Parking Lot, which will be derived from the daily rate for each commuter vehicle in the Metro-North Parking Lot based on a daily physical count; and be it further

RESOLVED, that the MTA, at no cost to the County, have the right to utilize twenty-five parking spaces in the County Lot, until the County Lot reaches 90% capacity and when that occurs, the MTA shall have the right to utilize twenty-five parking spaces at the southern end of the MTA lot for Railroad purposes; and be it further

RESOLVED, that the MTA shall also install signage for the twenty-five spaces, if needed, in the Metro-North Lot and will be responsible for enforcement in the case of use by any unauthorized vehicles; and be it further

RESOLVED, that the County will continue to permit the MTA, its contractors, agents and its customers to cross the adjacent County land identified on the attached Schedule to access the MTA lot; and be it further

RESOLVED, that the County, at its sole expense, shall maintain both the County Lot and the Metro-North Parking Lot; and be it further

RESOLVED, that when the County considers increasing fees for the North White Plains Parking Lot, the County agrees not to exceed the parking fees charged at the MTA parking garage located on the east side of the North White Plains Railroad Station by more than ten percent (10%) at any time during the term of this parking agreement and to establish a cap on the County's monthly permit fee, the calculation will be premised upon one third (1/3) of the quarterly permit fee set at the MTA parking garage; and be it further

RESOLVED, that the following indemnification language shall be included in the Parking Agreement, "to the fullest extent permitted by law, unless resulting from the negligence of the Indemnified Parties or Indemnitees (as hereinafter defined), the County shall indemnify, defend, and hold harmless Metro-North, MTA, MTA's subsidiaries and affiliates, Metro-North Railroad ("MNRR"), MTA Grand Central Madison Concourse Operating Company (GCMCOC), State of Connecticut and Connecticut Department of Transportation ("CDOT") National Railroad Passenger Corporation ("AMTRAK"), CSX Transportation, Inc. & New York Central Lines, LLC, and Providence & Worcester Railroad Company ("P&W"), LAZ Parking New York/New Jersey, LLC, (where applicable) and the respective affiliates and subsidiaries existing currently or in the future of and successors to each Indemnified Parties listed herein (each an "Indemnitee" and collectively, the "Indemnitees") from and against, any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including without limitation, reasonable attorney's fees, disbursements, and other charges (whether incurred in connection with any action or proceeding between the County and any Indemnitee(s), or in connection with any action or proceeding between a third party and any Indemnitee(s), or otherwise), that may be imposed upon or incurred by or asserted against any of the Indemnitees by reason of (i) this Parking Agreement, (ii) construction, repair, replacement, restoration or improvement work done by or on behalf of the County; (iii) the use, possession or operation of the Metro-North Parking Lot by the County or any of its principals, agents, employees, contractors, licensees or invitees (in the case of each of the foregoing, however characterized) (each a "County Party" and collectively the "County Parties"), (iv) any act or omission by the County or any County Party, (v) any accident, injury (including death) or damage to any person or party occurring in, on, or about the Metro-North Parking Lot, the North White Plains Railroad Station, or any party thereof or any property adjacent thereto or (vi) any default hereunder by the County. In addition, the County shall indemnify the MTA and the Indemnitees from and against, any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including without limitation, reasonable attorney's fees, disbursements, and other charges arising out of or in connection with the following:

(i) **Construction Work.** The County's Work or any other construction, repair, replacement, restoration or improvement work done by or on behalf of the County in, on or about the Metro-North Parking Lot or any part thereof;

(ii) **Use.** The use, occupation, alteration, condition, operation, maintenance or management of all or any portion of the Metro-North Parking Lot during the Term, or the affected portion thereof, by the County, including without limitation, any liability with respect to the maintenance of streets or sidewalks adjoining the Metro-North Parking Lot and any violations imposed by any governmental authorities in respect of any of the foregoing;

(iii) **Acts or Failure to Act by the County.** Any act performed by, or any failure to perform any act required to be performed by, the County or any of its

officers, shareholders, directors, agents, contractors, servants, employees, licensees or invitees in connection with this Parking Agreement or the Metro-North Parking Lot;

Accidents, Injury to Person or Property. Any accident, injury, (including death at any time resulting therefrom) or damage to any person, including, without limitation, employees of the MTA, or any other Indemnitees, or property occurring in, on, or about the Metro-North Parking Lot or any part thereof, or in, on or about any street, alley, sidewalk, curb, vault, passageway or space comprising a part thereof or adjacent thereto (for which the County, the MTA or a fee owner or occupant of the Metro-North Parking Lot has or would have responsibility pursuant to this Parking Agreement or under applicable law;" and be it further

RESOLVED, that the following language shall be included concerning hazardous substances, "If Hazardous Substances are used, stored, generated, or disposed of on or in the Metro-North Parking Lot, and this results in contamination, the County shall indemnify, defend (with staff of the County Attorney's Office or counsel retained by the County, provided however such non-County Attorney's Office lawyer or law firm does not have a conflict of interest with the MTA), and hold harmless the MTA and Metro-North from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the Metro-North Parking Lot, the North White Plains Railroad Station or the building(s) of which the Metro-North Parking Lot is a part, damages because of adverse impact on marketing of the space, and any and all sums paid for settlement of claims and for attorneys', consultants, and experts' fees) arising during or after the Term and arising as a result of such contamination by the County. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal or restoration required or requested by a federal, state or local agency or political subdivision or by any organized labor group, including, without limitation, any such costs associated with the contamination of adjacent property or ground water as a result of such contamination. In addition, if the County causes or permits the presence of any Hazardous Substance on the Metro-North Parking Lot and this results in contamination, the County shall promptly, at its sole expense, take any and all necessary actions to return the Metro-North Parking Lot to the condition existing before the presence of any such Hazardous Substances on the Metro-North Parking Lot, provided, however, that the County shall first obtain the MTA's approval for any such remedial action;" and be it further

RESOLVED, that the annual license fee will be increased concurrently and proportionally to reflect any future parking fee increases made during the term of this license; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute all instruments necessary to implement this Resolution.

Original Agreement	\$ 200,000*
First Amendment	\$
This Amendment	\$
TOTAL	\$ 200,000*

Agreement # PRC-1379

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Object	Trust Account	Dollars	
165	42	7150	9080		\$20,000*	2022
165	42	7150	9080		\$40,000*	2023
165	42	7150	9080		\$40,000*	2024
165	42	7150	9080		\$40,000*	2025
165	42	7150	9080		\$40,000*	2026
165	42	7150	9080		\$20,000*	2027

Budget Funding Year(s) 2022-2027 Start Date 7-1-22 End Date 6-30-27
(must match resolution)

Funding Source Tax Dollars x
State Aid _____
Federal Aid _____
Other _____

\$ 200,000*
(must match resolution)

*Estimated