

**LETTER OF RESOLUTION
AMONG
METROPOLITAN TRANSPORTATION AUTHORITY,
NEW YORK CITY CITY PLANNING COMMISSION,
NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION,
AND
WRY TENANT LLC
REGARDING
THE WESTERN RAIL YARD PROJECT
MANHATTAN, NEW YORK COUNTY**

WHEREAS, the Metropolitan Transportation Authority (MTA), the Long Island Rail Road Company and WRY Tenant LLC (the Developer) have entered into that certain Agreement to Enter Into Lease dated as of May 26, 2010, pursuant to which the parties thereto contemplate that the Developer will enter into a lease, with option to purchase, certain terra firma and the air space over a roof to be constructed over the Western Rail Yard, which is the western section of the MTA-Long Island Rail Road (LIRR) John D. Caemmerer Yard in the West Midtown section of Manhattan, to carry out a mixed-use development (the Development Project). The Western Rail Yard development site (the Development Site) is bounded by Eleventh and Twelfth Avenues, West 30th and West 33rd Streets. The 6.2-million to 6.4-million gross-square-foot Development Project is expected to include commercial space (retail and office or hotel), residential units, a public school, open space, and accessory parking;

WHEREAS, the MTA and the New York City City Planning Commission (CPC) acted as co-lead agencies in the preparation of an Environmental Impact Statement (EIS) prepared under the State Environmental Quality Review Act (SEQRA) and City Environmental Quality Review (CEQR) for the Development Project;

WHEREAS, the Development Site contains a portion of the northern segment of the High Line, a former freight railroad viaduct, and the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) has found the full length of the High Line between West 34th Street and Gansevoort Street to meet National Register eligibility Criterion A as a significant transportation structure from the 20th-century industrial development of the City;

WHEREAS, the Development Project would integrate the High Line into the overall site plan for the Development Site and adaptively reuse it to provide passive open space with connections to other public open spaces on the Development Site and to the High Line Park south of West 30th Street. The restored and modified High Line will include such amenities as walkways, benches, landscaping, and stair access, in keeping with the design of the High Line Park south of West 30th Street;

WHEREAS, OPRHP has agreed that construction near and around the High Line on the Development Site is appropriate, since historically buildings have been located in this manner;

WHEREAS, the Development Project could affect the High Line in the following ways: 1) by providing at least one access point a minimum of 12 feet in width to the High Line from the corner of West 30th Street and Twelfth Avenue; 2) physically altering the portion of the High Line along Twelfth Avenue to provide direct access between the High Line open space and the adjacent Western Open Space that would be located on the Development Site. Access would be provided along a minimum length of 75 feet and a maximum length of 150 feet of High Line frontage, requiring the removal of a portion of the High Line's eastern railing along Twelfth Avenue; 3) including a building at the southwest corner of the Development Site that could, in accordance with the zoning text amendment, be located adjacent to and above the High Line (provided that no portion of the building is located within five feet of the edge of the High Line and any portion of the building above the High Line be located above a height of 50 feet above the High Line bed); 4) designing the two proposed buildings on the north side of the High Line along West 30th Street

to extend under the High Line with a low-rise extension of the buildings' shared podium (none of the High Line's structural columns would be removed to accommodate such an extension); and 5) creating potential connections between adjacent buildings on the Development Site and the bed of the High Line;

WHEREAS, a final design of the Development Project has not been determined and, in particular, a detailed design of the High Line open space on the Development Site has not been developed;

WHEREAS, consistent with Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law, the co-lead agencies have consulted with OPRHP with regard to how the Development Project could affect the High Line (including the matters referred to in a letter dated April 29, 2009 from OPRHP); and

WHEREAS, the purpose of this Letter of Resolution (LOR) is to ensure the avoidance of adverse impacts on the High Line at the Development Site or to ensure, in the event that unavoidable adverse impacts are identified during final design of the Development Project, that appropriate mitigation measures are undertaken in conjunction with development of the Development Project.

NOW, THEREFORE, in accordance with Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law, MTA, CPC, OPRHP, and the Developer agree that the Development Project will be subject to the Stipulations specified below:

STIPULATIONS

1. During the ongoing design of the Development Project, the Developer will consult with OPRHP regarding those aspects of the Development Project's design that relate to the High Line. In particular, the Developer will submit preliminary and pre-final design plans for the Development Project as it may affect the High Line to OPRHP for review. If OPRHP makes substantive comments during the preliminary and pre-final design review, OPRHP may request the opportunity to comment on the final design plans.
2. To prevent inadvertent construction-related impacts at the Development Site (i.e., from vibration, falling debris, subsidence, or inadvertent damage caused by heavy machinery) on the High Line, the Developer will develop and implement, in consultation with OPRHP and the New York City Landmarks Preservation Commission (LPC), a Construction Environmental Protection Plan (CEPP) to protect the High Line during construction at the Development Site. The CEPP will be implemented in coordination with a licensed professional engineer prior to the commencement of excavation, demolition, or construction in areas at the Development Site adjacent to, under, or over the High Line. The CEPP will meet the guidelines set forth in the New York City Department of Buildings (DOB) *Technical Policy and Procedure Notice #10/88*, the *Protection Programs for Landmarked Buildings* guidance document of the LPC, and the National Park Service's *Preservation Tech Notes, Temporary Protection #3: Protecting a Historic Structure during Adjacent Construction* and will comply with other applicable New York City Building Code regulations. The CEPP will detail the construction procedures of the Development Project related to the protection of the High Line.

Any party to this LOR may propose to MTA that the LOR be amended, whereupon the MTA shall consult with the other parties to this LOR to consider such amendment. Any amendment must be agreed upon in writing by all parties to this agreement.

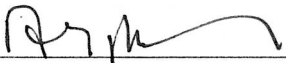
METROPOLITAN TRANSPORTATION AUTHORITY

BY: _____

DATE: 10/20/2010

TITLE: Jeffrey Rosen, Director Real Estate

NEW YORK CITY CITY PLANNING COMMISSION

BY: 
TITLE: Citizen

DATE: 10/1/00

NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

BY: Ruth A. Pappant
TITLE: Director, DHP

DATE: 10/14/10

WRY TENANT LLC

BY: _____

TITLE: _____


L. Jay Cross, President

DATE: _____

11/10/10