

# Staff Summary

<b>Subject</b> <b>EMINENT DOMAIN PROCEDURE LAW DETERMINATION AND FINDINGS RELATED TO THE ACQUISITION OF PROPERTY INTERESTS FOR THE METRO-NORTH BREWSTER YARD IMPROVEMENTS PROJECT</b>
<b>Department</b> <b>REAL ESTATE</b>
<b>Department Head Name</b> <b>DAVID FLORIO</b>
<b>Department Head Signature</b>
<b>Project Manager Name</b> <b>GARRETT BURGER</b>

<b>Date</b> <b>JANUARY 31, 2024</b>
<b>Vendor Name</b>
<b>Contract Number</b>
<b>Contract Manager Name</b>
<b>Table of Contents Ref. #</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Metro-North Committee	01/29/2024		X	
2	Finance Committee	01/29/2024	X		
3	Board	01/31/2024	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Administrative Officer		
3	Chief Financial Officer		

**AGENCY:** MTA Metro-North Railroad (“MNR”)
   
**PROJECT:** MNR Brewster Yard Improvements Project on the Harlem Line (the “Project”)
   
**USE:** Permanent and Temporary Easements in Support of the Project
   
**ACTION REQUESTED:** Approval of Determination and Findings under the New York Eminent Domain Procedure Law

**COMMENTS:**

MNR is proceeding with the acquisition of property interests required for the Project. The first phase of the Project involves relocating the current Southeast Station customer surface parking to a new parking garage on existing MNR property on the east side of the Southeast Station. This will allow for yard expansion and upgrades in the future phases. This requires a new vehicular bridge to connect the existing Independent Way to the new garage and a new roadway off of Independent Way to allow access to the existing parking lot and future rail yard.

In connection with this initial phase of the Project, the MTA must acquire two permanent and two temporary easements from two private property owners listed in the attachment to this Staff Summary. The two permanent easements are required for the construction, maintenance, and reconstruction of a retaining wall, drainage basin, and drainage outfalls, and the two temporary easements are required for a work area during construction of the Project. Efforts are underway to acquire these property interests by negotiated agreements. In the instances where the MTA could not reach agreements with the affected property owners, legal proceedings were commenced under Article 2 of the New York State Eminent Domain Procure Law (“EDPL”).

On December 11, 2023, the MTA held an EDPL public hearing to describe the public use, benefit, and purpose of the Project, as well as its general impact on the environment. Notices of this public hearing were published in newspapers, as required under the EDPL. Property owners and other interested parties were also given advance notice of the hearing by mail. Both immediately before and after the hearing, representatives of the MTA and MTA Construction and Development (“C&D”) attended this hearing.

# Staff Summary

## FINANCE COMMITTEE MEETING



### **EMINENT DOMAIN PROCEDURE LAW DETERMINATION AND FINDINGS RELATED TO THE ACQUISITION OF PROPERTY INTERESTS FOR THE METRO-NORTH BREWSTER YARD IMPROVEMENTS PROJECT (Cont'd.)**

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Following a presentation by the MTA's hearing officer, public speakers made statements about the Project and/or the proposed property acquisitions. In addition, written comments about the Project and/or the proposed property acquisitions were received by the MTA prior to the end of the written submission period at 5:30 p.m. on December 22, 2023. A summary of the statements and written comments is attached.

After due consideration of all statements and comments received during and after the EDPL public hearing on December 11, 2023, the MTA staff recommends Board approval of the acquisition, by eminent domain, if necessary, of the property interests described in the attached Determination and Findings. Moreover, the MTA, C&D and Project staff will continue to work with property owners, tenants and other potentially affected parties as the Project moves forward to mitigate Project-related impacts as much as possible.

#### STATEMENTS, WRITTEN COMMENTS AND RESPONSES THERETO:

A summary of the statements and written comments made at the public hearing and during the written submission period following the hearing and the responses thereto is attached for the Board's consideration.

#### DETERMINATION AND FINDINGS:

Copies of the Determination and Findings under the EDPL are attached for the Board's consideration and approval.

MTA Real Estate hereby requests Board approval of the attached Determination and Findings and authorization for MTA staff and counsel to pursue Eminent Domain proceedings to acquire the required property interests by eminent domain, if necessary.

## **DETERMINATION AND FINDINGS PURSUANT TO ARTICLE 2 OF THE NEW YORK EMINENT DOMAIN PROCEDURE LAW**

### **METRO-NORTH BREWSTER YARD IMPROVEMENTS PROGRAM PROJECT**

On January 31, 2024 the Board of the Metropolitan Transportation Authority ("MTA") approved the acquisition of property interests described below by eminent domain or otherwise. In accordance with Section 204 of the New York Eminent Domain Procedure Law ("EDPL"), the MTA Board made its Determination and Findings for the Metro-North Brewster Yard Improvements Program Project by adopting the following statutory findings:

**1. EDPL Public Hearing.** On December 11, 2023 MTA held an EDPL public hearing to inform the public and to receive the public's comments on proposed property acquisitions for the Metro-North Brewster Yard Improvements Program Project ("Project"). All oral comments received at the hearing and all written comments received by the end of the written submission period following the hearing have been reviewed, made part of the record, and given due consideration.

**2. Location of Property Required for the Project.** The location and nature of the property interests required for the Project, and hereby approved for acquisition, are as described on the chart below.

At the December 11, 2023 public hearing and in letters and maps mailed to property owners and interested parties prior to the public hearing, MTA provided more detailed descriptions of the required property interests and estimated time frame when the property interests would be needed for the Project, currently estimated as Q3 2024.

MTA reserves the right to acquire a lesser interest in any of the properties described below, or to refrain from acquiring any of such property interests, as dictated by the needs of the Project.

**3. Public Use, Purpose and Benefits and Reasons for Selecting the Project Locations:** The Project will reconfigure the existing Brewster railyard, extend the yard to accommodate new and longer trains, and expand servicing and maintenance capabilities for the Harlem Line fleet. Phase 1 of the Project will relocate the current Southeast station customer surface parking to a new parking facility to allow for yard expansion and upgrades in the future phases.

The Phase 1 project will construct a new parking garage and transportation hub on Metro-North property located east of the Southeast station and the mainline tracks. Major project elements will include a new 5-level 1320-space Parking Garage with intermodal areas; a new vehicular bridge from Independent Way roadway to connect to garage and intermodal areas; a new pedestrian bridge from new parking facility that provides connection to the station platforms; and a new road off Independent Way roadway to allow access to the existing parking lot and future rail yard.

The Project benefits include: Harlem Line operational efficiency with yard expansion reducing deadheading costs between New York City and the Southeast station; expanding the number of parking spaces to increase ridership and reduce parking waitlists; safety and security improvements; service and reliability improvements including expanded rolling stock storage, drop-off/pick-up zones, and new covered pedestrian walkways; and long-term environmental sustainability initiatives including expanded ridership and new energy conserving facilities.

**4. General Effect of the Project on the Environment and Residents of the Locality.** The Project is exempt, pursuant to New York State Public Authorities Law 1266 (11), from the requirements of New York State Environmental Conservation Law Article 8, also known as the State Environmental

Quality Review Act ("SEORA"), for the following reasons:

- the affected property ("Property") is contiguous to land currently being used for a transportation purpose,
- the Property is less than ten acres in area, and
- the acquisition of the Property will not change in a material respect the general character of the prior transportation use of the contiguous property.

To help minimize potential impacts, MTA will make every reasonable effort to maintain access; control dust, noise, and vibration; screen construction activities; control rodents and pests; and minimize other disruptions, where practicable. MTA's goal is to create an active program of construction security and quality of life controls to ensure community safety.

### COMMENTS

At the public hearing, oral comments were received from the public, and it was stated that written comments would be accepted until the close of business on December 22, 2023.

The following summarizes the comments received: Concerns regarding the determination of the project location as well as concerns regarding drainage/changes in grade.

All comments have been given careful, extensive, and due consideration by MTA.

### DETERMINATION

Based on due consideration of the record and the foregoing findings, it was determined that the MTA should exercise its power of eminent domain to acquire the property interests set forth in the chart below in order to promote and permit the purposes of the Metro-North Brewster Yard Improvements Program Project to be achieved.

Copies of this Determination and Findings are available and will be forwarded without cost and upon request, by writing to:

Joseph O'Donnell, Director of Public Affairs  
MTA Construction & Development  
2 Broadway, D8135,  
New York, N.Y.10004

**ANYONE SEEKING JUDICIAL REVIEW OF THE ABOVE DETERMINATION AND FINDINGS MUST COMMENCE A LEGAL PROCEEDING IN ACCORDANCE WITH EDPL § 207 NO LATER THAN 30 DAYS AFTER MTA COMPLETES ITS TWO-DAY PUBLICATION OF THIS DOCUMENT, OR A SYNOPSIS THEREOF. UNDER EDPL § 207 AND § 208, THE EXCLUSIVE VENUE FOR SUCH PROCEEDING IS THE APPELLATE DIVISION, SECOND JUDICIAL DEPARTMENT, 45 MONROE PLACE, BROOKLYN, NEW YORK 11201.**

### **Acquisition of temporary and permanent easements for the Metro-North Brewster Yard Improvements Program Project:**

Borough	Block	Lot	Property Address	Type of Interest
Putnam	1	24	10 Independent Way	Temporary and Permanent Easement
Putnam	1	25	4 Independent Way	Temporary Easement
Putnam	1	28.2	15 Independent Way	Temporary and Permanent Easement