

WHITE PLAINS URBAN RENEWAL AGENCY

RESOLUTION 05-2020

A RESOLUTION OF THE WHITE PLAINS URBAN RENEWAL AGENCY AUTHORIZING THE CHAIRMAN OR HIS DESIGNEE TO AUTHORIZE THE WHITE PLAINS URBAN RENEWAL AGENCY TO GRANT CERTAIN PERMANENT EASEMENTS TO THE METROPOLITAN TRANSPORTATION AUTHORITY RELATED TO THE RENOVATION OF THE WHITE PLAINS TRAIN STATION.

WHEREAS, the METROPOLITAN TRANSPORTATION AUTHORITY, is a public benefit corporation organized and existing under the laws of the State of New York, having its principal office at 2 Broadway, New York, New York 10004 (the “MTA”); and

WHEREAS, Metro-North Commuter Railroad Company (“Metro-North”) is a subsidiary of the Metropolitan Transportation Authority (“MTA”) both of whose missions are to provide public transportation in the New York metropolitan area; and

WHEREAS, the White Plains Urban Renewal Agency (“the Agency”) is the owner of the Bronx Street parking lot, known as 3 Hamilton Avenue (also known as 125.74-2-1 on the tax assessment maps of the City) near the existing White Plains Metro-North railroad station; and

WHEREAS, Metro-North is renovating that railroad station as part of the White Plains Enhanced Station Initiative; and

WHEREAS, by letter dated April 17, 2019, the Metropolitan Transportation Authority has requested permanent easements for the following areas: 1) a 121 square foot area approximately 40 feet by 3 feet along the western edge of the property, as shown on the drawing and legal description attached to the April 17th letter, for installation of a staircase to the northbound platform and sidewalk to be maintained by the Metropolitan Transportation Authority; and 2) a 507 square foot easement in the northwest corner of the property, as shown on the drawing and legal description attached to the April 17th letter, for installation, operation, maintenance and repair of a gas line on 3 Hamilton Avenue, which gas line the Metropolitan Transportation Authority has agreed to move off of the current City of White Plains property if said property is ever developed in the future and said development requires that the gas line be moved; and

WHEREAS, the Agency finds that it would be in the best interests of the Agency and the City of White Plains to facilitate the renovation of the White Plains railroad station and improve public transportation within the City of White Plains and to grant permanent easements to the Metropolitan Transportation Authority.

NOW, THEREFORE, BE IT RESOLVED THAT

1. The Agency hereby authorizes the Chairman or his designee to execute an instrument or instruments granting the Metropolitan Transportation Authority the following permanent easements: 1) a 121 square foot area approximately 40 feet by 3 feet along the western edge of the property, as shown on the drawing and legal description attached to the April 17th letter, for installation of a staircase to the northbound platform and sidewalk to be maintained by the Metropolitan Transportation Authority; and 2) a 507 square foot easement in the northwest corner of the property, as shown on the drawing and legal description attached to the April 17th letter, for installation, operation, maintenance and repair of a gas line on 3 Hamilton Avenue, which gas line the Metropolitan Transportation Authority has agreed to move off of the current City of White Plains property if said property is ever developed in the future and said development requires that the gas line be moved. Said instrument(s) shall be in a form to be approved by the Counsel to the White Plains Urban Renewal Agency.

Dated: February 20, 2020

Adopted: February 24, 2020

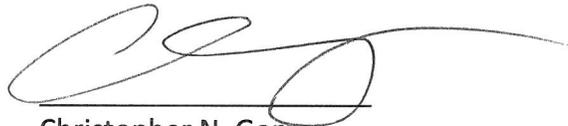
WHITE PLAINS URBAN RENEWAL AGENCY

70 Church Street, White Plains, New York 10601

(914) 422-1300 Fax: (914) 422-1301

CERTIFIED COPY

1. I am the duly qualified and acting Assistant Secretary of the White Plains Urban Renewal Agency (the "Agency"). I am the custodian of the minutes of the meetings of the Agency and am authorized to execute this certificate.
2. Attached hereto is a correct copy of Resolution 05-2020, (the "Resolution"), adopted at a meeting of the Agency held on February 24, 2020, (the "Meeting"), which Resolution is now in full force and effect.
3. The Meeting was duly convened and held in accordance with law and the by-laws of the Agency, and proper notice of the Meeting was given. A legal quorum of the Agency was present throughout the Meeting and a legally sufficient number of members of the Agency duly voted for the adoption of the Resolution.
4. The authority delegated to the Chairman in the Resolution has not been altered or revoked in any way.
5. The seal that appears below is the official seal of the Agency and was duly affixed by me at the time I executed this certificate on February 24, 2020.



Christopher N. Gomez
Executive Director



BY UPS

February 10, 2020

Honorable Mayor Thomas M. Roach, Chairman
White Plains Urban Renewal Agency
City of White Plains
255 Main Street
White Plains, New York 10601

Re: Request for change to Permanent Easements with White Plains Urban Renewal Agency in support of Metro-North's White Plains Enhanced Station Initiative in White Plains

Dear Mayor Roach:

As part of Metro-North Railroad's Enhanced Station Initiative for the White Plains station (the "Project"), Metro-North was granted certain permanent easement rights on White Plains Urban Renewal property for constructing various elements of the Project. Metro-North request that the Easements now be granted to Metropolitan Transportation Authority. All other terms are identical to the original request except for the party receiving the easement.

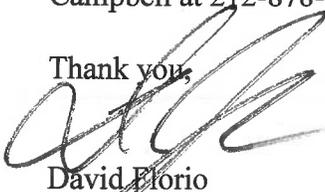
Permanent Easements

- 1. Bronx Street Lot Easement – 3 Hamilton Avenue, White Plains NY (125.74-2-1)**
 - a. Grantor – White Plains Urban Renewal Agency
 - b. Easement consideration is \$1 payment waived
 - c. Improvements/utilities are subject to relocation at Metro-North's cost.
 - d. Space needs:
 - i. Gas feed to property line box
 1. Area = 507 square feet
 2. Metro-North maintains lines
 3. Survey and Description attached
 - ii. North Platform Stairs
 1. ±121 Square Feet
 2. Metro-North maintains stairs
 3. Currently still in design (See attached sketch)

We appreciate your attention to this request for this important regional transportation project.

Should you have any questions or require additional information please contact Anthony Campbell at 212-878-7141 or via email at ANCAMPBE@mtahq.org

Thank you,



David Florio

Director, Real Estate Transactions and Operations

cc: J. Lieber, MTA
J. Kennard, MNR
M. Mannix, MNR
B. Knotte, MNR
A. Campbell, MTA
N. Mastropietro, MTA
C. Gomez, WPURA

EASEMENT AGREEMENT

THIS AGREEMENT (this "Agreement"), is made and entered into the ____ day of _____, 2019, by and between the WHITE PLAINS URBAN RENEWAL AGENCY ("Grantor"), a _____ having its principal offices at 255 Main Street, White Plains, NY 10601, and METROPOLITAN TRANSPORTATION AUTHORITY, a public benefit corporation organized and existing under the laws of the State of New York, having its principal office at 2 Broadway, New York, New York 10004 (the "MTA"),

WITNESSETH:

WHEREAS, Grantor is the fee owner of a certain parcel of real property located at and known as 3 Hamilton Avenue, White Plains, New York 10601, also known on the tax assessment maps of the City of White Plains as 125.74-2-1 on which there is a 507± square foot area as more particularly shown hatched and designated as Easement Area 1 on Exhibit "A" annexed hereto ("Easement Area 1") and on which there is a 121± square foot area as more particularly shown hatched and designated as Easement Area 2 on Exhibit "B" annexed hereto ("Easement Area 2"); and

WHEREAS, the MTA is the lessee of the property constituting the Harlem and Hudson commuter rail lines and facilities (collectively the "Railroad Properties"), under a long-term lease dated April 8, 1994, as amended by the First Amendment, dated June 5, 1995 (the "Harlem-Hudson Lease"), from Midtown Trackage Ventures LLC, as successor-in-interest to the Trustees of the Penn Central Transportation Company, expiring on February 28, 2274, and which Railroad Properties are administered and operated by MNR (as hereinafter defined) as MTA's operating subsidiary and agent; and

WHEREAS, Metro-North Commuter Railroad Company ("MNR"), a public benefit corporation organized and existing under the laws of the State of New York, having its principal office at 420 Lexington Avenue, New York, New York 10017, is a subsidiary of the MTA; and

WHEREAS, MNR (i) is the MTA's designee to exercise MTA's rights under the Harlem-Hudson Lease, (ii) operates, among other lines, a commuter railroad line serving a northerly section of the greater New York City area known as the Harlem Line, and (iii) is authorized by the MTA to exercise the rights granted hereunder and to undertake all obligations of the MTA contained herein; and

WHEREAS, Metro-North Capital Programs, a division of MNR ("Capital Programs") is implementing a station renovation program known as the Enhanced Station Initiative for the White Plains Station (the "Station").

WHEREAS, the MTA requires a permanent and perpetual easement over Easement Area 1 and Easement Area 2 in connection with the Enhanced Station Initiative; and

WHEREAS, the Grantor is desirous of conveying to the MTAMNR a permanent and perpetual easement, upon, over, under and across Easement Area 1 and Easement Area 2 for the uses in connection with the Enhanced Station Initiative as further described herein; and

NOW THEREFORE, in consideration of the terms and conditions contained herein, and other good and valuable consideration, Grantor for itself, its heirs, successors, legal representatives and assigns declares and imposes the following easement as follows:

Section 1. Grantor is the fee owner of Easement Area 1 and Easement Area 2 (hereinafter referred to collectively as the "Easement Areas"). The Easement Areas are located on 3 Hamilton Avenue, White Plains, New York 10601 (collectively, the "Properties"), and Grantor is the fee owner of the Properties.

Section 2. Grantor hereby gives, grants, conveys and confirms onto the MTA and its successors and assigns a permanent and perpetual easement, upon, over, under and across (i) Easement Area 1 as described in the metes and bounds description annexed hereto as Exhibit "A-1" and depicted on the survey map annexed hereto as Exhibit "A" attached hereto, for the purpose of constructing, operating and maintaining a subsurface gas line to be used for transporting gas for MNR's heat boilers connected to Consolidated Edison's the power source to power the heated platforms at the White Plains Station installed as part of the Enhanced Station Initiative, and (ii) Easement Area 2 as described in the metes and bounds description annexed hereto as Exhibit "B-1" and depicted on the survey map annexed hereto as Exhibit "B" attached hereto, for the purposes of constructing, operating and maintaining a new stairway servicing the White Plains Station as part of the Enhanced Station Initiative, together with the right of the MTA and MNR, and their respective officers, employees, agents, servants, customers and/or contractors, of ingress and egress to enter upon and along the Easement Areas for the full and complete use, occupation and enjoyment of the easement granted, and all rights and privileges incident thereto. If Grantor requests the MTA to relocate the gas line to another area owned or controlled by Grantor and/or the MTA and reasonably accessible to the boiler heaters and the platforms in connection with any future development of the area surrounding the White Plains Station, the MTA (or MNR on behalf of the MTA) shall comply with such request and relocate the gas line at the MTA's sole cost and expense to such other area owned or controlled by Grantor and/or the MTA and reasonably accessible to the boiler heaters and the platforms.

Section 3. Grantor makes no representations as to the condition of the Easement Areas, and the MTA accepts the right to use the Easement Areas in their "as is" condition for purposes of constructing, operating and maintaining a subsurface gas line and constructing, operating and maintaining a new stairway servicing the White Plains Station (the "Improvements").

Section 4. The MTA (or MNR on behalf of the MTA) will undertake all work activities under this Agreement in connection with the construction of the Improvements at its sole cost and expense.

Section 5. The MTA (or MNR on behalf of the MTA) will procure, at its sole cost and expense, all necessary approvals and permits for all work activities under this Agreement in connection with the construction of the Embankment.

Section 6. The consideration payable by the MTA to Grantor for the easement rights herein granted to the MTA will be One Dollar (\$1.00), payment waived. The MTA, at its sole cost and expense, shall have the perpetual obligation to maintain, repair, inspect, rebuild, and reconstruct the Improvements and shall assume any future costs of relocation of the gas line if required for future development of Grantor's property. The MTA, at its sole cost and expense, shall have the perpetual obligation to maintain, repair, inspect, rebuild, and reconstruct the new stairway described above.

Section 7. The MTA will not at any time prior to the completion of construction of the Enhanced Station Initiative permit or suffer any lien to be attached to the Properties, and, if attached, shall within thirty (30) days cause the same to be discharged and released. Notwithstanding anything in this Agreement to the contrary, The MTA and MNR 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 by the provisions of this Section 7 and Exhibit "C" pursuant to any plan of self-insurance maintained by the MTA or MNR. If the MTA or MNR elects to self-insure, the MTA and MNR, as the case may be, agrees that it will provide the same insurance coverage and protection for the benefit of Grantor as an additional insured, in the same amount and under the same terms set forth above as it would provide to Grantor if the MTA or MNR were to purchase commercial insurance from a third party insurer meeting the insurance coverage requirements set forth in this Section 7 and named Grantor as an additional insured thereunder. The MTA and MNR 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 Section 10 hereof.

Section 8. The MTA covenants and agrees to fully and forever release and discharge Grantor and any and all its officers, agents, servants, representatives or employees from any and all claims, demands, rights of action or causes of action, present or future, whether same be known or unknown, anticipated or unanticipated, resulting from any cause whatsoever arising out of the MTA's exercise of the rights conveyed under this Agreement, except if caused by the negligence or willful misconduct of Grantor.

Section 9. The MTA covenants and agrees to forever refrain from instituting, prosecuting or maintaining any action, suit or proceeding, at law or otherwise, and from pressing, collecting or otherwise proceeding against Grantor or any officer, agent, servant, representative or employee of Grantor upon any claims, controversies, actions, causes of action, obligations or liabilities of any nature whatsoever, whether or not presently known, which the undersigned ever had, now has or hereafter can, shall or may have, or allege, based upon any negligence of whatsoever nature, ordinary or gross, whether or not presently known with respect to or arising out of or in connection with any personal injury, including death, or property damage arising out of the MTA's exercise of the rights conveyed under this Agreement.

Section 10. The MTA covenants and agrees to defend, indemnify and save harmless Grantor and any and all its officers, agents, servants, representatives or employees from any and all third party claims, demands, rights of action or causes of action, present or future, whether same be known or unknown, anticipated or unanticipated, resulting from any cause whatsoever arising out of the MTA's exercise of the rights conveyed under this Agreement.

Section 11. The MTA and its agents and contractors shall conduct all work activities under this Agreement in connection with the construction of the Embankment in a workmanlike manner and in accordance with the MTA's ordinary practices, standards and procedures.

Section 12. Grantor hereby covenants that Grantor is seized of the Property in fee simple and has good right to execute this Agreement.

Section 13. If any provision of this Agreement or its application shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of all other provisions and applications hereof shall not be affected or impaired in any way.

Section 14. This Agreement shall be construed in accordance with the laws of the State of New York, and constitutes the complete understanding and agreement of the parties. Any dispute, controversy, proceeding (including a special proceeding), or claim arising out of or relating to this Agreement shall be brought or commenced exclusively in the Supreme Court of the State of New York in Westchester County. No modification or amendment of any of the provisions hereof shall be valid unless in writing and signed by all parties hereto.

Section 15. All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or sent by hand or overnight courier, to the respective addresses set forth below or to such other addresses as the respective Parties may designate in writing. Notice shall be effective on the date of receipt.

To Grantor:

Executive Director
White Plains Urban Renewal Agency
-70 Church Street-
—White Plains, New York 10601

With a copy to:

Corporation Counsel
City of White Plains
Municipal Building, 255 Main Street
White Plains, New York 10601

To the MTA:

Metropolitan Transportation Authority
2 Broadway, 4th Floor
New York, New York 10004
Attn.: Director, Real Estate Transactions and Operations

With a copy to:

Metropolitan Transportation Authority
2 Broadway, 20th Floor
New York, New York 10004
Attn.: General Counsel

Metro North Commuter Railroad
420 Lexington Avenue, 11th Floor
New York, NY 10170
Attn: General Counsel

Section 16. The parties agree that this Agreement shall be recorded against the above captioned property in the Office of the Westchester County Clerk, Division of Land Records. This instrument shall run with the land and be binding upon and inure to the benefit of the parties hereto, their heirs, legal representatives, and assigns, and shall not be modified except by written agreement, in proper form for recording, executed by all parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date hereinabove set forth.

WHITE PLAINS URBAN RENEWAL AGENCY:

Name:
Title:

Date

METROPOLITAN TRANSPORTATION AUTHORITY

By: _____

David Florio

Director, Real Estate Transactions and Operations, Authorized Signatory

Date

EXHIBIT "A-1"

EXHIBIT "B-1"

Proposed legal description

All that tract or parcel of land situate in the City of White Plains, County of Westchester, State of New York,

Beginning at a point along the northerly bounds of Main Street (75.00 feet wide) said point being N 4°-34'-57" W a distance of 20.66 feet from the intersection of said northerly bounds and the southwesterly corner of lands now or formerly belong to White Plains Urban Renewal Agency to as recorded in liber 7094 of deeds at page 106; thence

- 1) N 4°-34'-57" W along said westerly bounds of White Plains Urban Renewal Agency a distance of 40.23 feet; thence
- 2) N 85°-25'-03" E a distance of 3.00 feet; thence
- 3) S 4°-34'-57" E a distance of 40.23 feet; thence
- 4) S 85°-25'-03" W a distance of 3.00 feet to the point of beginning

Containing 121 square feet

The above-described parcel being shown on a map of a survey by Patriot Design and Consulting, PLLC and dated March 25, 2019