

MEMORANDUM OF AGREEMENT  
BETWEEN  
FEDERAL TRANSIT ADMINISTRATION

NEW YORK STATE HISTORIC PRESERVATION OFFICE

NEW YORK CITY TRANSIT AUTHORITY

REGARDING THE TIMES SQUARE SHUTTLE STATION DURING CONTRACT A-35302, THE RECONFIGURATION OF THE TIMES SQUARE SHUTTLE STATION, SHPO PROJECT #17PR00545.

This Memorandum of Agreement (hereinafter referred to as this “MOA”), dated as of [TBD], 2018 between FEDERAL TRANSIT ADMINISTRATION (hereinafter referred to as the “FTA”), NEW YORK STATE HISTORIC PRESERVATION OFFICE (hereinafter referred to as “SHPO”), and NEW YORK CITY TRANSIT AUTHORITY (hereinafter referred to as “MTA-NYCT”) outlines the agreed upon mitigation required by the determination by SHPO that this project will cause an Adverse Effect on the cultural resource described below.

WHEREAS, MTA-NYCT, an affiliate of Metropolitan Transportation Authority, is implementing the reconfiguration of the Times Square Shuttle Station area (hereinafter referred to as the “Shuttle”), within the Times Square Station for the shuttle that operates between the Times Square Station and Grand Central Station, originally constructed as part of New York’s first subway line in 1904 according to the designs of Heins and LaFarge (architects of the original subway stations), and later reconfigured as a shuttle stop after the completion of the 7<sup>th</sup> Avenue/Broadway Line Times Square Station in 1917, the reconfiguration will include the alleviation of deficiencies, such as lack of egress and circulation and the lack of accessibility for disabled riders that affects overall operations, station circulation and customer safety through elimination of a portion of the curved track and platform and bringing station components (such as lighting, communications, security, platform finishes, etc.) up to current standards and installation of a new station entrance, the station will be made compliant with the ADA, the Durst Passageway (an existing easement passageway in the basement of the Durst Building) will be utilized to create a second means of egress, and the station finishes will be rehabilitated, including repair and restoration of existing historic finishes; and

WHEREAS, the Shuttle portion of the Times Square/42<sup>nd</sup> Street Station Complex is listed in the National Register of Historic Places, including the entire station and its historic finishes (National Register designation number NR04001016); and

WHEREAS, MTA-NYCT has determined that it is necessary for MTA-NYCT to demolish/remove several steel columns, close public access to the east platform, reconfigure control areas, install a new station stair from the street level that will visually obstruct portions of the original station finishes, remove and build over two tracks, extend the station platform into the existing tunnel, install new fare control line

equipment, and install new platform walls in order to improve passenger circulation, allow for future growth, be in compliance with ADA requirements, and provide additional egress as part of the station reconfiguration; and

WHEREAS, the FTA and SHPO have consulted with the MTA-NYCT to avoid or reduce the effects on the historic property in accordance with Section 106 of the National Historic Preservation Act of 1966 and relevant implementing regulations; and

NOW, THEREFORE, MTA-NYCT, SHPO, and the FTA agree that the undertaking shall be implemented in accordance with the following stipulations in order to mitigate the adverse effects that the station reconfiguration will have upon the Shuttle, there is no prudent and feasible avoidance alternative to the use of land from the property, and the action includes all possible planning to minimize harm to the property resulting from such use

### Stipulations

MTA-NYCT shall ensure the following measures are carried out:

#### I. MITIGATION

- 1) An interpretative display case or plaque containing information about the history of the Times Square Shuttle Station shall be located beneath the replicated Knickerbocker lintel adjacent to the entrance stair for the west platform. Prior to the finalization of the content and design of the display case/plaque, MTA-NYCT shall submit the proposed design to SHPO and the FTA for review and approval.
- 2) The granite paving for the Shuttle platform shall be modified with a veneer steel rail to reference portions of the original Tracks located at Tracks 2 & 3. The approximately sixty-foot-long sections will be located between Tracks 1 & 4.
- 3) In addition to the stipulations above, the design for the reconfiguration of the Times Square Shuttle Station included several measures of mitigation, including, but not limited to: repair and restoration of the original southwest platform wall finishes and southwest control area wall finishes; repair and restoration of original cast iron columns, ceiling plaster ornamentation, cast iron guard rails, etc.; continued protection of the east platform walls that are located within Transit back-of-house space; and replication of the damaged Knickerbocker marble lintel located at the west platform control area.

## II. DURATION

This MOA will expire if terms are not carried out within five (5) years from the date of its execution. Prior to such time, MTA-NYCT may consult with other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation III below.

## III. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, MTA-NYCT shall consult with such party to resolve the objection. If MTA-NYCT determines that such objection cannot be resolved, MTA-NYCT will:

- A. Forward all documentation relevant to the dispute, including the MTA-NYCT's proposed resolution, to the Advisory Council for Historic Preservation (hereinafter referred to as "ACHP"). The ACHP shall provide MTA-NYCT with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, MTA-NYCT shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. MTA-NYCT will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, MTA-NYCT may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, MTA-NYCT shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
- C. MTA-NYCT's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## IV. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## V. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation IV, above. If within thirty (30) days (or another time

period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, MTA-NYCT must either (a) execute an MOA pursuant to 36 C.F.R. § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7.

Execution of this MOA by the MTA-NYCT and SHPO and implementation of its terms evidence that the MTA-NYCT has afforded the FTA, and SHPO, an opportunity to comment on the proposed work and its effects on the historic property and that the MTA-NYCT has taken into account the effects of the project on the historic property.

FEDERAL TRANSIT ADMINISTRATION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: Stephen Goodman, Regional Administrator Region II: New York & New Jersey

NEW YORK STATE HISTORIC PRESERVATION OFFICE

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: Roger Daniel Mackay, Deputy Commissioner for Historic Preservation,  
NY State Historic Preservation Office

NEW YORK CITY TRANSIT AUTHORITY

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: Linda Tonn, D.V.P. & Chief Architect, Capital Program Management