

Exhibit Book
MTA Board Meeting
3/29/2023

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Vendor Name	Transmittal Number	Procurement Description	Units	Type of Procurement	Amount of Procurement	Award Date	Exp. Date	Revised Date	Order No.	Ref. Date	Amount	Adjusted Price Per Unit	Contract or Order No.	Contract or Order Date	Contract or Order Amount	Contract or Order Unit Price	Contract or Order Quantity	Contract or Order Description	Contract or Order Status	Contract or Order Location	Contract or Order Country
426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005	426025005

2022 PARIS CONSOLIDATED AGENCY REPORT

Year/Name	Transmittal Number	Project Description	State	Type of Placement	Agency/Program	Award Date	Revised Date	Start Date	End Date	Amount	Actual	Contract	Number of Advertisements	Number of Spots	Per Minute Value	Address Line 1	Address Line 2	City	State	Postal Code	Day of Week	Program/Station	Country
2022/00000001	0000000001	2022/00000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001

2022 PARIS CONSOLIDATED AGENCY REPORT

Vendor Name	Procurement Description	Buyer	Type of Procurement	Award Date	Buy Date	Return Date	Contract Number	Amount	Amount Paid	Contract Start	Contract End	Number of Invoices	Number of Invoices Paid	Number of Invoices Over 90 Days	Address Line 1	Address Line 2	City	State	Zip Code	Phone Number	Country	
20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000	20220000000000000000

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Vehicle Name	5 - Branch Number	6 - Program or Description	7 - Bus / Type of Equipment	8 - Aged Date	9 - Bid Date	10 - Amount / Agency Bid	11 - Amount / US Bid	12 - Number of Bids / This Program	13 - Number of Bids / This Program	14 - Address	15 - City	16 - State	17 - Zip	18 - Country
2022 PARIS CONSOLIDATED AGENCY REPORT														

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Year	Month	Agency	Program	Activity	Start Date	End Date	Amount	Balance	Comments	City	State	County
2022	01	MTA	MTA	MTA	01/01/2022	01/31/2022	100.00	100.00		MTA	NY	NY
2022	02	MTA	MTA	MTA	02/01/2022	02/28/2022	100.00	0.00		MTA	NY	NY
2022	03	MTA	MTA	MTA	03/01/2022	03/31/2022	100.00	0.00		MTA	NY	NY
2022	04	MTA	MTA	MTA	04/01/2022	04/30/2022	100.00	0.00		MTA	NY	NY
2022	05	MTA	MTA	MTA	05/01/2022	05/31/2022	100.00	0.00		MTA	NY	NY
2022	06	MTA	MTA	MTA	06/01/2022	06/30/2022	100.00	0.00		MTA	NY	NY
2022	07	MTA	MTA	MTA	07/01/2022	07/31/2022	100.00	0.00		MTA	NY	NY
2022	08	MTA	MTA	MTA	08/01/2022	08/31/2022	100.00	0.00		MTA	NY	NY
2022	09	MTA	MTA	MTA	09/01/2022	09/30/2022	100.00	0.00		MTA	NY	NY
2022	10	MTA	MTA	MTA	10/01/2022	10/31/2022	100.00	0.00		MTA	NY	NY
2022	11	MTA	MTA	MTA	11/01/2022	11/30/2022	100.00	0.00		MTA	NY	NY
2022	12	MTA	MTA	MTA	12/01/2022	12/31/2022	100.00	0.00		MTA	NY	NY
2022	01	MTA	MTA	MTA	01/01/2023	01/31/2023	100.00	0.00		MTA	NY	NY
2022	02	MTA	MTA	MTA	02/01/2023	02/28/2023	100.00	0.00		MTA	NY	NY
2022	03	MTA	MTA	MTA	03/01/2023	03/31/2023	100.00	0.00		MTA	NY	NY
2022	04	MTA	MTA	MTA	04/01/2023	04/30/2023	100.00	0.00		MTA	NY	NY
2022	05	MTA	MTA	MTA	05/01/2023	05/31/2023	100.00	0.00		MTA	NY	NY
2022	06	MTA	MTA	MTA	06/01/2023	06/30/2023	100.00	0.00		MTA	NY	NY
2022	07	MTA	MTA	MTA	07/01/2023	07/31/2023	100.00	0.00		MTA	NY	NY
2022	08	MTA	MTA	MTA	08/01/2023	08/31/2023	100.00	0.00		MTA	NY	NY
2022	09	MTA	MTA	MTA	09/01/2023	09/30/2023	100.00	0.00		MTA	NY	NY
2022	10	MTA	MTA	MTA	10/01/2023	10/31/2023	100.00	0.00		MTA	NY	NY
2022	11	MTA	MTA	MTA	11/01/2023	11/30/2023	100.00	0.00		MTA	NY	NY
2022	12	MTA	MTA	MTA	12/01/2023	12/31/2023	100.00	0.00		MTA	NY	NY

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Agency Name	Agency Type	Agency Address	Agency City	Agency State	Agency Zip	Agency Phone	Agency Fax	Agency Email	Agency Website	Agency Description	Agency Status	Agency Start Date	Agency End Date	Agency Budget	Agency Revenue	Agency Expenses	Agency Net Income	Agency Assets	Agency Liabilities	Agency Equity	Agency Notes		
AGENCY 0000000001	Non-Profit	1000 Broadway	New York	NY	10001	212-123-4567	212-123-4568	info@agency01.org	www.agency01.org	Agency Description	Active	2022-01-01	2022-12-31	1000000	1200000	800000	400000	500000	200000	700000	Agency Note		
AGENCY 0000000002	Non-Profit	2000 Broadway	New York	NY	10001	212-123-4569	212-123-4570	info@agency02.org	www.agency02.org	Agency Description	Active	2022-01-01	2022-12-31	1500000	1800000	1200000	600000	750000	300000	1000000	500000	1500000	Agency Note
AGENCY 0000000003	Non-Profit	3000 Broadway	New York	NY	10001	212-123-4571	212-123-4572	info@agency03.org	www.agency03.org	Agency Description	Active	2022-01-01	2022-12-31	2000000	2500000	1800000	700000	1000000	500000	1500000	700000	2200000	Agency Note
AGENCY 0000000004	Non-Profit	4000 Broadway	New York	NY	10001	212-123-4573	212-123-4574	info@agency04.org	www.agency04.org	Agency Description	Active	2022-01-01	2022-12-31	2500000	3000000	2200000	800000	1200000	600000	1800000	900000	2700000	Agency Note
AGENCY 0000000005	Non-Profit	5000 Broadway	New York	NY	10001	212-123-4575	212-123-4576	info@agency05.org	www.agency05.org	Agency Description	Active	2022-01-01	2022-12-31	3000000	3500000	2800000	700000	1500000	800000	2000000	1100000	3100000	Agency Note
AGENCY 0000000006	Non-Profit	6000 Broadway	New York	NY	10001	212-123-4577	212-123-4578	info@agency06.org	www.agency06.org	Agency Description	Active	2022-01-01	2022-12-31	3500000	4000000	3200000	800000	1800000	900000	2200000	1300000	3500000	Agency Note
AGENCY 0000000007	Non-Profit	7000 Broadway	New York	NY	10001	212-123-4579	212-123-4580	info@agency07.org	www.agency07.org	Agency Description	Active	2022-01-01	2022-12-31	4000000	4500000	3800000	700000	2000000	1000000	2500000	1500000	4000000	Agency Note
AGENCY 0000000008	Non-Profit	8000 Broadway	New York	NY	10001	212-123-4581	212-123-4582	info@agency08.org	www.agency08.org	Agency Description	Active	2022-01-01	2022-12-31	4500000	5000000	4200000	800000	2200000	1100000	2800000	1600000	4400000	Agency Note
AGENCY 0000000009	Non-Profit	9000 Broadway	New York	NY	10001	212-123-4583	212-123-4584	info@agency09.org	www.agency09.org	Agency Description	Active	2022-01-01	2022-12-31	5000000	5500000	4800000	700000	2500000	1200000	3000000	1800000	4800000	Agency Note
AGENCY 0000000010	Non-Profit	10000 Broadway	New York	NY	10001	212-123-4585	212-123-4586	info@agency10.org	www.agency10.org	Agency Description	Active	2022-01-01	2022-12-31	5500000	6000000	5200000	800000	2800000	1300000	3200000	2000000	5200000	Agency Note

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Vendor Name	Procurement Description	Buyer	Type of Procurement	Award Date	Buy Date	Return Date	Contract No.	Contract Value	Amount Paid	Contract Start	Contract End	Contract Status	Agency Name	Address Line 1	Address Line 2	City	State	Zip Code	Country
0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001	0000000001

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Transactio Number	Vendor Name	Procurement Description	Units	Type of Procurement	Agency	Award Date	Buy Date	Release Date	Quantity	Unit Price	Amount	Contract Number	Contract Description	Contract Value	Contract Start Date	Contract End Date	Contract Status	Contract Location	Contract Country	Contract Agency
2022-0001	PARIS INC	Supply of 1000 units of...	1000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	1000	1.00	1000.00	1000000001	Supply of 1000 units of...	1000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC
2022-0002	PARIS INC	Supply of 2000 units of...	2000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	2000	2.00	4000.00	1000000002	Supply of 2000 units of...	4000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC
2022-0003	PARIS INC	Supply of 3000 units of...	3000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	3000	3.00	9000.00	1000000003	Supply of 3000 units of...	9000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC
2022-0004	PARIS INC	Supply of 4000 units of...	4000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	4000	4.00	16000.00	1000000004	Supply of 4000 units of...	16000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC
2022-0005	PARIS INC	Supply of 5000 units of...	5000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	5000	5.00	25000.00	1000000005	Supply of 5000 units of...	25000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC
2022-0006	PARIS INC	Supply of 6000 units of...	6000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	6000	6.00	36000.00	1000000006	Supply of 6000 units of...	36000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC
2022-0007	PARIS INC	Supply of 7000 units of...	7000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	7000	7.00	49000.00	1000000007	Supply of 7000 units of...	49000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC
2022-0008	PARIS INC	Supply of 8000 units of...	8000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	8000	8.00	64000.00	1000000008	Supply of 8000 units of...	64000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC
2022-0009	PARIS INC	Supply of 9000 units of...	9000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	9000	9.00	81000.00	1000000009	Supply of 9000 units of...	81000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC
2022-0010	PARIS INC	Supply of 10000 units of...	10000	Standard	PARIS INC	01/01/2022	01/01/2022	01/01/2022	10000	10.00	100000.00	1000000010	Supply of 10000 units of...	100000.00	01/01/2022	12/31/2022	Active	PARIS	USA	PARIS INC



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INTRODUCTION

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INTRODUCTION

MTA Real Estate Department: ~~The MTA Real Estate Department (“RED”) of Metropolitan Transportation Agency (“MTA”)~~¹ ~~handles is responsible for managing Aall~~ real-estate-related matters ~~(other than real-estate related development matters)~~ and utility franchise agreements ~~involving the disposition of real property or interests in real property for the Metropolitan Transportation Authority (the “MTA”)~~ MTA and each of ~~the~~ MTA’s subsidiaries and affiliates, which include: MTA New York City Transit, Manhattan and Bronx Surface Transit Operating Authority, MTA Metro-North Railroad, MTA Long Island Rail Road, MTA Bridges and Tunnels, MTA Staten Island Railway, MTA Regional Bus Operations and MTA ~~Design Construction and~~ Development (“MTAC&D”), and Grand Central Madison Concourse Operating Company (each, an “MTA Agency”, and, collectively with the MTA, the “MTA Agencies”). ~~Real-estate related development matters involving the disposition of real property or interests in real property are managed by the Real Estate Department (“RED”) of MTA or the Transit-Oriented Development group (“TOD”) of MTAC&D.~~ References in these Guidelines to ~~the~~ MTA or to MTA Agency are intended to refer to both MTA and the other MTA Agencies, individually and/or collectively, as the context may require.

RED Structure: ~~RED MTA Real Estate~~ comprises two core groups – (i) Transactions & Operations (including, Facilities Management) (“TOM”) and (ii) Transit-Oriented Development (“TOD”). The TOM group is responsible for all real estate-related transactional matters (other than development and major capital projects) for the MTA Agencies (including acquisitions, dispositions and leasing of MTA Property), tenant management, and management and operations of MTA Facilities. The TOD group is responsible for all real estate-related development matters, whether by an MTA Agency, a government or other public or quasi-public entity and/or a private entity, which affects or involves any existing or to-be acquired MTA Property and/or any existing or proposed transit-related facility or amenity, including acquisitions and dispositions of real property or interests in real property for long-term revenue generation and transportation facilities; major capital projects in conjunction with or enhanced by real estate development; other co-development arrangements with private and public entities including public-private partnerships; and other opportunities for realizing revenue from real estate opportunities and strategic planning.

RED MTA Real Estate Governance: ~~The~~ MTA’s Chief Administrative Officer (the “CAO”) oversees the RED’s ~~Real Estate Transactions and Operations~~ TOM functions and works with a team of senior officers. The ~~Director~~ Chief, Real Estate Transactions and Operations Officer (“Managing Director, TOM”)—reporting to the CAO, has primary day-to-day responsibility for managing all TOM functions, with direct oversight for, among others, the Director, Transaction Management (“First Deputy, TOM”), Director, Grand Central Retail Leasing and Management, ~~Associate~~ Director, Tenant Management, ~~Associate~~ Director, Operations and ~~Deputy~~ Director, Project Management.

The Senior Director, Transit-Oriented Development (“Managing Director, TOD”)—reporting to the Chief Development Officer —(the “CDO) through the Deputy CDO, Planning—has primary day-to-day responsibility for managing all TOD functions with direct oversight for, among others, the Director, Real Estate Development, the Director, TOD Transactions and the Deputy Director, Value Capture. (See Figures 25 and 26 for ~~TOM~~ RED/TOD organizational charts as of the Effective Date of these Guidelines.)

The Chief Administrative Officer is responsible for ~~the~~ MTA’s and the MTA Agencies’ compliance with and enforcement of these Guidelines, as the Board-designated Real Property Disposition Contracting Officer

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for the MTA and MTA Agencies.

~~The terms “TOM” and “TOD” are used interchangeably except as noted.~~

Scope of Guidelines: These Guidelines apply only to dispositions of real property under Sections 2895-2897 of the Public Authorities Law (“PAL”), including leasing-out or sale of real property and grants of

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interests in real property such as easements and leasehold interests, owned or leased and controlled by ~~the~~ MTA or other MTA Agency. The licensing-out of real property pursuant to licenses that ~~the~~ MTA or ~~an~~ other MTA Agency may terminate at will in its sole and absolute discretion upon not more than 60 days' notice without compensation by ~~the~~ MTA or other MTA Agency including repayment of any unamortized tenant improvement costs—is not subject to PAL Section 2897 because it is not a disposition of an interest in real property. Such licensing-out is subject to the RED Policies and Procedures for the Licensing of Real Property dated November 29, 2011, as amended. If a license agreement grants to the licensee an exclusive right to use and occupy any MTA Property and provides that the licensee's right of use and occupancy is subject to termination only for specified reasons or upon payment of compensation by the MTA or other MTA Agency, however, then these Guidelines will apply. Generally, licenses that permit a licensee to access MTA Property for a limited purpose or use on a non-exclusive basis (e.g., access permits or licenses to install monitoring equipment or other protective equipment in connection with adjacent projects) are not transfers of title to real property or of beneficial interests in real property and thus not a disposal of real property or an interest in real property, subject to PAL Section 2897 and these Guidelines. Similarly, the transfer of MTA Property or an interest in MTA Property to an entity or joint venture or other undertaking with another person or entity by contract, lease or other arrangement that involves MTA Property, and through which the MTA or MTA Agency will continue to own an indirect interest in the property, may be considered a mere change of identity in the form of ownership only—from a direct ownership interest to an indirect one—and thus not a disposal of such property subject to PAL Section 2897 and these Guidelines. References in these Guidelines to “dispositions” are intended to include only transfers of title in real property or of inchoate or beneficial interests in real property which would constitute a “disposal” under PAL Section 2895.

~~The franchise licensing of utilities is also not subject to PAL Section 2987 but rather is authorized under PAL Section 1266(2) and approved by MTA Board action dated February 17, 2021 except to the extent the franchise license does not comply with all conditions for such exception as set forth in the Board approval.~~

These Guidelines are supplemented by the Guidelines for Selection of Tenants for Grand Central Terminal that were adopted by the MTA Board on November 18, 2009, as amended (the “GCT Leasing Guidelines”). In the event of any inconsistency or conflict between these Guidelines and the GCT Leasing Guidelines, with respect to a lease at Grand Central Terminal, the GCT Leasing Guidelines shall govern. A copy of the current GCT Leasing Guidelines is attached hereto as Attachment 1.

PAL Section 2897 provides that, as a general rule, any leasing-out or sale of real property can only be undertaken after public advertising for bids and for not less than fair market value. However, these limitations do not apply in certain circumstances, which are specified below. Accordingly, although most dispositions by sale or lease will be made pursuant to the request for proposals process that is described in Chapter III of these Guidelines (the “Lease/Sale RFP Process”), others may be made pursuant to direct negotiations as described in Chapter IV of these Guidelines (the “Lease/Sale Negotiation Process”). Given the inherent complexity and uniqueness of TOD development projects, the long-term nature of the dispositions involved and the fact that such projects typically (although not necessarily) will involve the integration, expansion, modernization and/or co-location of a private development use with existing or contemplated MTA Facilities, TOD will generally follow the procedures identified in these Guidelines, but with modifications as noted herein to better conform to the specific requirements necessary to implement complex TOD development and disposition projects consistent with PAL Section 2987.

These Guidelines are intended only for the internal guidance of officers and employees of the MTA. Nothing contained in these Guidelines is intended, and the same shall not be construed, to establish expressly or by

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implication, or confer upon any person or entity (including any prospective proposers or awardees) any right, privilege, remedy, claim, reliance upon or benefit under, or by reason of, any requirement or provision of these Guidelines for third parties. Except to the extent prohibited by law, any provision of these Guidelines may be waived by the MTA Board (by ratification or otherwise) or by the Chairman and Chief Executive Officer of the MTA.

¹ A glossary of defined terms used in these Guidelines appears at the end of these Guidelines at Page 47.

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Lease/Sale RFP Process: The Lease/Sale RFP Process is designed, among other things, to give effect to the following requirements under PAL Section 2897:

- the advertisement for proposals must be made prior to the leasing-out, ~~or sale~~ or other disposition of MTA Property, through the methods authorized by these Guidelines;
- all proposals must be publicly disclosed at the time and place stated in the advertisement; and
- the award must be made with reasonable promptness by notice to the responsible proposer whose proposal will be most advantageous to the State, price and other factors considered; provided, however that all proposals may be rejected when it is in the public interest to do so.

The Lease/Sale RFP Process can be single-step or multi-step as described in Chapter III of these Guidelines.

Lease/Sale Negotiation Process: PAL Section 2897 specifies that the Lease/Sale Negotiation Process can only be utilized under the following circumstances:

- (a) the fair market value of the property to be leased-out is no greater than an average of \$15,000.00 annually over the term or the sale price does not exceed \$15,000, as applicable or
- (b) proposal prices after advertising are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition (even if the fair market value, as applicable in (a) above, exceeds \$15,000); or
- (c) the disposition will be to the State or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation (even if the fair market value, as applicable in (a) above, exceeds \$15,000); or
- (d) under those circumstances permitted by subdivision seven of PAL Section 2897, which include the following:
 - (i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;
 - (ii) the purpose of the transfer is within the purpose, mission or governing statute of the public authority; or
 - (iii) such action is otherwise authorized by law.

In the case of (a), (b) or (c) above, the disposition must be for no less than the applicable fair market value. In the case of (d) above, it can, but does not have to, be for less than fair market value. However, if the disposition in the case of (d) is for less than fair market value, ~~then~~ the following information must be provided to the relevant MTA Agency Board (which must make a written determination based upon such information, that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer) and the public:

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- (i) a full description of the asset;
- (ii) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the board;
- (iii) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
- (iv) a statement of the value to be received compared to the fair market value;
- (v) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
- (vi) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

An “explanatory statement” is required if a leasing-out or sale or grant of easement rights or other disposition pursuant to the Lease/Sale Negotiation Process meets certain criteria, as described in Chapter IV of these Guidelines. Each such explanatory statement must be transmitted to the New York State Comptroller, Director of the Budget, the Authorities Budget Office, the Commissioner of General Services and the Legislature not less than ninety days in advance of such disposition, and a copy thereof must be kept in the project file.

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CHAPTER I - INQUIRIES

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CHAPTER I - INQUIRIES

Scope - This chapter establishes guidelines for responding to verbal and written inquiries made to the RED regarding the disposition of MTA Property (“Inquiries”).

Responsibilities - RED is responsible for coordinating all responses to Inquiries. RED’s responsibilities include researching the ownership status of specific properties, contacting the applicable MTA Agencies and TOD to determine whether property is available or whether there may be development opportunities associated with the property in question, and responding to inquirers.

Objective - To provide prompt, courteous and accurate responses to Inquiries.

Procedures – Except for Inquiries relating to the leasing of space at Grand Central Terminal, which should be referred to the Director, Grand Central Retail Leasing and Management, and Inquiries relating to development, which should be referred to the Managing Director, Transit-Oriented Development TOD, all Inquiries should be referred to the First Deputy, TOM, who should either respond directly or else charge an appropriate deputy with doing so. In the first instance, the First Deputy TOM should ascertain:

- (1) precisely what property the inquirer is referring to, and which MTA Agency controls it;
- (2) whether the relevant MTA Agency owns such property or merely leases it and, in the case of leased property, to what extent subletting of such property is permissible;
- (3) what use the inquirer proposes to make of the property and whether such use would be compatible with MTA Agency use of any MTA Facilities that adjoin such property;
- (4) whether the RED has already been authorized to dispose of such property or (if not) whether the applicable MTA Agency might be amenable to disposing of such property; ~~and~~
- (5) what restrictions would need to apply to any such disposition; and-
- (6) whether Transit-Oriented Development should be notified and/or involved in the Inquiry.

If the Managing Director, TOM and/or the First Deputy TOM (after consultation with the Managing Director, TOD and/or the First Deputy TOD) determines that the subject property is available for purchase or lease either as a TOM transaction or, if applicable, as a potential development transaction through TOD, ~~he or she~~ then the First Deputy TOM or the First Deputy TOD, as applicable, (or their deputy or deputy’s designee) should so inform the inquirer, taking care to stipulate that (except as otherwise described in these Guidelines) any such sale or lease may be undertaken only in accordance with the Lease/Sale RFP Process, and should see to it that the inquirer is provided in due course with an opportunity to participate in the Lease/Sale RFP Process with respect to such property. If the First Deputy TOM determines that the subject property is not available for sale or lease but may be available under a license arrangement that may be revoked by the MTA at will, without cost, on not more than 60 days’ notice, ~~he or she~~ they (or such deputy or deputy’s designee) should so explain to the inquirer, and in that case the Licensing-Out Guidelines shall apply to such property. Otherwise, the First Deputy TOM (or such deputy or designee) should inform the inquirer that the subject property is not available on any terms and invite the inquirer to register their interest on RED’s website for purposes of alerting the inquirer to other opportunities.

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For templates for appropriate written responses, see Figures 1–5.

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CHAPTER II – ASSESSMENT OF OPPORTUNITIES

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CHAPTER II – ASSESSMENT OF OPPORTUNITIES

Scope – This chapter establishes guidelines for the assessment of opportunities to sell or lease MTA-controlled property that is not needed for operational purposes.

Responsibilities – ~~RED~~ MTA Real Estate is responsible for encouraging the MTA Agencies to identify MTA-controlled property that is either never going to be needed by the MTA Agency for operational purposes or not expected to be needed for such purposes until sometime in the future; for assessing the marketability of such property for sale, lease or license, as appropriate (taking into account relevant legal constraints, physical conditions and real estate market conditions); and for coordinating with the MTA Agencies to facilitate the disposition of such property or the licensing of such property subject to revocation when and as feasible.

Objective – To generate revenues for the MTA, consistent with the fulfillment of the MTA’s operating and transportation purposes.

Procedures – In response to Inquiries, on its own initiative and/or at the request of the MTA Agencies, MTA Real Estate ~~the RED~~ should evaluate MTA-controlled properties for their revenue-generating potential. To the extent that MTA-controlled property holds such potential, whether best to realize that potential by sale, lease, grant of easement rights or license, or transfers of development rights to adjacent properties will depend on an assessment of (a) the desirability and feasibility of sub-dividing and physically separating such property from adjoining MTA-controlled property, (b) the extent, if any, to which any MTA Agency may have future operational needs for use of the property or excess development rights associated with the property is or can be envisioned, (c) whether (in any case) it will be necessary or desirable for the MTA Agency to maintain long-term control over the ownership and/or use of the property, (d) whether the MTA Agency owns the property or merely leases it, and the extent, if any, to which disposition of the property is limited by reason of the terms of any lease pursuant to which the MTA Agency controls the property or by reason of any other title encumbrances, and (e) the potential revenues to be realized. With respect to each property to be evaluated, the Managing Director, TOM and/or the First Deputy TOM should refer such property to the appropriate Deputy Director, who will designate a Transaction Manager to conduct the evaluation under their supervision.

In all cases where an inquiry may have potential for development as a future or existing Transit-Oriented Development matter including the potential for a transfer of development rights to adjacent property owners, the Managing Director, TOM and/or the First Deputy, TOM, will direct such inquiry to the Managing Director, TOD and/or First Deputy -TOD, to afford ~~him or her~~ MTA TOD with the opportunity to explore the development potential.

Maintenance of Marketable Property List

With respect to all MTA Real Estate ~~TOM~~ matters, the Deputy Directors are responsible for maintaining and regularly updating the marketable property list for their respective areas of responsibility. They are also responsible for using RED’s Yardi database to run reports and periodically check active accounts for expiring terms of leased or licensed property to ensure timely marketing of those opportunities is initiated.

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A. Site Analysis

The Transaction Manager shall conduct a site inspection, in the case of a TOM transaction, with a representative of Tenant Management (or RED’s Tenant Management Vendor), and in any case with the appropriate personnel of the MTA Agency in order to evaluate the condition of the property, the surrounding area, ascertain what utility services may be available for the site and identify what code compliance concerns may need to be addressed. As a part of this inspection, the Transaction Manager should assess the need for and extent to which improvements might be required, and consult with appropriate personnel of the applicable MTA Agency concerning the feasibility and potential costs of such improvements, and (assuming that the cost of such improvements would be justified by the revenue-generating potential of the property) whether it would be most efficient and cost-effective for the applicable MTA Agency to make such improvements (either in anticipation of rental or license fee income or at the direct cost of a lessee, licensee or purchaser) or for the making and/or cost of such improvements to be left to the purchaser, lessee or licensee. After the site inspection, a site assessment report will be completed, with input from all agency personnel and, in the case of a TOM transaction, TMU/Tenant Management Vendor. The Transaction Manager should also consult with Information Management and MTA Legal to ensure that the Transaction Manager is aware of any contractual or other legal limitations that would affect the MTA Agency’s ability to dispose of the subject property.

In order to determine the marketability of a property, the following (where applicable) should be considered:

- Present use/condition of site
- Accessibility
- Visibility
- Surrounding uses
- Size, shape and physical characteristics of site
- Condition of street and station improvements
- Impact of any MTA Agency restrictions
- Availability of utility services
- Extent to which improvements are needed and MTA Agency funds are available to pay for such improvements
- Easements or restrictive covenants
- Traffic patterns/passenger volume counts - peak and off peak
- Existing retail at station
- Consumer activity during rush and non-rush hour periods
- Condition of neighboring properties
- Existing vacancies in the area
- New/potential development nearby
- Any operating issues noted by Tenant Management
- Any operational needs for modernization and/or expansion of existing MTA Facilities
- Adequacy of storage space or other existing MTA Facilities
- Environmental matters
- Any Federal Funding Requirements

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Generally, the leasing-out or sale of MTA Property or grant of easement rights or transfers of development rights constitutes an “action” under the State Environmental Quality Review Act (“SEQRA”) and thus is subject to SEQRA’s requirements. SEQRA requires review of actions to determine whether they may have a significant adverse environmental impact and, if so, preparation of an environmental impact statement before the action may be approved and undertaken. While most lease renewals will be Type II actions under SEQRA regulations – actions which the State Department of Environmental Conservation has found to have no significant adverse impacts – and thereby exempt from review, and some new leases may also fall within a Type II category, the Transaction Manager should consult with MTA Legal’s; Deputy General Counsel, Unit Chief – Environmental (the “DGC Environmental”) as early in the process as practical to determine what measures are necessary to ensure SEQRA compliance. Further consultation may be necessary as a proposal develops or changes over time. Board approval resulting in a binding of a lease or sale or grant of easement rights or transfers of development rights in MTA Property cannot occur unless SEQRA requirements have been met either through (a) the action being exempt as a Type II action under SEQRA or falling within the PAL § 1266(11)-exemption from SEQRA set forth in PAL Sections 1266(11), 1266-c(11) or 553-e(1(b)), as applicable; (b) issuance of a negative declaration, or (c) preparation of a final environmental impact statement. If the leasing-out or sale or other disposition of MTA Property involves any federal action, which is rare for TOM transactions, the leasing-out or sale or other disposition would be subject to National Environmental Policy Act (“NEPA”) in addition to SEQRA.

Each proposed lease or sale, for a TOM transaction, whether via the RFP Process or the Lease/Sale Negotiation Process, requires preparation of and sign-off on a Pre-RFP Authorization Memo (Figure 9), as further described in Chapters III and IV. Each Pre-RFP Authorization Memo should note the SEQRA type or NEPA status, and required actions, if any, to be taken before the transaction is presented to the MTA Board for approval. No Pre-RFP Authorization Memo is required for TOD transactions, however, a determination of the SEQRA type or NEPA status, and required actions, if any, to be taken before the transaction is presented to the MTA Board for approval, must be made with the assistance of MTA Legal’s DGC – Environmental.

Additionally, MTA Legal’s Deputy General Counsel, Unit Chief – Finance (the “DGC-Finance”) must review the location(s) being offered in each RFP, with ~~the RED~~ MTA Real Estate providing location-specific information as required, prior to the issuance of the RFP to determine whether there are any tax-exempt bond related tax issues that would arise from private use. Only when MTA Legal’s DGC- Finance clears such location and use should it be advertised, unless circumstances require advertisement before clearance is given, in which case the RFP must be subject to cancellation if clearance is not given prior to award. In the case of TOM transactions, ~~t~~he Pre-RFP Authorization Memo contains two (2) boxes which must be checked by the Transaction Manager completing that form indicating that MTA Legal’s DGC - Finance reviewed the location and use and has given approval to proceed with the RFP. A copy of the MTA Legal’s DGC - Finance determination should be kept in the RFP file for all MTA Real Estate matters (i.e., TOM and TOD).

Prior to issuing an RFP, the TOM Transaction Manager should prepare a Parcel Information Sheet (Figure 6) for each property that ~~he or she~~ such person determines to be marketable. The purpose of the Parcel Information Sheet is to collect information that will ultimately be used to describe the property being disposed of in the RFP. A Parcel Information Sheet, may be prepared, but will not be required for TOD matters.

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Each Parcel Information Sheet should include information for all applicable fields. A form of Parcel Information Sheet applicable to all MTA Agencies may be found in the RED shared folder at S:\RFP Documents and Forms\RFP Boilerplate Forms. The parcel information includes:

- Yardi property identification number and address
- Block and lot number, if applicable
- Site plan
- Site description, including approximate size and any unusual attributes
- Interest (i.e., lease, license, sale) being offered
- Preferred or required uses or any use restrictions
- Any desired reservation of rights
- Utility requirements and availability
- Improvement requirements and associated cost estimates
- Design guidelines (if any)
- Transaction Manager site visit date

The assessment of potential uses and restrictions on use (including any restrictions on items to be sold at the subject location) should take into account the following considerations, if applicable:

- MTA Agency requirements
- Restrictions in existing MTA Agency licenses or leases at location
- Restrictions in MTA Agency's deed or chain of title
- Land use regulations and building, fire, health and other like codes, to the extent deemed by MTA Legal's DGC - Environmental to be applicable to the subject facilities
- Environmental conditions

B. Preliminary Fair Market Value Analysis

Prior to ordering an appraisal or while one is being prepared (see Chapter V), the Transaction Manager should to the best of ~~his or her~~their ability seek to estimate the fair market value of the subject property. For such purpose, the Transaction Manager may rely on ~~his or her~~their knowledge of market conditions, information in the Yardi database, the experience of ~~RED-MTA Real Estate~~ colleagues, informal discussions with appraisers, posted broker listings for comparable properties and/or discussions with brokers; provided, however, that any brokers so contacted should be informed that the inquiry is for information purposes only and that the MTA is not (or is not yet) seeking the assistance of such brokers to locate prospective purchasers or tenants. If an estimate of fair market value has already been obtained, the Transaction Manager should use it to help inform their analysis.

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C. Conclusion of Site and Preliminary Fair Market Value Analysis

The Transaction Manager should prepare a market analysis work sheet describing their analysis of the property and conclusions regarding the marketability of the property. The Transaction Manager should use such market analysis work sheet to guide their discussions with their Deputy Director, and the discussion should encompass the following:

- Parcel Information Sheet
- Review of the market analysis work sheet and explanation of fair market value estimate
- Analysis of whether revenue-generating potential appears to justify cost and effort to make any required improvements to the property.
- Critical assumptions.

The applicable Deputy Director should, upon conclusion of discussions with the Transaction Manager and resolution of any outstanding issues, then present the Pre-RFP Authorization Memo (with the market analysis work sheet attached) to the First Deputy TOM, for approval. ~~For potential TOD dispositions, a similar analysis shall be performed, however a Pre-RFP Authorization Memo will not be required, however the TOD Transaction Manager shall also seek and obtain approval from the affected operating railroad prior to moving forward with any TOD development RFP.~~ Both the applicable Deputy Director and First Deputy TOM should agree as to whether the property should be marketed for sale or lease or license or other disposition. If they determine to move forward with marketing for sale or lease or other disposition, the First Deputy TOM should authorize the commissioning of valuation of the fair market value of MTA Property or the interest therein being disposed of, if it has not already been commissioned, as provided in Chapter V of these Guidelines. The Pre-RFP Authorization Memo is also approved by the Managing Director TOM.

For potential TOD dispositions, a similar market analysis should be performed, and the Transaction Manager should seek and obtain input and concurrence from the affected operating MTA Agency in connection with moving forward with any TOD development RFP as to the potential operational impacts, needs and benefits of the proposed transaction for the operating MTA Agency, and any new or expanded MTA Facilities that would be involved. The Transaction Manager should consult with MTA Legal's Deputy General Counsel, Unit Chief – Real Estate Development & Planning (the "DGC-Development"), the First Deputy TOD and the Managing Director TOD in connection with any proposed issuance of a TOD development RFP.

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CHAPTER III – REQUESTS FOR PROPOSALS (RFPs)

Scope - This chapter describes the Lease/Sale RFP Process that will be followed by MTA Real Estate.

Responsibilities – Unless use of the Lease/Sale Negotiation Process is authorized, ~~the RED~~ MTA Real Estate is responsible for providing all qualified members of the general public with an opportunity to lease or purchase available properties from MTA or the MTA Agencies and for selecting tenants, ground lessees or purchasers based on predetermined priorities while ensuring the integrity of the selection process.

Objective - To maximize and generate MTA revenues while choosing qualified tenants, ground lessees or purchasers who will meet their obligations and improve the appearance of MTA Facilities and the quality of the amenities offered to the public at such facilities. Additionally, in the case of TOD matters, to monetize and generate revenues from MTA Property assets and interests for transportation purposes through development opportunities with third parties, including transfers of excess development rights, long-term ground leases and easements and joint developments to provide for new, expanded and modernized MTA Facilities.

Procedures - The Lease/Sale RFP Process is described in the following pages.

A. RFP PUBLICATION

1. The Transaction Manager is responsible for preparing the request for proposals (“RFP”). The RFP must include:
 - a. an “RFP Cover Letter”, which highlights information about the offering, contains general instructions, and the following two PAL and Lobbying Law-required statements: (1) **“All proposals shall be publicly disclosed in the agenda for the meeting of the Finance Committee of the MTA Board at which the transaction will be considered for approval or disclosed to the members of the Finance Committee of the MTA Board and to members of the MTA Board in executive session and thereafter publicly disclosed prior to execution”**, and (2) **“All contacts with MTA relating to this RFP must be made through the designated Point(s) of Contact identified herein. Contacts with anyone else at MTA relating to this RFP may be a violation of law and may result in the disqualification of the proposer.”** The RFP Cover Letter should include the names and contact information for the designated Point(s) of Contact (a sample RFP Cover Letter is shown in Figure 7). [Note: For TOD transactions the RFP Cover Letter content may be incorporated within the body of the RFP.]
 - b. the Parcel Information Sheet (see Figure 6) (for TOM matters);
 - c. Term Sheet;
 - d. a Proposer Information Form (“PIF” – See Figure 8) which includes a General Affidavit authorizing credit background and reference investigations;
 - e. a Procurement Lobbying Law Certification form (also known as the NYS Finance Law Sections 139-j & 139-k (“Lobbying Law”) Disclosure Statement);

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- g. a Proposed Rent, Compensation or Purchase Price Form; and
- h. an IRS Form W-9.

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~~To the extent practicable, the RFP should also include (or provide a link to a page on the RED website that includes) a proposed form of lease or contract of sale, or a summary of the principal terms of such lease or contract, and, it may to the extent the First Deputy TOM deems appropriate, require proposers to state any objections that they may have with respect to such form or terms at the time they respond to the RFP.~~

When this package is complete, the Transaction Manager should forward the RFP package to their applicable Deputy Director and the First Deputy ~~TOM~~ for final approval via an appropriately titled Pre-RFP Authorization Memo (see Figure 9) in the case of TOM matters, or otherwise in the case of TOD matters, before it is issued. An RFP for TOM matters should also be reviewed and approved by MTA Legal's, Deputy General Counsel, Unit Chief – Real Estate Transactions and Operations (the "DGC – T&O"), or ~~their his or her~~ designee, to the extent that (a) standard RFP provisions have been materially modified or changed, or (b) the contemplated transaction may present special legal issues. Given the complexities and uniqueness of TOD matters, an RFP for TOD matters should always be reviewed and approved by MTA Legal's, DGC - Development, or their designee, before being issued.

2. RFPs are not printed and distributed by mail. RED maintains a database for prospective tenants to register on ~~the~~ MTA's website and access all RFPs online. RED's online service includes automated electronic mailings to registered prospects announcing RFPs for available opportunities. With respect to TOD transactions, TOD maintains ~~uses~~ the RED database for prospective developers to register on MTA's website and access all RFPs online.

3. If the subject property is currently occupied by an incumbent lessee or licensee in good standing, the Transaction Manager should notify such incumbent by an Incumbent Letter sent by certified and first class mail and email that such property is going to be marketed in an upcoming RFP. The Transaction Manager must check that the address for the incumbent used in the Incumbent Letter is up to date and reflects any change of address, change of business name, etc. (For an example of an Incumbent Letter, see Figure 10). A copy of the Incumbent Letter and the return receipt should be maintained in the incumbent's file. The Incumbent Letter should not mention any details of the RFP, as that might give the incumbent an unfair advantage over other proposers, nor should it state or imply that the incumbent will receive preferential consideration. The letter should be mailed to the incumbent's address as listed for notice in the incumbent's original agreement, as modified by any subsequent amendments or notices of change of address. Any questions regarding the appropriate address for notice should be referred to Tenant Management (and MTA Legal's; DGC – T&O, if necessary). The Incumbent Letter should include a link to the website address where the RFP will be posted in order for the incumbent lessee or licensee to access the RFP. The need for an Incumbent Letter is not likely to apply to TOD matters.

4. After receiving approval ~~of the Pre-RFP Authorization Memo~~ from their applicable Deputy Director and the First Deputy ~~TOM~~, the Transaction Manager should initiate the advertisement of the RFP. RED's MTA Real Estate's advertisements for RFPs and any other opportunities will generally be advertised along with all other agency procurements in the classified section of the New York Post Daily News and any other publications as required by law., the Minority Commerce Weekly, a Spanish language newspaper, currently El Diario, and the Amsterdam News. For TOD matters the Transaction Manager will generally determine whether other advertisement is warranted in other online or print publications geared to developers, for example The Real Deal. For each RFP, the advertisement should include a one-sentence description of the opportunity, including in the case of TOM transactions the RFP reference number (e.g., RFPBG0912), and a reference to and listing of the MTA website for RED MTA Real Estate RFPs

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(http://enterprise.nymta.info/MTA_Real_Estate_RFP/). For an example of the RFP Advertisement, see Figure 11. The RFP website link should have the same language as the description in the advertisement. The advertisement will direct potential proposers to the “Retail + Leasing” page of the MTA website, from where they can access RFPs by signing in with a username and password. Point of Contact information will be included in the RFP cover letters that are included in the .PDFs of RFPs on the website.

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Advertisements may also be placed in additional periodicals with the approval of the First Deputy ~~TOM~~, depending on the targeted market, size and location of the property, etc. (e.g., for a restaurant, trade journals targeted to franchisees might be included) or in the case of potential TOD transactions, for publications geared to developers or specific user groups. A copy of all advertisements should be included in the RFP File. Targeted advertisements should include a more expansive description of the opportunity and a map, plan, or picture if appropriate. Also, these advertisements should include Point of Contact information and the Lobbying Law language shown above in 1.(a)(1) and 1.(a)(2). See Figure 11 for an example of such an advertisement.

Subject to Senior Vice-president/Chief Customer Officer approval, advertisement drafts must be submitted to Miller Advertising on Tuesday before the Thursday planned for the advertisement to have the RFP information placed in the next MTA advertisements for the four required periodicals. The Manager of Production, in MTA's Marketing & Communications Department, should be copied on the email to Miller Advertising. The Transaction Manager should also ensure that the RFP is timely posted onto MTA's website.

5. At the same time or prior to posting an RFP, the Transaction Manager ~~will~~ should call or send an email to the MTA press office, as well as the agency's public affairs office, being sure to email the individual responsible for press for the relevant MTA Agency, advising that an RFP is forthcoming, indicating whether a purchaser or tenant is being sought and describing the property being offered. The Transaction Manager should discuss with the press office whether a press release is warranted for the RFP due to the special circumstances or locations being offered in the RFP, and if so, coordinate the drafting and review of the press release with the relevant Deputy Director and First Deputy ~~TOM~~. If warranted, the Government Affairs office of the relevant MTA Agency should also be advised of the RFP.

6. On a case by case basis, the First Deputy ~~TOM~~ may, with the concurrence of the Managing Director, (a) elect to make RFPs available to our on-call brokers and undertake in such RFPs to pay brokerage commissions (at the rates previously negotiated in our on-call contract) to any brokers that represented the MTA on the consummated sales or leases of MTA Properties that are the subject of such RFPs.

7. The Transaction Manager is responsible for seeing to it that each person or entity that has made an inquiry with respect to any particular property or type of property receives notice of the issuance of any RFP relating to such property or type of property.

8. A site visit time for prospective proposers is typically identified in the RFP. At the indicated time of the site visit, the Transaction Manager should be present at the site and available to answer any questions. The Transaction Manager should maintain a sign-in sheet for each location visited.

9. Addenda to RFPs can and should be issued as appropriate to apprise prospective purchasers, ~~or~~ tenants or ground lessees of modified expectations or requirements, to provide them with other additional information and/or to respond to any questions that arise during the RFP process. Care must be taken to ensure that in this way all interested parties are provided in writing with all material information that is provided (whether orally or in writing) to any one such party.

10. The Transaction Manager must establish an RFP file which shall include all relevant documents for the RFP in question.

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B. Determination of Whether to Utilize Single-Step or Multi-Step Lease/Sale RFP Process

In the first instance, the applicable Deputy Director and the First Deputy ~~TOM~~ should determine whether to utilize a single-step or a multi-step RFP process, based on the nature of the subject property, the complexity of the offering and prior experience with similar types of property.

C. Single-Step Lease/Sale RFP Process

In a single-step Lease/Sale RFP Process, ~~the REDMTA Real Estate~~'s selection is based on the initial proposer submission (except that ~~the REDMTA Real Estate~~ may seek clarifications and/or completion of submissions as described below). Following review and consideration of the proposal bids and the making of responsiveness and responsibility determinations, ~~the REDMTA Real Estate~~ determines which proposal is most advantageous to the State, price and other factors considered. Unless it determines to reject all proposal bids, ~~the REDMTA Real Estate~~ must then seek authorization from the MTA Board to enter into a lease or contract of sale or easement, as applicable, with such proposer. All proposal bids must be either publicly disclosed in the agenda for the Finance Committee meeting at which ~~the REDMTA Real Estate~~ seeks such authorization or disclosed to the members of the Finance Committee of the MTA Board and to the members of the MTA Board in executive session and thereafter publicly disclosed prior to execution. The single-step Lease/Sale RFP Process is more likely to be used in TOM transactions and in Type II Transactions (e.g., MTA rights-of-way often have only one logical adjacent user; similarly, development/air rights are only transferrable generally to adjacent owners).

D. Multi-Step Lease/Sale RFP Process

In a multi-step Lease/Sale RFP Process, the initial proposer submission is followed by one (1) or more revised submissions. If the incumbent has submitted a proposal, all ~~addendums~~ addenda to the RFP, requests for best and final offers, or other correspondence must be sent to the incumbent by the Transaction Manager via certified mail, return receipt requested, first class mail, and by email. If the incumbent's proposal was prepared by an attorney or other agent or representative, all addenda should also be sent to such representative or agent certified mail, return receipt requested, first class mail, and by email. Following each submission, ~~the REDMTA Real Estate~~ staff may communicate with proposers to clarify the proposal bids or to obtain additional information. Following review and consideration of the proposal bids and the making of responsiveness and responsibility determinations, ~~the REDMTA Real Estate~~ may decide to make a final determination based on such proposals or it may request that proposers submit revised proposals. At any point, ~~the REDMTA Real Estate~~ may eliminate from the next step those proposers determined to be unresponsive, not responsible or outside of the competitive range on the basis of the selection criteria specified in the RFP. When ~~the REDMTA Real Estate~~ decides that it is not going to seek any further submissions, it determines which proposal bid is most advantageous to the State, price and other factors considered. Unless it determines to reject all proposals, ~~the REDMTA Real Estate~~ must then seek authorization from the MTA Board to enter into a lease or contract of sale or other definitive transaction documents, as applicable, with such proposer. All proposal bids must be publicly disclosed in the agenda for the Finance Committee meeting at which ~~the REDMTA Real Estate~~ seeks such authorization or disclosed to the members of the Finance Committee of the MTA Board and to the members of the MTA Board in executive session and thereafter publicly disclosed prior to execution.

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E. Proposal Submissions

Proposals may be submitted as follows unless otherwise specified in the RFP:

One hard copy of the complete proposal submission should be MAILED, or sent via UPS, FEDEX, or other parcel or post carrier in sealed envelopes and must arrive by the date and time required in the RFP (unless initially emailed, as described below) and must be sent to provided that the same is sent by the date and time required in the RFP via electronic mail to the designated Point of Contact:

MTA Real Estate
Attention: ~~Senior~~ Transaction Manager
Metropolitan Transportation Authority
2 Broadway, 4th Floor
New York, NY 10004
MTA Real Estate RFP Number: _____

In lieu of mailing or ~~hand-delivering~~ delivery by courier service by the required date and time, submissions of proposals may initially be made via electronic mail provided that the same is sent by the date and time required in the RFP and the designated Point of Contact confirms receipt, and an original hard copy is received no later than seven (7) days after the date and time required in the RFP.

~~If a proposal is submitted by personal delivery, whether by a proposer or by messenger, it must be delivered to the MTA New York City Transit Bid Suite at 3 Stone Street, around the corner from the 2 Broadway entrance (north side of street, between Broadway and Broad Street). Proposers WILL NOT be permitted to deliver proposals in person at the 2 Broadway entrance. Personally delivered proposals will be time stamped by staff in the Bid Suite and then proposers will be directed to place proposals in a drop box in the Bid Suite.~~

F. Earnest Money Deposits

For discussion about deposits for leases, see Chapter VII – Board Approval Process, Section A. - Conditional Designation Letters.

Typically, for TOM transactions, in the case of a sale, ~~the~~ RED requires each proposer to deposit with the MTA, at the time of its initial submission (in the case of a single-step RFP), or best and final submission (in the case of a multi-step RFP), earnest money in the amount of the deposit that will ultimately be required under the contract of sale. Except as the First Deputy TOM may otherwise determine, such earnest money deposit should be in the amount of ten (10%) percent of the purchase price. For TOD dispositions, the amount of the earnest money deposit, if any, and the timing as to when the same will be deposited, shall should be determined in consultation with the First Deputy TOD and MTA Legal's DGC -- Development and will be reflected in the RFP.

All earnest money checks and IRS W-9 forms for TOM transactions should be forwarded to Tenant Management, which should make a record of such checks and then transmit such checks to the Bank designated by MTA for such purposes. Once a proposer has been eliminated from further consideration, the Associate Director, Tenant Management must be so notified by the Transaction

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Manager and (except as described in Chapter IX of these Guidelines) such proposer's earnest money deposit should be returned to such proposer. For TOD transactions, all earnest money checks, if any, and IRS W-9 forms should be forwarded to the Director of Finance Operations, MTAC&D.

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If a proposer has been selected, its earnest money deposit may be held in a non-interest bearing non-segregated account, until such time as the contract of sale is executed, at which time it will be applied toward the down payment pursuant to the contract of sale and held in accordance with the terms of the contract of sale. If the selected proposer fails to enter into a contract of sale, such proposer’s earnest money deposit may be retained by the MTA, in its discretion; provided, however, that the First Deputy ~~TOM~~ and/or the Managing Director, ~~TOM~~ may in any event elect to return any earnest money deposit received from any governmental agency or not-for-profit agency. Alternatively, if negotiations have terminated by reason of an impasse over contract terms that were not addressed in the proposal or Conditional Designation Letter, and if the Transaction Manager and their Deputy Director and MTA Legal’s DGC – T&O or DGC – Development, as applicable, concur that the proposer has been dealing in good faith, Tenant Management or Finance Operations, as applicable, should be directed to return the proposer’s earnest money deposit without interest, if any.

The deposit of earnest money with a proposal submission may be waived for a given RFP by the First Deputy ~~TOM~~.

G. Opening Proposals

The receipt of proposals should be conducted with a high degree of confidentiality until the selection process is complete. Documentation such as proofs of receipt, and preliminary screening for completeness of RFP submissions, are critical in maintaining the integrity of the process. For RED, hard copy pProposals are stamped and dated at the time of receipt. All hard copy proposals should be opened by the Transaction Manager in the presence of at least one other staff member, and in the meanwhile the proposals should remain sealed and unopened. Subsequent to opening the proposals, each submission should be examined to ensure that all required items have been included. A checklist should be used for that purpose (see Figure 12 for a sample checklist). For TOD transactions, most proposals will be submitted electronically, and appropriate measures will be taken to maintain the integrity of the process.

H. Evaluating Proposals

The following should serve as a guide for evaluating proposals, regardless of whether a single-step or multi-step Lease/Sale RFP Process is used. In the case of a single-step Lease/Sale RFP Process, a decision is made based on the initial submission. In the case of a multi-step Lease/Sale RFP Process, a decision is made based on the best and final submission.

1. Responsiveness. The first threshold to further consideration of a proposal is its “responsiveness”. The following are to be considered to determine whether a proposal is responsive:

- a. Required forms (including Procurement Lobbying Law and Iran Divestment Act forms) are completely filled out and executed by principals.
- b. Receipt of earnest money deposit, in the correct amount as specified in the RFP, if requested.
- c. Appropriate conceptual plans for improvements have been submitted, if requested.
- d. Proposed use is acceptable in accordance with criteria stated in the RFP.

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Generally, a proposal submission must be complete to be considered, and an incomplete proposal submission should be disqualified if the deficiencies are material and allowing the proposer to correct

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the proposal would afford the proposer a significant unfair competitive advantage or would not be in ~~the~~ MTA's best interest. However, ~~the~~ MTA reserves the right to waive any non-conformity with an RFP's requirements and the Transaction Manager should afford a proposer an opportunity to rectify any such non-conformity if it is relatively minor or such proposer's proposal is the best or only viable one received. In all instances, the Transaction Manager must discuss any such non-conformity with their Deputy Director, who must inform the First Deputy ~~TOM~~ of such non-conformity. If there is any doubt about the appropriate action to take, MTA Legal's, DGC – T&O or DGC – Development, as applicable, should be consulted. All relevant decisions should be made by the ~~the~~ Managing Director ~~–TOM~~, or by the CAO, in the case of a TOM matter, or the CDO, in the case of a TOD matter. If a decision is made to request action by the proposer to conform its submission to the RFP requirements, an email or letter should be sent to the proposer requesting such action. Any such email or letter should state that the non-conformity must be rectified within five working days, except that a longer time may be allowed by the Transaction Manager, after consulting with their Deputy Director, if the nature of the non-conformity (e.g., missing architectural plans) warrants such longer period.

If an RFP identifies a preferred or mandatory use, it should make clear whether such use is mandatory or merely preferred. If an RFP identifies a disfavored or prohibited use, it should make clear whether such use is prohibited or merely disfavored. A proposal received in response to an RFP should be deemed to be "unresponsive" (and thus disqualified) if such proposal contemplates uses that such RFP identified as prohibited or fails to provide for uses that such RFP identified as mandatory. A proposer should not be disqualified by reason of such proposer having proposed uses that the RFP identified as merely disfavored or failed to propose uses that the RFP identified as merely preferred (although that may be taken into account in scoring proposals, as described below).

2. Responsibility. The second threshold to further consideration of a proposal is whether the proposer is "responsible:" under MTA procurement guidelines. A proposer may be disqualified as "not responsible" if, among other things, such proposer or any Affiliate of such proposer:

- a. has been convicted of a felony or any misdemeanor involving moral turpitude;
- b. has been disqualified from contracting with the MTA, the City of New York, the State of New York, the Port Authority of New York and New Jersey or the federal government, or any agencies, affiliates, or subsidiaries of them;
- c. has violated the Procurement Lobbying Law (as more particularly described in Chapter XI of these Guidelines);
- d. owes, with respect to amounts due not more than five years prior to the date of the RFP, in excess of \$10,000 to the MTA or any other MTA Agency; such amount is not (in the view of MTA Legal) the subject of a bona fide dispute; and such amount has remained unpaid after written demand from the MTA or another MTA Agency. Late payment, as opposed to non-payment, shall not constitute grounds

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for disqualification of an otherwise responsible proposer (although it may be taken into account in scoring proposals, as described below);

- e. is in default of material non-monetary obligations to the MTA or another MTA Agency under an existing lease and the MTA or MTA Agency has provided written notice under that lease and the default has not been timely cured as provided in the lease;
- f. has any outstanding federal, state or local tax warrants or liens; or.
- g. has received an unacceptable credit report from a reputable credit reporting company.

If, after providing written notice of its intent to disqualify them as not responsible. and having afforded a proposer an opportunity to be heard, the MTA deems the proposer to be not responsible, the MTA need not undertake any further consideration of such proposer's proposal. The fact that a proposer is deemed responsible does not eliminate the need to determine as part of the Selection Criteria that the proposer possesses the creditworthiness and experience to satisfy its obligations.

3. Selection Criteria. Once a proposal has been determined to be responsive and the proposer responsible, the following evaluation and selection criteria should be considered to the extent relevant (recognizing that some of such criteria may in some instances not be relevant, as, for example, in the case of a sale):

- Present value of proposed compensation to the MTA, including the present value to the MTA (if any) of any improvements to be paid for by the proposer, but net of the cost of any improvements to be paid for by the MTA either directly or through a rent credit, abatement or other credit arrangement (“Net Present Value” or “NPV”)
- Quality of proposed improvements
- Nature of proposed business and potential benefit to the MTA customers
- Financial capability of proposer and ~~adequacy~~ relative-quality of business plan
- Business/personal references
- Management and operational experience of proposer
- Compatibility and consistency of proposed use with MTA Agency operations

Rent proposals should be compared based on the present values of anticipated rental streams. Such present values should be calculated using appropriate risk-adjusted discount rates determined by the Managing Director, and consistently applied. In calculating such present values, any percentage rent or other contingent rent projected by the proposer should be included only to the extent that the Transaction Manager deems such projections to be reasonable and then, in the case of TOM leases, should be afforded only half the weight that is afforded to guaranteed minimum rent.

In the case of any improvements that are to be made by a tenant and used by such tenant in its business (as opposed to any improvements to be made by a tenant or purchaser or ground lessee for the direct and immediate benefit of the MTA), the value of such improvements should be included in NPV only to the extent, if any, that such improvements are expected to have residual value to the MTA upon the scheduled expiration of the lease term; and then the NPV should include only the present value (as of the lease commencement date, calculated using the discount rate used to calculate the present value of the rents to be paid by such tenant) of the anticipated value of the MTA's

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reversionary interest in such improvements as of such scheduled expiration date, based on commercially recognized

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standards for depreciating the cost of improvements over their useful life. By way of example, typically, the installation by tenants of utility connections (conduit and lines for water, sewer, sprinkler, power, and telephone, for example) from some point outside of the leased premises to the premises, and roofs and windows, are capital improvements that are customarily considered structural or systems-related and made by a landlord, and will provide residual value to the MTA because they have a useful life that will extend beyond a typical lease term in the case of TOM transactions and, if paid for by a tenant, will not need to be made by MTA or the following tenant will not need to pay to make such installations, which should, all other things being equal, generate higher proposed rents in subsequent offers to lease the space. However, in the case of TOM transactions, most pre-existing interior renovations will be demolished and replaced by a new tenant, and generally would therefore not have residual value for the purposes of calculating the NPV, and in the case of TOD transactions, involving a lease of MTA Property, a typical lease term for a ground lease transaction would extend for 99 years or longer such that depreciation and obsolescence of the improvements should be considered in determining the residual value, if any.

As part of the RFP evaluation process for TOM transactions, the Transaction Manager should complete RED's NPV calculation Excel template (see Figure 13), which has been designed to facilitate the calculation of Net Present Value and its components for use in discussion and write-ups of RFP proposals. For TOD dispositions, the ~~TOD~~ Transaction Manager ~~shall~~ should instead utilize a present value calculation that is typically customized specifically to capture the financial complexity and benefits- of the ~~specifie~~ proposed TOD-RFP transaction-situation.

These Guidelines establish a rebuttable presumption that the responsive and responsible proposer whose proposal offers the highest guaranteed payments to the MTA (calculated on a net present value basis) should be designated as the lessee or purchaser of the subject property. However, as appropriate (depending on whether a lease or sale is contemplated), the Transaction Manager should assess, compare and take into account the respective proposers' business plans, experience and financial capability, and may (with the concurrence of their Deputy Director, the First Deputy ~~TOM~~, and the Managing Director) determine that another proposer should be so designated because such other proposer would:

- a. ~~-~~be materially more likely to meet its financial obligations to the MTA;
- b. provide a substantially superior amenity to the MTA's customers, the benefit to the MTA of which would outweigh the financial benefit to the MTA of accepting the proposal that would provide the MTA with the highest guaranteed payments;
- c. make improvements to the MTA's property, the present value of which to the MTA would cause the NPV received by the MTA from such proposer to be higher than the NPV the MTA would receive from the proposer offering the highest guaranteed rent;
~~and/or~~
- d. very likely pay percentage rent such that (even discounting such anticipated percentage rent by at least half as described above) the NPV received by the MTA from such proposer would be higher than the NPV the MTA would receive from the proposer offering the highest guaranteed rent;

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d.e. in the case of TOD transactions, provide a substantially superior MTA Facility to the MTA Agency from a functionality, utility, operational, or other perspective, the benefit to the MTA of which would outweigh the financial benefit to the MTA of accepting the proposal that would provide the MTA with the highest guaranteed payments.

In all events, however, except as the MTA Board may otherwise decide in accordance with PAL Section 2897(7), the NPV offered by the designated proposer must equal or exceed fair market value determined in accordance with Chapter V of these Guidelines.

The evaluation of proposals for TOD RFPs for Type I Transactions, should be made by a Selection Committee, comprised of the First Deputy TOD, the Transaction Manager, at least one other member of TOD, and at least one representative of the involved MTA Agency which is or will be utilizing the MTA Property that is the subject of the RFP. The Selection Committee should jointly evaluate all responsive proposals received from responsible prospective proposers. The proposer designated by the Selection Committee with the concurrence of the Managing Director, TOD, should be selected and, with the approval of the MTA Board, conditionally designated. Where the Selection Committee is unable to agree on the selected proposer, the Managing Director, TOD, the CDO and MTA's Legal DGC-Development, should be consulted. For Type II Transactions involving sales, leases or grants of easement rights or development/air rights where there is only one logical proposer of MTA Property (typically the adjoining or neighboring property owners), a Selection Committee will not be required.

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I. Selection Process

1. Interviews.

After reviewing credit background checks and completed Proposer Information Forms, the Transaction Manager should (except as described in the next paragraph) schedule an interview with each responsive and responsible proposer. A minimum of two (2) staff persons must attend each interview to maintain the integrity of the process. The interview should focus on any aspects of the proposal that are not self-explanatory and any discrepancies in or questions concerning the Proposer Information Form or credit background report. If, as the result of an interview there are changes to any of the terms or conditions theretofore proposed by a proposer, the Transaction Manager should secure written confirmation of such changes from such proposer.

If there are several qualified and responsible proposers, the Transaction Manager may choose to conduct interviews with as few as ~~two~~ (2) or three (3) proposers whose offers, over all, are most highly rated. In cases where there is only one highly rated proposer, the Transaction Manager, consulting with their Deputy Director, may choose to schedule an interview with that proposer only. An interview may be waived if the proposer is an existing MTA tenant or licensee. For TOD Type I Transactions, at least two (2) members of the Selection Committee should be present at the interviews.

2. Short listing in Multi-Step RFP.

In the case of a multi-step RFP process, the Transaction Manager (or, in the case of a TOD Type I Transaction, the Selection Committee) should determine (a) whether there will be any short listing of proposers before the revised offer stage and (b) whether interviews will be held before a revised offer stage. If there will be any short listing before the revised offer stage, the Transaction Manager should prepare an Authorization Memo recommending such short listing to their Deputy Director, the First Deputy ~~TOM~~, and the Managing Director. The purpose of such Authorization Memo is to provide support and justification for such short listing.

3. Revised Offer Stage in Multi-Step RFP.

In the case of a multi-step RFP process, after interviews and short listing, if any, the Transaction Manager should prepare a letter instructing the remaining eligible proposers with respect to the process for the submission of revised proposals. Such letter, which should be emailed as a .PDF document and mailed via first class mail, should set forth:

- The date, time and place for the submission of the revised proposals;
- The information that needs to be supplied in the revised proposals; and
- Any supplemental information, not previously supplied, of which the proposers ought to be aware.

There may be more than one call for revised proposals. When ~~the RED~~ MTA Real Estate decides ~~that~~ that it is not going to seek any further submissions, the Transaction Manager should proceed as if the last proposals received were the proposals received in a single-step RFP process.

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4. Recommendation of Award

Single-Step RFP: In the case of a single-step RFP process, upon completion of all interviews, if any, the Transaction Manager should prepare a RFP Award Authorization Memo to their Deputy Director, the First Deputy ~~TOM~~, and Managing Director, ~~TOM~~ (see Figure 14 for a form of Authorization Memo). The purpose of such RFP Award Authorization Memo is to provide support and justification for the rejection of all proposals or the issuance of a Conditional Designation Letter. Each such RFP Award Authorization Memo must include a check in the applicable SEQRA/NEPA check-box and any follow-up action required prior to the disposition. The Lobbying Law check box must also be completed as directed on the RFP Award Authorization Memo.

Multi-Step RFP: In the case of a multi-step RFP process, upon completion of all interviews, if any, and after the receipt of the final revised proposals, the Transaction Manager should prepare an RFP Award Authorization Memo for concurrence and approval by their Deputy Director, the First Deputy TOM, and the Managing Director. Again, the purpose of such Authorization Memo is to provide support and justification for the rejection of all proposals or the issuance of a Conditional Designation Letter (see Chapter VII.A).

It is the responsibility of the applicable Deputy Director and the First Deputy ~~TOM~~ to verify the Transaction Manager's net present value calculations and to assess the reasonableness of any determination by the Transaction Manager that the opportunity to lease or purchase the subject property should, for one or more of the reasons set forth above, be afforded to a proposer other than the proposer that offered the highest guaranteed compensation (as calculated on a net present value basis). Any such determination should be highlighted and explained in the Transaction Manager's Authorization Memo, as well as in the applicable Staff Summary.

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**CHAPTER IV – ENTERING INTO AGREEMENTS THROUGH THE LEASE/SALE
NEGOTIATION PROCESS**

Scope – This chapter establishes procedures for entering into lease or sale or other disposition transactions of MTA Property based on negotiations where use of the Lease/Sale Negotiation Process is permitted by law and determined to be appropriate.

Applicability - The Public Authorities Law allows the Lease/Sale Negotiation Process to be utilized only under the following circumstances:

- a. the fair market value of the property to be leased-out is no greater than an average of \$15,000.00 annually over the term or the sale price does not exceed \$15,000, or
- b. proposal prices after advertising are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition (even if the fair market value, as applicable in (a) above, exceeds \$15,000); or
- c. the disposition will be to the State or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation (even if the fair market value, as applicable in (a) above, -exceeds \$15,000); or
- d. under those circumstances permitted by subdivision seven of PAL Section 2897, which include the following:
 - (i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;
 - (ii) the purpose of the transfer is within the purpose, mission or governing statute of the public authority; or
 - (iii) such action is otherwise authorized by law.

In the case of (a), (b) or (c) above, the disposition must be for no less than the applicable fair market value. In the case of (d), it can, but does not have to be, for less than fair market value. However, if the disposition, in the case of (d), is for less than fair market value, then the following information must be provided to the relevant MTA Agency board (which must make a written determination based upon such information, that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer) and the public:

- (i) a full description of the asset;
- (ii) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the board;
- (iii) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, ~~including but not limited to the kind, number, location, wages or salaries~~

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of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;

- (iv) a statement of the value to be received compared to the fair market value;
- (v) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, statement of the value to the private party; and
- (vi) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

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Explanatory Statements.

An “explanatory statement” must be prepared in the case of any disposition pursuant to the Lease/Sale Negotiation Process that involves:

- (a) any sale of real property that has an estimated fair market value in excess of \$100,000;
- (b) any real property disposed of by lease if the estimated average annual rent over the term of the lease is in excess of \$15,000 (if the base rent in any year of the initial term is over \$15,000, then the lease qualifies for an explanatory statement); or
- (c) any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

Each such explanatory statement must be transmitted to the NYS Comptroller, the Director of the Budget, the Authorities Budget Office, the Commissioner of General Services and Legislature not less than ninety days in advance of the closing of such disposition, and a copy thereof must be preserved in ~~the RED~~ MTA Real Estate’s files.

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The explanatory statement, which may be in the form of a staff summary, must include at a minimum:

- a. Description of the parties involved in the property transaction;
- b. Justification for disposing of property by negotiation;
- c. Identification of property, including its location;
- d. Estimated fair market value of the property or fair rental value (as applicable);
- e. Proposed sale price or lease rent or other consideration to be paid for payments of the property;
- f. Size of the property; and
- g. Expected date of sale or lease or other disposition of the property.

The Transaction Manager is responsible for preparing any such transmittal, which should be reviewed and approved by their Deputy Director, the First Deputy ~~TOM~~, the Managing Director, MTA Legal's DGC-T&O or DGC-Development, as applicable, and the Director of State Legislative Affairs before it is sent out.

State Comptroller Review and Approval

Contracts for the disposition of real property via the Lease/Sale Negotiation Process that are valued at \$1 million or more, and all amendments to such contracts, must be reported to the Office of the State Comptroller ("OSC") and may be subject to review and approval by the OSC.

All contracts entered into via the Lease/Sale Negotiation Process with a value of \$1 million or more (with value being determined as the sale value in the case of a sale or the Net Present Value of the total rental payments over the full term of a lease, including all option periods) in the case of a lease, and all amendments to such contracts are "eligible contracts" for OSC review.

Each eligible contract that the MTA anticipates entering into in a given year must be reported to the OSC in December of the prior year. The Deputy Director, Operations Real Estate Finance, with the assistance of the First Deputy ~~TOM~~, will prepare this list on an annual basis and update it quarterly. If an eligible contract that has not been previously reported arises after the December reporting period, then it must be reported to the OSC. The Deputy Director, Real Estate Finance Operations, with the assistance of the First Deputy ~~TOM~~, will prepare this report. No eligible contract may be entered into less than ten (10) days prior to the execution of the eligible contract.

The OSC may designate specific eligible contracts that must be submitted automatically to the OSC for prior review and approval, in the manner determined by the OSC (various materials, including RFP or other solicitation materials, may need to be submitted). All eligible contracts submitted for review must contain a provision stating that such contracts are not valid until approved by the OSC (unless the OSC has not approved or disapproved a contract within ninety (90) days, in which case such contract shall become valid and enforceable without such approval).

However, all eligible real-estate contracts that were not selected for review and approval by the OSC, must be filed with the OSC within sixty days of execution. **That means during 2021-2022/2023/2024 all agreements, or amendments to agreements, using the Lease/Sale Negotiation Process with a value of over \$1 million must be filed with the OSC within sixty days of execution.**

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CHAPTER V – VALUATIONS AND FAIR MARKET VALUE

Scope – This chapter contains guidelines for estimating the fair market value of MTA ~~real p~~Property (including an interest in real property, such as an easement or leasehold interest) to be offered for sale or lease or other disposition.

Responsibilities ~~RED-MTA Real Estate~~ must obtain an independent estimate of the fair market value in connection with every sale or lease or other disposition of MTA ~~Agency real property~~ Property (including an interest in real property, such as an easement or leasehold interest). Each valuation commissioned by the ~~RED-MTA Real Estate~~ pursuant to these Guidelines should be prepared by a New York State licensed or certified appraiser, except that in the case of a proposed space lease such valuation may be prepared by a licensed real estate broker experienced in the leasing of space in the area where the subject property is located, provided that such broker cannot be involved directly or indirectly in the Lease/Sale RFP process for such space lease.

Objective – To aid ~~the REDMTA Real Estate~~ and the MTA Board in their efforts to obtain appropriate compensation from purchasers and tenants and other transferees of MTA Property and to ensure compliance with PAL Section 2897(3), which, except in limited specified circumstances, prohibits the ~~sale or leasing out~~ disposition of MTA Property for less than its “fair market value.”

Procedure – PAL Section 2897 does not define “fair market value”. However, such term is commonly understood in the real estate industry to mean the price (in the case of a sale) or rent (in the case of a lease) or other consideration or compensation in the case of any disposition for which a typical owner of property comparable to the subject property would be willing to sell or lease or otherwise dispose of such property and a typical unrelated prospective buyer or tenant or other transferee would be willing to purchase or lease or otherwise acquire such property as of a specific date, assuming that neither party is specially motivated and that the property is sufficiently marketed so that its availability is reasonably well known.

In many cases, estimating fair market value, while inherently imprecise due to the uniqueness of property, is relatively straight-forward. Anyone with knowledge of the local real estate market can survey published data relating to recent transactions to find examples of sales or leases of comparable properties where the owner presumably solicited or could have solicited offers from any number of potential buyers or tenants. And, in such cases, one need then only make appropriate adjustments to per square foot prices or rents to account for variations among properties. In other cases, however, determining a “market” value is more difficult, as a property (or interest therein such as an easement) can be uniquely valuable to an adjoining property owner and (by virtue of such property’s size, shape or inaccessibility) have relatively little or no value at all to anyone else. In such cases, the fair market value of such property lies at an indeterminate point somewhere between the polar extremes of (a) One Dollar (\$1.00; the amount that the adjoining property owner would have to pay to win such property at an auction without any reserve price) and (b) the amount by which adding such property (or interest therein) to the adjoining property owner’s property would increase the fair market value of the adjoining owner’s property.

In these Guidelines, the term “Type I Transactions” is used to refer to sales or leases or other transfers of MTA Property (such as stores or independently developable parcels) where the purchasers or tenants could be anyone; and the term “Type II Transactions” is used to refer to sales or leases or other transfers of MTA Property to adjoining or neighboring property owners or in other instances where such property has unique value to such adjoining property owners.

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PAL Section 2897 does not distinguish between Type I Transactions and Type II Transactions; in either case, it requires that an independent valuation of estimated fair market value be obtained and retained in ~~RED's~~ MTA Real Estate's records and (except in the special circumstances identified in Chapter IV of these Guidelines) requires public advertising for proposals. However, because many of the transactions that the RED handles are Type II transactions (e.g., MTA rights-of-way often have only one logical adjacent user; similarly, development/air rights are only transferrable generally to adjacent owners), it is important, as a practical matter, to recognize that ~~the RED~~ MTA Real Estate will not in fact receive competitive offers in the case of Type II Transactions, and for Transaction Managers to give suitable instructions to appraisers or brokers to avoid confusion and ensure that in all cases the intentions of this chapter are properly served by the appraiser's work.

In the case of a Type I Transaction, the Transaction Manager should instruct the appraiser or broker to prepare a typical assessment of the value of the subject MTA Property assuming full and adequate competition among potential purchasers or tenants, as the case may be. For most Type II Transactions (other than those involving a disposition of MTA Property as just one part of a larger transaction motivated, in part, by the MTA's realization of significant benefits, including, for example, enhanced customer amenities, transportation facilities or necessary access), the Transaction Manager should consider instructing the appraiser or broker to prepare an assessment of the incremental value to the adjoining property owner of adding the subject MTA Property (or interest therein) to such adjoining property owner's interest. The Transaction Manager should instruct the appraiser to explicitly state in the appraisal the reasoning used in determining the estimated incremental value to the adjoining property owner.

It is important to note that in either case, the value determined by the appraiser will not necessarily equate with "fair market value." Appraisers can only estimate value, and indeed they commonly disagree when more than one is asked to value any given property. And, in the case of a Type I Transaction to be entered into after the Lease/Sale RFP Process has in fact resulted in competition between two or more typically motivated potential purchasers or tenants or transferees, the actual results of such Lease/Sale RFP Process constitute more concrete evidence of fair market value than a valuation by an appraiser or broker does. However, the estimate of value determined by an independent appraiser does nonetheless constitute rebuttable evidence of fair market value, and a tool for assessing the efficacy of ~~the RED~~ MTA Real Estate's efforts to maximize income from the disposition of MTA Property (regardless of whether the Lease/Sale RFP Process of the Lease/Sale Negotiation Process is used).

Accordingly, each Staff Summary presented for MTA Board approval should include a statement as to whether the proposed transaction would yield to the MTA the estimated fair market value and, if the proposed transaction would yield to the MTA less than such estimate of value, either (a) an explanation as to (i) why the ~~RED~~ MTA Real Estate does not believe such estimate of value coincides with fair market value and (ii) why the compensation to the MTA that is being recommended in the Staff Summary represents at least fair market value or (b) information and proposed MTA Board findings of the kind required by PAL Section 2897(7)(b) and (c), which read as follows:

“(b) In the event a below fair market value asset transfer is proposed, the following information must be provided to the authority board and the public:

- (i) a full description of the asset;

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- (ii) an appraisal of the fair market value of the asset and any other information establishing the fair market value, as adjusted for any in-kind benefits received, sought by the board;
- (iii) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
- (iv) a statement of the value to be received compared to the fair market value;
- (v) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
- (vi) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.”

“(c) Before approving the disposal of any property for less than fair market value, the board of any authority shall consider the information described in paragraph b of this subdivision and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of such transfer.”

In circumstances where the consideration to be received by MTA or other MTA Agency under an RFP contemplates the construction and/or operation and maintenance of new or enhanced MTA Facilities or other non-monetary consideration (e.g., in a TOD transaction where the proposer will construct for MTA commuter parking facilities, the cost-savings to the MTA of constructing such parking facility), the value of the non-monetary consideration must be evaluated in order to determine whether the proposed transaction would yield to the MTA the estimated fair market value of the MTA Property being transferred. To the extent that the Transaction Manager in consultation with the First Deputy require outside expertise in estimating the value of such non-monetary consideration, they may seek such services.

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CHAPTER VI - ANALYSIS OF PROPOSER’S FINANCIAL CAPABILITY

Scope - This chapter outlines the procedures to be utilized to evaluate a proposer’s financial ability to comply with the terms of a contract of sale or lease or other transaction agreement.

Responsibilities - The Transaction Manager is responsible for receiving and taking into account the information reported on Proposer Information Forms and for ordering and taking into account the results of independent credit and background reports.

Objective - To evaluate the creditworthiness of a prospective tenant or purchaser or ground lessee or other transferee.

Procedures - The necessary procedure for conducting the credit and background check begins with the Transaction Manager obtaining a completed Proposer Information Form from each proposer in order to gather reference and credit and background information for such proposer. The Proposer Information Form includes an authorization to order a credit background report and check financial references. The Transaction Manager should provide the requisite information to MTA Real Estate~~the RED~~’s credit reference service and order a credit background report from such service. Typically, this process takes two (2) to three (3) weeks.

In the case of a proposed sale, the primary evidence of a prospective purchaser’s financial capability is such prospective purchaser’s ability and willingness to put at risk a substantial down payment (typically equal to 10% of the purchase price). However, the Transaction Manager should nonetheless seek evidence of each prospective purchaser’s ability to finance the balance of the purchase price, recognizing that such evidence is likely to take the form of expressions of interest and indicative terms from prospective equity owners and lenders, as opposed to definitive commitments.

In the case of a lease (other than a long-term ground lease for TOD transactions):

- a. except in special circumstances with the approval of the First Deputy ~~TOM, TOM~~ (as, for example, where the tenant makes a substantial pre-payment of rent or funds a substantial improvement of substantial value to the MTA), the prospective tenant should be required to demonstrate that it is ready and able to post cash or a letter of credit as a security deposit in the amount of three (3) times the projected base monthly rent for the final year of the lease term; for TOD dispositions, such financial capability shall be modified as applicable in the TOD situation identified in the TOD’s RFP terms;
- b. the prospective tenant should be required to furnish a business plan, including pro forma projections of income and expense, that demonstrates that the tenant will be able to afford to pay the proposed rent from its operating revenues;
- c. unless the tenant is itself a creditworthy entity, payment and performance of the tenant’s obligations under the lease should be personally guaranteed by a creditworthy principal of the tenant;
- d. where individual proposers intend for a newly formed entity in which they are principals to be the tenant under a the lease, in most circumstances (except where the tenant makes a substantial

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pre-payment of rent or funds a substantial improvement of substantial value to the MTA) the individual proposers/principals of the entity should be expected to provide a full personal guaranty of the tenant's lease obligations during the entire term of the lease and where the tenant or lessee funds a substantial improvement of substantial value to the MTA, the individual proposers/principals of the entity should be expected to provide a guaranty of completion of the tenant's construction obligations as well as a guaranty of rent payments, if any, during construction; for TOD dispositions, such financial capability shall be modified as applicable in the situation identified in the TOD's RFP terms;

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e. alternatively, under certain circumstances it may be appropriate to limit the scope of the personal guaranty of a creditworthy principal (to a so-called “good guy guaranty”) so that the guarantor’s liability under the same will be released before the end of the term of the lease, but not before completion of the initial improvements and some period of time beyond the voluntary early surrender of possession (typically twelve months to afford MTA an opportunity to re-lease the premises); examples of circumstances where a limited guaranty may be appropriate rather than a full guaranty, would be where a tenant will be making a substantial investment in improving the lease premises either that would have substantial residual value to the MTA or that would result in a substantial loss of investment if the lease were to be terminated for non-payment of rent such that the tenant is otherwise substantially incentivized to avoid forfeiture of its investment;

e.f. if the tenant is to be required to undertake and pay for substantial capital improvements (including alterations of a permanent nature, but excluding tenant fit out work for tenant’s own use) and such capital improvements is estimated to cost more than two hundred and fifty thousand (\$250,000) in the aggregate, tenant shall be required to post, or cause to be posted, a bond issued by a corporate surety licensed to do business in the State of New York or other form of undertaking acceptable to the Comptroller of the MTA. Each such bond or similar undertaking must comply with the requirements set forth in Section 5 of Article 2 of the New York Lien Law.

It is in light of the foregoing requirements that the financial information provided by proposers should be evaluated by ~~RED~~ MTA Real Estate staff.

For TOD lease transactions which typically involve long-term triple net ground leases where the lessee will fund substantial improvements of substantial value to the MTA, the financial capability of the lessee to construct the improvements and pay for the costs of carrying the property in question until stabilization (i.e., the point in time when the new improvements will likely generate sufficient revenues to pay for the rent obligations under the ground lease, including payments on account of property taxes, and debt service) is achieved should be determined. Most ground leases following completion of construction will be recourse to the ground lessee only and not to its principals or other credit parties.

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CHAPTER VII – BOARD APPROVAL PROCESS

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CHAPTER VII – BOARD APPROVAL PROCESS

Scope – This chapter reviews the process for the preparation of Conditional Designation Letters and Finance Committee Staff Summaries and for the obtaining of MTA Board approval of sale and leasing-out or other disposition transactions recommended by ~~the REDMTA Real Estate~~. All proposals to sell or lease-out or disposition of MTA Property must be reviewed by the Finance Committee, and no such sale, ~~or lease~~ or other transfer can become effective until and unless the MTA Board (after review by the Finance Committee) has specifically authorized such sale, ~~or lease~~ or other disposition, except as permitted in Policy 33 (adopted by the MTA Board in November, 2013). Policy 33 allows ~~the REDMTA Real Estate~~ to award a standard retail lease to the proposer who offered the highest guaranteed rent without a Finance Committee Staff Summary or MTA Board Approval provided that (i) at least three proposals were received and (ii) it is later listed in a chart in the Finance Committee book.

A. Conditional Designation Letters

When ~~the REDMTA Real Estate~~ has determined that it wishes to accept the proposal of a prospective tenant to lease MTA Property or of a prospective purchaser to purchase MTA Property or of a prospective transferee to acquire MTA Property that is being disposed of other than by sale or lease (whether pursuant to the Lease/Sale RFP Process or pursuant to the Lease/Sale Negotiation Process), the Transaction Manager should prepare a conditional designation letter for execution by the Managing Director, ~~TOM~~ on behalf of the relevant MTA Agency and counter-signature by such prospective tenant or purchaser or other transferee (a “Conditional Designation Letter”; see Figure 16 for a sample form for TOM transactions). Such letter should spell out the terms of the proposed transaction with as much specificity as possible under the circumstances, not in the body of the letter itself but by incorporating by reference the most recent written materials (typically a signed Parcel Information Sheet or Term Sheet and signed Rent Proposal) that have been updated, if required, to embody the agreements that ~~the REDMTA Real Estate~~ believes have been reached to date with respect to such transaction. Each Conditional Designation Letter must stipulate that it does not constitute a legally binding agreement insofar as the MTA is concerned and that it is subject to MTA Board approval.

Typically, in the case of a lease (other than a long-term ground lease), ~~the REDMTA Real Estate~~ requires the selected proposer to deposit with the MTA, at the time they counter-sign and return a Conditional Designation Letter, earnest money in the amount of the security deposit that will ultimately be required under the applicable lease. Except as the Managing Director, ~~TOM~~ may otherwise determine or the RFP otherwise specifies, such earnest money deposit should be in the amount of three times the proposed monthly rent in the last year of the lease term. In the case of TOD lease transactions, the selected proposer will may or may not be required to deposit with MTA an earnest money or good faith deposit (the amount of which will be specified in the RFP or the Conditional Designation Letter) in connection with the Conditional Designation Letter, but if not, then will typically be required to do so when a pre-lease or pre-development and disposition agreement is entered into. In such TOD transactions, if not previously entered into, the selected proposer will be required to enter into an expense reimbursement agreement and deposit with the MTA an expense deposit, to cover MTA’s third party costs, including legal fees of outside counsel, in connection with the further negotiation, drafting and structuring of the transaction and the transaction documents. ; for TOD transactions, the amount of the earnest money deposit shall be specified in the RFP or otherwise as determined by consultation with the Managing Director TOD and MTA Legal.

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with TOM transactions and to Financial Operations, MTAC&D in connection with TOD transactions, who should make a record of such wires and then transmit such wire information for deposit at the Bank designated by MTA for such purpose. The proposer's earnest money deposit may be held in a non-interest bearing non-segregated account until such time as the lease is executed, at which time it will be applied toward the security deposit required pursuant to the lease. If the selected proposer fails to enter into a lease, such proposer's earnest money deposit may be retained by the MTA, in its discretion; provided, however, that the First Deputy ~~TOM~~ and/or the Managing Director, ~~TOM~~ may in any event elect to return any earnest money deposit received from any governmental agency or not-for-profit agency. Alternatively, if negotiations have terminated by reason of an impasse over contract terms that were not addressed in the proposal or Conditional Designation Letter, and if the Transaction Manager and their Deputy Director and MTA Legal's; DGC – T&O or DGC – Development, as applicable, concur that the proposer has been dealing in good faith, Tenant Management or Financial Operations, MTAC&D, as applicable, should be directed to return the proposer's earnest money deposit without interest, if any.

The submission of earnest money may be waived for a given RFP by the Managing Director, ~~TOM~~.

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Once an Authorization Memo approving a proposed disposition has been signed, a lease or contract of sale executed by the prospective tenant or purchaser may serve in place of the Conditional Designation Letter. Each such lease (other than a standard retail lease that is governed by Policy 33) or contract must stipulate that it is not a legally binding agreement insofar as the MTA is concerned and that it is subject to MTA Board approval.

If a proposer or purchaser fails to sign a Conditional Designation Letter or subsequently sign a lease or contract of sale or other operative transaction documents in TOM matters, the Transaction Manager, ~~TOM~~ must write a “dead deal” memorandum explaining the reason why the transaction was not completed. For TOM transactions, ~~t~~he memo must be delivered to the applicable Deputy Director with copies distributed to the First Deputy ~~TOM~~, the Managing Director, ~~TOM~~, the Associate Director, Tenant Management (in the case of TOM matters) and the Yardi database administrator (to ensure the transaction account is properly closed and the applicable rentable Unit inventory is shown as available). For TOD transactions, the Transaction Manager should consult with MTA Legal’s DGC– Development or their designee to determine what steps should be taken to withdraw the Conditional Designation Letter.

For Type II Transactions, a Conditional Designation Letter may be waived by the Managing Director.

B. Staff Summaries

After the prospective purchaser or tenant or other transferee counter-signs the Conditional Designation Letter or in the case of a TOM transaction returns a signed lease or contract of sale in lieu of a Conditional Designation Letter which stipulates that it is subject to board approval, the Transaction Manager should prepare a Staff Summary (unless not required pursuant to MTA Board-approved Policy 33 or other MTA Board-approved policy that may be adopted in the future) for Finance Committee approval. The following is the sequence of steps for preparation of the Staff Summary. This process typically takes approximately five (5) weeks and results in a presentation to and discussion with the Finance Committee. A detailed description of the Staff Summary process is contained in the *Staff Summary Procedure* available in the “Staff Summaries” folder in the RED’s shared drive.

1. The assigned Executive Secretary distributes a schedule of Finance Committee and MTA Board meeting dates to all ~~RED~~MTA Real Estate staff. This schedule includes deadlines for the submission of Staff Summaries.
2. The Transaction Manager submits a project title to ~~his/her~~their Deputy Director for review, and then to the assigned Executive Secretary who is responsible for ~~RED’s~~MTA Real Estate’s Finance Committee agenda.
3. The Transaction Manager prepares a first draft of the Staff Summary, using the ~~RED’s~~MTA Real Estate standard form (see Figure 17). Details such as the following should be included as appropriate:
 - Finance Committee meeting date
 - MTA Agency involved
 - Purchaser or tenant or other transferee name
 - Location (street address and/or block and lot)

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- Activity (use, e.g. lease, sale or grant of easement, etc.)
- Action requested (approval, extension of term, etc.)
- Term (years)
- Renewal options (if any)
- Space (size/square feet, configuration, etc.)/MTA Property

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- Compensation (rent or sales price or other consideration)
- Termination rights (if any)
- Security deposit (if any)
- Guarantor (if any)
- ~~Insurance (if any)~~
- Required improvements (if any)
- Comments

The comments section should review the justification for the selection of the proposed tenant or purchaser or transferee, and should include the number of proposals received (if the purchaser or tenant or transferee was selected via an RFP Process), and the names of any proposers that were disqualified and the reasons why. Unless the RFP or cover letter stated that all proposal bids would be disclosed to the members of the Finance Committee of the MTA Board and to the members of the MTA Board in executive session and thereafter publicly disclosed prior to execution, the comments section of the Staff Summary should disclose the present values of the guaranteed compensation offered by each responsive and responsible proposer, the discount rate used to calculate such present values, and, if the responsible and responsive proposer with the highest such present value was not selected, an explanation as to why a different proposer was selected.

4. The applicable Deputy Director, the First Deputy ~~TOM~~, the Managing Director, ~~TOM~~, and MTA Legal ~~s~~ DGC – T&O or DGC – Development, as applicable, review the draft and make changes as they see fit.
5. MTA executive staff (CAO or CDO as applicable), General Counsel, Chief of Staff and Chief Financial Officer) review and make changes as they see fit.
6. The Managing Director, ~~TOM~~ signs the Staff Summary and MTA executive staff then approves by affixing their initials.
7. The completed Staff Summary is submitted along with the remainder of ~~the RED's~~ MTA Finance Committee agenda package for printing.

C. Board Approval

The Transaction Manager and their Deputy Director, as well as the First Deputy ~~TOM~~, should be present during the Finance Committee discussion in order to help answer questions as needed. The Finance Committee may instruct the ~~RED~~ MTA Real Estate staff to make changes in the Staff Summary as reflected in the minutes of the Finance Committee meeting. Any such changes must be made to the Staff Summary prior to submission to the full MTA Board. If the transaction is recommended by the Finance Committee, the Transaction Manager should update ~~RED's~~ MTA Real Estate's Yardi database with the Finance Committee approval date and the transaction is included in the Finance Committee's report to the MTA Board. Once the MTA Board has approved the transaction, the Transaction Manager should enter the MTA Board approval date (or in the case of a standard retail lease governed by Policy 33, the date listed in the MTA Finance Committee Book pursuant to such policy) into Yardi.

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D. SEQRA Compliance

As indicated above, ~~RED-MTA Real Estate~~ staff must consult and coordinate with MTA Legal;^s DGC – Environmental to ensure that, before the MTA Board takes action to approve any sale or leasing-out transaction, the requirements of SEQRA have been satisfied to the extent such requirements are applicable to such transaction. Depending on the circumstances, the MTA Board may need to make certain SEQRA-related determinations before it takes such action. Prior to submitting an Authorization Memo for any transaction, the Transaction Manager should, in consultation with MTA Legal;^s DCG - Environmental, determine what, if any, SEQRA requirements must be satisfied and whether and how such requirements need to be addressed in the applicable Staff Summary.

For TOD development transactions, there are often subsequent SEQRA activities and responsibilities performed by the TOD-designated developer, after which there is a second MTA Board approval action that adopts the requisite SEQRA findings, and following such adoption, then authorizes MTA to execute binding transaction documentation.

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CHAPTER VIII - PREPARATION OF FORMAL AGREEMENTS

Scope - This chapter reviews procedures relating to the preparation of definitive legally-binding agreements for a sale or lease or other disposition of MTA Property.

Objective - To develop a fully executable agreement as well as provide documentation of the approval and revision of such agreement.

Responsibilities – The Transaction Manager, TOM has primary responsibility for completing and providing the Legal Intake Questionnaire (see Figure 23) and (in the case of a lease) a Preparer Questionnaire Form (“PQF”) (see Figure 24), and all required supporting documentation to MTA Legal’s DGC – T&O. MTA Legal’s DGC – T&O has primary responsibility for preparation (with or without the assistance of outside counsel) of the draft lease or sale agreements. A Legal Intake Questionnaire and PQF are not required for TOD transactions. The Transaction Manager and Deputy Director is also responsible for reviewing the draft agreements and preparing the Document Approval Form (“DAF”). For TOD matters, the Transaction Manager, TOD and MTA Legal’s DGC – Development have primary responsibility and the assigned real estate attorney in MTA Legal (typically, with the assistance of outside counsel) for the preparation of the draft transaction agreements.

Procedures - The necessary procedures for preparing the sale or lease or other disposition transaction agreements include completing the required forms and providing them to MTA Legal’s DGC – T&O with all supporting documentation.

A. Drafting of Formal Agreement

Prior to or following the acceptance of the terms of the agreement by the MTA Board, the Transaction Manager should provide a completed PQF (in the case of a lease) and Legal Intake Questionnaire, and transmit them, along with other supporting documents as may be needed (including, a copy of the Authorization Memo, RFP, selected proposal, PIF and Conditional Designation Letter, and in the case of a sale, title report and survey, and if requested a copy of the valuation), to MTA Legal’s DGC – T&O. An attorney will then be assigned to each project based on the Legal Intake Questionnaire. The assigned real estate attorney from MTA Legal, ~~Real Estate Transactions and Operations, (“RET&O”)~~ is responsible for preparing and negotiating (or overseeing outside counsel in the preparation and negotiation of) the draft agreement in consultation with the appropriate Transaction Manager and/or Deputy Director. The Transaction Manager and Deputy Director will be responsible for review of the draft agreement and responding promptly to all follow-up questions that the assigned real estate attorney from MTA Legal, ~~RET&O~~ (or assigned outside counsel) may have during the preparation and negotiation or comment phase. For complex TOD transactions, MTA Legal’s DGC – Development and the assigned real estate attorney on their team will work with assigned outside counsel who will be responsible for the preparation and negotiation of the transaction documents.

B. Internal Review

The Transaction Manager will be responsible for review of each draft agreement, and preparing a DAF to be attached to the final negotiated form prior to execution. The assigned real estate attorney from MTA Legal, ~~RET&O~~ (or assigned outside counsel), may under appropriate circumstances with the authorization of the Transaction Manager or Deputy Director and the DGC – T&O or DGC – Development, as applicable, transmit the draft agreement to the proposer and its attorney subject to internal

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review.

C. Document Approval Form

The DAF is to be used for documenting review and approvals by the appropriate ~~RED~~-MTA Real Estate staff of final agreements prior to execution (see Figure 18). The DAF, along with supporting documentation, should be routed with the final agreement for signature or initialing by the Transaction Manager, Deputy Director,

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First Deputy ~~TOM~~, and the Managing Director. The Tenant ID # from Yardi should be included on the DAF, if applicable.

D. Execution by Purchaser or Tenant or Transferee

For TOM transactions, once the required internal review has been completed, the Transaction Manager should send the proposed documentation to the prospective purchaser or tenant or other transferee for execution. Should the prospective purchaser or tenant request changes, the Transaction Manager should present such requested changes to their Deputy Director, the First Deputy ~~TOM~~, the Managing Director, ~~TOM~~ and or to the assigned real estate attorney from ~~MTA Legal~~ or the DGC – T&O, RET&O for discussion and revision, as needed. Once the agreement is finalized, the prospective purchaser or tenant or other transferee should be directed to execute at least four original counterparts of the agreement and any personal guaranties and return them to the Transaction Manager.

For TOD transactions, once the required internal review has been completed, the Transaction Manager should inform MTA Legal whether they have any further comments to the draft transaction documents and the assigned real estate attorney or the assigned outside counsel should revise the documents, if required, to address those comments. Should the prospective purchaser or tenant or other transferee request changes through communications directly with the Transaction Manager, the Transaction Manager should present such requested changes to their Deputy Director, the First Deputy, the Managing Director and to the assigned real estate attorney from MTA Legal or the DGC – Development. All changes or revisions to the proposed drafts of transaction documents should be coordinated through and made by the assigned outside counsel or the assigned MTA Legal real estate attorney and not by the Transaction Manager. Given the complexity of TOD transactions, the assigned outside counsel with the MTA Legal assigned attorneys will coordinate the execution of the transaction documents and the closing of the transaction either through escrow with a title company or otherwise. All original transaction documents (other than those required to be filed or recorded, and in such case duplicate originals of the same) should be returned either to the Transaction Manager or the MTA Legal assigned real estate attorney directly or by the assigned outside counsel or title company.

E. Execution by Authorized or Designated Signatory

Once the agreed-upon documentation has been executed by the tenant or purchaser or other transferee, the Transaction Manager should use the DAF to send it (after approved by their Deputy Director, to the First Deputy ~~TOM~~ and the assigned real estate attorney from ~~MTA Legal, RET&O~~) to the authorized or designated signatory for execution on behalf of the applicable MTA Agency by the Managing Director, ~~TOM~~ or other authorized designated signatory.

F. Required Deliveries

In addition to the executed copies of the agreement by the tenant or purchaser or other transferee, the Transaction Manager should obtain the following from the purchaser or tenant or other transferee:

1. Any required earnest money, down payment and/or security deposit, to the extent, if any, not already deposited with the MTA.
2. ~~Any required personal guaranties properly executed.~~

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3. In the case of a lease (other than a long-term ground lease), the first month's base rent and in the case of a long-term ground lease, any upfront payments or prepaid rent required to be paid upon execution.

4. In the case of a lease when the tenant is not already in possession (i.e., where the successful proposer is not an existing tenant or licensee incumbent), an insurance certificate evidencing coverage as required by the lease. This item must be delivered to the Transaction Manager prior to possession being delivered. The Transaction Manager should make an initial inspection of the certificate to verify that the amounts specified match those in the lease, and that all the additional insureds as required under the agreement are named on the certificate, that the address of the premises is correct and that the named insured is correct as per the lease. After the transaction file is conveyed to the Associate Director, Tenant Management, Tenant Management will be responsible for forwarding the insurance certificate to MTA Risk Management for further review and acceptance.

Note: Insurance for construction from the tenant and its contractor as well as a contractor's indemnity agreement in the form attached to the lease will be due upon approval of plans and

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prior to commencement of any work by a tenant, which in the case of a new tenant not already in possession of the premises will also be required prior to delivery of possession and insurance from the tenant may be required prior to delivery of possession rather than at lease execution.

5. IRS Form W-9 for tenant and each guarantor, properly completed and executed.

All wires should be noticed ~~to~~ to the Associate Director, Tenant Management for TOM transactions and to the Director, Financial Operations, MTAC&D for TOD transactions immediately upon receipt (see 6 below). Copies of all the items referred to in this chapter should be maintained in the Tenant File.

6. Process for the receipt of lease security and rent for TOM transactions:

The MTA Treasury Department (“Treasury”) has established up a new Real Estate RFP Chase bank account (the “ Real Estate RFP” Account) that is solely used for the receipt of Security Deposits as well as First Month’s Rent checks from new tenants (except GCT). This account is setup as a passthrough account, meaning that all funds received in this account get transferred automatically to the MTAHQ Operating “COH GL Account#290421” (ONLY until the lease or license agreement is fully executed). All documents transmitted to prospective and existing tenants contain instructions to wire or otherwise electronically transfer funds to the “Real Estate RFP ~~Account~~ Account”, as a condition of acceptance.

Tenant Management subsequently reaches out to the bidder to obtain evidence, such as an email, of the electronic transfer and then liaises with RED Finance to verify the funds have been deposited into Real Estate RFP Chase bank Account ~~the account by running a current query for the “COH GL Account#290421”.~~

If the transaction is completed and agreement is signed, new tenant wires 1st month rent to Real Estate RFP Chase bank Account ~~new Chase Bank Account (funds get automatically transferred to “COH GL Account#290421”).~~

The Tenant Management team completes the submission of documents to MTA Tenant Management Unit (“TMU”). The following steps are then undertaken:

- (1) TMU uploads all related documents in Yardi and sets up tenant actions (Create abstract, set up charges, insurance, set up tickler dates, coordinate Design & Construction work).
- (2) TMU completes the official handoff to Greystone via email, copying Transaction Managers, RED Finance, & Carver bank, attaching all necessary documents (Agreement, W9, Deposit Slip) & provides two sets of instructions:
 - a. Instructs Greystone Accounting to setup charges in accordance with the lease agreement and Greystone Accounting advises TMU via e-mail when the charges have been set up (Greystone has 21 days from the handoff to complete tenant actions).

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- b. RED Finance is instructed to process an electronic payment through BSC (ACH payment) of the security deposit amount to Carver bank. Carver Bank will receive electronic payments to the “Demand Deposit Account” (DDA).
- (3) Greystone will notify TMU via email when account charges have been posted to the ledger.
- (4) ~~RED Finance TMU instructs Greystone Accounting to~~ notifies ~~y~~ MTA treasury to wire transfer 1st Month’s rent funds from ~~the Real Estate RFP Chase bank account Chase bank MTAHQ Operating “COH GL Account#290421”~~ to Chase bank agency’s respective Operating account.

It should be noted that if the selected proposer fails to enter into an agreement, such proposer’s earnest ~~Security Deposit~~ money deposit may be retained by the MTA, in its discretion; provided, however, that the First Deputy ~~TOM~~ and/or the Managing Director, ~~TOM~~ may in any event elect to return any earnest money deposit received from any governmental agency or not-for-profit agency. Alternatively, if negotiations have terminated by reason of an impasse over contract terms that were not addressed in the proposal or CDL, and if the Transaction Manager and their Deputy Director and MTA Legal, ~~’s DGC – T&O~~ or DGC – Development, as applicable, concur that the proposer has been dealing in good faith, Tenant Management should be directed to return the proposer’s earnest money deposit without interest, if any.

G. Proposer’s Failure to Execute

If a proposer has held a proposed agreement for more than two (2) weeks (or such longer period of time with respect to TOD matters as the Transaction Manager and MTA Legal assigned real estate attorney may consider reasonable under the circumstances given the nature of the transaction and the complexity of the transaction documents) without providing comments to the same or executing the same, the Transaction Manager) will send a letter (or request and direct the assigned real estate attorney from MTA Legal, ~~RET&O~~ (or the assigned outside counsel assigned to the transaction) to send a letter to the proposer, via electronic or overnight mail, stating that failure to provide comments, if any, or to execute the agreement within two (2) weeks (or such longer period of time for TOD transactions) following such communication by the Transaction Manager (or the assigned real estate attorney from MTA Legal, ~~RET&O~~), may result in the subject property being offered to another proposer and/or the proposer’s offer and any Conditional Designation Letter being deemed nullified and of no further effect.

Every effort should be made to contact the proposer to identify and resolve any open issues. If the Transaction Manager judges the proposed tenant's reasons for failure to respond or execute to be valid, an adequate time period should be granted for finalizing and executing the agreement. In no event, however, should the proposed tenant, purchaser or other transferee -be allowed an inordinate amount of time to complete contract negotiations and satisfy any pre-conditions to execution of the contract or lease or other transaction documents ~~execution~~ or be allowed to renege on understandings that were reflected in the proposer’s proposal or Conditional Designation Letter.

If a proposer purports to withdraw such proposer’s proposal or refuses to execute definitive documentation reflecting the terms of the proposal or Conditional Designation Letter, the Transaction Manager, after consulting with their Deputy Director, the First Deputy ~~TOM~~, the Managing Director, ~~TOM~~ and MTA Legal, should instruct the Director, Tenant Management to retain such proposer’s earnest money deposit with interest, if any, and in such event Tenant Management should withdraw the deposit and transfer it to the applicable MTA Agency's operating account, provided, however, that the First Deputy ~~TOM~~ and/or the

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Managing Director, ~~TOM~~ may in any event elect to return any earnest money deposit received from any governmental agency or not-for-profit agency. Alternatively, if negotiations have terminated by reason of an impasse over contract terms that were not addressed in the proposal or Conditional Designation Letter, and if the Transaction Manager, the Deputy Director and MTA Legal's; DCG – T&O or DGC – Development, as applicable, concur that the proposer has been dealing in good faith, the Director, Tenant Management should be directed to return the proposer's earnest money deposit without interest, if any.

The Transaction Manager should take care to maintain contemporaneous notes of all communications that could have a bearing on the determinations that are described in the preceding paragraph.

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CHAPTER IX – TENANT INFORMATION TRANSFER

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CHAPTER IX - TENANT INFORMATION TRANSFER

Scope - This chapter is designed to assist in preparing lease-related documentation to be forwarded to Information Management and Tenant Management for TOM lease transactions.

Objective - To assist in the accurate transfer by RED of pertinent information to Information Management and Tenant Management.

Responsibilities - The Transaction Manager prepares the necessary documentation and communicates the information to Tenant Management and Information Management.

Procedures - The necessary procedures for conveying the information are as follows:

A. Documentation

1. The Transaction Manager must input all documents and approval forms through Yardi's Elevate platform.
2. If the First Deputy TOM approves the selection, the Transaction Manager with the assistance of Information Management (which advises the Transaction Manager of the correct property and unit descriptions), should enter basic proposer information (name, address, property unit) into Yardi to establish a transaction account ("Deal").
3. Once a tenant has been selected, approved and entered into Yardi as a Deal, the tenant will now appear on Yardi's Lease Tracking Report. This report may be printed and reviewed by the RED management staff at any time (Figure 19).
4. The authorized or designated signatory signs all of the copies of the final lease agreement and the fully executed lease agreement and, if applicable, guaranty are returned to the Transaction Manager who distributes the signed copies of the agreement and guaranty as follows:
 - Tenant including any Guarantor, or Tenant's attorney, (2 original)
 - Tenant Management - (2 originals)
 - The assigned attorney from ~~MTA Legal, RE, T&O~~ (and assigned outside counsel, if applicable) (1 fully executed pdf with exhibits)
5. The Transaction Manager assembles or updates the RFP File to include all proposals, rejection letters, copies of interview notes and memos pertaining to the project and forwards to the Information Center. The Transaction Manager assembles or prepares the Tenant File, which includes the original proposal, all correspondence with the tenant, confirmation letter, two original counterparts of the lease agreement and each guaranty, Staff Summary, insurance certificate (if required at that time), IRS Form W-9 for tenant and each guarantor, construction security and the completed DAF, and attaches the Tenant Control Checklist (Figure 20), which is affixed to the respective project file before forwarding to the Director, Tenant Management. Tenant Management is responsible for forwarding this to the Information Center. The completed file for all new agreements or amendments and changes to existing agreements should immediately be handed over to Tenant Management staff. Within 467 days of when the Transaction Manager plans to mail

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a copy of an executed lease agreement to a tenant, or as soon thereafter as may be practical under the circumstances, the Transaction Manager will schedule a hand-off meeting with Tenant Management staff, including the Tenant Management Vendor and/or the appropriate Deputy Director to discuss the terms of the agreement, any planned improvements, and any special considerations. At the meeting, Tenant Management staff will verify:

- All items on the tenant file check list are in the file.
- That key qualitative tenant management elements (insurance, rent and security deposits, executed routing form and lease) are in the correct amounts and received from the correct party.

If qualitative elements are not in order, the Transaction Manager and Tenant Management staff will work together to remedy the matter. If all is in order, Tenant Management staff will enter the “hand-off” date and “hand-off” documents (redacting, where appropriate personal information) into Yardi. After the “hand-off” from the Transaction Manager to Tenant Management, Tenant Management staff will provide the “hand-off” documents to the Tenant Management Vendor.

NOTE: It is the responsibility of the Transaction Manager to ensure that no agreement is executed by the authorized or designated signatory unless wires are received in the appropriate amounts from the appropriate entity, guaranties, if applicable, are received executed by the appropriate guarantors and initial insurance certificates are received in the limits and coverages contemplated by the lease, if/when applicable.

6. For the Lease/Sale Negotiation Process, the Authorization Memo plus all correspondence, maps and the agreement, together with any applicable guaranties, serves as the Tenant File and is forwarded to ~~the Associate Director,~~ Tenant Management.

B. Insurance Coordination

As indicated above, it is the responsibility of the Transaction Manager to assure that the initial insurance certificates are received in the limits and coverages contemplated by the lease, if/when applicable. If a tenant’s insurance forms are incomplete at the time the Tenant File is forwarded to Tenant Management staff, a notation as to the status of insurance should be made. The typical reason for uninsured status at the time of execution of the lease, is because the tenant is not being delivered immediate possession. The tenant will not be delivered possession of the premises until active insurance coverage is in place. In most cases where the tenant is required to perform tenant’s initial improvement work at commencement of the term and prior to taking occupancy and opening for business at the premises, tenant will not be delivered possession of the premises until it has completed the plan submission and review process, plans have been approved and tenant has satisfied the other pre-construction conditions set forth in the lease, including delivery of construction contractor contracts, contractor indemnity agreements and certificates of insurance for the contractor’s required insurance coverage.

C. Planning and Construction

Tenant Management with the assistance of the Tenant Management Vendor is responsible for the coordination of the construction process from plan submission and approval through completion. The Transaction Manager will remain available for consultation and provide support to Tenant Management during the term of the tenant’s agreement. Tenant Management or the Tenant Management Vendor shall be responsible for updating Yardi with respect to all tenant design and construction activity.

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CHAPTER X – CONSTRUCTION MANAGEMENT

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CHAPTER X - CONSTRUCTION MANAGEMENT

Scope - This chapter provides guidelines for standardized monitoring of the tenant improvement construction process from design through construction completion and the commencement of operation for TOM lease transactions. Responsibility for the tenant design and construction process has been transferred/handed-off to Tenant Management which will work with the Tenant Management Vendor to oversee the process. The Transaction Manager is nonetheless responsible for being familiar with the process and is to remain available to provide support and assistance to Tenant Management as/when needed.

Objective - To ensure that tenant improvements are efficiently and appropriately completed in compliance with lease terms and with the applicable MTA Agency's architectural, engineering and/or code compliance departments.

Responsibilities - The applicable MTA Agency is responsible for approving plans and monitoring and approving the construction of new or altered facilities.

Procedures - The necessary procedures for coordinating the construction process include the following:

A. Plan Submission

Tenants submit construction plans for approval by the MTA Agency through the RED (i.e., Tenant Management).

1. Tenant Management, with the assistance of the Transaction Manager on an as-needed basis, is generally responsible for coordinating the approval of design and plans for proposed improvements. After the lease is fully executed, the tenant has a prescribed number of days to submit plans to Tenant Management or its designated receiver. Tenant Management, with the assistance of the Tenant Management Vendor, will make an initial review of the plans to determine if such plans are sufficiently complete to forward to the MTA Agency for review and will either reject them for revision or forward the plans to the appropriate MTA Agency for review. If changes need to be made after the MTA Agency review, the tenant is notified in writing by the Associate Director, Tenant Management or ~~his or her~~their designee.
2. Once plans are approved by the MTA Agency, which approval includes approval of contractor documentation (i.e., construction agreement, work schedule, insurance certificate evidencing contractor's insurance and a signed contractor's indemnity agreement in a form attached to the lease agreement) permission to commence construction may be granted.
3. Tenant construction is administered by the MTA Agencies, each of which have different rules governing the tenant construction process for that agency. As a general rule, the following paragraphs describe how the MTA Agencies administer tenant construction.

MTA NYCT: The Tenant Management Vendor arranges a construction kick-off meeting. Attendees typically include the tenant, its contractor, subcontractors, the architect or engineer, Tenant Management staff, the Tenant Management Vendor staff and NYCT Maintenance of Way ("MoW"). MoW is responsible for approving plans, issuing a construction permit and

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permits or authorization to proceed with construction, periodic inspections and for granting approvals to open for business. Formal approval, acceptance of the work, and issuance of a code compliance certificate concludes the process for NYCT. The Tenant Management Vendor communicates this information to the tenant and provides tenant with authorization to open for business.

MTA LIRR: LIRR’s Capital Program Management (“CPM”) staff reviews and approves plans. Tenant Management arranges a construction kick-off meeting. Attendees typically include: Tenant Management staff, the Tenant Management Vendor staff, the tenant, its contractor, subcontractors, the architect or engineer, the Safety Department and CPM staff. CPM is responsible for issuing construction permits, periodic inspections and for granting approval to open for business. Formal approval, acceptance of the work and issuance of a code compliance certificate concludes the process for LIRR. The Tenant Management Vendor communicates this information to the tenant and provides tenant with authorization to open for business.

MTA METRO-NORTH: ~~Capital Programs~~ Maintenance of Way (CPMNR-MoW) is responsible for approving plans, issuing a building permit and for periodic inspections. Tenant Management coordinates the construction kick-off meeting. Attendees typically include ~~CP MNR-MoW~~ (including the Safety Department, Engineers and Code Compliance), Tenant Management staff, the Tenant Management Vendor staff, the tenant, its contractor, subcontractors, and the architect or engineer prior. ~~MNR-MoW CP~~ issues a code compliance certificate upon satisfactory completion of construction. Formal approval, acceptance of the work and issuance of a code compliance certificate concludes the process for ~~MNR-MoW CP~~. The Tenant Management Vendor communicates this information to the tenant and provides tenant with authorization to open for business.

B. Construction Monitoring

Tenant Management communicates with the applicable MTA Agency staff about the status of tenant construction projects. Tenant Management periodically inspects the premises to monitor the construction progress and ensure the project proceeds according to schedule within established NYS construction and safety guidelines. Tenant Management is responsible for documenting any delays and the reasons for such delays. Once construction is completed, the applicable MTA Agency is notified that construction is complete and a final inspection is requested.

C. Construction Completion

1. Upon construction completion and approval, Tenant Management arranges the return of the construction security, if applicable.
2. Where a lease indicates that rent commences at the end of a buildout period specified in the lease or, if earlier, when tenant opens for business to the public, rather than at commencement of the term, Tenant Management with the assistance of the Tenant Management Vendor will monitor the status of completion of construction and the duration of the buildout period specified in the lease and is responsible for sending to tenant a rent start notice and commencing billing in accordance with the lease.

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CHAPTER XI – NEW YORK STATE PROCUREMENT LOBBYING LAW

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CHAPTER XI – NEW YORK STATE PROCUREMENT LOBBYING LAW

Scope - This chapter establishes Guidelines for MTA Real Estate for the implementation of the requirements relating to lobbying with respect to real estate transactions as provided in the State Finance Law and Legislative Law and as amended by Chapter 1 of the Laws of New York of 2005, as amended (the “Procurement Lobbying Law”). The applicable provisions of the Procurement Lobbying Law took effect on January 1, 2006. The Procurement Lobbying Law is a statute enacted by the New York State Legislature and the MTA is obligated to comply with its requirements.

Objective - To enhance the public’s confidence in State procurement processes by increasing disclosure requirements for persons or entities attempting to influence a procurement or real estate transaction.

Responsibilities – Proposers must not make “Contact” during the Restricted Period with anyone other than the Designated Point(s) of Contact.

Procedures - The Procurement Lobbying Law applies to “the purchase, sale or lease of real property or an acquisition or granting of other interest in real property.” Among other things, it restricts certain contacts during the procurement process and requires the MTA to record all such “Contacts” and include them in the transaction record. Violations of the policy regarding permissible contacts must be reported to the appropriate MTA officer and investigated accordingly.

A. Definitions:

As used in this chapter and as provided in the Procurement Lobbying Law, the following terms have the following meanings:

1. **Contact:** any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication is *intended to influence* an MTA real estate transaction.
2. **Offerer:** an individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts the MTA about a real estate transaction during the Restricted Period or that bids, proposes or enters into negotiations with respect to an MTA real estate transaction.
3. **Restricted Period:** the period of time commencing with the earliest written notice, advertisement or solicitation of an RFP or, in the case of a Lease/Sale Negotiation Process transaction, when the Transaction Manager first solicits a response from a potential lessee or purchaser intending to result in a lease or contract of sale, which solicitation should be in writing, and ending with the final closing of the transaction.

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B. Applicability:

1. The Procurement Lobbying Law applies to *all contracts* with an estimated annual expenditure in excess of \$15,000, including, but not limited to, RFPs and agreements entered into via the Lease/Sale Negotiation Process.
2. During the Restricted Period, bidders/proposers, or those acting on their behalf, may make only Permissible Contacts with the MTA with regard to a real estate transaction. In addition, bidders/proposers may not attempt to influence a real estate transaction in a way that violates or attempts to violate the ethics provisions of the Public Officers Law Section 73(5), relating to the receipt of gifts intended to influence; and Section 74, which addresses the ethical standards of employees of state agencies (including public benefit corporations), members of the New York State Legislature and Legislative employees.

C. Communications Not Prohibited by the Procurement Lobbying Law (“Permissible Contacts”):

1. A “Contact” (i.e., a communication *intended to* influence a real estate transaction) that is made with a Designated Point of Contact, whether such contact is one of the types of “Contacts” listed in C.2 below or not, or
2. One of the following communications, (all considered “Contacts”), with the Designated Point(s) of Contact OR another agency representative (i.e., an employee of the RED) who is NOT a Designated Point of Contact:
 - a. Proposals: Submission of written proposals in response to an RFP or other solicitation, pursuant to the submission requirements set forth in the solicitation.
 - b. Written Questions: The submission of written questions by a method set forth in the solicitation, advertisement and/or real estate transaction package, when all such questions and responses are to be disseminated to all Offerors who have expressed an interest in the RFP or other solicitation.
 - c. Pre-Proposal Conference: Participation in a pre-proposal conference, oral presentation or interview provided for in an RFP.
 - d. Complaints: Complaints by an Offerer regarding the failure of a Designated Contact to reply in a timely fashion.
 - e. Negotiations: Communications by Offerors who have been tentatively designated as the prospective tenant or purchaser, provided that such communications are solely for the purpose of negotiating the terms of such designation and/or negotiating the terms of the lease or contract of sale after being notified of such designation.

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- f. Review of award: Contacts regarding protests, appeals or other review proceedings before the MTA.
- g. Protests or complaints: Complaints of alleged improper conduct.
- h. Communications: Communications between offerers and governmental entities (i.e., state legislature, public authorities, courts) that solely address the determination of responsibility by the MTA of an Offerer.
- i. Contact: Contact by a member of the New York State Legislature or legislative staff, when acting in their official capacity, regarding a particular real estate transaction.

In addition and in the absence of the Point of Contact, the Managing Director, ~~TOM~~ may authorize another contact within ~~the RED~~ MTA Real Estate to receive communications on behalf of the Point(s) of Contact.

D. Communications Prohibited by the Lobbying Law (“Impermissible Contacts”): Any CONTACT that is not a PERMISSIBLE CONTACT as defined above is an “Impermissible Contact” and a violation of the Lobbying Law. To clarify, a communication is an “Impermissible Contact” if *all* of the following are true:

- (i) An Offerer makes an oral, written or electronic communication with a person in an MTA Agency;
- (ii) who is not a designated point of contact for the solicitation;
- (iii) during the solicitation’s RESTRICTED PERIOD;
- (iv) under circumstances that a reasonable person would infer was an attempt to influence that solicitation; and
- (v) in a m a n n e r that does not fall under any of the areas considered a PERMISSIBLE CONTACT.

E. Recordation of Permissible and Impermissible Contacts:

- 1. Permissible Contacts: Upon any Permissible Contact during the Restricted Period, the employee being contacted must obtain the name, address, telephone number, place of employment and occupation of the person or entity making the Contact and whether or not such person (if such person is not the Offerer) or entity was retained, employed or designated by or on behalf of the Offerer to contact the MTA regarding the procurement. Such Permissible Contacts must be recorded on the Report of Contact form (see Figure 21), with the appropriate “Permissible Contact” box checked. The person recording the information makes a copy of the form for themselves, and sends an additional copy to the Managing Director, ~~TOM~~ who maintains a central repository of the forms as well as the original to the Transaction Manager for placement in the Project file.

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2. **Impermissible Contacts:** Any employee of the MTA, including employees outside of ~~the~~ **REDMTA Real Estate**, who becomes aware that anyone has violated the Procurement Lobbying Law by making an Impermissible Contact must obtain the name, address, telephone number, place of employment and occupation of the person or entity making the Impermissible Contact and whether or not such person or entity was retained, employed or designated by or on behalf of the Offerer to contact the MTA regarding the procurement and inform the Managing Director, ~~TOM~~ and the Chief Compliance Officer of immediately, using the Report of Contact form, checking the “Impermissible Contact” box (see Figure 21).
3. **Record:** The employee obtaining the information and completing the form shall keep a copy for themselves, and deliver a copy to each of the Managing Director, and the Chief Compliance Officer, and deliver the original to the Transaction Manager for placement in the Project file. The Managing Director, ~~TOM~~ will investigate the allegations of Impermissible Contacts. If there is reasonable cause to believe that the allegations are true, the Offerer must be notified of the investigation and given an opportunity to respond to the allegations in accordance with the MTA’s procedure regarding responsibility determinations.
4. **Report:** The Managing Director, ~~TOM~~ must report knowing and willful violations of the Procurement Lobbying Law to the CAO (**or CDO as applicable**) and Chief Compliance Officer.

F. Contract Requirements:

1. All RFP or Lease/Sale Negotiation offering documents must contain the name of the designated contact(s) (the Point(s) of Contact) for that particular procurement.
2. All RFP or Lease/Sale Negotiation offering documents must contain a summary of the requirements of the Procurement Lobbying Law. This summary is contained within Schedule W (**see Figure 22**).
3. Schedule W, the Procurement Lobbying Law Disclosure Statement (see Figure 22) must be made a part of, and returned with, the bid/solicitation documents for each real estate transaction covered under the Procurement Lobbying Law. *Failure of a proposer to return a completed Schedule W will result in such proposer being deemed as ineligible for award.* Schedule W consists of the following, which satisfy the submission requirements of the Procurement Lobbying Law:
 - a. Affirmation of the Offeror’s understanding of, and agreement to comply with, the Procurement Lobbying Law.
 - b. Certification that the information the Offeror has provided the MTA with is complete, true and accurate.
 - c. Disclosure of any findings of non-responsibility made within the previous four years that were due to a violation of the Lobbying Law or as a result of intentionally providing false or incomplete information to a government entity (as defined in the Procurement Lobbying Law). Failure to disclosure

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such prior determinations of non-responsibility will be considered in the determination of responsibility.

- d. The MTA may confirm the accuracy ~~of~~ the information provided in this disclosure by accessing the list of all Offerors who have been determined to be non-responsible or debarred due to violations of this section, maintained by MTA Corporate Compliance.

G. Responsibility Determination:

1. A finding that an Offeror/Proposer has knowingly and willfully violated the Procurement Lobbying Law may result in a determination of non-responsibility and the Offeror/Proposer may not be awarded the lease or sale.
2. The lease or sale may be awarded to an Offeror/Proposer found non-responsible as a result of a violation of the requirements of this section, if the MTA determines that the award of the license or sale to the Offeror/Proposer is necessary to protect public property, health or safety, and that the Offeror/Proposer is the only source capable of fulfilling the contract within the required timeframe. Such finding must be documented in the transaction file.
3. Any subsequent determination of non-responsibility due to a violation of the Procurement Lobbying Law within four (4) years of a determination of non-responsibility will result in the Offeror/Proposer being barred from submitting a proposal on or being awarded any real estate contract for four (4) years from the date of the second determination.
4. Compliance with the requirements of the Procurement Lobbying Law and this Procedure will be considered in the overall responsibility determination of the Offeror/Proposer.

H. Termination

1. Each lease or sale contract covered by the Procurement Lobbying Law must contain a provision that authorizes the MTA to terminate any such transaction if any of the certifications provided by the Offeror/Proposer pursuant to the Procurement Lobbying Law is found to be “intentionally false or intentionally incomplete”.
2. The MTA must include the basis for any action taken pursuant to such termination provision in the transaction record.

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Affiliate: For purposes of these Guidelines, with respect to any specified person or entity, any other person or entity that (a) possesses the power, directly or indirectly, to direct or cause the direction of the management and policy of such specified person or entity, whether through ownership of an equity or beneficial interest (regardless of percentage), contract or otherwise or (b) owns, directly or indirectly, 30% or more of the outstanding stock, partnership interests, membership interests, or other equity or beneficial interest in such specified person or entity. For the purpose of determining the thirty percent (30%) threshold, the direct and indirect ownership interests of such other person will be aggregated with those of such other person's immediate family members (including, spouse, parents, siblings, children (including by adoption), stepparents, stepsiblings, stepchildren and any other lineal ancestor and lineal descendant or any trust (or similar estate planning vehicle) established for estate planning purposes, the sole beneficiaries of which are such natural person or any such natural person's immediate family members).

Authorization Memo: A memorandum prepared by the Transaction Manager seeking authorization as required by these Guidelines. Authorization Memos recommending award pursuant to an RFP require SEQRA check off and signature of the appropriate (i) the appropriate Deputy Director, (ii) the appropriate First Deputy TOM, and (iii) the appropriate Managing Director. Authorization Memos recommending award pursuant to the Lease/Sale Negotiation Process require SEQRA check off and the signatures of the appropriate (i) the appropriate Deputy Director, (ii) the appropriate First Deputy TOM, (iii) the appropriate Managing Director, (iv) MTA Legal's DGC - Environmental and (v) the CAO for TOM or the CDO for TOD.

Chief Administrative Officer/CAO: The senior officer of the MTA who has overall responsibility for all real estate matters (other than development matters) concerning MTA ~~TOM~~ Property and MTA Facilities in connection with Transactions & Operations.

Chief Development Officer/CDO: The senior officer of MTA who has overall responsibility for all development related real estate matters concerning MTA ~~TOD~~ Property in connection with Transit-Oriented Development.

Conditional Designation Letter: As described in Chapter VII.

Contact: As defined in Chapter XI.

Deputy CDO, Planning: The senior executive within ~~RED~~ MTA Construction and Development that reports directly to the CDO is designated by the CDO to oversee, among other matters, TOD, including direct oversight of the Managing Director, TOD and telecommunications, including indirect oversight of the Senior Transaction Manager, Telecommunications.

Deputy Director: The Deputy Director ~~within TOM or the Deputy Director or Director within TOD~~ (i) who, with respect to TOM, for a particular MTA Agency, has direct oversight of RED project managers and other personnel on transactional activities, including, leasing, disposition and acquisition of real property for that particular MTA Agency, and who reports directly to the First Deputy TOM, ~~TOM~~, or (ii) who, with respect to TOD, has primary responsibility for direct oversight of such matters and who directly reports to the Managing First Deputy Director, TOD.

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Director, Grand Central Retail Leasing and Management/Director, GCT: The Director within RED who has primary responsibility for GCT retail leasing and licensing, including tenant management relating to GCT retail leases and licenses.

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Director, Transit-Oriented Development/Managing Director, TOD: The Director within ~~RED-MTA Construction and Development~~ C&D who has primary responsibility for Transit-Oriented Development matters.

Finance Committee: The Finance Committee of the MTA Board (or any other committee of the MTA Board that may assume responsibility for oversight of RED actions).

~~**First Deputy TOM:** The First Deputy TOM, TOM as to TOM matters or the First Deputy TOD as to TOD matters, having responsibility as applicable under the circumstances.~~

First Deputy, TOM: The Director within the RED who has primary responsibility for TOM transactional matters, including leasing, sales and acquisition activities relating to MTA Facilities and who performs the functions of a first deputy to the Managing Director, TOM, as designated by the Managing Director, TOM. Currently this position is filled by the Director, Transaction Management. If more than one person fills this senior leasing and acquisition role, then references in these Guidelines shall be to such persons, individually or in combination, as the Managing Director, TOM ~~or the Deputy CDO, Planning or the CDO~~ may from time to time direct for the purpose of performing the particular functions assigned to the Director, Transaction Management in these Guidelines.

First Deputy, TOD/ Director, Real Estate Development: The Director within TOD who has primary responsibility for direct oversight of transaction managers within TOD and who reports directly to the Managing Director, TOD, performing the functions of a first deputy to the Managing Director, TOD, as designated by the Managing Director, TOD. Currently, this role is filled by the positions of Director, ~~Real Estate Development~~ Transactions, Director, Development & Zoning and Director, Planning Policy & Economic Development -within TOD, ~~which position currently is vacant~~. If more than one person fills this senior transit oriented development role or while this position remains vacant, then references in these Guidelines shall be to such person(s), individually or in combination, as the Managing Director, TOD or the Deputy CDO, Planning or the CDO may from time to time direct for the purpose of performing the particular functions assigned to the Director, Real Estate Development/First Deputy-, TOD in these Guidelines or by the Managing Director, TOD.

~~**First Deputy:** The First Deputy, TOM as to TOM matters or the First Deputy, TOD as to TOD matters, having responsibility as applicable under the circumstances.~~

GCT Leasing Guidelines: As defined in the Introduction.

Information Center: The area of the RED office devoted to maintaining central files, VAL maps, Sanborn maps, tax maps, station diagrams and other documents that are regularly needed and must be permanently retained.

Information Management or IMU: The information management unit of the RED.

Inquiries: As defined in Chapter I.

IPIS: IPIS is a database that contains a list of properties owned by the City of New York. Information concerning tax status, descriptive property history and any *in rem* action is also available. Access to this information is provided ~~Master Plan # 230 p. 46~~ ~~How MTA Board Meeting 8/29/2023~~ information can also be

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found in Yardi for each City-owned property.

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Iran Divestment Act: The New York State Office of General Services maintains a list of persons who have been determined to engage in investment activities in Iran (“the List”), as defined in the act. Under Public Authorities Law § Section 2879-c, Iranian Energy Sector Divestment, public benefit authorities may not enter into or award a contract, including a real estate contract, unless it obtains a certification from a proposer that it is not on the list.

Lease/Sale Negotiation Process File: This file results from the Proposer File and includes the Authorization Memo, the Proposer Information Form, the Conditional Designation Letter, the Staff Summary, the Document Approval Form, two (2) copies of the definitive agreement(s), the insurance certificate and the W-9 form. This file is assembled by the Transaction Manager and resides in the Information Center.

Lease/Sale RFP Process: The leasing-out, ~~or selling~~sale or other disposition of MTA Property pursuant to an RFP.

Lease/Sale Negotiation Process: The leasing-out, sale or ~~selling real~~other disposition of MTA Property other than pursuant to an RFP.

Licensing-Out Guidelines: As defined in the Introduction.

Managing Director: The Managing Director, TOM as to TOM matters or the Managing Director, TOD as to TOD matters, having responsibility as applicable under the circumstances.

Managing Director, TOD: The Director or Senior Director within ~~the RED~~MTA Construction and Development C&D who has overall responsibility for the administration and day-to-day operations ~~of the RED core group responsible for~~ Transit-Oriented Development. Currently this position is filled by the Senior Director, Transit-Oriented Development.

Managing Director, TOM: The Director or Senior Director within the RED who has overall responsibility for the administration and day-to-day operations of the RED, and who oversees transactional matters, including leasing, sales & acquisitions for MTA Facilities, GCT Retail Leasing and Management, and MTA Facilities’ operations. Currently this position is filled by the ~~Director~~Chief Officer, Real Estate Transactions and Operations Officer.

Marketable Property List: A list of all properties available for marketing by the RED. This list should be updated and reviewed regularly to determine the marketability of properties.

MTA: Metropolitan Transportation Authority (for itself and also acting on behalf of the other MTA Agencies with respect to real property owned or controlled by such other MTA Agencies). References in these Guidelines to MTA are intended to include MTA and each MTA Agency, as appropriate.

MTA Agency: As defined in the Introduction.

MTA C&D: As defined in the Introduction.

MTA Facilities: ~~The Master Page #331 build 67s, MTA Board Meeting 8/29/2023~~ structures or other physical

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improvements located on or at MTA Property, including the structural elements and building systems comprising and/or servicing such facilities located within MTA Property (but excluding the subway and railroad tracks, signal systems and train facilities directly used in connection with the operation of the subway system or railroad system).

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MTA Legal: The legal departments or units within the Office of the General Counsel of MTA and within MTA C&D, including without limitation, the Environmental Law Unit, headed by the DGC – Environmental, the Real Estate Transactions & Operations Unit, headed by the DGC – T&O, the Real Estate Development & Planning Unit, headed by the DGC – Development, and the respective attorneys within their respective units.

MTA Property(ies): Real property, including improvements, structures and facilities (including parking lots, subway and railroad stations, station buildings and retail and amenity space) located thereon, as well as interests in real property, including easements and leasehold interests, development/air rights, directly or indirectly, owned or, pursuant to an agreement entered into by the MTA or an MTA Agency, ~~or~~ leased or licensed to and/or operated by MTA or an MTA Agency or by another entity in which MTA or an MTA Agency has an indirect interest.

MTA Real Estate: The departments or units within MTA and/or MTA C&D which oversee and are directly responsible for real estate activities of MTA and the other MTA Agencies, which currently is RED as to TOM matters, and/or TOD, together as to TOD matters.

Net Present Value or NPV: As defined in Chapter III.

New York City Department of Finance Data: The Department of Finance maintains all ownership records for the five boroughs. The records include information relating to current ownership, mortgages, zoning, location, age of improvements and assessed real property value. The data is accessed via select personal computers within the RED.

PAL: New York Public Authorities Law.

Parcel Information Sheet: As described in Chapter II.

Procurement Lobbying Law: As defined in Chapter XI.

Proposer File: The Proposer File is assembled by the Transaction Manager and contains the original signed proposal, all relevant correspondence with the selected proposer, the Conditional Designation Letter, the Staff Summary, the Document Approval Form, two (2) copies of the definitive agreement(s), one copy of any guaranty, if/when applicable, the insurance certificate and the W-9 form. This file resides in the Information Center.

Proposer Information Form (PIF): The Proposer Information Form provides detailed information with respect to proposers and their principals and Affiliates, including addresses, past dealings with state and municipal agencies, business history and experience, references, available lines of credit and assets and

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liabilities, and includes a business plan with financial projections and a credit check authorization. The PIF is used for both the Lease/Sale RFP Process and the Lease/Sale Negotiation Process.

Preparer Questionnaire Form (PQF): As defined in Chapter VIII.

Recordation of Contact: As defined in Chapter XI

RED: The MTA real estate department.

Restricted Period: As defined in Chapter XI.

RFP or Request for Proposals: A request for proposals issued in accordance with these Guidelines.

RFP File: The RFP file results from the Project File and contains all relevant information regarding the RFP, including all proposals and correspondence with proposers and the Transaction Manager's notes regarding the project. This file resides in the Information Center.

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RFP Mailing List: The mail log is maintained in Yardi by an assigned executive secretary and is comprised of a list of persons who have expressed an interest in leasing property from the MTA.

Sanborn and Land Maps: Sanborn and Land Maps are organized by county and municipality; parcels may be identified by location. Sanborn is available for the five boroughs only. It provides brief building improvement information, subway stations, utility/municipality easements, condominiums and any air rights.

SEQRA: As defined in Chapter II.

Staff Summary: The document by which the RED summarizes a transaction for the purpose of obtaining MTA Board authorization to enter into such transaction.

Tenant File: The Tenant File contains all documentation relating to a given tenant, including correspondence, agreements and plans. The files for current tenants and recently (within the past two years) terminated tenants are maintained in the Information Center. All other terminated files are maintained at MTA's offsite storage facility and are subject to MTA's document retention policy.

Tenant Management or TMU: The tenant management unit of the RED which unit includes the Tenant Management Vendor.

Tenant Management Vendor: Tenant Management Vendor is the vendor designated by the Managing Director, TOM or the ~~Associate~~ Director, Tenant Management to administer, manage and provide accounting services for the tenanted portfolio of all MTA Agencies' properties, excluding Grand Central Terminal as well as transaction management services as directed by the Managing Director, TOM.

Term Sheet: A sheet or sheets listing the terms of the agreement, requirement improvements, and other information about the transaction.

Transaction Manager: An RED or TOD staffer who reports to a Deputy Director.

Transactions & Operations or TOM: As defined in the Introduction.

Transit-Oriented Development or TOD: All real estate-related development matters, whether by an MTA Agency, a government or other public or quasi-public entity and/or a private entity, which affects or involves any existing or to-be acquired MTA Property and/or any existing or proposed transit-related facility or amenity, including acquisitions and dispositions of real property or interests in real property for long-term revenue generation and transportation facilities; major capital projects in conjunction with or enhanced by real estate development; other co-development arrangements with private and public entities including public-private partnerships; and other opportunities for realizing revenue or in-kind improvements from real estate opportunities and strategic planning.

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Type I Transaction: As defined in Chapter V.

Type II Transaction: As defined in Chapter V.

Valuation (VAL) Maps: The VAL Maps indicate Metro-North and LIRR ownership right of way and indicate property rights along the railroad lines. They also contain limited historical information and identify current tenancies. The Transaction Manager should check the VAL Maps to verify that property is owned controlled by the MTA or an MTA Agency and update the maps as new leases are consummated. These maps are located in the Information Center.

W-9 Form: Internal Revenue Service Federal Tax Form W-9.

Work Sheet: As described in Chapter II.

Yardi: Yardi Systems Inc. is a Santa Barbara, CA based computer-systems and data-processing company that provides property management/ accounting software and maintenance services to the RED. In this document “Yardi” refers to the computer program developed and customized specifically for the MTA.

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Attachment 1

GCT LEASING GUIDELINES

March,
~~2022~~2023

(As Originally Adopted November 18, 2009, and as Revised by Modifications approved by the MTA Board on November 13, 2013, March 26, 2014, March 25, 2015, March 23, 2016, March 22, 2017, March 21, 2018, March 27, 2019, March 25, 2020, March 17, 2021, March, 2022)

GUIDELINES FOR SELECTION OF TENANTS FOR GRAND CENTRAL TERMINAL

Application

These guidelines (“Guidelines”) apply to the selection of tenants for leases of commercial, retail spaces at Grand Central Terminal (“GCT”). They do not apply to the selection of licensees at GCT, which is governed by policies adopted by the Board in November, 2009 (as amended from time to time). (The principal difference between a lease and license for these purposes is that a license is terminable at the discretion of the licensor for any reason upon short notice, not longer than 60 days with no cost to the applicable MTA Agency.) These Guidelines supplement the MTA Real Estate Department Real Property Disposition Guidelines for the Leasing-Out and Sale of Real Property, adopted by the Board on March ~~27~~, 2020 as such Guidelines may be amended from time to time (the “General Guidelines”). In the event of any conflict between these Guidelines and the General Guidelines, these Guidelines will govern for GCT commercial retail leases.

Purpose and Objective

The purpose of these Guidelines is to provide ~~the~~ MTA Real Estate ~~Department (the “RED”)~~ with standards and procedures for issuing requests for proposals (“RFPs”) and for choosing tenants to recommend for selection for leases of commercial space at GCT. They are intended to further the MTA’s objective of maximizing the long-term aggregate revenues that the MTA derives from the leasing of the commercial space at GCT (taken as a whole), while making available to commuters and others an appropriate mix of goods and services and maintaining a level of quality commensurate with GCT’s status as an historic landmark and one of New York City’s greatest public spaces (the “Objective”). While the Objective is broader than maximizing guaranteed minimum rent for any particular space, these Guidelines establish a rebuttable presumption that the Objective will be furthered by the proposal that is “responsive” and “responsible” (as determined by the procedure described below) and offers the highest Unadjusted Guaranteed Rent Amount (as such term is defined below). Therefore, any staff recommendation to award a lease to a responsive and responsible proposer other than the responsive and responsible proposer that has offered the highest Unadjusted Guaranteed Rent Amount must be made by a selection committee and supported by a rationale that is articulated in the Staff Summary presented to the Board in connection with such recommendation.

These Guidelines are intended only for the internal guidance of officers and employees of the MTA. Nothing contained in these Guidelines is intended, and the same shall not be construed, to establish expressly or by implication, or confer upon any person or entity (including any prospective proposers or awardees) any right,
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privilege, remedy, claim or benefit under, or by reason of, any requirement or provision of these Guidelines for third parties. Except to the extent prohibited by law, any provision of these Guidelines may be waived by the MTA Board (by ratification or otherwise) or by the Chairman and Chief Executive Officer of the MTA.

Requests For Proposals

All opportunities to lease commercial space at GCT (except spaces that have monetary values below the legal threshold requiring a competitive disposition process) must be offered pursuant to competitive RFPs prepared by the Director, Grand Central Retail Leasing and Management, approved by the Managing Director, TOM, and advertised in accordance with the General Guidelines. More than one space may be offered pursuant to a single RFP.

For each space being offered, an RFP may identify preferred, mandatory, disfavored and/or prohibited uses, as and where appropriate, to encourage and/or ensure an appropriate mix of merchandise and services in various sections of GCT or to otherwise further the Objective. If an RFP identifies a preferred or mandatory use, it shall make clear whether such use is mandatory or merely preferred; if an RFP identifies a disfavored or prohibited use, it shall make clear whether such use is prohibited or merely disfavored.

Without limiting the generality of the foregoing, each RFP must reference (and each prospective tenant must be provided with access to) the generally-applicable design criteria and rules and regulations for commercial spaces at GCT, and state that compliance with such design criteria and rules and regulations is mandatory.

The Director, Grand Central Retail Leasing and Management, with the approval of the Managing Director, TOM, may elect to exclude national chains and/or discount merchandisers from specified areas of GCT, such as the Dining Concourse, the Lexington Passage and/or the Grand Central Market, or GCT as a whole, provided that they reasonably determine that doing so will further the Objective. If required, each Staff Summary presented to the Board when the award of the proposed lease for a space is submitted in due course for Board approval shall set forth any preferred, mandatory, disfavored, or prohibited uses applicable to such space; provided, however, that the aforementioned design criteria and rules and regulations need only be referenced, not set forth in full, in such Staff Summaries.

Selection Criteria

The following are the selection criteria (the “Selection Criteria”) that will be used to evaluate proposals:

Selection Criterion A: Direct Economic Benefit to the MTA (Maximum 70 Points).

Each evaluator shall:

First: Start with the Unadjusted Guaranteed Rent Amount for each proposal, as determined by the Technical Consultants as described below. The “Unadjusted Guaranteed Rent Amount” for any proposal is the present value of the guaranteed minimum rent set forth in such proposal, discounted to the first day of the lease term using a discount rate of 7%.

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Second: Determine the Guaranteed Rent Adjustment Factor for each proposal and multiply it by the Unadjusted Guaranteed Rent Amount for such proposal, to determine the “Adjusted Guaranteed Rent Amount” for such proposal. The “Guaranteed Rent Adjustment Factor” is an adjustment factor intended to reflect any concerns that the evaluator may have with respect to the certainty of payment of the Unadjusted Guaranteed Rent Amount, taking into account (1) the evaluator’s assessment of the viability of the prospective tenant’s business plan, (2) the evaluator’s assessment of the creditworthiness of the prospective tenant (or any proposed guarantor) and (3) any security deposits and/or letters of credit that will be required (as set forth in the applicable RFP). The Guaranteed Rent Adjustment Factor may be as high as 1.00 (which means the evaluator has no uncertainty about the Unadjusted Guaranteed Rent Amount being received by MTA) and as low as 0.50 (which means the evaluator has great uncertainty about the Unadjusted Guaranteed Rent Amount being received by MTA), provided that if a proposal includes commercially unreasonable backloading of rent then the adjustment factor may be as low as zero to protect MTA’s interests.

Third: Take the Unadjusted Percentage Rent Amount for each proposal, as determined by the Technical Consultants. The “Unadjusted Percentage Rent Amount” for any proposal is the present value of the projected percentage rent as set forth in the proposal, discounted to the first day of the lease term using a discount rate of 7%.

Fourth: Determine the Percentage Rent Adjustment Factor for each proposal and multiply it by the Unadjusted Percentage Rent Amount for such proposal to determine the “Adjusted Percentage Rent Amount” for such proposal. The “Percentage Rent Adjustment Factor” is an adjustment factor intended to reflect the evaluator’s assessment of the likelihood of percentage rent being received. The Percentage Rent Adjustment Factor may be as high as 0.50 (which means the evaluator has no uncertainty about the Unadjusted Percentage Rent Amount being received by MTA) and as low as zero (which means the evaluator has great uncertainty about the Unadjusted Percentage Rent Amount being received by MTA).

Fifth: Add the Adjusted Guaranteed Rent Amount for each proposal to the Adjusted Percentage Rent Amount for such proposal to determine the “Adjusted Total Rent Amount” for such proposal.

Sixth: Award the proposal with the highest Adjusted Total Rent Amount (the “Highest Adjusted Total Rent Amount”) seventy (70) points for the Selection Criterion A score.

Seventh: Calculate the Selection Criterion A score for each of the other proposals by multiplying 70 times a fraction, the numerator of which is such proposal’s Adjusted Total Rent Amount and the denominator of which is the Highest Adjusted Total Rent Amount.

Selection Criterion B: Indirect Benefit to the MTA (Maximum 30 Points).

Each evaluator shall determine the likelihood that each prospective tenant will support the elements of the Objective not directly reflected in Selection Criteria A by attracting other desirable prospective tenants to GCT, and/or customers for other current or prospective tenants at GCT. The Selection Criterion B score

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shall range from 30 (which means that the evaluator believes that the prospective tenant will have an extremely significant positive effect on the elements of the Objective not directly reflected in Selection Criterion A) to zero (which means that the evaluator believes that the prospective tenant will have no positive effect on the elements of the Objective that are not directly reflected in Selection Criterion A).

Total Selection Criterion Score.

The total Selection Criteria score (the “Total Selection Criteria Score”) for each proposal shall be the sum of that proposal’s Selection Criterion A score plus that proposal’s Selection Criterion B score.

Procedures for Evaluation of Proposals

Step 1: Technical Evaluation by Consultants:

All proposals received from prospective tenants ~~shall~~ will be independently evaluated by MTA’s Leasing Agent (currently CBRE) and MTA’s Retail Manager for GCT (currently, Jones Lang LaSalle) or such other outside consultants as may from time to time be retained by the MTA to provide leasing and retail property management services at GCT (individually, the “Technical Consultant” or collectively, the “Technical Consultants”).

Each Technical Consultant shall provide the Director, Grand Central Retail Leasing and Management with an independent technical evaluation (a “Technical Evaluation”) of each such proposal.

If either Technical Consultant considers that a proposal is non-responsive, such Technical Consultant shall promptly raise that issue with the Director, Grand Central Retail Leasing and Management and the Director, Grand Central Retail Leasing and Management shall undertake the responsiveness review in Step 2 for such proposal. If after such responsiveness review (and any corrective steps permitted in Step 2) the Director, Grand Central Retail Leasing and Management (after consultation with the Managing Director, TOM) determines that such proposal is not responsive, such proposal shall be disqualified and no further technical evaluation shall be performed.

Each Technical Evaluation of each proposal shall include:

- (i) responsiveness to the RFP;
- (ii) a calculation of the Unadjusted Guaranteed Rent Amount;
- (iii) a calculation of the Unadjusted Percentage Rent Amount;
- (iv) a description of any known adverse prior experience (such as arrears, delinquent payments, and failure to comply with lease or license terms) pertaining to business relationships of the prospective tenant or any Affiliate of the prospective tenant (as such term is described below), after due inquiry into the GCT leasing records and the records of Tenant Management;

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- (v) any other matters relating to the responsibility of the proposer;
- (vi) an assessment of the viability of the prospective tenant's business plan (taking into account, as appropriate, the prospective tenant's concept, capabilities and past experience), the creditworthiness of the prospective tenant (or any proposed guarantor) and any security deposits and/or guaranties that will be required (as set forth in the applicable RFP);
- (vii) an assessment of the likelihood of receiving any proposed percentage rent; and
- (viii) an assessment of the likelihood that the prospective tenant will indirectly further the Objective, by attracting other desirable prospective tenants to GCT, and/or customers for other current or prospective tenants at GCT.

Step 2: Determination of Responsiveness:

The second step after receipt of proposals will be a determination of responsiveness by the Director, Grand Central Retail Leasing and Management using the standard criteria set forth in the General Guidelines (including such prospective tenant's failure to provide all completed forms, supplemental information and signatures required by the applicable RFP). A proposal received in response to an RFP should be deemed "not responsive" (and thus disqualified and eliminated from further consideration by the Director, Grand Central Retail Leasing and Management) if such proposal (a) contemplates uses that such RFP identified as prohibited uses or (b) fails to provide for uses that such RFP identified as mandatory uses. A prospective tenant may not be disqualified by reason of such prospective tenant having proposed uses that the RFP identified as merely "disfavored" or by reason of having failed to propose uses that the RFP identified as merely "preferred" (although that may properly be taken into account in scoring proposals, as described above under the heading "Selection Criterion B"). If the Director, Grand Central Retail Leasing and Management determines that it is in MTA's best interests to permit a proposer to modify its proposal after the due date to correct deficiencies that would otherwise cause it to be deemed or otherwise determined to be non-responsive, such proposer shall be afforded such opportunity. If a decision is made to request action by the proposer to conform its submission with the RFP requirements, an email or letter should be sent to the proposer requesting such action. Any such email or letter should state that the non-conformity must be rectified within five working days, except that a longer time may be allowed by the Director, Grand Central Retail Leasing and Management, if the nature of the non-conformity (e.g., missing architectural plans) warrants such longer period.

In making the foregoing determination, the Director, Grand Central Retail Leasing and Management may rely on the Technical Evaluations. If there is any doubt about the appropriate action to take, MTA Legal's DGC-T&O or their designee should be consulted.

Step 3: Initial Determination of Responsibility:

The third step is an initial determination of responsibility by the Director, Grand Central Retail Leasing and Management. The Director, Grand Central Retail Leasing and Management may determine that a prospective tenant is not responsible for any reason contemplated by the General Guidelines (including unsuitability due to a record of criminality, lack of integrity, violations of the Procurement Lobbying Law (State Finance Law §§ Sections 139-j and 139-k)).

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A proposer may be disqualified as “not responsible” (and thus eliminated from consideration by the Director, Grand Central Retail Leasing and Management) if such proposer, or any Affiliate of such proposer, (a) has been convicted of a felony or any misdemeanor involving moral turpitude; (b) has been disqualified from contracting with the MTA, the City of New York, the State of New York, the Port Authority of New York and New Jersey or the federal government; (c) has violated the Procurement Lobbying Law (as more particularly described in Chapter XI of General Guidelines); (d) owes, with respect to amounts due not more than five years prior to the date of the RFP, in excess of \$10,000 to the MTA or any other MTA Agency; such amount is not (in the view of MTA Legal) the subject of a bona fide dispute; and such amount has remained unpaid for more than 30 days after written demand from the MTA or another MTA Agency; (e) is in default of material non-monetary obligations to the MTA or another MTA Agency under an existing lease and the MTA or MTA Agency has provided written notice under that lease and the default has not been timely cured as provided in the lease; (f) has any outstanding federal, state or local tax warrants or liens; or (g) has received an unacceptable credit report from a reputable credit reporting company. Late payment, as opposed to non-payment, shall not constitute grounds for disqualification of an otherwise responsible proposer (although it may be taken into account in scoring proposals, as described above under the heading “Selection Criterion A”). If after providing written notice and having afforded such prospective tenant an opportunity to be heard the MTA deems a prospective tenant to be not responsible, the MTA need not undertake any further consideration of such prospective tenant’s proposal. A proposer may be deemed “not responsible” (and thus may be disqualified and eliminated from consideration by the Director, Grand Central Retail Leasing and Management) if such prospective tenant, or an Affiliate of such proposer, (a) is the current tenant in the space being offered by the RFP or any other retail space at GCT, and (b) refuses to agree to amend its current lease for such space to include security provisions identical to those in the draft lease issued as part of the RFP.

If, after having been provided written notice of its intent to disqualify a proposer as not responsible, and having afforded such proposer an opportunity to be heard, a proposer is deemed to be not responsible, no further consideration of that proposal need be undertaken. In making the foregoing determination, the Director, Grand Central Retail Leasing and Management may rely on the Technical Evaluations.

Step 4: Evaluation by the Director, Grand Central Retail Leasing and Management:

The Director, Grand Central Retail Leasing and Management shall thereafter complete ~~his/her~~their written evaluation of all responsive proposals received from responsible prospective tenants based on the Selection Criteria, using both the numerical scoring and comment sections of an evaluation and scoring form substantially in the form attached hereto as Appendix A (the “Evaluation Form”). In completing such Evaluation Form, the Director, Grand Central Retail Leasing and Management must exercise ~~his/her~~their own best independent judgment taking into account the Technical Evaluations.

If the proposal with the highest Total Selection Criteria Score is also the proposal with the highest Unadjusted Guaranteed Rent Amount, then, without convening a selection committee, the Managing Director, TOM (with the approval of the Chief Development Officer) may (i) provided at least three proposals were received, award the lease to the proposer who offered the highest Unadjusted Guaranteed Rent Amount without a Finance Committee Staff Summary or MTA Board Approval provided that it is later listed in a chart in the Finance Committee book consistent with Policy 33 adopted by the MTA Board in November, 2013, applicable to the award of leases generally under the General Guidelines or (ii) submit to the MTA Board Finance Committee a Staff Summary recommending award of the lease to such proposer and seeking authorization of the MTA Board for such action. However, if the proposal with

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the highest Total Selection Criteria Score is not the proposal with the highest Unadjusted Guaranteed Rent Amount or if two proposals provide for the same highest Unadjusted Guaranteed Rent Amount, then the Director, Grand Central Retail Leasing and Management must convene a selection committee (the “Selection Committee”) consisting of the Director, Grand Central Retail Leasing and Management, the Managing Director, TOM or ~~his or her~~their designee and a representative of Metro-North Commuter Railroad Company appointed by the Executive Vice President of Metro-North or ~~his or her~~their designee.

Step 5: Evaluation by Selection Committee, If Necessary

If a Selection Committee is required, the members of the Selection Committee will be furnished with the Technical Evaluations. Each Selection Committee member other than the Director, Grand Central Retail Leasing and Management shall complete ~~his or her~~their written evaluation of all responsive proposals received from responsible prospective tenants based on the Selection Criteria, using both the numerical scoring and comment sections of the Evaluation Form. In completing such Evaluation Form, each such Selection Committee member must exercise ~~his or her~~their own best independent judgment taking into account the Technical Evaluation.

A meeting of the Selection Committee will thereafter be convened. At such meeting, the members of the Selection Committee may properly discuss the applicable proposals among themselves and/or with the Consultants. After such discussion is completed, each of the three members of the Selection Committee may prepare supplemental Evaluation Forms taking into account any such consultation and discussion. Each supplemental Evaluation Form shall include a narrative explanation for the basis of any scoring changes from the scoring in that Selection Committee member’s original Evaluation Form. The Total Selection Criteria Score on the three final Evaluation Forms (which will be the original Evaluation Form for each Selection Committee member who does not submit a supplemental Evaluation Form; and will be the supplemental Evaluation Forms for the other Selection Committee members) will be added together and the proposals ranked based on such aggregate scoring.

Step 6: Conditional Designation

If a prospective tenant is selected, either by the Director, Grand Central Retail Leasing and Management as provided in Step 4 or by a Selection Committee as provided in Step 5, as applicable under the circumstances, the Director, Grand Central Retail Leasing and Management or ~~his or her~~their designee shall prepare a conditional designation letter for execution by the Managing Director, TOM or other authorized signatory on behalf of MTA and Metro-North and countersignature by such prospective tenant as contemplated by the General Guidelines.

Step 7: Determination of Whether to Present Recommendation to the Board

The Managing Director, TOM may (at any time after an RFP is issued) determine, in consultation with the MTA Legal ~~s~~, DGC-T&O or their designee that it is in the best interest of the MTA to reject all proposals because the process did not yield sufficiently advantageous proposals, if the Managing Director, TOM believes that issuing a new RFP would materially further the Objective, or because it has been determined, since the applicable RFP was issued, that the applicable space is better utilized for a non-commercial purpose, in which case the Managing Director, TOM shall so report to the Board’s Finance Committee. ~~Otherwise, the Director, Grand Central Retail Leasing and Management shall make a final~~

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determination of responsibility with respect to the prospective tenant with the highest Total Selection Criteria Score, based on any new information received after the initial determination of responsibility, and if such prospective tenant continues to be responsible the Managing Director, TOM shall (i) provided at least three proposals were received, award the lease to the proposer who offered pursuant to Policy 33 of the General Guidelines adopted by the MTA Board in November, 2013, or (ii) submit to the MTA Board Finance Committee a Staff Summary requesting authorization to enter into a lease with the prospective tenant who did not offer the highest Unadjusted Guaranteed Rent Amount, but had the highest Total Selection Criteria Score as determined by a Selection Committee. If such recommended prospective tenant is not the proposer with the highest Unadjusted Guaranteed Rent Amount, then the Staff Summary must include a reasonably detailed explanation of the factors that the Selection Committee took into account in recommending such proposal.

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Figure 1 – Property Subject to RFP

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EXAMPLE OF A PROPERTY SUBJECT TO RFP LETTER

(DATE)

(NAME)
(STREET ADDRESS)
(CITY), (STATE) (ZIP CODE)

Dear (NAME):

Thank you for the interest you expressed in leasing property owned or managed by the Metropolitan Transportation Authority (MTA). Please be advised that it is the policy of the MTA to offer lease opportunities through a request for proposals (RFP) process.

If you would like to be on our RFP notification list, please complete the registration form on MTA Real Estate's website at http://enterprise.nymta.info/MTA_Real_Estate_RFP/.

If you have further questions, you may reach me at (212-878- for ____). Again, thank you your interest in MTA property.

Sincerely,

(STAFF NAME)

Enclosure (RFP Brochure and Figure1)

cc: (Director, Real Estate Transactions and Operations /
Director, ~~Real Estate~~ Transit-Oriented
Development)
(Director, Transaction Management)
File
Chron

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Figure 2 – Acknowledgement Letter

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EXAMPLE OF ACKNOWLEDGEMENT LETTER

(When substantial research and/or agency review must take place, if Real Estate Manager in his/her judgment believes a research or agency review is forthcoming, this acknowledgement can be foregone. Telephone contact is then deemed appropriate.)

(DATE)

(NAME)
(STREET ADDRESS)
(CITY), (STATE) (ZIP CODE)

Re: LIRR Property West of Centerport Road, Huntington, New York (PROPERTY CODE) (UNIT CODE)

Dear (NAME):

The Real Estate Department of the Metropolitan Transportation Authority (MTA) is in receipt of your request for an agreement to use Long Island Rail Road (LIRR) property at the referenced location, for the receipt, storage and sale of masonry supplies.

Please be advised that this request has been forwarded to the LIRR for review. Upon receipt of its comments, you will be notified accordingly.

Should you have any questions, I can be reached at (212) (878-____).

Sincerely,

(NAME)
Real Estate Manager
Real Estate Department

cc: (Director of Real Estate Operations)
(Deputy Director, Leasing & Acquisition)
File
Chron

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Figure 3 – Property Not Owned/Managed by MTA

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EXAMPLE OF PROPERTY NOT OWNED BY THE MTA

(DATE)

(NAME)
(STREET ADDRESS)
(CITY), (STATE) (ZIP CODE)

Re: LIRR Property –Block 6499, Lot 22, Brooklyn, New York (PROPERTY CODE,
UNIT CODE)

Dear (NAME):

With reference to your letter dated January 7, 2008, regarding the use of LIRR property, it appears that the LIRR is not the owner of the property you wish to use.

If I can be of further assistance to you, please call me at (212) (878-__).

Sincerely,

(NAME)
Transaction Manager
Real Estate Department

Enclosure (RFP Brochure and Figure1)

cc: Director, Real Estate Transactions and Operations
(Director, Transaction Management)
Chron

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Figure 4 – Property Unavailable for Lease

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EXAMPLE OF PROPERTY UNA VAILABLE FOR LEASE LETTER

(DATE)

(NAME)
(STREET ADDRESS)
(CITY), (STATE) (ZIP CODE)

Re: LIRR Property –Flatbush Avenue, Brooklyn, New York (Block 11216499, Lot 1)
(PROPERTY CODE, UNIT CODE)

Dear (NAME):

Thank you for the interest you expressed in leasing property owned or managed by the Metropolitan Transportation Authority (MTA). As a follow-up to our phone conversation, please be advised that the referenced site is currently under rehabilitation and will not be available until winter 2010.

If I can be of further assistance to you, please call me at (212)878-_____. Again, thank you for your interest in MTA property.

Sincerely,

(NAME)
Senior Transaction Manager
Real Estate Department

Enclosure (RFP Brochure and Figure1)

cc: (Director, Real Estate Transactions and Operations
(Director, Transaction Management)
Chron

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Figure 5 – Letter Denying Request

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EXAMPLE OF LETTER DENYING REQUEST

(DATE)

(NAME)
(STREET ADDRESS)
(CITY), (STATE) (ZIP CODE)

Re: Parking Request – West of Endo Boulevard, Garden City, New York
Property Code _____ Unit Code _____

Dear (NAME):

Thank you for the interest you expressed in leasing Long Island Rail Road (LIRR) property at the above-referenced location. I regret to inform you that your request has been denied at this time, as this property is being retained for freight operations.

If I can be of further assistance to you, please contact me at (212)878-_____.

Sincerely,

(NAME)
Transaction Manager
Real Estate Department

cc: (Director, Real Estate Transactions and Operations)
(Director, Transaction Management)
Chron

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Figure 6 – Parcel Information Sheet

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MTA Parcel Information Sheet

[enter location, e.g., 2 Broadway Newsstand]

[enter the RFP #, e.g., RFP BG0912]

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Station Facilities: [enter location description. If a station, enter complete and correct station name]

Property Code / Unit Code: [enter Yardi property code/unit number]

[Landlord OR Licensor]: [MTA New York City Transit (“NYCT”) or MTA Long Island Rail Road (“LIRR”) or MTA Metro-North Railroad (“Metro-North”) or MTA Bridges & Tunnels or Metropolitan Transportation Authority (“MTA”)]

Premises/Licensed Area: [describe space, e.g., “Ground floor lobby newsstand (inside security checkpoints) at 2 Broadway.”]

Station Ridership: [“N/A” or enter:
Average weekday ridership: [enter number]
Average Saturday ridership: [enter number or “N/A”]
Average Sunday ridership: [enter number or “N/A”]

Deemed Rentable Square Footage: [enter size of retail or other area in square feet, and separately show the size of any storage areas]
[Add if applicable: “A [plan or drawing] of the space is attached hereto as Exhibit A.”]

Term: [enter number of years of initial or total term, if no option] years from the rent commencement date of the lease plus any free rent period for buildout between the commencement date and rent commencement date

Extension Option(s): [enter option(s) and number of years and “at [licensee/lessee] OR landlord’s discretion” or put “N/A”] [years]

Transportation Purposes Termination: FOR LEASE USE:
Landlord may terminate the lease upon 90 days’ notice to tenant if landlord requires the premises or any part thereof (a) for any transportation or transit purpose including the realization of revenues; (b) in connection with the construction, demolition, sale, or lease of the premises, the station or any other portion of the real property; (c) to otherwise accommodate the operation of the Railroad System; or (d) in connection with the furtherance of any of its purposes or the exercise of any of its general or special powers under the Public Authorities Law.

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years or longer and Tenant has made a substantial capital investment in the Premises, use the following if an amortization provision is being provided, otherwise delete: "If the lease is terminated by landlord during the first 10 years of the term, landlord will reimburse tenant for the documented unamortized reasonable costs of its permanent improvements, amortized on a straight line basis over 10 years, provided tenant is not in default at such time and vacates the premises voluntarily on the termination date, after first deducting any amounts owed by tenant to landlord.]

FOR LICENSE USE: Landlord may terminate the license, at will, at any time on [60][30] days prior notice, at no cost to landlord.

FOR SALE USE: N/A

Suggested Annual [Rent or Compensation or Purchase Price]:	[enter annual rent or compensation] and add "for Year 1 of the term, or enter purchase price]
Suggested Average Annual Rate of Increase:	[enter percentage, i.e., "3%" or "5%" or "N/A"]
Utility Fee:	
Electricity fee	["N/A" or "Tenant shall pay a fee of \$[number] per [month or year] for electricity as additional rent. This amount shall increase annually by 3%."]
Trash collection fee	["N/A" or "Tenant shall pay a fee of \$[number] per [month OR year] as a trash collection fee. This amount shall increase annually by 3%."]
[Security Deposit or Down Payment]:	Upon signing of [lease/license], three months' [base rent or base compensation] based on the final year's [base rent or base compensation].
Guaranties:	Unless the tenant itself is a creditworthy entity, a creditworthy principal of tenant acceptable to landlord/licensor will be expected] to provide a guaranty of the performance and payment obligations of [tenant/licensor] under the [lease/license]. If tenant is a newly formed entity, the individual proposers)/principal(s) will be expected to provide full personal guaranties. Under appropriate circumstances, such as when tenant is making a significant capital investment in the premises, landlord in its discretion, may accept a "limited guaranty" (or so-called 'good guy' guaranty) limiting the guarantor(s)' liability to (i) tenant's obligations to complete the initial improvements, (ii) tenants payment and performance obligations while it is in possession of the premises prior to a voluntary surrender of the same in its required condition, and (iii) an additional period of time to guaranty tenant's rent obligation beyond its voluntary surrender for up to 12 months to afford landlord an opportunity to re-let the premises.

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[Required OR Permitted] Use[s]:	[enter required or permitted uses – match what is in form of lease or license, if a form is being used – DO NOT put in an exhaustive list of items, like exist in newsstand agreements]
Prohibited Items and Uses:	Prohibited uses are specified in the form of lease/license
Minimum Hours:	[enter minimum hours for weekdays and add “except for weekends and MTA holidays”, or whatever required operating days and times are.] [Tenant/Licensee] may remain open at other times subject to [landlord’s/licensor’s] approval.
Sales Reporting [optional]:	[Tenant/Licensee] shall provide Landlord with gross sales figures on a monthly or annual basis, if required by landlord.
Condition of Premises:	Premises will be delivered “as is.” [Landlord/Licensor/Grantor] anticipates making no improvements to the premises or the systems serving the premises.
Utilities:	
Electrical	The space is served by a [enter size, e.g., “60 amp single phase” or 100 amp three-phase, etc.] electrical service and [is/is not] sub-metered or separately metered.
Fire Alarm	[“N/A” or describe the fire alarm situation and what if anything will need to be done, i.e., “connection to a central station located at [location] via rigid conduit is required”]
Sprinkler	[“N/A” or describe sprinkler situation and what if anything will need to be done with it]
Plumbing	[“N/A” or describe plumbing situation and what if anything will need to be done with it]
Natural Gas	[“N/A” or describe natural gas situation and what if anything will need to be done with it]
Domestic Water	[“N/A” or describe water situation and what if anything will need to be done with it]
Sanitary Service	[“N/A” or describe the sanitary service (i.e., “3” sanitary line with ½ hp 120v 1ph ejector pump”), and what if anything will need to be done with it]
HVAC	[“N/A” or describe HVAC situation and what if anything will need to be done with it]
Telecommunications	[“N/A” or describe the telephone and/or other telecommunications (i.e., cable or other data lines) situation and what if anything will need to be done with it; also, if applicable, indicate the designated provider such as “Telephone service is available through

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Verizon”)]

Condition of Existing Equipment and Utilities:

Tenant is responsible for repair, maintenance, and replacement of all equipment located in or exclusively serving the premises. No warranties or representations are made regarding the condition of existing equipment or utilities, or the suitability of existing equipment and utilities for [licensee’s or tenant’s] proposed use.

Tenant’s Initial Work:

“[Tenant/Licensee] shall be responsible, at its sole cost and expense, for the completion of all improvements required for [tenant’s or licensee’s] use and as required by [landlord or licensor].”

At a minimum, Tenant’s Initial Work must include the following:

1. [enter required improvement]
2. [enter required improvement].
3. [enter required improvement].
4. [enter required improvement].
5. [enter required improvement].
6. [add additional numbers to list if necessary to describe additional discrete improvement items]

Tenant’s Initial Work must meet the requirements of the New York State Uniform Fire Safety and Building Code. [Landlord/Licensor], in its capacity as the construction permitting and code compliance agency under the NYS Uniform Code and not in its proprietary capacity as Landlord, or its designee shall review all proposed Alterations for compliance with aforementioned code.

Compliance with Codes and Ordinances:

In addition to compliance with the New York State Fire Safety and Building Code, [tenant/licensee] shall comply with all other applicable codes and ordinances, including health regulations, and obtain all required permits.

Estimated Cost of Initial Improvements:

Each proposer should take into consideration the requirements for high quality design, materials and workmanship, as well as compliance with all applicable regulations and codes when preparing plans and estimating construction costs.

We strongly encourage each proposer to obtain professional construction estimates before submitting ~~his or her~~ their proposal. If actual construction costs exceed estimated costs, the [tenant/licensee] should not anticipate any relief from [landlord/licensor]. The [tenant/licensee] will be responsible for completing all required improvements regardless of the actual cost of construction.

Insurance:

The lease/license agreement will specify the insurance requirements for Tenant and its Contractors (including ~~subcontractors of any tier~~) and will generally include, at a

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minimum: commercial general liability insurance workers' compensation insurance, and all-risk property insurance policy.

[Enter if applicable or delete: "Railroad protective liability insurance in the amount of [enter amount] will be required of [tenant's/licensee's] contractor"]

Tenant's/Licensee's contractors will be expected to sign a contractor's insurance and indemnity agreement and providing insurance certificates evidencing the required insurance coverage prior to commencing any work.

Assignment & Subletting/Change of Control:

Any assignment or subletting or transfer of a controlling interest in a tenant entity, or other transfer of an equity interest that results in a change of control, whether directly or indirectly, is not permitted without [landlord's/licensor's] approval, in its sole discretion. However, [landlord/licensor] will not be required in certain circumstances specified in the lease/license, including to a controlled affiliate, to a distributee or legatee of a decedent's estate, or to a trust or immediate family member for financial or tax planning purposes.

Broker:

Any tenant broker is to be paid by the tenant.

Site Visit:

[enter time], [enter day of week], [enter date including year]

This Parcel Information Sheet must be signed by an officer of the prospective [tenant/licensee].

Prospective [Tenant/Licensee]: _____

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

Additional Thoughts:

Add: Commencement Date, Rent Commencement Date, Initial Plan Submission Date, Initial Work Buildout Period

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Metropolitan Transportation Authority

Purchase Price Proposal Form

RFP Number: [RFP Number], [TITLE]

In the form below Proposers must specify their proposed purchase price for either or both properties offered in this RFP. Proposers must submit a copy of an appraisal report prepared by a reputable appraisal firm substantiating the proposed purchase price.

Proposed Purchase Price: \$ _____

A proposal deposit in the amount of **[Proposal Deposit Percentage]**% of the proposed purchase price for each parcel being proposed for must be submitted along with this proposal. If selected, this deposit will be credited to the ultimate purchase price. If not selected, the proposal deposit(s) will be refunded in full.

Amount of proposal deposit: \$ _____

This Purchase Price Proposal must be signed by an officer of the prospective Purchaser:

Prospective Purchaser: _____

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

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Figure 7 – RFP Cover Letter

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2 Broadway
New York, NY 10004
212 878-7000 Tel

Metropolitan Transportation Authority
State of New York

[enter date]

Re: Request For Proposals [enter RFP number]-[enter RFP name]

Dear Prospective [Tenant or Licensee or Purchaser]:

Thank you for your interest in this offering of [MTA New York City Transit or MTA Long Island Rail Road or MTA Metro-North or MTA Bridges and Tunnels] property for (lease or license or sale) at (enter description of property).

Attached is the entire Request for Proposals ("RFP") package, also available on the internet at

http://enterprise.nycta.info/MTA_Real_Estate_RFP/

DEADLINE: Proposals must be received by 5:00p.m. on [enter day of week, day of month, month name, and year]. Proposals submitted after such deadline will, at the MTA's sole discretion, only be considered if the MTA determines that such consideration is in the public interest. Each proposal must include the items listed in the "Submission Requirements" section below. Proposals not including all requested items may be rejected.

In addition to this letter, the RFP package includes the following components:

1. *Parcel Information Sheet[s]*. This section provides information about [each of] the location[s] offered and the date and time that the location[s] may be viewed.
2. *Request for Proposals-Rules and Regulations*. This section contains regulations, information and instructions that relate to the submission of proposals. Please take the time to read this section carefully and refer to it as you fill out the Proposer Information Form.
3. *[Rent or Compensation or Purchase Price] Proposal F01m*. This form is to be used to specify the [rent or compensation or purchase price] that the prospective [tenant or licensee or purchaser] proposes to pay to the MTA for the applicable space.
4. *The Proposer Information Form*. Please take the time to read the instructions carefully and ensure that all questions are answered completely. Also, note that the last page must be notarized. Edit PIF by crossing out irrelevant sections not applicable to the parcel that would only confuse bidders]
5. *U.S. Internal Revenue Service F01m W-9, Request for Taxpayer Identification Number and Certification*.
6. *New York State Finance Law Sections 139-j and 139-k ("Lobbying Law") Disclosure Statement*.

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7. *Iran Divestment Act Certification.*

8. *[Delete the following FVA Standard Format for Architectural Drawing Submissions. These guidelines are for the tenant and tenant's architect and contractor to use in preparing design plans following (lease or license) execution.*

9. *[Delete the following if NIA] Form of [Lease or License or Contract of Sale].*

SUBMISSION REQUIREMENTS: Please provide the following information with your submission (all forms are available for download from the MTA's website listed above):

- Fully completed and signed *Parcel Information Sheet*
- Fully completed and signed *[Rent or Compensation or Purchase Price] Proposal Form.*
- Fully completed and signed *Proposer Information Form.* Notarize the last page of where indicated.
- Fully completed and signed *U.S. Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.*
- Fully completed and signed *NYS Finance Law Sections 139-j and 139-k Certification.*
- Fully completed and signed *Iran Divestment Act Certification.*
- *Proposal Deposit* in the amount (of three months' of Year 5 [Rent or compensation, (i.e., three times the amount proposed for Year 5) OR [enter] % of the proposed purchase price]. Proposals submitted with multiple checks drawn on different accounts may be rejected. You should enclose money orders or checks drawn on a single account.
- [Include the following only if applicable] Please list material objections, if any, to the *Form of [Lease or License or Contract]* in a cover letter or on a separate sheet of paper. If you do not list any objections, MTA will proceed on the basis that you have no objections to the *Form of [Lease or License or Contract]* and will reserve the right to award the (lease or license or contract) to another bidder, should you later raise such objections.

One hard copy of submission should be delivered in sealed envelopes by the date listed above to:

Ms. Dalilah Smith-Santos
Executive Secretary
Metropolitan Transportation Authority
2 Broadway, 4th Floor
New York, NY 10004
RFP Number: [enter RFP number]
Parcel Number(s): [enter number(s) or delete line if none]
Location: [enter location or delete line if none]

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Request for Proposal
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All bid proposals shall be publicly disclosed in the agenda for the meeting of the Finance Committee of the MTA Board at which the transaction will be considered for approval.

The MTA reserves the right, at any time, to modify or waive requirements of this RFP.

Please be aware that there are rules regarding permissible contact (oral, written, and electronic communications) with the MTA during a public procurement process. Effective January 1, 2006, New York State Lobbying Law requires that all contact with the MTA relating to this RFP must be made through the following persons/designated Points of Contact. Contact with anyone else at the MTA regarding this RFP may result in ineligibility to participate in the RFP.

The designated Points of Contact are:

Dalilah Smith-Santos
Tel. (212) 878-1043

[Email: dsantos@mtahq.org](mailto:dsantos@mtahq.org)

(for general inquiries regarding the administrative aspects of the RFP only)

[enter project manager information]

(for questions regarding the specific content of the RFP or RFP procedures and rules)

Sincerely,

[enter project manager name]
MTA Real Estate Department

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REAL ESTATE DEPARTMENT
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Figure 8 – Proposer Information Form

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Applicant Information Statement

Business Profile

Information and Instructions

The following information is provided to the MTA Real Estate Department for its preliminary review before further consideration of an intent to lease or license a specified location. The acceptance of this information statement shall not constitute an offer of the Metropolitan Transportation Authority or any affiliate or subsidiary thereof. **Proposers must provide three (3) copies of a separate completed form with each proposal package. When mailing, use a separate envelope for each proposal submitted.** Please attach additional sheets as necessary. **Please print or type.**

Property Desired

Parcel Number (if applicable) _____ Proposed Use _____
 Property Address _____

Applicant Information

Name of Applicant _____ Social Security No. - -
 Street _____
 City _____ State _____ Zip _____
 Telephone (Day) _____ Telephone (Evening) _____

Business Information

Name of Business _____
 Street _____
 City _____ State _____ Zip _____
 Telephone (Day) _____ Telephone (Evening) _____
 Type of business: Corporation Joint Venture Partnership Year Formed _____
 Employer ID No. _____ State of Incorporation _____

List all officers, partners, shareholders, or joint venturers.

- 1 Name _____ Title _____
 Street _____
 City _____ State _____ Zip _____
 Telephone (Day) _____ % Shares _____
- 2 Name _____ Title _____
 Street _____
 City _____ State _____ Zip _____
 Telephone (Day) _____ % Shares _____
- 3 Name _____ Title _____
 Street _____
 City _____ State _____ Zip _____
 Telephone (Day) _____ % Shares _____

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Applicant Information Statement

Business Profile (cont'd.)

Business Information (cont'd.)	Has the applicant or any of its principals done business under any other name within the past three years? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Is the applicant owned or controlled by any other organization or business entity? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Does the applicant own or control any other organization or business entity? <input type="checkbox"/> Yes <input type="checkbox"/> No
	If yes was checked for any of the above, provide name, employer ID, and business address of each organization, corporation, or business:
1	Name of Business _____
	Employer ID No. _____ Owner/Manager Name _____
	Street _____
	City _____ State _____ Zip _____
2	Name of Business _____
	Employer ID No. _____ Owner/Manager Name _____
	Street _____
	City _____ State _____ Zip _____
3	Name of Business _____
	Employer ID No. _____ Owner/Manager Name _____
	Street _____
	City _____ State _____ Zip _____
	List gross receipts of each business for the past three years. Attach copies of Federal Income Tax returns (1040, 1099, etc.).
1	Name of Business _____ Gross Receipts \$ _____ Year _____
	Gross Receipts \$ _____ Year _____
	Gross Receipts \$ _____ Year _____
2	Name of Business _____ Gross Receipts \$ _____ Year _____
	Gross Receipts \$ _____ Year _____
	Gross Receipts \$ _____ Year _____
3	Name of Business _____ Gross Receipts \$ _____ Year _____
	Gross Receipts \$ _____ Year _____
	Gross Receipts \$ _____ Year _____

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Applicant Information Statement

Business Profile (cont'd.)

**State or
Municipal
Leases or
Contracts**

List all leases or contracts entered into or currently in force between the applicant or other persons listed herein and the Metropolitan Transportation Authority ("MTA") or any other state agency or municipality within the past three (3) years. Use additional sheets if necessary.

(NYCT = MTA New York City Transit LIRR = MTA Long Island Rail Road MNR = MTA Metro-North Railroad)

1 NYCT LIRR MNR Other (Specify) _____

Term _____ Annual Rent _____ Expires _____

Location _____

2 NYCT LIRR MNR Other (Specify) _____

Term _____ Annual Rent _____ Expires _____

Location _____

3 NYCT LIRR MNR Other (Specify) _____

Term _____ Annual Rent _____ Expires _____

Location _____

4 NYCT LIRR MNR Other (Specify) _____

Term _____ Annual Rent _____ Expires _____

Location _____

List all real property in the State of New York owned, leased, or managed within the last three (3) years by the applicant or any other person listed herein, for personal or business purposes (including cooperatives or condominiums).

1 Owner of Record _____ Owned Leased Managed

Location _____ Year Acquired _____

2 Owner of Record _____ Owned Leased Managed

Location _____ Year Acquired _____

3 Owner of Record _____ Owned Leased Managed

Location _____ Year Acquired _____

4 Owner of Record _____ Owned Leased Managed

Location _____ Year Acquired _____

Has any of the property listed above been in arrears in the last three (3) years in respect to:

Real Estate Taxes Yes No Water/Sewer Assessments Yes No

Rents Yes No Loans Yes No

If yes, please explain: _____

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Applicant Information Statement

Business Profile (cont'd.)

Business History and Experience	List all relevant business experience		
	1	Name of Company	From To
		Type of Business	Your Title
		Street	
		City	State Zip
	2	Name of Company	From To
		Type of Business	Your Title
		Street	
		City	State Zip
	3	Name of Company	From To
		Type of Business	Your Title
		Street	
		City	State Zip

Business References			
	1	Name of Company	From To
		Street	
		City	State Zip
		Contact	Title Telephone
	2	Name of Company	From To
		Street	
		City	State Zip
		Contact	Title Telephone
	3	Name of Company	From To
		Street	
		City	State Zip
		Contact	Title Telephone

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Applicant Information Statement

Business Profile (cont'd.)

Vendor Reference					
	1 Name of Company _____				
	From			To _____	
	Street _____				
	City	State	Zip _____		
	Contact _____				
	Contact's Title		Telephone _____		
	Product Line _____				
	Credit Line	High:	Low:	Balance: _____	
		2 Name of Company _____			
		From			To _____
Street _____					
City		State	Zip _____		
Contact _____					
Contact's Title		Telephone _____			
Product Line _____					
Credit Line		High:	Low:	Balance: _____	
		3 Name of Company _____			
		From			To _____
	Street _____				
	City	State	Zip _____		
	Contact _____				
	Contact's Title		Telephone _____		
	Product Line _____				
	Credit Line	High:	Low:	Balance: _____	

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Applicant Information Statement

Financial Profile

Bank References	<p>Savings Bank</p> <p>Name of Bank _____ Branch _____</p> <p>Street _____</p> <p>City _____ State _____ Zip _____</p> <p>Name of Bank Officer _____ Telephone _____</p> <p>Name on Account _____ Account No. _____</p> <p>Commercial Bank</p> <p>Name of Bank _____ Branch _____</p> <p>Street _____</p> <p>City _____ State _____ Zip _____</p> <p>Name of Bank Officer _____ Telephone _____</p> <p>Name on Account _____ Account No. _____</p>
------------------------	--

Available Lines of Credit	<p>Provide information on lines of credit available to undertake required improvements and fulfill annual rental obligations.</p> <p>1 Name of Source _____</p> <p>Street _____</p> <p>City _____ State _____ Zip _____</p> <p>Available Dollar Amount \$ _____ Interest Rate _____ Letter Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>2 Name of Source _____</p> <p>Street _____</p> <p>City _____ State _____ Zip _____</p> <p>Available Dollar Amount \$ _____ Interest Rate _____ Letter Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>3 Name of Source _____</p> <p>Street _____</p> <p>City _____ State _____ Zip _____</p> <p>Available Dollar Amount \$ _____ Interest Rate _____ Letter Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
----------------------------------	---

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Applicant Information Statement

Financial Profile (cont'd.)

**Applicant
Information**

1 Name of Bank _____
Account No. _____ Branch _____
Street _____
City _____ State _____ Zip _____

2 Name of Bank _____
Account No. _____ Branch _____
Street _____
City _____ State _____ Zip _____

3 Name of Bank _____
Account No. _____ Branch _____
Street _____
City _____ State _____ Zip _____

I hereby authorize the banking, financial, and business concerns referenced in this application/statement to release to the Metropolitan Transportation Authority and/or their credit reporting agency any information requested with respect to the above-mentioned accounts and references.

By (Name) _____

Corporate Seal (If Corporation)

Title _____
Street _____
City _____ State _____ Zip _____

**Acknowledgement
Before
Notary Public**

Subscribed and Sworn to me this _____ day of _____, 20____

Notary Public's Signature _____

Notary Seal

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Applicant Information Statement

Financial Profile (cont'd.)

Assets	Funds		
	1 – Cash	\$	
	2 – Checking	\$	
	3 – Savings	\$	
	4 – Other	\$	
	5 – Subtotal–Funds	\$	add lines 1 to 4
	Receivables		
	6 – Trade or Business	\$	
	7 – Other	\$	
	8 – Subtotal–Receivables	\$	add lines 6 and 7
	Securities		
	9 – Stocks	\$	
	10 – Bonds	\$	
	11 – Other (Pensions, Annuities)	\$	
	12 – Subtotal–Securities	\$	add lines 9 to 11
	Fixed Assets		
	13 – Equipment	\$	
	14 – Other	\$	
	15 – Subtotal–Fixed Assets	\$	add lines 13 and 14
	Other Assets		
	16 – Trade, Auto	\$	
	17 – Life Insurance	\$	
	18 – Subtotal–Other Assets	\$	add line 16 and 17
	19 – Inventory	\$	
	20 – Miscellaneous	\$	
	21 – Land and Buildings	\$	
	22 – GRAND TOTAL ASSETS	\$	add lines 5,8,12,15, 18-21
Liabilities	23 – Payables	\$	
	24 – Notes Payable	\$	
	25 – Mortgages	\$	
	26 – Deferred	\$	
	27 – Miscellaneous	\$	
	28 – GRAND TOTAL LIABILITIES	\$	add lines 23-27
	29 – CAPITAL/NET WORTH	\$	line 22 minus line 28

If the applicant is in the process of being organized and does not yet have assets or liabilities, check here and complete the financial statement on the basis of the applicant's personal assets and liabilities. Clearly indicate all sources of capitalization.

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Applicant Information Statement

One-Year Business Plan

Income: One-year Projection	1 – Estimated Sales/Revenue	\$	
	2 – Cost of Goods Sold	\$	
	3 – GROSS PROFIT	\$	subtract line 2 from line 1
Expenses: One-year Projection	4 – Wages, Salaries	\$	
	5 – Rent	\$	
	6 – Telephone	\$	
	7 – Gas	\$	
	8 – Electricity	\$	
	9 – Interest on Loan	\$	
	10 – Advertising	\$	
	11 – Postage	\$	
	12 – Travel	\$	
	13 – Vehicle Expense	\$	
	14 – Payroll Taxes	\$	
	15 – Other Taxes	\$	
	16 – Supplies	\$	
	17 – Legal Fees	\$	
	18 – Accounting Fees	\$	
	19 – Insurance	\$	
	20 – Repairs	\$	
	21 – Equipment Rental	\$	
	22 – Depreciation	\$	
	23 – Other	\$	
	24 – TOTAL EXPENSES	\$	add lines 4 through 23
	25 – ESTIMATED PROFIT (LOSS)	\$	subtract line 24 from line 3

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Applicant Information Statement

One-Year Business Plan (cont'd.)

Proposed Sales/Revenue Plan

Describe the plan to achieve the volume of sales/revenue indicated in item 1 on page 8.

Proposed Staffing

Indicate proposed staffing during business hours. Provide an entry for each change in the number of personnel during these hours.

<u>Day(s)</u>	<u>Hour(s)</u>	<u>No. Personnel</u>	Manager at Location: <input type="checkbox"/> Yes <input type="checkbox"/> No
<u>Day(s)</u>	<u>Hour(s)</u>	<u>No. Personnel</u>	Manager at Location: <input type="checkbox"/> Yes <input type="checkbox"/> No
<u>Day(s)</u>	<u>Hour(s)</u>	<u>No. Personnel</u>	Manager at Location: <input type="checkbox"/> Yes <input type="checkbox"/> No
<u>Day(s)</u>	<u>Hour(s)</u>	<u>No. Personnel</u>	Manager at Location: <input type="checkbox"/> Yes <input type="checkbox"/> No

Items to be Sold

Startup Costs

<u>Legal Costs</u>	<u>\$</u>	
<u>Architectural Fees</u>	<u>\$</u>	
<u>Licensing Fees</u>	<u>\$</u>	
<u>Incorporation Fees</u>	<u>\$</u>	
<u>Rent During Construction</u>	<u>\$</u>	
<u>Construction Costs</u>	<u>\$</u>	(attach two estimates)
<u>Fixtures</u>	<u>\$</u>	
<u>Inventory</u>	<u>\$</u>	
<u>Consulting Fees</u>	<u>\$</u>	
<u>Franchise Fees</u>	<u>\$</u>	
<u>Miscellaneous</u>	<u>\$</u>	
TOTAL STARTUP COSTS	\$	

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Applicant Information Statement

Background

Declaration

Has the applicant (or anyone listed herein) ever been barred from bidding on contracts, or declared not responsible by any city, town, village, county, state, or federal public entity? Yes No

Are any outstanding liens pending against the applicant and/or any of its principals, partners, directors, owners, board members, or officers? Yes No

Are any judgments outstanding against the applicant and/or any of its principals, partners, directors, owners, board members, or officers? Yes No

Is any suit or other legal action pending against the applicant and/or any of its principals, partners, directors, owners, board members, or officers? Yes No

Has the applicant or anyone listed herein ever been adjudged bankrupt, voluntarily or involuntarily, under any provision of the Bankruptcy Law, executed an assignment for the benefit of creditors, or abandoned a business without satisfying its outstanding debts? Yes No

Has the applicant or anyone listed herein ever been convicted of a felony? Yes No

If yes to any of the above, please provide all details below.

I declare under the penalties of perjury provided for by Article 210 of the New York Penal Law, that I have read fully and understand all of the terms and conditions of this statement and all of the foregoing questions in the Applicant Information Statement. The answers and statements herein including, without limitation, the Applicant Information Statement and the Credit Authorization, are to the best of my knowledge and belief true, correct and complete. I agree that in the event that circumstances reflected by the answers herein change, I will promptly notify the Real Estate Department of the Metropolitan Transportation Authority in writing by certified mail. I also understand that a misstatement, omission, or failure to update information may be cause for the Metropolitan Transportation Authority not to award to the applicant or its current principals the proposed license, and may have the effect of precluding persons or entities from doing business with the Metropolitan Transportation Authority or its affiliate organizations in the future.

Preparer's Signature _____ Date _____

Applicant's Signature _____ Date _____

Sworn to me this _____ day of _____, 20____

Notary Public's Signature _____

Notary Seal

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Applicant Information Statement

General Affidavit

State of New York, County of _____ } ss:
being duly sworn, deposes and says
I am the _____ of _____
the sole proprietorship, joint venture, corporation, partnership (circle one) whose name is subscribed to and
which executed the foregoing
I reside at _____

Representations, Warranties, and Covenants

- A. The undersigned has received and read the entire Request for Proposal, has acquainted itself/himself/herself with all matters therein referred to in connection with this proposal, will accept the premises "as-is" and will secure any necessary permits and licenses pertaining to the operation of, or the making of any improvements to, the site. The MTA makes no representation or warranties as to the information supplied herein or the type of use or development permitted at each location.
- B. The undersigned deposits with this proposal an amount equal to three (3) months rent as proposed, in the form of a check payable to the MTA, to be retained by MTA as liquidated damages in the event the undersigned is offered and fails to enter into a lease or license on the terms contained in this proposal.
- C. The undersigned shall invest approximately _____ dollars (\$ _____) for improvements to the subject premises. (Include photographs or drawings of existing operations, and preliminary plans prepared and stamped by a New York State-licensed architect or engineer for the proposed location, which may be used as a basis for improvements to the premises.)
- D. The undersigned acknowledges that improvements and other work (1) may not be carried out without the prior approval of the MTA, (2) will become the property of the MTA, and (3) must conform to appropriate health, safety, fire, and building codes, as required.
- E. The undersigned is not in arrears in the payment of amounts due to the MTA or any of its affiliated agencies or the State of New York or the City of New York or any instrumentality thereof.
- F. The undersigned declares under the penalties of perjury provided for by Article 210 of the New York Penal Law that the undersigned has read fully and understands all of the terms and conditions of this Request for Proposals, and all of the foregoing questions in the Applicant Information Statement and Proposed Compensation Form. The answers and statements herein including, without limitation, the Applicant Information Statement and the Credit Authorization, are to the best of the undersigned's knowledge and belief true, correct, and complete. The undersigned agrees that in the event that circumstances reflected by the answers herein change, the undersigned will promptly notify the Real Estate Department of the Metropolitan Transportation Authority in writing by certified mail. The undersigned also understands that a misstatement, omission, or failure to update information may be cause for the Metropolitan Transportation Authority not to award to the applicant or its current principals the proposed lease or license, and may have the effect of precluding persons or entities from doing business with the Metropolitan Transportation Authority or its affiliates or subsidiaries in the future.
- G. The undersigned is of lawful age.
- H. The undersigned represents and warrants that no person, firm, or corporation other than herein above named has any interest in this proposed lease or license agreement.
- I. The undersigned represents and warrants that no elected representative or other officer or employee or person whose salary is payable in whole or in part from the Federal Government or State or City of New York, and no member officer or employee of the Metropolitan Transportation Authority or any affiliate or subsidiary thereof is directly or indirectly interested in this proposal or in the proposed lease or license agreement to which it relates or will have an interest in any of the profits thereof.
- J. To the best of the undersigned's knowledge the following statements are true and complete. If any of the following statements are not true and complete, refer to and complete Section K.
 - (i) The compensation and other terms of this proposal have been arrived at independently without any agreement, collusion, consultation, or communications intended to restrict competition.

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Applicant Information Statement

General Affidavit (cont'd.)

- (ii) Unless otherwise required by law, the compensation and other terms quoted in this proposal have not been knowingly disclosed by the undersigned or any other individual and, before the proposal is opened, shall not knowingly be directly or indirectly disclosed by the applicant or any other individual or by or on behalf of the proposer to any other proposer or to any competitor; and
- (iii) No attempt has been made or will be made by the undersigned or by any other individual or by or on behalf of the applicant to induce any other person, partnership, corporation, or other entity to submit or not to submit a proposal, for the purpose of restricting competition.

Check off and complete Section K only if the statements contained in Section J are not true and complete.

- K. The statements set forth in paragraphs J. (i), (ii), (iii) are not true and complete. The undersigned has attached a detailed explanation as to (1) why each such paragraph is not true and complete, and (2) why the undersigned's explanation does not reflect an effort to restrain competition.

By _____ Corporate Seal
Title _____
Street _____
City _____ State _____ Zip _____

Note: For all partnerships and joint ventures, a General Affidavit for each of the partners or joint venturers must be completed, executed, notarized, and submitted with the application unless one partner or joint venturer is authorized to bind the others, in which case a single General Affidavit may be signed by one individual authorized to bind the partnership or joint venture.

**Acknowledgement
Before
Notary Public**

On _____, 20____ before me personally came and appeared _____
_____ who identified himself/herself as such person and swore the following under oath:

1. He/she resides at _____
Check off applicable provision and complete.
- A. (For an applicant that is a PARTNERSHIP or JOINT VENTURE in which one partner or joint venturer is authorized to bind the partnership or joint venture, or a CORPORATION).
He/she is the _____ of _____
_____, the above entity, which is a _____;
that he/she signed this affidavit on behalf of himself or herself and said entity; and that he/she is duly authorized on behalf of said entity to sign this affidavit and to bind said entity.
- B. (For an applicant that is a PARTNERSHIP or JOINT VENTURE in which more than one partner's or joint venturer's signature is authorized to bind the partnership or joint venture).
He/she is the _____ of _____
a _____ of the partners/joint venturers in the above partnership/joint venture;
that he/she signed this affidavit on behalf of him or herself, said partner/joint venturer and partnership/venture; and that he/she is authorized to do so.
- C. (For an applicant that is a SOLE PROPRIETORSHIP).
He/she is the sole proprietor of the above unincorporated business and he/she signed this affidavit on behalf of himself/herself.
2. The statements set forth in the above General Affidavit are true and complete to the best of his or her knowledge.

Notary Public's Signature _____

Notary Seal

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Figure 9 – Pre-RFP Authorization Memo

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**Metropolitan Transportation Authority
 Real Estate Department
 Authorization Memorandum-General**

Date: (Month [DD]. [YYYY])
 To: (Deputy Director]. Director, Transaction Management, Director, Real Estate Transactions and Operations
 From: [Project Manager Name]
 Re: [RFP reference number, agency, description i. e., retail, vending, etc.)

AGENCY:

LESSEE:

LOCATION:

ACTIVITY:

SEQR/NEPA:

Type 1	✓	EIS	✓	Actions Required
Type 2		NEPA		_____
Unlisted		N/A		_____

LOBBYING LAW:

Have there been Contacts? _____
 Were Contacts permissible? _____

COMMENTS:

Paragraph 1: Introduction

- a) Summarize in a couple of sentences why property is being disposed of, licensed, or acquired.
- b) Summarize recommendation as to method of disposition/acquisition and price.

Paragraph 2: Discuss property

- a) Location – Municipality, closest MTA operation, any other noteworthy items.
- b) Nature of MTA or agency ownership.
- c) Physical attributes (improved, vacant, structures, fencing, etc.)
- d) Tenant use
- e) Possible uses
- f) Restrictions placed by MTA agency (i.e., use; disposition method (license only, etc.); time limitations; termination tights.)

Paragraph 3: Nature of interest being disposed of or acquired

- a) Describe interest: Fee/permanent easement/temporary easement/net lease/lease/license/permit/other)

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- b) Describe circumstances that may impact value; describe any unusual or unique circumstances.
- c) Describe WHY that interest is being offered or purchased (i.e., if a lease, was a sale considered? If a license, could it be leased? Did the agency restrict the interest, and why?)

Paragraph 4: Method of disposition or acquisition

- a) RFP (obviously N/A for acquisitions)
- b) If not RFP, why not?
 - i. Pursuant to policy
 - ii. Pursuant to special circumstances noted in Licensing Procedures when competition is not feasible (Board approval still required)
 - iii. Other reasons

Paragraph 5: Discussion of Proposals

- a) How many proposals received? Refer to spreadsheet if applicable.
- b) Discussion of top proposers:
 - i. Creditworthiness
 - ii. Financial wherewithal to start-up and make improvements.
 - iii. Experience applicable to proposed operation; note if prior or current experience with MTA and if so, licensee/tenant history.
 - iv. Discussion of proposals in comparison to appraised value or market value.
 - v. If proposals are below appraised or estimated fair market value, discuss the reasons therefor.

Paragraph 6: Negotiations

- a) What items were negotiated (note: if sole bidder, MUST negotiate; if many responses to RFP, usually take high bid, unless extenuating circumstances).
- b) Result of negotiations

Paragraph 7: Recommendation

- a) Recommend course of action, citing reasons.

Comments: _____

Recommended: _____ Date _____

[NAME], Deputy Director

Comments: _____

Recommended: _____ Date _____

Christopher Nesterzuk, Transaction Management

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Comments: _____

Approved: _____ Date _____

David Florio, Director, Real Estate Transactions and Operations

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Figure 10 – Incumbent Letter

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2 Broadway
New York, NY 10004
212 878-7000 Tel

Metropolitan Transportation Authority

State of New York

**CERTIFIED MAIL # [enter number]-RETURN RECEIPT REQUESTED
and First Class Mail**

[DATE]

[NAME]

[ADDRESS]

[CITY, STATE ZIP]

Re: {LOCATION DESCRIPTION, eg: Newsstand at 96" street Subway station, Manhattan}
Tenant ID: [YARDI TENANT NUMBER]
Property ID [YARDIPROPERTY NUMBER]

Dear [MR. IMS NAME]:

As you know, your [lease/license/permit] for the *above* location [has expired/will expire soon]. It is the Metropolitan Transportation Authority's (MTA's) policy to offer lease and license opportunities through a Request for Proposals ("RFP") process. This is to inform you that the MTA will shortly be issuing an RFP to [LEASE/LICENCE] the *above* location, and you are invited to submit a proposal. The RFP due date is [MM/DD/YYYY]. To view and download a copy of the RFP, go to the MTA website at:

http://enterprise.nymta.info/MTA_Real_Estate_RFP/

Please note that all contacts with the MTA relating to this RFP must be made through the designated Points of Contact. Contact with anyone else at the MTA relating to this RFP may be a violation of the law and may result in the disqualification of the proposer. The Points of Contact for this RFP will be myself, [PROJECT MANAGER'S'S NAME], at 212-878-[XXXX] (for questions regarding the specific content of the RFP or RFP procedures and rules), and Odette Berg at 212-878-1043 (for general inquiries regarding the administrative aspects of the RFP only).

If you have any questions regarding the RFP, please call one of the Points of Contact listed *above*.

Sincerely,

[PROJECT MANAGER'S NAME]
MTA Real Estate Department

The agencies of the MTA

MTA New York City Transit
MTA Long Isl and RailRoad

MTA Long Island Bus
MTA Metro-North Railroad

MTA Bridges and Tunnels
MTA Capital Construction

MTA Bus Company

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Figure 11 – Sample Advertisement

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MTA REAL ESTATE

Request for Proposals — Lease of the Tarrytown Station Building on Metro-North's Hudson Line. Proposals must be received by 3:00 p.m. on Friday, June 16th, 2017.

For information on this Request for Proposals, please go to
http://enterprise.nymta.info/MTA_Real_Estate_RFP/RFPLeasing.aspx

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Figure 12 – Proposal Checklist

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Metropolitan Transportation Authority

Proposal Checklist

If an item is missing, please indicate if the proposal will be rejected or if the missing item or items will be sent. Please indicate in the space provided why the project manager has determined that the proposal should not be rejected on the basis of an incomplete proposal.

Project Manager: _____

Verifier: _____

Parcel No: _____

Location: _____

Proposer's Name: _____

Business Name: _____

RFP Received	Included	Signed	Notarized	Held	Follow Up
Applicant Information Statement	<input type="checkbox"/>			<input type="checkbox"/>	Letter Sent <input type="checkbox"/>
Business Profile	<input type="checkbox"/>			<input type="checkbox"/>	Response Due _____
Financial Profile	<input type="checkbox"/>			<input type="checkbox"/>	Reason: _____
Credit Authorization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
One-year Business Plan	<input type="checkbox"/>			<input type="checkbox"/>	_____
Background	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
General Affidavit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
NYS Fin. Law 109j, 109-k (Lobby Law) Disclosure Stmt.	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	_____
Proposed Compensation Form	<input type="checkbox"/>			<input type="checkbox"/>	_____
W-9	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	_____
Preliminary Plans	<input type="checkbox"/>			<input type="checkbox"/>	_____
Deposit	<input type="checkbox"/>			<input type="checkbox"/>	_____
No Deposit	<input type="checkbox"/>			<input type="checkbox"/>	_____
Check No. # _____					
Amount \$ _____					

Project Manager's Signature: _____ Date: _____

Verifier's Signature: _____ Date: _____

MTA RED 06-21-04

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Figure 13 – RFP Evaluation Form

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Property & Unit Number	Parcel Name	Proposer Name	Improve.	Annual Compensation					NPV w/ improv. 6.00%	NPV w/o improv. 6.00%	Enter discount rate for NPV: <input type="text" value="6.00%"/>		
				Year 1	Year 2	Year 3	Year 4	Year 5			Assets	Liabilities	Net Worth

Suggested Annual Compensation for Year 1 per RFP - _____

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Figure 14 – RFP Award Authorization Memo

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**Metropolitan Transportation Authority
 Real Estate Department
 Authorization Memorandum-General**

Date: (Month [DD]. [YYYY])
 To: (Deputy Director]. Director, Transaction Management, Director, Real Estate Transactions and Operations
 From: [Project Manager Name]
 Re: [RFP reference number, agency, description i . e., retail, vending, etc.)

AGENCY:

LESSEE:

LOCATION:

ACTIVITY:

SEQR/NEPA:	✓	✓	Actions Required
Type 1		EIS	_____
Type 2		NEPA	_____
Unlisted		N/A	_____

LOBBYING LAW: _____
 Have there been Contacts? _____
 Were Contacts permissible? _____

COMMENTS:

Paragraph 1: Introduction

- a) Summarize in a couple of sentences why property is being disposed of, licensed, or acquired.
- b) Summarize recommendation as to method of disposition/acquisition and price.

Paragraph 2: Discuss property

- a) Location – Municipality, closest MTA operation, any other noteworthy items. b) Nature of MTA or agency ownership.
- c) Physical attributes (improved, vacant, structures, fencing, etc.)
- d) Proposed use
- e) Possible uses
- f) Restrictions placed by MTA agency (i.e., use; disposition method (license only, etc.); time limitations; termination tights.)

Paragraph 3: Nature of interest being disposed of or acquired

- a) Describe interest: Fee/permanent easement/temporary easement/net lease/lease/license/permit/other)

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- b) Describe circumstances that may impact value; describe any unusual or unique circumstances.
- c) Describe WHY that interest is being offered or purchased (i.e., if a lease, was a sale considered? If a license, could it be leased? Did the agency restrict the interest, and why?)

Paragraph 4: Method of disposition or acquisition

- a) RFP (obviously N/A for acquisitions)
- b) If not RFP, why not?
 - i. Pursuant to policy
 - ii. Pursuant to special circumstances noted in Licensing Procedures when competition is not feasible (Board approval still required)
 - iii. Other reasons

Paragraph 5: Discussion of Proposals

- a) How many proposals received? Refer to spreadsheet if applicable.
- b) Discussion of top proposers:
 - i. Creditworthiness
 - ii. Financial wherewithal to start up and make improvements.
 - iii. Experience applicable to proposed operation; note if prior or current experience with MTA and if so, licensee/tenant history.
 - iv. Discussion of proposals in comparison to appraised value or market value.
 - v. If proposals are below appraised or estimated fair market value, discuss the reasons therefor.

Paragraph 6: Negotiations

- a) What items were negotiated (note: if sole bidder, MUST negotiate; if many responses to RFP, usually take high bid, unless extenuating circumstances).
- b) Result of negotiations

Paragraph 7: Recommendation

- a) Recommend course of action, citing reasons.

Comments: _____

Recommended: _____ Date _____

[NAME], Deputy Director

Comments: _____

Recommended: _____ Date _____

Christopher Nesterzuk, Transaction Management

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REAL ESTATE DEPARTMENT
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Comments: _____

Approved: _____ Date _____

David Florio, Director, Real Estate Transactions and Operations

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Figure 15 – Lease/Sale Negotiation Authorization Memo

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Paragraph 3: Nature of interest. (is it being disposed of or acquired)

- a) Describe interest: Fee/permanent easement/temporary easement/net lease/lease/license/permit/other)
- b) Describe circumstances that may impact value; describe any unusual or unique circumstances
- c) Describe WHY that interest is being offered or purchased (i.e., if a lease, was a sale considered? If a license, could it be leased? Did the agency restrict the interest, and why?)

Paragraph 4: Why no RFP

- a) Describe why the Lease/Sale negotiation process is being used:
 - i. Pursuant to policy
 - ii. Pursuant to special circumstances noted in Licensing Procedures when competition is not feasible (Board approval still required)
 - iii. Other reasons

Paragraph 5: Discussion of Proposals

- a) Discussion of proposed lessee/grantee:
 - i. Credibility
 - ii. Financial wherewithal to start up and make improvements.
 - iii. Experience applicable to proposed operation; note if prior or current experience with MTA and if so, licensee/tenant history.
 - iv. Discussion of proposal in comparison to appraised value or market value. v. If proposal is below appraised or estimated fair market value, discuss the reason(s) therefor.

Paragraph 6: Negotiations

- a) What items were negotiated?
- b) Result of negotiations

Paragraph 7: Recommendation

- a) Recommend course of action, citing reasons.

Comments: _____

Recommended: _____ Date _____

[NAME], Deputy Director

Comments: _____

Recommended: _____ Date _____

Christopher Nesterchuk, Director, Transaction Management

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Comments: _____

Recommended: _____ Date _____

David Florio, Director, Real Estate Transactions and Operations

[delete two signature lines below If transaction is pursuant to Board-approved policy] Comments:

Approved: _____ Date _____

enter name], Deputy General Counsel

Comments: _____

Approved: _____ Date _____

John N. Lieber, Chief Development Officer

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Figure 16 – Conditional Designation Letter

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2 Broadway
New York, NY 10004
212 878-7000 Tel



Metropolitan Transportation Authority

State of New York

VIA CERTIFIED MAIL

March 5, 2019

Re: Request for Proposals

Dear Mr./Mrs. _____:

We have recently completed our analysis of the proposals received in response to the above referenced Request for Proposals. I am pleased to inform you that your company has been conditionally designated as the successful proposer, subject to MTA Board approval and your acceptance of the terms herein.

In the meantime, we will proceed to prepare a draft lease based on your *Rent Proposal* as well as the *Term Sheet* (copies of which are attached to this letter) and your agreement to provide a guarantee for the obligations under the lease of the corporate entity which will be party to the lease with the MTA.

Kindly acknowledge receipt of this letter and indicate your consent to the terms contained in the attachments by signing the *Term Sheet* where indicated. Also, please sign and return a copy of this letter, along with your security deposit in the amount of \$ _____ to my attention at the above MTA address as soon as possible. Please retain a signed copy for your records.

We are very glad that you have chosen to locate your business within the MTA system. Please contact _____ at (212) 878- _____ if you have any questions.

Sincerely,

ACKNOWLEDGED AND AGREED TO

THIS ____ DAY OF _____ 2019:

David Florio
Director, Real Estate Transactions
& Operations

Attachments:
Term Sheet
Rent Proposal

cc: N. Mastropietro
C. Nesterczuk

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Metro-North Railroad
MTA Bridges and Tunnels

MTA Capital Construction
MTA Bus Company

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Figure 17 – Staff Summary

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Staff Summary



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Subject LEASE AGREEMENT WITH MANHATTAN COLLEGE
Department REAL ESTATE
Department Head Name JOHN N. LIEBER
Department Head Signature
Project Manager Name ARTURO ESPINOZA

Date OCTOBER 22, 2018
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	10/22/18	X		
2	Board	10/24/18	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Development Officer		
3	Chief Financial Officer		
4	Chief of Staff		

AGENCY: MTA New York City Transit ("NYCT")
 LESSEE: Manhattan College
 LOCATION: 4000 Irwin Avenue, Bronx, New York (portion of Bronx County Block 5776 lot 401)
 ACTIVITY: Operation of an athletic field, accessory facilities and parking lots
 ACTION REQUESTED: Authorization to enter into a lease
 TERM: 10 years, terminable by NYCT on 24 months' notice for corporate purposes. In the event of NYCT termination, NYCT would be required to reimburse the Lessee's unamortized construction costs.
 SPACE: Approximately 207,975 square feet

Year	Annual Rent	Monthly Rent	% Increase	PSF Rent
1	\$165,000.00	\$13,750.00	3%	\$0.79
2	\$169,950.00	\$14,162.50	3%	\$0.82
3	\$175,048.50	\$14,587.38	3%	\$0.84
4	\$180,300.00	\$15,025.00	3%	\$0.87
5	\$185,709.00	\$15,475.75	3%	\$0.89
6	\$191,280.20	\$15,940.02	3%	\$0.92
7	\$197,018.60	\$16,418.22	3%	\$0.95
8	\$202,929.20	\$16,910.77	3%	\$0.98
9	\$209,017.10	\$17,418.09	3%	\$1.01
10	\$215,287.60	\$17,940.63	3%	\$1.04

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Staff Summary

FINANCE COMMITTEE MEETING LEASE WITH MANHATTAN COLLEGE (Cont'd.)



Page 2 of 2

COMMENTS:

The athletic field used by Manhattan College has been a center for Irish football, hurling, and other Irish sporting events in New York City for decades. The property on which the athletic field, accessory facilities (including a locker room, training room, storage room and storage shed) and parking lots sit (collectively, the "Property") is administered by MTA Real Estate for the City of New York account pursuant to the 1953 master lease between NYCT and the City of New York. The Property is currently licensed to Manhattan College on a short-term basis. Earlier this year, Gaelic Athletic Association ("Gaelic"), a long-time tenant of the premises adjacent to the athletic field and a long-time user of the athletic field and the accessory facilities along with Manhattan College, entered into a new lease with NYCT for said adjacent premises (pursuant to which Gaelic is performing substantial rehabilitation of the existing building on the adjacent premises), and it is anticipated that Manhattan College and Gaelic will continue sharing the athletic field for sporting events.

The Property was offered via a Request for Proposals ("RFP") for a 10-year lease term requiring the replacement of the adjacent sidewalk along West 240th Street and extensive repairs to its facilities (collectively, the "Required Improvements"). In response to the RFP, Manhattan College was the sole proposer. The present value of the rent proposed is \$1,306,887 (calculated at a 7% discount rate). Such rent is in line with the appraised value of the Property, as estimated by MTA Real Estate's independent appraiser.

Manhattan College is committed to undertaking the Required Improvements and it possesses the financial resources and wherewithal to do so.

Based on the foregoing, MTA Real Estate requests authorization for NYCT to enter into a lease agreement with Manhattan College on the above-described terms and conditions.

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Figure 18 – Document Approval Form

Who is legal initials DAF?

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Document Approval Form



Transaction Type:

Lessee / Licensee / Permittee / Grantee		Yard Account #	
Use & Location		Yard Property # / Unit #	
Project Manager	Attachments	Yes	N/A
	Proposer Info. Form	<input type="checkbox"/>	<input type="checkbox"/>
	ATN / Selection Memo	<input type="checkbox"/>	<input type="checkbox"/>
Deputy Director	Credit Report	<input type="checkbox"/>	<input type="checkbox"/>
	Good Standing Opinion	<input type="checkbox"/>	<input type="checkbox"/>
	NPV Analysis	<input type="checkbox"/>	<input type="checkbox"/>
		SEGRA / NEPA	
		Action to be Taken	
		Type 1	<input type="checkbox"/> _____
		Type 2	<input type="checkbox"/> _____
		Unlisted	<input type="checkbox"/> _____
		NEPA	<input type="checkbox"/> _____

DOCUMENT REVIEW

I. Transaction Manager			II. Deputy Director			III. Christopher Nesterczuk, Director, Transaction Management		
Submitted	Revised	Approved	Submitted	Revised	Approved	Submitted	Revised	Approved
Comments			Comments			Comments		
IV. Legal Review			V. Final Review (if required)			VI. External Execution		
Submitted	Revised	Approved	Deputy Director		Approved	Sent		Via:
Comments			Leasing & Acquisitions Supervisor		Approved	Returned		<input type="checkbox"/> Overnight
								<input type="checkbox"/> Certified
								<input type="checkbox"/> Hand

DOCUMENT EXECUTION

Deputy Director	Date	Date Returned to RED
Christopher Nesterczuk, Director, Transaction Management	Date	Finance Committee Approval Date:
Legal Department	Date	
Executed by Agency Officer	Date	MTA Board Approval Date:
David Florio, Director, Real Estate Transactions and Operations	Date	
Authorized S		



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Figure 19 – Yardi Lease Tracking Report

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Agency=NYCT Property=tel16300, tax25900, tbw30300, tby00500, tl40900, t Report Date=10/16/2000										
Agency Code	Prop Name Tenant Code Tenant Name RE Manager	Unit Code Status Sqft	Tenant Use Location	Date Method	REC	Brd Appr	Ln Excc	Hand Off	OforD	Rent Com
NYCT tbw30300	42 ST-TIMES SQ 10000098	02 Current 0	Pay Phone				05/01/1999			03/01/2000
tl40900	42 ST-TIMES SQ 10000093	01 Current 0					05/01/1998			02/01/2000
tel16300	42 ST 10000107	01 Current 0					06/27/1989			03/01/2000
	42 ST 10000108	02 Current 0	Barber				11/01/1995			03/01/2000
	42 ST 10000109	03 Current 0	Hib/Beauty				11/01/1995			03/01/2000
	42 ST 10000110	04 Current 0	Fiorist				03/15/1997			02/28/2000
	42 ST 10000111	05 Current 0	Other Retail				06/02/1994			03/01/2000
	42 ST 10000112	06 Current 0	Newsstand				03/04/1994			03/01/2000
	42 ST 10000113	07 Current 0	Other Retail				11/01/1995			03/01/2000
	42 ST 10000114	08 Current 0					03/04/1994			03/01/2000
	42 ST 10000115	09 Current 0					03/01/1996			03/01/2000
	42 ST 10000116	10 Current	Newsstand				03/04/1994			
	42 ST 10000117	11 Current 0					06/02/1994			03/01/2000
	42 ST 10000118	12 Current 0	Newsstand				03/01/1996			03/01/2000

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Figure 20 – Tenant Control Log

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TENANT CONTROL LOG		
TENANT NAME: _____		ACCOUNT NO.: _____
AGENCY: <input type="checkbox"/> LIRR <input type="checkbox"/> LIB <input type="checkbox"/> MJN <input type="checkbox"/> B&T <input type="checkbox"/> MTA HQ <input type="checkbox"/> NYCT <input type="checkbox"/> SIRTOA <input type="checkbox"/> SBK		
PROPERTY: _____		UNIT: _____
LOCATION: _____		
REQUIRED:	INITIALS	COMMENT
1. 2 executed original counterparts of Agreement	_____	_____
2. Staff Summary or Information Item	_____	_____
3. RFP Site Data Sheet or RTN	_____	_____
4. Routing Form for Execution	_____	_____
5. Document Preparation History Form	_____	_____
6. Determination of Responsibility [*]	_____	_____
IF APPLICABLE:		
• IRS Form W-9	_____	_____
• Security Deposit	_____	_____
• Record of Contact(s)	_____	_____
• Certificate of Insurance	_____	_____
• D/B/A Certificate	_____	_____
• 1 st Month Rent	_____	_____
• Master/Sub Report	_____	_____
• Applicant Information Statement [**]	_____	_____
• Credit Report	_____	_____
• Proof of Incorporation	_____	_____
• Copy of Advertisement	_____	_____
• RFP Proposal Analysis	_____	_____
• Agreement Transmittal Letter	_____	_____
• Other: _____	_____	_____
L&A PROJECT MANAGER NAME: _____		
NEW TENANT ACCEPTED FOR MANAGEMENT:		
By: _____		Date: _____
[*] Only required if value of agreement is over \$15,000 in any year during term. [**] Verify completeness of Lobbying Law Disclosure Statement pages.		
6/2018		

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Figure 21 – Record of Contact Form

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Metropolitan Transportation Authority
REAL ESTATE DEPARTMENT

RECORD OF CONTACT
UNDER THE NEW YORK PROCUREMENT LOBBYING LAW
(STATE FINANCE LAW §139-j and §139-k)

If you receive a Contact in connection with a real estate transaction you must complete this form and submit it to the Director of Real Estate. If you believe that the Contact was an Impermissible Contact or you are not sure whether it was an Impermissible Contact, then you must also submit a copy to MTA Corporate Compliance – see below.

Check one: This Contact is: Permissible Impermissible I'm not sure*

To: MTA Director of Real Estate, 2 Broadway, 4th Floor, Email: MTARE@mtahq.org

*If this is an Impermissible Contact or you are not sure whether it is an Impermissible Contact, you must also send a copy to the Chief Compliance Officer, MTA Corporate Compliance, 2 Broadway, 16th Floor, Email: compliance@mtahq.org, together with an Impermissible Contact Referral Form.

From: _____
(Your Name, Title and Department)

Date: _____

I was contacted by the individual named below regarding the real estate transaction identified below. It reasonably appears that this was a Contact as defined in State Finance Law §139-k(1)(c) because I infer that the communication was intended to influence the real estate transaction. In accordance with State Finance Law §139-k(4), the following information was obtained:

Real Estate Transaction No. (if known): _____

Description of the Real Estate Transaction: _____

Contact's Name: _____

Contact's Address: _____

Contact's Telephone Number: _____

Contact's Employer: _____

Contact's Occupation/Title: _____

Is the above named person or organization the other party to this real estate transaction? Yes No

If No, was the above named person or organization retained, employed or designated by or on behalf of the other party to this real estate transaction to appear before or contact MTA about this real estate transaction? Yes No

Date of Contact	Means*	Other MTA or Agency staff present
1.		
2.		
3.		
4.		
5.		

*Write one: Correspondence, telephone, email, in person, other

POLICIES/Form&Ltr/LobbyLaw/RecordOfContact(3/1).doc
Rev. 9/19/16

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Figure 22 – Procurement Lobbying Law Disclosure Statement

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 Metropolitan Transportation Authority

New York State Finance Law Sections 139-j and 139-k ("Lobbying Law") — Disclosure Statement

General Information	<p>All procurements (which are defined to include essentially all real estate transactions) by the MTA in excess of \$15,000 annually, are subject to New York State's State Finance Law Sections 139-j and 139-k effective January 1, 2006 ("Lobbying Law").</p> <p>Pursuant to the Lobbying Law, all "contacts" (defined as oral, written or electronic communications with the MTA intended to influence a procurement) during a procurement must be made with one or more designated Point(s) of Contact only. Exceptions to this rule include written questions during the bid/proposal process, communications with regard to protests, contract negotiations and RFP conference participation. Nothing in the Lobbying Law inhibits any rights to make an appeal, protest or complaint under existing administrative or judicial procedures.</p> <p>Violations of the policy regarding permissible contacts must be reported to the appropriate MTA officer and investigated accordingly. The first violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates and related entities. The penalty for a second violation within four (4) years is ineligibility for bidding/proposing on a procurement and prior ineligibility from being awarded any contract for a period of four (4) years. The MTA will notify the New York State Office of General Services ("OGS") of any determinations of non-responsibility or occurrences due to violations of the Lobbying Law. Violations found to be "knowing and willful" must be reported to the MTA Executive Director and OGS.</p> <p>Moreover, the statutes require the MTA to obtain certain affirmations and certifications from bidders and proposers. This Disclosure Statement contains the forms with which to comply, together with additional information and instructions.</p>
Instructions	<p>New York State Finance Law §139-k(2) obligates the MTA to obtain specific information regarding prior non-responsibility determinations. This information must be collected in addition to the information that is separately obtained pursuant to New York State Finance Law §163(5). In accordance with New York State Finance Law §139-k, an offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any governmental entity due to: (a) a violation of New York State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a governmental entity.</p> <p>As part of its responsibility determination, New York State Finance Law §139-k(3) mandates consideration of whether an offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no procurement contract shall be awarded to any offerer that fails to timely disclose accurate or complete information under this section, unless the factual elements of the limited waiver provision can be satisfied on the written record.</p>

Disclosure of Prior Non-responsibility Determinations

Name of Bidder/Proposer: _____

Address: _____

Name and Title of Person Submitting this Form: _____

Has any governmental entity¹ made a finding of non-responsibility regarding the Bidder/Proposer in the previous four years? Yes No

If yes, Was the basis for the finding of the Bidder's/Proposer's non-responsibility due to a violation of State Finance Law §139-j? Yes No

¹ A "governmental entity" is: (1) any department, board, bureau, commission, division, office, council, committee or officer of New York State, whether permanent or temporary; (2) each house of the New York State Legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (b) of subsection (c) of section one-c of the Legislative Law; or (7) a subsidiary or affiliate of such a public authority. (SFL §139-j, paragraph 1.a.)

MTA Fin. Law 139-j, 139-k rev. 10-06a; Page 1

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New York State Finance Law Sections 139-j and 139-k ("Lobbying Law") — Disclosure Statement

Was the basis for the finding of Bidder's/Proposer's non-responsibility due to the intentional provision of false or incomplete information to a governmental entity? Yes No

If yes, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Year of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

Has any governmental entity terminated a procurement contract with the Bidder/Proposer due to the intentional provision of false or incomplete information? Yes No

Bidder's/Proposer's Affirmation and Certification

By signing below, the Bidder/Proposer:

- a) Affirms that the Bidder/Proposer understands and agrees to comply with the policy regarding permissible contacts in accordance with New York State Finance Law Sections 139-j and 139-k.
- b) Certifies that all information provided to the MTA with respect to New York State Finance Law §139-j; and §139-k is complete, true and accurate.

By _____ Date: _____
(Signature of Person Certifying)

Print Name and Title: _____ Title: _____

Bidder/Proposer or Contractor/Consultant (Full Legal Name): _____

Address of Bidder/Proposer or Contractor/Consultant: _____

Business Telephone Number: _____

MTA's Right to Terminate

The MTA reserves the right to terminate a Contract (including any lease, license, entry permit, or sale documents) in the event it is found that the certification filed by the Bidder/Proposer, in accordance with New York State Finance Law §139-k, was intentionally false or intentionally incomplete. Upon such finding, the MTA may exercise its termination right by providing written notification to the Bidder/Proposer in accordance with the written notification terms of the Contract.

MTA Fin. Law 139-j, 139-k (rev. 10-06a)—Page 2

Figure 23 – Legal Intake Questionnaire

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MTA RE LEGAL INTAKE QUESTIONNAIRE FOR LEASES AND LICENSES

Please complete the following when requesting assignments:

1. Type of assistance sought:
 - a. Assistance with preliminary matters, such as structuring a transaction, preparing an RFP, preliminary advice or attendance at meetings: _____
 - b. Assistance with drafting of complicated/non-standard business terms before documentation is ready for review: _____
 - c. Assistance with documentation preparation – Yes ___ No ___ N/A ___
If Yes, the Lease Preparer's Questionnaire Form will need to be fully completed and provided to MTA RE Legal Transactions and Operations, together with the package of other required documents noted in Item #6 below, before the Lease will be prepared or assigned to counsel. _____
 - d. Other: _____
2. What is the timing and when is it anticipated that the attorney will have documents to review?

3. 2a: PRIORITY: _____
4. Is there an MTA RE Legal Transactions and Operations attorney that is already familiar with this matter, the property or with similar transactions and if so who? _____
5. Has MTA RED authorized use of outside counsel? Yes ___ No ___
If Yes, please provide the following information for outside counsel to clear conflicts:
Name and address of Tenant: _____
Names and addresses of principals/individuals that will own Tenant or that are the Proposers: _____
Names and addresses of each Guarantor: _____
6. Briefly describe the material terms – parties, compensation, duration/term, etc. or attach a term sheet:
 - a. MTA Agency(ies) involved: _____
 - b. Counterparties: _____
 - c. Counterparty's Counsel if known: _____
 - d. Economic Terms:
 - i. Annual Rent/License Fees: _____
 - ii. Term: _____
 - iii. Significant Tenant Improvements/Investment: Yes ___ No ___ N/A ___
 - iv. Is space currently vacant? Yes ___ No ___ N/A ___
 - e. Other: _____
7. Documents to be attached for reviewing attorney include all of the following, if applicable:
 - a. Intake form/questionnaire completed ___
 - b. Lease Preparer's Questionnaire Form completed ___
 - c. DAF – Document Approval Form ___
 - d. RFP, with successful proposer responses ___
 - e. Proposer Information Form if applicable ___
 - f. Staff Summary ___
 - g. Authorization memo ___
 - h. CDL with Term Sheet ___
 - i. Documents for review ___
 - j. Property address with Block and Lot numbers, Tax Parcel _____
 - k. Any surveys and/or title reports, if applicable [N/A ___] [___]
1. FOR SALE, LEASE-OUT OR LICENSE please complete following:
 - a. Have you contacted Isabel Guerra to determine if federal funding is involved, in which case there may be a private use issue? _____

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- b. Was it competitively bid? _____
- c. Will the counterparty be investing in substantial capital improvements to prepare the premises for its use? Yes _____ No _____
- d. Describe landlord/licensor termination rights:
- Standard Corporate purposes standard provision (i.e., landlord right to terminate lease if it needs the space for corporate/transportation purposes but agrees to pay unamortized tenant improvement depreciated on a straight-line basis over over 10 years) ____ [Note: This should only be the case where tenant is expected to invest substantial capital/permanent improvements to prepare the space]
 - Standard License termination/revocation clause (i.e., licensor right to terminate or revoke for any reason/no reason on not more than 60 days' notice without any payment of reimbursement .
 - Other negotiated termination right? No ___ Yes ___ If so, describe (e.g., right to terminate after [] years with or without reimbursement and for any specific reason or not)

e. LEASE vs. LICENSE

Is this a LEASE disposition of interest in real property) pursuant to the MTA Policies and Procedures for Leasing-Out/Sales of Real Property (“**MTA Leasing-Out/Sales P&P**”)? Yes ___ No ___

If Yes, treated as a disposition under the PAL 2897 and as part of PAL 2897 analysis

- Do you have an appraisal/valuation? _____
- Was this competitively bid process (RFP)? Yes ___ No ___ If not, what was basis under PAL 2897 for negotiated bid? _____
- Will an explanatory statement be required (e.g., for all exchanges of real property interests or for certain negotiated bids) which will result in a 90 day conditional waiting period between contract signing and closing (include status if applicable)? _____

Is this a LICENSE (i.e., not a disposition of an interest in real property/and not intended to be a lease) which is terminable by an MTA party at will (with or without a reason) on not more than 60 days' notice at no cost and without reimbursement for unamortized tenant improvements and thus governed by the MTA Policies and Procedures for Licensing of Real Property (“**MTA Licensing P&P**”)? Yes ___ No ___

If Yes, to comply with MTA Licensing P&P, please respond to the following:

- If applicable, the Policy # specified in the MTA Licensing P&P pursuant to which this license is being made without need for MTA Board Approval _____
- If this is pursuant to an RFP, or if not the “circumstance” specified in the MTA Licensing P&P which permits the license without an RFP but with Board Approval which is applicable to this particular proposed license _____
- Is an authorization memo or information item required under the Licensing P&P (if so provide copy)? _____

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Figure 24 – Preparer Questionnaire Form

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Date: _____, 2020

MTA RED Employee Completing this Form: _____

Landlord Agency: Please check as applicable:

<input type="checkbox"/> Metro North w MTA (Harlem-Hudson Lines)	<input type="checkbox"/> LIRR
<input type="checkbox"/> Metro North only	<input type="checkbox"/> NYCT

MTARED RETAIL LEASE/LICENSE PREPARER QUESTIONNAIRE FORM

MTA RED is required to complete this questionnaire and to submit the completed form when requesting the preparation of a **RETAIL LEASE/LICENSE** for MTA/Metro-North/LIRR/NYCT by MTA Legal or outside counsel. Please be sure to proofread and provide accurate information. For any requested information that is inapplicable, please indicate "N/A".

INDICATE IF THIS IS A LEASE OR A LICENSE

LEASE

LICENSE If a License, licensor has right to revoke, at will, with no cost, upon ____ [Insert number of days prior notice not to exceed 60] days prior written notice.)

1. Station Property: (Cover Page)

a. Location (enter the name of the Station Property (if applicable), street address, block and lot number or other location designation): _____

b. Property Unit Code: _____

2. General: Is Tenant/Licensee an existing Tenant/Licensee already in occupancy of Premises?

YES NO

3. Fundamental Lease Provisions: (Section 1.1)

Tenant/Licensee:	Name: _____ Trade/DBA Name: _____ Type of Entity: _____ State of Organization: _____
Tenant's/Licensee's Address:	Address: _____ Attention: _____ Email Address: _____ Phone Number: _____
Guarantor(s) Name:	ALT. 1: [_____, a [natural person]. ALT.2: If there is no Guarantor, indicate N/A <input type="checkbox"/> .

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Guarantor(s) Address:	_____ _____ _____ Attention: _____ Email Address: _____ Phone Number: _____
Premises/Licensed Area: [Note same information also required for completing Subsection 2.5.1]	a. Does the Premises/Licensed Area consist of: (x) Entire Station Building: YES <input type="checkbox"/> NO <input type="checkbox"/> (y) Portion of a Station Building or other Station Facility: YES <input type="checkbox"/> NO <input type="checkbox"/> b. If the Premises consists of an entire Station Building, indicate whether the following areas are included in the leased premises or licensed areas: Basement: YES <input type="checkbox"/> NO <input type="checkbox"/> Sidewalks: YES <input type="checkbox"/> NO <input type="checkbox"/> Plaza Areas: YES <input type="checkbox"/> NO <input type="checkbox"/> c. Describe the Premises/Licensed Area: _____ _____
Deemed Rentable Square Footage:	State the approximate deemed square feet of the Premises/Licensed Area: _____sf
LEASE ONLY: Licensed Area: [This is for space that will be licensed to a Tenant that is outside of the leased premises]	Is Tenant assigned space outside the Premises for Tenant's exclusive use or priority use (e.g. parking space(s), dumpster, etc.) Parking YES <input type="checkbox"/> NO <input type="checkbox"/> Dumpster YES <input type="checkbox"/> NO <input type="checkbox"/> Other YES <input type="checkbox"/> NO <input type="checkbox"/> Describe the Licensed Area: _____ _____ _____
Expiration Date:	Specify the number of years (after the Rent Commencement Date/Fixed License Fee Payment Date) of the Term of the Lease or duration of the License Period: _____

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Term:	_____ years from the Rent Commencement Date/Fixed License Fee Commencement Date plus the period, if any, from the Commencement Date to the Rent Commencement/Fixed License Fee Commencement Date.																																	
LICENSE ONLY Revocation Notice Period:	_____ () DAYS' [NOTE: MAY NOT EXCEED 60 DAYS; typically either 30 or 60 per RFP].																																	
Initial Term Base Rent/Initial License Period Fixed License Fees:	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Period</th> <th style="width: 35%;">Base Rent/Fixed License Fee (Annual Rate)</th> <th style="width: 35%;">Base Rent/Fixed License Fee (Monthly Rate)</th> </tr> </thead> <tbody> <tr><td>Lease/License Year 1</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> <tr><td>Lease/License Year 2</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> <tr><td>Lease/License Year 3</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> <tr><td>Lease/License Year 4</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> <tr><td>Lease/License Year 5</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> <tr><td>Lease/License Year 6</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> <tr><td>Lease/License Year 7</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> <tr><td>Lease/License Year 8</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> <tr><td>Lease/License Year 9</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> <tr><td>Lease/License Year 10</td><td style="text-align: right;">\$.00</td><td style="text-align: right;">\$.00</td></tr> </tbody> </table> <p>Delete any inapplicable Lease Years.</p>	Period	Base Rent/Fixed License Fee (Annual Rate)	Base Rent/Fixed License Fee (Monthly Rate)	Lease/License Year 1	\$.00	\$.00	Lease/License Year 2	\$.00	\$.00	Lease/License Year 3	\$.00	\$.00	Lease/License Year 4	\$.00	\$.00	Lease/License Year 5	\$.00	\$.00	Lease/License Year 6	\$.00	\$.00	Lease/License Year 7	\$.00	\$.00	Lease/License Year 8	\$.00	\$.00	Lease/License Year 9	\$.00	\$.00	Lease/License Year 10	\$.00	\$.00
Period	Base Rent/Fixed License Fee (Annual Rate)	Base Rent/Fixed License Fee (Monthly Rate)																																
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Lease/License Year 7	\$.00	\$.00																																
Lease/License Year 8	\$.00	\$.00																																
Lease/License Year 9	\$.00	\$.00																																
Lease/License Year 10	\$.00	\$.00																																
Extension Option(s):	<p>a. Does Tenant/Licensee have any Extension Option(s) to extend the Term of the Lease/License? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p>b. If YES, specify the number of Extension Options and the length of each option: _____ _____</p>																																	
Extension Period:	If there is any Extension Option(s), specify the number of years for each Extension Period: _____ years.																																	

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Extension Period Base Rent:	<p>Add if applicable, otherwise indicate "N/A"</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 35%; text-align: center;">Base Rent/Fixed License Fee (Annual Rate))</th> <th style="width: 35%; text-align: center;">Base Rent/Fixed License Fee (Monthly Rate)</th> </tr> </thead> <tbody> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>Lease/License Year ___</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> </tbody> </table> <p>Delete any inapplicable Lease/License Years.</p>		Base Rent/Fixed License Fee (Annual Rate))	Base Rent/Fixed License Fee (Monthly Rate)	Lease/License Year ___	\$	\$																											
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Lease/License Year ___	\$	\$																																
Permitted Use:	<p>Specify the Permitted Use of the Premises/Licensed Area (NOTE: THIS SHOULD COME FROM THE RFP OR TENANT'S/LICENSEE'S PROPOSAL): _____</p> <p>_____</p> <p>_____</p>																																	
Trade Name:	<p>_____ [NOTE: Indicate N/A if Tenant is not using, or is not required to use, a Trade Name]</p>																																	
Minimum Operating Hours:	<p>ALT. 1: Specify the Minimum Operating Hours for the operation of Tenant's/Licensee's business during the following days (or if "N/A" so indicate in ALT. 2):</p> <p>c. From ___ a.m. to ___ a.m. and ___ p.m. to ___ p.m. on weekdays</p> <p>d. From ___ a.m. to ___ a.m. and ___ p.m. to ___ p.m. on weekends and holidays</p> <p>ALT. 2: N/A <input type="checkbox"/></p>																																	
Security Amount:	<p>a. Specify the amount of the Security Deposit: \$ _____ (NOTE: This should be 3 times the Base Rent for the final Lease/License Year, excluding Extension Options)</p> <p>b. Specify whether the Security Deposit will be cash or a Letter of Credit or if Tenant's/Licensee's choice: Cash: <input type="checkbox"/> Letter of Credit: <input type="checkbox"/> Tenant's/Licensee's Choice: <input type="checkbox"/></p>																																	

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<p>Tenant's/Licensee's Initial Work:</p>	<p>Is Tenant/Licensee required to perform Tenant's/Licensee's Initial Work? YES <input type="checkbox"/> NO <input type="checkbox"/>.</p> <p>If, YES, complete following and next three rows on this Questionnaire; if NO, skip next three rows on this Questionnaire:</p> <p>If Tenant/Licensee is required to perform Tenant's/Licensee's Initial Work to the Premises/Licensed Area or any other portion of the Station Property, describe Tenant's/Licensee's Initial Work or attach an Exhibit with the description: _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>Initial Plan Submission Date:</p>	<p>If Tenant/Licensee is required to perform Tenant's/Licensee's Initial Work, specify the number days from the date on which the Lease/License has been fully executed and delivered by which Tenant/Licensee must submit its Initial Plans for such work: _____ days.</p>
<p>Tenant's/Licensee's Initial Work Buildout Period:</p>	<p>If Tenant/Licensee is required to perform Tenant's/Licensee's Initial Work, specify the number of days Tenant/Licensee has to complete the same after Landlord/Licenser has issued to Tenant/Licensee an Authorization to Proceed: ____ days</p>
<p>Tenant's/Licensee's Initial Work Completion Deadline:</p>	<p>ALT: 1: If Tenant/Licensee is required to perform Tenant's/Licensee's Initial Work, specify the number of days Tenant/Licensee has to complete the same after Landlord/Licenser has issued to Tenant an Authorization to Proceed: ____ days [NOTE: Should be same as Tenant's/Licensee's Initial Buildout Period from row above.]</p> <p>ALT: 2: If Tenant/Licensee is an existing Tenant/Licensee of the same Premises and is NOT required to perform any Tenant's/Licensee's Initial Work, indicate: N/A <input type="checkbox"/></p>
<p>Delay Fee:</p>	<p>ALT: 1: Insert per diem Base Rent/License Fee Amount: \$_____ (i.e., Annual Base Rent ÷ 365 rounded to nearest dollar)</p> <p>ALT: 2: If Tenant/Licensee is NOT required to perform any Tenant's/Licensee's Initial Work, indicate N/A: <input type="checkbox"/></p>
<p>Trash Collection Fee:</p>	<p>Is Tenant/Licensee required to pay a Trash Collection Fee to Landlord/Licenser?</p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p> <p>If YES, specify the amount of the Trash Collection Fee:</p> <p>Annual: \$_____</p>

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	Monthly: \$ _____
Landlord/Licensor Utility Services: [Note information also required for completing Subsection 7.2.1, Section 7.4 and Section 7.3. See items 6, 7 and 8 below.]	Does Landlord/Licensee provide any utility services to the Premises/Licensed Area without charge? YES <input type="checkbox"/> NO <input type="checkbox"/> If YES, specify which of the following utility services Landlord/Licensee will provide without charge: <ul style="list-style-type: none"> • Heat: YES <input type="checkbox"/> NO <input type="checkbox"/> • Electric: YES: <input type="checkbox"/> NO <input type="checkbox"/> • Water: Yes: <input type="checkbox"/> NO <input type="checkbox"/> • Other (specify): _____
Utility Fee: Note information also required for completing Subsection 7.2.1, Section 7.4 and Section 7.3. See items 6, 7 and 8 below.]	If Landlord/Licensee is providing any utility service to the Premises/Licensed Area (e.g., heat, electric), for which Tenant/Licensee pays a fee, specify such service and the applicable Utility Fee (indicate "N/A" if not applicable): Utility Service: [Heat] Annual: \$[_____] Monthly: \$[_____] Utility Service: [Electric] Annual: \$[_____] Monthly: \$[_____]
Brokers:	a. If a real estate broker has been involved in the transaction, provide the name of the real estate broker and the brokerage firm: _____ b. If a real estate broker has been involved in the transaction, specify if Landlord/Licensor is paying the broker (indicate "N/A" if not applicable): _____
LEASE ONLY Aggregate Tenant Broker Commission Credit:	If a real estate broker has been involved in the Lease transaction, specify if Tenant is paying the broker and receiving a rent credit and the amount of such rent credit (indicate "N/A" if not applicable): _____ Confirm that MTA RED has received a copy of the brokerage agreement, and written acknowledgment signed by the broker that MTA/Landlord is not liable for any broker commission.

Additional Questions continued on next page:

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4. Landlord's/Licensor's Work: (Section 3.3)

A. If any work is required to be performed by Landlord/Licensor (or by Tenant/Licensee on Landlord's/Licensor's behalf) to prepare the Premises/License Area or the Station Property for Tenant's/Licensor's occupancy, specify such work and complete the rest of this Paragraph 4: _____

B. Who is performing the Landlord's/Licensor's Work:
Landlord/Licensor Tenant/Licensee N/A

C. If Tenant/Licensee is performing or initially paying for Landlord's/Licensor's Work, is Tenant/Licensee entitled to any Construction Allowance or Rent/Fixed Licensee Fee Credit for any of the cost of same?
YES NO N/A

D. If Tenant is entitled to a Construction Allowance or Rent/Fixed License Fee Credit, insert the amount and any cap; _____.

5. Opening and Closing of the Station Facilities. (Section 4.5)

a. Specify if Tenant/Licensee is required to unlock and open the Station Facilities:
YES NO N/A

b. If Tenant/Licensee is required to unlock and open the Station Facilities, specify Tenant's/Licensee's obligations: _____

6. Heat/Heating System: (Section 7.2.1)

a. Specify if Landlord/Licensor provides heat to the Premises/License Area without charge:
YES NO N/A

b. Specify if Landlord/Licensor provides heat to the Premises/License Area and charges a Utility Fee for heat:
YES (Utility Fee Annual \$____ Monthly \$____) NO N/A

c. If the Premises consists of an entire Station Building, specify if Tenant is responsible for buying heating fuel from applicable utility provider:
YES NO N/A

d. If the Premises consists of an entire Station Building, specify if Tenant is responsible for maintaining and replacing the heating system:
YES NO N/A

7. Electricity: (Section 7.4)

a. Specify if the Premises/License Area is directly metered, and Tenant/Licensee pays the utility company directly for electricity:
YES NO N/A

b. Specify if the Premises/License Area is sub-metered, and Tenant/Licensee pays Landlord/Licensor for electricity:
YES NO N/A

c. Specify if Landlord/Licensor provides electricity to the Premises/License Area without charge:

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YES NO N/A

d. Specify if Landlord/Licenser provides electricity to the Premises/License Area, and charges Tenant/Licensee a Utility Fee for its electricity consumption:

YES (Utility Fee Annual \$_____ Monthly \$_____) NO N/A

8. Water: (Section 7.3)

a. Specify if Landlord/Licenser provides water to the Premises/License Area without charge:

YES NO N/A

b. Specify if Landlord/Licenser provides water to the Premises/License Area, and charges Tenant a Utility Fee for its water consumption:

YES (Utility Fee Annual \$_____ Monthly \$_____) NO N/A

c. Specify if the Premises/License Area is separately submetered for water and if Tenant/Licensee pays Landlord for its water consumption:

YES NO N/A

9. Services to be provided by Tenant/Licensee: (Subsection 7.12.1)

Does Tenant/Licensee provide any property-related maintenance type services to the Premises/License Area or the Station Facilities, such as vermin control, ground sweeping, and snow removal, to be provided by Tenant/Licensee:

YES NO N/A (If YES, Exhibit N to be reviewed and modified as necessary.)

If YES, specify such services:

Vermin control: YES NO N/A

Ground sweeping: YES NO N/A

Snow Removal: YES NO N/A

Other (specify): _____

10. Structural and Roof Repairs; Sidewalks and Plazas: (Section 10.2)

a. If the Premises consists of an entire Station Building, is Tenant responsible for structural repairs to the Station Building including repairs to the roof of the Station Building?

YES NO N/A

b. If the Premises consists of an entire Station Building, is Tenant responsible for repairing any sidewalks or plaza areas in front of the Station Building?

YES NO N/A

11. Historic Property: (Section 11.6)

Are the Premises/License Area or the Station Building listed in a state or national registry of historic property or eligible for inclusion in such registries?

YES NO N/A

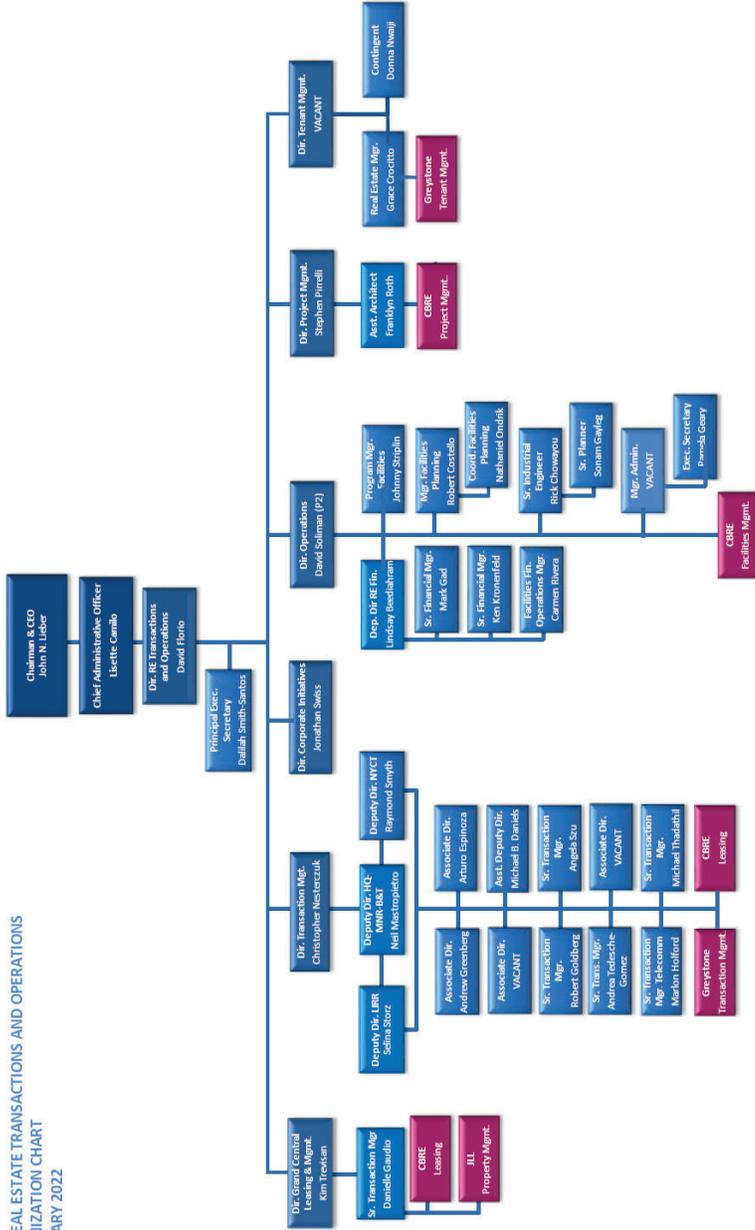
Figure 25 – RED Organizational Chart

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MTA REAL ESTATE TRANSACTIONS AND OPERATIONS
 ORGANIZATION CHART
 FEBRUARY 2022



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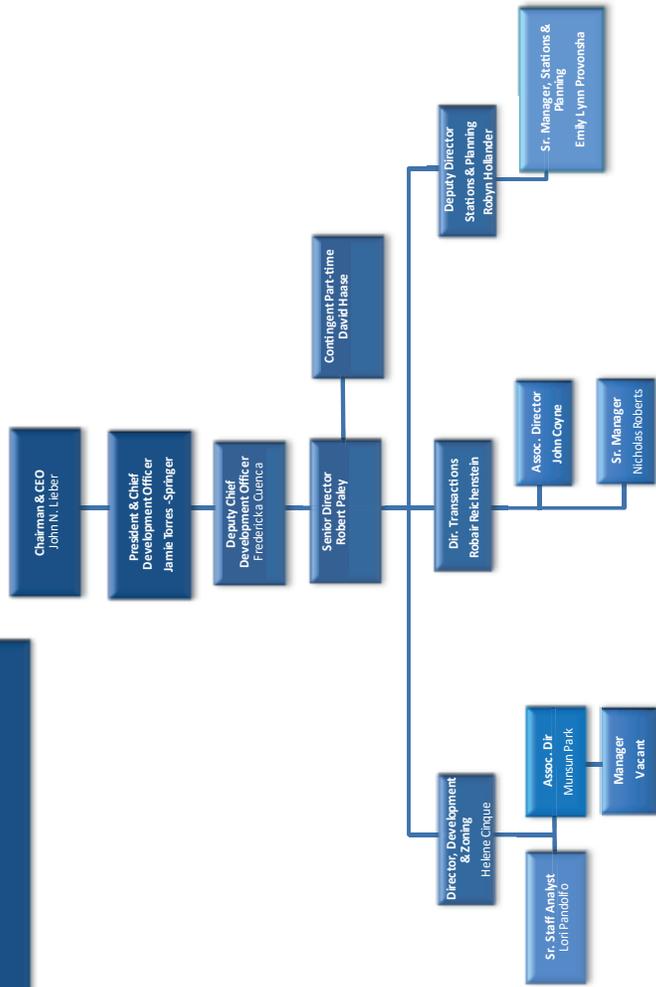
Figure 26 – TOD Organizational Chart

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Planning | Transit Oriented Development
 MTA Construction & Development



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~~March 2022~~ March 2023



**METROPOLITAN TRANSPORTATION AUTHORITY
ALL-AGENCY GUIDELINES FOR THE
DISPOSAL OF PERSONAL PROPERTY**

Adopted by the Board on March ~~30~~29, 202~~2~~3

These guidelines, which have been adopted by the Board of the Metropolitan Transportation Authority (“MTA”), address the disposal of personal property, including obsolete, unneeded, and outdated personal property, by the MTA and its subsidiary and affiliated agencies in accordance with Public Authorities Law (“PAL”) §§ 2895–2897 and other applicable provisions of law. These guidelines shall **not** apply to the disposition of real property which is governed by the MTA Real Estate Department Policies and Procedures for the Leasing-out and Sale of Real Property.

The purpose of these guidelines is to:

1. Ensure that disposal of MTA personal property is undertaken in compliance with governing laws;
2. Define the means for identifying obsolete, unneeded, or otherwise outdated personal property, including but not limited to furniture, equipment, computer equipment, and automobiles;
3. Provide cost-savings to the MTA by outlining a procedure for the transfer of surplus personal property;
4. Recover value from surplus personal property through its sale, either for reuse or for scrap; and
5. Minimize disposal and storage costs by providing means for the donation of surplus personal property with negligible resale value.

These guidelines apply to the MTA and current and future affiliated and subsidiary agencies of the MTA (each, an “MTA Agency”). The MTA subsidiary and affiliated agencies consist of:

- Triborough Bridge and Tunnel Authority
- New York City Transit Authority
- Manhattan and Bronx Surface Transit Operating Authority
- The Long Island Rail Road Company
- Metro-North Commuter Railroad Company
- Staten Island Rapid Transit Operating Authority
- MTA Bus Company
- MTA Construction and Development Company
- Grand Central Madison Concourse Operating Company

For purposes of these guidelines, the terms below are defined as follows:

Contracting Officer(s): The Contracting Officer is the officer or employee of each MTA Agency who is designated by resolution to be responsible for the supervision and direction of the disposition of such MTA Agency’s Surplus Property.

Dispose or disposal: Transfer of title or any other beneficial interest in Surplus Property in accordance with the methods of disposition described herein. The act of disposition may include the acts of transferring, trading-in, selling, donating or destroying goods that are of no further use to the MTA.

Fair Market Value: The price at which the item of Surplus Property would change hands in a competitive and open market under conditions requisite to a fair sale between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both acting prudently and having reasonable knowledge of the relevant facts.

Furniture: Office furnishings and fixtures including but not limited to desks, tables, chairs, lamps, modular wall units, and partitions.

Metropolitan Transportation Authority or “MTA” or “MTA Agency”: For purposes of this Policy, the terms “MTA” and “MTA Agency” include the Metropolitan Transportation Authority and/or its current and future subsidiaries and affiliates.

MTAHQ: MTA Headquarters.

Not-For-Profit Organization: An organization incorporated for educational, charitable, or cultural purposes and recognized as tax-exempt under article 501(c) (3) of the Internal Revenue Code.

Personal Property: Tangible property, other than real property. Personal Property is physical and movable, subject to ownership, with exchangeable value. Examples of tangible personal property include, but are not limited to, furniture, supplies, automobiles or other vehicles, computer equipment, and commercial “off-the-shelf” software that is transferable pursuant to the software’s licensing agreement.

Qualifying Surplus Property: Surplus Property with a value in excess of \$5,000, and any inchoate or other interest in such Surplus Property, to the extent that such interest may be conveyed to another person, other than an MTA Agency, for any purpose, excluding an interest securing a loan or other financial obligation of another party.

Surplus Property: Personal Property (i) that does not have a useful purpose for a particular department of the MTA or has been deemed to be no longer useful to the MTA; or (ii) the disposition of which has been determined by the Agency’s Contracting Officer to be in the best interest of the MTA or the MTA Agency.

Surplus Property Officers: Regular employees to whom an MTA Agency or Agency department or division head has delegated responsibility for the identification and release of Surplus Property within that agency and/or department or division.

Section 1: General Provisions

1.1 Compliance with Laws and Guidelines.

- a. Disposals of Qualifying Surplus Property (i.e. Surplus Property with a Fair Market Value in excess of \$5,000) shall comply with applicable provisions of PAL §§ 2895 - 2897, the MTA’s enabling legislation, any other applicable law for the disposal of Personal Property, and the provisions of these guidelines.
- b. Disposals of Surplus Property having a Fair Market Value equal to or less than \$5,000 and disposals of Surplus Property, regardless of Fair Market Value, to an

MTA Agency are not subject to the disposition requirements set forth in PAL §§ 2895 – 2897. Disposition of such Surplus Property should be undertaken in compliance with the provisions of these Guidelines, other than Section 2 (addressing the requirements of PAL §§ 2895 – 2897).

1.2 Responsibility for Compliance. The Contracting Officer(s), MTA Procurement Departments, and MTA Corporate Compliance are responsible for ensuring MTA’s compliance with and enforcement of these Guidelines.

1.3 Surplus Property. Surplus Property shall be disposed of as promptly as possible in a manner that returns as much value as possible to the MTA. Value may be returned through internal transfer of items, thereby reducing expenditures; through sale of items to outside buyers, thereby producing revenue; or through donation or other disposal without direct income, thereby avoiding the costs associated with carrying excess inventories or disposal costs of items of negligible value.

1.4 Responsibilities of Surplus Property Officers. Surplus Property Officers shall be responsible for periodically identifying Surplus Property as defined above.

User departments will periodically review their inventory of Personal Property such as furniture, office equipment, computer equipment, and security equipment and determine whether such Personal Property is Surplus Property that should be disposed of.

1.5 Computer Equipment/Telecommunications Equipment. The Information Technology Departments for each MTA Agency will be responsible for the review of the continued usefulness of computer equipment and telecommunications communications equipment in their agency and may, in conjunction with the department or division to which such equipment is assigned, identify such equipment as Surplus Property.

1.6 Automobiles. Each MTA Agency shall review the continued usefulness of that MTA Agency’s automobiles, and may, when appropriate, identify automobiles as Surplus Property and shall dispose of such vehicles in compliance with these guidelines, the All Agency Vehicle Usage Policy Directive, and their agency’s vehicle usage procedures.

1.7 Estimation of Value.

a. If the method of disposal of Surplus Property is not planned to be by publicly advertised bid (see Section 5.1), the user department responsible for such Surplus Property shall estimate the Fair Market Value of such Surplus Property. In estimating the Fair Market Value of such Surplus Property, reference shall be made to identifiable active markets for such property and information concerning additional factors may also be considered, which may include but are not necessarily limited to:

- Original purchase cost;
- Depreciation;
- Residual Value;
- Estimated Replacement Value; and/or
- Current condition of the item.

b. If the estimated Fair Market Value of such Surplus Property is in excess of \$15,000, it must be disposed of by publicly advertised bid unless it is otherwise eligible for

disposition through negotiation or advertised public auction (PAL § 2897(6)(c); see Section 2.1(b)).

- c. If because of its unique nature or the unique circumstances of the proposed transaction, Qualifying Surplus Property is not readily valued by reference to an active market for similar property, an independent appraisal must be performed prior to disposing of such Qualifying Surplus Property (except in circumstances in which the Surplus Property is being designated for transfer to another MTA Agency user).

Section 2: Compliance with Public Authorities Law §§ 2895 - 2897

2.1 Permitted Methods of Surplus Property Disposal: Publicly Advertised Bid or Negotiation. Under the Public Authorities Law, Surplus Property valued in excess of \$5,000 and being disposed of to other than an MTA Agency (“Qualifying Surplus Property”) either must be disposed of

- a. in accordance with publicly advertised bid procedures (as set forth in Section 5.1 below), or
- b. through negotiation or by advertised public auction, subject to obtaining such competition as is feasible. Disposal by negotiation or by advertised public auction may be used only when at least one of the following conditions is satisfied:
 - (i) the Qualifying Surplus Property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to increase its value, or the Qualifying Surplus Property is to be sold in such quantity that, if it were disposed of by publicly advertising for bids, would adversely affect the state or local market for such property, and the estimated Fair Market Value of such property and other satisfactory terms of disposal can be obtained by negotiation;
 - (ii) the Fair Market Value of the Qualifying Surplus Property does not exceed \$15,000 (for negotiation) or \$500,000 (for advertised public auction);
 - (iii) bid prices after advertising therefore are not reasonable, either as to all or some part of the Qualifying Surplus Property, or have not been independently arrived at in open competition;
 - (iv) the disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Qualifying Surplus Property and other satisfactory terms of disposal are obtained by negotiation;
 - (v) under those circumstances described in Section 2.3 below; or
 - (vi) such action is otherwise authorized by law.

- 2.2 Advance Explanatory Statement Requirement for Certain Qualifying Surplus Property Disposals. PAL § 2897(6)(d) requires that MTA Agencies prepare and disseminate to certain public officials ninety days in advance of a Qualifying Surplus Property disposal, an explanatory statement for (i) disposals by negotiation of any Qualifying Surplus Property with an estimated Fair Market Value in excess of \$15,000; or (ii) a disposal of Qualifying Surplus Property by exchange, where the exchange involves disposal of real property together with related Surplus Property (regardless of value). The explanatory statement shall be sent by the MTA Agency preparing it to the comptroller, the director of the budget, the commissioner of general services, the legislature and the independent authorities budget office at least 90 days before making the disposal.

The explanatory statement shall include:

- a. description of the parties involved in the property transaction;
- b. justification for disposing of property by negotiation;
- c. identification of property, including its location;
- d. estimated fair market value of the property;
- e. proposed sale price of the property;
- f. size of the property; and
- g. expected date of sale of property.

A copy of the statement shall be preserved in the MTA Agency's files.

- 2.3 Less than Fair Market Value Disposals. The MTA may dispose of Qualifying Surplus Property for less than Fair Market Value, pursuant to PAL § 2897(7), if:
- a. The transferee is a governmental or other public entity and the transfer terms require that ownership of the asset will remain with the governmental entity, or
 - b. The transfer is within the purpose, mission or governing statute of the MTA.

Where a proposed transfer of Qualifying Surplus Property is for less than Fair Market Value but does not satisfy either of the above two criteria, the proposed transfer may not proceed without the MTA Agency first providing written notice to the Governor, the Speaker of the Assembly and the Temporary President of the Senate. Such proposed transfer shall be subject to denial by the Governor, the Senate or the Assembly. The Governor, Senate or Assembly has 60 days from receipt of the notice to act if the notice is received between January and June; if the notice is received between July and December, the Senate or Assembly has 60 days from the following January in which to act on the notice.

- 2.4 Board Information and Approval Requirements: Proposed Less than Fair Market Value Disposal. If a below Fair Market Value Qualifying Surplus Property transfer is proposed, the following information must be provided to the MTA Board and to the public, in accordance with PAL § 2897(7)(b):

- a. a full description of the Qualifying Surplus Property;
- b. an appraisal of the Fair Market Value of the Qualifying Property and any information establishing the Fair Market Value;
- c. a description of the purpose of the transfer and a statement of the kind and amount of the benefit to the public resulting from the transfer;
- d. a statement of the value received compared to the Fair Market Value;
- e. the names of any private parties participating in the transfer; and
- f. the names of other private parties who made an offer for the asset, the amount offered, and the purpose for which the asset was sought.

Before proceeding with such a proposed disposal, the MTA Board shall consider the information required to be provided and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of the transfer.

Section 3: Compliance with Federal Transit Administration Circular 5010.1E – Federally Funded Property

In addition to complying with PAL §§ 2895 - 2897, the MTA must also comply with Federal Transit Administration (“FTA”) Circular 5010.1E which governs the disposal of Federally-funded Property with an acquisition value in excess of \$5,000. That Circular requires grantee agencies such as the MTA to obtain FTA approval prior to disposing of such property if the disposition occurs before the end of the asset’s useful life, as determined under the Circular. In addition, upon disposition, the MTA must reimburse the FTA its share of any remaining Federal interest in the asset, as calculated pursuant to Circular 5010.1E.

Section 4: Reassignment or Transfer of Surplus Property to Other MTA Agencies

Prior to disposing of Surplus Property, the MTA Agencies should attempt to reassign it to other departments/divisions within that MTA Agency and/or transfer the Surplus Property to another MTA Agency.

- 4.1 **Reassignment.** The Surplus Property Officer for each MTA Agency will notify its departments/ divisions of the availability of Surplus Property and will facilitate the transfer of same among departments/divisions if such transfer will result in a cost savings to the MTA. Such notification shall take place at least once per year, by publication of an inventory of Surplus Property, and may be supplemented by informal notification of departments on an ad hoc basis. In the event that more than one department or division expresses interest in the reassignment of Surplus Property, the MTA Agency’s Surplus Property Officer and Contracting Officer shall determine the recipient, based on their judgment of which reassignment would be most beneficial to the MTA. Whenever possible, reassignment of Surplus Property shall be accomplished directly, minimizing the number of times an item must be moved.

- 4.2 Transfer to a Constituent Agency. Each Surplus Property Officer will circulate to the MTA Agencies on a periodic or ad hoc basis as appropriate, notice of the availability of Surplus Property. The inspection and, upon acceptance, physical transfer of such property shall be the responsibility of the MTA Agency accepting it.

In the event that more than one MTA Agency expresses interest in the same Surplus Property, the Surplus Property Officer and Contracting Officer shall determine the recipient, based on his judgment of which reassignment would be most beneficial to the MTA. Whenever possible, reassignment of Surplus Property shall be accomplished directly, minimizing the number of times an item must be moved.

Section 5: Disposal of Surplus Property with Estimated Fair Market Value in Excess of \$5,000

- 5.1 Sale by Publicly Advertised Bid. Qualifying Surplus Property (i.e. valued in excess of \$5,000) should periodically be offered by MTA for sale by the competitive process of publicly advertised bid, which is the preferred method of disposal.

The following requirements of PAL § 2897(6)(b) must be observed:

- a. The advertisement for bids shall be made at such time prior to the disposal through such methods and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Qualifying Surplus Property;
 - b. All bids shall be publicly disclosed at the time and place stated in the advertisement; and
 - c. The award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the MTA, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.
- 5.2 Disposal of Property by Negotiation or Advertised Public Auction. Surplus Property may be disposed of by negotiation or advertised public auction when (i) the Fair Market Value of such Surplus Property does not exceed \$15,000 (for negotiation) or \$500,000 (for advertised public auction) or (ii) where any of the other criteria listed in Section 2.1(b) above for such disposal is satisfied.

Section 6: Disposal of Surplus Property With a Fair Market Value of \$5,000 or Less

- 6.1 Sale. The preference is to sell property having an estimated or appraised Fair Market Value of \$5,000 or less, in an effort to recover value from Surplus Property for MTA.
- 6.2 Contribution. Items with an estimated or appraised value of \$5,000 or less may be offered to a not-for-profit organization if, in the judgment of the MTA Agency's Surplus Property Officer and Contracting Officer, such property may have value if returned to use in such an organization, such a disposal by contribution will minimize disposal and storage costs to MTA, and the Surplus Property either has negligible resale value or the costs of MTA conducting a sale of such Surplus Property relative to the resale value that could likely be obtained are such that proceeding by contribution is deemed warranted. In such

circumstances, physical transfer of the property will be the responsibility of the receiving organization. Such an offering shall be conducted at the convenience of the MTA, and at minimal expense to the MTA.

Section 7: Disposal as Waste

Surplus Property that the Surplus Property Officer determines has no net monetary value (taking into account costs of storage) and has been unable to dispose of through reassignment, transfer, sale, or donation as outlined above should be disposed of as waste in the most cost-effective means consistent with all relevant laws and regulations.

Section 8: Inventory Management/Internal Controls

Each MTA Agency shall maintain adequate inventory controls and accountability systems for all individual items of Personal Property.

Section 9: Regulatory Disclosure

- 9.1 MTA Agency Reporting. Each MTA Agency's Contracting Officer shall annually provide a report to MTAHQ of all Surplus Property under its custody and control as well as a list and full description of all Surplus Property disposed of during the previous calendar year with the price received and the name of the purchaser.
- 9.2 Format and Timing. The report shall be provided in a format and at such time as requested by the MTA Corporate Compliance to facilitate required reporting of sale information.
- 9.3 Annual Report. MTAHQ shall annually publish, in accordance with PAL § 2896(3), a report with a full description of all Qualifying Surplus Property disposed of during the previous calendar year by all of the MTA agencies with the price received and the name of the purchaser. MTAHQ shall send copies of such report to the comptroller, the director of the budget, the commissioner of general services, the legislature, and the independent authorities budget office.

Section 10: Procedures

Each MTA Agency shall create written procedures as needed for the implementation of these guidelines. Such written procedures, once executed, shall be filed with MTA Corporate Compliance.

**ATTACHMENT C
PERSONAL PROPERTY DISPOSITION
CONTRACTING OFFICERS**

Agency	Contact	Phone	E-mail
MTA All-Agency	Kuvershen Ayer	646-285-7602	kayer@mtahq.org
Bridges and Tunnels	Lynn Gore	646-252-7063	LGore@mtabt.org
Construction and Development	Stephen M. Plochochi	646-252-6050	stephen.plochochi@nyct.com
Long Island Railroad	Richard Mack	718-725-2621	ramack@lirr.org
Metro-North Railroad	Anthony Gardner	212-340-2293	gardner@mnr.org
MTA Bus	Julia Ferraro	718-888-6221	Julia.Ferraro@nyct.com
New York City Transit	Louis Montanti	646-252-6060	Louis.montanti@nyct.com
Grand Central Madison Concourse Operating Company	Stephen M. Plochochi	646-252-6050	stephen.plochochi@nyct.com



ALL AGENCY GENERAL CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on ~~June~~ March 29, ~~2022~~ 2023

These guidelines (the “**General Contract Guidelines**”) apply to the Metropolitan Transportation Authority (“**MTA**”), the New York City Transit Authority (“**NYCT**”), the Long Island Rail Road Company (“**LIRR**”), The Metro-North Commuter Railroad Company (“**MNR**”), the Staten Island Rapid Transit Operating Authority (“**SIRTOA**”), the Manhattan and Bronx Surface Transit Operating Authority (“**MaBSTOA**”), MTA Construction and Development (“**MTAC&D**”), MTA Bus Company (“**MTA Bus**”), First Mutual Transportation Assurance Co. (“**FMTAC**”), Grand Central Madison Concourse Operating Company (“**GCMC**”), and the Triborough Bridge and Tunnel Authority (“**Bridges and Tunnels**”) insofar as they are consistent with the provisions of law applicable to Bridges and Tunnels (each of the MTA, NYCT, LIRR, MNR, SIRTOA, MaBSTOA, MTAC&D, MTA Bus, FMTAC, GCMC, and Bridges and Tunnels is referred to jointly and severally, as the “**Authority**”).

Article I - Applicability of General Contract Guidelines

These **General Contract Guidelines** apply to

- A. purchase contracts for supplies, materials, equipment or other goods (“**Purchase Contracts**”);
- B. public work contracts (“**Public Work Contracts**”); and
- C. “Miscellaneous Procurement Contracts” are defined as leases of equipment with or without an option to purchase, computer software licenses, including software as a service subscription, software maintenance agreements, printing contracts (where editorial services do not predominate), and any other contract which is not otherwise classified under these General Contract Guidelines or the All Agency Service Contract Procurement Guidelines (the “**Service Contract Guidelines**”, and collectively with these General Contract Guidelines, the “**Guidelines**”).

Purchase Contracts, Public Work Contracts and Miscellaneous Procurement Contracts are collectively referred to herein as “**General Contracts**”.

In the event a proposed contract contains elements of more than one type of General Contract and/or elements of either or both types of Service Contracts (as such term is defined in the Service Contract Guidelines), the elements of the type of contract that predominates shall determine whether the General Contract Guidelines or the Service Contract Guidelines apply and which type of contract within the applicable Guidelines shall apply.

Article II - Delegation of Authority

The Chairman, the Managing Director, the President, or chief procurement officer (“**CPO**”) of the relevant Authority thereof, and any further delegations that the Chairman or relevant Authority President may make for those specified delegated purposes only (each defined for purposes of these General Contract Guidelines as an “**Authorized Officer**”) are hereby empowered with respect to General Contracts to be entered into by the relevant Authority acting on its own behalf or as agent for MTA, as follows:

- A. To implement these General Contract Guidelines.

- B. To establish procedures for the award of General Contracts estimated to involve the expenditure of \$1.0 million or less and including contracts for a small business concern (“SBC”), a certified minority or women-owned business enterprise (“MWBE”) or a certified service disabled veteran owned business (“SDVOB”) involving an expenditure of \$1.5 million or less, which procedures shall be competitive to the extent deemed practicable by the Authorized Officer;
- C. To do the following for the award of Purchase Contracts and Public Work Contracts estimated to involve the expenditure in excess of \$1 million:
 - 1. to determine the criteria for the evaluation of bids/proposals, which may include, but are not limited to, unit or aggregate amount bid, life cycle costs or savings (including but not limited to costs or savings associated with installation, energy use, maintenance, operation, salvage and disposal), discounts and costs of maintenance and inspection services;
 - 2. to determine whether a Purchase Contract or Public Work Contract required to be advertised in the New York State Contract Reporter (“NYSCR”) is exempt from such requirement due to the need to award such contract on an emergency or other critical basis;
 - 3. to advertise for, solicit and open bids/proposals;
 - 4. to record the name of each bidder and the amounts of the bid/proposal;
 - 5. to determine the lowest responsive and responsible bidder, including, in the event two or more responsible bidders submit identical bids which are the lowest bids, to award the Purchase Contract or Public Work Contract to any of such bidders or obtain new bids from such bidders;
 - 6. to reject all bids when it is determined to be in the public interest to do so; and
 - 7. to award the Purchase Contract or Public Work Contract;
- D. To determine whether a bidder/proposer is responsible pursuant to the All-Agency Responsibility Guidelines; and
- E. In addition to the other authorizations set forth elsewhere in these General Contract Guidelines, to establish guidelines governing the qualifications of bidders for General Contracts, and to fix the standards for the prequalification of bidders entering into such contracts for the East Side Access Project in accordance with Section 1265-a.2(c) of the Public Authorities Law.

Article III - Selection of General Contractors Without Competitive Sealed Bidding

- A. A competitively bid Miscellaneous Procurement Contract may be awarded without Board approval. No Board approval shall be required for a Miscellaneous Procurement Contract ride pursuant to Article III.B.5.
- B. Except as otherwise provided in Article III.C. or Article VII., a General Contract estimated to involve the expenditure in excess of \$1 million may be awarded without competitive bidding under the circumstances set forth below, provided that the Authorized Officer recommends such an action and the Board adopts a resolution (i) declaring competitive bidding to be impractical or inappropriate because of the existence of any of the circumstances set forth in Articles III.B.1. to 6., (ii) stating the reasons therefore, and (iii)

summarizing any negotiations that have been conducted. Except in a situation specified in Article III.B.1., such resolution shall be approved by two-thirds of the members of the Board then in office. A resolution under Article III.B.1. shall require approval by a majority of the members of the Board in attendance at a meeting at which a quorum is present.

1. Emergency, Critical Need or Unforeseen Circumstances. The existence of an emergency involving danger to life, safety or property, or a critical need or unforeseen circumstance which requires immediate action and cannot await competitive bidding; or when the item to be purchased is essential to the efficient operation of or the adequate provision of service and, as a consequence of an unforeseen circumstance, such purchase cannot await competitive bidding. Competitive bidding is hereby declared to be impractical and inappropriate in any of the foregoing situations where an Authorized Officer must take appropriate action and cannot await action by the Board; provided, however, that notice of such action shall be given to the Board in a timely manner, together with a statement of the reasons for such action and a request for ratification by the Board.
2. Single Source. The item to be purchased is available only from a single responsible source provided, however, that a notice of the Authority's intent to purchase such item without competitive bidding shall be posted on the Authority's website, and, if bids have not been solicited for such item within the preceding twelve months, a notice must be published pursuant to Article V hereof. Any notices required by this Article III.B.2. shall a. set forth the Authority's intent to purchase the item without competitive bidding because the item is available from only one source, and b. invite any firm which believes it can provide the item to so inform the Authority and to provide the Authority with additional information which confirms that the firm can supply the item.
3. No Bids or One Responsive Bid. Competitive bids are solicited and
 - a. no responsive bid is received; or
 - b. only a single responsive bid is received, and the Authorized Officer rejects the bid.
4. Experiments, Tests and Evaluations. With respect to a product or technology, the Authority wishes to:
 - a. experiment with or test it;
 - b. experiment or test a new source for it; or
 - c. evaluate its service or reliability.

Such a General Contract may not be awarded until at least thirty days after the date the Board has declared competitive bidding to be impractical or inappropriate.

5. Riding an Existing Contract. The item is available through an existing General Contract between a vendor and any of the governmental entities listed below and the resolution adopted by the Board, if Board authorization would otherwise be required under these General Contract Guidelines, includes a determination that,

and the reasons, why, it is in the public interest to do so. Such rationale shall include a determination of need, a consideration of the procurement method by which the contract was awarded, an analysis of alternative procurement sources including an explanation why a competitive procurement or the use of a centralized contract let by the commissioner of the office of general services is not in the best interest of the authority, and the reasonableness of cost:

- a. Any public authority (not New York State) provided such General Contract had been awarded through a process of competitive sealed bidding or a competitive request for proposals (“RFP”);
- b. The United States general services administration (“GSA”) provided such General Contract had been awarded through a process of competitive bidding or a competitive RFP;
- c. A New York State agency or authority (including the New York State Office of General Services (“OGS”), the City of New York, or Nassau County.

It is hereby determined that competitive bidding is inappropriate and, because of the likelihood that a competitive process will not result in better commercial terms, that it is in the public interest to purchase an item through an existing General Contract of the State of New York, the City of New York, a different Authority, or any other public authority, where price and other commercial terms specified in such General Contract are satisfactory to the Authorized Officer. Such a determination shall be documented in writing by the Authorized Officer, and included in the contract file.

6. Request For Proposals. The Authority determines that it is in the public interest to award the General Contract through a competitive RFP.
 - a. For purposes of this Article III.B.6., an RFP shall mean a method of soliciting proposals and awarding a General Contract on the basis of a formal evaluation of the characteristics which are deemed relevant to the Authority’s operations, such as quality, cost, delivery schedule and financing, against stated selection criteria. Where the RFP involves the purchase or rehabilitation of rail cars, transit cars or buses, the selection criteria may also include the extent to which the performance of all or a portion of the General Contract will involve the use of sites within the State of New York or the use of goods produced or services provided within the State of New York.
 - b. For those General Contracts awarded under this Article III.B.6., (1) such contracts may not be awarded until at least thirty days after the Board has declared competitive bidding to be impractical or inappropriate and (2) the Board’s approval resolution must (i) disclose the other proposers and the substance of their proposals, (ii) summarize the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (iii) set forth the criteria upon which the selection was made. The Board’s contract approval resolution may be adopted simultaneously with or subsequent to the Board’s declaration that competitive bidding is impractical or inappropriate, provided that, if the Board’s declaration and the Board’s approval

resolution are adopted simultaneously or within less than thirty days of each other, the subject General Contract may be executed by the Authority no less than thirty days after the adoption of the Board's declaration that competitive bidding is impractical or inappropriate.

- c. In addition to the information required under Article V.C., the public notice of an RFP must include a statement of the selection criteria. Such notice shall also be provided by mail or electronically to professional and other organizations, if any, that represent or regularly notify certified MWBEs or certified SDVOBs of the type of procurement opportunity that is the subject of the RFP notice.
 - d. The Authority may engage in a selection process involving multiple steps such as requests for interest, requests for qualifications, requests for technical proposals and requests for quotations. After the publication of the notice, any or all of the selection criteria specified in the advertisement may be changed, provided that, if the change is material, proposers and potential proposers who, prior to the deadline for the receipt of proposals, have expressed an interest in the RFP, shall be informed of the change and afforded the opportunity to modify their proposals.
 - e. After receipt of the proposals, an Authority may:
 - i) change the selection criteria provided that, if the change is material, all proposers that have not been eliminated from the competitive process prior to such change, are informed of the change and afforded the opportunity to modify their proposals;
 - ii) request that any of the proposers make a presentation. If it does so, it is not required to afford such opportunity to all proposers;
 - iii) negotiate with any of the proposers. If it does so, it is not required to negotiate with all proposers;
 - iv) reject any proposal at any time; and
 - v) reject all proposals, in which event the Authority may decide to take no further action, solicit new proposals or solicit bids.
- C. Under the MTA Small Business Mentoring Program (the "**SBMP**"), a non-federally funded Public Work Contract that is designated by the Authority as a small business mentoring program contract within the meaning of Section 1265-b(1)(e) of the Public Authorities Law, may be awarded in accordance with the provisions of Section 1265-b of the Public Authorities Law, notwithstanding any other provision of law or these General Contract Guidelines. A Public Work Contract that is partially or wholly federally funded, subject to United States Department of Transportation regulations and estimated to involve an expenditure of not more than \$3 million, may be awarded pursuant to the MTA Small Business Federal Program (the "**SBFP**") established under 49 CFR 26.39 in accordance with the competitive procedures established under the SBFP, notwithstanding any other provision of law or these General Contract Guidelines. Pursuant to the SBMP procedures, the Chairman or Authority President designates members of an SBMP steering committee, which includes diversity, engineering and procurement

personnel. Such SBMP steering committee is authorized to designate which eligible Public Work Contracts shall be SBMP or SBFP Public Work Contracts.

- D. A Purchase Contract or a Miscellaneous Procurement Contract, not estimated to involve the expenditure in excess of \$1.5 million, that is not federally funded, may be awarded pursuant to Section 1209.7(b) or Section 1265-a.2(b) of the Public Authorities Law without competitive sealed bidding or other formal competitive process, notwithstanding any other provision of law or these General Contract Guidelines where the Purchase Contract or Miscellaneous Procurement Contract involves goods or technology that are recycled or remanufactured.

Article IV - Qualified Products Lists

The Board hereby determines that for reasons of efficiency, economy, compatibility or maintenance reliability, there is a need for standardization as to various supplies, materials and equipment which are purchased by the Authorities and authorizes the establishment of a qualified products list (“QPL”) identifying such supplies, materials and equipment as hereinafter provided. A purchase contract for an item which has been included on a QPL duly established and maintained by an Authority may be entered into by that Authority as hereafter set forth:

- A. An Authorized Officer determines as to a specific item that, for reasons of efficiency, economy, compatibility or maintenance reliability, there is a need for standardization.
- B. The QPL is reviewed no less than one time per year in order to evaluate whether to add or delete items or vendors to or from the QPL.
- C. A notice is published by the Authority no less than one time per year in a general circulation newspaper and in the NYSCR which:
 - 1. advertises the existence of the QPL;
 - 2. states that the QPL is available for public inspection; and
 - 3. specifies the name and address of the Authority’s office which may be contacted in regard to the procedure for the compilation of the QPL.
- D. A contract for an item on the QPL may be awarded:
 - 1. without competitive sealed bidding if only one source for the item is specified on the QPL;
 - 2. by competitive sealed bidding, but without advertising, provided the invitation to bid is sent to all vendors listed on the QPL for the particular item;
 - 3. by competitive sealed bidding after advertising the bid pursuant to Article V.A. of these General Contract Guidelines.
- E. Two or more Authorities may utilize the same QPL provided that such Authorities jointly comply with the provisions of this Article.

F. Article V – Notice and Advertising

Except as provided in Article V.C. and Article III.B.2., in those instances where advertising is required under these General Contract Guidelines:

- A. Regardless of the selection process used, for Purchase Contracts and Public Work Contracts in the actual or estimated amount in excess of \$1 million, an advertisement shall be published at least once in a newspaper of general circulation in the area served by the Authority and in the NYSCR. Such advertisement and notice in the NYSCR must be placed at least fifteen (15) business days prior to the planned date on which a bid/proposal is due; provided that, if the Purchase Contract or Public Work Contract is to be awarded without the solicitation of competitive sealed bids or RFP, the timing of the publication in the NYSCR shall be determined by an Authorized Officer.
- B. The advertisement and the notice in the NYSCR must contain, as applicable, a statement of: 1) the name of the contracting Authority; 2) the contract identification number; 3) a brief description of the goods, supplies, materials, or equipment sought, the location where work is to be performed or goods are to be delivered and the contract term; 4) the address where bids/proposals are to be submitted, if submitted via hard-copy; 5) the date when bids/proposals are due; 6) a description of any eligibility or qualification requirement or preference; 7) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture (“JV”) or co-production arrangement; 8) any other information which the Authority deems useful to potential contractors; 9) the name, address and the telephone number of the person to be contacted for additional information; and 10) the time and place where bids received will be publicly opened and read. In addition, if a purchase contract is involved, the advertisement in the NYSCR shall also include a statement as to whether the goods, supplies, materials, or equipment sought had, in the immediately preceding three year period, been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law. Where the work to be performed under a contract to be advertised is substantially the same as the work of a prior contract awarded in the last five years, the NYSCR advertisement must include the name(s) of the incumbent(s) for the prior contract pursuant to Section 142 of the Economic Development Law.
- C. Advertisement in a general circulation newspaper and in the NYSCR is not required if the Authority regularly purchases the particular supplies, material or equipment and bids are solicited from a list of potential suppliers for the item which has been established and maintained as set forth in Article VI hereof.
- D. In addition to the above advertisements, the Authority shall provide notice to professional and other organizations, if any, that regularly notify MWBES of the type of procurement opportunity that is the subject of the solicitation.

Article VI - Contractor Outreach

The Authority shall encourage firms to be interested in competing for Authority contracts. The Authority shall do so in the following manner:

- A. Suppliers Lists for Purchase Contracts: the Authority shall compile a list of potential sources of supplies, materials, equipment, and other goods which it regularly purchases.

Such list must be compiled in accordance with the following procedures:

1. Advertisements must be periodically placed in one or more publications which are likely to be read by manufacturers, suppliers and others who deal in the item, including firms which may be MWBEs or SDVOBs, which set forth a general description of categories of items which are regularly procured by the Authority and invites firms to utilize the MTA Business Services Center Vendor Portal to be placed on the suppliers list for specific items or categories of items.
 2. A periodic effort:
 - i) must be undertaken to identify potential bidders for the item who are not on the list, including MWBEs and SDVOBs. Such effort shall include the use of the Authorities' websites, use of appropriate publications, including those, if any, that serve MWBEs and SDVOBs, other sources of information, and cooperation with federal, state and local agencies and other authorities. Where appropriate, a print or electronic letter shall be sent to a new potential supplier which invites it to request that it be added to the list and, if it does not wish to be added, requests that it indicate why; and
 - ii) where appropriate, must be undertaken to identify firms which have not responded to bids or expressed an interest in remaining on a list. An effort should be made to contact such firms to determine why they have not bid, whether they are interested in remaining on the list and, if not, why not. A firm may be deleted from the list where it requests deletion, or where the circumstances indicate that it is unlikely that the firm is interested in remaining on the list.
 3. The Authority will maintain lists of certified MWBEs and SDVOBs, including professional firms that have expressed an interest in doing business with the Authority and ensure that such lists are updated regularly. The Authority will also consult the lists of MWBEs maintained by the New York State Department of Economic Development and the lists of SDVOBs maintained by, the OGS Division of Service-Disabled Veterans' Business Development ("**OGS DSDVBD**").
 4. An advertisement must be placed quarterly in the State Register and in the NYSCR.
 5. In the event it is not practicable to maintain a suppliers list for a specific item, such item shall be included in a broader category or other appropriate classification which reasonably includes the item, and a suppliers list shall be maintained with respect to the category or classification.
- B. Capital Program Purchase Contracts and Public Work Contracts: the Authority shall establish an Outreach program, to be developed by the Chief Development Officer or his designee, to identify and attract capable U.S. and international firms to compete for MTA contracts. In addition, the Authority shall place an advertisement in the NYSCR no less than four times per year which sets forth a general list of anticipated capital program Purchase Contracts and Public Work Contracts, and the address of the Authority's office which may be contacted in order to be afforded the opportunity to compete for such

contracts and for other Authority contracts. Advertisements will also be placed in publications that serve MWBEs.

Article VII – MWBE, SDVOB, and Disadvantaged Business Enterprise (“DBE”)

The potential exists for MWBE, SDVOB, and DBE involvement in General Contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of DBEs under the Authority’s federal program, and MWBEs and SDVOBs under the New York State programs set forth in Public Authorities Law §2879, Article 15-A and Article 17-B of the Executive Law and these General Contract Guidelines.

- A. The MTA Chief Diversity Officer is responsible for ensuring compliance with all applicable laws and regulations and for overseeing the programs established by the MTA to promote and assist: 1) the participation by MWBEs and SDVOBs in procurement opportunities and facilitation of the award of General Contracts to such enterprises; 2) the utilization of MWBEs and SDVOBs as subcontractors and suppliers to Authority prime contractors; and 3) the utilization of partnerships, JVs or other similar arrangements between MWBEs, SDVOBs and prime contractors. The Chief Diversity Officer reports directly to the Chairman in connection with the responsibilities set forth herein, and will participate in the procurement process either directly or through his or her designees.

- B. A Purchase Contract or a Miscellaneous Procurement Contract, not estimated to involve the expenditure in excess of \$1.5 million, that is not federally funded, may be awarded pursuant to Section 1209.7(b) or Section 1265-a.2(b) of the Public Authorities Law without competitive sealed bidding or other formal competitive process, notwithstanding any other provision of law or these General Contract Guidelines where the proposed award is to a SBC, MWBE or SDVOB. The MTA and its agencies will administer set-aside procurements pursuant to the laws, rules and procedures that govern small purchase contracting.

The Authority CPO or his/her designee shall determine which Purchase Contracts or Miscellaneous Procurement Contracts are appropriate for these procurements. The CPO may make a determination that any such Purchase Contract or Miscellaneous Procurement Contract may only be awarded to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB. The basis for such a determination must be to promote participation of MWBEs and SDVOBs in Authority contracts, as mandated by Articles 15-A and 17-B of the Executive Law, respectively, and to assist the Authorities in achieving their MWBE and SDVOB goals.

Notice of such procurements shall be placed on the Authority website inviting responsive bids/proposals from qualified SBCs, MWBEs and/or SDVOBs. Awards pursuant to this process shall be made to the bidder/proposer determined to have submitted the bid/proposal that is most advantageous to the Authority after considering price and any other relevant factors. The CPO may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to this process if the CPO determines that an award will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority.

SDVOB set aside contracts made pursuant to Article 17-B of Executive Law require notice in the NYSCR.

- C. For contracts awarded pursuant to these General Contract Guidelines, other than those whose award process is described in Article VII.B., the Authority shall establish appropriate goals for participation by MWBEs and SDVOBs and for the utilization by prime contractors of MWBEs and SDVOBs as subcontractors and suppliers. Statewide MWBE numerical participation target goals will be established by the Authority based on the findings of the most recent New York State Disparity Study.

- D. The Authority will conduct non-federally funded procurements in a manner that enables the Authority to achieve the maximum feasible portion of the goals set pursuant to Article VII.C., including by taking the following actions:
 - 1. establishing measures and procedures to ensure that MWBEs and SDVOBs are given the opportunity for maximum feasible participation in the performance of Authority contracts and to assist in the identification of those contracts that are best suited for MWBE and SDVOB participation so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE and SDVOB goals;
 - 2. designating the New York State Division of Minority and Women-owned Business Development ("**DMWBD**") to certify and decertify MWBEs, and OGS DSDVBD to certify and decertify SDVOBs, for purposes of these General Contract Guidelines;
 - 3. setting forth in each contract solicitation the expected degree of MWBE and SDVOB participation based on potential subcontracting opportunities and the availability of MWBEs and SDVOBs to respond competitively to those opportunities;
 - 4. providing to prospective contractors in writing, or by identifying a link to a website containing a current list of MWBEs and SDVOBs;
 - 5. with regard to JVs, allowing a bidder/proposer to count toward meeting its MWBE and SDVOB participation goals, the MWBE or SDVOB portion of the JV;
 - 6. waiving a contractor's obligation relating to MWBE or SDVOB participation after a showing of good faith efforts to comply with the participation goal; and
 - 7. verifying that MWBEs and SDVOBs listed in a successful bid/proposal are actually participating to the extent listed in the project for which the bid/proposal was submitted.

- E. The Authority will also consider, where practicable:
 - 1. the severability of construction projects and other bundled contracts;
 - 2. with respect to MWBEs, the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the most recent New York State Disparity Study; and

3. compliance with the requirements of any federal law or regulations concerning opportunities for any DBEs, MWBEs and SDVOBs that effectuates the purposes of this Article VII.
- F. The Chief Diversity Officer or his/her designee is responsible for ensuring compliance with all applicable laws and regulations with regard to the utilization of DBEs on federally funded General Contracts.

Article VIII - Change Orders

- A. A change order to a General Contract which (a) exceeds \$1 million, (b) increases the total contract price by more than ten percent of the original value, or (c) increases the contract duration by more than ten percent of the original contract duration, may be entered into by an Authorized Officer, upon the approval of the Board pursuant to a resolution adopted in accordance with Article IX hereof. The submission to the Board shall include an explanation of the need for the change order. In order to avoid splitting change orders to below \$1 million for the purpose of avoiding the Board approval requirements of this Article VIII.A., the CPO of the relevant Authority must approve multiple change orders to the same contract and for the same scope of work, if all such change orders for any rolling 12-month period would equal to or be more than \$1 million.

For example only, if change order #1 is issued in March Year 1 for \$600,000, change order #2 is issued in June Year 1 for \$300,000 and change order #3 is issued in January Year 2 for \$200,000 (all for the same scope of work), then the CPO would be required to approve change order #3 because the total amount would be \$1.1 million for the rolling 12-month period from March Year 1 to March Year 2, and further the CPO would need to approve any other change order issued during any rolling 12-month period which would bring that 12-month period total to be equal to or greater than \$1 million.

- B. All other change orders shall be approved by an Authorized Officer; provided that a change order over \$250,000 must be approved by the Authority President, CPO, or the Authority President's designee. This provision applies to all contracts subject to these General Contract Guidelines.
- C. Notwithstanding the foregoing, an Authorized Officer may enter into a change order without Board approval in any of the following situations as determined by an Authorized Officer:
1. The existence of an emergency, other critical need or unforeseen circumstance;
 2. There is a risk of a substantial increase in cost or delay if prompt action is not taken; or
 3. The change order does not change the total contract price to exceed the contract budgeted cost, including contingency.
- D. Change orders, except for change orders to Small Business Mentor Program Contracts, that do not require Board approval pursuant to Paragraph C above, but that (a) increases the total contract price by more than ten percent of the original value, or (b) increases the contract duration by more than ten percent of the original contract duration, shall require prior written notice to the Chairman of the Finance Committee.

- E. The Chairman shall establish policies with respect to the delegation of responsibilities set forth in this Article.

Article IX - Form of Board Resolution

- A. Except as otherwise required in Article III, the procedure for the adoption by the Board and the format of a resolution pursuant to these General Contract Guidelines shall be determined by the Chairman and may be in the form of a staff summary or a formal resolution. Provided, however, that any Board resolution or staff summary sought pursuant to these General Contract Guidelines shall 1) identify the contractor by name; 2) briefly describe the substance of the General Contract; 3) specify all the information required under the applicable provisions of these General Contract Guidelines; and 4) specify the estimated or actual cost to the Authority or that the estimated or actual cost shall be within the budget approved by the Board for that purpose.
- B. To the extent practicable, the recommendation of award and the associated resolution or staff summary shall first be submitted to the standing committee of the Board responsible for the Authority.
- C. The Chairman may modify the procedures in this Article for all Authorities.

Article X - Responsibilities of General Contractors

In each General Contract, a general contractor shall have the following responsibilities:

- A. To perform the contract in accordance with its terms and to remain a responsible contractor;
- B. To provide the public work, goods, supplies, materials, or equipment required under the contract competently, efficiently, in a timely manner, at a fair and reasonable cost and in a manner which is satisfactory to the Authority; and
- C. To cooperate with Authority personnel who are directing, supervising or monitoring the performance of the general contractor or who are assisting in their performance.

Article XI - Contracts Involving Former Officers or Employees of the Authority

The Authority may enter into contracts with any Authority's former officers, former employees or with firms employing such former officers or former employees only to the extent permitted by Public Officers Law §73.

Article XII - Miscellaneous

- A. Except to the extent prohibited by law, the Chairman or Chief Executive Officer, or his/her designee, with prior notice to the Chairman of the Finance Committee, may waive the provisions of these General Contract Guidelines in the event of an emergency involving the health or safety of the public. If a contract is federally assisted, prior to issuing a

waiver, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.

- B. No Board Committee action or Authority policy, other than one approved by the Chairman, shall be inconsistent with these General Contract Guidelines.
- C. An Authority may not divide or split any contract or series of contracts for the purpose of avoiding the requirements of these General Contract Guidelines provided that with regard to SBMP and SBFP contracts awarded under Article III.C. and discretionary contracts awarded under Article VII.B., an Authority may divide requirements for the purpose of unbundling contracts to create SBMP, SBFP or discretionary contracting opportunities.
- D. If prior to the commencement of an Authority fiscal year, an Authorized Officer reasonably anticipates that, during the next fiscal year, the Authority will expend, in the aggregate, in excess of \$1 million for a series of Purchase Contracts for the same or substantially similar good or for a series of Public Work Contracts for same or substantially the same type of public work: 1) such requirement shall be met pursuant to a requirements contract awarded pursuant to the applicable provisions of these General Contract Guidelines; 2) each such Purchase Contract shall be awarded pursuant to the provisions of Article II.C., Article III, Article IV, Article VI, or Article VII.B. of these General Contract Guidelines or 3) each such contract shall be awarded pursuant to the provisions of Article II.C., Article III, or Article VII.B. or a procedure determined by an Authorized Officer to be comparable to Article IV or Article VI.
- E. Nothing in these General Contract Guidelines shall preclude the Authority from accepting bids/proposals utilizing an electronic bidding system that may inform bidders whether their bid is the current low bid, and allow bidders to submit new bids before the date and time assigned for the opening of bids. Such procedure shall not constitute disclosure in violation of Section 2878 of the Public Authorities Law.
- F. A General Contract awarded by an Authority pursuant to these General Contract Guidelines may provide that the General Contract includes the requirements of one or more other Authorities.
- G. Each Authority shall maintain records, for each fiscal year, of all Purchase Contracts in an actual or estimated amount of \$15,000 or more entered into by the Authority at the request of such Division/Department, and such reports shall be prepared pursuant to the specifications located in Article IX.B. and Article IX.C. of the Services Contract Guidelines.
- H. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- I. These General Contract Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended or shall be

construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof.

- J. To make MTA work more appealing to contractors and thereby increase competition and reduce the costs that the MTA typically pays for its Capital Program projects, the following Cost Containment Initiatives shall be implemented on all Capital Program projects unless the Chief Development Officer grants a waiver based upon a determination that such Cost Containment Initiative is impractical for a specific project:
1. Neutral Dispute Resolution: Disputes shall be resolved by a neutral arbitrator or panel of arbitrators or in a court of competent jurisdiction.
 2. Project CEOs: The Chief Development Officer or his designee shall appoint a Project CEO (“PCEO”) for each project who shall be empowered to make project decisions and shall be accountable for the project’s budget and schedule. PCEO decisions affecting scope, budget and schedule can only be overruled or amended by the MTA Chief Development Officer.
 3. In developing the Request for Proposal or Bid documents for a project, and as part of any negotiation and contractor selection process, the PCEO shall develop a strategy designed to optimize the cost and schedule for the project. Such strategy shall be approved by the Chief Development Officer or his designee and shall establish the following:
 - a. Where practicable, A-a contracting approach that considers factors other than just price in selecting a contractor (e.g., competitive RFP or A+B bidding), even where design-build contracting is not required. Excluded from this requirement are contracts awarded under the Small Business Mentoring Program and the Small Business Federal Program for which a traditional low bid contracting approach is permissible.
 - b. Optimal turnaround times for submittals and similar documentation, which times shall be incorporated into the contract(s).
 - c. A strategy to allocate risk to the party in the best position to manage such risk. Factors to be considered in this category include but are not limited to: (i) the availability of MTA provided outages, flaggers and other services; (ii) delays by third parties such as Amtrak, utility companies, and government agencies; and (iii) existing conditions, including both structural conditions and interferences and the existence of hazardous materials. The PCEO, in consultation with the Leaders of the MTA C&D Delivery and Contracts groups and the applicable operating agencies, shall establish for each project the optimal method for incorporation of such risk allocation into the contract(s) (e.g. guaranteed number of outages subject to a contractual percentage of cancelations, allowances, etc.).
 - d. Favorable payment terms, to be established in consultation with the MTA Chief Financial Officer. Unless otherwise indicated, payment terms shall be 15 days.
 - e. Guidelines that promote the use of off-the-shelf products and components and eliminate customization to the extent practicable.
 4. Reduced Bonding Requirements: Unless otherwise prohibited by law or by MTA funding partners for specific projects (e.g., the Federal Transit Administration), the Request for Proposal or Bid documents for a project shall provide that Payment and

Performance bonds on contracts more than \$250 Million may be reduced from 100% of the contract amount provided that the Contracting entity is able to provide adequate alternative security and/or guarantees. The appropriateness of such alternative security and/or guarantees shall be approved by the MTA Chief Development Officer and/or the MTA Chief Financial Officer or his/her designees.

- K. Nothing in these General Contract Guidelines shall preclude the Authority from offering stipends to proposers on Design-Build contracts as part of an RFP process. The request for Board approval to use the RFP process for a specific Design-Build contract may include a request for approval of the use of stipends in connection with such RFP.
- L. Nothing contained in these General Contract Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of these General Contract Guidelines.
- M. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements which are in conflict with or which impose greater obligations upon the Authority than these General Contract Guidelines, then such requirements shall take precedence over those contained herein.
- N. For those General Contracts for which the Office of the State Comptroller (“OSC”) has requested review and approval pursuant to Public Authorities Law §2879-a, if the Authority has not received OSC approval or disapproval within thirty days of submission to the OSC, the Authority may enter into such General Contract without further waiting for such review and approval.



ALL AGENCY SERVICE CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on ~~March~~ June 29, 2023~~2~~

These guidelines (the “**Service Contract Guidelines**”) apply to the Metropolitan Transportation Authority (“**MTA**”), the New York City Transit Authority (“**NYCT**”), the Long Island Rail Road Company (“**LIRR**”), The Metro-North Commuter Railroad Company (“**MNR**”), the Staten Island Rapid Transit Operating Authority (“**SIRTOA**”), the Manhattan and Bronx Surface Transit Operating Authority (“**MaBSTOA**”), MTA Construction and Development (“**MTAC&D**”), MTA Bus Company (“**MTA Bus**”), First Mutual Transportation Assurance Co. (“**FMTAC**”), Grand Central Madison Concourse Operating Company (“**GCMC**”), and the Triborough Bridge and Tunnel Authority (“**Bridges and Tunnels**”) insofar as they are consistent with the provisions of law applicable to Bridges and Tunnels (each of the MTA, NYCT, LIRR, MNR, SIRTOA, MaBSTOA, MTAC&D, MTA Bus, FMTAC, GCMC, and Bridges and Tunnels is referred to jointly and severally as the “**Authority**”).

Article I - Applicability of Service Contract Guidelines

It is the policy of the Authority to contract for services that because of factors such as timing, costs, qualifications, availability of Authority staff, or the nature of the services to be rendered, it is more beneficial for such services to be contracted for than performed by employees of the Authority. Contractors shall be selected on a competitive basis, except when competition is not required pursuant to applicable law, is not required pursuant to these Service Contract Guidelines or is waived as impractical or inappropriate due to an emergency, critical need or as a consequence of unforeseen circumstances.

These **Service Contract Guidelines** apply to personal service contracts (“**Personal Service Contracts**”) and miscellaneous service contracts (“**Miscellaneous Service Contracts**”), and collectively with Personal Service Contracts, “**Service Contracts**”).

- A. Personal Services Contracts involve contracts for the provision of personal services (“**Personal Services**”), which generally involve retaining a consultant who specializes in one of the following:
- (1) Accounting and auditing
 - (2) Advertising
 - (3) Analysis
 - (4) Appraisal
 - (5) Architecture and design
 - (6) Bonds and financial management
 - (7) Commissioning of original art
 - (8) Dispute resolution
 - (9) Engineering
 - (10) Finances
 - (11) Human resources
 - (12) Information technology (but not software licenses or software maintenance)
 - (13) Investments
 - (14) Labor relations
 - (15) Legal
 - (16) Legislation

- (17) Management
- (18) Marketing
- (19) Office services requiring specialized skills
- (20) Other consulting, professional or technical services
- (21) Planning
- (22) Printing where editorial services predominate
- (23) Public affairs and corporate relations
- (24) Real estate
- (25) Records management, including electronic data storage, retrieval and discovery
- (26) Research
- (27) Risk management and related services
- (28) Security, including cybersecurity
- (29) Statistics
- (20) Surveying
- (31) Training

B. A Miscellaneous Service Contract is any contract for services which is not:

- (1) a Personal Service Contract; or
- (2) a General Contract (capitalized terms not defined in these Service Contract Guidelines shall have the meaning ascribed thereto in the All Agency General Contract Procurement Guidelines (the “**General Contract Guidelines**” and collectively with these Service Contract Guidelines, the “**Guidelines**”).

Examples of miscellaneous services (“**Miscellaneous Services**”) include, but are not limited to, human services (such as homeless services), guard service, custodial service and maintenance work performed by laborers, workers or mechanics that does not result in a substantial improvement to a building or other fixed asset.

C. In the event a proposed contract contains elements of more than one type of contract under these Service Contract Guidelines or the General Contract Guidelines, the elements which predominate shall determine the type of contract for purposes of the Guidelines.

Article II - Delegation of Authority

The Chairman, the Managing Director, the President, or chief procurement officer (“**CPO**”) of the relevant Authority thereof, and any further delegations that the Chairman or relevant Authority President may make for those specifically delegated purposes only (each defined for purposes of these Service Contract Guidelines as an “**Authorized Officer**”) are hereby empowered with respect to Service Contracts to be entered into by the relevant Authority acting on its own behalf or as agent for the MTA, as follows:

- A. to implement these Service Contract Guidelines:
- B. to establish procedures for the award of Service Contracts estimated to involve the expenditure of \$1.0 million or less and including contracts for a small business concern (“**SBC**”), a certified minority or women-owned business enterprise (“**MWBE**”) or a certified service disabled veteran owned business (“**SDVOB**”) involving an expenditure of \$1.5 million or less, which procedures shall be competitive to the extent deemed practicable by the Authorized Officer;

- C. to establish procedures for the award of Service Contracts regardless of the estimated expenditure, which procedures shall provide for Board approval of the award if the Services Contract provides for the estimated expenditure in excess of \$1 million if not awarded pursuant to competitive sealed bidding. A majority of the members of the Board in attendance at a meeting at which a quorum is present shall be required to approve the resolution authorizing such award;
- D. to do the following for the award of Service Contracts estimated to involve the expenditure in excess of \$1 million:
 - (1) to determine the criteria for the evaluation of bids/proposals;
 - (2) to determine whether a Services Contract required to be advertised in the New York State Contract Reporter (“**NYSCR**”) is exempt from such requirement due to the need to award such contract on an emergency or other critical basis;
 - (3) to advertise for, solicit and open bids/proposals;
 - (4) to record the name of each bidder/proposer and the amounts of the bid/proposal;
 - (5) to determine the lowest responsive and responsible bidder, including, in the event two or more responsible bidders submit identical bids which are the lowest bids, to award the Service Contract to any of such bidders or obtain new bids from such bidders;
 - (6) to reject all bids/proposers when it is determined to be in the public interest to do so; and
 - (7) to award the Service Contract; and
- E. to determine whether a bidder/proposer is responsible pursuant to the All-Agency Responsibility Guidelines.

Article III - Selection of Personal and Miscellaneous Service Contractors

A. Requirements for Selection of Personal Service Contractors by RFP

The following are the requirements to be followed for selection of contractors for Personal Services, except for:

- (1) Service Contracts for architectural, engineering, and survey services, which are subject to Article III.B.;
- (2) Service Contracts in the amount of \$1 million or less, which may be entered into pursuant to the provisions of Article II.B. (or pursuant to procedures established by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer); and
- (3) Service Contracts for which a competitive selection process is inappropriate pursuant to the provisions of Article III.C.

(a) The Division/Department of the Authority requiring the services shall prepare a written statement containing a description of the services, the reasons why they are required, and the required or estimated schedule or duration of the services.

(b) A request for proposals (“RFP”) to perform the required services shall be sent by mail or electronically to three or more firms to invite competition, including any certified disadvantaged business enterprise (“DBE”), MWBE or SDVOB selected to receive the RFP pursuant to applicable Authority or New York State DBE, MWBE or SDVOB programs, unless there are only two qualified firms or unless competition is waived as hereinafter provided. The RFP or notice thereof shall also be provided by mail or electronically to professional and other organizations, if any, that represent or regularly notify MWBEs and SDVOBs of the type of procurement opportunity that is the subject of the RFP notice.

(c) The RFP shall describe the services to be performed, any completion dates or time requirements, DBE/WBE/MBE/SDVOB requirements, if applicable, and the criteria to be utilized by the Authority in evaluating proposals and shall contain a requirement for technical and cost proposals and the date, time and place when proposals must be received.

(d) The Authority may select one or more proposers with which to negotiate after evaluation of the proposals received. The award shall be made to the proposer or proposers whose proposals will be the most advantageous to the Authority after considering price, qualifications and other relevant factors identified as evaluation criteria in the RFP.

B. Architectural, Engineering and Survey Services

- (1) In the procurement of architectural, engineering and surveying services, the Authority shall determine whether to comply with the RFP procedures set forth in Article III.A. or the “Brooks” method set forth in this Article III.B., provided that, if federal funds will be utilized for such contract, the decision shall take into account applicable federal requirements.
- (2) The Authority shall encourage architectural, engineering and surveying firms to submit an annual statement of qualifications and performance data. For each proposed project identified in accordance with Article III.A(1), the Authority shall evaluate current statements of qualifications and performance data on file with the Authority. If desired and to the extent appropriate if federal assistance is involved, the Authority may conduct discussions with professional firms regarding anticipated design concepts and proposed methods of approach to the proposed project.
- (3) The Authority shall then evaluate whether a modification to the RFP documents is appropriate, and shall then solicit the RFP in compliance with the provisions of subparagraphs (b) and (c) of Article III.A(3).

- (4) Based upon the criteria established by the Authority, the Authority shall select no less than three professional firms deemed to be the most highly qualified to provide the services required from the proposals submitted, in order of preference.
 - (5) The Authority shall negotiate a contract with the best qualified professional firm for architectural, engineering or surveying services at compensation which the Authority determines in writing to be fair and reasonable. In making this decision, the Authority shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the Authority be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified, at a fee it determines to be fair and reasonable, negotiations with that professional firm shall be formally terminated. The Authority shall then undertake negotiations with the second most qualified professional firm. Failing to come to accord with the second most qualified professional firm, the Authority shall formally terminate negotiations. The Authority shall then undertake negotiations with the third most qualified professional firm. Should the Authority be unable to negotiate a satisfactory contract with any of the three selected professional firms it shall select additional professional firms, in order of their qualifications and it shall continue negotiations in accordance with this subparagraph until an agreement is reached.
 - (6) The provisions of this Article III.B. must apply to engineering, architectural, or surveying services contracts in excess of \$1 million. Contracts for engineering, architectural or surveying services involving lesser amounts may be entered into pursuant to the provisions of Article III.B. or pursuant to procedures established by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer, provided that a qualification based selection procedure is used when required by federal guidance.
- C. It is hereby determined that a competitive selection process is inappropriate and that a competitive process shall not be required in the following instances:
- (1) Single Source. The service to be procured is available only from a single responsible source.
 - (2) No Bids or One Responsive Bid. Competitive bids are solicited and
 - (a) no responsive bid is received; or
 - (b) only a single responsive bid is received, and the Authorized Officer rejects the bid.
 - (3) Emergency, Critical Need or Unforeseen Circumstances. The existence of an emergency involving danger to life, safety or property, or a critical need or unforeseen circumstance which requires immediate action and cannot await competitive bidding; or when the contract is essential to the efficient operation of or the adequate provision of service and, as a consequence of an unforeseen circumstance, such purchase cannot await competitive bidding. Competitive

bidding is hereby declared to be impractical and inappropriate in any of the foregoing situations where an Authorized Officer must take appropriate action and cannot await action by the Board; provided, however, that notice of such action shall be given to the Board in a timely manner, together with a statement of the reasons for such action and a request for ratification by the Board.

- (4) Legal Services. When the services are legal services.
- (5) Unique Source. When the provider of the services has unique or otherwise outstanding qualifications.

D. The Chairman, Managing Director, General Counsel, or President or CPO of the relevant Authority, or such individuals as they may designate, may give verbal authorization to contractors or consultants to commence the performance of contracts entered into pursuant to the provisions of this Article III, where prior written agreement is impracticable, provided, however, that the contract shall be reduced to writing as soon as practicable. Prior to issuing a verbal authorization for a federally assisted contract, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.

Article IV – Notice and Advertising

In those instances where notice in the NYSCR is required under these Service Contract Guidelines:

- A. Regardless of the selection process used, notice of a Service Contract in the actual or estimated amount in excess of \$1 million shall be published at least one time in the NYSCR, except as provided in Article IV.C. Such advertising must be placed at least fifteen (15) business days prior to the planned date on which a bid/proposal is due, provided that if the Services Contract is to be awarded without bids/proposals and advertising is required, the timing of the publication shall be determined by an Authorized Officer.
- B. The notice must contain, as applicable, a statement of: (1) the name of the contracting Authority; (2) the contract identification number; (3) a brief description of the services sought, the location where services are to be provided and the contract term; (4) the address where bids/proposals are to be submitted, if submitted via hard-copy; (5) the date when bids/proposals are due; (6) a description of any eligibility or qualification requirement or preference; (7) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture (“JV”) or co-production arrangement; (8) any other information which the Authority deems useful to potential bidder/proposer; (9) the name, address and the telephone number of the person to be contacted for additional information; and (10) a statement as to whether the services sought had, in the immediately preceding three year period, been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law. Where the work to be performed under a contract to be advertised is substantially the same as the work of a prior contract awarded in the last five years, the NYSCR advertisement must include the name(s) of the incumbent(s) for the prior contract pursuant to Section 142 of the Economic Development Law.

- C. Notice in the NYSCR is not required under the following circumstances:
- (1) In the event of an emergency or critical need for the services as determined by an Authorized Officer;
 - (2) The contract is re-solicited for substantially the same services within forty-five business days after the date bids/proposals were originally due;
 - (3) The contract is awarded to a not-for-profit provider of human services;
 - (4) The contract is awarded pursuant to the provisions of Article III.C(1) or (2) or Article V.B. of these Service Contract Guidelines.
- D. In addition to the above NYSCR notice, the Authority shall provide notice to professional and other organizations, if any, that regularly notify MWBEs of the type of procurement opportunity that is the subject of the solicitation.

Article V – MWBEs, SDVOBs, and DBEs

The potential exists for MWBE, SDVOB, and DBE involvement in Service Contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of DBEs under the Authority's federal program, and MWBEs and SDVOBs under the New York State program set forth in Public Authorities Law §2879, Article 15-A and Article 17-B of the Executive Law and these Service Contract Guidelines.

- A. The MTA's Chief Diversity Officer is responsible for ensuring compliance with all applicable laws and regulations and for overseeing the programs established by the MTA to promote and assist: (1) the participation by MWBEs and SDVOBs in procurement opportunities and facilitation of the award of Service Contracts to such enterprises; (2) the utilization of MWBEs and SDVOBs as subcontractors to Authority prime contractors; and (3) the utilization of partnerships, JVs or other similar arrangements between MWBEs, SDVOBs and prime contractors. The Chief Diversity Officer reports directly to the Chairman in connection with the responsibilities set forth herein, and will participate in the procurement process either directly or through his or her designees.
- B. A Service Contract, not estimated to involve the expenditure in excess of \$1.5 million, that is not federally funded, may be awarded pursuant to Section 1209.7(b) or Section 1265-a.2(b) of the Public Authorities Law without competitive sealed bidding or other formal competitive process, notwithstanding any other provision of law or these Guidelines, where the proposed award is to a SBC, MWBE or SDVOB. The MTA and its agencies will administer set-aside procurements pursuant to the laws, rules and procedures that govern small purchase contracting.

The Authority CPO or his/her designee shall determine which Service Contracts are appropriate for these procurements. The CPO may make a determination that any such Service Contract may only be awarded to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB. The basis for such a determination must be to promote participation of MWBEs and SDVOBs in Authority contracts, as mandated by Article 15-A and Article 17-B of the Executive Law, respectively, and to assist the Authorities in achieving their MWBE and SDVOB goals.

Notice of such procurements shall be placed on the Authority website inviting responsive bids/proposals from qualified SBCs, MWBEs and/or SDVOBs. Awards pursuant to this

process shall be made to the bidder/proposer determined to have submitted the bid/proposal that is most advantageous to the Authority after considering price and any other relevant factors. The CPO may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to this process if the CPO determines that an award will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority.

SDVOB set aside contracts made pursuant to Article 17-B of Executive Law require notice in the NYSCR.

- C. For contracts awarded pursuant to these Service Contract Guidelines, other than those whose award process is described in Article V.B., the Authority shall establish appropriate goals for participation by MWBEs and SDVOBs and for the utilization by prime contractors of MWBEs as subcontractors and suppliers. Statewide MWBE numerical participation target goals will be established by the Authority based on the findings of the most recent New York State Disparity Study.
- D. The Authority will conduct non-federally funded procurements in a manner that enables the Authority to achieve the maximum feasible portion of the goals set pursuant to Article V.C., including by taking the following actions:
 - (1) establishing measures and procedures to ensure that MWBEs and SDVOBs are given the opportunity for maximum feasible participation in the performance of Authority contracts and to assist in the identification of those contracts that are best suited for MWBE and SDVOB participation so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE and SDVOB goals;
 - (2) designating the New York State Division of Minority and Women-owned Business Development ("**DMWBD**") to certify and decertify MWBEs, and the Office of General Services ("**OGS**") Division of Service-Disabled Veterans' Business Development to certify and decertify SDVOBs, for purposes of these Service Contract Guidelines;
 - (3) setting forth in each contract solicitation the expected degree of MWBE and SDVOB participation based on potential subcontracting opportunities and the availability of MWBEs and SDVOBs to respond competitively to those opportunities;
 - (4) providing to prospective contractors in writing or by identifying a link to a website containing a current list of MWBEs and SDVOBs;
 - (5) with regard to JVs, allowing a bidder/proposer to count toward meeting its MWBE and SDVOB participation goal, the MWBE or SDVOB portion of the JV;
 - (6) waiving a contractor's obligation relating to MWBE or SDVOB participation after a showing of good faith efforts to comply with the participation goal; and
 - (7) verifying that MWBEs and SDVOBs listed in a successful bid/proposal are actually

participating to the extent listed in the project for which the bid/proposal was submitted.

- E. The Authority will also consider, where practicable:
- (1) the severability of service requirements and other bundled service contracts;
 - (2) with respect to MWBEs, the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the most recent New York State Disparity Study; and
 - (3) compliance with the requirements of any federal law or regulations concerning opportunities for any DBEs, MWBEs and SDVOBs that effectuates the purposes of this Article V.
- F. The Chief Diversity Officer or his/her designee is responsible for ensuring compliance with all applicable laws and regulations with regard to the utilization of DBEs on federally funded Service Contracts.

Article VI - Types of Provisions to be Contained in Service Contracts

- A. The following types of provisions shall be contained in all Personal Services Contracts, to the extent applicable due to the specifications of such Personal Service Contract:
- (1) Description of services
 - (2) Compensation
 - (3) Time for performance or date of completion
 - (4) Liability of contractor or consultant; indemnification of Authority
 - (5) Reports of contractor or consultant
 - (6) Ownership of plans, drawings or other deliverables
 - (7) Assignments; subcontracts
 - (8) Maintenance of records, accounts
 - (9) Right of Authority to inspect and/or audit books and records
 - (10) Insurance requirements
 - (11) Termination
 - (12) Monitoring of the performance of services
 - (13) Use of Authority supplies, facilities or property
 - (14) Use of Authority personnel
 - (15) All provisions required to be included in Authority contracts by federal, state or local laws, ordinances, codes, rules or regulations
 - (16) Such modifications and additions as are appropriate in light of the specific circumstances presented
- B. To the extent practicable, a verbal authorization to commence work and a letter of intent/notice to proceed shall be required, which at a minimum shall:
- (1) Describe the services to be performed;
 - (2) Specify the amount of compensation to be paid pursuant to the verbal authorization and letter of intent/notice to proceed or the rates or fees which will

- be utilized to determine such compensation; and
- (3) Specify a date for completion or the anticipated duration of the services (except in instances where the nature of the services makes an estimate of the time required impossible or impracticable or where the contract is a retainer for the performance of services over an extended period of time on an “as-needed” basis and contains provisions allowing termination by the Authority at any time without cause).

For the avoidance of doubt, such letter of intent/notice to proceed shall NOT constitute the final Service Contract.

- C. Miscellaneous Service Contracts shall contain those provisions of Article VI.A. and other standard forms of contract deemed appropriate by an Authorized Officer.

Article VII - Responsibilities of Services Contractors

In each Service Contract, a service contractor shall have the following responsibilities:

- A. To perform the contract in accordance with its terms and to remain a responsible contractor;
- B. To perform the services required under the contract competently, efficiently, in a timely manner, at a fair and reasonable cost and in a manner which is satisfactory to the Authority; and
- C. To cooperate with Authority personnel who are directing, supervising or monitoring the performance of the services or who are assisting in their performance.

Article VIII - Contracts Involving Former Officers or Employees of the Authority

The Authority may enter into contracts with any Authority’s former officers, former employees or with firms employing such former officers or former employees only to the extent permitted by Public Officers Law §73.

Article IX - Reporting of Service Contracts

- A. Each Authority shall maintain records, for each fiscal year, of the following contracts entered into by the Authority at the request of such Division/Department: (1) Personal Service Contracts in the actual or estimated amount of \$15,000 or more; and (2) Miscellaneous Service Contracts in the actual or estimated amount of \$15,000 or more.
- B. The Authorized Officer shall designate a Division or Department which shall be responsible for preparing a report at the end of each fiscal year with respect to the foregoing contracts. With respect to each such contract, the report shall contain the following information:
 - (1) Name of contractor;
 - (2) Short description of the services involved;
 - (3) Amounts paid pursuant to the contract as of the end of such fiscal year;

- (4) The selection process used;
- (5) Status of the contract;
- (6) If it was exempt from advertising in the NYSCR pursuant to Article IV.C. of these Service Contract Guidelines, state that and include a basis for such exemption;
- (7) Whether the contract was entered into with a New York State business enterprise or a foreign business enterprise, as those terms are defined in Public Authorities Law §2879;
- (8) Whether the contract was entered into with an MWBE or SDVOB; and
- (9) Referrals to and penalties imposed by the Director of DMWBD pursuant to Executive Law §316.

C. Each Authority shall submit a copy of such report to the Board of the Authority upon its completion.

Article X – Board Approval

The following Service Contracts shall require Board approval by resolution, approved by a majority of the members present at a meeting at which a quorum is in attendance and shall be reviewed by the Board on an annual basis:

- A. Personal Service Contracts: all Personal Service Contracts entered into by an Authority in the actual or estimated amount in excess of \$1 million, except if awarded to the lowest responsible bidder pursuant to competitive sealed bids; and
- B. Miscellaneous Service Contracts: all Miscellaneous Service Contracts entered into by an Authority in the actual or estimated amount in excess of \$1 million, unless awarded pursuant to competitive sealed bids.

Article XI - Change Orders

An Authority may enter into a change order or amendment to a Service Contract provided that approval of the Board of the Authority by a resolution approved by a majority of the members present at a meeting at which a quorum is in attendance shall be required in the following circumstances:

- A. The Service Contract did not initially equal or exceed the applicable monetary threshold for Board approval set forth in Article XI or Article II of these Service Contract Guidelines and the applicable threshold is equaled or exceeded as a result of the change order or amendment. This provision applies to all Service Contracts subject to these Service Contract Guidelines.
- B. The Service Contract was approved by the Board and the change order or amendment, including any change orders or amendments since Board approval was last obtained, results in a substantial change in the contract as determined by an Authorized Officer. Notwithstanding the foregoing, Board approval of change orders shall only be required if the change order is over \$1 million. In order to avoid splitting change orders or amendments to below \$1 million for the purpose of avoiding the Board approval requirements of this Article XI.B., the CPO of the relevant Authority must approve multiple change orders or amendments to the same contract and for the same scope of work, if all such change orders or amendments for any rolling 12-month period would equal to or be

more than \$1 million.

For example only, if change order #1 is issued in March Year 1 for \$600,000, change order #2 is issued in June Year 1 for \$300,000 and change order #3 is issued in January Year 2 for \$200,000 (all for the same scope of work), then the CPO would be required to approve change order #3 because the total amount would be \$1.1 million for the rolling 12-month period from March Year 1 to March Year 2, and further the CPO would need to approve any other change order issued during any rolling 12-month period which would bring that 12-month period total to be equal to or greater than \$1 million.

- C. Notwithstanding the foregoing, an Authorized Officer may enter into a change order or amendment without Board approval in any of the following situations as determined by an Authorized Officer,
 - (1) The existence of an emergency, other critical need or unforeseen circumstance;
 - (2) The risk of a substantial increase in cost or delay if prompt action is not taken; or
 - (3) The change order does not change the total contract price to exceed the contract budgeted cost, including contingency.
- D. The Chairman shall establish policies with respect to the delegation of responsibilities set forth in this Article.

Article XII – Miscellaneous

- A. Any provision of these Service Contract Guidelines may be waived by the Chairman, an Authority President or the Board, or such individuals as they may designate, except to the extent prohibited by law. A waiver may also be in the form of a ratification. If a contract is federally assisted, prior to issuing a waiver, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.
- B. No Board Committee action or Authority policy, other than one approved by the Chairman, shall be inconsistent with these Service Contract Guidelines.
- C. An Authority may not divide or split any contract or series of contracts for the purpose of avoiding the requirements of these Service Contract Guidelines, provided that with regard to discretionary contracts awarded under Article V.B., an Authority may divide requirements for the purpose of unbundling contracts to create discretionary contracting opportunities.
- D. Nothing in these Service Contract Guidelines shall preclude the Authority from accepting bids/proposals utilizing an electronic bidding system that may inform bidders whether their bid is the current low bid, and allow bidders to submit new bids before the date and time assigned for the opening of bids. Such procedure shall not constitute disclosure in violation of Section 2878 of the Public Authorities Law.
- E. A Service Contract awarded by an Authority pursuant to the provisions of these Service Contract Guidelines may provide that the Service Contract includes the requirements of one or more other Authorities.

- F. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report, in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- G. These Service Contract Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under or by reason, of any requirement or provision thereof.
- H. An Authority may contract for a service available through an existing contract between a contractor and any of the governmental entities listed below:

Another public authority (not New York State) or United States general services administration (“GSA”) if: (1) the existing contract was awarded pursuant to a process of competitive sealed bids or a competitive RFP; (2) the Authority’s Authorized Officer determines that the price and other commercial terms specified in the contract are satisfactory; and (3) if Board authorization would otherwise be required under these Service Contract Guidelines, the Board adopts a resolution by a majority vote of the members of the Board present at a meeting at which a quorum is in attendance, which sets forth the reasons why obtaining such service is in the public interest and authorizes the Authority to enter into the Service Contract.

A New York State agency or authority (including OGS), the City of New York or Nassau County if: the Authority’s Authorized Officer determines that the price and other commercial terms specified in the contract are satisfactory; and (2) if Board authorization would otherwise be required under these Service Contract Guidelines, the Board adopts a resolution by a majority vote of the members of the Board present at a meeting at which a quorum is in attendance, which sets forth the reasons why obtaining such service is in the public interest and authorizes the Authority to enter into the Service Contract.

Such rationale shall include a determination of need, a consideration of the procurement method by which the contract was awarded, an analysis of alternative procurement sources including an explanation why a competitive procurement or the use of a centralized contract let by the commissioner of the office of general services is not in the best interest of the authority, and the reasonableness of cost. Such a determination shall be documented in writing by the Authorized Officer and included in the contract file.

- I. If an Authority enters into a Service Contract pursuant to these Service Contract Guidelines, and such Service Contract allows all other Authorities to utilize the same Service Contract, then no further action is required. For the avoidance of doubt, the provisions of Article II.C. and Article XI shall apply to change orders to all such Service Contracts.
- J. Nothing contained in these Service Contract Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of these Service Contract Guidelines.

- K. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements which are in conflict with or which impose greater obligations upon the Authority than these Service Contract Guidelines, then such requirements shall take precedence over those contained herein.

- L. For those Service Contracts for which the Office of the State Comptroller (“OSC”) has requested review and approval pursuant to Public Authorities Law §2879-a, if the Authority has not received OSC approval or disapproval within thirty days of submission to the OSC, the Authority may enter into such Service Contract without further waiting for such review and approval.

CODE OF **ETHICS**



~~Adopted by the MTA Board
December 16, 2015~~

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March 29, 2023

Additional copies may be obtained from
MTA Corporate Compliance ~~or your Agency's Human Resources Department~~



Internal Control Number GRC001924

Introduction **Code of Ethics - Building Trust**

The Metropolitan Transportation Authority ~~provides services~~ is committed to more than eight million customers a day, each one of whom expects a high standard of service. As employees of the MTA, you are ~~entrusted~~ conducting all our activities with the duty to provide this high standard of service. The ability to provide a high standard of service is grounded in a strong work ethic, clear corporate policies, and the dedication of a creative work force. integrity consistent with our Code of Ethics. The adherence to a strict code of ethics is central to gaining and keeping the trust of our ~~customers.~~ stakeholders.

This Metropolitan Transportation Authority All Agency Code of Ethics (“Code of Ethics”) applies to every employee of the MTA, including its current and future subsidiaries and affiliates. For ease of reference, This Code of Ethics ~~will refer to all such employees as “Employees.”~~ In addition, persons performing services for the MTA and its subsidiaries and affiliates may be subject to the Code of Ethics by contract or agreement.

~~There is only one Code of Ethics for the entire MTA. You are expected to become familiar with this Code, and the various applicable statutes, regulations, professional codes of ethics, and disciplinary rules. You are expected to read this Code immediately upon receipt.~~

~~The Code of Ethics is intended to provide guidance~~ our combined commitment to all Employees with respect to applicable laws governing ethical ~~our stakeholders that we will conduct and the MTA’s ourselves~~ in a manner to maintain and build the public trust. Our ethical standards, ~~which sometimes exceed the requirements of State law.~~

~~While the Code of Ethics sets out specific standards, in our evolving business environment, no written code can anticipate every possible situation. However, this Code of Ethics establishes a standard against which~~



Metropolitan Transportation Authority Code of Ethics

~~you can measure your daily decisions and actions. The~~ are based upon doing the right thing even when it is difficult or unpopular. Our Code of Ethics is not a restatement guide, therefore as an Employee of all applicable laws and standards; ~~the MTA~~ you are expected not only to be familiar with and comply with all laws and standards related to your specific job. The principal source of most New York State law governing the ethical conduct of public employees and officers is the Public Officers Law, the applicable provisions of which are available from the Law and Human Resources departments at each MTA Agency ~~the letter of the Code but its spirit as well.~~

~~As an Employee, you are expected to be an ethical role model. Managers and supervisors~~ We must foster an atmosphere that encourages Employees to seek assistance if faced with ethical dilemmas. ~~Every Employee must and to~~ be alert to potential ethical issues ~~and be ready to respond appropriately. I encourage you to speak up if you see something that does not seem right.~~

~~Responsibility for compliance with the applicable rules and standards for ethical conduct, including the related financial disclosure requirements, ultimately rests with you. If you have an ethics-related question, you should ask your supervisor or the applicable Agency Ethics Committee~~ reach out to MTA Corporate Compliance for guidance.



Metropolitan Transportation Authority Code of Ethics

~~Violations of the Code of Ethics or applicable statutory provisions may subject an Employee to discipline up to and including dismissal and/or expose the Employee to civil or criminal penalties. (See Chapter 9)~~

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Chapter 1: Definitions/Structure

Section 1.01 Definitions

As used in this Code, capitalized terms shall have the following meanings:

~~Agency Ethics Committee means the ethics committee established by an individual MTA Agency.~~

~~All-Agency Ethics Committee means the committee comprised of the Agency Ethics Officers or chairpersons of each Agency Ethics Committee and the Chief Compliance Officer.~~

Annual Statement of Financial Disclosure means the financial disclosure statement required to be filed with the ~~Joint~~ Commission on ~~Public Ethics and Lobbying in Government~~ by certain Employees pursuant to Public Officers Law Section 73-a and this Code.

Business means any activity, paid or unpaid, by an Employee or any individual, firm, company, corporation or other entity, wherein the goal or objective is obtaining monetary income or other things of value or operating an enterprise. Such activity may be for profit or not-for-profit.

Code means this MTA All-Agency Code of Ethics.

Confidential Information means information, whether or not set forth in writing, that is available to an Employee only because of such Employee's position within ~~an~~ the MTA ~~Agency~~ and which is treated by ~~such~~ the MTA ~~Agency~~ as being confidential or which the Employee has reason to believe is confidential. Information does not have to be formally labeled "confidential" to be confidential.

Conflicts of Interest means a situation in which the financial, familial, or personal interests of an Employee come into real or apparent conflict with their duties and responsibilities to the MTA. Apparent Conflicts of Interest are situations where there is the appearance that an Employee can personally benefit from actions or decisions made in their official capacity, or where an Employee may be influenced to act in a manner that does not represent the best interests of the MTA. The appearance of a conflict may occur if circumstances would suggest to a reasonable person that an Employee may have a conflict. The appearance of a conflict and a real conflict should be treated in the same manner for the purposes of this Code.

~~Compensation mean the financial consideration benefit, gain or loss avoidance received in exchange for services rendered, e.g., wages, salaries, benefits, professional fees, royalties, bonuses, or commissions on sales. Compensation shall also include income received from any business venture, whether or not incorporated, that is owned or controlled by an Employee. Notwithstanding the foregoing, income received from transactions involving such individual's own securities, personal property, or real estate (not conduct through a business) is not included in the term Compensation.~~

Department Head means a Department Head as that term is generally used within the applicable MTA Agency.



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Employee means an officer or employee of ~~an MTA Agency~~the MTA, including but not limited to all full time, part-time, or contingent employees.

Employment means performance of services, for or on behalf of any entity or individual, to obtain economic or other material benefit.

Family Member means (i) an Employee's spouse, domestic partner, child or sibling; (ii) a person who is a direct descendant (or the spouse of a direct descendant) of a grandparent of the Employee or a grandparent of the Employee's spouse or domestic partner; or (iii) a person living in the same household as an Employee.

Fundraising means the raising of funds for an organization through solicitation of funds or sale of items or participation in the conduct of an event.

Gift(s) means the transfer, without equivalent consideration, of anything or benefit, tangible or intangible, having more than nominal value, including, but not limited to, loans, forbearance, services, travel, gratuities of any kind, favors, money, meals, refreshments, entertainment, hospitality, promises, tickets to entertainment or sporting events, weekend trips, golf outings, loans of equipment, or other thing or benefit. **(See definition of "Items of Nominal Value" below.)** Note: The State Legislature has determined that provision of local transportation by a Prohibited Source for purposes of inspection or touring of facilities, operations or property located in New York State, where such inspection or tour is related to an Employee's official duties or responsibilities, does not constitute a Gift.

Honorarium means (a) payment, fee or other compensation in connection with a service rendered by an Employee not related to the person's official duties, and for which MTA ~~Agency~~ equipment or staff are not used, which is in the nature of a gratuity or as an award or an honor (e.g., for delivering a speech, for attending a conference, for writing an article); and (b) a payment, whether to a lodging site or a provider of transportation, for travel expenses made to or on behalf of an Employee, or reimbursement made to the Employee for travel expenses incurred, for services rendered by an Employee not related to their official duties.

Items of Nominal Value means items such as mugs, key rings, calendars, pens and the like that are of minimal value unless such items are being given under circumstances where it reasonably can be inferred that such item was intended to influence the Employee in the performance of such Employee's official duties. For purposes of determining value, an item is not deemed reduced in value by virtue of its being embossed or otherwise marked with a company logo, identification, or advertising.

~~**Joint Commission on Public Ethics and Lobbying in Government**~~ means the Commission established ~~within the New York Department of State under Section 94 of the New York Executive Law~~ pursuant to the ~~Public Integrity~~Ethics Reform Act of ~~2011~~2022.

MTA Agency or MTA means any or all of the following: Metropolitan Transportation Authority Headquarters, MTA New York City Transit, Manhattan and Bronx Surface Transit Operating



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Authority, MTA Long Island Rail Road, MTA Metro-North Railroad, , MTA Bus Company, MTA ~~Capital Construction and Development Company, the Grand Central Madison Concourse Operating~~ Company, the Staten Island Rapid Transit Operating Authority, the First Mutual Transportation Assurance Company, MTA Bridges and Tunnels and all future affiliated and subsidiary entities of the MTA.

New York State Agency means any New York State department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor, or the State University of New York, or the City University of New York, including all their constituent units except community colleges of the State University of New York and the independent institutions operating statutory or contract colleges on behalf of the State. All MTA Agencies are New York State Agencies for purposes of this Code.

Outside Activity and Activities (“Outside Activities”) is any employment or activity (including self-employment) performed by an MTA employee outside of their MTA job for compensation or other financial benefits. Outside Activity in some cases include volunteer work such as serving as a volunteer fire fighter or police officer when you receive benefits such as property tax breaks, health insurance, housing allowances or other benefits. In addition, serving as a member of a governing board of a charitable or civic organization may also be considered an Outside Activity. However, most volunteer work, including religious volunteer work, is not considered an Outside Activity, employees should seek guidance from Corporate Compliance if there is any question whether these provisions apply.

Participation in the Conduct of an Event means active and visible participation in the promotion, production or presentation of the event and includes serving as honorary chairperson or committee member or sitting at the head table during the event. The term does not mean the mere attendance at the event, provided the Employee’s attendance is not being used by the non-profit to promote the event.

Policy-Making Position means those management and non-management positions designated as policy-making positions by ~~each the~~ MTA ~~Agency~~, because the individual holding the position exercises responsibilities of a broad scope in the formulation of plans for the implementation of action or policy for ~~an the~~ MTA ~~Agency~~ or has an effective or substantial influence on an individual in such a position; e.g., positions in which Employees have discretion to (i) significantly influence, control, or bind ~~an the~~ MTA ~~Agency~~ in the expenditure or receipt of money, (ii) significantly influence the discretionary selection or rejection of Employees, their promotion, transfer, or salary increases, (iii) select or supervise Prohibited Sources, (iv) negotiate leases, real estate agreements, estates, purchase or sale of goods or services, or (v) supervise or approve additional work orders and progress payments to Prohibited Sources retained by ~~an the~~ MTA ~~Agency~~.

Prohibited Source means:

- (a) a Vendor including any person, seller of goods or services, bidder, proposer, consultant, contractor, trade, contractor or industry association, or any other person/entity with



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which ~~your~~the MTA ~~Agency~~ is doing business, as well as those persons and business entities who have expressed an interest in doing business with ~~your~~the MTA ~~Agency~~, whose activities directly or indirectly benefit ~~your Agency~~the MTA, or who have a history of doing business with ~~your Agency~~the MTA in the recent past; or

- (b) a tenant or licensee of ~~your~~the MTA ~~Agency~~; or
- (c) any person or entity who on his, her or its own behalf, or on behalf of any other person or entity, satisfies any one of the following:
 - (1) is regulated by, negotiates with, appears before in other than a ministerial matter, seeks to contract with or has contracts with, or does other business with: (i) the Employee, in his or her official capacity; (ii) ~~your~~the MTA ~~Agency~~; or (iii) any other New York State Agency when ~~your~~the MTA ~~Agency~~ is to receive the benefits of the contract; or
 - (2) is required to be listed on a statement of registration pursuant to ~~§~~Section 1-c(a)(1) of article 1-A of the Legislative Law and lobbies or attempts to influence actions, decisions, or policies of ~~your~~the MTA ~~Agency~~; or
 - (3) is the ~~spouse or unemancipated child~~Family Member of any individual satisfying the requirements of subsection (c)(2) above; or
 - (4) is involved in any action or proceeding, in which administrative and judicial remedies thereto have not been exhausted, and which is adverse to either: (i) the Employee in his or her official capacity; or (ii) ~~your~~the MTA ~~Agency~~; or
 - (5) has received or applied for funds from ~~your~~the MTA ~~Agency~~ at any time during the previous 12 months up to and including the date of the proposed or actual receipt of the item or service of more than Nominal Value. This does not include a request for funds received by the MTA in the ordinary course of business. For example, this does not include a customer's request for a refund or MTA's purchase of tickets or a table to an event.

~~For purposes of this definition, the term "your Agency" refers to the Agency by which you are employed. However, certain Employees working on matters involving more than one MTA Agency may be considered an Employee of multiple MTA Agencies for purposes of this Code.~~

Solicitation means any request, invitation, or suggestion (oral or written) made under circumstances where it reasonably could be concluded that the individual or entity receiving same is being asked to, or is expected to, comply with a request, invitation, or suggestion.

State Ethics Law means New York Public Officers Law Sections 73, 73-a, 74 as may be amended or modified by the New York State Legislature and the rules and regulations promulgated thereunder.



~~Section 1.02 Agency Ethics Committees/All Agency Ethics Committee~~

~~The Metropolitan Transportation Authority Headquarters, MTA New York City Transit, MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Bus Company, MTA Capital Construction Company, and MTA Bridges and Tunnels shall each appoint an Agency Ethics Officer and can establish an Ethics Committee to render guidance on ethics-related questions, including conflicts of interest. The procedures for the appointment of the Agency Ethics Officer shall be determined by each MTA Agency upon consultation with the Chief Compliance Officer. However, each Committee will designate one senior-level executive as Chairperson of the Agency Ethics Committee. Upon request, information disclosed to the Agency Ethics Committees and their members shall be deemed confidential, provided that appropriate disclosure of such information must be made in accordance with applicable laws, rules, and regulations.~~

~~Section 1.02 MTA's Chief Compliance Officer shall serve as Chairperson of the All-Agency Ethics Committee. The Committee will meet **Chief Compliance Officer**~~

~~MTA's Chief Compliance Officer shall designate Corporate Compliance staff members to render guidance on ethics-related matters or issues.~~

~~MTA's Chief Compliance Officer will periodically ~~to review~~ and assess the current state of ethics at the MTA and ~~to review or revise the Code of Ethics as needed~~ provide a report to the Audit Committee, pursuant to the Audit Committee Charter.~~

Section 1.03 Ethics & Financial Disclosure Questions

Questions concerning this Code or potential conflicts of interest may be directed to ~~the applicable Agency Ethics Officer or Ethics Committee~~ **Corporate Compliance** at the phone number ~~set forth in Appendix A listed below.~~ It is not the function of ~~a supervisor, an Agency Ethics Officer or Ethics Committee, or an MTA Agency lawyer~~ **any Corporate Compliance staff member** to act as counsel to any individual Employee.

Information regarding violations of this Code or questions concerning ethics-related matters, may also be directed to:

MTA Corporate Compliance
Metropolitan Transportation Authority
2 Broadway, 16th Floor
New York, New York 10004
888-U-ASK-MTA (888-827-5682)

Any Employee who has a complaint or allegation regarding the MTA may also contact the MTA Inspector General.

Office of the Inspector General



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Metropolitan Transportation Authority
~~Two~~One Penn Plaza, ~~5th~~11th Floor Suite 1110
New York, New York ~~10124~~10119
800-MTA-IG4U (800-682-4448)

Section 1.04 **Revocation of Agencies' Ethics Policies**

This Code supersedes and by effect rescinds the MTA All-Agency Acceptance of Gifts Policy Statement 11-007, the MTA Guideline Document—Gifts, and all MTA Agencies' Ethics Policies and Codes.

Section 1.05 **Duty to Disclose**

- (a) Employees must promptly report any violation or potential violation of the MTA's Codes of Ethics (All-Agency Code of Ethics, Board Member Code of Ethics or Vendor Code of Ethics) as well as any actual or potential violation of law, regulations, or policies and procedures, relating to the MTA, whether committed by an Employee or by a person doing business with the MTA- to Corporate Compliance. Employees should report to the MTA Inspector General allegations or information involving corruption, fraud, criminal activity or abuse.
- (b) Employees should report to ~~their Agency's Ethics Officer, their Agency General Counsel,~~ the MTA's Chief Compliance Officer or to the MTA Inspector General, all other violations or potential violations. Employees should feel free to discuss their concerns initially with their supervisor, but no supervisor may discourage an Employee from making a report.

NOTE: To obtain answers to questions or increase their understanding, Employees are encouraged to discuss particular situations or concerns they have regarding violations or potential violations of this Code or any laws, regulations or policies or procedures with ~~their Agency Ethics Officer~~Corporate Compliance, the MTA Chief Compliance Officer or the MTA Inspector General.

~~Section 1.06—No Reprisals/Whistle-Blowing~~

Section 1.06 Non-Reprisal/Whistleblower Protection

Employees who report violations or potential violations of this Code or any actual or potential violations of laws, regulations or policies and procedures are protected under MTA All Agency Whistleblower Protection Policy, No. 11-041 and will not be subjected to punitive sanctions, reprisals, or other penalties solely for reporting such violations. Employees who file an intentionally false report may be subject to appropriate disciplinary penalty, up to and including dismissal as well as civil or criminal charges.

Section 1.07 **Cooperation with Audits and Investigations**



Employees must cooperate fully and honestly with audits and investigations conducted by the MTA Inspector ~~General, Joint~~General’s Office, the Commission on ~~Public~~Ethics and Lobbying in Government, Auditor ~~General, Chief~~Services, Corporate Compliance ~~Officer,~~ other authorized ~~MTA or MTA~~ Agency ~~Ethics Officer~~personnel, or other governmental agencies. Failure to so cooperate will subject an Employee to appropriate disciplinary penalty, up to and including dismissal.

Section 1.08 Mandatory Ethics Training

~~All new and current~~ Employees ~~subject to the financial disclosure requirements of Section 6.01 of this Code~~ must ~~complete a comprehensive~~attend mandatory ethics training ~~course within three months of becoming subject to that requirement.~~

~~Employees subject to the financial disclosure requirements and such other Employees as may be determined by their Agency Ethics Officer or Ethics Committee are required to attend continuing ethics training every three years by the MTA Chief Compliance Officer.~~

Section 1.09 Ethics Certifications

- (a) Code of Ethics Certification: Employees upon hire must certify to the MTA Code of Ethics by signing an Acknowledgment Form. Additionally, Employees are required to annually sign a certification attesting to their familiarity and compliance with the MTA Code of Ethics.
- (b) Outside Activity Certification: Employees shall complete a certification attesting to the fact (1) they are not engaged in an Outside Activity or (2) that there have been no material changes to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval. The certification will be conducted at a minimum annually for non-represented employees and at a minimum every three years for represented employees. Based upon an Employee’s position certification maybe required more frequently. Failure to complete a required certification will result in the revocation of the outside activity approval.
- (c) Conflict of Interest Certification: Employee’s in Policy Making positions shall complete an annual conflict of interest certification.

Chapter 2: Gifts, Awards and Honoraria

Section 2.01 Gift Prohibition-Zero Tolerance

- (a) Employees are prohibited from soliciting or receiving Gifts, directly or indirectly, from any Prohibited Source. The defined term “Gift” does not include items of truly nominal value. (See definitions of “Gifts” and “Items of Nominal Value.”)
- (b) However, Employees may accept Gifts from employees of a Prohibited Source if these



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Gifts are reflective of a personal relationship independent of the relationship between the Prohibited Source and the MTA. For example, if the sibling of ~~an~~ MTA ~~Agency~~ Employee worked for a Prohibited Source, the ~~MTA~~ ~~Agency~~ Employee could nonetheless accept a Gift that reflects this personal relationship. In addition, an Employee can accept a modest, reasonable, and customary offering on an extraordinary occasion, such as a wedding, retirement, funeral, or serious illness. A Gift shall not be considered representative of a personal relationship— if the donor seeks to charge or deduct the value of the Gift as a business expense or seeks reimbursement from a Prohibited Source or when gifts from the same Prohibited Source are offered to multiple Employees at or about the same time.

- (c) Employees are permitted to accept discounts or special offers from a Prohibited Source so long as those discounts or special offers are generally available to similarly situated employees of other public and private sector organizations. Employees should check with ~~their Agency Ethics Officer~~ Corporate Compliance before accepting such discounts or special offers from a Prohibited Source.
- (d) Under no circumstances may an Employee accept an item, even an Item of Nominal Value, under circumstances in which it could be reasonably inferred that the item was intended to influence the Employee, or could reasonably be expected to influence the Employee, in the performance of the Employee's official duties or was intended as a reward for any official action on such Employee's part.

Reminders:

~~(a)~~ Employees should avoid accepting numerous items of nominal value from the same Prohibited Source because their aggregate value is likely to ~~exceed the nominal threshold. The MTA will aggregate the value of items received from the same Prohibited Source in any 12-month period, make the items as a whole no longer nominal.~~

~~(b)~~ Accepting Gifts in connection with the performance of official duties from persons or entities other than Prohibited Sources could still be a violation of State law and this Code, if it could be reasonably inferred that the Gift was intended to influence the Employee, or could reasonably be expected to influence the Employee, in the performance of the Employee's official duties or was intended as a reward for any official action on such Employee's part.

~~(c)~~ Proof that an Employee was actually influenced by a Gift is not necessary for a finding of a violation of this Code or State Ethics Law.

~~(d)~~ Employees should use caution in accepting such items they believe are of nominal value because it may not always be easy to determine if an item is truly of nominal value.

~~(e)~~ An Employee may not designate a friend, Family Member, or entity (such as a charity) to receive a Gift that the Employee would not be permitted to receive.



Examples:

~~(a)~~ A Prohibited Source offers an Employee a briefcase with the Prohibited Source’s logo embroidered on it. Because that briefcase, without such logo, would have a retail cost greater than nominal value, the Employee is prohibited from accepting it, even if the Employee considers it valueless because of the logo.

Common Gift Issues:

It is not practical in a code of this type to describe all of the circumstances that might give rise to a prohibited Gift. The following are some of the situations that have come up in the past and are examples of Gift-related actions that are prohibited:

- ~~(ai)~~ Any Solicitation or attempt to Solicit a job for a relative from a Prohibited Source, including a summer job; or
- ~~(bii)~~ Any Solicitation or acceptance from a Prohibited Source of:
 - ~~(1)~~ tickets to a concert, play, sporting event, or show;
 - ~~(2)~~ meals;
 - ~~(3)~~ a golf outing, a weekend trip, a vacation, use of a vacation home, or an airline ticket; or
 - ~~(4)~~ individual discounts to Employees on goods or services (such as televisions, computers, clothing, home improvements, or car or appliance repairs).

Section 2.02 Monetary Gifts and Kickbacks

- (a)** ~~Gifts of money~~ Monetary gifts to an Employee from a Prohibited Source are prohibited regardless of amount and shall be deemed to be a kickback or bribe intended to influence the Employee in the performance of the Employee’s official duties.
- (b)** Employees may not give or promise to give any portion of their compensation or any money or valuable thing to any person, nor shall any person accept any such money, or valuable thing, in connection with appointment, employment, promotion, assignment, or reassignment by ~~an~~ the MTA ~~Agency~~. Employees may not, directly or indirectly, make (or request that other Employees make) any contribution or pay any assessment in order to secure promotion, compensation, or to affect job status, duties, or functions, or in consideration of being appointed or employed at ~~an~~ the MTA ~~Agency~~.

Section 2.03 Tips



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Employees are not permitted to accept tips or other gratuities in connection with the performance of their official duties ~~unless:~~

- ~~(1) the Employee is represented by a labor union;~~
- ~~(2) it has been customary in the past for MTA Agency Employees in the relevant job classification to receive tips in connection with the performance of their official duties; and~~
- ~~(3) in the private sector it would be customary for an Employee in the equivalent job classification (such as a bartender) to receive tips as part of their income.~~

Section 2.04 Reporting Gift or Gift Offers

An Employee to whom a Gift is offered or given in violation of Section 2.01 above shall promptly report such offer or Gift to ~~the applicable Agency Ethics Officer or Ethics Committee~~ Corporate Compliance and, in the case where a Gift has been given, the Employee ~~or Agency Ethics Officer or Ethics Committee~~ shall promptly return the Gift to the person or entity giving the Gift with a copy of the MTA Gift return letter. A copy of the executed gift return letter shall be sent to MTA Corporate Compliance.

Section 2.05 Awards, Plaques and Honors

- (a) Awards and plaques publicly presented in recognition of an Employee's service to ~~at the~~ MTA ~~Agency~~ or non-job-related public service may be accepted. Employees must notify and seek the approval of ~~their Agency Ethics Officer or Ethics Committee~~ Corporate Compliance prior to accepting an award, plaque, or honor presented by a Prohibited Source.
- (b) However, awards or plaques presented by a Prohibited Source in recognition of job-related MTA ~~Agency~~ service and valued at more than seventy-five dollars (\$75) shall become the property of the ~~applicable MTA Agency. The MTA Agency's Ethics Officer or Ethics Committee~~ MTA. Corporate Compliance can determine the disposition of the award or plaque.

Section 2.06 Honoraria

An Employee may not accept an honorarium for services related to his or her duties for the MTA.

~~Employees must obtain written approval for each honorarium from their Agency Ethics Officer or Ethics Committee with the concurrence of Corporate Compliance prior to accepting an Honorarium. The approval request should be in writing and received by the Agency Ethics Officer or Ethics Committee no less than thirty (30) days prior to the time performance of the service for which the Honorarium is being offered is due to occur or thirty (30) days prior to the receipt of the honorarium. A detailed statement of all of the circumstances in which an Employee may accept an honorarium from a third party is set forth in Title 19 NYCRR Part 930.~~



~~The following is a summary of the rules relating to honoraria.~~

- (a) ~~Prohibited Honoraria: An Employee may not accept an Honorarium (or payment in lieu of Honorarium) that is offered for services related to his or her official duties for the MTA.~~ In such circumstances, payment for services related to official MTA duties must be made directly to the ~~applicable MTA Agency.~~
- (b) ~~In addition,~~ An Honorarium may not be accepted by any Employee from a Prohibited Source without the written approval of ~~the Chief Corporate Compliance Officer.~~
- ~~(c)~~ (d) Employees must obtain written approval from Corporate Compliance prior to accepting an Honorarium. The approval request should be submitted electronically using the MTA's Ethics and Compliance Portal no less than thirty (30) days prior to the time performance of the service for which the Honorarium is being offered is due to occur or thirty (30) days prior to the receipt of the honorarium. A detailed statement of all the circumstances in which an Employee may accept an honorarium from a third party can be found on the MTA Policy Portal.
- ~~(e)~~ Irrespective of whether approval was obtained in advance, ~~however,~~ any receipt of an Honorarium in excess of \$1000 must be included in the Employee's annual financial disclosure statement. ~~—~~

Chapter 3: Prohibited-Source Sponsored Events, Receptions, and Meals

Section 3.01 Business Meals

- (a) In general, Employees are prohibited from accepting a meal from a Prohibited Source. However, an Employee may accept free modest meals or refreshments from a Prohibited Source under the following limited circumstances:
 - ~~(a)1~~ in the course of and for the purpose of conducting MTA ~~Agency~~ business at a Prohibited Source's facility, when offered unexpectedly during a meeting which the Employee is attending for official reasons, or when offered at a company cafeteria or other company facility at the Prohibited Source's place of business and individual payment is impractical; or
 - ~~(b)2~~ when attending a seminar or conference in connection with ~~an~~ MTA Agency business and meals or refreshments are provided to all participants.
- (b) A meal is considered modest for purposes of the foregoing if the food and beverage is valued at ~~fifteen~~ twenty dollars or less. Under the MTA Code of Ethics, an Employee may accept such a modest meal only under the circumstances noted above.
- (c) An Employee may not accept a meal from a Prohibited Source outside of a Prohibited Source's facility (except at a seminar or conference as set forth in Section 3.01(b) above).



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If an Employee has a meal with a Prohibited Source, the Employee shall pay the full value of such meal with his or her own funds with or without MTA ~~Agency~~ reimbursement.

Reminders: ~~If you have a meal~~

~~Simply splitting the bill~~ with a Prohibited Source ~~and simply split the bill, you,~~ may be in violation of this Code if you do not pay the full value of your meal. It is prudent for Employees to obtain proof of payment because simply putting money on the table may not provide an adequate basis for proving that an Employee paid for his or her own meal. The better practice is to get a separate check and keep the receipt.

Section 3.02 Educational Seminars

- (a) Employees are encouraged to continue to participate in events that will enhance their professional development. In certain professions, it is customary for Prohibited Sources, including companies that do business with the MTA, and industry groups, to sponsor lectures and continuing education seminars. Occasionally, such educational events are targeted to Employees and do not include other similarly situated public or private sector employees. Employees may attend such educational events if attendance at the event would further the interests of the MTA ~~Agency~~, if the event relates to the Employee's official duties, and if the invitation does not involve recreational activities such as golf, tennis, or cruises.
- (b) However, Employees who manage the Prohibited Source's work or are involved in the review/approval of payments to the Prohibited Source must consult ~~with their Agency's Ethics Officer~~ Corporate Compliance before accepting professional continuing education credits.

Section 3.03 Attendance at Prohibited-Source/Industry-Sponsored Events and Receptions

- (a) Employees are encouraged to continue to participate in events that will enhance their professional development. Employees frequently receive complimentary invitations to Prohibited Source/industry groups sponsored events that include receptions or hospitality suites sponsored by a Prohibited Source/industry group. Employees should evaluate any such invitations with caution and obtain prior approval from ~~their Agency Ethics Officer~~ Corporate Compliance. Employees may attend complimentary Prohibited Source/industry-sponsored events, including receptions or hospitality suites only if all of the following conditions are met:
 - (1) Attendance at the event would further the interests of the MTA ~~Agency~~;
 - (2) The event relates to the Employee's official duties or responsibilities or allows the Employee to perform a ceremonial function appropriate to his or her position;



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(3) The event is a “widely attended event” at which at least twenty-five individuals other than Employees attend or were, in good faith, invited to attend and the event is also complimentary to such other non-Employees attending or invited to attend;

(4) Any reception or hospitality suite is open to all event attendees; ~~and~~

(5) The event does not include a formal sit-down meal or involve recreational activities such as golf, tennis, or cruises; ~~and~~

(6) Approval was obtained from Corporate Compliance.

- (b) In evaluating approval of such participation, ~~your Agency Ethics Officer~~ Corporate Compliance will take into consideration a number of factors, including but not limited to: the nature of any pending matter affecting the sponsor or donor's interest, the importance of the event to the MTA, the significance of the Employee's role in the event and whether the ~~MTA Agency's~~ MTA's interest in the Employee's participation outweighs the likelihood that such participation would be perceived as improperly influencing the Employee in the performance of his or her official duties, the timing of the event, the purpose of the event, the identity of other expected participants and the monetary value of the event.
- (c) In circumstances in which a significant activity at the event will be a speaker or attendee addressing an issue of public interest or concern, the State Legislature has determined the requirement that the event “relate to official duties or responsibilities” is satisfied.
- (d) An Employee's travel expenses relating to attendance at an industry or Prohibited Source-sponsored event may not be reimbursed or paid for by the event sponsor or other Prohibited Source. (See Travel Reimbursement Section 3.08)
- (e) An Employee may attend a Prohibited Source-sponsored event at his or her own expense, but the cost paid by the Employee shall be based on the price paid by the other paying attendees or if there is no admission fee required, then based on the actual cost to the sponsor. It is prudent for Employees to obtain proof of payment.

Section 3.04 Senior Management Attendance at Prohibited-Source Sponsored Events

- (a) The Chair/Chief Executive Officer of MTA, the President of ~~an~~ the ~~MTA Agency~~, or their designee(s) or other senior staff may attend functions sponsored and paid for by Prohibited Sources when attendance is related and appropriate to that attendee's official duties or when the purpose of attendance is the performance of a ceremonial or other function that is appropriate to that attendee's official duties with ~~their MTA Agency. The attendee shall provide advance written notice of such invitation to the MTA Chief Compliance Officer and their Agency's General Counsel.~~ the MTA.
- (b) The attendee shall provide advance written notice of such invitation to and obtain prior



approval from the Chief Compliance Officer or their designee.

(c) In evaluating approval of such participation, Corporate Compliance will take into consideration a number of factors, including but not limited to: the nature of any pending matter affecting the sponsor or donor's interest, the importance of the event to the MTA, the significance of the Employee's role in the event and whether the MTA's interest in the Employee's participation outweighs the likelihood that such participation would be perceived as improperly influencing the Employee in the performance of his or her official duties, the timing of the event, the purpose of the event, the identity of other expected participants and the monetary value of the event.

Section 3.05 Attendance at Banquets, Galas and Fund-Raising Events

~~(a)~~ Employees may purchase tickets using their own funds and may attend fund-raising and charitable events sponsored by Prohibited Sources on their own time, subject to compliance with the applicable provisions of the State Ethics Law, this Code, and any other applicable statutes, rules, regulations, policies, or procedures.

~~(b)~~ Employees are prohibited from using the MTA's name, resources, their official title, position or authority in any fundraising activity unless authorized by MTA's Chief Compliance Officer. Authorization may be granted only if the fundraising is in furtherance of the MTA's mission and does not create an appearance of or any actual conflict of interest.

~~(b)(c)~~ ~~(b)~~ Employees may attend fund-raising and charitable events with tickets purchased by ~~an~~the MTA ~~Agency~~ in compliance with the applicable policies and procedures relating to such purchases.

~~(e)(d)~~ ~~(e)~~ Employees may not accept from any individual or firm, directly or indirectly, tickets to any banquet, gala, or fund-raising event by a Prohibited Source, if those tickets were subsidized or paid for directly or indirectly by the Prohibited Source including without limitation the Transit Museum Gala. Such tickets may not be donated by an individual or firm to ~~an~~the MTA ~~Agency~~ and then distributed to Employees of ~~an~~the MTA ~~Agency~~.

~~Section 3.06 Charitable/Political Benefits Contributions and Fundraising Activities~~

~~Solicitation by Employees of charitable or political contributions from Prohibited Sources, including giving Prohibited Sources invitations to charitable or political functions or events, is prohibited.~~

~~(a)~~ ~~Employees are prohibited from using the MTA's name, their official title, position or authority in any fundraising activity unless authorized by MTA's Chief Compliance Officer. Authorization may be granted only if the fundraising is in furtherance of the MTA's mission and does not create an appearance of or any actual conflict of interest.~~

~~(b)(e)~~ Employees may engage in fundraising in a personal capacity provided they do not use



their title, position or authority to further their fundraising activities and do not personally solicit funds from a subordinate or from persons known to the Employee to be a Prohibited Source.

~~Section 3.07~~ **Section 3.06 Charitable/Political Benefits Contributions**

Solicitation by Employees of charitable or political contributions from Prohibited Sources, including giving Prohibited Sources invitations to charitable or political functions or events, is prohibited.

~~Section 3.08~~ **Section 3.07 Events Honoring an Employee**

Prohibited Sources should only be invited to events honoring an Employee (such as an Employee’s retirement dinner or an event where the Employee is one of the honored guests) if they have a personal relationship with the honored Employee and there is no actual, implied, or apparent promise of benefit from accepting, or actual, implied, or apparent threat of retaliation from refusing, such invitation. Such invitations should be made with caution.

~~Section 3.09~~ **Section 3.08 Reimbursement of Travel Expenses for Official Duties**

- (a) Under no circumstances shall an Employee accept reimbursement of travel expenses, including but not limited to, transportation costs, registration fees, food or lodging from a Prohibited Source.
- (b) Employees may accept reimbursement from entities other than Prohibited Sources for travel expenses related to the Employees’ official duties if the purpose of the travel benefits the MTA ~~Agency~~ in the conduct of its business and prior approval has been received in accordance with the procedures set by the ~~applicable MTA Agency~~ and this Code.
- (c) Employees must obtain approval from ~~their Agency Ethics Officer with the concurrence of~~ Corporate Compliance prior to accepting such travel reimbursement. The approval request must be in writing and received by ~~the Agency Ethics Officer~~ Corporate Compliance reasonably in advance of the time the travel is to begin.
- (d) Employees required to file a financial disclosure statement must report any reimbursement for travel expenses which totals in excess of \$1,000.

Chapter 4: Conflicts of Interest, Other Employment and Political Activities

Section 4.01 Conflicts of Interest/Recusal

Conflict of Interest



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- (a) Employees shall not have any interest, personal, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is or may be in conflict with the proper discharge of his or her duties.
- (b) Employees must notify ~~their Agency Ethics Officer or Ethics Committee~~Corporate Compliance directly regarding any possible Conflict of Interest.
- (c) Employees must not only avoid Conflicts of Interest with the MTA but also even the appearance of a conflict.

Reminders:

~~(a)~~ If an Employee is uncertain as to whether a given situation creates a real or apparent Conflict of Interest, such Employee should promptly disclose that situation to, and seek guidance from, his or her supervisor, Department Head, ~~the applicable Agency Ethics Officer or Ethics Committee, or MTA Chief~~Corporate Compliance Officer.

~~(b)~~ With respect to all work an Employee performs, such Employee must be vigilant about the existence of any circumstances, interests, or relationships which might create or might be reasonably perceived by others as constituting a Conflict of Interest. If an Employee is uncertain as to whether a given situation creates a real or apparent Conflict of Interest, such Employee must promptly disclose that situation to, and seek guidance from, ~~such Employee's Agency Ethics Officer, Ethics Committee, or MTA Chief Compliance Officer.~~ Corporate Compliance. In order to avoid a Conflict of Interest or the appearance of one, it may be necessary for Employees to seek recusal from involvement with a matter creating the Conflict of Interest or the appearance of a Conflict of Interest. Employees must adhere strictly to the Conflict of Interest guidance they receive from ~~their applicable Agency Ethics Officer or Ethics Committee~~Corporate Compliance.

Example:

It could be a Conflict of Interest if an Employee participated in a transaction involving ~~an~~the MTA ~~Agency~~ in which ~~transaction~~ the Employee or ~~someone associated with the Employee~~ (Family Member ~~or by a Business or financial relationship~~) had, directly or indirectly, a financial or other ~~private~~ interest (other than a ~~de minimis~~small financial interest as discussed in Section 4.04 below).

It could be a Conflict of Interest if an Employee participates in a transaction or business decision in their official capacity involving someone with whom they have a personal relationship.

Recusal



- (d) If an Employee believes he or she has an actual or apparent Conflict of Interest involving the MTA, on a particular matter, the Employee shall not participate in the matter pending a determination by ~~their Agency Ethics Officer~~ Corporate Compliance. Recusals are at the ~~Agency's~~ MTA's discretion and shall be approved only if practical and in the best interests of the ~~applicable MTA Agency~~.
- (e) The recusal requires that the Employee not participate directly or indirectly in any discussion or decision that in any way relates to the matter that gives rise to the Conflict of Interest.
- (f) The recusal must be in writing and contain at a minimum:
 - (~~a~~1) The nature of the actual or apparent Conflict of Interest;
 - (~~b~~2) A delegation of authority to a non-subordinate employee;
 - (~~c~~3) Any requirements and conditions of the recusal;
 - (~~d~~4) The period of time the recusal will remain in effect; and
 - (~~e~~6) The approval ~~of the Agency Ethics Officer~~; and
 - (~~f~~) ~~The concurrence~~ of the Chief Compliance Officer.
- (g) A copy of the recusal must be sent to all employees who are likely to work on the matter giving rise to the recusal.

Section 4.02 Public Trust

- (a) ~~(a)~~ Employees shall not engage in a course of conduct that will raise suspicion among the public that they are likely to be engaged in acts that are in violation of the public trust. Employees shall avoid even the appearance that they can be improperly (1) influenced in the performance of their official duties or (2) induced to violate the public trust or impair their independence of judgment in the exercise of their official duties.

Example:

An Employee's undisclosed social relationship with a Prohibited Source might create an impression of impropriety if the Employee were in a position to act favorably toward the Prohibited Source in ~~an~~ the MTA ~~Agency~~ matter.

- (b) ~~(b)~~ Employees shall not use or attempt to use their official position to secure unwarranted privileges or exemptions for themselves or others.
- (c) ~~(c)~~ Employees shall not by their conduct give reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties, or that they are affected by the kinship, rank, position, or influence of any party or person.



Section 4.03 Confidential Information

Employees shall not disclose Confidential Information without the permission of the MTA General Counsel ~~of the MTA Agency at which such individual is employed or their designee~~ for any purpose, or use such information to further their personal interests.

Section 4.04 Financial Interest

- (a) ~~(a)~~ An Employee, or firm or association of which such Employee is a member, or corporation, ten per cent (10%) or more of the stock of which is owned or controlled directly or indirectly by such Employee, shall not (1) sell any goods or services having a value in excess of twenty-five dollars (\$25) to any New York State Agency, or (2) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a New York State Agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding.
- (b) Exception: This restriction does not apply to the publication of resolutions, advertisements, or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.
- (c) ~~(b)~~ Employees shall not knowingly engage in any transaction on behalf of ~~an~~the MTA Agency with any business entity in which they or a Family Member has a direct or indirect financial interest, excluding mutual funds or exchange traded funds, that might reasonably tend to conflict with the proper discharge of their official duties. These provisions may be waived if ~~both~~ the ~~Head of the Agency's~~Chief Procurement Department and the Agency Officer, MTA General Counsel and Chief Compliance Officer state in writing that it is in the best interests of the Agency MTA to waive the provisions.
- (d) In addition, New York Public Officers Law §74 provides for civil penalties in circumstances of self-dealing and makes it a misdemeanor offense for an Employee of NYCT to have any interest, direct or indirect, in any contract entered into by the Employee's Agency.

Section 4.05 Employees Engaged in Selection, Award and Administration of Contracts

~~(a)~~ Employees shall not participate in the selection, award, or administration of a contract if the Employee knows that ~~he/she~~they or any of ~~his/her~~their Family Members, ~~his/her~~their business partner, or an organization that employs or is about to employ any of the above, has a financial or other interest, other than mutual funds or exchange traded funds, in any of the companies, their parent company, its affiliates or subsidiaries ("the company") that propose or bid on or are awarded such contract. The provisions of



~~Section 4.05(a) may be waived if the Head of the relevant Agency's Department, as well as the Agency Chief Procurement Officer, MTA General Counsel; and the Agency's Ethics Chief Compliance Officer state in writing that it is in the best interests of the Agency MTA to waive the provisions of this Section for a specific procurement or contract. Copies of any approved Waiver Request must also be filed with MTA Corporate Compliance.~~

(a) ~~(b)~~ If a waiver is granted, (1) the Employee engaged in the award or selection of a contract, shall not during the selection process and for two weeks after the award of the contract buy or sell any of the company's securities or (2) the Employee engaged in the administration of a contract shall not buy or sell any of the awarded company's securities for six months after the award of the contract.

(b) ~~(c)~~ An Employee shall not buy or sell any of the company's securities based upon information received as a result of their employment with ~~an~~ the MTA Agency or for two weeks after the public release of information by ~~any~~ the MTA Agency regarding the company.

~~(d) For two years from the commencement of employment with an MTA Agency, an Employee shall not do either of the following in relation to the Employee's immediate past non-governmental employer: (1) participate in the selection or award of a contract in which a bidder or proposer is such immediate past employer; or (2) administer a contract awarded to such immediate past employer, unless the Employee has notified the Employee's Department Head in writing of the potential conflict and has received from such Department Head, Agency General Counsel, and the Agency Ethics Officer or Ethics Committee a written waiver stating that it is in the best interests of the applicable MTA Agency for such Employee to act in such a role. A copy of such waiver request must be submitted to the MTA Chief Compliance Officer for approval.~~

(c) ~~(e)~~ No Employee may ask a current or former contractor, or any officer, director or employee thereof, to disclose: (i) the political party affiliation of such contractor, or any officer, director or employee thereof; (ii) whether such contractor, or any officer, director or employee thereof, has made campaign contributions to any party, elected official, or candidate for elective office; or (iii) whether such contractor, or any officer, director or employee thereof, cast a vote for or against any elected official, candidate or political party. No Employee may award or decline to award any contract, or recommend, promise or threaten to do so, in whole or in part, because of a current or prospective contractor's refusal to answer any inquiry regarding the above.

Section 4.06 Representation of Other Parties and Certain Appearances and Services

Employees shall not, directly or indirectly, act or appear on behalf of any individual, firm, or corporation, in any Business dealings with, or any matter against the interests of, ~~an~~ the MTA Agency, or any other New York State Agency, other than as a fact witness. Employees of ~~an~~ the MTA Agency are prohibited from appearing for compensation of any kind before a New York State Agency in connection with the purchase or sale of real estate, any rate-making proceeding, licensing,



obtaining grants of money or loans, proceedings related to franchise(s), or the adoption or repeal of any rule having the force of law.

Exceptions

- (a) Employees may appear before ~~an~~the MTA ~~Agency~~ or any New York State Agency or tribunal (1) in a representative capacity on behalf of an Employee organization or association or (2) in connection with a ministerial matter, such as acting as a notary or translator.
- (b) Uncompensated work by Employees for not-for-profit entities doing Business with the State or ~~City~~ New York municipality is not automatically a conflict of interest if the Employee takes no part in such Business dealings and the entity in question is not subject to supervision, control, or regulation by ~~an~~the MTA ~~Agency~~. For example, an Employee might serve, without fee, on the Board of a community or church-sponsored day-care center that receives State funds. In such a case, the Employee cannot communicate with the State concerning receipt of those funds. (See Section 4.07 Other Employment and Outside Activities)

Section 4.07 Other Employment and Outside Activities

- (a) Outside employment/activities may pose ethical issues if there is a conflict between the Employee's duties as an Employee and the requirements of the outside employment/activity.
- (b) Employees are prohibited from engaging in outside employment, business, professional, or other outside activity (including volunteer work and service on a corporate board) that interferes or is in conflict with the proper and effective discharge of the individual's official duties or responsibilities.
- (c) ~~Each MTA Agency requires that~~ Employees are required to devote appropriate time and attention to their employment duties and responsibilities with ~~that agency~~the MTA. Full-time employment with ~~an~~the MTA ~~Agency~~ is deemed to be an Employee's primary employment. All Employees must be fit for duty during their work hours.
- (d) Employees who wish to engage in outside employment/activities must obtain written approval pursuant to the MTA Outside Activity Policy. Employees should consult with ~~their Agency's Human Resources~~the People Department or ~~Ethics Officer or Ethics Committee to determine what dual employment or outside activity policy exists at the employing Agency.~~ Corporate Compliance if they have any questions about Outside Activities.
- (e) In general, Employees may engage in outside employment/activity provided that (1) such employment/activity does not interfere with their ability to devote appropriate time and attention to their employment with ~~their~~the MTA ~~Agency~~; (2) such employment/activity



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does not violate the specific guidelines ~~for other employment~~ set by their MTA Agency; (3) they do not use any MTA ~~Agency~~ resources (e.g., time, equipment, telephone, etc.) in connection with such employment; ~~(4) the outside activity does not create the appearance of or an actual conflict of interest; (5) the outside activity would not undermine the public's trust in the MTA;~~ and ~~(46)~~ they obtain the required approvals as set forth in the ~~specific procedures for approval of other employment set by their MTA Agency. Any Employee interested in running for elective office must also comply with the provisions of Section 4.08 of the Code~~MTA Outside Activity Policy.

(f) Employees holding Policy-Making Positions must comply with certain additional requirements in connection with engaging in outside employment/activities: see the MTA Outside Activity Policy.

~~(1) Employees holding Policy-Making Positions are prohibited from serving as a director or officer of a Prohibited Source (including nonprofit organizations) or a corporation or institution engaged in profit-making activities, holding an appointed or elected public office, or serving as a compensated director or officer of a nonprofit organization, without the prior approval of the applicable Agency Ethics Committee or Ethics Officer, and possibly the Joint Commission on Public Ethics.~~

~~(2) Employees in Policy-Making Positions shall not engage in any private employment, profession or Business or other outside activity, without the following prior approvals:~~

~~(a) Annual compensation up to \$1,000—No approval required.~~

~~(b) Annual compensation in excess of \$1,000 to \$5,000—Written approval by the applicable MTA Agency Ethics Officer.~~

~~(c) Annual compensation in excess of \$5,000—Written approval by the applicable MTA Agency and the Joint Commission on Public Ethics.~~

(g) ~~(3) Employees in Policy-Making Positions with approved outside activities must inform their Agency Ethics Officer.~~Employees with approved outside activities must inform their supervisor and Corporate Compliance if there is any material change to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval.

~~(4) In addition, employees in Policy-Making Positions with approved outside activities shall annually complete a certification attesting to the fact that there have been no material changes to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval.~~



Remember:

- ~~(a) These approvals are in addition to any approvals which may be required by your Agency.~~
- ~~(b) Employees must comply with all conflict of interest rules and may not use any MTA Agency resources in connection with such activities.~~
- ~~(c) Employees holding Policy-Making Positions who request approval from the Joint Commission on Public Ethics to engage in outside activities must file a written request with the Commission which contains the approval of the activity by the applicable MTA Agency. Each Agency Ethics Officer or Ethics Committee shall establish a form for requests of approval of such outside activity. The Agency Ethics Officer or Ethics Committee acts as the agent of the applicable MTA Agency in approving or disapproving such requests. The Agency Ethics Officer's or Ethics Committee's disapproval is final.~~

Section 4.08 Political Activities of Employees

- ~~(a)~~ An Employee interested in running for elective office shall give written notice of his or her intentions to ~~the applicable Agency Ethics Officer or Ethics Committee~~ Corporate Compliance, so that it may determine whether, and upon what conditions, seeking elective public office would be consistent with the ethics laws and regulations. Notice and approval of the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government may also be required for Employees holding Policy-Making Positions pursuant to ~~Title 19 NYCRR Part 932~~ MTA Outside Activity Policy. In advance of running as a candidate in any election, the provisions of the Hatch Act should also be evaluated to determine whether such a candidacy is permitted under its terms.
- ~~(b)~~ Employees shall not conduct political activities during work hours. MTA ~~Agency~~ property, including, without limitation, telephone, copy machines, computers, and other MTA ~~Agency~~ equipment, vehicles, office space, and services may not be used for political activities under any circumstances.
- ~~(c)~~ Employees are prohibited from using federal funds for partisan political purposes of any kind in the administration of MTA ~~Agency~~ programs, either directly or through individuals or organizations with whom the MTA ~~Agency~~ contracts.
- ~~(d)~~ Employees shall not use their positions or influence for the purpose of interfering with or affecting the result of an election. No Employee shall, directly or indirectly, use his or her official authority to compel or induce any other Employee or state official to make or promise to make any political contribution, whether by gift of money, service



or other thing of value.

- (e) ~~(e)~~ Employees holding Policy-Making Positions shall not serve as: (1) officers of any political party or political organization or (2) members of any political party committee, including political party district leaders or as members of a political party national committee. "Political organization" means any organization affiliated with a political party but does not include a judicial nominating committee, an organization supporting a particular cause with no partisan activities, a campaign or fundraising committee, or serving as a delegate to a state or national party convention.
- (f) ~~(f)~~ Consistent with this Code, Employees are otherwise free to participate in the political process on their own time, but there must be a clear separation between their political activities and the discharge of their duties as Employees of ~~anthe~~ MTA ~~Agency~~.
- (g) ~~(g)~~ No Employee may during the consideration of an employment decision ask any applicant to disclose: (i) their political party affiliation; (ii) whether they made campaign contributions to any party, elected official or candidate for elective office; or (iii) whether the applicant cast a vote for or against any elected official, candidate or political party. The provisions of this paragraph shall not apply where such inquiry is necessary for the proper application of any state law or regulation.
- (h) No Employee may decline to hire or promote, discharge, discipline, or in any manner change the official rank or compensation of any Employee, or applicant for employment, or promise or threaten to do so, based upon a refusal to answer any inquiry prohibited by this section or for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.
- (i) ~~(h)~~ The MTA's ~~Chairman~~ Chair and Chief Executive Officer and Agency Presidents shall not seek nomination or election to any compensated federal, state or local public office, or shall become a candidate for such office, unless such individual first resigns from ~~his or her~~ their MTA employment, or requests and is granted a leave of absence without pay, such resignation or leave must commence before such individual engages in any campaign activities, including but not limited to, announcing a candidacy, circulating petitions, soliciting contributions, distributing literature, or taking any other action to actively promote oneself as a candidate for elective office.

Section 4.09 **Other State Employment**

Employees who are subject to the New York State Civil Service Law shall not accept appointment or employment on a full-time or part-time basis, in a State department or agency, or in the Legislature or the judiciary, for which compensation is payable, without the prior consent in writing of the Agency President and ~~Agency Ethics Officer. The written consent shall be filed with the NYS Office of the Comptroller and MTA Corporate Compliance~~ the Chief Compliance Officer.

Chapter 5: Future Employment Restrictions



Section 5.01 Restrictions on Future Employment-Purpose

Employment with ~~anthe~~ MTA ~~Agency~~ restricts to a degree the type of employment one may accept upon leaving ~~anthe~~ MTA ~~Agency~~. These restrictions are based upon statutory requirements. Both this Code and applicable statutes seek to discourage actual conflicts of interest and conduct from which reasonable inferences may be drawn that Employees of ~~anthe~~ MTA ~~Agency~~ might not have been loyally serving ~~such MTA Agency's~~ MTA's interests during their employment or, thereafter, might be taking undue advantage of inside information or positioning derived from their former employment with ~~anthe~~ MTA ~~Agency~~.

Section 5.02 Restrictions on Future Employment – Limited and Lifetime Bars

(a) Two-Year Bar

No former Employee shall, within two (2) years after termination of employment with an MTA Agency, appear before such agency or receive compensation for, or render compensated services on behalf of, any person, firm, corporation, or association in relation to any case, proceeding or application or any other matter before such MTA Agency.

(b) Lifetime Bar

No former Employee shall ever appear, practice, communicate, or otherwise render any services or receive compensation for such services rendered before an MTA Agency or any New York State Agency for, or on behalf of, any person, firm, corporation, or other entity in relation to any case, proceeding, or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of service or employment, or which was under their active consideration. The definition of what constitutes “ever appear, practice, communicate or otherwise render any services” is given a broad interpretation. Employees should contact ~~their Agency~~ Ethics Officer/Corporate Compliance regarding this definition before rendering any such service.

Exceptions:

~~(1)~~ These restrictions on future employment do not apply to subsequent services rendered in an official capacity as an elected official or an Employee of another governmental entity.

~~(2)~~ The ~~Agency~~ MTA may seek a waiver with respect to a former Employee pursuant to Public Officer Law Section 73 if the Employee has expertise, knowledge, or experience with respect to a particular matter that meets the needs of the ~~agency~~ MTA and is otherwise unavailable at a comparable cost.



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~~(3)~~ The ~~Agency~~MTA may seek a waiver with respect to a former Employee pursuant to Public Officer Law Section 73 if the services of such former officer or Employee are required in connection with the ~~agency's~~MTA's response to a disaster emergency declared by the Governor pursuant to section twenty-eight of the Executive Law.

Reminders:

~~(4)~~ For purposes of the post-employment bars, certain Employees, particularly those at MTA Headquarters and MTA ~~Capital Construction and Development~~, may be considered ~~to be~~ Employees of multiple MTA Agencies based on the scope of their job responsibilities. For clarification of their particular circumstances, the Employees may seek guidance from ~~their former Agency Ethics Officer or MTA~~ Corporate Compliance.

~~(2)~~ The ~~Joint~~ Commission on ~~Public Ethics and Lobbying in Government~~ may not consider not-for-profit entities in the transportation field and certain quasi-governmental organizations as governmental entities for purposes of the exception noted above and employment at such entities may be subject to the post-employment bars described above.

The following are examples of the application of the two-year and lifetime bars:

~~Example 1: A former Construction Manager in the Department of Capital Program Management at New York City Transit (NYCT) may not, within two years after termination of NYCT employment, render services on behalf of a contractor in connection with any Business the contractor has with NYCT.~~

~~Example 2~~ **Example 1:** No former Metro-North Employee, for a period of two years subsequent to his or her termination from employment (including retirement) may contract with Metro-North as a consultant to perform services of any kind on behalf of Metro-North, unless MNR has obtained a waiver from the Joint Commission on Public Ethics as set forth above.

Example 32: A former procurement representative in the procurement department at LIRR who was directly concerned with, or was responsible for, the negotiation of a contract during his or her LIRR employment may never appear before an MTA Agency or any other New York State Agency or render services on behalf of any outside person or firm, such as a contractor or subcontractor with regard to that contract, including but not limited to, the preparation or evaluation of claims, or the negotiations of change orders, relating to the contract.

Section 5.03 Negotiations for Future Employment

(a) Solicited

Employees are prohibited from soliciting, negotiating or having any arrangement concerning



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an employment opportunity with a non-governmental individual or entity that has a specific pending matter before the Employee.

Those Employees seeking employment outside of government with an entity or individual that has a specific pending matter before the Employee may only solicit an employment opportunity with the non-governmental individual or entity after waiting:

- (1) 30 days from the time the matter before the Employee is closed, or
- (2) 30 days from the time the Employee has no further involvement with the matter because of recusal or reassignment.

(b) Unsolicited

Employees who receive an unsolicited post-government employment-related communication from a non-governmental individual or entity that has a specific pending matter before the Employee cannot pursue employment with the non-governmental entity or individual unless the following occurs:

- (1) they are recused from the matter and any further official contact with the entity or individual and
- (2) they wait 30 days from such recusal to enter into post-government employment communications with the entity or individual.

(c) Notification

Employees must promptly notify their supervisor and ~~Agency Ethics Officer~~ Corporate Compliance of such outside employment related communications whether or not they intend to pursue the post-government employment opportunity.

~~In the event of such notification of a solicitation and Employee's desire to pursue the solicitation, the Employee's supervisor is obligated to advise such supervisor's superiors, in writing, up to and including the Department Head, of the Employee's desire to pursue the solicitation and the manager's intention to establish recusal procedures, if practical, to reassign the individual or to refuse reassignment.~~

(d) Recusal

~~Recusal~~ Recusals, pursuant to Section 4.01, shall be granted only if practical and in the best interests of the applicable MTA Agency. ~~Reassignment shall be refused when the manager determines that reassignment would be impractical or inappropriate. The manager may not take action with respect to notifying the Employee of such manager's decision until approved by the Department Head.~~ MTA. If recusal is not practical, and in the best interests of the applicable MTA Agency, or ~~if reassignment is refused,~~ the Employee is prohibited from pursuing the solicitation.



(c) Exception

⚡ This provision does not apply to employment negotiations with other government agencies.

Remember:

~~Remember:~~ The higher the level of responsibility which an Employee holds within ~~an~~the MTA Agency, the greater the number of matters which are likely to be deemed as specific pending matters before him or her. Employees should take an expansive view as to the existence of possible conflicts when deciding whether to give notice as described in this Section.

~~The following are examples of the application of the employment negotiation procedures:~~

~~Example 1: A Deputy Vice President in the Department of Capital Program Management at NYCT who receives an unsolicited job offer from a Prohibited Source with specific pending matters before such Employee may not negotiate for such position without full compliance with the notice, approval, and recusal procedures set forth above.~~

~~Example 2: A manager at LIRR whose duties include procurement is approached by a firm with which he or she has a specific pending matter and told "if you ever decide to leave the LIRR, we have a place for you in our firm." The LIRR manager must notify his or her supervisor and ethics officer of this conversation because it would be considered a communication intended to solicit employment.~~

Section 5.04 **Notice of Future Employment Restrictions**

(a) An Employee who provides notice of leaving service at ~~an~~the MTA Agency, either by retirement or resignation, or whose employment is terminated, will receive a memorandum summarizing the ~~future~~post-employment restrictions of the Ethics Law and of this Code.

(b) ~~Policy makers must complete a post-employment consultation with Corporate Compliance prior to their separation date.~~

(a)(c) All Employees in management and non-represented titles and Employees in certain represented titles designated by the applicable MTA Agency ~~may be~~are required to sign a certification stating that ~~they are aware of~~ the policies outlined in the memorandum ~~have been complied and will be comply with, and those restrictions. In addition, in order to state~~avoid an actual or the appearance of a conflict of interest those Employees ~~may be required to disclose~~ the name of a new employer, if applicable.



~~(b)(d)~~ Exception: From time to time, the Future-Employment restrictions have been legislatively modified to permit exceptions to these policies when Employees are laid off. An Employee in such a position should consult with ~~the applicable Agency Ethics Officer or Ethics Committee~~ Corporate Compliance if there is a question of whether such exceptions are in force.

Section 5.05 Restrictions Related to Prior Private Sector Employer

~~(a)~~ For two years from the commencement of employment with the MTA, an Employee shall not, directly or indirectly, do either of the following in relation to the Employee's immediate past non-governmental employer or an entity with which the employee has had a past Business relationship: (1) participate in the selection or award of a contract in which a bidder or proposer is such immediate past employer; or (2) administer a contract awarded to such immediate past employer.

~~(b)~~ For two years from the commencement of employment with the MTA, an Employee shall notify Corporate Compliance if they are required, as part of their job duties with the MTA, to deal with their immediate past non-governmental employer or an entity with which the Employee has had a past Business relationship. In such cases Corporate Compliance will determine if additional recusal is required.

Chapter 6: Financial Disclosure

Section 6.01 Covered Employees

(a) Employees must file an Annual Statement of Financial Disclosure if such Employee:

~~(a)~~ ~~1~~ Has a gross salary within the preceding calendar year that exceeded the annual salary of state employees at the SG-24 job rate as of April 1 of the year in which the Annual Statement of Financial Disclosure is to be filed, unless specifically exempted in accordance with the State Ethics in Government Act; or

~~2~~ Regardless of income, holds a Policy-Making Position.

Notes:

~~(a)~~ The ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government is required to make Annual Statements of Financial Disclosure available to the public upon request, except as to values and amounts, and except to the extent the reporting individual has obtained a ruling from the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government preventing or limiting public disclosure.

~~(b)~~ Each MTA Agency shall prepare a list of Employees in Policy Making Positions and shall, during February of each year, notify the ~~Joint~~ Commission on ~~Public~~ Ethics of the



~~identity of all such titles and persons required to file an Annual Statement of Financial Disclosure with the Commission. Procedures shall also be established for identifying to the Joint Commission on Public Ethics all Employees newly subject to the filing requirements by reason of having assumed Policy-Making Positions. The Joint Commission on Public Ethics may be asked to render advisory opinions or issue guidelines for such determinations.~~

~~(e)~~ The Annual Statement of Financial Disclosure solicits various items of information concerning the finances and employment of the Employee, the Employee's spouse, and unemancipated children.

(b) Exceptions:

~~(a)~~1 Non-policy making Employees, or their bargaining or other representatives, may request that the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government grant exemptions, either in whole or in part, from the reporting requirements. Appeals from denials of such an ~~exemption are to~~ exemption should be made to the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government.

~~(b)~~2 Employees who are required to file an Annual Statement of Financial Disclosure based on their gross salary but do not hold Policy-Making Positions may be entitled to an exemption from the financial disclosure requirements, on the grounds that the public interest does not require disclosure and that the Employee is not involved with the discretionary, Business, or regulatory activities of the ~~applicable~~ MTA ~~Agency~~.

~~(e)~~3 Employees may seek an exemption from any requirement to report one or more items of information pertaining to the financial status of their spouse or unemancipated child. An Employee may also request deletion of portions of information called for on the Annual Statement of Financial Disclosure form that could otherwise be publicly disclosed. Grounds supporting such requests are that the spouse or child (where applicable) objects to providing the information necessary to ~~make such disclosure and~~ that such information would have no material bearing on the discharge of the reporting Employee's duties.

Section 6.02 Dates for Filing and Related Penalties

(a) ~~(a)~~ Employees required to file pursuant to Section 6.01 must file their Annual Statement of Financial Disclosure by May 15th of each year, or within thirty (30) days of a covered Employee's appointment or promotion, whichever is later. An Employee may indicate with respect to any item of the Annual Statement of Financial Disclosure that information with respect thereto is lacking and will be supplied in a supplemental statement to be filed no later than the seventh (7th) day following the date to which that Employee could have received an automatic extension to file their income tax returns for that year. The ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government may also grant hardship applications.



- (b) ~~(b)~~ If an Employee fails to file the Annual Statement of Financial Disclosure as required or omits relevant information, he or she shall be subject to discipline, up to and including dismissal. In addition, criminal or civil penalties may be imposed as set forth in Chapter 9 below.

Chapter 7: Books and Records

Section 7.01 Accuracy and Completeness of Financial Records

- (a) ~~(a)~~ Employees who are involved in the preparation of the ~~MTA Agency's~~ MTA's financial records must ensure that the accounting and financial records of ~~their MTA Agency~~ meet the highest standards of accuracy and completeness. Reporting accurate and complete information about the ~~MTA Agency's~~ MTA's financial condition is an essential responsibility of all Employees.
- (b) ~~(b)~~ If you have reason to believe that any of the ~~MTA Agency's~~ MTA's financial records are not being maintained in an accurate or complete manner, you are expected to report this immediately to ~~your Agency's~~ the Chief Financial Officer, MTA General ~~Counsel's~~ Office Counsel, or Chief Compliance Officer ~~or your Agency's Chief Financial Officer or the Auditor General.~~

Section 7.02 Financial Statements and Accounts

Employees who are involved in the preparation of the ~~MTA Agency's~~ MTAs financial statements must do so according to generally accepted accounting principles and other applicable accounting standards and rules, so that the statements fairly and completely reflect the operations and financial condition of the MTA ~~Agency.~~

Chapter 8: Other Ethics Issues

Section 8.01 Nepotism

- (a) It is the policy of the MTA ~~Agencies~~ to ensure that all job opportunities at MTA ~~Agencies~~ are based on merit and qualifications. Employees are prohibited from participating in any hiring or employment decision relating to a Family Member. If a hiring or employment matter arises relating to a Family Member, then the Employee must advise his or her supervisor of the relationship; and must be recused from any and all discussions or decisions relating to the matter. There will be no preferential treatment for Family Members of current or former Employees and/or union officials.
- (b) Employees are required to comply with and should consult the All Agency Policy Directive, Anti-Nepotism Employment Procedures.



- (c) ~~MTA Agencies must ensure that~~ Contracting opportunities are based only on merit and qualifications. There will be no preferential treatment for Family Members of current or former Employees and/or union officials. Employees are prohibited from taking part in any contracting decision: (i) relating to a Family Member; or (ii) relating to any entity in which either they or a Family Member is an officer, director or partner, or in which a Family Member owns or controls 10% or more of the stock (or 1% or more if in the case of a corporation whose stock is regularly traded on an established securities exchange) of such entity. If a contracting matter arises relating to a Family Member, then the Employee must advise his or her supervisor of the relationship; and must be recused from any and all discussions or decisions relating to the matter.
- (d) An Employee cannot participate in any decision to invest MTA funds in any security of any entity in which that Employee or any Family Member of that Employee has a financial interest, is an underwriter, or receives any brokerage, origination or servicing fees.

Section 8.02 **Business Relationships between Employees**

MTA managers and supervisors are prohibited from hiring Employees whom they directly or indirectly supervise or manage to work for or with them as full-time, part-time, or temporary employees or as consultants in any outside business entity.

Section 8.03 **Financial Transactions between Employees**

MTA managers and supervisors are prohibited from engaging in financial transactions with Employees whom they directly or indirectly supervise or manage. MTA managers and supervisors may not obtain or use or attempt to use the credit of any Employee whom they directly or indirectly supervise or manage as applicant, maker, co-signer, or endorser of any credit instrument in any connection with a loan or similar transaction.

Section 8.04 **Prohibition Against the Use of MTA Property**

- (a) MTA's names, logos, titles, supplies, equipment, computer resources, personnel, funds, and other resources may not be utilized for non-governmental purposes, including for personal purposes or for outside activities of any kind except as may be specifically authorized herein:
 - (1) Official stationery may not be used for non-governmental purposes, nor may MTA resources be used to mail personal correspondence. The designation "personal" on MTA ~~Agency~~ stationery means only that the contents are meant for the personal viewing of the addressee and not that the sender is acting unofficially. All letters and other written materials printed on such official stationery are considered official, and thus the designation "unofficial" has no meaning and may not be used.



(2) Under no circumstances may MTA mail, postage, internal office mail, or inter-city couriers be used for non-governmental purposes.

(3) MTA telephones may not be used for non-governmental long-distance calls, except for toll-free calls, collect calls, and calls billed to a personal telephone number. MTA telephones may be used for incidental and necessary personal local calls that are of limited number and duration and do not conflict with the proper exercise of the duties of the Employee.

(4) MTA computer resources may be used for incidental and necessary personal purposes, such as sending personal electronic mail messages, provided that such use is in a limited amount and duration and does not conflict with the proper exercise of the duties of the Employee. (See MTA Computer Usage and Social Media Policy ~~Directive~~ Directives)

(5) MTA vehicles shall be used for official business or incidental use associated with official business away from an Employee's official work station. Individuals who are authorized by their Agency to use a vehicle for personal purposes shall keep records of such use, and the value of such personal use shall be calculated and reported as personal income to such individual for tax purposes. (Vehicle Usage Policy)

- (b) Any Agency policy regarding use of MTA property must be consistent with or more restrictive than this Section of the Code.

Chapter 9: Discipline/Penalty for Violation of this Code or State Ethics Laws

Section 9.01 General

Employees who violate any provision of the State Ethics Laws or of this Code may be subject to disciplinary action consistent with that administered for violations of the rules and regulations of the applicable MTA Agency, up to and including termination.

Section 9.02 Civil Penalties

A violation of Public Officers Law Sections 73(2), (3), (4), (5), (7), (8), (12), (14), (15), (16), (17) and Sections 73-a, may result in the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government imposing a civil penalty of up to forty thousand dollars (\$40,000) and the value of any gift, compensation, or benefit received as a result of such violation. These sections include but are not limited to prohibitions concerning gifts, future employment, and financial interests in MTA contracts as well as obligations in connection with the filing of Annual Statements of Financial Disclosure.



A violation of Public Officers Law Section 74 may result in the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government imposing a civil penalty of up to ten thousand dollars (\$10,000) and the value of any gift, compensation, or benefit received as a result of such violation.

Section 9.03 Criminal Penalties

A violation of Public Officers Law Section 73(2), (3), (4), (5), (7), (8), and Section 73-a, may result, in lieu of civil penalties, the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government referring the violation to the New York State Attorney General or local prosecutor for criminal prosecution as a Class A misdemeanor, punishable by imprisonment for up to one year and a fine up to one thousand dollars (\$1,000).

DRAFT



APPENDIX A: AGENCY ETHICS OFFICER CONTACT INFORMATION

MTA Headquarters

Lamond Kearse

646-252-1329

MTA New York City Transit

Paige Graves

718-694-5719

MTA Long Island Rail Road

Stephen N. Papandon

718-558-8327

MTA Metro-North Railroad

Susan Sarch 212-340-4933

MTA Bridges and Tunnels

M. Margaret Terry

646-252-7619

MTA Capital Construction

Evan Eisland

646-252-4274

MTA Bus Company

Elizabeth Cooney

646-252-3754

To obtain a current list of Ethics Officers, please call the Ethics/Compliance Helpline at 888 U-ASK-MTA or go to MTA Today page and search for Code of Ethics.

BOARD MEMBERS

CODE OF ETHICS



INTEGRITY

ACCOUNTABILITY

COMPLIANCE

TRANSPARENCY

As Board Members of the Metropolitan Transportation Authority (“MTA”), you must be committed to fostering a climate of transparency and the highest ethical standards in MTA’s operations and in its dealings with the public.

In accordance with the Public Authorities Law, the MTA Board is required to adopt a Board Members Code of Ethics that reflects these goals. The Board Members Code of Ethics is intended to provide guidance with respect to applicable laws and standards governing ethical conduct and help Board Members recognize and deal with ethical issues that they may confront in their capacity as Board Members.

Under this Code of Ethics, no Board Member “should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of their duties in the public interest.”

Board Members are encouraged to bring questions about particular circumstances that may create the appearance of or an actual conflict of interest to the attention of the Board Chair, the MTA General Counsel or the MTA Chief Compliance Officer.

Each Board Member brings their unique personal experiences and perspectives to bear in making official decisions on behalf of the MTA. However, you have a duty to exhibit high standards of integrity and commitment in the performance of your official duties.



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Chapter 1: DEFINITIONS/STRUCTURE

Section 1.01 Definitions

As used in this Code, capitalized terms, except where it is clear by the context that another meaning is intended, shall have the following meanings:

Annual Statement of Financial Disclosure means the financial disclosure statement required to be filed with the Commission on Ethics and Lobbying in Government by certain public employees and Board Members under the State Ethics in Government Act, Public Officers Law Section 73-a and this Code.

Board Member means the Board Chair or any of the individuals appointed to serve as a Member of the Board, both voting and non-voting, of the Metropolitan Transportation Authority. All Board Members also serve *ex officio* as members of MTA New York City Transit, Manhattan and Bronx Surface Transit Operating Authority, MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Long Island Bus, MTA Bus Company, MTA Capital Construction Company, the Staten Island Rapid Transit Operating Authority, the First Mutual Transportation Assurance Company, MTA Bridges and Tunnels, Grand Central Madison Concourse Operating Company, and all future affiliated or subsidiary entities of the MTA. All of such entities are hereinafter collectively referred to as the MTA.

Business means any activity, paid or unpaid, by a Board Member or any individual, firm, company, corporation or other entity, wherein the goal or objective is obtaining monetary income or other things of value or operating an enterprise. Such activity may be for profit or not-for-profit.

Code means this Board Members Code of Ethics.

Confidential Information means information, whether or not set forth in writing, that is available to a Board Member only because of such Member's position and which is treated by the MTA as being confidential or which the Board Member has reason to believe is confidential. Information does not have to be formally labeled "confidential" to be confidential. Confidential information includes information disclosed during an executive session of the MTA Board.

Conflicts of Interest means a situation in which the financial, familial, or personal interests of a Board Member come into real or apparent conflict with their fiduciary duties and responsibilities to the MTA. Apparent Conflicts of Interest are situations where there is the appearance that a Board Member can personally benefit from actions or discussion made in their official capacity, or where a Board Member may be influenced to act in a manner that does not represent the best interests of the MTA. The appearance of a conflict may occur if circumstances would suggest to a reasonable person that a Board Member may have a conflict. The appearance of a conflict and a real conflict should be treated in the same manner for purposes of this Code.

Compensation means any money, thing of value or financial benefit conferred, directly or indirectly, in whatever form, in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, compensation shall mean net revenues, as defined in accordance with generally accepted accounting principles.

Employment means performance of services, for or on behalf of any entity or individual, to obtain economic or other material benefit.

Family Member means (i) a Board Member's spouse, domestic partner, child or sibling; (ii) a person who is a direct descendant (or the spouse of a direct descendant) of a grandparent of the Board Member or a grandparent of the Board Member's spouse or domestic partner; or (iii) a person living in the same household as a Board Member.

Fundraising means the raising of funds for an organization through solicitation of funds or sale of items or participation in the conduct of an event.

Gift means the transfer, without equivalent consideration, of anything or benefit, tangible or intangible, having more than nominal value, including, but not limited to, loans, forbearance, services, travel, gratuities of any kind, favors, money, meals, refreshments, entertainment, hospitality, promises, tickets to entertainment or sporting events, weekend trips, golf outings, loans of equipment, or other thing or benefit. **(See definition of "Items of Nominal Value" below.)**

Items of Nominal Value means items such as mugs, key rings, calendars, pens and the like that are of minimal value unless such items are being given under circumstances where it reasonably can be inferred that such item was intended to influence the Board Member in the performance of such Board member's official duties. For purposes of determining value, an item is not deemed reduced in value by virtue of its being embossed or otherwise marked with a company logo, identification, or advertising.

Commission on Ethics and Lobbying in Government means the Commission established under Section 94 of the New York Executive Law pursuant to the Ethics Commission Reform Act of 2022.

New York State Agency means any New York State department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor, or the State University of New York, or the City University of New York, including all their constituent units except community colleges of the State University of New York and the independent institutions operating statutory or contract colleges on behalf of the State. All MTA Agencies are New York State Agencies for purposes of this Code.

Participation in the Conduct of an Event means active and visible participation in the promotion, production or presentation of the event and includes serving as honorary chairperson or committee member or sitting at the head table during the event. The term does not mean the mere attendance at the event, provided the Board Member's attendance is not being used by the non-profit to promote the event.

Prohibited Source means:

- (a) a Vendor; including any person, seller of goods or services, bidder, proposer, consultant, contractor, trade, contractor or industry association, or any other person/entity with which the MTA is doing business, as well as those persons and business entities who have expressed an interest in doing business with the MTA, whose activities directly or indirectly benefit the MTA, or who have a history of doing business with the MTA in the recent past; or
- (b) a tenant or licensee of the MTA; or
- (c) any person or entity who on their or its own behalf, or on behalf of any other person or entity, satisfies any one of the following:
 - (1) is regulated by, negotiates with, appears before in other than a Ministerial Matter, seeks to contract with or has contracts with, or does other business with: (i) the Board Member, in their official capacity as a Board Member; (ii) the MTA; or (iii) any other New York State Agency when the MTA is to receive the benefits of the contract; or
 - (2) is required to be listed on a statement of registration pursuant to §1-e(a)(1) of article 1-A of the Legislative Law and lobbies or attempts to influence actions, decisions, or policies of the MTA; or
 - (3) is the spouse or unemancipated child of any individual satisfying the requirements of subsection (c)(2) above; or
 - (4) is involved in any action or proceeding, in which administrative and judicial remedies thereto have not been exhausted, and which is adverse to either: (i) the Board Member in their official capacity as a Board Member; or (ii) the MTA; or
 - (5) has received or applied for funds from the MTA at any time during the previous 12 months up to and including the date of the proposed or actual receipt of the item or service of more than Nominal Value.

Representative Capacity means the representation of the interests of a client or other person pursuant to an agreement express or implied, for compensation for services.

Regulatory Agency shall mean the banking department, insurance department, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state (other than the division of corporations and state records), department of public service, the industrial board of appeals in the department of labor and the department of law (other than when the attorney general or his agents or employees are performing duties specified in Section Sixty-Three of the Executive Law such as investigation, prosecution and defense of actions in which the State is interested).

Solicitation means any request, invitation, or suggestion (oral or written) made under circumstances where it reasonably could be concluded that the individual or entity receiving same is being asked to, or is expected to, comply with a request, invitation, or suggestion.

State Ethics Law means New York Public Officers Law Sections 73-a and 74 as may be amended or modified by the New York State Legislature and the rules and regulations promulgated thereunder.

Section 1.02 Training

All new Board Members are required to participate in an orientation program to familiarize new members with their legal, fiduciary, financial, and ethical responsibilities.

Existing Board Members are required to participate in continuing education regarding their ethical and fiduciary obligations.

Board Members must complete an ethics training course within three months of becoming subject to the financial disclosure requirements of Public Officers Law Section 73-a and shall attend continuing ethics training as determined by the MTA Chief Compliance Officer.

Section 1.03 Ethics & Financial Disclosure Questions

All Board Members are required to complete the Annual Statement of Financial Disclosure. Questions concerning the Annual Statement of Financial Disclosure may be directed to the Board Chair, the MTA General Counsel, or the MTA Chief Compliance Officer, who may direct you to the Commission on Ethics and Lobbying in Government.

Any questions regarding this Code may be directed to the Chair or to the MTA General Counsel, or the MTA Chief Compliance Officer. Any general question regarding the State Ethics Law may also be directed to the Commission on Ethics and Lobbying in Government.

Chapter 2: DUTIES

Section 2.01 Confidentiality

This Code, as well as, the State Ethics Law requires Board Members to maintain the confidentiality of Confidential Information entrusted to them by the MTA and any other confidential information about the MTA that comes to them, from whatever source, in their capacity as Board Members, except when disclosure is authorized or legally mandated. A Board Member shall not use Confidential Information to further their own interest. Board Members are expected to maintain this confidentiality both while Board Members and after their services to the MTA have ended.

Section 2.02 Compliance with Laws, Rules and Regulations

Board Members shall comply with all applicable laws, rules and regulations applicable to the MTA.

Section 2.03 Encouraging the Reporting of Any Illegal or Unethical Behavior

Board Members shall encourage ethical behavior and take steps to ensure that the MTA: (a) encourages employees to report violations of laws, rules, regulations or the MTA's Code of Ethics to appropriate personnel; and (b) encourages employees to talk to supervisors, managers and other appropriate personnel when in doubt about the best course of action in a particular situation.

Section 2.04 Duty to Disclose

Board Members shall promptly report any violation or possible violation of this Code, as well as any actual or potential violation of laws, regulations, or policies and procedures to the Chair or the MTA General Counsel or the MTA Chief Compliance Officer.

Chapter 3: GIFTS, EVENTS, RECEPTIONS, AND MEALS

Section 3.01 Gifts

The State Ethics Law provides that Board Members should not by their conduct give reasonable basis for the impression that any person can improperly influence them or enjoy their favor in the performance of their official duties. In the Code of Ethics applicable to its employees, MTA has adopted a zero-tolerance policy for Gifts. The defined term "Gift" does not include items of truly nominal value. (See definitions of "Gifts" and "Items of Nominal Value"). Board Members are required to adhere to the zero-tolerance policy on gifts, as contained in Section 2.01 of the MTA Code of Ethics.

As is the case with employees, Board Members may accept Gifts from employees of a Prohibited Source if these Gifts are reflective of a personal relationship independent of the relationship between the Prohibited Source and the MTA.

Section 3.02 Reporting Gift or Gift Offers

A Board Member to whom a Gift is offered or given arising out of their affiliation with MTA shall promptly report such offer or Gift to the Chief Compliance Officer. Board Members should promptly return Gifts to the person or entity giving the Gift.

Section 3.03 Business Meals

It is possible that Board Members may receive invitations for business meals from Prohibited Sources. To the extent that those invitations arise out of the Board Member's affiliation with MTA, such invitations should be viewed with caution because acceptance of such invitations may create the impression that they can be improperly influenced in the performance of their official duties. Board Members may accept free, modest meals in the course of and for the purpose of conducting MTA Agency business at a Prohibited Source's facility or when

attending a seminar or conference in connection with MTA business and meals or refreshments are provided to all participants.

Section 3.04 Awards, Plaques and Honors

Awards and plaques publicly presented in recognition of a Board Member's service to the MTA may be accepted. However, Board Members should notify the MTA Chief Compliance Officer prior to accepting such an award, plaque, or honor presented by a Prohibited Source. The Board Member or their designee(s) may attend functions sponsored and paid for by Prohibited Sources when attendance is related and appropriate to that attendee's official duties or when the purpose of attendance is the performance of a ceremonial or other function that is appropriate to that attendee's official duties with the MTA. In such cases, however, the Board Member shall provide advance written notice of such invitation to the MTA Chief Compliance Officer.

Chapter 4: CONFLICTS OF INTEREST AND POLITICAL ACTIVITIES

Section 4.01 Financial or Business Interest

In order to preserve independence of judgment in the exercise of their official duties, Board Members shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, or accept any non-governmental employment, which is in substantial conflict with the proper discharge of the Board Member's duties in the public interest.

Section 4.02 Corporate Directorships or Board Memberships

In order to protect against Conflicts of Interests in violation of this Code of Ethics and the State Ethics Law, Board Members must inform the MTA Chief Compliance Officer prior to accepting a position as director, officer, or board member of a corporation or charitable organization. The MTA Chief Compliance Officer shall review the business of the company or organization to determine whether a conflict of interest exists between the MTA and the company and to direct, as necessary, steps to address any such conflict. All Board Members shall cooperate fully with any inquiry by the MTA Chief Compliance Officer.

Section 4.03 Law Firm, Consulting Firm and Other Professional Service Firms

This Code as well as the State Ethics Law provides that Board Members are not permitted to engage in activities or employment that will impair the independence of judgement in the exercise of their official duties. Accordingly, Board Members must inform the MTA Chief Compliance Officer prior to affiliating with a law firm, consulting firm or other business that provides services to the MTA. In addition, prior to affiliating with a law firm, consulting firm or other professional service firm, Board Members should inform the MTA Chief Compliance Officer of such affiliation to determine if the firm represents any clients that sell goods, provide services, or otherwise transacts business with the MTA. If while serving on the MTA Board, any Board Member who is affiliated with a law firm, consulting firm or other professional service firm becomes aware that a client of that firm sells goods, provides services

or otherwise transacts business with the MTA, that Board Member shall promptly disclose any such actual or apparent client conflict to the MTA Chief Compliance Officer. The MTA Chief Compliance Officer shall determine whether a conflict of interest exists between the MTA and the client of the law firm, consulting firm or other professional services firm and take necessary steps to address any such conflict. All Board Members shall cooperate fully with any inquiry by the MTA Chief Compliance Officer.

Section 4.04 Duty to Disclose Conflicts of Interests

Board Members have an ongoing obligation to disclose actual and potential Conflicts of Interest that arise during the course of their service.

Section 4.05 Unwarranted Privileges

Board Members shall not use or attempt to use their official position to secure unwarranted privileges or exemption for the Board Member or others.

Section 4.06 Undue Influence

Board Members' conduct should not give reasonable basis for the impression that any person can improperly influence the Board Member or unduly enjoy the Board Member's favor in the performance of the Board Member's official duties, or that the Board Member is affected by the kinship, rank, position or influence of any party or person.

Section 4.07 Course of Conduct

Board Members should endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of the Board Members' trust.

Section 4.08 Recusal/Conflict of Interest

Board Members must not only avoid Conflicts of Interest with the MTA but also even the appearance of a conflict. If a Board Member believes he or she has an actual or potential conflict of interest with the MTA on a particular matter, or if the Board Member becomes aware that he or she has an actual or potential conflict of interest on a particular matter during a Committee or Board meeting, the Board Member shall promptly notify the Chair or the Chair of the Committee and shall immediately recuse themselves from further consideration of or action on such matter.

NOTE: **Recusal** requires that the Board Member not participate in any discussion, decision or vote by the Board or Committee that in any way relates to the matter that gives rise to the conflict of interest. Whenever practicable, the Board Member must leave the Board room until any discussion about the matter that gives rise to the conflict of interest has concluded.

Section 4.09 Procurement Activity

No Board Member or firm or association of which such Board Member is a member, or corporation, ten percent (10%) or more of the stock of which is owned or controlled directly or indirectly by such Board Member, shall sell any goods or services to the MTA, unless such goods or services are provided pursuant to an award of contract after public notice and competitive bidding or after a competitive request for proposal process. For the purposes of this paragraph, the term “services” shall not include employment as an employee.

This paragraph shall not preclude a firm, association or corporation from selling goods or services to the MTA if the interested Board Member did not participate in any way on behalf of any party in the bidding, solicitation or negotiation process, does not share in the net revenues derived from that sale and does not participate in the decision to award the contract.

Except as permitted above, no Board Member shall be in any way or any manner interested, directly or indirectly, in any contract made by the MTA.

Section 4.010 Compensation

No Board Member, other than in the proper discharge of official duties as a Board Member of the MTA or as an officer or employee of a federal, state or local government or agency, shall receive, directly or indirectly, or enter into any agreement, express or implied, for any compensation for the appearance or rendition of services by the Board Member or another in relation to any case, proceeding, application or other matter before the MTA.

A Board Member who is a member, associate, retired member, of counsel to, or shareholder of, any firm, association or corporation which is appearing or rendering services, with or without compensation, in connection with any matter before, or transacting any business with, the MTA shall not communicate as to the merits of such cause with an officer (including another Board Member) or employee of the MTA, without first disclosing the nature and extent of his or her interest in the matter before, or business being transacted with, the MTA.

Section 4.011 Appearance before MTA

A Board Member may appear before the MTA (i) in a representative capacity on behalf of an employee organization, a federal, state or local government or agency, or a transportation advocacy organization or (ii) in connection with a ministerial action.

Section 4.012 Nepotism in Hiring and Contracting

No person who has served as a Board Member shall take part in any hiring or employment decision relating to a family member. If such matter arises, the Board Member must notify the MTA Chief Compliance Officer and recuse themselves from any discussions or decisions related to that matter.

No person who has served as a Board Member shall take part in any contracting decision: (i) relating to a family member: or (ii) relating to any entity in which a family member is an officer, director or partner, or in which a family member owns or controls ten percent (10%) or more of the stock of such entity. If such matter arises, the Board Member must notify the MTA Chief Compliance Officer and recuse themselves from any discussions or decisions related to that matter.

Section 4.013 Prohibition Against the Use of MTA Property

MTA supplies, equipment, computers, personnel, and other resources may not be utilized for non-governmental purposes, including for personal purposes of any kind. This prohibition includes but is not limited to the following:

- a) Official stationery may not be used for non-governmental purposes, nor may MTA resources be used to mail personal correspondence. The designation "personal" on MTA stationery means only that the contents are meant for the personal viewing of the addressee and not that the sender is acting unofficially. All letters and other written materials printed on such official stationery are considered official, and thus the designation "unofficial" has no meaning and may not be used.
- b) Under no circumstances may MTA mail, postage, internal office mail, or inter-city couriers be used for non-governmental purposes.
- c) MTA mobile devices may not be used for non-governmental purposes. MTA mobile devices may be used for incidental and necessary personal use if limited number and duration and do not conflict with the proper exercise of the duties of the Board Member.
- d) MTA computers may be used for incidental and necessary personal purposes, such as sending personal electronic mail messages, provided that such use is in a limited amount and duration and does not conflict with the proper exercise of the duties of the Board Member.
- e) No Board Member shall use the MTA's name, position or authority in any fundraising activity unless authorized by the MTA Chief Compliance Officer. Authorization may be granted only if the fundraising is in furtherance of the MTA's mission and does not create an appearance of or any actual conflict of interest. A Board Member may engage in fundraising in a personal capacity provided they do not use their title, position or authority to further their fundraising activities and do not personally solicit funds from MTA employees or from persons known to the Board Member to be a Prohibited Source.

Section 4.014 Political Activities

- a) Consistent with this Code, Board Members are free to participate in the political process but there must be a clear separation between their political activities and the discharge of their duties as Board Members.

- b) Board Members shall not serve as: (1) officers of any political party or political organization or (2) members of any political party committee, including political party district leaders or as members of a political party national committee. "Political organization" means any organization affiliated with a political party but does not include a judicial nominating committee, an organization supporting a particular cause with no partisan activities, a campaign or fundraising committee, or serving as a delegate to a state or national party convention.
- c) A Board Member interested in running for elective office shall give notice of their intentions to the MTA Chief Compliance Officer so that we may determine whether, and upon what conditions, seeking elective public office would be consistent with the ethics laws and regulations. In advance of running as a candidate in any election, the provisions of the Hatch Act should also be evaluated to determine whether such a candidacy is permitted under its terms.
- d) A Board Member shall not use their position on the Board for the purpose of interfering with or affecting the result of an election.
- e) MTA property, including, without limitation, telephone, copy machines, computers, and other MTA Agency equipment, vehicles, office space, and services may not be used for political activities under any circumstances.
- f) No Board Member, pursuant to executive order, may make or offer to make any monetary contribution to the campaign of the Governor, or to any political campaign committee organized by or for the specific benefit of the Governor.
- g) No Board Member, pursuant to executive order, may request or demand that any other person make or offer to make any monetary contribution to the campaign of the Governor, or to any political campaign committee organized by or for the specific benefit of the Governor.

Chapter 5: POST BOARD SERVICE RESTRICTIONS

Section 5.01 Two-Year Post Service Bar

No person who has served as a Board Member shall, within a period of two years after the termination of such service, appear or practice before the MTA or receive compensation for any services rendered by such former Board Member on behalf of any person or any non-governmental firm, corporation, association or other entity in relation to any case, proceeding or application or other matter before the MTA.

Section 5.02 Lifetime Bar

No person who has served as a Board Member shall, after the termination of such service, appear, practice, communicate or otherwise render services before the MTA or receive compensation for any such services rendered by such former, Board Member on behalf of any person or any non-governmental firm, corporation, association or other entity in relation to

any case, proceeding, application or transaction with respect to which such person was directly and personally concerned during the period of their service.

Exception: The restrictions contained in this paragraph shall not apply to any appearance, practice, communication or rendition of services before the MTA, or to the receipt of compensation for any such services rendered by a former Board Member, which is made while carrying out official duties as an elected official or employee of a federal, state or local government or one of its agencies.

Section 5.03 Waiver of Post Service Bar

To the extent permitted by law, nothing contained in this Code shall be construed or applied to prohibit the MTA, at any time, from contracting with or hiring any former Board Member to provide services to the MTA for a specific matter in circumstances in which contracting with or hiring such former Board Member would be in the public interest due to such former Board Member's specialized knowledge of the matter and the efficient and cost-effective results that contracting with or hiring such former Board Member would produce.

Originally Issued
March 2006

Revised

March 2007
December 2009
November 2011
November 2014
March 29, 2023

Copies of the Code may be obtained from
MTA Corporate Compliance



METROPOLITAN TRANSPORTATION AUTHORITY

**Metropolitan Transportation Authority
Mission Statement, Measurements,
and Performance Indicators Report
Covering Fiscal Year 2022**

**In Compliance with New York State Public Authorities Law §1269-f and §2824-a
Submitted as Part of the MTA 2022 Annual Report to the Governor**

Note

Some data in this report are preliminary and may be subject to reconciliation as data are finalized over the course of the year. For that reason, some 2021 data in this report may differ from those reported earlier in 2021, and some 2022 data may be adjusted in future reporting. Occasionally, some legacy metrics are “retired,” and new metrics may be established as needed to better gauge agency performance and customer experience. All agency performance metrics are updated regularly on the [MTA Performance Metrics](#) under the “Transparency” section at the MTA public website new.mta.info. The site provides detailed open data for specific months, lines, and routes, all available for spreadsheet downloads. Details on MTA Capital Program projects, managed by MTA Construction & Development (MTA C&D), can be found on the website under “Transparency” at the fully searchable [Capital Program Dashboard](#) and the chronological [Capital Program Milestone Report](#). Additional information is covered in the MTA C&D’s annual report [2022 Year in Review](#). Detailed financial information for each agency, including such indicators as ridership and farebox-recovery ratios, is reported online in the MTA’s quarterly [Financial and Budget Statements](#), which can be downloaded from the site as PDFs.

Metropolitan Transportation Authority

MTA Mission Statement

The Metropolitan Transportation Authority (MTA) preserves and enhances the quality of life and economic health of the region it serves through the cost-efficient provision of safe, on-time, reliable, and clean transportation services.

Stakeholder Assessment

The main stakeholders of the MTA are its customers; the businesses, residents, and taxpayers of our service area and the State; the MTA's employees and unions; and its government partners. A set of goals for each group has been defined, along with performance indicators to measure the attainment of these goals.

Customers	
Our customers are those who ride our trains and buses or cross our bridges and tunnels. They include the residents of our region, as well as visitors. Our customers expect service that is safe, on-time, reliable, and that provides good value for their money.	
MTA Goals	Performance Indicators
Ensure our customers' safety	<ul style="list-style-type: none"> ✓ Customer injury rates ✓ Bus collision rates
Provide on-time and reliable services	<ul style="list-style-type: none"> ✓ Subway major incidents ✓ Subway service delivered ✓ Customer journey time performance ✓ Additional platform time ✓ Additional train time ✓ On-time performance (subway and commuter railroads) ✓ Subway terminal delays ✓ Subway wait assessment ✓ Bus trips completed ✓ Bus Customer journey time performance ✓ Bus additional bus stop time ✓ Bus additional travel time ✓ Bus service delivered ✓ Bus average speeds ✓ Bus wait assessment ✓ Mean distance between failures (subway, railroads, buses)
Provide services to people with disabilities	<ul style="list-style-type: none"> ✓ Elevator availability ✓ Escalator availability ✓ Bus passenger wheelchair lift usage (does not include paratransit) ✓ Paratransit ridership ✓ Access-A-Ride on-time performance ✓ Access-A-Ride on-time performance ✓ Access-A-Ride provider no-shows ✓ Access-A-Ride ride time ✓ Access-A-Ride call center, calls answered* ✓ Passenger complaints
Repair, replace, and expand transportation infrastructure	<ul style="list-style-type: none"> ✓ Capital Program commitments ✓ Capital Program completions

Note: All indicators are updated regularly on [MTA Performance Metrics](http://www.mta.info) under Transparency at www.mta.info. These online sources provide extensive open data by lines and routes, downloadable as Excel spreadsheets.

Businesses, Residents, and Taxpayers

The businesses, residents, and taxpayers in our service area want the MTA to spend its resources efficiently and appropriately, while enhancing the mobility of the region.

MTA Goals	Performance Indicators
Perform services in an efficient manner	<ul style="list-style-type: none"> ✓ Farebox operating ratio ✓ Operating cost per customer ✓ Total support to mass transit
Maximize system usage	<ul style="list-style-type: none"> ✓ Ridership ✓ Traffic volume
Repair, replace, and expand transportation infrastructure	<ul style="list-style-type: none"> ✓ Capital Program commitments ✓ Capital Program completions

Employees and Unions

Our employees and unions expect a safe workplace, skills training relevant to their roles, and opportunities for growth.

MTA Goals	Performance Indicators
Ensure our employees' safety	<ul style="list-style-type: none"> ✓ Employee lost time and restricted-duty rate
Maintain a workforce that reflects the regional availability of all races, nationalities, and genders for our industry	<ul style="list-style-type: none"> ✓ Female representation in MTA workforce ✓ Minority representation in MTA workforce

Government Partners (Federal, State, and Local)

Our government partners expect us to enhance regional mobility by providing excellent service, while spending our resources in a cost-effective and appropriate manner.

MTA Goals	Performance Indicators
Provide on-time and reliable services	<ul style="list-style-type: none"> ✓ Subway major incidents ✓ Subway service delivered ✓ Customer journey time performance* ✓ Additional platform time ✓ Additional train time ✓ On-time performance (subway and commuter railroads) ✓ Subway terminal delays ✓ Subway wait assessment <ul style="list-style-type: none"> ✓ Bus trips completed ✓ Bus Customer journey time performance ✓ Bus additional bus stop time ✓ Bus additional travel time ✓ Bus service delivered ✓ Bus average speeds ✓ Bus wait assessment ✓ Mean distance between failures (subway, railroads, buses)
Maximize system usage	<ul style="list-style-type: none"> ✓ Ridership ✓ Traffic volume
Perform services in an efficient manner	<ul style="list-style-type: none"> ✓ Farebox operating ratio ✓ Operating cost per customer
Repair, replace, and expand transportation infrastructure	<ul style="list-style-type: none"> ✓ Capital Program commitments ✓ Capital Program completions

MTA New York City Transit (“NYCT”)

Performance Indicators	2021 Actual	2022 Actual
NYCT Subway Service Indicators		
Weekday Major Incidents – Subways (monthly average)	33.5	40.9
Customer Journey Time Perf. (% within 5 min of scheduled)	83.8%	83.9%
Additional Platform Time (average beyond scheduled)	0:01:26	0:01:22
Additional Train Time (average beyond scheduled)	0:00:12	0:00:28
Weekday Service Delivered – Subways	92.2%	93.1%
Weekday Terminal On-Time Performance – Subways	85.2%	81.5%
Weekday Terminal Delays – Subways (monthly average)	25,370	31,453
Mean Distance Between Failures – Subways (miles)	150,363	145,354
Weekday Wait Assessment – Subways	68.3%	69.1%
Elevator Availability – Subways	96.6%	96.8%
Escalator Availability – Subways	91.3%	92.1%
Total Ridership – Subways	759,810,246	1,013,425,465
Weekday On-Time Performance – Staten Island Railway	96.6%	95.5%
Mean Distance Between Failures – Staten Island Railway (miles)	29,343	62,514
NYCT Bus Service Indicators		
Customer Journey Time Perf – NYCT & MTA Bus (% within 5 min of scheduled)	75.5%	73.3%
Additional Bus Stop Time – NYCT & MTA Bus (average beyond scheduled)	0:01:58	0:01:57
Additional Travel Time – NYCT & MTA Bus (average beyond scheduled)	0:00:00	:22
Bus Customer Wheelchair Lift Usage – NYCT Bus	952,720	1,019,598
Service Delivered – NYCT & MTA Bus (% scheduled buses, peak hrs.)	93.8%	95.0%
Bus Speeds – NYCT & MTA Bus (average route speed, end-to-end)	8.2 mph	8.1 mph
Total Ridership – NYCT Bus	311,893,589*	343,092,962
Mean Distance Between Failures – NYCT & MTA Bus (miles)	7,504*	9,929
Wait Assessment – NYCT & MTA Bus	75.9%	75.6%

Notes: Subway 2021 ridership including SIR was 761,142,069. All indicators are updated regularly on Performance Metrics under Transparency at new.mta.info. The legacy Bus metric “Percent of Completed Trips” is no longer collected. *The 2021 NYCT Bus ridership was revised upward slightly from 311,711,871 reported in 2021. The 2021 Bus MDBF was revised upward slightly from 7,480 reported in 2021.

Performance Indicators	2021 Actual	2022 Actual
NYCT Paratransit Service Indicators		
Total Paratransit Ridership – NYCT Bus	7,835,975	9,153,605
AAR On-Time Performance Pick up within (30 min) / (15 min)	30 min: 93% 15 min: 80%	30 min: 94% 15 min: 81%
AAR Appointment OTP Trips (30 min early to 1 min late)	N/A	45%
AAR Actual Ride Time at or Better than Planned Ride Time	83%	99%
AAR Customer Experience – Frequent Rider Experience	n/a	98%
AAR Call Center (% of calls answered)	90%	93%
AAR Passenger Complaints (per 1000 completed trips)	7.4	5.9
AAR Registrants	163,500*	170,522
NYCT Safety Indicators		
Customer Injury Rate – Subways (per million customers)	4.06	3.27
Customer Accident Injury Rate – NYCT Bus (per million customers)	2.19	2.43
Collisions with Injury Rate – NYCT Bus (per million vehicle miles)	5.71	8.45
Employee Lost Time and Restricted-Duty Rate – NYCT Subways (per 100 employees)	4.05	4.21
Employee Lost Time and Restricted-Duty Rate – NYCT Bus (per 100 employees)	6.36	6.18
NYCT Workforce Indicators		
Female Representatives in NYCT Workforce	18.3 %	18.7%
Minority Representatives in NYCT Workforce	80.3%	81.7%
NYCT Financial Indicators		
Farebox Operating Ratio	28.3%	33.2%
Operating Cost per Passenger	\$9.14	\$7.85
NYCT Capital Program Indicators		
Commitments in \$ Millions (% of annual goal)	\$3,684 (96%)	\$8,338 (152%)
Completions in \$ Millions (% of annual goal)	\$1,781 (50%)	\$2,784 (56%)

Notes: AAR ridership includes customers, personal care attendants, and guests. AAR 2021 registrants were revised downward slightly from 166,100 reported in 2021. Financial indicators include NYCT Subways, Buses, and Paratransit and are preliminary. The Capital Program projects details are available on the Capital Programs Dashboard under Transparency at new.mta.info.

MTA GOAL: Ensure Customer Safety
INDICATORS: Customer Injury Rate

The “customer injury rate” for NYCT Subways was 3.27 per million customers in 2022, down 19.5 percent from the previous year. While a marked improvement, this remains above more typical prepandemic rates of 2.94 per million in 2019. NYCT Subways continues its efforts to improve customer safety through safety messaging, train announcements, incident reports, and the training and deployment of station staff.

For NYCT Department of Buses (NYCT DOB), the “customer accident injury rate” increased slightly in 2022 to 2.43 per million customers. The agency uses accident trends to improve safety programs, training, and messaging. As ridership increased, NYCT DOB saw an increase in its 2022 “collision injury rate” to 8.45 injuries per million vehicle miles.

NYCT DOB continued to incorporate relevant accident findings into its safety and training initiatives. These initiatives focus on basic operating procedures in bus stop areas, including scanning mirrors, observing all sides of the bus, pulling in and out of bus stops properly, and positioning the bus correctly in the bus stop. NYCT DOB continued its Vision Zero IV class, an eight-hour training session that emphasizes the challenges in dealing with pedestrians and cyclists.

To monitor bus operators, the agency uses indicators such as speed-camera violations, red-light violations, cellphone infractions, and customer complaints. In a joint agreement with all labor unions, NYCT DOB continues its “zero-tolerance” policy on use of cellphones and electronic devices while operating a bus. The agency also worked with its labor representatives to see that operators who receive speed-camera violations are disciplined and must pay the fine.

MTA GOAL: Provide On-Time and Reliable Services
INDICATORS: OTP, MDBF, Major Incidents, Service Delivered, Terminal Delays, Wait Assess, Bus Av Speeds, Bus Add Travel Time

NYCT service in 2022 showed continued improvement from the impacts of the Covid-19 pandemic in a number of key areas. As ridership jumped by over 30 percent, Subways on-time performance (OTP) and mean distance between failures (MDBF) fell slightly, by 3.7 percent and 3.4 percent respectively. The MDBF for MTA's combined Bus Operations jumped 32 percent, from 7,504 miles in 2021 to 9,929 miles in 2022.

Reversing a pandemic-era hiring freeze, NYCT began an aggressive recruiting and training program to rebuild operating staff for both subways and buses, with hundreds of new train operators, conductors, and bus operators graduated and onboarded during 2022 and 2021.

As a focused supplement to standard performance indicators, the MTA undertakes a bi-annual Customer Satisfaction Survey, along with monthly Pulse Surveys. Between Spring 2022 and Fall 2022, subway customer satisfaction increased 6 points to 54 percent, with steady gains continuing into early 2023. For bus customers, overall satisfaction during the same period increased slightly from 63 percent to 64 percent, and by 3 points to 79 percent for express bus customers.

**MTA GOAL: Provide Services to People with Disabilities
INDICATORS: Elevator-Escalator Availability, Bus Wheelchair Lift Usage, Paratransit Ridership, AAR Service Indicators**

Performance indicators in the latter half of 2022 and first quarter of 2023 showed a strong rebound from the previous year, when driver shortages during the Omicron surge posed severe challenges for AAR services. As reported on February 8, 2023, on-time performance (OTP) for primary carriers reached 98 percent in January 2023 and customer satisfaction reached a pandemic-era high on 76 percent.

Overall AAR ridership (which includes customers, personal-care attendants, and guests) jumped by 16.8 percent to about 9.2 million rides in 2022. The number of registrants increased by 4.3 percent to 170,522 in 2022. During this ridership upswing, pick-up OTP for 2022 increased to 94 percent within the 30-minute window and to 81 percent within the 15-minute window, reversing a pandemic-driven decline. The percent of “actual ride time” that was at or above “planned ride time” jumped by 16.0 percent from 83 percent in 2021 to 99 percent in 2022.

In other metrics, “wheelchair lift usage” at NYCT Buses reversed a 2021 decline, increasing by 7.0 percent to 1.02 million in 2022. Improving accessibility to the bus network remains a top priority at both bus agencies, and the MTA continues to roll out new buses with wider doors, ramps, and other accessibility features. In addition, the MTA’s new R211 subway fleet, which began entering revenue service in the first quarter of 2023, features doors 8 inches wider than existing subway doors, enabling greater accessibility.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure
INDICATORS: Capital Program Commitments and Completions

Third-party construction projects in the MTA Capital Program are now managed by MTA Construction & Development (MTA C&D). The agency committed \$8.3 billion of its Capital Program funds for NYC Transit in 2022, or 152 percent of the annual goal. Major commitments included: a number of station improvements, including several major ADA projects and elevator-escalator replacements; the Flushing Line Contract 1; the Jamaica Depot replacement; the CBTC Crosstown Line; and ADA work and water mitigation at Borough Hall. Commitments in 2022 also included Sandy-related climate resiliency projects on the Rockaway Line and at various substations.

Also in 2022, MTA C&D achieved capital program completions for NYCT projects worth \$2.8 billion, representing 56 percent of the annual goal. Major completions included: ADA work at the Times Square Shuttle, Livonia Av, and other stations; phases 1 and 2 of CBTC work at Queens Blvd West; mainline track and switch work at various locations; and roof and component replacements at the 207th St Maintenance-Overhaul Shop. Completions in 2022 also encompassed various Sandy-related repair and resiliency projects, including a major mitigation and relocation project completed in 2022 at the Staten Island Railway Clifton Maintenance Shop.

MTA GOAL: Perform Services in an Efficient Manner
INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

The NYCT financial indicators combine NYCT Subways, NYCT Buses, and Paratransit. The agency's finances continue to be impacted by the dramatic drop in ridership during the 2020 and 2021 pandemic, when subways, buses, and paratransit continued to operate at normal levels. For example, the 2021 farebox operating ratio was 28.3 percent, close to half the prepandemic rates. While 2022 saw steady ridership gains, volume and related revenues remain well below prepandemic levels.

The 2022 farebox operating ratio rose by 4.9 percent to 33.2 percent, while the operating cost per passenger declined 14 percent to \$7.85. The operating cost per passenger excludes debt service.

MTA GOAL: Maximize System Usage
INDICATORS: Ridership

Accelerating its postpandemic recovery, ridership on NYCT Subways increased by a substantial 33.4 percent in 2022, as compared to a more modest 19.0 percent increase from 2020 to 2021. On December 27, 2022, NYCT cited and celebrated its one billionth subway rider of the year with a press presentation in the Bronx. By the end of 2022, ridership topped 1.013 billion and has continued its upward climb into the first quarter of 2023. These gains were earned back from an unprecedented 62-percent drop in rider volume in 2020 from a prepandemic record of 1.697 billion rides in 2019. Employing a range of new customer service initiatives and surveys, the agency continues its multipronged effort to win back customers and address longterm changes in regional commuting habits brought about by the pandemic. After a slight downtick in bus ridership between 2020 and 2021, NYCT Buses saw a 10-percent rebound in 2022 to 343.1 million rides.

MTA GOAL: Ensure Our Employees' Safety
INDICATORS: Employee Lost Time and Restricted-Duty Rate

The NYCT Subways employee "lost-time and restricted-duty" accident rates rose by 3.9 percent in 2022 to 4.21 per 100 employees. This remains above the prepandemic rate of 3.73 per 100 employees in 2019. Throughout the pandemic, the MTA made extensive efforts to safeguard employees, including free vaccines and boosters, teleworking programs, distribution of PPE; safety messaging and training; a Covid-19 hotline; temperature screenings; social distancing protocols; schedule adjustments; and more.

At NYCT Buses, the “lost-time and restricted-duty” rate decreased slightly to 6.18 per 100 employees from 6.36 the previous year. The agency has experienced a significant increase in injuries associated with assaults. Both NYCT and MTA Bus continue to undertake extensive efforts to safeguard employees, including safety protocols, distribution of PPE, disinfection of buses and facilities, testing and vaccination programs, and more.

Both bus agencies also continued initiatives aimed at protecting bus operators from assault, including installation of bus operator shields across the entire fleet, installation of onboard security cameras, training in de-escalation tactics, and review of customer complaints to identify employees for further counseling or training. Both agencies maintain robust safe-driving campaigns and continue to analyze employee injury data to identify trends and reduce lost-time accidents.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders
INDICATORS: Female and Minority Representation in the Workforce

Female representation agency-wide rose incrementally in 2022 from 18.3 percent to 18.7 percent. This continues to fall below the estimated percentage of women available for work within NYCT’s recruiting area. A contributing factor is the low percentage of women who apply for what are generally considered non-traditional jobs. NYCT will continue to increase its outreach and recruitment efforts to improve female representation within its workforce. Minority representation grew slightly from 80.3 percent in 2021 to 81.7 percent in 2022.

MTA Long Island Rail Road (“LIRR”)

Performance Indicators	2021 Actual	2022 Actual
Service Indicators		
On-Time Performance	96.3%	95.8%
Elevator Availability	98.7%	98.7%
Escalator Availability	95.1%*	95.5%
Total Ridership	35,036,746	52,540,523
Mean Distance Between Failures (miles)	246.946*	235,664
Safety Indicators		
FRA-Reportable Customer Injury Rate (per million customers)	3.94*	2.62
FRA-Reportable Employee Lost Time Rate (per 200,000 worker hours)	3.81*	4.14
Workforce Indicators		
Female Representatives in LIRR Workforce	13.0%	13.2%
Minority Representatives in LIRR Workforce	38.0%	39.3%
Financial Indicators		
Farebox Operating Ratio	19.9%*	26.4%
Operating Cost per Passenger	\$42.50*	\$32.64
Capital Program Indicators		
Commitments in \$ Millions (% of annual goal)	\$345.4 (71%)	\$713.1 (103%)
Completions in \$ Millions (% of annual goal)	\$364.3 (78%)	\$341.5 (82%)

Notes: LIRR ridership is calculated based on the number of tickets sold, multiplied by a factor related to each type of ticket. Monthly/weekly factor is based on the number of weekdays and weekend days per month. *These 2021 data were revised: The 2021 Escalator availability was revised downward slightly from 95.3% reported in 2021. The 2021 MDBF was revised upward from 231,337 reported in 2021. The 2021 Customer Injury Rate was revised upward from 2.2 reported in 2021, and the 2021 Employee Lost Time Rate was revised downward from 4.0 reported in 2021. *The 2021 farebox operating ratio was revised upward slightly since the 2021 report, and the operating cost per passenger was revised downwards slightly.

MTA GOAL: Ensure Customer Safety
INDICATORS: Customer Injury Rate

In 2022, LIRR’s “customer injury rate” decreased by 33 percent compared to the previous year. Penn Station remains the location with the greatest number of customer injuries. This is due to the volume of customers traveling through the busiest terminal in the LIRR system, as well as the infrastructure and operating constraints at this location. LIRR’s “Let’s Travel Safely Together” information campaign, produced in partnership with Amtrak, New Jersey Transit, and NYC Transit, remained an integral part of LIRR’s safety program in 2022.

MTA GOAL: Provide On-Time and Reliable Services
INDICATORS: On-Time Performance, Mean Distance Between Failures

LIRR’s “on-time performance” (OTP) ticked down slightly by 0.5% to 95.8 percent in 2022 yet remains among the highest OTP rates for the railroad since 1979, when modern record keeping began. The record-high OTP can be attributed in part to progress made on infrastructure improvements, as well as to a systematic effort to identify and eliminate the root causes of train delays across the system.

The agency’s 2022 “mean distance between failures” (MDBF) decreased by 4.6 percent to 235,664 miles from 246,946 miles in 2021. This 2021 MDBF reflects an upward revision of about 6.7 percent subsequent to the 2021 report. The railroad continues to optimize fleet performance through its Reliability Centered Maintenance (RCM) program, thorough utilization of its Corporate Asset Management System, acquisition of the new M-9 fleet, and other performance initiatives.

MTA GOAL: Provide Services to People with Disabilities
INDICATORS: Elevator Availability, Escalator Availability

Elevator availability in 2022 remained unchanged at 98.7 percent, while 2022 escalator availability increased slightly by 0.4 percent to 95.5 percent.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure
INDICATORS: Capital Program Commitments and Completions

The LIRR's 2022 capital commitments totaled more than \$713.1 million, or 103 percent of the year's goal. Those included a number of major ADA upgrades. The railroad's 2022 capital completions totaled more than \$341.5 million, or 82 percent of the year's goal. Major completions included Jamaica Capacity Improvements (JCI), substation components, and the 2022 LIRR Annual Track Program.

MTA GOAL: Perform Services in an Efficient Manner
INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

The LIRR's "farebox operating ratio" increased 6.5 percent from 19.9 percent in 2021 to 26.4 percent in 2022. Note that the 2021 ratio was revised slightly upward subsequent to the 2021 report. The railroad's operating cost per passenger decreased by 23.2 percent from \$42.50 in 2021 to \$32.65 in 2022. The 2021 figure was revised downward slightly subsequent to the 2021 report. Both ratios continue to reflect the dramatic impacts of the Covid-19 pandemic. By way of comparison, the farebox operating ratio in 2019, prior to the pandemic, was 50.2 percent and operating cost per passenger was \$16.80.

MTA GOAL: Maximize System Usage
INDICATORS: Ridership

The LIRR accelerated its postpandemic rebound, with a substantial 50-percent ridership growth to 52.5 million riders in 2022. In December 2022, LIRR assumed operational control of the new Grand Central Madison terminal, which opened for revenue service to Midtown the following quarter, inaugurating the largest service increase in the railroad's history and a 2-percent rush-hour ridership boost in the first full day of operations.

MTA GOAL: Ensure Our Employees' Safety
INDICATORS: Employee Lost Time Case Rate

The rate of "FRA-reportable employee lost-time injuries" increased by 8.7 percent in 2022 compared to the previous year. The 2021 rate in this report was revised downward slightly subsequent to the 2021 report. The highest number of employee accidents continues to be in the "slips, trips, and falls" category, with soft tissue injuries. To maximize employee safety, LIRR continues its efforts to raise awareness among employees and encourage collaborative problem solving. These efforts have involved many labor-management initiatives, including a Confidential Close Call Reporting System (C3RS) and monthly department safety meetings. LIRR also conducts quarterly Safety FOCUS Day meetings, during which employees take time to discuss specific safety issues provided by the LIRR Corporate Safety and other departments. The aim is to engage employees in the field and improve safety performance based on their feedback.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders
INDICATORS: Female and Minority Representation in the Workforce

The percentage of women in LIRR's workforce remained essentially unchanged in 2022 at 13.2 percent. This falls below the estimated percentage of women available for work in LIRR's recruitment area. Many of the positions available in 2022 are considered nontraditional jobs for women and, as a result, attract a low percentage of female applicants. The percentage of minority representation increased slightly from 38 percent in 2021 to 39.3 percent in 2022. This is above the estimated percentage of minorities available in LIRR's recruitment area. LIRR continues to focus on efforts to improve the representation of women and minorities in its workforce.

MTA Metro-North Railroad (“Metro-North”)

Performance Indicators	2021 Actual	2022 Actual
Service Indicators		
On-Time Performance (East of Hudson)	97.1%	97.0%
On-Time Performance (West of Hudson)	93.4%	93.2%
Elevator Availability	99.8%	99.8%
Escalator Availability	99.9%	99.8%
Total Rail Ridership (East & West of Hudson)	30,759,001*	48,853,279
Mean Distance Between Failures (miles)	190,518	257,097
Safety Indicators		
FRA-Reportable Customer Injury Rate (per million customers)	2.17*	2.11
FRA-Reportable Employee Lost Time Rate (per 200,000 worker hours)	1.92*	2.15
Workforce Indicators		
Female Representatives in MNR Workforce	12%	11%
Minority Representatives in MNR Workforce	39%	40%
Financial Indicators		
Farebox Operating Ratio	20.4 %*	30.9%
Operating Cost per Passenger	\$40.76	\$28.95
Capital Program Indicators		
Commitments in \$ Millions (% of annual goal)	\$768.2 (99%)	\$688.9 (103%)
Completions in \$ Millions (% of annual goal)	525.3 (55%)	\$868.6 (73%)

Notes: Metro-North ridership is calculated based on the number of tickets sold, multiplied by a factor related to each type of ticket. Monthly/weekly factor is based on the number of weekdays and weekend days per month. *These 2021 data were revised: Total ridership was revised upward slightly from 30,722,008 reported in 2021. Customer Injury Rate was revised upward from 1.79 reported in 2021, and Employee Lost Time rate was revised downward slightly from 1.97 reported in 2021. Subsequent to the original 2021 report, the 2021 farebox operating ratio has been revised downward from 23.6% and the 2021 operating cost per passenger has been revised downward from \$41.95.

MTA GOAL: Ensure Customer Safety
INDICATORS: Customer Injury Rate

The “FRA-reportable customer injury rate” at Metro-North decreased from 2.17 per one million customers in 2021 to 2.11 in 2022. The 2021 rate was revised upward slightly subsequent to the 2021 report. To support customer safety, Metro-North continued both in- person and virtual outreach through its TRACKS (Together Railroads and Communities Keeping Safe) public education program on grade-crossing and rail safety, with thousands of contacts made in 2022. Other safety efforts included employee training in mental health issues and suicide prevention, ongoing partnerships with the National Suicide Prevention Lifeline and Crisis Text Line to support suicide prevention, and a partnership with Waze to alert drivers of Metro-North grade crossings through the Waze GPS navigation app.

MTA GOAL: Provide On-Time and Reliable Services
INDICATORS: On-Time Performance, Mean Distance Between Failures

Metro-North’s systemwide “on-time performance” (OTP) for 2022 was 97.0 percent, continuing the railroad’s record performance over the last two years. Metro-North has continued to increase and modify its postpandemic service schedules, while adjusting to shifts in regional commuting patterns. The railroad’s “mean distance between failures” (MDBF) for 2022 rose a substantial 34.9 percent to 257,097 miles.

MTA GOAL: Provide Services to People with Disabilities
INDICATORS: Elevator Availability, Escalator Availability

Elevator and escalator availability both remained excellent in 2022. Elevator availability was steady at 99.8 percent, and escalator availability remained essentially unchanged the same in 2021 at 99.8 percent.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure
INDICATORS: Capital Program Commitments and Completions

All MTA Capital Program projects for Metro-North are managed by the Metro-North Business Unit of MTA Construction & Development (MTA C&D). The Business Unit generated 2022 project commitments in the amount of \$688.9 million or 103 percent of the year's goal, including priority repairs at a number of Hudson and Harlem line stations. Completions in 2022 totaled \$868.6 million, which is 73 percent of goal. In addition to the railroad's annual Track Program, these included work on the Harlem River Lift Bridge; a number of undergrade bridge repairs; purchase of Maintenance-of-Way equipment; and a unified trash facility for East Side Access at Grand Central Terminal.

MTA GOAL: Perform Services in an Efficient Manner
INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

Metro-North's preliminary 2022 "farebox operating ratio" was 30.9 percent, representing a significant 10.5 percent increase over the previous year. However, this remained well below prepandemic levels. The 2022 "operating cost per passenger" was \$28.95, a substantial 28.9 percent improvement over the previous year, reflecting a continued increase in ridership. Note that both of the 2021 indicators were revised downward slightly subsequent to the 2021 report.

MTA GOAL: Maximize System Usage
INDICATORS: Ridership

Metro-North's systemwide ridership increased dramatically by 58.8 percent in 2022, from 30.8 million in 2021 to 48.9 million.

MTA GOAL: Ensure Our Employees' Safety
INDICATORS: Employee Lost Time and Restricted-Duty Rate

The “FRA-reportable employee lost-time case rate” increased from 1.92 per 200,000 worker hours in 2021 to 2.15 in 2022. Metro-North continues to participate in the Confidential Close Call Reporting System (C3RS), which has logged more than 6,300 calls since 2015, and monitor locomotive engineers and conductors for obstructive sleep apnea. Other ongoing safety programs include regular safety meetings in each district, a safety focus week held each quarter, safety cleanup days, and an employee awards program for safety excellence.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders
INDICATORS: Female and Minority Representation in the Workforce

The percentage of minority employees in Metro-North’s workforce remained essentially constant in 2022, rising 1 point to 40 percent. The percentage of female representation decreased by 1 point to 11 percent. The railroad maintains a program aimed at achieving workforce representation based on the availability of women and minorities within the relevant labor markets serviced by the MTA. Through targeted outreach recruitment and developmental programs, Metro-North will continue to focus on improving minority and female representation in our workforce.

MTA Bridges and Tunnels (“Bridges and Tunnels”)

Performance Indicators	2021 Actual	2022 Actual
Service Indicators		
Paid Traffic	307,296,238	326,535,000
Safety Indicators		
Collisions with Injury Rate (per million vehicles)	0.67	0.82
Employee Lost Time Injury Rate (per 200,000 work hours)	5.6	5.4
Workforce Indicators		
Female Representation in B&T Workforce	21%	19.1%
Minority Representation in B&T Workforce	57%	57.6%
Financial Indicators		
E-ZPass Market Share	94.9%	95.1%
Total Support to Transit (\$ millions)	\$1,377.0	\$1,429.5
Capital Program Indicators		
Commitments in \$ Millions (% of annual goal)	\$260.3 (150.5%)	\$376.1 (73%)
Completions in \$ Millions (% of annual goal)	\$386.2 (100.5%)	\$905.9 (161%)

Notes: MTA B&T performance data are subject to final audit. Traffic numbers are preliminary, with actuals available later. The 2022 data for Paid Traffic, Safety, E-ZPass, and Support to Transit are reported from the B&T Committee Meeting Materials, February 2023, 2/21/23. Data may be subject to later reconciliation.

MTA GOAL: Ensure Customer Safety
INDICATOR: Customer Collision Injury Rate

The rate of collisions with injuries increased slightly from 0.67 per million vehicles in 2021 to 0.82 per million in 2022. The agency’s fundamental strategy for improving customer safety is to maintain facilities in a state of good repair. Beyond this, the agency’s customer safety strategy focuses on “The Three E’s:” Engineering, Enforcement, and Education. Engineering identifies collision-prone locations and improves their physical characteristics. Enforcement targets and addresses unsafe driving behaviors. Education aims to correct unsafe driving behaviors through outreach and educational efforts. In addition, Bridges and Tunnels notifies customers of real-time traffic conditions, which helps them make informed decisions and reduces the risk of secondary collisions.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure
INDICATORS: Capital Program Commitments and Completions

All MTA Capital Program infrastructure projects are now managed by MTA Construction & Development (MTA C&D). In 2022, the MTA C&D Business Unit for Bridges and Tunnels made commitments to capital projects worth \$376.1 million or 73 percent of goal. These included relocation of the refueling station at the Queens Midtown Tunnel; structural rehabilitation of Cross Bay Bridge; improvements to structural lighting, power redundancy, and resiliency at the Bronx-Whitestone Bridge; widening of Belt Parkway; and reconstruction and relocation of the RI ramps at Manhattan Plaza.

Project completions during 2022 totaled \$905.9 million, representing 161 percent of goal. These included steel repairs and overcoat painting at the Henry Hudson Bridge; structural rehabilitation at the Robert F. Kennedy Bridge; and steel repairs, safety fencing, and ramp reconstructions at the Verrazzano Narrow Bridge.

MTA GOAL: Perform Services in an Efficient Manner
INDICATORS: Total Support to Transit

Bridges and Tunnels provided \$1,429.5 million in total support for MTA transit services in 2022. This represented a 3.8 percent increase over 2021 and indicates a robust recovery from the impacts of the pandemic. By way of comparison, the agency provided \$1,139.0 million in total support to mass transit in 2019, which fell drastically to \$830.2 million in 2020 during the height of the pandemic. The agency undertook aggressive, systemwide enforcement measures in 2022, remanding some 1,800 vehicles for unpaid tolls over the course of the year.

MTA GOAL: Maximize System Usage
INDICATORS: Traffic Volume

Bridges and Tunnels recorded approximately 326.5 million paid crossings in 2022, approximately 19.2 million more crossings than the previous year, an increase of 6.3 percent. E-ZPass usage for 2022 ticked up slightly to 95.1 percent, as compared to 94.9 percent in 2021.

MTA GOAL: Ensure Our Employees' Safety
INDICATORS: Employee Lost Time and Restricted-Duty Rate

The “employee lost-time injury rate” decreased slightly from 5.6 per 200,000 work hours in 2021 to 5.4 per 200,000 in 2022. Ongoing safety efforts included interdepartmental healthcare efforts relating to the Covid-19 pandemic; joint labor-management task forces to address risks in the new cashless operating environment; updated safety management system all agency facilities; and regular safety training for all field employees, including traffic management safety training for all Bridge and Tunnel Officers and supervisors.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders
INDICATORS: Female and Minority and Other Representation in the Workforce

Minority employees represented 57.6 percent of the Bridges and Tunnels workforce in 2022, largely unchanged from the previous year. Women represented 19.1 percent of agency employees in 2022, down nearly 1.9 percent from the previous year. Bridges and Tunnels maintains a program aimed at achieving workforce representation based on the availability of women and minorities within the labor markets serviced by the MTA. The program includes targeted recruitment efforts to attract qualified women and minority candidates; a monitoring program to identify and address under-representation of women and minorities; and retention and mobility programs providing the skills and opportunities women and minority employees need for successful career paths within the agency.

MTA Bus Company (“MTA Bus”)

Performance Indicators	2021 Actual	2022 Actual
Service Indicators		
Bus Passenger Wheelchair Lift Usage	66,881	See NYCT Bus
Total Ridership	71,431,467*	82,609,385
Mean Distance Between Failures – NYCT & MTA Bus (miles)	7,480	See NYCT Bus
Safety Indicators		
Customer Accident Injury Rate (per million customers)	1.30	1.55
Collisions with Injury Rate (per million vehicle miles)	4.54	5.18
Employee Lost Time Rate (per 100 employees)	7.82	7.48
Workforce Indicators		
Female Representation in MTA Bus Workforce	13%	13.0%
Minority Representation in MTA Bus Workforce	81%	84.6%
Financial Indicators		
Farebox Operating Ratio	17.9%	17.8%
Operating Cost per Passenger	\$10.94	See NYCT Bus
Capital Program Indicators*		
Commitments in \$ Millions (% of annual goal)	\$113.3 (197.9%)	\$265.5 (885%)
Completions in \$ Millions (% of annual goal)	\$1.8 (2.7%)	\$166.5 (80%)

Notes: For the purposes of this report, NYCT Bus and MTA Bus, “MTA Bus Operations,” are treated separately, though certain operations and performance indicators are combined, as noted above and in the NYCT data on page 4 of this report. The Performance Dashboard at www.mta.info combines data for both bus operations. *The 2021 total ridership was revised upward slightly from 71,426,526 subsequent to the 2021 report. The legacy indicator “Percent of Bus Trips Completed” is no longer collected.

MTA GOAL: Ensure Customer Safety
INDICATOR: Customer Injury Rate

MTA Bus saw a slight increase in its “customer accident injury rate,” from 1.30 per million customers in 2021 to 1.55 per million in 2022. The “collisions with injury rate” also increased slightly from 4.54 per million vehicle miles in 2021 to 5.18 per million vehicle miles in 2022. Both increases occurred within a 15.6-percent increase in ridership during the year. MTA Bus continues to incorporate relevant accident findings into its safety and training initiatives. These initiatives focus on basic operating procedures in bus stop areas, including scanning mirrors, observing all sides of the bus, pulling in and out of bus stops properly, and positioning the bus correctly in the bus stop.

In 2022, MTA Bus continued its Vision Zero IV class in collaboration with NYCT DOB. Vision Zero IV is an eight-hour training session which emphasizes the challenges in dealing with pedestrians and cyclists. In 2020, the class was combined with de-escalation training, which now addresses assaults on bus operators related to Covid-19 rules. All bus operators will be cycled through this new curriculum over a two-year period. A de-escalation “trailer” video is being circulated on the FYI Network at all MTA and NYCT locations. To monitor bus operators, the agency uses indicators such as speed-camera violations, red-light violations, cellphone infractions, and customer complaints. In a joint agreement with all labor unions, NYCT DOB continues its “zero-tolerance” policy on use of cellphones and electronic devices while operating a bus. The agency also worked with its labor representatives to see that operators who receive speed-camera violations are disciplined and must pay the fine.

MTA GOAL: Provide On-Time and Reliable Services
INDICATORS: MDBF, Bus Trips Completed

As indicated on the performance chart above, NYCT DOB and MTA Bus report combined data in some instances. For complete MTA Bus performance data, see page 4 of this report. The combined agencies posted an MDBF of 9,929 miles in 2022, an increase of 32.3 percent from the previous year.

In 2019, the MTA launched its comprehensive Bus Plan, which entails a complete reimagining of New York’s entire public bus system. As part of that plan, the MTA launched a new Bus Performance Dashboard at www.mta.info, which combines data for the two bus agencies. The dashboard also provides new metrics to better reflect the customer experience. For combined NYCT and MTA Bus metrics, see pages 4 and 5 of this report.

MTA GOAL: Provide Services to People with Disabilities
INDICATORS: Bus Customer Wheelchair Lift Usage

For combined “bus passenger wheelchair lift usage” in 2022 see page 4 of this report.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure
INDICATORS: Capital Program Commitments and Completions

MTA Bus committed \$265.5 million in capital project funds in 2022, representing 885 percent of goal. The works includes façade repair at the Baisley Park, JFK, and LaGuardia depots. Capital Program completions in 2022 totaled \$166.5 million or 80 percent of goal.

MTA GOAL: Perform Services in an Efficient Manner
INDICATORS: Farebox Operating Ratio, Operating Cost per Customer

The “farebox operating ratio” (which includes farebox revenue, student fares, and senior citizen fares) was essentially unchanged in 2022 at 17.8 percent. For the “operating cost per customer,” see page 4 of this report.

MTA GOAL: Maximize System Usage
INDICATORS: Ridership

Ridership at MTA Bus continues to rebound from the impacts of the pandemic, increasing by 15.6 percent in 2022 to 82.6 million riders. Both MTA Bus and NYCT Bus have continued an accelerated program of bus operator recruitment and training during 2022 to rebuild the workforce following a hiring pause during the financial uncertainties of the pandemic.

MTA GOAL: Ensure Our Employees’ Safety
INDICATORS: Employee Lost Time and Restricted-Duty Rate

MTA Bus saw a slight 4.3 percent decrease in the “employee lost-time accident rate” in 2022. Both NYCT and MTA Bus undertook extensive efforts to safeguard employees during the pandemic, including safety protocols, distribution of PPE, disinfection of buses and facilities, testing and vaccination programs, and more. The agency continues a robust program of training in safe driving techniques, along with Vision Zero programs and the incorporation of accident findings into safety and training initiatives.

Efforts to protect bus operators from assault continued in 2022, including installation of bus operator shields, onboard security cameras, training in de-escalation tactics, and review of customer complaints to identify employees for further counseling or training. Both bus agencies regularly analyze employee injury data to identify trends and reduce lost-time accidents.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders
INDICATORS: Female and Minority Representation in the Workforce

Female representation agencywide continues to be below the estimated percentage of women available to work within MTA Bus's recruiting area. The percentage of women in the agency's workforce remained unchanged in 2022 at 13.0 percent. MTA Bus will continue to increase its outreach and recruitment efforts to improve female representation within its workforce. The percentage of minority representation increased slightly in 2022 from 81.0 percent to 84.6 percent, exceeding the estimated percentage of minorities available to work within MTA Bus's recruiting area.

MTA Construction & Development (“MTA C&D”) - Expansion Projects

Performance Indicators	2021 Actual	2022 Actual
Workforce Indicators		
Female Representatives in MTA C&D Workforce	37%	29.7%
Minority Representatives in MTA C&D Workforce	50%	64.5%
Capital Program Indicators*		
Commitments in \$ Millions (% of planned value)	\$2,508.5m (292%)	\$1,031.5m (151%)
Completions in \$ Millions (% of planned value)	\$804.9m (44.8%)	\$1,164.8m (62%)

Notes: MTA performance data are subject to periodic adjustment. For details on Capital Program projects visit the [Capital Programs](#) section under “Transparency” at www.mta.info.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure INDICATORS: Capital Program Commitments and Completions

MTA Construction & Development (MTA C&D) manages all Capital Program infrastructure projects for the MTA agencies, as reported in each agency’s section of this report. In addition, MTA C&D manages the major Expansion Projects reported in this section. For Expansion Projects, the agency committed a total of \$1,032 million in 2022 or 151 percent of goal. Significant 2022 commitments included the interim maintenance contract for East Side Access at the new Grand Central Madison terminal.

Capital Program Expansion Projects completed in 2022 totaled \$1,165 million, or 62 percent of goal, and included various Systems Package projects, as well as work on the Midday Storage Yard. For details on all of the MTA’s five-year Capital Programs and the status of current capital projects visit the Capital Programs section under “Transparency” at www.mta.info.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders
INDICATORS: Female and Minority Representation in the Workforce

Female representation in the agency's current workforce declined 7.3 percent to 29.7 percent in 2022, while minority representation rose 14.5 percent to 64.5 percent. MTA C&D continues its outreach, recruitment, and retention efforts to support workforce diversity and inclusion.



RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF
THE FACILITIES OF THE NEW YORK CITY TRANSIT AUTHORITY AND
MANHATTAN AND BRONX SURFACE TRANIST OPERATING AUTHORITY

Subdivisions (a) and (c) of section 1050.8 are amended as follows:

(a) No firearms or other weapons (as the term is used in the New York State Penal Law)[, dangerous instrument, or any other item intended for use as a weapon] may be carried in or on any facility or conveyance except as permitted by law. [This provision does not apply to law enforcement personnel and persons to whom a license for such weapon has been duly issued and is in force (provided in the latter case the weapon is concealed from view). For the purposes hereof, a weapon or dangerous instrument shall include, but not be limited to, a firearm, switchblade knife, boxcutter, straight razor or razor blades that are not wrapped or enclosed in a protective covering, gravity knife, sword, shotgun or rifle].

[(c) Subject to other provisions of the law, this section shall not apply to a rifle or shotgun which is unloaded and carried in an enclosed case, box or other container which completely conceals the item from view and identification as a weapon].

RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF THE FACILITIES OF THE MTA BUS COMPANY

section 1044.11 is amended as follows:

No firearms or other weapons (as the term is used in the New York State Penal Law)[, dangerous instrument, or any other item intended for use as a weapon] may be carried in or on any facility or conveyance except as permitted by law. [This provision does not apply to law enforcement personnel and persons to whom a license for such weapon has been duly issued and is in force (provided in the latter case the weapon is concealed from view). For the purposes hereof, a weapon or dangerous instrument shall include, but not be limited to, a firearm, switchblade knife, gravity knife, box cutter, straight razor or razor blades that are not wrapped or enclosed in a protective covering, sword, shotgun or rifle.]

RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF
THE FACILITIES OF THE STATEN ISLAND RAPID TRANSIT OPERATING
AUTHORITY

section 1040.9 is amended as follows:

No firearms or other weapons (as the term is used in the New York State Penal Law)[, dangerous instrument, or any other item intended for use as a weapon] may be carried in or on any facility or train except as permitted by law. [This provision does not apply to law enforcement personnel and persons to whom a license for such weapon has been duly issued and is in force (provided in the latter case the weapon is concealed from view). For the purposes hereof, a weapon or dangerous instrument shall include, but not be limited to, a firearm, switchblade knife, gravity knife, boxcutter, straight razor or razor blades that are not wrapped or enclosed in a protective covering, sword, shotgun or rifle.]

RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF
THE FACILITIES OF THE LONG ISLAND RAILROAD COMPANY TERMINALS,
STATIONS AND TRAINS

section 1097.11 is amended as follows:

No [persons, except for those licensed to do so and in immediate possession of such license, shall bring into or carry in a terminal, station or train any] firearms or other weapons (as the term is used in the New York Penal Law) may be carried into any facility, terminal, station or train except as permitted by law.

RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF
THE FACILITIES OF THE METRO-NORTH COMMUTER RAILROAD COMPANY
TERMINALS, STATIONS AND TRAINS

section 1085.11 is amended as follows:

No firearms [persons, except for those licensed to do so and in immediate possession of such license, shall bring into or carry in a facility or train any firearms] or other weapons (as the term is used in the New York State Penal Law) may be carried in or on any facility, terminal, station or train except as permitted by law.