



**Metropolitan Transportation Authority**

# **Capital Construction, Planning and Real Estate Committee Meeting**

Volume I – Capital Construction and Planning

## **November 2009**

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### **Committee Members**

N. Shevell, Chair

A. Albert

N. Brown

D. Cecil

D. Frasca

J. Kay

M. Lebow

S. Metzger

N. Seabrook

J. Sedore, Jr.

C. Wortendyke



## **MEETING AGENDA**

### **CAPITAL CONSTRUCTION, PLANNING AND REAL ESTATE COMMITTEE**

Volume I – Capital Construction and Planning

Monday, November 9, 2009, 11:00AM  
347 Madison Avenue  
Fifth Floor Board Room  
New York, NY

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#### **AGENDA ITEMS**

#### **Page**

PUBLIC COMMENT PERIOD FOR MTACC, PLANNING AND REAL ESTATE COMMITTEE	
1. APPROVAL OF MINUTES – October 21, 2009 MEETING	1
2. MTACC AND PLANNING WORKPLAN	6
3. PROJECT REPORTS	11
4. PROCUREMENTS	20
5. OTHER ACTION ITEMS Review Committee Charter (materials to be distributed)	
6. 2010 Preliminary Budget and July Financial Plan 2010-2013 (no materials included)	

Date of next meeting: Wednesday, December 9, 2009, 11:00AM

## **APPROVAL OF MINUTES**

**MINUTES OF THE MEETING**  
**MTA CAPITAL CONSTRUCTION, PLANNING & REAL ESTATE COMMITTEE**  
**October 21, 2009**  
**347 Madison Avenue**  
**New York, New York**  
**11:30a.m.**

The following MTACC, Planning and Real Estate Committee members attended.

Hon. Nancy Shevell, Committee Chair  
Hon. Andrew Albert  
Hon. Norman Brown  
Hon. Donald Cecil  
Hon. Doreen Frasca  
Hon. Jeffrey Kay  
Hon. Susan Metzger  
Hon. Norman Seabrook  
Hon. James Sedore  
Hon. Carl Wortendyke

The following MTACC, Planning and Real Estate Committee members did not attend.

Hon. Mark Lebow

The following MTA Capital Construction staff attended.

Michael Horodniceanu  
Joseph Trainor  
Anthony D'Amico  
Veronique Hakim  
Raymond Schaeffer

The following MTA Headquarters staff attended.

William Wheeler  
Jeffrey Rosen  
Michael Bader  
Nancy Marshall  
Allen LoGalbo  
Prescott Vann  
Sheila Antman

Note: Board member Bickford also attended the meeting.

\* \* \*

Ms. Shevell called the October 21, 2009 meeting of the MTA Capital Construction, Planning and Real Estate Committee to order at 11:30 am.

Public Speaker

Mr. Boden of Concerned Grandparents spoke on the Capital Program.

Meeting Minutes

Upon motion duly made and seconded, the MTA Capital Construction, Planning and Real Estate Committee approved the minutes to the previous meeting held on September 21, 2009.

### Committee Work Plan

There were no changes to the committee work plan.

### Project Status Reports

Mr. Horodniceanu reported on the status of the projects. He noted that both the Second Avenue Subway and the East Side Access project budgets announced in July were reflected in the status reports in the Committee's agenda book and were consistent with the 2010-2014 Capital Plan approved by the Board in September. Mr. Horodniceanu presented slides to illustrate the progress of work on the projects.

With respect to the Fulton Street Transit Center, the foundation contractor completed the road decking on Broadway, and the underpinning of the Corbin building is underway. Next month, the first slab of the Transit Center foundation will be poured. The contract to restore the Corbin Building was advertised on October 12, three months ahead of schedule, and the contract for the Dey Street Concourse and Underpasses Finishes is on schedule to be advertised in November. The R/W northbound platform is on schedule to be ready for customer use by the end of December.

Mr. Horodniceanu highlighted the cost changes in two project categories that align the budget to the approved FTA Recovery Plan. The overall project budget remains the same. A total of \$57.4 million was transferred from the construction budget. Of that amount, \$52.0 million has been allocated to real estate settlement costs and \$5.4 million to construction management costs based on the final contract packaging plan and the Recovery Plan's detailed manpower plan for construction support.

Turning the 7 Line Extension, Mr. Horodniceanu reported that one tunnel boring machine is scheduled to break through the 34<sup>th</sup> Street Station Cavern wall in early November, and the concrete lining of the cavern has started. Restoration of 11<sup>th</sup> Avenue will be completed by November 4.

Reporting on the Second Avenue Subway, Mr. Horodniceanu noted a misprint on page 17 of the agenda material regarding the contract for the 72<sup>nd</sup> Street Station Cavern. Letters of Interest, not full proposals, are due November 6. He stated that on September 24, the State Supreme Court approved the acquisition of four properties needed to construct three ancillary facilities for the project, and relocation consultants are providing assistance to the residential and commercial occupants of the properties. The contract for the 72<sup>nd</sup> Street Station cavern was advertised in September, and proposals are due on November 6. With respect to construction activity, controlled blasting to excavate the TBM launch box is to begin by mid-November after the required stabilization of a building on Second Avenue is finished to correct pre-existing structural deficiencies.

Turning to the East Side Access project, Mr. Horodniceanu reported that the Queens Soft Ground Tunneling contract was awarded in late September, and work is expected to begin in several locations by mid-November. The TBMs have been ordered, and coordination is underway with Con Edison to arrange for power to operate them.

MTACC received nine bids for the 50<sup>th</sup> Street ventilation facility contract, reflecting a significant improvement in the competitive environment. The low bid submitted by Halmar Construction came in 16 percent below the engineer's estimate. Final negotiations on the contract for the Northern Boulevard Crossing are nearing completion, and MTACC plans to seek Board approval for award in November.

Tunneling operations are continuing in Manhattan. The Robbins TBM is currently mining the first of four lower tunnels. Excavation by both mechanical means and drill and blast has begun in

both caverns and is ahead of schedule. Finally, the three ventilation shafts at 38<sup>th</sup> Street and Park Avenue have been completed.

Ms. Shevell noted the successful resolution of the bid protest of the MTA's award of the Queens Soft Ground Tunneling contract.

#### Procurements

Upon motion duly made and seconded, the MTA Capital Construction Committee approved the following procurement items.

- Award of on-call contracts, with no financial commitment, to eight firms for environmental consultant services to support MTACC's projects: 1) Weston Solutions, 2) Airtek Environmental Corp., 3) Gannett Fleming, Inc., 4) STV Group, Inc., 5) AKRF, Inc., 6) LiRo Engineers, Inc., 7) Hatch Mott MacDonald, Inc., and 8) Langan Engineering & Environmental Services.
- A ratification of an award of a contract to Intergraph Corporation to support the completion of the software for the electronic security program.

#### Action Items

Upon motion duly made and seconded, the MTA Capital Construction Committee approved the following items.

- Authorization to enter into an agreement with 135 William Street Associates LLC for a not to exceed amount of \$1 million for all services necessary to relocate the heating plant servicing 135 William Street to accommodate the construction of an entrance to the Fulton Street Transit Center.
- Authorization to enter into a design services agreement with Archstone Management for a not to exceed amount of \$385,000 to advance the design of changes to 301-303 East 83rd Street to accommodate an entrance to the 2nd Avenue Subway.
- Authorization to enter into a design services agreement with 250 East 87<sup>th</sup> Street Owner's Corp for a not to exceed amount of \$1.3 million to advance the design of utility relocations and structural modifications to accommodate the construction of an ancillary facility for the 2nd Avenue Subway.

#### Information Item

There was no discussion regarding the 2010 Preliminary Budget and July Financial Plan 2010-2013.

#### Volume II – Real Estate Action Items

Mr. Rosen stated that a review of MTA standards and procedures for GCT leasing is underway. In the meantime, all pending RFPs for food-related spaces have been cancelled and new draft guidelines will be issued in November.

Upon motion duly made and seconded, the CCC, Planning and Real Estate Committee recommended the following real estate actions be moved to the full MTA Board for approval.

**MTA METRO-NORTH RAILROAD**

1. Approval to proceed with acquisition by negotiated purchase or condemnation, where appropriate, of one fee property interest and three temporary easements in support of the federally-funded project to replace and rebuild the bridge over the Hudson Line at Bridge Street in the Town of Poughkeepsie
2. Approval to proceed with condemnation, if necessary, of the fee title in property known as 401 East Fordham Road (Block 3273, portion of Lot 102), Bronx, New York, in support of the Bronx Stations/Capacity Improvement (Fordham Station) Project, Bronx, New York
3. License Agreement with Elaine Calvert for operation of a mobile coffee truck at Wassaic Station on the Harlem Line located in Wassaic, New York
4. License Agreement with The Stearn Company d/b/a The Beverage Bar for the storage of inventory in Storage Space MC 18-6 for Tenant's business conducted in the store premises, Grand Central Terminal, New York
5. License Agreement with Hudson Group (HG) Inc. d/b/a Hudson News for the storage of inventory in Storage Space LPS-1F for Tenant's business conducted in the store premises, Grand Central Terminal, New York

**MTA LONG ISLAND RAIL ROAD**

6. License agreement with Carol Stahl and Alan Reider for parking of employees and patients at the rear of their medical office building at 450 Endo Blvd, Garden City, New York

**Real Estate Information Items**

- a. Status report on month-to-month licenses
- b. Status report on property acquisition and other transactions involving New York City
- c. Status report on Grand Central Terminal Vanderbilt Hall events
- d. Status report on Grand Central Terminal Graybar Passage retail kiosks
- e. Permit to allow Bike NY, Inc. to use the lower lot of Metro-North's Garrison Station parking facility, Town of Philipsburg, Putnam County, New York
- f. Permit to allow St. Luke's Cornwall Hospital Foundation to use part of the Beacon Station parking facility, Beacon, New York
- g. Month-to-month license agreement with Toto GCT, Inc. d/b/a Toto Retail Space MC-36, Grand Central Terminal, New York
- h. Permit with Lexington Avenue Associates for work adjacent to 166 Smith St., Brooklyn, New York

**Adjournment**

Upon motion duly made and seconded, Ms. Shevell adjourned the October 21, 2009 meeting of the MTACC, Planning and Real Estate Committee.

Respectfully submitted,

Miriam Cukier  
Secretary

## **MTACC AND PLANNING WORKPLAN**

# MTA Capital Construction and Planning - Work Plan

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## I. RECURRING AGENDA ITEMS

Approval of Minutes  
Committee Work Plan  
Project Status Reports  
Procurements (if any)  
Action Items (if any)

### Responsibility

Committee Chair & Members  
Committee Chair & Members  
President  
President or Gen. Counsel  
As listed

## II. SPECIFIC AGENDA ITEMS

### November 2009

2010 Preliminary Budget  
Review Committee Charter

### Responsibility

President and CFO  
Committee Chair & Members

### December 2009

2010 Final Proposed Budget

President

### January 2010

Review of the 2010 Work Plan  
Security Program Update (Executive Session)

Committee Chair & Members  
President & MTA Deputy  
Exec. Director of Security

### February 2010

Preliminary Review of 2009 Budget Results  
Adopted Budget/Financial Plan 2010-2013

President and CFO  
President and CFO

### March 2010

Security Program Update (Executive Session)

President & MTA Deputy  
Exec. Director of Security

### April 2010

Final 2009 Budget Results

President and CFO

### May 2010

Security Program Update (Executive Session)

President & MTA Deputy  
Exec. Director of Security

### June 2010

### July 2010

### September 2010

2011 Preliminary Budget

President and CFO

### October 2010

2011 Preliminary Budget

President and CFO

# **MTA Capital Construction and Planning - Work Plan**

## **Detailed Summary**

### **I. RECURRING**

#### **Approval of Minutes**

Approval of the official proceedings of the previous month's Committee meeting.

#### **MTACC and Planning - Work Plan**

A monthly update of any edits and/or additions to the work plan.

#### **Project Status Reports**

Monthly update on the status of each construction project and contracts being managed by MTA Capital Construction.

#### **Procurements**

Procurement action items requiring Board approval and items for Committee and Board information. Non-competitive items will be listed first, followed by the competitive items and requests for ratifications. The list will identify items that require a 2/3<sup>rd</sup>-vote of the Board for approval.

#### **Action Items**

Individual items that require Board approval.

## **II. SPECIFIC AGENDA ITEMS**

### **NOVEMBER 2009**

#### 2010 Preliminary Budget

Public comment will be accepted on the 2010 Preliminary Budget.

#### Review Committee Charter

The Committee will review its charter in preparation for submission to the Board in December.

### **DECEMBER 2009**

#### 2010 Final Proposed Budget

Committee will recommend action to the Board on the Final Proposed Budget for 2010.

### **JANUARY 2010**

#### Review of the 2010 Work Plan

Committee will review the 2010 MTA Capital Construction Committee Work Plan.

#### Security Program Update

Update on the progress of the All-Agency MTA Security Program (Executive Session).

### **FEBRUARY 2010**

#### Preliminary Review of 2009 Operating Results

Brief review of Agency's 2009 Budget results.

#### Adopted Budget/Financial Plan 2010-2013

MTA Capital Construction will present its revised 2010-2013 Financial Plan. Plan will reflect the 2010 Adopted Budget and an updated Financial Plan for 2010-2013 reflecting the out-year impact of any changes incorporated into the 2010 Adopted Budget.

### **MARCH 2010**

#### Security Program Update

Update on the progress of the All-Agency MTA Security Program (Executive Session).

### **APRIL 2010**

#### 2009 Budget Results

Review of the prior year's budget results and their implications for current and future budget performance.

**MAY 2010**

**Security Program Update**

Update on the progress of the All-Agency MTA Security Program (Executive Session).

**JUNE 2010**

**JULY 2010**

**SEPTEMBER 2010**

**2011 Preliminary Budget**

Public comment will be accepted on the 2011 Preliminary Budget.

**OCTOBER 2010**

**2011 Preliminary Budget**

Public comment will be accepted on the 2011 Preliminary Budget.

**MTACC MONTHLY PROJECT REPORTS:**

- **FULTON STREET TRANSIT CENTER**
- **7 LINE WEST EXTENSION**
- **SECOND AVENUE SUBWAY**
- **EAST SIDE ACCESS**

## MTA CAPITAL CONSTRUCTION PROJECT UPDATE

### Fulton Street Transit Center

#### Project Description

MTA Capital Construction is managing construction of the Fulton Street Transit Center on Broadway between Fulton and John Streets. The investment will tie together and improve access to the 4/5, A/C, J/M/Z, 2/3, R/W, 1 and E subway lines, PATH services, and World Financial Center ferry services. The work includes construction of a concourse under Dey Street to link the Transit Center with the new PATH Station and the rest of the World Trade Center site.

#### Budget and Estimate at Completion (EAC)

	<u>Budget</u>	<u>Last Reported EAC</u>	<u>Current Month EAC</u>	<u>Expenditures</u>
Design	\$ 110,600,000	\$ 110,600,000	\$ 110,600,000	\$ 93,578,089
Construction	965,800,000	965,800,000	965,800,000	280,783,925
Construction Management	102,700,000	102,700,000	102,700,000	32,084,391
Real Estate	220,900,000	220,900,000	220,900,000	167,534,289
<b>Total Project Cost</b>	<b>\$ 1,400,000,000</b>	<b>\$ 1,400,000,000</b>	<b>\$ 1,400,000,000</b>	<b>\$ 573,980,694</b>

#### Major Milestones and Forecasts

	<u>Original Schedule</u>	<u>Previous Month Schedule</u>	<u>Current Month Schedule</u>
Project Design Start	Aug 1, 2003	Aug 1, 2003	Aug 1, 2003
Project Design Completion	Oct 2004	Apr 2010	Apr 2010
Project Construction Start	Sep 2004	Dec 30, 2004	Dec 30, 2004
Project Substantial Completion	Dec 2007	Jun 2014	Jun 2014

#### Current Issues/Highlights

- The contractor for the A/C Mezzanine Reconstruction and J/M/Z Vertical Circulation contract (A36121) has mobilized on site. The first construction barriers were installed in the station on October 12, and inspections and surveys of existing structures and art removal has begun.
- The design consultant began packaging the Transit Center Building contract (A36125) in October. The effort is scheduled to be completed in mid-January, which would enable the contract to be awarded ahead of schedule in the summer of 2010.
- The rehabilitation of the R/W Cortlandt Street Station northbound platform continues to progress on schedule to be ready for customer service by year-end.

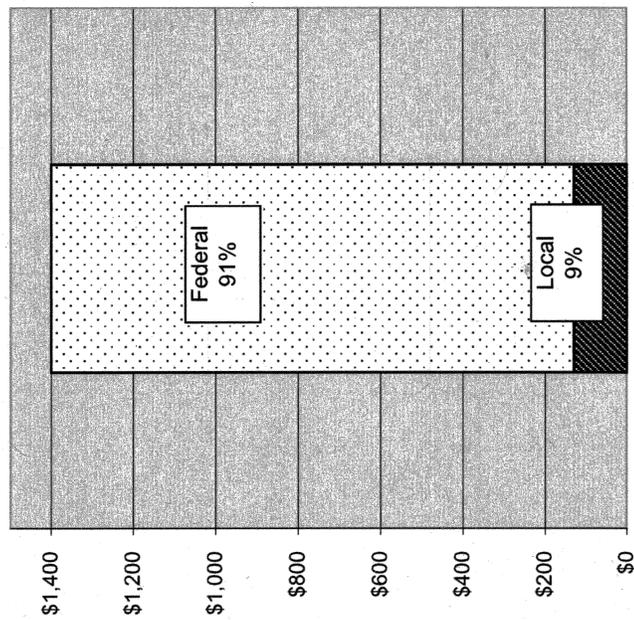
**Fulton Transit Center Status  
thru October 2009**

**MTA Capital Program**

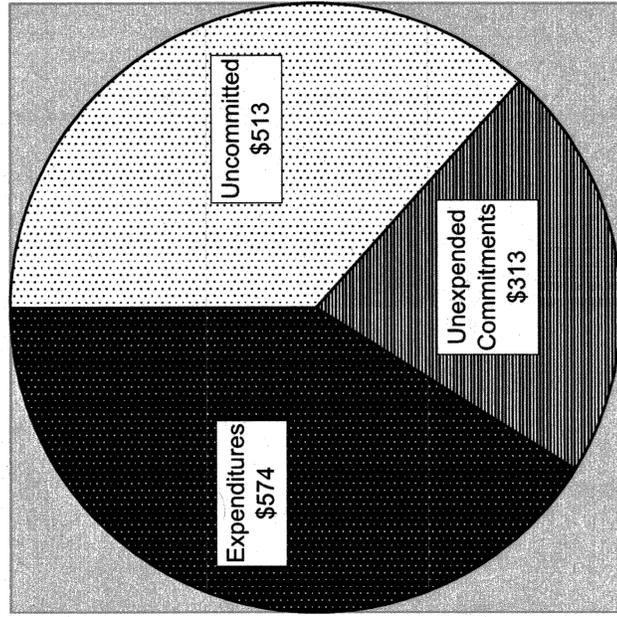
\$ in Millions

	Budgeted	Funding Sources		Status of Commitments		
		Local Funding	Federal Funding Received	Committed	Uncommitted	Expended
2000-2004	\$ 875	\$ 56	\$ 819	\$ 654	\$ 221	\$ 574
FTA Reserve (2000-2004)	28	-	28	-	28	-
2005-2009	74	74	-	-	74	-
ARRA (Federal Stimulus)	423	-	423	233	191	-
<b>Total</b>	<b>\$ 1,400</b>	<b>\$ 130</b>	<b>\$ 1,270</b>	<b>\$ 887</b>	<b>\$ 513</b>	<b>\$ 574</b>

**Project Budget: \$1,400 Million**



**Commitments and Expenditures (\$ in Millions)**



# MTA CAPITAL CONSTRUCTION PROJECT UPDATE

## 7 Line Extension

### Project Description

MTA Capital Construction is managing design and construction of the extension of the 7 Line from the current terminal at Times Square to 11<sup>th</sup> Avenue and 34<sup>th</sup> Street, where the Javits Convention Center is located and where significant future development is anticipated. The investment includes construction of over a mile of new tunnel and the 34<sup>th</sup> Street terminal subway station.

### Budget and Estimate at Completion (EAC)

	<u>Budget</u>	<u>Last Reported EAC</u>	<u>Current Month EAC</u>	<u>Expenditures</u>
EIS and Prelim Engineering	\$ 52,946,333	\$ 52,946,333	\$ 52,946,333	\$ 52,861,616
Extended PE and Final Design	127,204,990	127,204,990	127,204,990	97,052,553
Construction	1,907,807,768	1,907,807,768	1,907,807,768	653,194,837
Construction Management	64,987,242	64,987,242	64,987,242	12,951,055
<b>Total Project Cost</b>	<b>\$ 2,152,946,333</b>	<b>\$ 2,152,946,333</b>	<b>\$ 2,152,946,333</b>	<b>\$ 816,060,062</b>

### Major Milestones and Forecasts

	<u>Original Schedule</u>	<u>Previous Month Schedule</u>	<u>Current Month Schedule</u>
Project Design Start	Sep 30, 2002	Sep 30, 2002	Sep 30, 2002
Project Design Completion	Dec 2006	TBD*	TBD*
Project Construction Start	2006	Dec 15, 2007	Dec 15, 2007
Project Substantial Completion **	2012	Dec 2013	Dec 2013

\* In order to develop a design completion schedule, MTACC requires the City's agreement on a basis of design and easements for the five developer sites at which project facilities (e.g., entrances or systems buildings) will be constructed.

\*\* Project Substantial Completion refers to the revenue service start date.

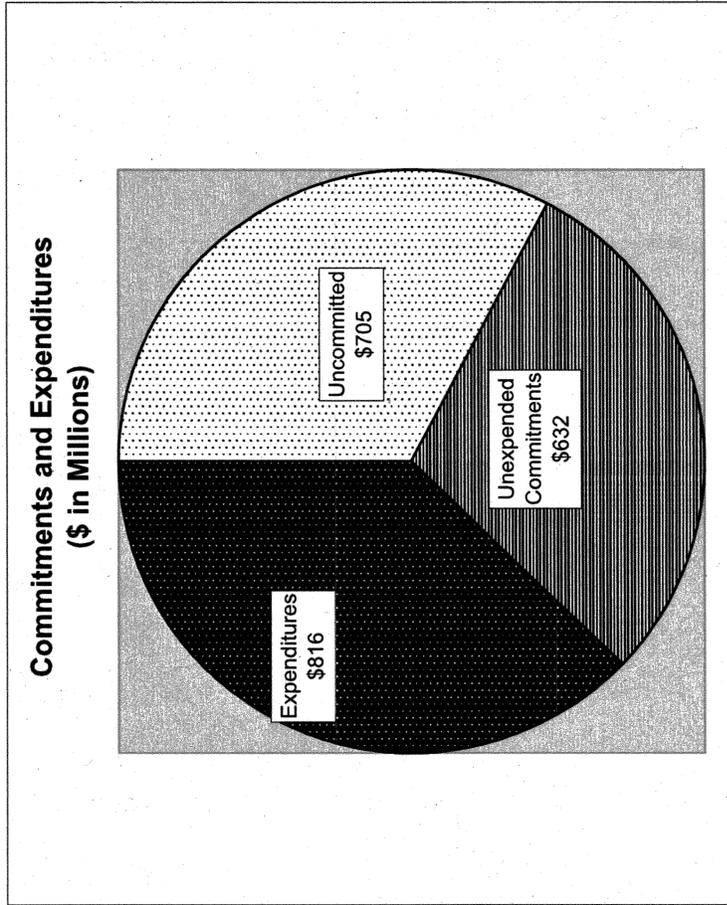
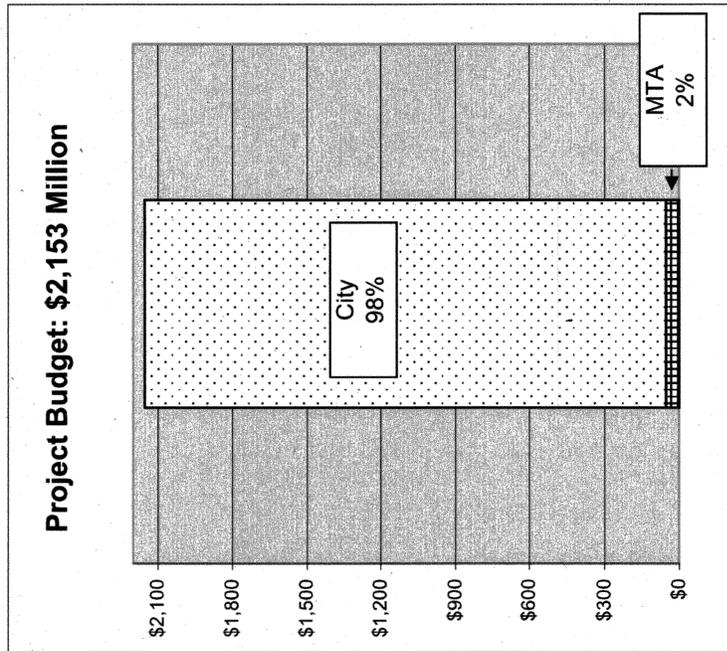
### Current Issues/Highlights

- TBM mining is proceeding, and over 1800 feet of tunnel or 19 percent of the planned total length has been mined through October 26. The first TBM broke through to the 34<sup>th</sup> Street Station cavern on October 30; the second TBM is expected to reach the cavern by early December.
- Excavation and underpinning continues on the lower level of the 8<sup>th</sup> Avenue Subway and the existing 7 Line tail tracks at Times Square.
- Permanent cast-in-place reinforced concrete wall placement continues in the 34<sup>th</sup> Street Station cavern.

**No. 7 Line Extension Status  
thru October 2009**

MTA Capital Program \$ in Millions	Funding Sources			Status of Commitments		
	Budgeted	MTA Funds*	City Funds Received	Committed	Uncommitted	Expended
2000-2004	\$ 53	\$ 53	\$ -	\$ 53	\$ 0	\$ 53
2005-2009	2,100	-	1,395	1,395	705	763
<b>Total Authorized</b>	<b>\$ 2,153</b>	<b>\$ 53</b>	<b>\$ 1,395</b>	<b>\$ 1,448</b>	<b>\$ 705</b>	<b>\$ 816</b>

\* MTA funding was for preliminary engineering and environmental review work.



# MTA CAPITAL CONSTRUCTION PROJECT UPDATE

## Second Avenue Subway

### Project Description

MTA Capital Construction is managing construction of the Second Avenue Subway on Manhattan's east side from 125<sup>th</sup> Street to the Financial District in Lower Manhattan. The investment will create a two-track, 8.5-mile subway line with 16 new ADA-accessible subway stations, alleviate congestion on the system's most crowded subway line, the 4/5/6 Line on Lexington Avenue, and greatly reduce customer travel times. The line will be built in phases, with the first segment providing services from 96<sup>th</sup> Street to the existing Lexington Avenue/63<sup>rd</sup> Street Station, connecting the new service to the N/R/W Line that runs south on Broadway and into Brooklyn.

### Budget and Estimate at Completion (EAC)

	<u>Budget</u>	<u>Last Reported EAC</u>	<u>Current Month EAC</u>	<u>Expenditures</u>
Design	\$ 445,000,000	\$ 445,000,000	\$ 445,000,000	\$ 374,472,026
Construction	3,548,000,000	3,548,000,000	3,548,000,000	330,939,059
Construction Management	166,000,000	166,000,000	166,000,000	12,812,287
Real Estate	292,000,000	292,000,000	292,000,000	60,397,312
Rolling Stock*	0	0	0	0
<b>Total Phase I Cost</b>	<b>\$ 4,451,000,000</b>	<b>\$ 4,451,000,000</b>	<b>\$ 4,451,000,000</b>	<b>\$ 778,620,685</b>

\* Assumes \$222 million in savings opportunities, including meeting rolling stock needs through a small reduction to NYC Transit's existing spare fleet.

### Major Milestones and Forecasts

	<u>Original Schedule</u>	<u>Previous Month Schedule</u>	<u>Current Month Schedule</u>
Project Design Start	Dec 20, 2001	Dec 20, 2001	Dec 20, 2001
Project Design Completion (Phase I)	2008	Feb 2010	Feb 2010
Project Construction Start	Dec 2004	Mar 20, 2007	Mar 20, 2007
Project Substantial Completion (Phase I)	2012	Dec 2016	Dec 2016

### Current Issues/Highlights

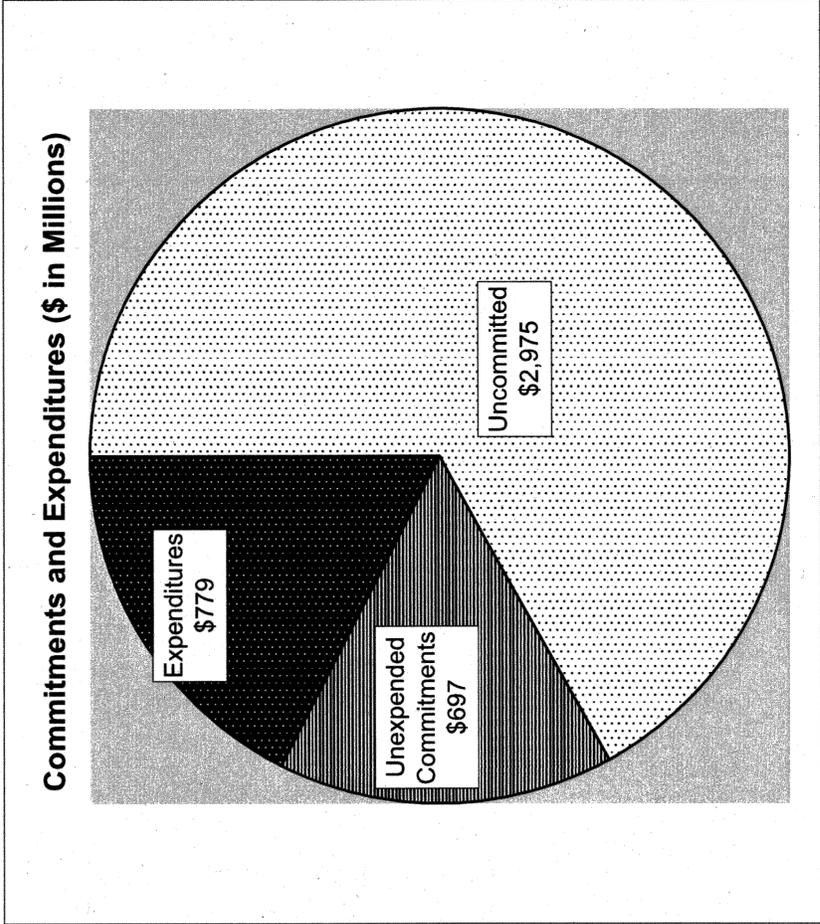
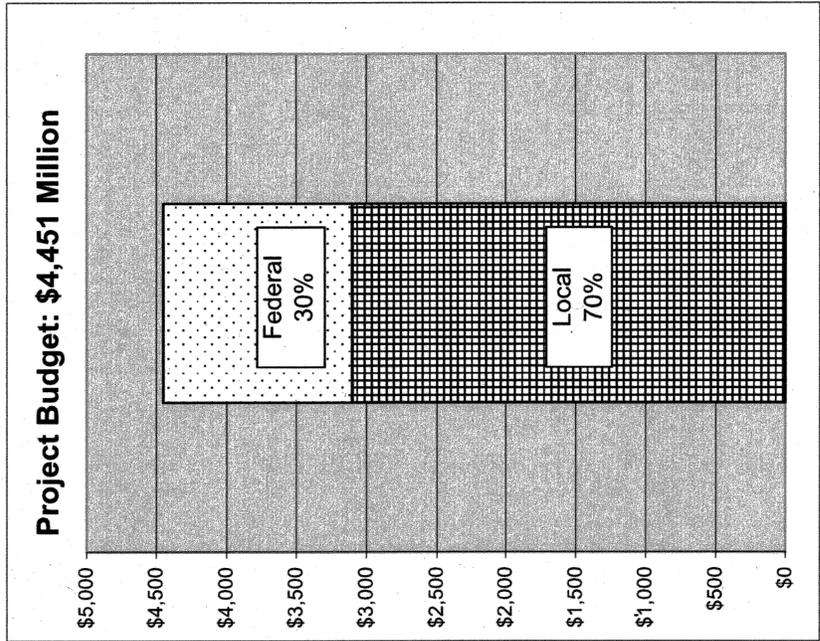
- The FTA and MTACC are jointly developing the Enterprise Level Project Execution Plan (ELPEP), which is intended to incorporate strategies for risk mitigation.
- An Industry Outreach Meeting was held on October 22 for the procurement of the contract for the 72<sup>nd</sup> Street Station Cavern Mining, G3/G4 Tunnels and Heavy Civil/Structural Work. The meeting was attended by representatives of over 30 firms. MTACC plans to issue the RFP in November.
- The environmental process was completed for the proposed design changes to entrances at both the 72<sup>nd</sup> Street and 86<sup>th</sup> Street Stations with the issuance of a Finding of No Significant Impact (FONSI) from the FTA on the Environmental Assessment.
- Controlled blasting is expected to begin in the launch box in November following the required stabilization of two buildings on Second Avenue to correct deficiencies that existed prior to construction. Rock excavation will continue by mechanical means until this work is completed.
- Preparatory work is underway for the demolition of Century Lumber Yard which is expected to begin at the end of November.

**Second Avenue Subway Status (Phase 1 Only)  
thru October 2009**

	Budgeted	Funding Sources			Status of Commitments		
		Local Funding	Federal Funding	Federal Received	Committed	Uncommitted	Expended
2000-2004	\$ 1,050	\$ 1,014	\$ 36	\$ 36	\$ 1,021	\$ 29	\$ 706
2005-2009	\$ 1,914	\$ 599	\$ 1,315	\$ 193	455	1,459	72
2010-2014	1,487	1,487	-	-	-	1,487	-
<b>Total</b>	<b>\$ 4,451</b>	<b>\$ 3,100</b>	<b>\$ 1,351</b>	<b>\$ 229</b>	<b>\$ 1,476</b>	<b>\$ 2,975</b>	<b>\$ 779</b>

**MTA Capital Program**

\$ in Millions



## MTA CAPITAL CONSTRUCTION PROJECT UPDATE

### East Side Access

#### Project Description

The East Side Access project brings Long Island Rail Road (LIRR) train service to a new lower level of Grand Central Terminal. The connection significantly improves travel times for Long Island and Queens commuters to the Midtown business district and alleviates pressure at a crowded Penn Station.

#### Budget and Estimate at Completion (EAC)

	<u>Budget</u>	<u>Last Reported EAC</u>	<u>Current Month EAC</u>	<u>Expenditures</u>
EIS and Engineering	\$ 564,664,653	\$ 564,664,653	\$ 564,664,653	\$ 443,881,358
Construction	5,781,343,484	5,781,343,484	5,781,343,484	985,246,104
Project Management	608,623,549	608,623,549	608,623,549	305,682,266
Real Estate	171,368,314	171,368,314	171,368,314	83,521,826
Rolling Stock*	202,000,000	202,000,000	202,000,000	0
<b>Total Project Cost</b>	<b>\$ 7,328,000,000</b>	<b>\$ 7,328,000,000</b>	<b>\$ 7,328,000,000</b>	<b>\$ 1,818,331,554</b>

\* An additional \$463 million Budgeted for ESA rolling stock is included in a reserve in the Board-approved 2010-2014 Capital Plan pending completion of a simulation of opening day service and fleet need.

#### Major Milestones and Forecasts

	<u>Original Schedule</u>	<u>Previous Month Schedule</u>	<u>Current Month Schedule</u>
Project Design Start	Mar 1999	Mar 31, 1999	Mar 31, 1999
Project Design Completion	4 <sup>th</sup> Q 2008	Mar 2012	Mar 2012
Project Construction Start	Sep 2001	Sep 5, 2001	Sep 5, 2001
Project Substantial Completion	2 <sup>nd</sup> Q 2012	Sep 2016	Sep 2016

#### Current Issues/Highlights

- The FTA and MTACC are jointly developing the Enterprise Level Project Execution Plan (ELPEP), which is intended to incorporate strategies for risk mitigation.
- Kickoff meetings were held with the 44<sup>th</sup> St Demolition, Construction of Fan Plant Structure & 245 Park Avenue Entrance (CM004) and Queens Bored Tunnel (CQ031) contractors.
- MTACC received nine bids for the 50<sup>th</sup> Street Vent Facility contract (CM013), and the lowest bidder is under the engineer's estimate. The Contract is scheduled for a December award.
- Construction of the new station caverns to be built under GCT has begun. The East Cavern excavation began ahead of schedule, and mining continues in the West Cavern. The Robbins TBM continues to mine the first of four lower tunnels in Manhattan.
- Work within GCT's Madison Yard area, the site of the future LIRR East Side Access passenger concourse, has reached two critical milestones. Reframing steel is on site to be used to transfer loads of existing structural columns that will be removed to create space needed for four escalator shafts connecting the station cavern to the concourse level. In addition, the first shaft connecting Madison Yard to the caverns has been constructed. The shaft will ultimately be used for ventilation, but during construction it will be equipped with an elevator to bring workers and material to the cavern level worksite.
- Negotiations have been completed on the Northern Boulevard Crossing contract (CQ039), which is included in the Board package for approval.
- MTACC achieved substantial completion of three contracts: Installation of Instrumentation at GCT (CS800), Madison Yard Preparation (CS780), and Harold Stage 1 material (VHA01/VHL01).

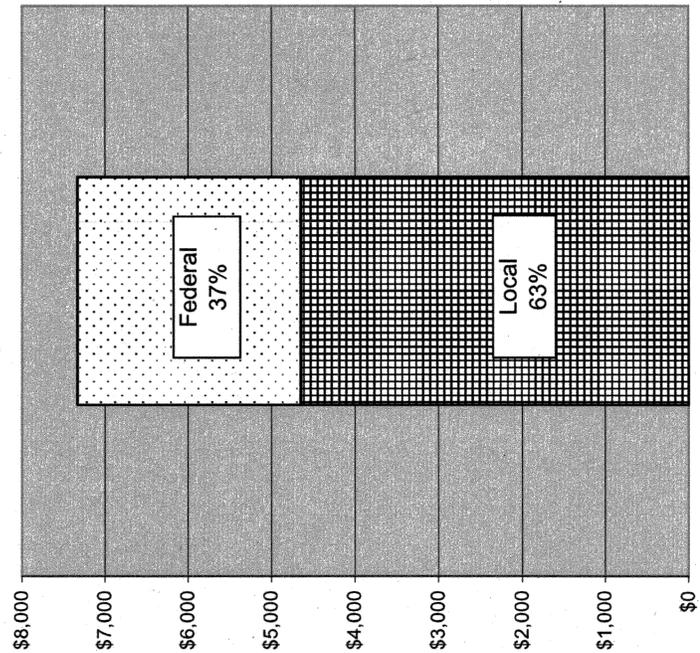
MTA Capital Construction Status Report – November 2009

**East Side Access Status  
thru October 2009**

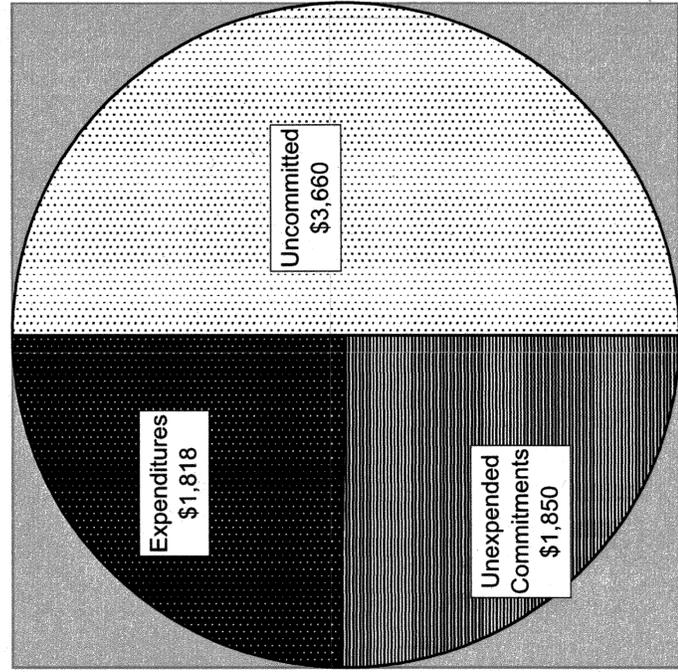
MTA Capital Program \$ in Millions	Funding Sources			Status of Commitments			
	Budgeted	Local Funding	Federal Funding*	Federal Received	Committed	Uncommitted	Expended
1995-1999	\$ 158	\$ 112	\$ 46	\$ 46	\$ 158	\$ -	\$ 157
2000-2004	1,534	941	593	593	1,486	47	1,160
2005-2009	2,683	639	2,044	506	2,024	658	501
2010-2014	2,954	2,954	-	-	-	2,954	-
<b>Total</b>	<b>\$ 7,328</b>	<b>\$ 4,646</b>	<b>\$ 2,683</b>	<b>\$ 1,144</b>	<b>\$ 3,668</b>	<b>\$ 3,660</b>	<b>\$ 1,818</b>

\* All Federal funding is approved through a Full Funding Grant Agreement with the FTA.

**Project Budget: \$7,328 Million**



**Commitments and Expenditures (\$ in Millions)**



## **MTACC PROCUREMENT AGENDA**

# Staff Summary

<b>Item Number</b>					
Dept & Dept Head Name: Law, Veronique Hakim					
Division & Division Head Name: N/A					
<b>Board Reviews</b>					
Order	To	Date	Approval	Info	Other
1	Committee	11/09/09			
2	Board	11/18/09			
<b>Internal Approvals</b>					
Order	Approval	Order	Approval		
1	Agency President				

<b>SUMMARY INFORMATION</b>	
<b>Vendor Name</b> N/A	<b>Contract Number</b> N/A
<b>Description</b> Request for Authorization to Award Various Procurements	
<b>Total Amount</b> \$ 119,450,768	
<b>Contract Term (including Options, if any)</b> Various	
<b>Option(s) included in Total Amount?</b> Various <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Renewal?</b> Various <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Procurement Type</b> Various <input type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
<b>Solicitation Type</b> Various <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
<b>Funding Source</b> Various <input type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	

## I. PURPOSE/RECOMMENDATION

To obtain Board approval to award various contracts and purchase orders as reviewed by the MTA Capital Construction Committee and the NYC Transit Committee.

## II. DISCUSSION

**MTA Capital Construction proposes to award Non-Competitive Procurements in the following categories:**

None

**MTA Capital Construction proposes to award Competitive Procurements in the following categories:**

### Schedule Requiring Majority Vote

Schedule H Modification to Personal/Miscellaneous Service Contracts	2	\$ 34,500,768 (NTE)
---	---	---------------------

### Schedule Requiring Two-Thirds Vote

Schedule C Modification to Personal/Miscellaneous Service Contracts	1	\$ 84,950,000 (NTE)
---	---	---------------------

	3	\$ 119,450,768 (NTE)
--	---	----------------------

**MTA Capital Construction proposes to award Ratifications in the following categories:**

None

	3	\$ 119,450,768 (NTE)
--	---	----------------------

# Staff Summary

Contract Cost and Terms

N/A

Renewal Information (if applicable)

N/A

Background on Selected Firm

N/A

**III. D/M/WBE INFORMATION**

N/A

**IV. IMPACT ON FUNDING**

The purchases/contracts will result in obligating capital funds in the amount listed. Funds are available in the current capital budget for this purpose.

**V. ALTERNATIVES**

N/A

## **BOARD RESOLUTION**

**WHEREAS**, in accordance with Section 1265-a and 1209 of the Public Authorities Law and the All Agency Procurement guidelines, the Board authorizes the award of certain non-competitive purchase and public works contracts, and the solicitation and award of request for proposals in regard to purchase and public work contracts; and

**WHEREAS**, in accordance with the All Agency Procurement Guidelines, the Board authorizes the award of certain non-competitive miscellaneous service and miscellaneous procurement contracts, certain change orders to purchase, public work, and miscellaneous service and miscellaneous procurement contracts;

**WHEREAS**, in accordance with Section 2879 of the Public Authorities Law and the All-Agency Guidelines for Procurement of Services, the Board authorizes the award of certain service contracts and certain change orders to service contracts.

**NOW**, upon the recommendation of the Executive Director, the Board resolves as follows:

1. As to each purchase and public work contract set forth in annexed Schedule A, the Board declares competitive bidding to be impractical or inappropriate for the reasons specified therein and authorizes the execution of each such contract.
2. As to each request for proposals (for purchase and public work contracts) set forth in Schedule B for which authorization to solicit proposals is requested, for the reasons specified therein, the Board declares competitive bidding to be impractical or inappropriate, declares it is in the public interest to solicit competitive request for proposals and authorizes the solicitation of such proposals.
3. As to each request for proposals (for purchase and public work contracts set forth in Schedule C for which a recommendation is made to award the contract), the Board authorizes the execution of said contract.
4. As to each action set forth in Schedule D, the Board declares competitive bidding impractical or inappropriate for the reasons specified therein, and ratifies each action for which ratification is requested.
5. The Board authorizes the execution of each of the following for which Board authorization is required: i) the miscellaneous procurement contracts set forth in Schedule E; ii) the personal service contracts set forth in Schedule F; iii) the miscellaneous service contracts set forth in Schedule G; iv) the modifications to personal/miscellaneous service contracts set forth in Schedule H; v) the contract modifications to purchase and public work contracts set forth in Schedule I; vi) the modifications to miscellaneous procurement contracts set forth in Schedule J.
6. The Board ratifies each action taken set forth in Schedule K for which ratification is requested.
7. The Board authorizes the budget adjustments to estimated contracts set forth in Schedule L.

**LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL**

**NOVEMBER 2009**

**Procurements Requiring Majority Vote:**

**H. Modification to Personal/Miscellaneous Service Contracts**

(Staff Summaries required for items requiring Board Approval)

1. **Parsons Brinckerhoff Quade & Douglas**      \$ 22,258,944 (NTE)      **Staff Summary Attached**  
**and Bovis Lend Lease, JV (New York, NY)**  
**Contract # CM-1265**  
Construction Consultant Management Services for the Fulton Street Transit Center
  
2. **Ove Arup & Partners Consulting**      \$ 12,241,824 (NTE)      **Staff Summary Attached**  
**Engineers P.C. (New York, NY)**  
**Contract # CM-1252**  
Design services for the Fulton Street Transit Center

**Procurements Requiring Two-Thirds Vote:**

**C. Competitive Request for Proposal (Award of Purchase and Public Work Contracts)**

(Staff Summaries required for items requiring Board Approval)

3. **Schiavone/Kiewit, a Joint Venture**      \$ 84,950,000 (NTE)      **Staff Summary Attached**  
**Contract # CQ039**  
Northern Boulevard Crossing

**Schedule H: Modifications to Personal & Miscellaneous Service Contracts**

Item Number: **1**

<b>Vendor Name (&amp; Location)</b> Parsons Brinckerhoff Quade & Douglas and Bovis Lend Lease, a Joint Venture (New York, NY)
<b>Description</b> Construction Consultant Management Services for FSTC
<b>Contract Term (including Options, if any)</b> March 29, 2004 – December 31, 2009
<b>Option(s) included in Total Amount?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> n/a
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive
<b>Solicitation Type</b> <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification
<b>Funding Source</b> <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:
<b>Requesting Dept/Div &amp; Dept/Div Head Name:</b> MTA Capital Construction, Michael Horodniceanu

Contract Number	AWO/Modification #
CM-1265	10
<b>Original Amount:</b>	\$ 18,972,397.00
<b>Prior Modifications:</b>	\$ 1,538,536.00
<b>Prior Budgetary Increases:</b>	\$ 0
<b>Current Amount:</b>	\$ 20,510,933.00
<b>This Request:</b>	\$ 22,258,944.00 (not-to-exceed)
<b>% of This Request to Current Amount:</b>	108.5%
<b>% of Modifications (including This Request) to Original Amount:</b>	125.4%

**Discussion:**

This contract with PB/Bovis JV is for construction consultant management (CCM) services for the Fulton Street Transit Center (FSTC). The original not-to-exceed amount was \$18,972,397 and the original duration was 53 months. Current approved modifications have increased the contract value to \$20,510,933 and extended the duration to 69 months to December 31, 2009.

This modification would extend the contract an additional 54 months to the end of June 2014 to coincide with the completion of construction of the Fulton Street Transit Center. This time extension is needed to provide the project management staffing and support services necessary to manage the estimated remaining \$568.0 million in construction through project completion. MTACC does not maintain adequate in-house staff to manage this project without the support service of a CCM contractor. Since PB/Bovis has been the CCM since 2004, its team is familiar enough with the project details to efficiently and effectively carry out the additional work set out in this contract modification. Three FSTC contracts have been completed for a total value of \$212.8 million and three contracts are currently in construction for \$274.9 million. The remaining work includes the Transit Center building, a contract in which PB/Bovis's expertise in managing building construction is particularly valuable. Total contract construction is estimated to cost over \$800 million.

When the CCM contract was awarded in 2004, MTACC forecasted construction activities to cost approximately \$500 million with a duration of 36 months to be completed by the end of 2007. The assumption for most of that period was that the major components of the FSTC project would be packaged into three to four separate contracts. By July 2005, construction had begun on the rehab of the 2/3 Fulton Street Station and the Dey Street Structural Box, both of which are now complete. However, the design of the Transit Center building was not yet complete and was being revised in an effort to control costs and incorporate additional requirements. A third contract for deconstruction and hazardous material abatement was issued in January 2007 and completed later that year.

In December 2007, a single RFP was sent out for all the remaining construction work on the FSTC (Construction Contract Package 4) for proposals. Since MTACC received only one proposal, which was far in excess of the budget, the solicitation was cancelled. MTACC determined that a repackaging plan that segregated work types, extended the schedule, and allowed for specialty contractors to be able to competitively bid on smaller packages was in the best interests of the project. The FSTC Construction Contract Package 4 was divided into six smaller contract packages to progress the work and obtain more competitive bids.

The proposed increase in the CCM contract budget and duration is the result of the specific workload implications of the changes in the project design and construction plan. One of the CCM's major tasks is to provide preconstruction support during design development, including contract packaging, constructability reviews, cost estimating, and procurement support. In particular, the CCM has expended a significant number of hours reviewing the various iterations of the design over the extended design period, carrying out constructability reviews of the numerous conceptual

design/preliminary engineering and final design packages. In addition, the current nine-contract packaging plan is far more complex than the original, and the CCM has expended significant resources sequencing work.

This modification for CCM services is consistent with MTACC's integrated manpower plan through completion assumed in the plan presented to the MTA Board in May 2009 when the project budget was increased from \$847 million to \$1,400 million and forecast substantial completion changed to June 2014. The changes presented, including the customer benefit milestones defined, drive the resource requirements for the CCM.

The final price of \$24,998,678 is 4.6 percent lower than the MTACC final estimate of \$26,196,072. The final price considers an annual escalation of 2 percent on direct salary rates and has been found to be fair and reasonable. As there is a balance of approximately \$2,700,000 remaining in the contract; the amount requested for approval represents the additional funding required.

## Schedule H: Modifications to Personal & Miscellaneous Service Contracts

Item Number: 2

<b>Vendor Name (&amp; Location)</b> Ove Arup & Partners Consulting Engineers P.C. (New York, NY)
<b>Description</b> Design services for the Fulton Street Transit Center
<b>Contract Term (including Options, if any)</b> August 1, 2003 – November 30, 2009
<b>Option(s) included in Total Amount?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive
<b>Solicitation Type</b> <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification
<b>Funding Source</b> <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:
<b>Requesting Dept/Div &amp; Dept/Div Head Name:</b> MTA Capital Construction, Michael Horodniceanu

Contract Number	AWO/Modification #
CM-1252	30 & 32
<b>Original Amount: (including options)</b>	\$ 55,574,360.00
<b>Prior Modifications:</b>	\$ 23,229,886.00
<b>Prior Budgetary Increases:</b>	\$ 0
<b>Current Amount:</b>	\$ 78,804,246.00
<b>This Request: Mod. #30 \$2,901,672 Mod. #32 \$9,340,152</b>	\$ 12,241,824.00 (not-to-exceed)
<b>% of This Request to Current Amount:</b>	15.5%
<b>% of Modifications (including This Request) to Original Amount:</b>	63.8%

### Discussion:

This contract is for design services on the Fulton Street Transit Center (FSTC) project. The FSTC will create a focal point for entry to the downtown rapid transit system. The center will connect to a new underground corridor into the World Trade Center site and improve connections and walkways to navigate among major subway routes in Lower Manhattan. In December 2007, MTACC sent out a single RFP for all the remaining construction work on the FSTC (Construction Contract Package 4) for proposals. Since MTACC received only one proposal, which was far in excess of the budget, the solicitation was cancelled. MTACC determined that a repackaging plan that segregated work types, extended the schedule, and allowed for specialty contractors to be able to competitively bid on smaller packages was in the best interests of the FSTC project. The FSTC Construction Contract Package 4 was divided into six smaller contract packages to progress the work and obtain more competitive bids. As previously reported, this repackaging effort has resulted in competitively priced construction bids while also extending the overall completion schedule to 2014. This repackaging effort has required several design consultant contract modifications, including the two presented below. A similar modification for additional consultant construction management services is also being presented in the November 2009 procurement package.

- Retroactive Modification No. 30 is for additional design services associated with construction of the Transit Center Building. The consultant will provide additional design services to produce construction contract drawings (design drawings and specifications for Divisions 2 through 19 as required) for a new construction contract bid solicitation package tentatively entitled "Package 4F: Transit Center Enclosure (A36125)." In order to meet the aggressive schedule set forth in the stimulus package and reduce potential schedule and cost impacts to the FSTC project, this modification was processed retroactively with an effective date of May 29, 2009. Similar to prior repackaging modifications approved by the Board, the scope of work includes nearly 1150 new and significantly revised drawings required to complete this large construction package. The final price is within 6.73% of the NYC Transit estimate and \$600,793 less than initially proposed by the contractor.
- Modification No. 32 will enable the consultant to continue to perform construction phase services (CPS) for an additional 60 months. The value of the base contract award for conceptual design and preliminary engineering plus planned options for Final Design and construction phase services (CPS) was \$55.5M, including only \$6.0M for CPS, far below the typical 30% allocation. MTACC always intended to request additional CPS funding once a final design was agreed upon. Additional design modifications worth \$20.4M incorporated Value Engineering changes and other design modifications without any additional funds for CPS. In addition, the initial CPS budget anticipated fewer construction packages than the nine currently planned. The additional construction packages have led to increases in drawing submissions, reviews and approvals and, in combination with the extended construction schedule, significantly increased contractor coordination requirements, compatibility issues, and the complexity of construction management and design interface. The CPS budget as currently configured represents 20% of the design cost, well below the 30% standard. The final price is within 4.71% of the revised NYC Transit estimate and \$278,898 less than initially proposed by the contractor. Accounting for the availability of \$3,630,768 of construction phase services funds remaining in the contract, only \$9,340,152 of new funding is required.

The final prices of both modifications were found to be fair and reasonable.

**Schedule C: Competitive Request for Proposal (Award of Purchase and Public Work Contracts)**

**STAFF SUMMARY**

Page 1 of 2



<b>Item Number</b> 3					
<b>Dept &amp; Dept Head Name:</b> East Side Access, A. Paskoff					
<b>Division and Division Head Name:</b> <i>A. Paskoff</i>					
<b>Board Reviews</b>					
Orde	To	Date	Approval	Info	Other
	Capital Construction, Planning & RE	11/9/09	X		
	Finance	11/16/09	X		
	Board	11/18/09	X		
<b>Internal Approvals</b>					
Order	Approval	Order	Approval		
3	VP Project Controls	6	President		
2	Chief Budget Officer	5	Sr. VP General Counsel		
1	Dir, Procurement	4	Chief Financial Officer		

<b>SUMMARY INFORMATION</b>	
<b>Vendor Name</b> Schiaivone/Kiewit, a Joint Venture	<b>Contract Number</b> CQ039
<b>Description</b> Northern Boulevard Crossing	
<b>Total Amount</b> \$84,950,000	
<b>Contract Term</b> 24 Months	
<b>Option(s) included in Total Amount?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Renewal?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
<b>Solicitation Type</b> <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
<b>Funding Source</b> <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	

**I. PURPOSE/RECOMMENDATION:**

To obtain Board approval to award Contract CQ039, Northern Boulevard Crossing for the East Side Access ("ESA") Project to Schiaivone/Kiewit, a Joint Venture, in the amount of \$84,950,000 and for a period of 24 months.

**II. DISCUSSION:**

On October 29, 2008, the Board adopted a resolution declaring that competitive bidding was impractical or inappropriate and that it was in the public interest to issue a competitive Request for Proposal ("RFP"), pursuant to Article III F of the All Agency Procurement Guidelines for Contract CQ039, Northern Boulevard Crossing for the East Side Access Project.

The scope of work includes a soft-ground bored tunnel beneath Northern Boulevard, providing and maintaining temporary construction services and facilities, design and installation for ground treatment, ground freezing, and underpinning systems, design for support of excavation, sequence, initial support and lining systems, relocation of utilities, operating and maintaining de-watering operations, excavation and stockpiling of excavated material, furnishing, maintaining and collecting data from instrumentation, excavation and installation of initial support and installation of waterproofing and permanent tunnel lining.

The RFP was advertised and issued as a one-step process in January 2009. A total of seventeen (17) firms requested the RFP of which seven (7) were identified as potential prime contractors or joint venture partners. Proposals were due on May 7, 2009 and one response, from Schiaivone/Kiewit, a Joint Venture (which is a joint venture comprised of Schiaivone Construction Co. LLC, Inc. and Kiewit Constructors Inc.) was received. In advance of this procurement, MTACC had conducted outreach efforts to encourage contractor participation on our solicitations. MTACC conducted a market survey of the prime firms who obtained the CQ039 solicitation package but did not submit a proposal. In general, the responding firms indicated that they either had a scheduling conflict with the work or they required a joint venture partner to perform the work (due to limits in their financial or technical capacity) but were unsuccessful in finding such a partner. Furthermore, MTACC believes that competition on this solicitation was limited due to national and international firms' unwillingness to venture into the New York City market and other firms' determination that the risk of the work specified for the contract was too great.

The Selection Committee evaluated the proposal based on the RFP evaluation criteria which included the proposer's relevant experience, technical proposal, and other factors. The selection committee found the technical proposal submitted by the proposer to be acceptable and recommended entering negotiations with the joint venture.

Schiaivone/Kiewit, a Joint Venture ("SK") supplied a proposal which contained two cost proposals: an original cost proposal of \$93,922,000 representing the base project as designed and an alternate cost proposal of \$96,877,000 representing SK's proposed means of construction. MTACC's estimate for this work is \$57,351,419. Numerous negotiation meetings were held with the proposer and revised proposals were requested and received. The discussions focused on those items reflecting the greatest discrepancy with the internal estimate and the construction schedule. Discussions were also held on technical approach to reduce risk that may have added cost to the proposal or schedule.

During the course of discussions on risk, the parties were able to come to a better understanding of risk allocations between the parties such that SK was confident in abandoning their alternate proposed method which had placed a much larger portion of the risk on the MTACC than the RFP base method.

After the conclusion of negotiations, a final BAFO was requested. SK's BAFO was for \$84,950,000 for work under the contract while MTACC's revised estimate is \$73,330,049. The discrepancy between the estimate and the negotiated price is due to a number of factors. The majority of the difference is in the cost of excavation, temporary support and final concrete lining. The excavation and temporary support work carries significant risk and SK added higher contingencies than the project had estimated for these factors.

Each of the JV partners submitted Responsibility Questionnaires and responsibility and integrity checks were performed by MTACC Procurement and NYCT Vendor Relations. Significant adverse information ("SAI"), within the meaning of the All Agency Responsibility Guidelines, was found on both Schiavone Construction Co. LLC ("Schiavone") and Kiewit Constructors Inc ("Kiewit"). In 1985, as a result of 1984 grand jury indictment in Bronx County, NYDOT and NYCDEP declined to award contracts for which Schiavone was the low bidder. Charges against two individuals were dismissed by the judge and in 1987 not guilty verdicts were returned by jury on all defendants. In 2001, Schiavone voluntarily excluded itself from bidding on the NJDOT Victory Bridge project. This was in accordance with a supplemental agreement between Schiavone and NJDOT. Schiavone had been the low bidder on the design/build project and was unable to resolve design issues with NJDOT during the final design phase of the project; with Schiavone's agreement not to bid on the project NJDOT re-bid the project as a design-bid-build procurement without further incident involving Schiavone. In February 2008, Schiavone received search warrants and a subpoena duces tectum for various project records from the US Attorney's Office and the US Department of Labor related to their compliance with guidelines for participation by minority owned businesses in contracts. Schiavone is cooperating with the investigation.

Prior to 1981 four former affiliate companies: Peter Kiewit Sons, Prairie States Construction Co., Missouri Valley Construction Co. and Big Horn Construction Co. were accused of bid rigging activities. Those companies pleaded no contest or guilty resulting in debarments or suspensions of those companies and the following affiliated companies: Gilbert Corporation of Delaware, Gilbert Central Corp. and Kiewit Eastern Corp. Gilbert Central Corp. and Kiewit Eastern merged into Kiewit Construction Company in 1992 and that entity remains the only currently active entity of all the companies discussed above. The suspensions of the Gilbert and Kiewit companies were based on their affiliation with the other firms and not on any actions of their own. No indictments were issued and the firms were subsequently reinstated with the respective agencies. In 1990, Kiewit Pacific Co. ("KPC"), an affiliate of Kiewit Constructor's parent Kiewit Construction Co. was charged with unlawful disposal of contaminated materials in one of its construction yards. KPC plead nolo contendere to a one count misdemeanor and paid a fine and performed a remediation. In 1994 KPC was charged with two misdemeanor counts relating to a piece of equipment running over a protected species bird. KPC plead nolo contendere to both counts and paid fines to the Court and Fish & Game. In August 2007 Kie-Con a division of KPC was served with a Grand Jury Subpoena from the US Attorney's Office seeking information on waste water disposal and batch plant records at Kie-Con's Antioch California plant. In November 2007 the Contra Costa County DA's Office notified Kie-Con that they intended to file a complaint relating to alleged unlawful discharges from the plant. The DA reports the matter is unresolved at this time and that they may decide upon civil or criminal charges at a later time. Kiewit reports that in December 2007 the two parties entered into a tolling agreement and that they are continuing to cooperate with the US Attorney and the DA.

These issues have been previously disclosed and both Schiavone and Kiewit have been awarded MTA contracts since their disclosure. Despite the existence of the above referenced SAI, MTACC recommends that SK, be found responsible. A SAI memorandum for the approval of the Chairman and Executive Director to find Schiavone and Kiewit responsible notwithstanding SAI is circulating concurrently with this Staff Summary. Award of this Contract will not be made without his approval.

### **III. MBE/WBE INFORMATION:**

The Contract has 6% DBE goals. This contract will not be awarded until OCR has approved SK's DBE participation submittals.

### **IV. IMPACT ON FUNDING:**

Funding for this Contract is available in the 2005 – 2009 Capital Program for the ESA Project.

### **V. ALTERNATIVES:**

There are no viable alternatives for performing this work at this time. Given the complexity of the contract and previous outreach efforts conducted, re-soliciting will not necessarily result in finding additional firms to compete for this work and would cause unacceptable delays to the project. There are no viable alternatives for performing this work at this time.





Metropolitan Transportation Authority

# Capital Construction, Planning and Real Estate Committee Meeting

Volume II – Real Estate

## November 2009

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### Committee Members

N. Shevell, Chair

A. Albert

N. Brown

D. Cecil

D. Frasca

J. Kay

M. Lebow

S. Metzger

N. Seabrook

J. Sedore, Jr.

C. Wortendyke

# MEETING AGENDA

## CAPITAL CONSTRUCTION, PLANNING AND REAL ESTATE COMMITTEE

### Volume II - REAL ESTATE

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#### AGENDA ITEMS

#### PAGE

#### 1. ACTION ITEMS

#### MTA METRO-NORTH RAILROAD

- a. License agreement with Standard Parking Corporation for MTA Metro-North employee parking at the Yankees/153rd Street Station, Bronx, New York 3
- b. Acquisition of property from George and Kimberly Grieco in the hamlet of Stormville, Town of East Fishkill, Dutchess County, New York, for the MTA Police Department K-9 training facility 4
- c. Amendment to extend term of license agreement with Putnam County for the construction, operation and maintenance of a pedestrian bike path in the Maybrook-Beacon rail line right-of-way, Putnam County, New York 6
- d. Lease agreement with LLC to be formed by Yorkville Tennis Club, LLC for the operation of a tennis club on the fourth floor of Hall D, Grand Central Terminal, New York 7
- e. Guidelines for Selection of Tenants for Grand Central Terminal 9

#### MTA LONG ISLAND RAIL ROAD

- f. Lease agreement with JJ Penn LLC, d/b/a Jamba Juice, for the sale of food and non-alcoholic beverages in Retail Space 9A, and use of Storage Space D, LIRR Level A, Penn Station, New York 24
- g. License agreement with Palmetto Hospitality of Garden City II, LLC, for the removal of debris, landscaping and replacement of fencing adjacent to a new Hyatt Hotel on the non-operating Roosevelt Spur, off of the LIRR Central Branch right of way, Garden City, New York 26

## 2. INFORMATION ITEMS

a.	Status report on month-to-month licenses	27
b.	Status report on agreements entered into directly by the Real Estate Department	29
c.	Status report on property acquisition and other transactions involving New York City	31
d.	Status report on Grand Central Terminal Vanderbilt Hall events	49
e.	Status report on Grand Central Terminal Graybar Passage retail kiosks	51

**Date of next meeting: Wednesday, December 9, 2009 at 11:00 a.m.**



# **MTA METRO NORTH RAILROAD**

# Staff Summary

Subject <b>LICENSE AGREEMENT</b>
Department <b>REAL ESTATE</b>
Department Head Name <b>JEFFREY B. ROSEN</b>
Department Head Signature
Project Manager Name <b>BENSON GOODWYN</b>

Date <b>NOVEMBER 9, 2009</b>
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	CC/P/RE Committee	11/9/09	X		
2	Board	11/18/09	X		

Internal Approvals			
Order	Approval	Order	Approval
	Executive Director	2	Civil Rights <i>[Signature]</i>
	Chief of Staff	1	Legal <i>[Signature]</i>
	Director of B&FM		
3	Dep Exec Dir of Admin <i>[Signature]</i>		

**Narrative**

AGENCY: MTA Metro-North Railroad ("Metro-North")

LICENSOR: Standard Parking Corporation ("Standard")

LOCATION: East 161<sup>st</sup> Street and River Avenue, Bronx, New York (portion of Block 2539, Lot 60)

ACTIVITY: Parking for Metro-North employees at the Yankees/153<sup>rd</sup> Street Station

ACTION REQUESTED: Approval of terms

TERM: Month-to-month, retroactive to October 1, 2009

SPACE: Approximately five spaces per game

COMPENSATION: Market rate per parking space per game day, currently \$30

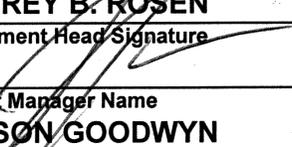
COMMENTS:

During the baseball season, Metro-North operations services and customer service personnel are assigned to work on game days at the new Yankees/153<sup>rd</sup> Street Station. Such personnel would find it extraordinarily difficult and expensive to park in reasonable proximity to the station if Metro-North did not arrange for parking spaces for them. During the 2009 season, they have used parking spaces pursuant to a temporary construction easement granted to Metro-North by BTM Development Partners, LLC, which was to be used only while the station was being constructed. The temporary easement agreement provided for month-to-month extensions through the end of 2009, with rent increasing from \$10,000 per month in September to \$20,000 per month from October through the end of 2009. With the easement no longer required for construction, MTA Real Estate has negotiated an agreement for use of an adjacent lot run by Standard on behalf of the City of New York, on a month-to-month basis, at the daily rate per space that Standard charges from time to time to members of the general public on game days, which is currently \$30 per space. It is anticipated that approximately five employees will be using the lot on game days. Billing will be based on the actual number of vehicles parked by Metro-North personnel in the lot.

Based on the foregoing, MTA Real Estate requests authorization to enter into a license agreement with Standard Parking Corporation on the above-described terms and conditions.



# Staff Summary

Subject <b>FEE ACQUISITION</b>
Department <b>REAL ESTATE</b>
Department Head Name <b>JEFFREY B. ROSEN</b>
Department Head Signature 
Project Manager Name <b>BENSON GOODWYN</b>

Date <b>NOVEMBER 9, 2009</b>
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	CC/P/RE Committee	11/9/09	X		
2	Board	11/18/09	X		

Internal Approvals			
Order	Approval	Order	Approval
	Executive Director	2	Civil Rights 
	Chief of Staff	1	Legal 
	Director of B&FM		
3	Dep Exec Dir of Admin 		

**Narrative**

AGENCY: Metropolitan Transportation Authority ("MTA")

GRANTOR: George & Kimberly Grieco

LOCATION: 14 Perin Lane (Block 4, Lot 687) and 229 Seaman Road (Block 4, Lot 681), Stormville, NY

ACTIVITY: Acquisition of property for the MTA Police Department ("MTAPD") Canine ("K-9") Unit

ACTION REQUESTED: Approval of terms

INTEREST: Fee

SPACE: Approximately seventy-one (71) acres

COMPENSATION: One million fifty thousand dollars ( \$1,050,000.00)

COMMENTS:

In January 2002, as a direct result of the events of September 11, 2001, the MTAPD K-9 Unit was formed to detect explosives and enhance the ability of the MTAPD to protect the public. After its formation, initial training of the K-9 unit was performed with the assistance of the New York State Police and Port Authority Police Department. The MTAPD K-9 unit has grown to fifty highly trained K-9 teams that are deployed throughout the MTA network, including MTA Metro-North Railroad (including Connecticut), MTA Long Island Rail Road, MTA Staten Island Railway and MTA Long Island Bus. The unit is the largest such unit maintained by any mass transit system in the United States.

Training for the K-9 unit is mandated by the New York State Division of Criminal Justice Services, which requires that all K-9 teams perform initial and in-service training programs, with a minimum of 16 hours per month of training. To date, K-9 training has been conducted, under a verbal agreement, at a facility in Montgomery, New York that is owned by the Orange County Sheriff's Office. The location is sub-optimal from an operational perspective due to significant travel time to the facility from the areas where the bulk of MTA ridership is located and lack of transit-specific training tools.

A facility for the K-9 unit was slated for Croton-Harmon Yard but had to be abandoned due to Metro-North's future needs and code compliance issues. Since then, MTA Real Estate has presented MTAPD with agency-owned sites at Hopewell Junction, Harriman, and Beacon, all of which proved to be infeasible. Other law enforcement agencies in the region do not have the capacity to accommodate the unit's training needs. A relatively large property is required both to ensure that suitable buffers can be provided between areas in active use and adjoining properties and because the dogs' olfactory sensitivity is such that areas cannot be re-used for several days after they have been used for training exercises. Over the last two years, MTA Real Estate has conducted a wide-ranging search for suitable locations and has presented MTAPD with over twenty sites, the most suitable of which is the subject property. The fact that the subject property is bisected by Metro-North's Beacon Line presents an excellent opportunity to construct a siding to allow retired rail cars to be placed on the property and used in training exercises specific to mass transit.

## **CAPITAL CONSTRUCTION/PLANNING/REAL ESTATE COMMITTEE MEETING 14 Perin Lane (Cont'd)**

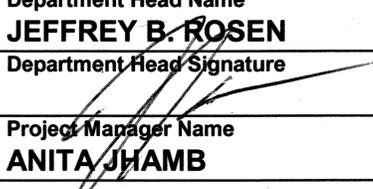
### **COMMENTS: (Cont'd)**

The property is in close proximity to major highways and operational expenses for travel will be significantly reduced. MTAPD also plans to use the site for other training activities, for an outdoor firearms range, and possibly as a site for communications antennae. The site contains structures that can be used by the K-9 unit with relatively minor renovations. The negotiated price is within the range of fair market value as determined by an appraiser engaged by MTA Real Estate.

Based on the foregoing, MTA Real Estate requests authorization to acquire the subject property on the above-described terms. The acquisition will be subject to satisfactory completion of all required environmental reviews.

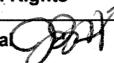


# Staff Summary

Subject <b>LICENSE AGREEMENT</b>
Department <b>REAL ESTATE</b>
Department Head Name <b>JEFFREY B. ROSEN</b>
Department Head Signature 
Project Manager Name <b>ANITA JHAMB</b>

Date <b>NOVEMBER 9, 2009</b>
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	CC/P/RE Committee	11/9/09	X		
2	Board	11/18/09	X		

Internal Approvals			
Order	Approval	Order	Approval
	Executive Director	2	Civil Rights 
	Chief of Staff	1	Legal 
	Director of B&FM		
3	Dep Exec Dir of Admin 		

**Narrative**

AGENCY: MTA Metro-North Railroad ("Metro-North")

LICENSEE: Putnam County ("Putnam")

LOCATION: Approximately 3.91 miles of right-of-way within the Maybrook-Beacon rail line running southeasterly from Holmes Road to east of Route 164

ACTIVITY: Construction, operation and maintenance of a pedestrian/bike path

ACTION REQUESTED: Approval of extended term

TERM: Original Term: Twenty (20) years (commenced May 15, 1997; expires May 14, 2017)  
New Expiration Date: December 31, 2019

COMPENSATION: One (1) dollar, payment waived

COMMENTS:

Putnam currently has a license agreement dated May 15, 1997, for a proposed bike path that is referred to by Putnam as "Maybrook I". The term of the existing agreement is twenty (20) years and is scheduled to expire on May 14, 2017, leaving a remaining term of approximately seven and a half (7.5) years.

While Putnam has plans to develop additional sections of the bike path, construction of Maybrook I is slated for federal stimulus funding and New York State Department of Transportation has required that there be a minimum of ten (10) years remaining in the term of the agreement as a condition of funding. A letter amendment to the current license agreement extending the term by approximately two (2) years and seven (7) months would allow Putnam to secure the stimulus funding for the Maybrook I section.

A new license agreement superseding the existing Maybrook I agreement, as amended, and including other portions of the Maybrook-Beacon right-of-way, is currently being negotiated and will be brought to the Board for approval at a subsequent date. However, in the interim, MTA Real Estate requests authorization to enter into a letter amendment with Putnam to extend the term of the Maybrook I agreement on the above-described terms and conditions.



# Staff Summary

Subject <b>LEASE AGREEMENT</b>
Department <b>REAL ESTATE</b>
Department Head Name <b>JEFFREY B. ROSEN</b>
Department Head Signature 
Project Manager Name <b>NANCY MARSHALL</b>

Date <b>NOVEMBER 9, 2009</b>
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	CC/P/RE Committee	11/9/09	X		
2	Board	11/18/09	X		

Internal Approvals			
Order	Approval	Order	Approval
	Executive Director	2	Civil Rights 
	Chief of Staff	1	Legal 
	Director of B&FM		
3	Dep Exec Dir of Admin 		

<b>Narrative</b>			
AGENCY:	MTA Metro-North Railroad ("Metro-North")		
LESSEE :	New LLC to be formed by Yorkville Tennis Club, LLC		
LOCATION:	Fourth floor, Hall D, Grand Central Terminal, New York		
ACTIVITY:	Tennis club		
ACTION REQUESTED:	Approval of terms		
TERM:	Ten (10) years		
SPACE:	Approximately 8,800 sq. ft.		
RENT:	Year	Annual	PSF
	1	\$225,000.00	\$25.57
	2	\$236,250.00	\$26.85
	3	\$248,000.00	\$28.18
	4	\$260,500.00	\$29.60
	5	\$273,500.00	\$31.08
	6	\$287,200.00	\$32.64
	7	\$301,500.00	\$34.26
	8	\$316,600.00	\$35.98
	9	\$332,500.00	\$37.78
	10	\$350,000.00	\$39.77
SECURITY:	Three (3) month's rent plus additional security for completion of construction work per the "Security for Tenant's Work" section of the standard Grand Central Terminal form of lease		
INSURANCE:	Standard		
CONSTRUCTION PERIOD:	Ninety (90) days		

## CAPITAL CONSTRUCTION/PLANNING/REAL ESTATE COMMITTEE MEETING

### Yorkville Tennis Club, LLC (Cont'd)

#### COMMENTS:

In conjunction with MTA Metro-North's continuing efforts to redevelop Grand Central Terminal, provide improved employee facilities (locker rooms) and increase revenue, MTA Real Estate issued a request for proposals ("RFP") for the fourth floor of Hall D at Grand Central Terminal. The space was previously occupied by another tennis club. Proposals were received from Yorkville Tennis Club, LLC ("Yorkville"); Dakodi, LLC; and 42<sup>nd</sup> Street Development Corporation. The present values of the rents proposed (using a discount rate of 9%) were \$1,755,077, \$828,604 and \$277,867, respectively. The proposed rental stream is significantly higher than the rent paid by the previous tenant.

Yorkville proposes to construct and operate one regulation-size doubles tennis court with a reception area, lounge and men's and women's bathroom and locker facilities. Yorkville, which is owned and operated by Dr. Anthony Scolnick, currently operates two existing tennis clubs in Manhattan, Sutton East Tennis Club and Yorkville Tennis Club. A new legal entity and trade name will be created for this operation. In addition to seasonal and daily rental of court time, the lessee will offer tennis programs similar to the programs offered at Yorkville's existing Manhattan facilities. These programs will be geared towards all age groups and levels of play, and will include lessons, round robins and league play. The club will operate seven days per week. The upgrading of this space for continued use as a tennis club will reinforce Grand Central Terminal's status as a high quality mixed-use destination.

Based on the foregoing, MTA Real Estate requests authorization to enter into a lease agreement with a new LCC entity of Yorkville on the above-described terms and conditions.



# Staff Summary

Subject <b>GUIDELINES FOR SELECTION OF TENANTS FOR GRAND CENTRAL TERMINAL</b>
Department <b>REAL ESTATE</b>
Department Head Name <b>JEFFREY B. ROSEN</b>
Department Head Signature 
Project Manager Name <b>NANCY MARSHALL</b>

Date <b>OCTOBER 31, 2009</b>
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	CC/P/RE Committee	11/09/09	X		
2	Board	11/18/09	X		

Internal Approvals			
Order	Approval	Order	Approval
		2	 Dep Exec Dir of Admin
		1	Legal 

**PURPOSE:**

To obtain MTA Board approval of Guidelines for Selection of Tenants for Grand Central Terminal ("GCT") attached to this Staff Summary (the "GCT Guidelines").

**DISCUSSION:**

At the request of the Chairman and CEO, the MTA Real Estate Department has reviewed and modified the GCT tenant selection process to clarify the evaluation criteria and selection process to be used in selecting tenants for Grand Central Terminal.

The major changes from the prior process are:

(1) The new GCT Guidelines define a clear objective: to maximize 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").

(2) The new GCT Guidelines establish a rebuttable presumption that the Objective will be furthered by the proposal that is responsive and responsible and offers the highest unadjusted present value guaranteed rent amount. 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 present value guaranteed rent amount must be made by a selection committee comprised of the Director of GCT Development, the Director of Real Estate Operations or his or her designee and the Director of Business Development or his or her designee, and supported by a rationale that is articulated in the Staff Summary presented to the Board in connection with such recommendation.

(3) Representatives of each of Williams Jackson Ewing and Jones Lang LaSalle, MTA's technical consultants for leasing and retail property management services at GCT, will prepare a technical evaluation that will be provided to the selection committee members. Each selection committee member exercises his/her own best independent judgment taking into account the technical evaluations.

(4) There are two evaluation criteria. The first, which accounts for 70% of the score, is designed to evaluate the direct economic value of a proposal. It would be calculated by taking the total of: (a) the present value of the guaranteed rent reduced by up to 50% based on the evaluator's assessment of the viability of the prospective tenant's business plan, the creditworthiness of the prospective tenant and any security deposits/letters of credit that will be

# Staff Summary

required and (b) the present value of 50% of the projected percentage rent, reflecting the fact that percentage rent is not guaranteed, further reduced based on the evaluator's assessment of the likelihood of the proposed percentage rent being received. The two sums combined would constitute the measure of the direct economic value of a proposal. The second evaluation criterion, which accounts for the remaining 30% of the score, is the evaluator's determination of the indirect benefit to the MTA, based on the proposed tenant's likelihood of attracting other desirable prospective tenants to GCT, and/or customers for other current or prospective tenants at GCT.

## **RECOMMENDATION:**

It is recommended that the Board approve the GCT Guidelines, which will be effective immediately for all RFPs for commercial space in GCT issued after the date of such approval.

November 18, 2009

## **GUIDELINES FOR SELECTION OF TENANTS FOR GRAND CENTRAL TERMINAL**

### **Application**

These guidelines (“Guidelines”) apply to the selection of lessees for leases of commercial 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 January, 2006 and April, 2009. (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, typically 60 days.) These Guidelines supplement the MTA Real Estate Department Policies and Procedures For Licensing-Out, Leasing-Out and Sale Of Real Property, adopted by the Board in February, 2009, as such policies and procedures may be amended from time to time (the “General Policies and Procedures”). In the event of any conflict between these Guidelines and the General Policies and Procedures, these Guidelines will govern.

### **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 guidance of officers and employees of the MTA. Nothing contained in these Guidelines is intended, or shall be construed, to confer upon any person or entity any right, remedy, claim or benefit under, or by reason

of, any requirement or provision of these Guidelines. Except to the extent prohibited by law, any provision of these Guidelines may be waived by the Board (by ratification or otherwise) or by the Chairman and Chief Executive Officer.

### **Requests For Proposals**

All opportunities to lease commercial space at GCT (except for leases of storage spaces and other incidental 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 of GCT Development, approved by the Director of Real Estate, and advertised in accordance with the General Policies and Procedures. 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 of GCT Development, with the concurrence of the Director of Real Estate, 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, provided that they reasonably determine that doing so will further the Objective. 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 shall 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 6%.

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 6%.

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 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 be independently evaluated by Williams Jackson Ewing and 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 (the "Technical Consultants").

Each Technical Consultant shall provide the Director of GCT Development 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 of GCT Development and the Director of GCT Development 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 of GCT Development 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 the RED's Tenant Management Unit;
- (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 letters of credit 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 shall be a determination of responsiveness by the Director of GCT Development using the standard criteria set forth in the General Policies and Procedures (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 to be "not responsive" (and thus disqualified and eliminated from further consideration by the Director of GCT Development) 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 of GCT Development 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 determined to be non-responsive, such proposer shall be afforded such opportunity.

In making the foregoing determination, the Director of GCT Development may rely on the Technical Evaluations.

**Step 3: Initial Determination of Responsibility:**

The third step is an initial determination of responsibility by the Director of GCT Development. The Director of GCT Development may determine that a prospective tenant is not responsible for any reason contemplated by the General Policies and Procedures (including unsuitability due to a record of criminality, lack of integrity, violations of the Procurement Lobbying Law (State Finance Law §§ 139-j and 139-k)). A prospective tenant should be deemed “not responsible” (and thus disqualified and eliminated from consideration by the Director of GCT Development) if (a) such prospective tenant, or any Affiliate of such prospective tenant, owes, by reason of an amount due not more than five years prior to the date of the RFP, in excess of \$10,000 to the MTA, (b) such amount is not (in the view of the MTA Legal Department) the subject of a bona fide dispute and (c) such amount has remained unpaid for more than 90 days; provided, however, that before disqualifying any prospective tenant by reason of any such non-payment, the Director of GCT Development must provide written notice of such non-payment to such prospective tenant and afford such prospective tenant a period of not less than 30 days to pay the amount that remains unpaid. Late payment, as opposed to non-payment, shall not constitute grounds for disqualification of an otherwise responsible prospective tenant (although it may be taken into account in scoring proposals, as described above under the heading “Selection Criterion A”). If a proposer is deemed to be not responsible, no further consideration of that proposal will be undertaken.

“Affiliate” of a prospective tenant means any entity that (a) controls or owns more than a 30% equity interest in such prospective tenant or (b) is controlled by, or more than a 30% equity interest in which is owned by or for the benefit of, either (i) such prospective tenant or (ii) any person (or any member of the immediate family (i.e., spouse, father, mother, brother, sister, children, and stepchildren) of any person) or entity that controls, or owns more than a 30% equity interest in, such prospective tenant.

In making the foregoing determination, the Director of GCT Development may rely on the Technical Evaluations.

**Step 4: Evaluation by the Director of GCT Development:**

The Director of GCT Development shall thereafter complete his/her 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 of GCT Development must exercise his/her 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, with the concurrence of the Director of Real Estate, a Staff Summary recommending award of the lease to such proposer may be submitted to the Board for approval without convening a selection committee. However, if the proposal with 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 of GCT Development must convene a selection committee (the "Selection Committee") consisting of the Director of GCT Development, the Director of Real Estate Operations or his or her designee and the Director of Business Development or his or her designee.

**Step 5: Evaluation by Selection Committee, If Necessary**

If a Selection Committee is required, the members of the Selection Committee shall be furnished with the Technical Evaluations. Each Selection Committee member other than the Director of GCT Development shall complete his/her 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/her own best independent judgment taking into account the Technical Evaluation.

A meeting of the Selection Committee shall thereafter convene. 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 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 shall be the supplemental Evaluation Forms for the other Selection Committee members) shall be added together and the proposals ranked based on such aggregate scoring.

## **Step 6: Determination of Whether to Present Recommendation to the Board**

The Director of Real Estate may (at any time after an RFP is issued) determine, subject to the approval of the Deputy Executive Director of Administration, 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 Director of Real Estate 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 Director of Real Estate shall so report to the Board's Committee on Capital Construction, Planning & Real Estate. Otherwise, the Director of GCT Development shall make a final 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 Director of Real Estate shall submit to the Board a Staff Summary requesting authorization to enter into a lease with such prospective tenant. If such recommended prospective tenant is not the proposer with the highest Unadjusted Guaranteed Rent Amount, then such Staff Summary must include a reasonably detailed explanation of the factors that the Selection Committee took into account in recommending such proposal.

# APPENDIX A

Grand Central Terminal Retail Leasing Evaluation Sheet

Space:

Space # \_\_\_\_\_ (Current Tenant)

Evaluator:

Date:

Scoring	A	B	C	D	E	F	G	H	I	J
	Unadjusted Guaranteed Rent Amount	Guaranteed Rent Adjustment Factor*	Adjusted Guaranteed Rent Amount (AxB)	Unadjusted Percentage Rent Amount	Percentage Rent Adjustment Factor**	Adjusted Percentage Rent Amount (DxE)	Adjusted Total Rent Amount (C+F)	Selection Criterion A Score*** (0-70)	Selection Criterion B Score (0-30)	Total Selection Criteria Score (H+I)
Proposer 1										
Proposer 2										
Proposer 3										

\*Guaranteed Rent Adjust Factor: from 1.00 (no uncertainty about A) to as low as 0.50 (great uncertainty about A); however may be as low as 0 per guidelines

\*\*Percentage Rent Adjust Factor: as high as 0.50 (no uncertainty about D) to as low as zero (great uncertainty about D).

\*\*\*Selection Criterion A Score: 70 multiplied by the ratio of the Adjusted Total Rent Amount for the proposer to the the highest Adjusted Total Rent Amount (from column G)

Grand Central Terminal Retail Leasing Evaluation Sheet

Space:

Space # \_\_\_\_\_ (Current Tenant)

Evaluator:

Date:


Proposer 1

Guaranteed Rent Adjustment Factor selected: \_\_\_\_\_

Explanation of Guaranteed Rent Adjustment Factor selected: \_\_\_\_\_

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Percentage Rent Adjustment Factor selected: \_\_\_\_\_

Explanation of Percentage Rent Adjustment Factor selected: \_\_\_\_\_

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Selection Criterion B Score:  
Factors Considered in arriving at Selection Criterion B Score:

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Grand Central Terminal Retail Leasing Evaluation Sheet

Space:

Space # \_\_\_\_\_ (Current Tenant)

Evaluator:

Date:

Proposer 3

Guaranteed Rent Adjustment Factor selected: \_\_\_\_\_

Explanation of Guaranteed Rent Adjustment Factor selected: \_\_\_\_\_

\_\_\_\_\_

Percentage Rent Adjustment Factor selected: \_\_\_\_\_

Explanation of Percentage Rent Adjustment Factor selected: \_\_\_\_\_

\_\_\_\_\_

Selection Criterion B Score: \_\_\_\_\_  
Factors Considered in arriving at Selection Criterion B Score: \_\_\_\_\_

\_\_\_\_\_

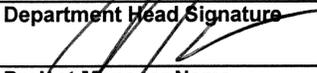
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**MTA LONG ISLAND  
RAIL ROAD**

# Staff Summary

Subject <b>LEASE</b>
Department <b>REAL ESTATE</b>
Department Head Name <b>JEFFREY B. ROSEN</b>
Department Head Signature 
Project Manager Name <b>DORRIE MASSARIA ROBERTS</b>

Date <b>NOVEMBER 9, 2009</b>
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	CC/P/RE Committee	11/9/09	X		
2	Board				

Internal Approvals			
Order	Approval	Order	Approval
	Executive Director	2	Civil Rights 
	Chief of Staff	1	Legal 
	Director of B&FM		
3	Dep Exec Dir of Admin 		

<b>Narrative</b>																																													
AGENCY:	MTA Long Island Rail Road ("LIRR")																																												
LESSEE:	JJ Penn Station LLC d/b/a Jamba Juice																																												
LOCATION:	Level A, Penn Station, New York																																												
ACTIVITY:	Retail sale of food and non-alcoholic beverages																																												
ACTION REQUESTED:	Approval of terms																																												
TERM:	Ten (10) Years																																												
SPACE:	Approximately 1600 square feet of Retail Space 9A , and approximately 100 square feet of Storage Space D																																												
COMPENSATION	<u>Retail</u>																																												
	<table border="1"> <thead> <tr> <th>Year</th> <th>Annual</th> <th>PSF</th> <th>% Increase</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>\$200,000.00</td> <td>\$125.00</td> <td></td> </tr> <tr> <td>2</td> <td>\$210,000.00</td> <td>\$131.25</td> <td>5</td> </tr> <tr> <td>3</td> <td>\$220,500.00</td> <td>\$137.81</td> <td>5</td> </tr> <tr> <td>4</td> <td>\$231,525.00</td> <td>\$144.70</td> <td>5</td> </tr> <tr> <td>5</td> <td>\$243,101.00</td> <td>\$151.94</td> <td>5</td> </tr> <tr> <td>6</td> <td>\$255,256.00</td> <td>\$159.54</td> <td>5</td> </tr> <tr> <td>7</td> <td>\$268,019.00</td> <td>\$167.51</td> <td>5</td> </tr> <tr> <td>8</td> <td>\$281,420.00</td> <td>\$175.89</td> <td>5</td> </tr> <tr> <td>9</td> <td>\$295,491.00</td> <td>\$184.68</td> <td>5</td> </tr> <tr> <td>10</td> <td>\$310,265.00</td> <td>\$193.92</td> <td>5</td> </tr> </tbody> </table>	Year	Annual	PSF	% Increase	1	\$200,000.00	\$125.00		2	\$210,000.00	\$131.25	5	3	\$220,500.00	\$137.81	5	4	\$231,525.00	\$144.70	5	5	\$243,101.00	\$151.94	5	6	\$255,256.00	\$159.54	5	7	\$268,019.00	\$167.51	5	8	\$281,420.00	\$175.89	5	9	\$295,491.00	\$184.68	5	10	\$310,265.00	\$193.92	5
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**CAPITAL CONSTRUCTION/PLANNING/REAL ESTATE COMMITTEE MEETING**

**JJ Penn Station LLC d/b/a Jamba Juice (Cont'd)**

Storage

<u>Year</u>	<u>Annual</u>	<u>PSF</u>	<u>% Increase</u>
1	\$4,000.00	\$40.00	
2	\$4,200.00	\$42.00	5
3	\$4,410.00	\$44.10	5
4	\$4,630.50	\$46.31	5
5	\$4,862.03	\$48.62	5
6	\$5,105.13	\$51.05	5
7	\$5,360.38	\$53.60	5
8	\$5,628.40	\$56.28	5
9	\$5,909.82	\$59.10	5
10	\$6,205.31	\$62.05	5

**COMMENTS:**

In response to a recent Request for Proposals (RFP) for Retail Space 9A at Penn Station, seven (7) proposals were received to occupy the space, including one that did not include a proposed rent schedule.

The rental payments proposed (calculated on a present value basis, using a discount rate of 9%) ranged from \$88,708 to \$1,590,879. The highest proposal was received from Healthy Food Concepts at \$1,590,879. The remaining proposals were made by Sarah's Kitchen at \$1,386,792; Dunkin Donuts at \$1,207,196; Michael Chung at \$1,154,168; Safar Ali at \$729,931 and Subway Restaurants at \$88,708. Randy Page submitted a proposal, but neglected to submit a proposed rent schedule.

Healthy Food Concepts proposes to operate a Jamba Juice store under a franchise from Jamba Juice Company ("Jamba Juice"). Jamba Juice stores feature blended-to-order fruit smoothies, squeezed-to-order juices, blended beverages and snacks. As of December 30, 2008, Jamba Juice had a total of 729 stores, including 511 company-owned stores and 218 franchisee-owned stores in the United States and the Bahamas. As the Lessee is to be single-purpose LLC, the Lessee's principal, Mr. Altaf Isani, has agreed to provide a personal guarantee as part of the lease agreement. Mr. Isani is known to the MTA through his ownership interest in Rosen's Café at 347 Madison Avenue, New York.

Based on the foregoing, MTA Real Estate requests authorization to enter into a lease agreement with JJ Penn Station LLC on the above-described terms and conditions.



# Staff Summary

<b>Subject</b> <b>LICENSE AGREEMENT</b>						<b>Date</b> <b>NOVEMBER 9, 2009</b>			
<b>Department</b> <b>REAL ESTATE</b>						<b>Vendor Name</b>			
<b>Department Head Name</b> <b>JEFFREY B. ROSEN</b>						<b>Contract Number</b>			
<b>Department Head Signature</b> 						<b>Contract Manager Name</b>			
<b>Project Manager Name</b> <b>KRISTIN OLMSTED</b>						<b>Table of Contents Ref #</b>			
<b>Board Action</b>						<b>Internal Approvals</b>			
<b>Order</b>	<b>To</b>	<b>Date</b>	<b>Approval</b>	<b>Info</b>	<b>Other</b>	<b>Order</b>	<b>Approval</b>	<b>Order</b>	<b>Approval</b>
1	CC/P/RE Committee	11/9/09	X				Executive Director	2	Civil Rights 
2	Board	11/18/09	X				Chief of Staff	1	Legal 
							Director of B&FM		
						3	Dep Exec Dir of Admin 		

**Narrative**

AGENCY: MTA Long Island Rail Road ("LIRR")

LICENSEE: Palmetto Hospitality of Garden City II, LLC

LOCATION: Block 08, Lot 135, Nassau County, situated on the non-operating Roosevelt Spur off the LIRR's Central Branch, Garden City, New York

ACTIVITY: Cleanup and beautification of inactive right-of-way

ACTION REQUESTED: Approval of terms

TERM: Year-to-year

SPACE: Approximately 16,154 square feet

COMPENSATION: \$100 for the first year, with 5% annual increases

COMMENTS:

Palmetto Hospitality of Garden City II, LLC requested permission to beautify a narrow strip of LIRR property adjacent to the site of a proposed Hyatt hotel it is developing in Garden City. This unused strip of LIRR property is an eyesore, a dumping ground and overgrown with vegetation. The Licensee will incur considerable expense to improve the property, including costs of new plantings, repairing and/or replacing fencing and removing debris.

Based on the foregoing, MTA Real Estate requests authorization to enter into a license agreement with Palmetto Hospitality of Garden City II, LLC on the above-described terms and conditions.



# **INFORMATION ITEMS**

# Memorandum



## Metropolitan Transportation Authority

State of New York

**Date** November 9, 2009  
**To** Members of the Capital Construction, Planning and Real Estate Committee  
**From** Jeffrey B. Rosen, Director, Real Estate  
**Re** **Status of Month-to-Month Licenses for Passenger Amenities**

---

In June 1988, the MTA Board adopted a policy, which allows the Real Estate Department to enter into month-to-month agreements for "passenger service oriented concessions without individual Committee or Board approval". Attached is a status report of month-to-month agreements, which were executed pursuant to the policy.

**TENANTS CURRENTLY ON MONTH-TO-MONTH AGREEMENTS**

**MONTH: NOVEMBER 2009**

AGENCY	LOCATION (STATION)	TENANT/USE	SF	DATE OF AGREEMENT	MONTHLY COMPENSATION	COMMENT
1. NYCT	WTC Station 8 <sup>th</sup> Ave. Line, Manhattan	Fakhrul Alam/Newsstand	420	January 2004	\$121.54	Special site conditions will require interim tenancy until there is a station rehab
2. NYCT	West 4 <sup>th</sup> St. Station	Bachubhai Mehta/Newsstand (2)	96 96	June 2006	\$15,435.00	To be publicly offered prior to 12/31/09
3. NYCT	Grand Street Station (B and D trains), Manhattan	Mahabubar Rahman	91	April 2006	\$882.00	
4. NYCT	179 <sup>th</sup> Street Station (F train), Queens	Bachubhai Mehta/Newsstand	180	January 2008	\$1,400.00	
5. NYCT	51 <sup>st</sup> Street-Lexington Avenue (6 train)	Bachubhai Mehta/Newsstand (2)	192	June 2008	\$7,600.00	
6. NYCT	Astor Place (6 train), Manhattan	Fakhrul Alam/Newsstand	60	September 2008	\$3,900.00	
7. LIRR	Bellmore Station, Bellmore, NY	Newsstation, Inc./Newsstand	120	March 2009	\$300	To be publicly offered
8. LIRR	Wantagh Station, Wantagh, NY	Newsstation, Inc./Newsstand	121	March 2009	\$300	To be publicly offered
9. LIRR	Massapequa Station, Massapequa, NY	Newsstation, Inc./Newsstand	120	September 2009	\$150	To be publicly offered



# Memorandum



## Metropolitan Transportation Authority

State of New York

**Date** November 9, 2009

**To** Members of the Capital Construction, Planning and Real Estate Committee

**From** Jeffrey B. Rosen, Director, Real Estate

**Re** **Report on Agreements Entered into Directly by the Real Estate Department with tenants in good standing or through the RFP or RTN process with a 5-year revenue stream, which does not exceed \$150,000, or 10-year stream not in excess of \$300,000**

---

Attached is a listing of agreements entered into directly by the Real Estate Department during the preceding month, pursuant to the Board's April 26, 2007 resolution.

That resolution delegates authority to the Chairman, Executive Director, and Director of Real Estate to enter into lease or license agreements with tenants on behalf of the MTA and its agencies.

For each such agreement, the term may not exceed ten years, and aggregate compensation may not exceed \$300,000, or \$150,000 for five-year agreements. The resolution similarly delegates authority to renew license agreements with tenants in good standing with the same limitations.

**REPORT ON AGREEMENTS ENTERED INTO DIRECTLY BY THE REAL ESTATE DEPARTMENT  
PURSUANT TO BOARD POLICY**

**November 9, 2009**

Agency/Project Manager	Renewal/RFP Generated	Licensee	Location/Use	Term	Rental	Annual Increase	Size/Weekday Ridership	Price/SF																																														
LIRR / M. Ramin	Renewal Generated	Conandy Realty, LLC.	Corner of 48 <sup>th</sup> Ave and 11 <sup>th</sup> Street, Long Island City, NY	5 Year with 5 Year Option	<table border="1"> <thead> <tr> <th>Year</th> <th>Annual</th> </tr> </thead> <tbody> <tr><td>1</td><td>\$10,000.00</td></tr> <tr><td>2</td><td>\$10,500.00</td></tr> <tr><td>3</td><td>\$11,025.00</td></tr> <tr><td>4</td><td>\$11,576.25</td></tr> <tr><td>5</td><td>\$12,155.06</td></tr> <tr><td colspan="2">Option</td></tr> <tr><td>6</td><td>\$12,762.82</td></tr> <tr><td>7</td><td>\$13,400.96</td></tr> <tr><td>8</td><td>\$14,071.00</td></tr> <tr><td>9</td><td>\$14,774.55</td></tr> <tr><td>10</td><td>\$15,513.28</td></tr> </tbody> </table>	Year	Annual	1	\$10,000.00	2	\$10,500.00	3	\$11,025.00	4	\$11,576.25	5	\$12,155.06	Option		6	\$12,762.82	7	\$13,400.96	8	\$14,071.00	9	\$14,774.55	10	\$15,513.28	5% 5% 5% 5% 5% 5% 5% 5% 5% 5%	Approximately 2,000 square feet	<table border="1"> <thead> <tr> <th>Year</th> <th>PSF</th> </tr> </thead> <tbody> <tr><td>1</td><td>\$5.00</td></tr> <tr><td>2</td><td>\$5.25</td></tr> <tr><td>3</td><td>\$5.51</td></tr> <tr><td>4</td><td>\$5.79</td></tr> <tr><td>5</td><td>\$6.07</td></tr> <tr><td>6</td><td>\$6.38</td></tr> <tr><td>7</td><td>\$6.70</td></tr> <tr><td>8</td><td>\$7.03</td></tr> <tr><td>9</td><td>\$7.38</td></tr> <tr><td>10</td><td>\$7.75</td></tr> </tbody> </table>	Year	PSF	1	\$5.00	2	\$5.25	3	\$5.51	4	\$5.79	5	\$6.07	6	\$6.38	7	\$6.70	8	\$7.03	9	\$7.38	10	\$7.75
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MN / A.Jhamb	Renewal	Vincent Cappelletti d/b/a Vincent Christopher Design	Bronxville Station/ Office	5 year with 5 year option	<table border="1"> <thead> <tr> <th>Year</th> <th>Annual</th> </tr> </thead> <tbody> <tr><td>1</td><td>\$8,686.11</td></tr> <tr><td>2</td><td>\$9,120.42</td></tr> <tr><td>3</td><td>\$9,576.44</td></tr> <tr><td>4</td><td>\$10,055.26</td></tr> <tr><td>5</td><td>\$10,558.02</td></tr> <tr><td colspan="2">Option</td></tr> <tr><td>6</td><td>\$11,085.93</td></tr> <tr><td>7</td><td>\$11,640.22</td></tr> <tr><td>8</td><td>\$12,222.23</td></tr> <tr><td>9</td><td>\$12,833.34</td></tr> <tr><td>10</td><td>\$13,475.01</td></tr> </tbody> </table>	Year	Annual	1	\$8,686.11	2	\$9,120.42	3	\$9,576.44	4	\$10,055.26	5	\$10,558.02	Option		6	\$11,085.93	7	\$11,640.22	8	\$12,222.23	9	\$12,833.34	10	\$13,475.01	5% 5% 5% 5% 5% 5% 5% 5% 5% 5%	350 square feet/ 3,001 passengers	<table border="1"> <thead> <tr> <th>Year</th> <th>PSF</th> </tr> </thead> <tbody> <tr><td>1</td><td>\$24.82</td></tr> <tr><td>2</td><td>\$26.06</td></tr> <tr><td>3</td><td>\$27.36</td></tr> <tr><td>4</td><td>\$28.73</td></tr> <tr><td>5</td><td>\$30.17</td></tr> <tr><td>6</td><td>\$31.67</td></tr> <tr><td>7</td><td>\$33.26</td></tr> <tr><td>8</td><td>\$34.92</td></tr> <tr><td>9</td><td>\$36.67</td></tr> <tr><td>10</td><td>\$38.50</td></tr> </tbody> </table>	Year	PSF	1	\$24.82	2	\$26.06	3	\$27.36	4	\$28.73	5	\$30.17	6	\$31.67	7	\$33.26	8	\$34.92	9	\$36.67	10	\$38.50
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# Memorandum



## **Metropolitan Transportation Authority**

State of New York

**Date** November 9, 2009

**To** Members of the Capital Construction, Planning and Real Estate Committee

**From** Jeffrey B. Rosen, Director, Real Estate

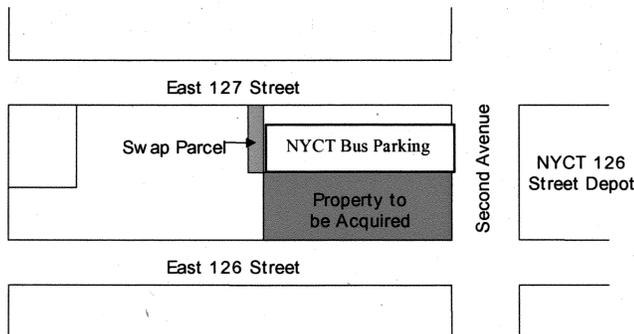
**Re** **Status of Property Acquisitions and Other Transactions Involving New York City**

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Attached is Status Report of property acquisitions and other transactions involving New York City as of September 11, 2009.

**126 Street Bus Depot, Manhattan (I. Salsberg)**

Background: MTA -NYCT requested the acquisition of property for bus parking to accommodate capacity at the depot, which became too small when the building was renovated and bus routes were modified in response to increased ridership. Since the initial request, MTA has been working with the community and city agencies to locate suitable land in the vicinity of the depot to accommodate its short and long-term needs.



The primary site is a portion of land directly across the street from the depot (Block 1791 part of Lot 1). That site is City-owned and has long been designated for housing as the largest single tract of land available for such use. The community has been opposed to the change in use or to the possible construction of a bus facility next to the housing. NYCT considered over 20 alternate sites, including a site at 128th Street and 2nd Avenue formerly used by the American Bus Company under lease from the City, and property along Marginal Street and under the Triborough Bridge used by Sanitation for storage of salt used for snow removal.

In 1990, with the assistance of the Mayor's office, MTA acquired the American Bus Company site, used for storage and light maintenance of buses. In 1991, MTA acquired the northeast corner of Block 1791 from a private owner, now used for nighttime bus parking.

In December 1993, a Memorandum of Understanding between NYCT and the City was executed. Under the MOU, NYCT would acquire a mid-block, sliver building (the "Hidalgo" building) and swap it with the City for the portion of Lot 1 originally requested. The combined 1991 acquisition and this lot would form a merged lot along 2nd Avenue 198' wide and approximately 250' deep, which would meet 90-100% of the depot's requirements.

While NYCT and NYC Department of Housing Preservation and Development (HPD) were proceeding with environmental property surveys as per the MOU, HPD attorneys determined that this transfer would require a full ULURP (instead of a modified ULURP pursuant to 1983 legislation expediting the process for MTA), an amendment to Urban Renewal Plan, and a rezoning of the lot from R-7 to an M1-3.

In 1996, HPD agreed to commence the ULURP action for the transfer. The Transportation Committee of Community Board 11 voted in favor of the transfer from HPD to NYCT, but the Land Use Committee opposed it. After confirming that it had all the information required to commence the ULURP in April 1997, however, HPD requested additional environmental surveys. At the end of the year, HPD granted permit to allow NYCT's contractor on the property, and NYCT completed its environmental assessment and additional borings. NYCT sent the environmental assessment to HPD in November.

In 1998, MOT intervened to seek an interim parking permit for the lot. HPD requested certain information, including detailed parking plans, copies of the Environmental Impact Statement, and results of the test borings. The interim license was executed in March.

HPD circulated the EIS to City Planning and City DOT for comments. With its consultant, HPD prepared the City Environmental Quality Review ("CEQR") in the summer of 1998 and ultimately granted a negative declaration in December. Concurrently, HPD was working on the ULURP application in anticipation of completion the pre-certification work and set up a pre-ULURP meeting with the City Planning Legal to review planning issues.

During 1999 and 2000 NYCT and MTA-RED worked with our environmental consultants, HPD, and



**126 Street Bus Depot, Manhattan (I. Salsberg)**

DCP to try to finalize the ULURP application.

In 2003 EDC discussed an alternate option for property. EDC's proposal was to include MTA, HPD & private property in a development proposal for two full city blocks.

MTA worked with EDC and their designated developer. EDC proposed & MTA agreed to include the required bus parking as an underground element. (GRID) MTA and GRID worked on scope, cost, constructability of the underground bus facility for 3 years.

In 2006 MTA was notified by EDC that project was on hold & a new RFP would be issued. MTA participated & coordinated w/EDC in the RFP process.

- 3/27/06 EDC has notified MTA that the project is temporarily on hold until they fully engage the community in the process.
- 5/22/06 EDC is preparing to issue a new RFP for the development. EDC, NYCT and MTA to meet so we can provide EDC with all of our requirements and specifications for the underground bus parking component of project.
- 6/26/06 Project currently on hold.
- 9/25/06 MTA-RE met with EDC and representatives from the Mayor's office on 9/7/06. EDC is drafting a new RFP for the development of a retail, commercial and residential complex that will house NYCT's bus parking in the basement. MTA, NYCT to provide requirements to EDC.
- 11/27/06 EDC issued RFP. Pre-proposal conference scheduled for 10/15/06.
- 12/11/06 RED attended pre-proposal conference conducted by EDC, still negotiating terms of MOU.
- 1/29/07 MTA finalizing MOU with EDC. MOU will have provisions for future Second Avenue Subway ancillary facility on small parcel included in RFP. Staff Summary included in action items for January 2007.
- 2/26/07 MTA submitted final comments to EDC. Waiting for EDC and City Planning to finalize zoning issues concerning Second Avenue Subway provision.
- 3/26/07 MTA to provide EDC with dimensions for the space required for Second Avenue Subway.
- 4/24/07 MTA & EDC to coordinate ownership issues and bus traffic alternatives.
- 6/25/07 Met with EDC to discuss next steps.
- 7/17/07 MTA & Buses provided EDC with information required for EIS.
- 9/24/07 MTA working with EDC & developers to answer questions concerning the MTA portion of the development.
- 12/17/07 MTA received cost estimate from EDC for construction of underground parking portion of facility
- 1/28/08 Various options being evaluated
- 4/23/08 EDC, in 2008, told MTA that underground bus parking should be reconsidered & proposed that MTA re-build adjacent depot in lieu of the underground parking.



**126 Street Bus Depot, Manhattan (I. Salsberg)**

- 5/22/08 ULURP clock started 3/24/08. Meeting with MTA Real Estate, NYCT Government and Community Relations, Mayor's Office and EDC on 4/10/08 to discuss project. CPM to review EDC's proposed construction costs for underground bus parking facility.
- 6/23/08 Referred EDC to contact person at NYCT Operations Planning for review and comment on DEIS
- 10/27/08 City Council approved the proposed rezoning of EDC's development site on 10/7/08. Plans do not include underground parking for MTA-NYCT Buses.



**Second Avenue Subway, Phase I, Manhattan (H. Cinque)**

**Background:** Phase 1 of the Second Avenue Subway (“SAS”) project will construct a new two-track subway under 2<sup>nd</sup> Avenue in the borough of Manhattan. Three (3) new subway stations will be built at 96<sup>th</sup>, 86<sup>th</sup>, & 72<sup>nd</sup> Streets, and the existing station at 63<sup>rd</sup> Street & Lexington Avenue will be upgraded. In addition to the tunneling and build-out of station shells, ancillary facilities will be constructed to provide proper ventilation, emergency egress and other support functions.

SAS is being constructed along a highly-developed corridor with numerous real estate interests, and MTA Real Estate and MTA CC have made every effort to accommodate them to the best of our ability. As the new stations will be accessible via escalators and elevators, the station envelope is necessarily larger than existing subway stations and therefore requires the acquisition of more property interests than previously-built stations. Wherever feasible, the MTA has sought to place station entrances in open spaces such as public plazas or inside buildings.

In circumstances where station entrances and facilities will occupy portions of public plazas, property owners have raised the issue of remaining in compliance with the City’s Zoning Resolution, specifically what is referred to as the plaza bonus. The Mayor’s Office of Operations is coordinating a meeting with the Department of City Planning and MTA to resolve zoning issues.

Likewise, the MTA has been coordinating with New York City Department of Transportation (“DOT”) in sending out notices of termination of sidewalk permit interests, including vaults. All of the affected property owners, tenants, and interested parties have been notified. MTA will coordinate with all of the affected parties individually in order to address any unusual circumstances and move the project forward.

- 10/22/07 Meeting with MTA and Department of City Planning successful. MTA is waiting for a letter summarizing conclusions regarding zoning compliance. Mailing of DOT notices pending due to court challenge.
- 1/28/08 DOT letters sent November 9, 2007
- 04/23/08 MTA coordination w/DOT, DOB & Mayors Office of operations for mailing of additional termination notices for sidewalk encroachment
- 06/23/08 Sidewalk encroachment termination letters will be sent out by NYC Department of Consumer Affairs. Meeting to be scheduled with Department of City Planning to finalize zoning compliance issues in public plazas where a new SAS entrance will be constructed.
- 09/22/08 Termination letters sent out, MTA sent follow up letter addressing DOB’s cellar door access issues.
- 11/17/08 NYC Department of Consumer Affairs sent sidewalk café permit termination letters to four cafes in the vicinity of 72<sup>nd</sup> Street shaft construction.
- 02/23/09 MTA coordinating with MOO for mailing of termination notices for sidewalk encroachments associated with CCC’s 86<sup>th</sup> Street 5A contract.
- 4/29/09 Termination letters for terminating sidewalk encroachments to be mailed by April 15, 2009.
- 6/22/09 Termination letters sent out. MTA coordinating with MOO for mailing of category 5B encroachment letters.



7/22/09 NYC Dept. of Consumer Affairs & MTA working together to coordinate suspension and re-instatement of unenclosed sidewalk cafés to allow rest to retain use of space as long as possible.

9/21/09 Category 5B encroachment letters mailed out.

**Fordham Station, Bronx (D. Roth)**

**Background:** Metro-North intends to acquire a fee or permanent easement interest in approximately 2,800 square feet of parkland to facilitate the extension of the existing southbound platform at the Fordham Road Passenger Station.

Initially, this project was delayed pending funding approval. Beginning in May 1993, Real Estate began the process to secure: (i) access during construction; and (ii) a permanent interest thereafter, in City of New York Parks property at the Fordham Station.

By September 1993, Parks had identified MTA NYCT property to exchange for the property required by MTA Metro-North. Subsequently, legislation was secured, approving the transfer. Parks was to have the swap property surveyed. In the interim, Parks intended to grant temporary access for construction, first by Memorandum of Agreement, and second by permit. The permit was granted to MTA Metro-North in March 1995.

In 1996, activity consisted of waiting for Parks to complete a survey of the property it required as a swap for the Fordham platform extension process. Ultimately, Parks stated that it could not perform the survey. By the end of 1997, Real Estate had, after difficulty with a surveyor, dismissed same.

In 1998, surveys were completed and forwarded to Parks. The Mayor's Office of Transportation ("MOT") intervened to expedite property conveyance. In 1999, DCAS was brought into the process and all documentation relative to the legislation was forwarded for their review.

Re-sent survey of swap property to MOT and held meeting in March 2000 between MTA, MOT, and Corporation Counsel for the purposes of facilitating closure. Forwarded additional documentation to Corporation Counsel following meeting. Upon review of indenture, Corporation Counsel sought assurances from Parks Department that Metro North improvements to Rose Hill Park were sufficient. MTA incorporated City comments and prepared subsequent drafts. For the rest of 2000, MOT attempted to work with Parks to obtain confirmation that improvements to Rose Hill Park were sufficient.

- 1/18/01 Awaiting Parks Department approval of Metro-North Improvement to Rose Hill Park.
- 2/15/01 Contacted Parks regarding update on status of approval of MN Improvements.
- 3/12/01 Parks to send personnel to inspect site, confirm metes and bounds, and issue approval letter that MN work has been sufficiently completed.
- 4/23/01 Parks inspected property to be transferred and MN improvements to Rose Hill Park. Parks drafting letter to acknowledge MN work completed.
- 5/17/01 Parks now claiming landscaping improvements by MNR incomplete. Punch list requested from Parks. Site visit with Parks scheduled for 5/10/01.
- 7/19/01 Site visit with Parks on 6/21. Received punch list from Parks of needed MNR work. Submitted information to Parks indicating that MNR paid contractors and Parks in 1995 to complete disputed work.
- 9/11/01 Parks satisfied that MNR completed required work. Parks will be sending letter to NYC Corporation Counsel.
- 11/15/01 Parks has still not completed letter. Parks to draft and send to NYC Corporation Counsel this week.
- 12/17/01 Parks sent letter to NYC Corporation Counsel indicating MNR obligations to Parks are fulfilled and recommending land swap finalized.



**Fordham Station, Bronx (D. Roth)**

- 1/17/02 Fordham Station file copied and sent to NYC Corporation Counsel.
- 9/19/02 MTA Real Estate has written a letter to the NYC Corporation Counsel requesting the execution of the indenture.
- 12/15/03 MTA Real Estate has written to NYC Corporation Counsel seeking execution of this indenture.
- 5/20/04 MTA raised this issue in a phone conversation with NYC Corporation Counsel.
- 3/27/06 MTA has contacted NYC Corporation Counsel in an effort to conclude this transaction.
- 4/24/06 MTA has contacted NYC Corporation Counsel in an effort to conclude this transaction. NYC Corporation Counsel to review documents.
- 07/24/06 NYC Corporation Counsel requires City to perform a title report for the property in question to confirm ownership.
- 10/23/06 NYC Corporation Counsel has confirmed intent to close in telephone conversation of 10/04/06.
- 11/27/06 At a meeting with NYC DOT, NYC Corporation Counsel has advised MTA and MNR that the City will take steps to help bring transaction to a close.
- 12/11/06 City has confirmed ownership of property to be transferred to City from MTA. City is in possession of indenture and has indicated it will bring this land swap to completion.
- 01/29/07 NYC Corporation Counsel has indicated by telephone conference call that the City will take steps to bring this land swap to completion shortly.
- 2/26/07 NYC Corporation Counsel has indicated that the City has reviewed the Indenture Agreement and is researching parcel to be conveyed to City with the Bronx Borough President
- 3/26/07 NYC Corporation Counsel has indicated the City has reviewed Indenture Agreement and is researching parcel to be conveyed to City with the Bronx Borough President. MTA has reached out to NYC Corporation Counsel in an effort to move transaction towards a conclusion.
- 4/24/07 NYC Corporation Counsel has indicated the City has reviewed Indenture Agreement and is researching parcel to be conveyed to City with the Bronx Borough President. MTA, in an effort to move transaction towards a conclusion, has provided NYC Corporation Counsel with its documentation on said parcel. NYC Corporation Counsel has also indicated supporting information from the Bronx Borough President's Office is expected.
- 5/25/07 NYCT may need to control all of its property that it intended to swap for immediate staging and construction purposes. Details to be worked out with NYC Corporation Counsel.
- 1/28/08 NYCT's contractor has delivered title work to determine actual boundaries between us and NYC Parks



**Fordham Station, Bronx (D. Roth)**

- 4/23/08 Joint site visit this month between MTA and NYC Parks confirmed that Block 4011, Lot 111 is the property to be "swapped." Draft MOU to be revised to identify this property in the swap, and specify that title to property transfer to Parks upon the completion of NYCT's "East 180<sup>th</sup> St. Signals Rehabilitation" project.
- 6/23/08 RED re-drafting MOU
- 9/22/08 Finalizing terms and conditions of an MOU, which will include project improvement details and the associated improvement costs.
- 12/15/08 NYC Corporation Counsel reports no change in approval status
- 2/23/09 Draft MOU and a copy of a prior Indenture forwarded to NYC Parks for their review.
- 3/23/09 Draft MOU and indenture undergoing review at MTA-Legal.
- 6/03/09 Draft MOU sent to Parks Department for review.
- 9/21/09 Draft MOU in review with Parks Department.
- 10/21/09 Draft MOU in review with Parks Department. Update requested.
- 11/9/09 Parks Department and MTA-RED agree to use a letter from MTA to Parks to memorialize the terms of the land swap.**



**Submarine Cable Replacement Project, Manhattan/Bronx (A. Jhamb)**

Background: Metro-North requires NYCDOT property and a temporary construction easement at 135 Street and the East River, to serve as the Manhattan access point for a new communication/signal/ power cable to replace the current obsolete and damaged submarine cable. Access to the Bronx side will be on private property.

From July 1993 to January 1995, RED negotiated with New York City Parks to secure property rights to effect this construction project. As those negotiations failed, Real Estate approached NYCDOT to use an easement it possesses to install the communications cable. Directives from the All-Agency Conference were implemented.

In advance of the permanent indenture for the Manhattan side of the project, the requisite temporary permits were secured from NYCDOT and NYSDOT in January 1996, thereby enabling construction to begin.

On the Bronx side, redesign of the project led to shifting locations for construction. The final location for the permanent easement is on property held in bankruptcy. A temporary easement was secured in 1997 for construction. The permanent easement will be secured through a Board approved eminent domain action.

In 2000, RED transmitted additional information to MOT at its request. Deal closed on private Bronx private in February. Meeting held in March 2000 between MTA, MOT, and Corporation Counsel for the purposes of facilitating closure. Forwarded additional documentation and revised indenture to Corporation Counsel following meeting. The rest of 2000 was spent attempted to secure approval of indenture and the year ended with the onset of the compensation impasse.

- 2/15/01 RED forwarded letter to MOT requesting waiver of compensation as per 1988 Agreement between NYC and MTA.
- 3/12/01 MOT forwarded NYCDOT request for easements from MTA.
- 4/23/01 MTA processing NYCDOT request. NYC still considering MTA request for fee waiver.
- 5/17/01 NYC and MOT still considering MTA request for fee waiver.
- 7/19/01 MOT will not waive consideration.
- 12/17/01 RED sent letter to NYC Corporate Counsel requesting conveyance of this property, in accordance with MOU, due to its nominal value.
- 04/26/04 City indicated that DCAS and Law Department will require updated appraisal of the property and that the re-appraisal will be completed in May.
- 09/27/05 MTA has contacted DCAS to try to revive this effort.
- 01/23/06 MTA has reached out to DCAS/Division of Real Estate Services in an effort to move this project forward.
- 02/27/06 MTA has contacted DCAS to revive the above effort for appraisal.
- 03/27/06 Discussions between MTA and NYC DCAS continue in working towards re-appraisals and conveyance of properties.
- 4/24/06 Discussions between MTA and NYC DCAS continue in working towards conveyance of properties.



**Submarine Cable Replacement Project, Manhattan/Bronx (A. Jhamb)**

- 10/23/06 RED has enlisted the support of NYC DOT to reach out to DCAS in an effort to bring this transaction to a close.
- 11/27/06 At a meeting with NYC DOT, NYC Corporation Counsel has advised MTA and MNR that the City will take steps to help bring transaction to a close.
- 01/29/07 NYC Corporation Counsel has advised MTA and MNR by telephone that the City will take steps to help bring this transaction to a close and will contact MTA shortly.
- 2/26/07 NYC Corporation Counsel has advised MTA and MNR by telephone that the City will review transaction and will contact MTA shortly.
- 3/26/07 MTA has reached out to NYC Corporation Counsel in an effort to move transaction towards a conclusion.
- 4/24/07 MTA, in an effort to move transaction towards a conclusion, has provided NYC Corporation Counsel with duplicates of the most recent drafts of this Indenture Agreement for review.
- 5/25/07 MTA is awaiting response from NYC Corporation Counsel.
- 6/23/08 MTA Police have raised concerns about public access to Harlem River via the cable subchamber access point. MTA MNR pursuing legal options to install temporary barriers around subchamber.
- 10/27/08 MTA has once again reached out to NYC Corporation Counsel in an effort to move t transaction towards a conclusion.
- 12/15/08 NYC Corporation Counsel reports no change in approved status.
- 2/23/09 NYC Corporation Counsel reports no change in approval status.
- 4/27/09 NYC Corporation Counsel reports no change in approval status.
- 7/22/09 No response to messages left for NYC Corporation Counsel.
- 10/21/09 NYC Corporation Counsel reports no change in approval status.



**Park Avenue Viaduct, Manhattan (A. Jhamb)**

Background: Metro-North requires six 10'x10' City parcels to serve as new column footings at 126 to 127 Streets to accommodate the proposed widening of the elevated 125th Street Station.

From September 1993 through April 1994, RED secured all requisite approvals and a permit to commence construction.

RED drafted the permanent indenture for the property required and forwarded it to Corporation Counsel in April 1996. Over the next five months, Corporation Counsel requested and received additional information from RED. Subsequently, Corporation Counsel submitted all information to the City's Department of Citywide Administrative Services to complete an appraisal.

In 1997, Board Member and MOT assistance was requested in expediting the execution of the indenture conveying the necessary property interests and finalizing an agreement regarding the waiver of compensation. In 1998, MOT consented to a waiver of compensation but no agreement was executed. Throughout 1999, several meetings were held to resolve the open issues with Corporation Counsel and numerous draft documents were exchanged.

Meeting held in March 2000 between MTA, MOT, and Corporation Counsel for the purposes of facilitating closure. Forwarded additional documentation and revised indenture to Corporation Counsel following meeting. The rest of 2000 was spent attempted to secure approval of indenture and the year ended with the onset of the compensation issue.

- 2/15/01 RED forwarded letter to MOT requesting waiver of compensation as per 1988 Agreement between NYCT & MTA.
- 3/12/01 MOT forwarded NYCDOT request for easements from MTA.
- 4/23/01 MTA processing NYCDOT requests. NYC and MOT still considering MTA request for fee waiver.
- 5/17/01 NYC and MOT still considering MTA request for fee waiver.
- 7/19/01 MOT will not waive consideration.
- 4/26/04 City indicated that DCAS and Law Department will require updated appraisal of the property and that the re-appraisal will be completed in May.
- 09/27/05 MTA has contacted DCAS in an effort to move this project forward.
- 1/23/06 MTA has reached out to DCAS/Division of Real Estate Services in an effort to move this project forward.
- 2/27/06 MTA has contacted DCAS to revive the above effort for appraisal.
- 3/27/06 Discussions between MTA and NYC DCAS continue in working towards re-appraisals and conveyance of properties.
- 4/24/06 Discussions between MTA and NYC DCAS continue in working towards conveyance of properties.
- 10/23/06 RED has enlisted the support of NYC DOT to reach out to DCAS in an effort to bring this transaction to a close.
- 11/27/06 At a meeting with NYC DOT, NYC Corporation Counsel has advised MTA and MNR that the City will take steps to help bring transaction to a close.



**Park Avenue Viaduct, Manhattan (A. Jhamb)**

- 01/29/07 NYC Corporation Counsel has advised MTA and MNR by telephone that the City will take steps to help bring this transaction to a close and will contact MTA shortly.
- 2/26/07 NYC Corporation Counsel has advised MTA and MNR by telephone that the City will review transaction and will contact MTA shortly.
- 3/26/07 MTA has reached out to NYC Corporation Counsel in an effort to move transaction towards a conclusion.
- 4/24/07 MTA, in an effort to move transaction towards a conclusion, has provided NYC Corporation Counsel with duplicates of the most recent drafts of this Indenture Agreement for review.
- 5/25/07 MTA is awaiting response from NYC Corporation Counsel.
- 7/17/07 NYC Corporation Counsel provided comments to draft. MTA incorporated comments as changes to electronic file and returned to Corporation Counsel for review.
- 9/24/07 NYC Corporation Counsel received six (6) copies of agreement and is processing for signature by Deputy Mayor
- 1/28/08 MNR underscored its position regarding its right to install the supports and at no fee to the City by citing the "Viaduct Access Agreement." NYC Corporation Counsel is in general agreement with the proposal but is reviewing the language in the Agreement before proceeding
- 4/23/08 Agreement is on hold as per NYC Corporation Counsel until it can be confirmed that the installation falls within the City's no-fee parameter. Awaiting MNR to provide the technical information to make this determination
- 6/23/08 RED to seek assistance from Mayor's Office of Operations to approve the indenture.
- 10/27/08 MTA has once again reached out to NYC Corporation Counsel in an effort to move transaction towards a conclusion.
- 12/15/08 NYC Corporation Counsel reports no change in approved status.
- 2/23/09 NYC Corporation Counsel reports no change in approval status.
- 4/27/09 No word received on NYC response to MTA's justification of a no-fee transfer.
- 7/22/09 No response to messages left for NYC Corporation Counsel.
- 10/21/09 NYC Corporation Counsel reports no change in approval status.

**Park Avenue and East 138 Street, Bronx (A. Jhamb)**

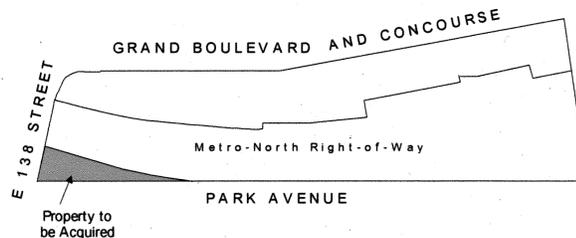
**Background:** Metro-North requires 5,582 square feet of Park Avenue to protect its existing power and communication lines for the Harlem River Lift Bridge and its signal lines under the viaduct. The property is also required to maintain its retaining wall.

From January to May 1994, RED secured the City's approval to withdraw the subject property from its auction list and

to convey it to MTA Metro-North. In 1996, and again in 1997, Metro-North reiterated that it still required the property. After a few false starts, an All-Agency Conference was held 7/31/97.

In 1997, MTA and MN forwarded a request to MOT for the transfer of the property interests. In July, MOT convened an All-Agency Conference, at which several issues were raised, including compensation and the preparation of an appraisal. Throughout 1998, MOT negotiated compensation and worked with DCAS to complete appraisal. In 1999, DCAS completed its appraisal. MTA drafted an Indenture for the transfer of land from the City to the MTA.

Meeting held in March 2000 between MTA, MOT, and Corporation Counsel for the purposes of facilitating closure. Forwarded additional documentation and revised indenture to Corporation Counsel following meeting. The rest of 2000 was spent attempted to secure approval of indenture and the year ended with the onset of the compensation issue.



- 2/15/01 RED forwarded letter to MOT requesting waiver of compensation as per 1988 Agreement between NYC and MTA.
- 3/12/01 MOT forwarded NYCDOT request for easements from MTA.
- 4/23/01 MTA processing NYCDOT requests. NYC still considering MTA request for fee waiver.
- 5/17/01 DCAS informed MTA that property would be auctioned. DCAS removed property from auction list after request by MTA and efforts of MOT.
- 7/19/01 MOT will not waive consideration.
- 4/26/04 City indicated that DCAS and Law Department will require updated appraisal of the property and that the re-appraisal will be completed in May.
- 09/27/05 RED contacted DCAS in an effort to expedite this project.
- 1/23/06 MTA has reached out to DCAS/Division of Real Estate Services in an effort to move this project forward.
- 2/27/06 MTA has contacted DCAS to revive the above effort for appraisal.
- 3/27/06 Discussions between MTA and NYC DCAS continue in working towards re-appraisals and conveyance of properties.
- 04/24/06 Discussions between MTA and NYC DCAS continue in working towards conveyance of properties.
- 10/23/06 RED has enlisted the support of NYC DOT to reach out to DCAS in an effort to bring this transaction to a close.

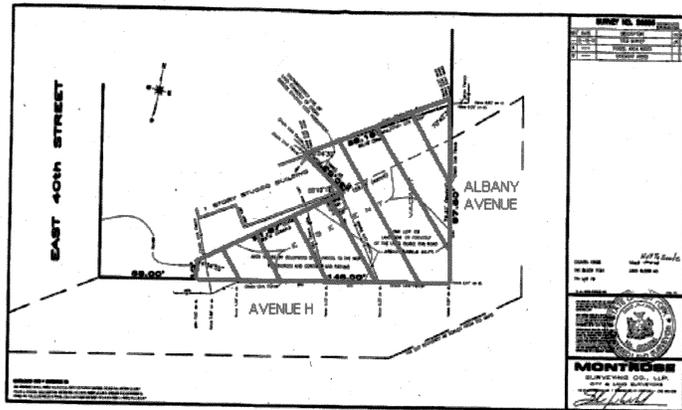


**Park Avenue and East 138 Street, Bronx (A. Jhamb)**

- 11/27/06 At a meeting with NYC DOT, NYC Corporation Counsel has advised MTA and MNR that the City will take steps to help bring transaction to a close.
- 01/29/07 NYC Corporation Counsel has advised MTA and MNR by telephone that the City will take steps to help bring this transaction to a close and will contact MTA shortly.
- 2/26/07 NYC Corporation Counsel has advised MTA and MNR by telephone that the City will review transaction and will contact MTA shortly.
- 3/26/07 MTA has reached out to NYC Corporation Counsel in an effort to move transaction towards a conclusion.
- 4/24/07 MTA, in an effort to move transaction towards a conclusion, has provided NYC Corporation Counsel with duplicates of the most recent drafts of this Indenture Agreement for review.
- 5/25/07 MTA is awaiting response from NYC Corporation Counsel.
- 10/27/08 MTA has once again reached out to NYC Corporation Counsel in an effort to move transaction towards a conclusion.
- 12/15/08 NYC Corporation Counsel reports no change in approval status.
- 2/23/09 NYC Corporation Counsel reports no change in approval status.
- 2/23/09 NYC Corporation Counsel reports no change in approval status.
- 4/27/09 NYC Corporation Counsel reports no change in approval status.
- 7/22/09 No response to messages left for NYC Corporation Counsel.
- 10/21/09 NYC Corporation Counsel reports no change in approval status.

**Avenue H and Albany Avenue, Brooklyn (K. Olmsted)**

Background: LIRR currently leases approximately 8,000 SF of property located at the intersection of Avenue H and Albany Avenue in Brooklyn and identified on the Kings County tax map as Section 3, Block 7724, Lot 73 ("Premises"), to Euclid Realty Corp. ("Euclid"). Euclid has been a tenant at the Premises, operating an adjacent gas station and auto repair shop since 1954. Euclid requested a transfer of the Premises and LIRR agreed.



However, before the transfer could be undertaken, MTA Real Estate had to receive approval from the New York State Department of Transportation ("NYSDOT"), NYSDOT reviewed the transfer request and notified MTA Real Estate pursuant to Section 18 of New York State Transportation Law (Section 18), that the New York City Department of Transportation ("NYCDOT") was assigned the preferential right to acquire a portion of the Premises. Section 18 requires that NYSDOT notify local municipalities and agencies when certain abandoned railroad property is to be transferred. NYCDOT examined the Premises and determined that it would like to acquire a portion of the Premises that is located in the bed of Avenue H and Albany Avenue bridge structures.

Section 18 further requires that MTA Real Estate negotiate with NYCDOT for the transfer of the Premises. Negotiations have commenced and MTA Real Estate requested that NYCDOT submit a proposal in the amount of \$73,000, for the purchase of the entire Premises (not just the portion NYCDOT initially expressed interest in). This proposed amount is based upon an appraisal that MTA Real Estate undertook when considering a transfer of the Premises to Euclid. NYCDOT is currently working on procuring its own appraisal for the Premises. Negotiations will continue once the NYCDOT appraisal is completed.

- 5/20/04 Letter to NYSDOT requesting to be released from Section 18 obligation to negotiate with NYCDOT, as NYCDOT could not acquire Premises within the statutorily required 180-day timeframe. Letter Agreement to NYSDOT for execution, authorizing the transfer of the Premises to either Euclid or NYCDOT. NYSDOT consent required pursuant to the terms of the Bay Ridge Acquisition and Rehabilitation Agreement, between LIRR and NYSDOT.
- 7/22/04 Contacted NYSDOT for status of Section 18 Release Agreement. Forwarded copy of Bay Ridge acquisition and Rehabilitation Agreement as requested by NYSDOT.
- 10/25/04 NYSDOT indicates a reluctance to execute letter agreement, as it would allow the possible transfer of the Premises to Euclid, which is a private company. NYSDOT seems more willing to authorize a transfer to NYCDOT, as it is a public agency. Requested a final determination on matter from NYSDOT
- 1/24/05 As requested by NYSDOT, we have forwarded a copy of the Stipulation of Settlement between MTA and Euclid, as well as another copy of the project pictures and explanation of MTA's request for NYSDOT approval of the transfer.



**Avenue H and Albany Avenue, Brooklyn (K. Olmsted)**

- 6/27/05 Letter to NYSDOT requesting status of their review and approval of this matter, pointing out that we have been trying to secure such approval since May of 2002 and reminding NYSDOT that the LIRR/NYSDOT Bayridge agreement states that such approval shall not be unreasonably withheld.
- 10/25/05 Received executed LIRR/NYSDOT agreement letter from NYSDOT, as required by the LIRR/NYSDOT Bayridge agreement. We will update the estimated appraised value.
- 1/23/06 Real Estate will follow-up in obtaining updated appraised value of the property and obtain survey required for transfer of the property.
- 06/26/06 An estimate of value for the subject property has been updated. The survey of the surface area is completed. MTA Legal and Real Estate will review the terms and conditions of the proposed transfer of the property.
- 1/29/07 Real Estate will draft the proposed transfer of property to include MTA Legal Department's input, particularly regarding reservations and restrictions that may be required due to the site being located above the tracks on the Bay Ridge Branch right of way.
- 2/26/07 Received letter from Russell Holcomb, P.E., Deputy Chief Engineer of NYC DOT stating DOT's interest in purchasing this property and attaching copy of ULURP application seeking authorization of the purchase.
- 4/24/07 NYC DOT is looking to expedite both the CEQRA Process and the Brooklyn Borough President sign off on the ULURP maps. DOT will be meeting with the Brooklyn Borough President's office to determine when Department of City Planning can be expected to certify the ULURP application which will commence the ULURP time period. ULURP certification is expected in 2-3 months.
- 6/25/07 NYCDOT expects the Department of City Planning to certify NYCDOT's ULURP application by the end of August 2007, at which time the 5-6 month ULURP process will commence.
- 10/22/07 Brooklyn Borough President signed off on the proposed alteration map and the ULURP certification is scheduled for October 15, 2007. Once certification is given, the 5-6 month ULURP process will commence.
- 11/26/07 NYC DOT's ULURP application was certified by the Department of City Planning and the ULURP process has commenced as of 10/29/07. NYC DOT is preparing a notice to tenant, Euclid.
- 12/17/07 As per NYC DOT, DOT's ULURP application in connection with its proposed acquisition of this property from the MTA was approved by Community Boards 17 and 18 on November 21, 2007. The application now moves before the Brooklyn Borough President's Office for consideration.
- 2/25/08 New York City Department of City Planning will be holding a final public hearing regarding the Avenue H Bridge in Brooklyn on February 13, 2008
- 4/23/08 LIRR Engineering raised several technical questions and communicated them to NYC DOT. NYC DOT Engineering adequately addressed all LIRR Engineering questions regarding this transaction.

**Avenue H and Albany Avenue, Brooklyn (K. Olmsted)**

- 7/21/08 The City Planning Commission approved the ULURP Application (Map Change). The Department of City Planning (DCP) sent a memorandum to Borough President Office (BOP) Brooklyn for Alteration map. The map will be certified by the Secretary of City Planning Commission and DCP Technical Review Group will file the map to different agencies to finalize ULURP process.
- 10/27/08 Brooklyn Borough President's office needs to submit final alteration map to DCP for certification and filing. NYC DOT has requested the Department of Design and Construction to perform a Phase II Environmental Assessment of the site.
- 02/23/09 Department of City Planning indicated that the Avenue H Bridge ULURP process was certified and filed on December 5, 2008, and that they are working on procurement funds for Phase II Environmental Assessment Report.
- 06/22/09 On behalf of the NYC DOT, DDC performed site inspection of the property as part of the Phase II Environmental Assessment. The Phase II Environmental Report is being prepared. Upon completion of the report, an appraisal will be done for the subject property.
- 9/21/09 Department of City Planning approved the ULURP application filed by DOT for the acquisition. Currently DOT's Environmental Compliance Office is reviewing the Phase II environmental site investigation report submitted by DDC. After review is complete, we will get into acquisition process.
- 10/21/09 DOT's Environmental Compliance group has reviewed the Phase II environmental site investigation report. Now, DOT Legal Department will contact DCAS Real Estate Group to perform a property appraisal. Once the appraisal is completed, the acquisition of property can take place.



# Memorandum



## **Metropolitan Transportation Authority**

State of New York

**Date** November 9, 2009  
**To** Members of the Capital Construction, Planning and Real Estate Committee  
**From** Jeffrey B. Rosen, Director, Real Estate  
**Re** **GCT's Vanderbilt Hall Events Forecast**

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The following report will be presented to the Real Estate Committee by GCT Development on a monthly basis. The events forecast will show events planned for Vanderbilt Hall in the next three to four month period. This calendar will always be subject to last minute changes for technical or scheduling reasons.

**GRAND CENTRAL TERMINAL  
VANDERBILT HALL EVENTS FORECAST  
NOVEMBER – DECEMBER 2009**

<b>Event</b>	<b>Date</b>	<b>Description</b>	<b>Space</b>	<b>Use</b>
Disney Holiday Train	October 29 – November 2, 2009	A spectacular immersive and interactive 40-city train tour including a 3D sneak peek of film footage from the upcoming movie "Disney's A Christmas Carol"	Vanderbilt Hall – Full Room	Public
Libyan Art Exhibition	November 3 – 12, 2009	An exhibition entitled, "The Desert Is Not Silent," consisting of over thirty antiquities (sculpture, mosaics, and artifacts) and more than fifty pieces of modern artwork from Libya	Vanderbilt Hall – Half room / Full Room (11/5)	Public
Grand Central Holiday Fair	November 13, 2009 – January 1, 2010	Grand Central's annual seasonal shopping favorite	Vanderbilt Hall – Full room	Public

NOTE: This calendar is subject to change, as some events are still in development.



# Memorandum



## Metropolitan Transportation Authority

State of New York

**Date** November 9, 2009  
**To** Members of the Capital Construction, Planning and Real Estate Committee  
**From** Jeffrey B. Rosen, Director, Real Estate  
**Re** **GCT – Graybar Passage Retail Kiosks**

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The following report will be presented by GCT Development office of the Real Estate Department whenever a new retail Permit Agreement has been entered into under the Retail Kiosk program approved by the MTA Board in January 2006.

GRAND CENTRAL TERMINAL  
 GRAYBAR PASSAGE RETAIL KIOSK PROGRAM  
 New Licensees – Month of November 2009

Tenant	License Dates	Use	Monthly Compensation
Donna Levine d/b/a D Line	11/1/2009 – 1/31/2010	The retail sale of handmade fashion, costume, and silver jewelry	11/2009: \$5,000 12/2009: \$5,000 1/2010: \$2,000
Carolyn Jordan	11/1/2009 – 12/31/2009	The retail sale of handmade Christmas ornaments	11/2009: \$5,000 12/2009: \$5,000

