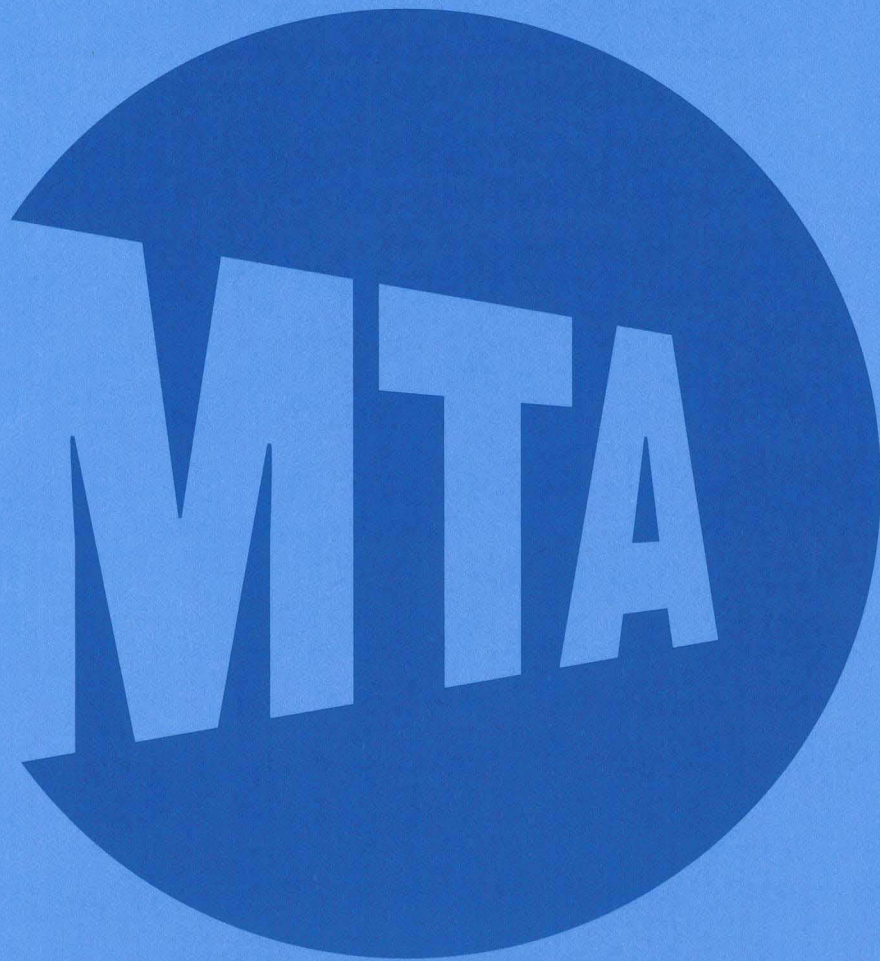




Metropolitan Transportation Authority

March 2011

MTA Board Action Items



MEETING AGENDA
METROPOLITAN TRANSPORTATION AUTHORITY BOARD
March 23, 2011 9:30 a.m.

347 Madison Avenue
Fifth Floor Board Room
New York, NY

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10. EXECUTIVE SESSION

Date of next MTA Board meeting: Wednesday, April 27, 2011 at 9:30 a.m.

**Metropolitan Transportation Authority
Minutes of
Regular Board Meeting
347 Madison Avenue
New York, NY 10017**

**Wednesday, February 23, 2011
9:30 a.m.**

The following members were present:

**Hon. Jay H. Walder, Chairman & CEO
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Donald Cecil
Hon. Doreen M. Frasca
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Nancy Shevell
Hon. Vincent Tessitore, Jr.**

The following members were absent:

**Hon. Andrew M. Saul, Vice Chairman
Hon. John H. Banks, III
Hon. Patrick J. Foye
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Mark Page
Hon. Carl V. Wortendyke**

Diana Jones Ritter, MTA Managing Director, Fredericka Cuenca, MTA Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Thomas Prendergast, President of NYCTA, Helena E. Williams, President of Long Island Railroad, Robert Lieblong, Sr. V.P for Operations of Metro-North Rail Road, James Ferrara, President of TBTA, John Hein, Executive V.P. of MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, Douglas Sussman, Director, MTA Government and Community Affairs also attended the meeting.

The Board of the Metropolitan Transportation Authority also met as the Board of the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Rapid Transit Operating Authority, the Metropolitan Suburban Bus Authority, the Triborough Bridge and Tunnel Authority, the Long Island Rail Road, the Metro-North

Commuter Railroad Company, the MTA Capital Construction Company, the MTA Bus Company, and the First Mutual Transportation Assurance Company.

Unless otherwise indicated, these minutes reflect items on the agenda of the Board of the Metropolitan Transportation Authority, the Metropolitan Suburban Bus Authority (LI Bus), and the First Mutual Transportation Assurance Company. Refer to the other agencies' minutes of this date for items on the agendas of the Boards of the other agencies.

Chairman Walder called the meeting to order.

1. **PUBLIC SPEAKERS.** The following speakers addressed agenda items. Refer to the video recording of the February 23, 2011 meeting for the contents of these speakers' statements.

Matthew Shotkin, private citizen
Ryan Lynch, Tri-State Transportation
Murray Bodin, private citizen
Maurice Jenkins, TWU Local 100

2. **CHAIRMAN'S REMARKS.**

Chairman Walder recognized Douglas Sussman, MTA Director for Government and Community Affairs, who is retiring after 28 years of service at the MTA. The Chairman, on behalf of the Board, thanked Mr. Sussman for his outstanding service. Mr. Sussman thanked the Chairman and the Board members and he praised them for their contributions to the MTA.

3. **MINUTES.** Upon motion duly made and seconded, the Board approved the minutes of regular Board meeting held on January 26, 2011.

4. **COMMITTEE ON FINANCE.**

A. **Action Items.** Upon motion duly made and seconded, the Board approved the following action items, described in further detail in the attached staff summaries.

1. **Mortgage Recording Tax ("MRT") – Escalation Payments to Dutchess, Orange and Rockland Counties.** Approved the MRT-2 escalator payments to Dutchess Orange and Rockland counties from available funds on deposit in the MRT-2 Corporate Transportation Account.
2. **2010 TBTA Operating Surplus.** Approved resolutions which will: (i) certify and transfer \$429,109,687 operating surplus to the MTA and NYCTA pursuant to Section 1219-a(2)(b) of the Public Authorities Law ("PAL") of the State of New York; (ii) transfer \$146,449 representing 2010 investment income to the MTA pursuant to Section 569-c of the PAL; (iii) deduct from the operating revenues of the TBTA for its fiscal year ending December 31, 2011 the amount

B. **Procurement Items.** Upon motion duly made and seconded, the Board approved the following procurement items. The specifics are set forth in the attached staff summaries and documentation. Chairman Walder and Board member Charles Moerdler recused themselves from the vote on item # 1 below.

1. **McKinsey & Company, Inc. – Washington DC Strategic Sourcing and Procurement Contract – No. 10220-0100.** Approved a competitive contract to provide professional consulting services for design and implementation of a “strategic sourcing” approach to the procurement of goods and services by the MTA.
2. **Kuyimba, Inc. – Administration of the Music Under New York (MUNY) Program – No. 09199-0100.** Approved a competitive contract to provide administrative and logistical support and services to coordinate and manage the AFT MUNY Program for a period of one year.

C. **Real Estate Items.** Upon motion duly made and seconded, the Board approved the following real estate items. The specifics are set forth in the attached staff summaries and documentation.

Metropolitan Transportation Authority

1. License agreement with Hudson Group Retail, LLC for the operation of a newsstand at 347 Madison Avenue, Manhattan, N.Y.

Long Island Rail Road:

2. License agreement with Oyster Rides LLC for the operation of a taxi dispatch office located at the LIRR’s Hicksville Station (west plaza area), Hicksville, N.Y.

5. **COMMITTEE ON LI BUS (MSBA).** Upon motion duly made and seconded, the Board approved the following procurement item. The specifics are set forth in the attached documentation.

1. **Ultimedia – Furnish and Install Components Upgrade for Computer Information System - # E-3986, Sole Source.** Approved the award of a sole source non-competitive miscellaneous contract with Ultimedia for proprietary software and

6. **ADJOURNMENT.**

Upon motion duly made and seconded, the Board voted to adjourn the meeting at 9:50 a.m.

Respectively submitted,

Victoria Clement
Assistant Secretary

**Minutes of the
Regular Board Meeting
for the New York City Transit Authority,
Manhattan and Bronx Surface Transit Operating Authority,
Staten Island Rapid Transit Operating Authority and
MTA Bus Company**

**Wednesday, February 23, 2011
9:30 a.m.**

The following members were present:

**Hon. Jay H. Walder, Chairman & CEO
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Donald Cecil
Hon. Doreen M. Frasca
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Nancy Shevell
Hon. Vincent Tessitore, Jr.**

The following members were absent:

**Hon. Andrew M. Saul, Vice Chairman
Hon. John H. Banks, III
Hon. Patrick J. Foye
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Mark Page
Hon. Carl V. Wortendyke**

Diana Jones Ritter, MTA Managing Director, Fredericka Cuenca, MTA Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Thomas Prendergast, President of NYCTA, Helena E. Williams, President of Long Island Rail Road, Robert Lieblong, Sr. V.P. for Operations, Metro-North Rail Road, James Ferrara, President of TBTA, John Hein, Executive V.P., MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, Douglas Sussman, Director, MTA Government and Community Affairs also attended the meeting.

1. **CHAIRMAN JAY WALDER CALLED THE MEETING TO ORDER**

2. **PUBLIC COMMENT PERIOD**

Two public speakers addressed NYC Transit/MTA Bus issues:

Matthew Shotkin commented on the effectiveness of the countdown clocks for the L train and suggested that train delays need improvement.

Maurice Jenkins, TWU Local 100, discussed the prospects of station booth closures and layoffs, and urged the MTA to join the TWU in seeking more government funding.

3. **CHAIRMAN JAY WALDER'S COMMENTS**

Details of Chairman Walder's comments are set forth in minutes recorded by the MTA, copies of which are on file with the records of the meeting of the Board of the NYC Transit/SIR/MTA Bus Company.

4. **MINUTES**

Upon motion duly made and seconded, the Board unanimously approved the minutes of the regular board meeting of MTA New York City Transit, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Railway Transit Operating Authority, and MTA Bus Company held on January 26, 2011.

5. **COMMITTEE ON FINANCE**

Action Item(s)

2010 TBTA Operating Surplus: Upon motion duly made and seconded, the Board voted to approve resolutions which will certify and transfer \$429,109,687 of operating surplus to the MTA and NYCTA pursuant to Section 1219-a(2)(b) of the Public Authorities Law. The resolutions will also transfer investment income to the MTA and set aside operating revenue which will be used to pay for the cost and expense of current and anticipated necessary construction for the TBTA facilities. Further, the Board approved a request to set aside into a special account, from TBTA operating revenues for fiscal year ending December 31, 2011, an amount determined from time to time by such Authority to help fund post-retirement liabilities other than pension benefits of its employees. Details of this item items are set forth in staff summaries, copies of which are on file with the records of the meeting of the Board of the NYC Transit/SIR/MTA Bus Company.

6. **COMMITTEE ON TRANSIT OPERATIONS**
NYC Transit

Procurements

Non-Competitive Procurements: Upon motion duly made and seconded, the Board approved the non-competitive procurements requiring a two-thirds vote (Schedule A in the Agenda) and a majority vote (Schedule G in the Agenda). Details of the above items are set forth in staff summaries, copies of which are on file with the records of the meeting of the Board of the NYC Transit/SIR/MTA Bus Company.

Competitive Procurements: Upon motion duly made and seconded, the Board approved the competitive procurements requiring a two-thirds vote (Schedule B in the Agenda) and majority vote (Schedule I in the Agenda). Details of the above items are set forth in staff summaries, copies of which are on file with the records of the meeting of the Board of the NYC Transit/SIR/MTA Bus Company.

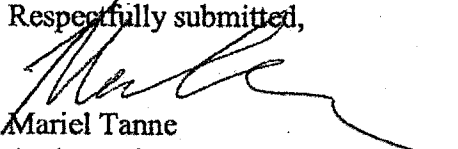
Procurement Ratifications: Upon motion duly made and seconded, the Board approved the competitive procurements requiring a majority vote (Schedule K in the Agenda). Details of the above items are set forth in staff summaries, copies of which are on file with the records of the meeting of the Board of the NYC Transit/SIR/MTA Bus Company.

Board member Moerdler clarified that the item on page 56 relating to the purchase of solid cast polymer kits is a proprietary item and therefore must be done on a non-competitive basis, and asked why NYCT had not engaged in a pre-qualification of appropriate vendors prior to initiation of the procurement for asbestos abatement found on page 58. Steve Plochochi, Vice President, Materiel, advised that applicable provisions of the Public Authorities Law do not authorize NYCT to engage in pre-qualification of vendors and that the methodology proposed represents the most effective permissible means of ensuring selection of the most qualified vendor(s).

7. **ADJOURNMENT**

Upon motion duly made and seconded, the Board voted to adjourn the meeting at 9:50 a.m.

Respectfully submitted,


Mariel Tanne
Assistant Secretary

Minutes of the Regular Meeting
Metro-North Commuter Railroad Company
Wednesday, February 23, 2011
9:30 a.m.

The following members were present:

Hon. Jay H. Walder, Chairman & CEO
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Donald Cecil
Hon. Doreen M. Frasca
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Nancy Shevell
Hon. Vincent Tessitore, Jr.

The following members were absent:

Hon. Andrew M. Saul, Vice Chairman
Hon. John H. Banks, III
Hon. Patrick J. Foye
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Mark Page
Hon. Carl V. Wortendyke

Diana Jones Ritter, MTA Managing Director, Fredericka Cuenca, MTA Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Thomas Prendergast, President of NYCTA, Helena E. Williams, President of Long Island Railroad, Robert Lieblong, Sr. V.P. for Operations, Metro-North Rail Road, James Ferrara, President of TBTA, John Hein, Executive V.P., MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, Douglas Sussman, Director, MTA Government and Community Affairs also attended the meeting.

1. Public Comment:

There were four public speakers. Murray Bodin of Concerned Grandparents commented on the meetings he has had with different agencies; noting that he would be meeting with Metro-North the week after the Board meeting. The subject matter of the remaining public comments is contained in the minutes of the meeting of the Board of the Metropolitan Transportation Authority held this day.

2. Chairman's Comments: The Chairman announced the retirement of Douglas Sussman, Director, MTA Government and Community Affairs. The details of Chairman Walder's comments and Board remarks are contained in the minutes of

the meeting of the Board of the Metropolitan Transportation Authority held this day.

3. Approval of Minutes – Upon motion duly made and seconded, the minutes of the Regular Board Meeting of January 26, 2011 were approved.

4. Committee on Finance

Upon motion duly made and seconded, the Board approved the following item recommended to it by the Committee on Finance.

- Mortgage Recording Tax – Escalation Payments to Dutchess, Orange and Rockland Counties.

A staff summary setting forth the details of the above item is filed with the records of this meeting.

5. Committee on Metro-North Railroad and Long Island Rail Road Operations:

Board Member Sedore reported that the January 2011 combined on-time performance of Metro-North Railroad and Long Island Rail Road was 91.4%.

MTA Metro-North Railroad Procurements:

Upon motion duly made and seconded, the Board approved the following non-competitive procurement requiring two-thirds vote by the Board.

Non-Competitive Purchases and Public Work Contracts

- Graham White (G-W) Manufacturing Co. – Joint procurement with LIRR for various OEM replacement parts for air drying filtering equipment for MNR and LIRR railcar and locomotive fleets.

Upon motion duly made and seconded, the Board approved the following competitive procurements requiring majority vote by the Board.

Miscellaneous Service Contracts

- Dependable Repair, Inc. – Material handling equipment maintenance services.

Modifications to Purchase and Public Work Contracts

- Ducci Electrical Contractors, Inc. – Danbury signalization project: procurement and installation of 8,500 feet of additional cable tray.

Staff summaries and reports setting forth the details of the above items are filed with the records of this meeting.

6. Upon motion duly made and seconded, the Board unanimously voted to adjourn the meeting at 9:50 a.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Linda Montanino".

Linda Montanino
Assistant Secretary

Feb 2011 Board Minutes
Legal/Corporate

**MINUTES OF MEETING OF THE BOARD OF
THE LONG ISLAND RAIL ROAD COMPANY**

**Meeting Held At
347 Madison Avenue
New York, NY 10017**

**Wednesday, February 23, 2011
9:30 a.m.**

The following members were present:

Hon. Jay H. Walder, Chairman & CEO
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Donald Cecil
Hon. Doreen M. Frasca
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Nancy Shevell
Hon. Vincent Tessitore, Jr.

The following members were absent:

Hon. Andrew M. Saul, Vice Chairman
Hon. John H. Banks, III
Hon. Patrick J. Foye
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Mark Page
Hon. Carl V. Wortendyke

Diana Jones Ritter, MTA Managing Director, Fredericka Cuenca, MTA Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Thomas Prendergast, President of NYCTA, Helena E. Williams, President of Long Island Rail Road, Robert Lieblong, Senior Vice-President of Operations, Metro-North Railroad, James Ferrara, President of TBTA, John Hein, Executive Vice-President, MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, and Douglas Sussman, Director, MTA Government and Community Affairs, also attended the meeting.

The Board of the Metropolitan Transportation Authority also met as the Board of the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Rapid Transit Operating Authority, the Metropolitan Suburban Bus Authority, the Triborough Bridge and Tunnel Authority, the Long Island Rail Road, the Metro-North Commuter Railroad Company, the MTA Capital Construction Company, the MTA Bus Company, and the First Mutual Transportation Assurance Company.

1. PUBLIC SPEAKERS

There were four public speakers, none of whom addressed issues specific to the Long Island Rail Road.

2. CHAIRMAN'S REMARKS

The Chairman noted the service of MTA Director of Government and Community Affairs Douglas Sussman and congratulated him on his upcoming retirement. Mr. Sussman thanked the Board members for their support and their hard work. Board Member Shevell stated that she appreciated the respect with which Mr. Sussman always treated members of the public. Refer to the minutes of the Metropolitan Transportation Authority for details regarding these remarks.

3. APPROVAL OF MINUTES

Upon motion duly made and seconded, the Board unanimously approved the minutes of the Board meeting held on January 26, 2011.

4. COMMITTEE ON FINANCE

Upon motion duly made and seconded, the Board approved items from the Committee on Finance. Included among these items was the following real estate item:

- Month-to-month license with Oyster Rides LLC to operate the north kiosk for taxi dispatch services at LIRR's Hicksville Station, Hicksville, NY

Details of this item are contained in the minutes of the Metropolitan Transportation Authority held this day and the staff summaries and materials filed with those minutes.

5. LONG ISLAND COMMITTEE/METRO-NORTH COMMITTEE

Upon motion duly made and seconded, the Board approved the following competitive procurement item recommended by the Long Island Committee:

- Competitively-bid, two-year personal services contract with Staples Marketing LLC in the not-to-exceed amount of \$300,000 for development and implementation of a marketing campaign to increase public transportation usage in Nassau County.

Details of the above item are on file with the records of this meeting. The Staff Summary seeking Board approval to increase funding to LIRR contract 6014 with ARINC, Inc., which was included in the Board materials, was pulled and was not considered by the Board.

In addition, included among the items recommended by the Metro-North Committee and approved by the Board was a request for Board approval, on behalf of Metro-North and LIRR, of a non-competitive, negotiated, three-year miscellaneous purchase authorization for OEM replacement parts from Graham White Manufacturing Co., consisting of air drying filtering systems for Metro-North's M-2, 3, 4 and 6 rail car fleets, Metro-North's BL06 switcher locomotives, Metro-North's GP35 locomotives and Genesis locomotives and LIRR's C and M-3 railcars and DE/DM, E-10, 15 and 20 locomotives. Refer to the minutes of the Metro-North Committee for details regarding this item.

6. ADJOURNMENT

Upon motion duly made and seconded, the Board unanimously voted to adjourn the meeting. The meeting was adjourned at 9:50 AM.

Respectfully submitted,


Catherine A. Rinaldi
Secretary

**Minutes of the Regular Meeting
Triborough Bridge and Tunnel Authority
February 23, 2011**

Meeting Held at
347 Madison Avenue
New York, New York 10017

9:30 A.M.

The following members were present:

Hon. Jay H. Walder, Chairman & CEO
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Donald Cecil
Hon. Doreen M. Frasca
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James E. Sedore, Jr.
Hon. Nancy Shevell
Hon. Vincent Tessitore, Jr.

Not Present:

Hon. Andrew M. Saul, Vice Chairman
Hon. John H. Banks, III
Hon. Patrick J. Foye
Hon. Jeffrey A. Kay
Hon. Mark D. LeBow
Hon. Susan Metzger
Hon. Mark Page
Hon. Carl V. Wortendyke

Diana Jones Ritter, MTA Managing Director; Frederick Cuenca, Chief of Staff; James B. Henly, General Counsel, MTA; Board Member Andrew Albert; Board Member Norman Brown; James Ferrara, President, MTA Bridges and Tunnels; John Hein, Executive Vice President, MTA Bus Operations; Michael F. Horodniceanu, President MTA Capital Construction Company; Robert Lieblong, Vice President for Operations, Metro-North Commuter Railroad; Thomas Prendergast, President, New York City Transit; Helena E. Williams, President, Long Island Rail Road; and Douglas Sussman, Director, MTA Government and Community Affairs also attended the meeting.

The Board of the Metropolitan Transportation Authority also met as the Board of the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Rapid Transit Operating Authority, the Metropolitan Suburban Bus Authority, the Triborough Bridge and Tunnel Authority, the Long Island Rail Road, the Metro-North Commuter Railroad Company, the MTA Capital Construction Company, the MTA Bus Company, and the First Mutual Transportation Assurance Company.

1. **Public Speakers**

There were four public speakers. Mr. Murray Bodin, Concerned Grandparents, stated that he would be meeting with a representative from Triborough Bridges and Tunnel Authority to discuss several of his concerns with respect to the Henry Hudson Bridge. None of the remaining speakers specifically commented on issues regarding the Triborough Bridge and Tunnel Authority. The subject matter of the public comments is contained in the minutes of the meeting of the Board of the Metropolitan Transportation Authority.

2. **Approval of the Minutes of the Regular Meeting January 26, 2011**

Upon a motion duly made and seconded, the minutes of the Meeting held January 26, 2011 were unanimously approved.

3. **Chairman's Comments**

Chairman Walder announced that Douglas Sussman, Director, MTA Government and Community Affairs, intended to retire after thirty years of service. Chairman Walder stated that Mr. Sussman has served a critically important role as the public face of the MTA. Mr. Sussman thanked Chairman Walder and the Board, and stated it had been an honor to work at the MTA.

The details of Chairman Walder's comments, Board Member remarks and Mr. Sussman's statement are contained in the minutes of the meeting of the Board of the Metropolitan Transportation Authority.

4. **Committee on Finance**

2010 TBTA Operating Surplus

Upon a motion duly made and seconded, the Board unanimously approved the following resolutions recommended to it by the Committee on Finance:

- Certify and transfer \$429,109,687 operating surplus to the MTA and NYCTA pursuant to Section 1219-a(2)(b) of the Public Authorities Law of the State of New York.
- Transfer \$146,449 representing 2010 investment income to the MTA pursuant to Section 509-c of the Public Authorities Law of the State of New York.
- Deduct from the operating revenues of the Triborough Bridge and Tunnel Authority for its fiscal year ending December 31, 2011 the amount of \$14,353,000, which amount shall be paid into the Necessary Reconstruction Reserve established by the Authority by resolution adopted March 29, 1968.

- Deduct from the operating revenues of the Triborough Bridge and Tunnel Authority for its fiscal year ending December 31, 2011 and set aside into a special account, an amount determined from time to time by such Authority to help fund post-retirement liabilities other than pension benefits of its employees.
- Advance monthly the 2011 TBTA Surplus to the MTA and NYCT in an aggregate amount not to exceed 90% of the estimate of the sum of that month's operations, if available, with the first \$1.8 million going to NYCT and the remaining sum split 50% to NYCT less applicable bond service and 50% to MTA less applicable bond service.

A copy of the resolutions, staff summary and details of the above items are filed with the minutes of the meeting of the Board of the Metropolitan Transportation Authority.

5. **Committee for MTA Bridges and Tunnels Operations**

Procurements

Commissioner Pally stated there was one competitive procurement totaling \$11.986 million. There are no non-competitive procurements or ratifications.

Competitive Procurements

Upon a motion duly made and seconded, the Board unanimously approved the following competitive procurement item recommended to it by the Committee for MTA Bridges and Tunnels Operations.

Personal Service Contracts

Greenman-Pedersen, Inc./Parsons Transportation Group of New York, Inc., Joint Venture	Contract No. PSC-10-2879 Provide construction management and inspection services for Project BW-89C, Replacement of the Queens Approach at the Bronx-Whitestone Bridge.	\$11,986,256.95
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6. **Adjournment**

Upon a motion duly made and seconded, the Board unanimously voted to adjourn the meeting at 9:50 a.m.

Respectfully submitted,



Cindy L. Dugan
Assistant Secretary

Regular Board Meeting
MTA Capital Construction Company
347 Madison Avenue
New York, NY 10017

Wednesday, February 23, 2011
9:30 a.m.

The following members were present:

Hon. Jay H. Walder, Chairman & CEO
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Donald Cecil
Hon. Doreen M. Frasca
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Nancy Shevell
Hon. Vincent Tessitore, Jr.

The following members were absent:

Hon. Andrew M. Saul, Vice Chairman
Hon. John H. Banks, III
Hon. Patrick J. Foye
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Mark Page
Hon. Carl V. Wortendyke

Diana Jones Ritter, MTA Managing Director, Fredericka Cuenca, MTA Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Thomas Prendergast, President of NYCTA, Helena E. Williams, President of Long Island Railroad, Robert Lieblong, Sr. V.P. for Operations, Metro-North Rail Road, James Ferrara, President of TBTA, John Hein, Executive V.P., MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, Douglas Sussman, Director, MTA Government and Community Affairs also attended the meeting.

The Board of the Metropolitan Transportation Authority also met as the Board of the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Rapid Transit Operating Authority, the Metropolitan Suburban Bus Authority, the Triborough Bridge and Tunnel Authority, the Long Island Rail Road, the

Metro-North Commuter Railroad Company, the MTA Capital Construction Company, the MTA Bus Company, and the First Mutual Transportation Assurance Company.

Chairman Walder called the meeting to order.

Public Comment Period

There were no public speakers on any issues regarding MTA Capital Construction.

Approval of Minutes

Upon motion duly made and seconded, the MTA Board unanimously approved the minutes of the regular Board meeting held on January 26, 2011.

MTA Capital Construction Action Items

There were no Capital Construction Action Items for the Board members to consider.

MTA Capital Construction Procurements

Upon motion duly made and seconded, the MTA board approved the following procurement items:

- A ratification of a modification to the Second Avenue Subway contract for civil, structural and utility relocation, 96th Street Station, with E.E. Cruz and Tully Construction Company, JV, LLC.

Adjournment

Upon motion duly made and seconded, the MTA Board voted to adjourn the public meeting at 9:50 a.m.

Respectfully submitted,

Patrick Killackey
Secretary

Staff Summary



Metropolitan Transportation Authority

Page 1 of 1

Subject 2010 Annual Procurement Report
Department Managing Director
Department Head Name Diana Jones Ritter
Department Head Signature
Project Manager Name Procurement Directors

Date March 23, 2011
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance	03/21/11	X		
2	Board	03/23/11	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal <i>[Signature]</i>		
2	Chief of Staff <i>[Signature]</i>		

Purpose:

To authorize the filing with the State of New York the annual MTA All-Agency Procurement report for the period January 1, 2010 – December 31, 2010 as required under Section 2879 of the State Public Authorities Law.

This report includes the following required material:

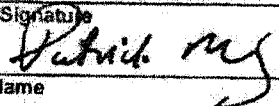
1. Contracts awarded in 2010 as prepared by each agency with payments made in 2010 as prepared by each agency
2. Contracts awarded prior to 2010 as prepared by each agency with payments made in 2010 as prepared by each agency
3. The All-Agency Procurement Guidelines and All-Agency Guidelines for Procurement of Services governing contract awards in 2010.

Many of the contracts on this list came before the Board during the course of the calendar year; the active contracts that were awarded prior to this calendar year were also included in the prior years' annual procurement reports, which have previously been reviewed by the Board.

Due to the substantial changes required by New York State in the format/content of the contract information in the Annual Procurement Report, the report is being submitted on CD. (The format does not lend itself to a paper printout.)

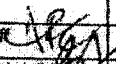


Staff Summary



Subject Approval of Supplemental Resolutions Authorizing Refunding Bonds
Department Finance
Department Head Name Patrick McCoy, Director of Finance
Department Head Signature 
Project Manager Name

Date March 23, 2011
Vendor Name N/A
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Comm.	3/21	X		
2	Board	3/23	X		

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

PURPOSE:

To obtain, as applicable, MTA and TBTA Board approval of the attached supplemental resolutions authorizing the issuance of refunding bonds, from time to time, to the extent that such refunding bonds or other obligations are consistent with the refunding policy attached hereto as adopted by the Board in May, 2010, and provided that the MTA Chief Financial Officer or the MTA Director of Finance makes a determination that the refunding of such bonds or other obligations will be beneficial to the obligors thereof and/or their affiliates and subsidiaries.

With respect to the above-referenced financial transactions, to obtain the MTA and TBTA Board approval, as applicable, delegating authority to the Chairman and Chief Executive Officer, the Vice Chairman, the Chief Financial Officer of MTA, and the Director of Finance of MTA to award the underwriters of the refunding bonds either pursuant to competitive bidding process or to members (or entities related to such firms) of the MTA underwriting syndicate, to execute and/or deliver in each case, where appropriate:

- o Notices of Sale and bid forms,
- o Purchase Agreements with underwriters,
- o Official Statements and other disclosure documents,
- o Continuing Disclosure Agreements and related filings,
- o Dealer Agreements,
- o Related Subordinated Contract Obligations,
- o Escrow Agreements, and
- o Investment Agreements.

Any such documents will be in substantially the form of any comparable document previously entered into by MTA or TBTA for previous issues and programs, with such changes as approved by any one or more of the foregoing officers. In addition, such officers are hereby authorized to terminate, amend, supplement, replace or extend any such documents (and related Parity Reimbursement Obligations and Parity Debt) and other documents related thereto, as they shall deem advisable. The MTA and TBTA Boards are requested to further delegate to such officers authority to take such other actions as may be necessary or desirable to effectuate such transactions.

DISCUSSION:

MTA's portfolio of outstanding indebtedness is \$29.5 billion. These previously issued bonds, together with bonds anticipated to be issued to fund approved Capital Programs, require the use of increasing amounts of pledged revenues under the various resolutions authorizing the original debt. As the MTA desires to achieve the lowest possible cost associated with this debt,

Staff Summary

refunding authority is desirable to enable the refunding such debt obligations and bonds from time to time when market opportunities arise.

ALTERNATIVES:

The Board could determine that staff seek specific approval for each refunding contemplated in advance of undertaking such refunding. This alternative is not advised as the timing of the Board cycle could result in missed market opportunities.

RECOMMENDATION:

The MTA and TBTA Boards approve the above-referenced amended and restated resolutions and documents and all other actions described above, including the execution and delivery of such other documents, and the taking of all other actions, from time to time deemed necessary or desirable by such officers in connection therewith. The authorization to issue the Refunding Bonds and take other related actions hereunder shall continue in effect without any further action by the Issuer until April 1, 2012, unless (a) the Issuer shall have confirmed the effectiveness of this authorization for an additional period, or (b) the Issuer shall have modified or repealed this authorization.

Staff Summary

Page 1 of 2

Subject MTA Prompt Payment Annual Report 2010
Department Chief Financial Officer
Department Head Name Bob Foran
Department Head Signature
Project Manager/Division Head Patrick Kane <i>Patrick Kane</i>

Date March 3, 2011
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Comm.	3/21/11			
2	Board	3/23/11			

Internal Approvals			
Order	Approval	Order	Approval
	Chief of Staff		Chief Financial Officer
	Chief Operating Officer	2	Legal <i>[Signature]</i>
1	Managing Director <i>[Signature]</i>		Administration
	Other		

Purpose:

To report to the Board the compliance by MTA and its subsidiary agencies with the Prompt Payment Legislation.

Discussion:

The Prompt Payment Legislation, implemented in April, 1988 requires that the Authority must pay amounts due under its contracts within 30 days of the receipt of a proper invoice or the receipt of the goods or services, whichever is later. When payment of a proper invoice is delayed beyond the allotted time, the agency must pay interest at the rate set forth by the New York State Commission of Taxation and Finance which is currently at 7.5%, if such interest payment exceeds a ten dollars threshold.

Additionally, the Prompt Payment Legislation requires that the MTA issue an annual report within ninety days after each fiscal year. This report shall include the following:

- 1) A listing of the types of categories of contracts which the Authority entered into during the twelve month period covered by the report, together with a brief description of whether each such type or category of contract was subject to the prompt payment requirements promulgated by the Authority and, if not, the reasons why;
- 2) The total amount and number of interest payments made to vendors for contracts allocated to the type or category;
- 3) The number of interest "chargeable" days and the total number of days required to process each delayed/late contract vendor payment; and

Staff Summary

- 4) A summary of the "principal" reasons why such delayed/late payments occurred.

For the current period, the total amount of prompt payment interest paid, Agency-wide is \$41,283 on a total invoice value paid of \$8,381,649,959.

The Legislation requires the MTA to file the report with the State Comptroller, State Director of the Budget, the Chairman of the Senate Finance committee, and the Chairman of the Assembly Ways and Means Committee.

Enclosed is a copy of the Annual Prompt Payment Report for 2010, which will be filed by the MTA in accordance with the legislation requirement.

METROPOLITAN TRANSPORTATION AUTHORITY
2010 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION

REPORTING AGENCY: MTA - LONG ISLAND RAIL ROAD

CONTRACT CATEGORY	SUBJECT TO PROMPT PAYMENT YES/NO	ITEMS NOT SUBJECT TO PROMPT PAYMENT	NUMBER OF PAYMENTS	INTEREST AMOUNT PAID	CHARGEABLE DAYS	TOTAL DAYS TO PROCESS LATE PAYMENTS	PRINCIPAL REASON(S) FOR LATE PAYMENTS
1. PURCHASE CONTRACTS	YES		56	\$5,970.18	3,872	5,552	DELAY IN INTERNAL PROCESSING
2. PUBLIC WORKS	YES		0	\$0.00	0	0	
3. PERSONAL SERVICES	YES		0	0.00	0	0	
4. REAL ESTATE	YES		0	0.00	0	0	
5. PUBLIC UTILITIES	YES		0	0.00	0	0	
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA LONG ISLAND RAIL ROAD			56	\$5,970.18	3,872	5,552	

METROPOLITAN TRANSPORTATION AUTHORITY
2010 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION

REPORTING AGENCY: MTA - METRO-NORTH RAILROAD

CONTRACT CATEGORY	SUBJECT TO PROMPT PAYMENT YES/NO	ITEMS NOT SUBJECT TO PROMPT PAYMENT	NUMBER OF PAYMENTS	INTEREST AMOUNT PAID	CHARGEABLE DAYS	TOTAL DAYS TO PROCESS LATE PAYMENTS	PRINCIPAL REASON(S) FOR LATE PAYMENTS
1. PURCHASE CONTRACTS	YES	N/A	0	\$0.00	0	0	
2. PUBLIC WORKS	YES	N/A	0	0.00	0	0	
3. PERSONAL SERVICES	YES	N/A	0	0.00	0	0	
4. REAL ESTATE	YES	N/A	0	0.00	0	0	
5. PUBLIC UTILITIES	YES	N/A	0	0.00	0	0	
6. MISCELLANEOUS	YES	N/A	0	0.00	0	0	
TOTALS FOR MTA METRO-NORTH RAILROAD			0	\$0.00	0	0	

METROPOLITAN TRANSPORTATION AUTHORITY
2010 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION

REPORTING AGENCY: MTA - NEW YORK CITY TRANSIT

CONTRACT CATEGORY	SUBJECT TO PROMPT PAYMENT YES/NO	ITEMS NOT SUBJECT TO PROMPT PAYMENT	NUMBER OF PAYMENTS	INTEREST		TOTAL DAYS TO PROCESS LATE PAYMENTS	PRINCIPAL REASON(S) FOR LATE PAYMENTS
				AMOUNT PAID	CHARGEABLE DAYS		
1. PURCHASE CONTRACTS	YES		512	\$32,867.60	19,254	34,614	DOCUMENTS PROCESSED LATE BY ACCOUNTS PAYABLE AND RECEIVED LATE IN ACCTS. PAYABLE
2. PUBLIC WORKS	YES		0	0.00	0	0	
3. PERSONAL SERVICES	YES		0	0.00	0	0	
4. REAL ESTATE	YES		0	0.00	0	0	
5. PUBLIC UTILITIES	YES		0	0.00	0	0	
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA, NEW YORK CITY TRANSIT			512	\$32,667.60	19,254	34,614	

**METROPOLITAN TRANSPORTATION AUTHORITY
2010 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION**

REPORTING AGENCY: MTA - STATEN ISLAND RAILWAY

CONTRACT CATEGORY	SUBJECT TO PROMPT PAYMENT YES/NO	ITEMS NOT SUBJECT TO PROMPT PAYMENT	NUMBER OF PAYMENTS	INTEREST	CHARGEABLE DAYS	TOTAL DAYS	PRINCIPAL REASON(S) FOR LATE PAYMENTS
				AMOUNT PAID		TO PROCESS LATE PAYMENTS	
1. PURCHASE CONTRACTS	YES		0	\$0.00	0	0	
2. PUBLIC WORKS	YES		0	0.00	0	0	
3. PERSONAL SERVICES	YES		0	0.00	0	0	
4. REAL ESTATE	YES		0	0.00	0	0	
5. PUBLIC UTILITIES	YES		0	0.00	0	0	
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA STATEN ISLAND RAILWAY			0	\$0.00	0	0	

**METROPOLITAN TRANSPORTATION AUTHORITY
2010 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION**

REPORTING AGENCY: MTA - LONG ISLAND BUS

CONTRACT CATEGORY	SUBJECT TO PROMPT PAYMENT YES/NO	ITEMS NOT SUBJECT TO PROMPT PAYMENT	INTEREST		CHARGEABLE DAYS	TOTAL DAYS TO PROCESS LATE PAYMENTS	PRINCIPAL REASON(S) FOR LATE PAYMENTS
			NUMBER OF PAYMENTS	AMOUNT PAID			
1. PURCHASE CONTRACTS	YES		35	\$883.54	1,509	2,559	PURCHASE ORDER WAS NOT RECEIVED ON TIME, CERTIFICATION NOT RECEIVED ON TIME,
2. PUBLIC WORKS	NO		0	0.00	0	0	
3. PERSONAL SERVICES	YES		3	190.72	28	118	CERTIFICATION NOT RECEIVED ON TIME, ACCOUNTS PAYABLE INPUT WAS LATE
4. REAL ESTATE	YES		0	0.00	0	0	
5. PUBLIC UTILITIES	YES		0	0.00	0	0	
6. MISCELLANEOUS	YES		33	1,224.01	1,889	2,879	PURCHASE ORDER WAS NOT RECEIVED ON TIME, CERTIFICATION NOT RECEIVED ON TIME,
TOTALS FOR MTA LONG ISLAND BUS			71	\$2,278.27	3,426	5,556	

METROPOLITAN TRANSPORTATION AUTHORITY
2010 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION

REPORTING AGENCY: MTA - HEADQUARTERS

CONTRACT CATEGORY	SUBJECT TO PROMPT PAYMENT YES/NO	ITEMS NOT SUBJECT TO PROMPT PAYMENT	INTEREST		TOTAL DAYS		PRINCIPAL REASON(S) FOR LATE PAYMENTS
			NUMBER OF PAYMENTS	AMOUNT PAID	CHARGEABLE DAYS	TO PROCESS LATE PAYMENTS	
1. PURCHASE CONTRACTS	YES		6	\$368.78	124	298	DELAY IN INTERNAL PROCESSING
2. PUBLIC WORKS	YES		0	0.00	0	0	
3. PERSONAL SERVICES	YES		0	0.00	0	0	
4. REAL ESTATE	YES		0	0.00	0	0	
5. PUBLIC UTILITIES	YES		0	0.00	0	0	
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA HEADQUARTERS			6	\$368.78	124	298	

METROPOLITAN TRANSPORTATION AUTHORITY
2010 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION

REPORTING AGENCY: MTA - BUS COMPANY

CONTRACT CATEGORY	SUBJECT TO PROMPT PAYMENT YES/NO	ITEMS NOT SUBJECT TO PROMPT PAYMENT	NUMBER OF PAYMENTS	INTEREST AMOUNT PAID	CHARGEABLE DAYS	TOTAL DAYS TO PROCESS LATE PAYMENTS	PRINCIPAL REASON(S) FOR LATE PAYMENTS
1. PURCHASE CONTRACTS	YES		0	\$0.00	0	0	
2. PUBLIC WORKS	YES		0	0.00	0	0	
3. PERSONAL SERVICES	YES		0	0.00	0	0	
4. REAL ESTATE	YES		0	0.00	0	0	
5. PUBLIC UTILITIES	YES		0	0.00	0	0	
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA BUS COMPANY			0	\$0.00	0	0	

METROPOLITAN TRANSPORTATION AUTHORITY
2010 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION

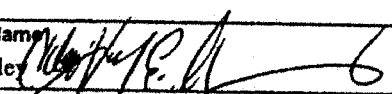
REPORTING AGENCY: MTA - BRIDGES AND TUNNELS

CONTRACT CATEGORY	SUBJECT TO PROMPT PAYMENT YES/NO	ITEMS NOT SUBJECT TO PROMPT PAYMENT	NUMBER OF PAYMENTS	INTEREST AMOUNT PAID	CHARGEABLE DAYS	TOTAL DAYS TO PROCESS LATE PAYMENTS	PRINCIPAL REASON(S) FOR LATE PAYMENTS
1. PURCHASE CONTRACTS	YES		0	\$0.00	0	0	
2. PUBLIC WORKS	YES		0	0.00	0	0	
3. PERSONAL SERVICES	YES		0	0.00	0	0	
4. REAL ESTATE	YES		0	0.00	0	0	
5. PUBLIC UTILITIES	YES		0	0.00	0	0	
6. MISCELLANEOUS	YES		1	1.00	0	0	
TOTALS FOR MTA BRIDGES AND TUNNELS			1	\$1.00	0	0	CHARGEABLE DAYS AND TOTAL DAYS TO PROCESS IS \$0 BECAUSE REPORTABLE INTEREST PAYMENTS FELL BELOW THE \$10 THRESHOLD

GRAND TOTAL FOR MTA - ALL AGENCIES



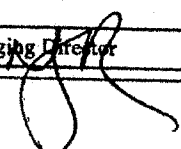
646	\$41,286.83	26,678	46,020
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Staff Summary

Subject
Request for Authorization to Award Various Procurements
Department
Managing Director
Department Head Name
Diana Jones Ritter
Department Head Signature
Division Head Name
Clifford Shockley 

Date
March 16, 2011
Vendor Name
Various
Contract Number
Various
Contract Manager Name
Various
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance	3/21/11			
2	Board	3/23/11			

Internal Approvals			
Order	Approval	Order	Approval
			Office of Civil Rights
			Legal
3	CFO 		EITG
1	Procurement 	2	Managing Director 

PURPOSE:

To obtain approval of the Board to award various contracts/contract modifications and purchase orders, as reviewed by the MTA Finance Committee.

DISCUSSION:

MTAHQ proposes to award Non-competitive procurements in the following categories:

		# of Actions	\$ Amount
Schedule F: Personal Service Contract			
• Barbara Thomson	= \$85,500	1	\$ 85,500
Schedule H: Modifications to Personal Service Contract			
• Dr. Umit Uyar /	= \$68,000	1	\$ 68,000
• Dr. Nicholas Maxemchuk			
SUBTOTAL		2	\$ 153,500

MTAHQ proposes to award Competitive procurements in the following categories:

Schedules Requiring Majority Vote

Schedule E: Miscellaneous Procurement Contract		1	\$ 115,000
SUBTOTAL		1	\$ 115,000

MTAHQ presents the following procurement actions for Ratification:

Schedule D: Ratifications (Involving Schedules E-J)		1	\$ 52,800
TOTAL		4	\$ 321,300

BUDGET IMPACT: The purchases/contracts will result in obligating MTAHQ operating and capital funds in the amount listed. Funds are available in the current MTAHQ operating/capital budgets for this purpose.

RECOMMENDATION: That the purchases/contracts be approved as proposed. (Items are included in the resolution of approval at the beginning of the Procurement Section.)

BOARD RESOLUTION

METROPOLITAN TRANSPORTATION AUTHORITY

WHEREAS, in accordance with Section 1265-a and Section 1209 of the Public Authorities Law and the All Agency Procurement Guidelines, the Board authorizes the award of certain non-competitive purchase and public work 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 procurement contracts, and certain change orders to procurement, public work, and miscellaneous procurement contracts; and

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, the Board resolves as follows:

1. As to each purchase and public work contract set forth in the 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. The Board ratifies each action taken set forth in Schedule D 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; and 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 quantity contracts set forth in Schedule L.

LIST OF PROCUREMENTS FOR BOARD APPROVAL, MARCH 2011
NON-COMPETITIVE PROCUREMENTS

METROPOLITAN TRANSPORTATION AUTHORITY

Procurements Requiring Majority Vote:

F. Personal Service Contracts

(Staff Summaries required for items greater than: \$100K Sole Source; \$250K Other Non-Competitive, \$1M Competitive)

- | | |
|---|------------------------------------|
| 1. Barbara Thomson
Consulting Services for Preparation of New Fare Payment System (NFPS)
System Integrator Scope of Work
Contract No. 11052-0100 | \$85,500
(not-to-exceed) |
|---|------------------------------------|

Consultant to provide expert assistance with procurement strategy and negotiations related to MTA acquiring an NFPS system integrator. In order to meet its publicly-stated deadlines, MTA will issue an RFP for the NFPS system integrator in the Summer of 2011. To meet this commitment, MTA needs a consultant uniquely dedicated to this procurement effort because of the very short timeframe for bringing the system integrator on-board.

The MTA recently established a New Fare Payment Systems (NFPS) project team with the primary purpose of providing an easy-to-use, secure means by which passengers can pay fares and purchase multi-ride passes, initially on the bus and subway networks, and soon thereafter for all remaining MTA transportation services.

The MTA intends on having the NFPS in operation on both bus and subway systems by 2015. The project will phase in NFPS on buses during 2012 and 2013, and finish the subway roll out during 2014. With a lead time of approximately one (1) year to develop, install and test the fully integrated fare system on the bus network, it is imperative to acquire the services of a systems integrator contractor to commence work early in 2012. In order to do this, the project team needs a consultant with experience in procurement and negotiations dedicated to this system integrator procurement to supplement the MTA's resources for carrying out the procurement process. Given the foregoing, it is urgent that Ms. Thomson starts work immediately in order to meet these deadlines.

Ms. Thomson is the ideal consultant for this time-sensitive and critical stage of the NFPS project. Ms. Thomson is a lawyer who is uniquely qualified to assist the MTA in this keyphase of the project because of her experience and expertise in new technology implementation, as well as procurement negotiations, business analysis, and contract management. She has over 25 years of experience working on public sector issues, including procurements and monitoring of contractor performance, maintenance policies and programs, business planning, and labor contract and negotiation matters. She worked for NYCT for 13 years working in these areas, and now serves as a management consultant to both public and private sector clients, including transit agencies and industry firms, providing services in new technology implementation, productivity, communications, and labor relations. In addition, Ms. Thomson is certified with MTA as a DBE.

METROPOLITAN TRANSPORTATION AUTHORITY
NON-COMPETITIVE PROCUREMENTS

Ms. Thomson's initial hourly rate of \$150 was negotiated down to a fully loaded hourly rate of \$110 for a savings of \$40 or 26.7%. The hourly rate of \$110 falls below the range of rates ranging from \$280 to \$380 per hour for similar technology services. Based on this comparison, the fully loaded hourly rate of \$110 is considered fair and reasonable.

H. Modifications to Personal Service Contracts and Miscellaneous Service Contracts Awarded as Contracts for Services

(Approvals/Staff Summaries required for substantial change orders and change orders that cause original contract to equal or exceed monetary or durational threshold required for Board approval.)

- | | |
|--|---|
| 2. Consulting Services on Technology
Related Issues for the MTA
New Fare Payment Systems (NFPS)
Contract No. 10101-0100, S/A #4
Contract No. 10259-0100, S/A #2
a. Dr. Umit Uyar (U2 Labs International, LLC)
b. Dr. Nicholas Maxemchuk | \$68,000
(combined for
both contracts) |
|--|---|

Base plus previous supplements = \$67,600

In November 2010 the Board approved the continuation of Dr. Umit Uyar technical consulting services for the administration and management of the following three (3) technology related research projects: i) analysis of contactless bank card collection procedures for MTA Buses and Subways; ii) analysis of wireless mesh networking in above-ground and mid-level subway platforms for fare collection and security application; and iii) evaluation of hot exhaust gas emission reduction mechanisms used in diesel and hybrid buses. These services involved utilizing graduate engineering students from CCNY and Columbia University in conducting the research and the supervision of these students. Dr. Uyar has successfully completed the above research projects. MTA now seeks approval for both Dr. Uyar and Dr. Nicholas Maxemchuk (currently engaged by the MTA to provide technical consulting services related to network performance) to follow and provide continuity with related technical analysis and advice for the below listed projects.

The two new related projects are as follows:

- i. Analysis of SONET access techniques. This project will evaluate cost effectiveness of different solutions in the context of NFPS performance requirements.
- ii. As needed technical advice and support for the NFPS team.

METROPOLITAN TRANSPORTATION AUTHORITY
NON-COMPETITIVE PROCUREMENTS

Under these projects, Dr. Uyar will be focusing on network design, software design and development problems and Dr. Maxemchuk will be focusing on network performance. Senior and graduate engineering students from both CCNY and Columbia University will again be directly involved in the follow on research and supervised by Drs. Uyar and Maxemchuk.

The total combined not-to-exceed amount for these services over the twelve-month period through March 31, 2012 is \$68,000. The hourly rates of \$100 and \$150 for Dr. Uyar and Dr. Maxemchuk respectively, fall below the range of rates from \$280 to \$380 per hour for similar technical consulting services, thus the hourly rates of \$100 and \$150 are considered fair and reasonable.

LIST OF PROCUREMENTS FOR BOARD APPROVAL, MARCH 2011
COMPETITIVE PROCUREMENTS

METROPOLITAN TRANSPORTATION AUTHORITY

Procurements Requiring Majority Vote:

E. Miscellaneous Procurement Contracts

(Staff Summaries required for all items greater than: \$100K Sole Source; \$250K Other Non-Competitive)

- | | |
|----------------------------|------------------|
| 1. BMI Audit Services, LLC | \$115,000 |
| Medical Audit Software | (Total) |
| Contract No. 10117-0100 | |

Competitively negotiated – 2 proposals – 48 months

Contractor to provide proprietary audit software used for validating medical and prescription drug claims. This software will enable MTA Audit Services to audit the health benefit carrier claim charges for NYCT self-insured medical plans that totals approximately \$650 million annually. As a result of negotiations the proposed total cost of \$332,760 for four-years was negotiated down to \$115,000 (\$40,000 for year one and \$25,000 for three one-year option years), a savings of 65.44% or \$217,760. There are no prior contracts for this type of software which can be compared, however the total negotiated cost of \$115,000 for the four years is considered fair and reasonable.

LIST OF PROCUREMENTS FOR BOARD APPROVAL, MARCH 2011
PROCUREMENTS FOR RATIFICATION

METROPOLITAN TRANSPORTATION AUTHORITY

Procurements Requiring Two-Thirds Vote:

K. Ratifications of Completed Procurement Actions (Involving Schedules E-J)

(Staff Summaries required for unusually large or complex items which otherwise would require Board approval)

- | | |
|------------------------------------|-----------------|
| 1. Sidera Networks, LLC | \$52,800 |
| Internet Service Provider Services | (fixed) |
| Contract No. 11014-0100 | |

Competitively negotiated – 5 proposals – 12 months

Board ratification is requested for award of a contract to Sidera Networks, LLC to provide increased bandwidth (internet access) to support mta.info website. During the NYC blizzard of December 27, 2010 the MTA website experienced extremely high bandwidth utilization due to a large number of concurrent customers trying to access the website at the same time. This caused 98% bandwidth utilization in one of our Internet Service Provider (ISP) circuits and 80% utilization in the other. To prevent this near 100% utilization from occurring again, which could impact our customers with degradation of service or no access to our website at all, an emergency procurement was initiated to increase MTA's bandwidth within a fifteen day time period. MTA solicited proposals from major ISP companies. Five proposals were received (one proposal was deemed non-responsive). Proposals ranged from \$4,400 to \$9,900 per month. Sidera was the only proposer that met the fifteen day timeframe at the lowest price of \$4,400 per month. This project has been completed on time.

MARCH 2011
MTA REAL ESTATE
LIST OF REAL ESTATE ACTION ITEMS FOR BOARD APPROVAL

ACTION ITEMS

METROLITAN TRANSPORTATION AUTHORITY

All-Agency Real Property Disposition Guidelines and All-Agency Personal Property Disposition Guidelines in Accordance with Public Authorities Law Sections 2895-2897

License agreement with Coca-Cola Refreshments USA with Long Island Rail Road and Metro-North Commuter Railroad for the sponsorship (provisioning and branding) of commissary carts at various locations

License agreement with Anheuser-Busch Distributors of NY for the sponsorship (branding) of commissary carts at various locations

Authorization to enter into agreements to accommodate temporary relocation of residential occupants or to acquire temporary easements to effectuate temporary relocation of tenants by eminent domain, to allow for building stabilization work in connection with the Second Avenue Subway project

MTA NEW YORK CITY TRANSIT

License Agreement with Charleston Enterprises, LLC for use of property at Bricktown Center, Staten Island, N.Y. in connection with access and passage for NYCT buses

MTA LONG ISLAND RAIL ROAD

License Agreement with Sunset Airport Trans Corp., d/b/a Sunset Taxi, for a taxi dispatch office at LIRR's Hicksville Station, Hicksville, New York

METROPOLITAN TRANSPORTATION AUTHORITY

Staff Summary

Subject
PROPERTY DISPOSITION GUIDELINES
Department
REAL ESTATE; MTA LEGAL
Department Head Name
JEFFREY B. ROSEN; JAMES HENLY
Department Head Signature
Project Manager Name
DAVID BOSCH; LAMOND KEARSE

Date
MARCH 21, 2011
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	3/21/11	X		
2	Board	3/23/11	X		

Internal Approvals			
Order	Approval	Order	Approval
		1	Legal <i>ASH</i>
3	Chief of Staff <i>APC</i>		
2	Managing Director <i>MD</i>		

Purpose:

To obtain MTA Board approval of revised and updated 2011 Real Property Disposition Guidelines and 2011 All-Agency Personal Property Disposition Guidelines, each promulgated in accordance with Sections 2895-2897 of the New York Public Authorities Law (the "Property Disposition Law").

Discussion:

The Property Disposition Law requires that public authorities adopt guidelines regarding the disposition of property. These policies are to be reviewed and approved annually. The revised 2011 Real Property Disposition Guidelines, prepared by the MTA Real Estate Department, are annexed as Attachment A to this staff summary. Attachment B to the staff summary contains proposed 2011 Personal Property Disposition Guidelines, which have been prepared by MTA Legal in consultation with the agency procurement departments.

2011 Real Property Disposition Guidelines

In March of 2010 the MTA Board reviewed and adopted the MTA Real Estate Department's real property disposition guidelines which: (i) detailed MTA Real Estate's operative policies and procedures regarding the disposition of real property, consistent with the requirements of the Property Disposition Law, and (ii) designated the MTA Director of Real Estate as the Real Property Disposition Contracting Officer for the MTA and the MTA agencies.

The real property disposition guidelines ("MTA Real Estate Department Policies and Procedures for the Leasing-Out and Sale of Real Property") have been reviewed and revised to: (1) consolidate the number of approval forms currently in use to streamline and simplify the internal sign-off process; (2) update the section on advertising of RFP's to reflect recently revised MTA-wide practices; (3) update the section regarding the applicability of the State Environmental Quality Review Act to real estate transactions; (4) clarify which contracts must be reported to the office of the state controller; and (5) make minor technical changes to reflect a revised departmental organizational structure and other minor changes.

Staff Summary

FINANCE COMMITTEE MEETING

Property Disposition Guidelines (Cont'd)

COMMENTS: (Cont'd)

2011 Personal Property Disposition Guidelines

Previously, each MTA agency had separate disposal of personal property policies/practices. Those guidelines require updating to reflect statutory changes to the Property Disposition Law that became effective last year. To comply with these statutory changes and promote a consistent set of personal property disposal policies and practices across the MTA Agencies, a single set of All-Agency Guidelines for the Disposal of Personal Property (the "2011 Personal Property Guidelines") has been prepared for Board review and adoption.

The 2011 Personal Property Disposition Guidelines incorporate the additional notice and Board approval requirements included in the 2009 amendments to the Property Disposition Law, which apply to disposals of personal property for less than fair market value. The 2011 Personal Property Guidelines also require adherence to governing provisions of the Property Disposition Law that, inter alia, (1) require an MTA Agency to maintain adequate inventory controls and accountability systems for all personal property under its control and transfer or dispose of property that is identified as subject to disposition as promptly as possible consistent with the provisions of the Property Disposition Law; (2) permit an MTA Agency to dispose of personal property for not less than the fair market value of such property by sale or such other action as it deems necessary or proper in accordance with the Property Disposition Law, and (3) require all dispositions of personal property by an MTA Agency be supervised by the Agency Contracting Officer and be made after publicly advertising for bids except in the circumstances specified in the Property Disposition Law which permit disposals and contracts for disposal of personal property by negotiation or public auction without publicly advertising for bids but subject to obtaining such competition as is feasible under the circumstances.

Recommendation:

It is recommended that the Board adopt the resolution attached to this Staff Summary approving the 2011 Real Property Guidelines and the 2011 Personal Property Guidelines, ratifying the appointment of the MTA Director of Real Estate as the Real Property Disposition Contracting Officer for the MTA and MTA Agencies, and designating the MTA and MTA agency staff members listed as the Contracting Officers for the MTA and MTA Agencies as the officers responsible for disposition of personal property.

RESOLUTION

WHEREAS, Metropolitan Transportation Authority and its subsidiaries and affiliates (collectively, "the MTA Agencies") desire to adopt the MTA Real Estate Department Policies and Procedures for the Leasing-Out and Sale of Real Property ("the 2011 Real Property Guidelines") and the All-Agency Guidelines for the Disposal of Personal Property ("the 2011 Personal Property Guidelines") referred to in the Staff Summary to which this Resolution is attached (the "Staff Summary") and to designate the MTA Agency staff persons listed in Attachment C to the Staff Summary as Personal Property Disposition Contracting Officers and to designate the MTA Director of Real Estate as the Real Property Disposition Contracting Officer, all in accordance with requirements of Sections 2895-2897 of the Public Authorities Law (the "Property Disposition Law");

NOW, THEREFORE BE IT:

RESOLVED, that the 2011 Real Property Guidelines are hereby adopted in accordance with the requirements of the Property Disposition Law; and

RESOLVED, that the 2011 Personal Property Guidelines are hereby adopted in accordance with the requirements of the Property Disposition Law; and

RESOLVED, that the MTA Director of Real Estate is hereby designated as Real Property Disposition Contracting Officer for the MTA Agencies in accordance with the requirements of the Property Disposition Law; and

RESOLVED, that the persons listed in Attachment C to the Staff Summary are hereby designated as Personal Property Disposition Contracting Officers in accordance with the requirements of the Property Disposition Law.

Dated: March 23, 2011

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

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

The purpose of these guidelines is to:

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

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

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

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

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

Dispose or disposal: Transfer of title or any other beneficial interest in Surplus Property in accordance with the methods of disposition described herein. The act of disposition may include the acts of

transferring, trading-in, selling, donating or destroying goods that are of no further use to the MTA.

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

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

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

MTAHQ: MTA Headquarters.

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

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

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

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

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

Section 1: General Provisions

1.1 Compliance with Laws and Guidelines.

- a. Disposals of Qualifying Surplus Property (i.e. Surplus Property with a Fair Market Value in excess of \$5,000) shall comply with applicable provisions of PAL §§ 2895 - 2897, the MTA's enabling legislation, any other applicable law for the disposal of Personal Property, and the provisions of these guidelines.
- b. Disposals of Surplus Property having a Fair Market Value equal to or less than \$5,000 and disposals of Surplus Property, regardless of Fair Market Value, to an MTA Agency are not subject to the disposition requirements set forth in PAL §§ 2895 - 2897. Disposition of such Surplus Property should be undertaken in compliance with the provisions of these Guidelines, other than Section 2 (addressing the requirements of PAL

- 1.2 Responsibility for Compliance. The Contracting Officer(s) and Procurement Department(s) of the MTA and the MTA Agencies are responsible for ensuring MTA's compliance with and enforcement of these Guidelines.
- 1.3 Surplus Property. Surplus Property shall be disposed of as promptly as possible in a manner that returns as much value as possible to the MTA. Value may be returned through internal transfer of items, thereby reducing expenditures; through sale of items to outside buyers, thereby producing revenue; or through donation or other disposal without direct income, thereby avoiding the costs associated with carrying excess inventories or disposal costs of items of negligible value.
- 1.4 Responsibilities of Surplus Property Officers. Surplus Property Officers shall be responsible for periodically identifying Surplus Property as defined above.

User departments will periodically review their inventory of Personal Property such as furniture, office equipment, computer equipment, and security equipment and determine whether such Personal Property is Surplus Property that should be disposed of.
- 1.5 Computer Equipment/ Telecommunications Equipment. The Information Technology Departments for each MTA Agency will be responsible for the review of the continued usefulness of computer equipment and telecommunications communications equipment in their agency and may, in conjunction with the department or division to which such equipment is assigned, identify such equipment as Surplus Property.
- 1.6 Automobiles. Each MTA Agency shall review the continued usefulness of that MTA Agency's automobiles, and may, when appropriate, identify automobiles as Surplus Property and shall dispose of such vehicles in compliance with these guidelines and their agency's vehicle usage policies and procedures.
- 1.7 Estimation of Value.
 - a. If the method of disposal of Surplus Property is not planned to be by publicly advertised bid (see Section 5.1), the user department responsible for such Surplus Property shall estimate the Fair Market Value of such Surplus Property. In estimating the Fair Market Value of such Surplus Property, reference shall be made to identifiable active markets for such property and information concerning additional factors may also be considered, which may include but are not necessarily limited to:
 - Original purchase cost;
 - Depreciation;
 - Residual Value;
 - Estimated Replacement Value; and/or
 - Current condition of the item.
 - b. If the estimated Fair Market Value of such Surplus Property is in excess of \$15,000, it must be disposed of by publicly advertised bid unless it is otherwise eligible for disposition through negotiation or public auction (PAL § 2897(6)(c); see Section 2.1(b)).
 - c. If because of its unique nature or the unique circumstances of the proposed transaction, Qualifying Surplus Property is not readily valued by reference to an active market for similar property, an independent appraisal must be performed prior to disposing of such

Qualifying Surplus Property (except in circumstances in which the Surplus Property is being designated for transfer to another MTA Agency user).

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

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

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

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

2.3 Less than Fair Market Value Disposals. The MTA may dispose of Qualifying Surplus Property for less than Fair Market Value, pursuant to PAL § 2897(7), if:

- a. the transferee is a governmental or other public entity and the transfer terms require that ownership of the asset will remain with the governmental entity, or
- b. the transfer is within the purpose, mission or governing statute of the MTA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7: Disposal as Waste

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

Section 8: Inventory Management/Internal Controls

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

Section 9: Regulatory Disclosure

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

Section 10: Procedures

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

ATTACHMENT C
PERSONAL PROPERTY DISPOSITION CONTRACTING OFFICERS

Agency	Contact	Phone	E-mail
Long Island Rail Road	Dennis L. Mahon	718-725-2620	dlmahon@lirr.org
MTA Capital Construction	David K. Cannon	646-252-2321	DCannon@mtacc.info
Metro-North Railroad	Anthony J. Bombace, Jr.	212-340-3055	bombace@mnr.org
New York City Transit	Stephen M. Plochochi	646-252-6050	Stephen.Plochochi@nyct.com
Bridges and Tunnels	Anthony W. Koestler	646-376-0111	akoestler@mtabt.org
MTA Headquarters	Clifford Shockley	646-376-0098	cshockley@mtabsc.org
MTA Bus	Joy Bennett	718-888-6221	Joy.Bennett@nyct.com
Long Island Bus	John Brennan	516-542-0100, ext. 4325	JBRENNA@LIBUS.ORG



Metropolitan Transportation Authority

MTA REAL ESTATE DEPARTMENT

POLICIES AND PROCEDURES

FOR THE

LEASING-OUT AND SALE

OF REAL PROPERTY

EFFECTIVE AS OF

March 23, 2011

METROPOLITAN TRANSPORTATION AUTHORITY
REAL ESTATE DEPARTMENT
POLICIES AND PROCEDURES FOR THE LEASING-OUT
AND SALE OF REAL PROPERTY

March, 2010

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METROPOLITAN TRANSPORTATION AUTHORITY
REAL ESTATE DEPARTMENT
POLICIES AND PROCEDURES FOR THE LEASING-OUT
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March, 2010

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METROPOLITAN TRANSPORTATION AUTHORITY
REAL ESTATE DEPARTMENT
POLICIES AND PROCEDURES FOR THE LEASING-OUT
AND SALE OF REAL PROPERTY

March, 2010

INTRODUCTION

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INTRODUCTION

MTA Real Estate Department: The MTA Real Estate Department (“RED”)¹ handles real-estate-related transactions for the MTA and all of the MTA agencies, which include: MTA New York City Transit, Manhattan and Bronx Surface Transit Operating Authority, MTA Metro-North Railroad, MTA Long Island Rail Road, MTA Bridges and Tunnels, MTA Staten Island Railway, MTA Long Island Bus, MTA Bus and MTA Capital Construction (each, an “MTA Agency”, and, collectively with the MTA, the “MTA Agencies”).

Scope of Policies and Procedures: These Policies and Procedures apply only to the leasing-out or sale of MTA real property (including interests in real property such as easements). Licensing-out (pursuant to licenses that MTA may terminate at will in the MTA’s sole and absolute discretion upon not more than 60 days notice without repayment of any unamortized tenant improvement costs) is not subject to the mandates of Section 2897 of the Public Authorities Law (“PAL”) because it does not constitute a disposition of an interest in real property. As a general rule, leases rather than licenses should be used for what are traditional retail uses to incentivize prospective tenants to make their strongest financial offers, knowing that they may be terminated only for specified reasons, and, if so terminated, may be compensated for the unamortized value of improvements they make as warranted. If a license agreement provides that the third party’s right of use and occupancy is subject to termination only for specified reasons or upon payment of compensation by the MTA, then it is not a license for purposes of these Policies and Procedures and the requirements of these Policies and Procedures for leasing-out must be satisfied.

Insofar as leases and sales of MTA property are concerned, these Policies and Procedures supersede the MTA Real Estate Department Policies and Procedures for the Leasing-Out and Sale of Real Property dated March 24, 2010. The January 2009 Procedures for Licensing Out, Leasing-Out, and Sale of Real Property will continue to govern the licensing-out of MTA property until such time as they are also superseded, and they are therefore hereinafter referred to as the “Licensing-Out Policies and Procedures”.

Insofar as leases at Grand Central Terminal are concerned, these Policies and Procedures have been supplemented by the Guidelines for Selection of Tenants for Grand Central Terminal that were adopted by the MTA Board on November 11, 2009 (the “GCT Leasing Guidelines”). In the event of any inconsistency or conflict between these Policies and Procedures and the GCT Leasing Guidelines, the GCT Leasing Guidelines shall govern.

¹ A glossary of defined terms used in these Policies and Procedures appears at the end of these Policies and Procedures.

METROPOLITAN TRANSPORTATION AUTHORITY
REAL ESTATE DEPARTMENT
POLICIES AND PROCEDURES FOR THE LEASING-OUT
AND SALE OF REAL PROPERTY

March, 2010

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Section 2897 of the Public Authorities Law, as amended, stipulates that, as a general rule, any leasing-out or sale of real property can only be undertaken after public advertising for bids and for not less than fair market value. However, these limitations do not apply in certain circumstances, which are specified below. Accordingly, although most dispositions by sale or lease will be made pursuant to the request for proposals process that is described in Chapter III of these Policies and Procedures (the "Lease/Sale RFP Process"), others may be made pursuant to direct negotiations as described in Chapter IV of these Policies and Procedures (the "Lease/Sale Negotiation Process").

These Policies and Procedures are intended only for the internal guidance of MTA staff, and are not intended to establish expressly or by implication any rights or privileges. Except to the extent prohibited by law, any provision of these Policies and Procedures may be waived by the MTA Board (by ratification or otherwise) or by the Chairman and Chief Executive Officer.

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

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

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

Lease/Sale Negotiation Process:

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

- (a) the estimated fair market value of the property to be leased-out or sold does not exceed \$15,000, or
- (b) bid prices after advertising are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition; or

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- (c) the disposition will be to the State or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or
- (d) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;
- (e) the purpose of the transfer is within the purpose, mission or governing statute of the public authority; or
- (f) such action is otherwise authorized by law

In the case of (a), (b) or (c) above, the disposition must be for no less than fair market value. In the case of (d) or (e), it can be for less than fair market value.

An "explanatory statement" is required if a leasing-out or sale pursuant to the Lease/Sale Negotiation Process meets certain criteria, as described in Chapter IV of these Policies and Procedures. Each such explanatory statement must be transmitted to the New York State Comptroller, Director of the Budget, Commissioner of General Services and Legislature not less than 90 days in advance of such disposition, and a copy thereof must be kept in the project file.

Appraisal Requirement: PAL Section 2897 provides that any real property that is to be leased-out or sold must be independently appraised, regardless of whether the Lease/Sale RFP Process or the Lease/Sale Negotiation Process is used and regardless of the estimated fair market value of the property. Policies and procedures with respect to appraisals are set forth in Chapter V of these Policies and Procedures.

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CHAPTER I - INQUIRIES

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CHAPTER I - INQUIRIES

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

Responsibilities - The RED is responsible for coordinating all responses to Inquiries. The RED's responsibilities include researching the ownership status of specific properties, contacting the applicable MTA Agencies to determine whether property is available and responding to inquirers.

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

Procedures - Except for Inquiries relating to the leasing of space at Grand Central Terminal, which should be referred to the Director, GCT Development, all Inquiries should be referred to the Director, Leasing & Acquisition, who should either respond directly or else charge an appropriate deputy with doing so. In the first instance, the Director, Leasing & Acquisition should ascertain:

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

If the Director, Leasing & Acquisition determines that the subject property is available for purchase or lease, he or she (or his or her deputy) should so inform the inquirer, taking care to stipulate that (except as otherwise herein described) any such sale or lease may be undertaken only in accordance with the Lease/Sale RFP Process, and should see to it that the inquirer is provided in due course with an opportunity to participate in the Lease/Sale RFP Process with respect to such property. If the Director, Leasing & Acquisition determines that the subject property is available for license but not for purchase or lease, he or she (or such deputy) should

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so explain to the inquirer, and in that case the Licensing-Out Policies and Procedures shall apply to such property. Otherwise, the Director, Leasing & Acquisition (or such deputy) should inform the inquirer that the subject property is not available on any terms, but offer to add the inquirer's contact information to the RED's database for purposes of alerting the inquirer to other opportunities.

For templates for appropriate responses, see Figures 1 – 6.

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CHAPTER II – ASSESSMENT OF OPPORTUNITIES

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CHAPTER II – ASSESSMENT OF OPPORTUNITIES

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

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

Objective – To generate revenues for the MTA, consistent with the fulfillment of the MTA's non-revenue-generating purposes.

Procedures – In response to Inquiries, on its own initiative and/or at the request of MTA Agencies, the RED should evaluate MTA-controlled properties for their revenue-generating potential. To the extent that MTA-controlled property holds such potential, whether best to realize that potential by sale, lease or license will depend on an assessment of (a) the desirability and feasibility of sub-dividing and physically separating such property from adjoining MTA-controlled property, (b) the extent, if any, to which any future non-revenue-generating MTA use of the property is or can be envisioned, (c) whether (in any case) it will be necessary or desirable for the MTA to maintain long-term control over the ownership and/or use of the property, (d) whether the MTA owns the property or merely leases it, and the extent, if any, to which disposition of the property is limited by reason of the terms of any lease pursuant to which the MTA controls the property or by reason of any other title encumbrances, and (e) the potential revenues to be realized. With respect to each property to be evaluated, the Director, Leasing & Acquisition should refer such property to the appropriate Deputy Director, who will designate a Project Manager to conduct the evaluation under his or her supervision. In certain cases the Director, Leasing and Acquisition, will consult with and in some cases refer the inquiry to the Director, Transit Oriented Development.

A. Site Analysis

The RE Manager should conduct a site inspection (with Tenant Management, if appropriate) in order to evaluate the condition of the property and the surrounding area. As a part of this inspection, the RE Manager should assess the need for and extent to which improvements might be required, and consult with appropriate personnel of the applicable MTA Agency concerning the feasibility and potential costs of such improvements, and (assuming that the cost of such improvements would be justified by the revenue-generating potential of the property) whether it

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would be most efficient and cost-effective for the applicable MTA Agency to make such improvements (either in anticipation of rental or license fee income or at the direct cost of a lessee, licensee or purchaser) or for the making and/or cost of such improvements to be left to the purchaser, lessee or licensee. The RE Manager should also consult with Information Management and MTA Legal to ensure that the RE Manager is aware of any contractual or other legal limitations that would affect the MTA's ability to dispose of the subject property.

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

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

Generally, the leasing-out or sale of MTA real property constitutes an "action" under the State Environmental Quality Review Act (SEQRA) and thus is subject to SEQRA's requirements. SEQRA requires review of actions to determine whether they may have a significant adverse environmental impact and, if so, preparation of an environmental impact statement before the action may be approved and undertaken. While most lease renewals will be Type II actions under SEQRA regulations – actions which the State Department of Environmental Conservation has found to have no significant adverse impacts – and thereby exempt from review, and some new leases may also fall within a Type II category, the RE Manager should consult with the MTA Legal Department's attorneys as early in the process as practical to determine what measures are necessary to insure SEQRA compliance. Further consultation may be necessary as

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a proposal develops or changes over time. Board approval of a lease or sale cannot occur unless SEQRA requirements have been met either through (a) the action being exempt as a Type II action or falling within the PAL § 1266(11) exemption from SEQRA; (b) issuance of a negative declaration, or (c) preparation of a final environmental impact statement. Each proposed lease or sale, whether via RFP or the Lease/Sale Negotiation Process, requires preparation of and signoff on an Authorization Memo, as further described in Chapters III and IV. Each Authorization Memo should note the SEQRA type or NEPA status, and required actions, if any, to be taken before the transaction is presented to the MTA Board.

Prior to issuing an RFP, the RE Manager should prepare a Parcel Information Sheet (Figure 7) for each property that he or she determines to be marketable. The purpose of the Parcel Information Sheet is to collect information and will ultimately be modified for use in the RFP.

Each Parcel Information Sheet should include:

- Yardi property identification number and address
- Block and lot number, if applicable
- Site plan
- Site description, including approximate size and any unusual attributes
- Suitability for sale/lease/license
- Possible uses/required use restrictions
- Utility requirements and availability
- Improvement requirements and associated cost estimates
- Design guidelines (if any)
- RE Manager site visit date

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

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

B. Preliminary Fair Market Value Analysis

Without yet ordering a formal appraisal, the Real Estate Manager should to the best of his or her ability seek to estimate the fair market value of the subject property. For such purpose, the Real Estate Manager may rely on his or her knowledge of market conditions, information in the Yardi

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database, the experience of RED colleagues, informal discussions with appraisers, posted broker listings for comparable properties and/or discussions with brokers; provided, however, that any brokers so contacted should be informed that the inquiry is for information purposes only and that the MTA is not (or is not yet) seeking the assistance of such brokers to locate prospective purchasers or tenants.

C. Conclusion of Site and Preliminary Fair Market Value Analysis

The RE Manager should prepare a Work Sheet (Figure 8) describing his or her analysis of the property and conclusions regarding the marketability of the property. The RE Manager should use such Work Sheet to guide his or her discussions with his or her Deputy Director, and it should encompass the following:

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

The Deputy Director should then present conclusions and recommendations to the Director, Leasing & Acquisition, for approval. Both the Deputy Director and Director, Leasing & Acquisition should agree as to whether the property should be marketed for sale or lease or license. If they determine to move forward with marketing for sale or lease, the Director, Leasing & Acquisition should authorize the commissioning of an appraisal, as provided in Chapter V of these Policies and Procedures.

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CHAPTER III – REQUESTS FOR PROPOSALS (RFPs)

Scope - This chapter describes the Lease/Sale RFP Process.

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

Objective - To maximize MTA revenues while choosing qualified tenants who will meet their obligations and improve the appearance of MTA facilities and the quality of the amenities offered to the public at such facilities.

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

A. RFP PUBLICATION

1. The RE Manager is responsible for preparing the request for proposals (“RFP”). The RFP must include:

(a) an “RFP Cover Letter”, which contains general instructions, and the following two PAL and Lobbying Law-required statements: (1) “All bid proposals shall be publicly disclosed in the agenda for the meeting of the Finance Committee of the MTA Board at which the transaction will be considered for approval”, and (2) “All contacts with MTA relating to this RFP must be made through the designated Point(s) of Contact identified below. Contacts with anyone else at MTA relating to this RFP may be a violation of law and may result in the disqualification of the proposer.” The RFP Cover Letter should include the names and contact information for the designated Point(s) of Contact (a sample RFP Cover Letter is shown in Figure 9);

(b) the Parcel Information Sheet (absent the Work Sheet),

(c) a Proposer Information Form (“PIF” – See Figure 10),

(d) a form of General Affidavit,

(e) a Procurement Lobbying Law Certifications form,

(f) a Proposed Compensation Form,

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(g) a Credit Check Authorization Form, and

(h) a form W-9. To the extent practicable, the RFP should also include (or provide a link to a page on the MTA website that includes) a proposed form of lease or contract of sale, or a summary of the principal terms of such lease or contract, and it may to the extent the Director, Leasing & Acquisition deems appropriate require proposers to state any objections that they may have with respect to such form or terms at the time they respond to the RFP. The RE Manager should forward the RFP package to his or her Deputy Director and the Director, Leasing & Acquisition for final approval via an appropriately titled Authorization Memo (see Figure 11) before it is issued. An RFP should also be reviewed and approved by MTA Legal to the extent that (a) standard RFP provisions have been materially modified or changed, or (b) the contemplated transaction may present special legal issues.

2. Except as the Director, Leasing & Acquisition may otherwise determine, RFPs should generally not be printed and distributed by mail. Instead, emails, or, where emails are not possible, mailings should be used to advise prospective tenants or purchasers of the availability of RFPs on the MTA's website. Under the direction of the Director, Leasing & Acquisition, the RED Executive Secretary responsible for RFP management should periodically update and seek to expand the RED's database of potentially interested parties who should receive such emails and/or mailings.
3. If the subject property is currently occupied by an incumbent lessee or licensee in good standing, the RE Manager should notify such incumbent by certified letter and email that such property is going to be marketed in an upcoming RFP. (For an example of such a letter, see Figure 12.) A copy of such letter and the return receipt should be maintained in the incumbent's file. The letter should not mention any details of the RFP, as that might give the incumbent an unfair advantage over other proposers, nor should it state or imply that the incumbent will receive preferential consideration. The letter should be mailed to the incumbent's address as listed for notice in the incumbent's original agreement, as modified by any subsequent amendments. Any questions regarding the appropriate address for notice should be referred to Tenant Management (and MTA Legal, if necessary). Subsequently, when the RFP is issued, a hard copy should be sent to the incumbent, even if the incumbent does not request one.
4. After receiving approval of the Authorization Memo from his or her Deputy Director and the Director, Leasing & Acquisition, the RE Manager should initiate the advertisement of the RFP. RED's advertisements for RFPs and any other opportunities will be advertised along with all other agency procurements in the classified section of the *New York Post*. This global MTA procurement page will appear every other Thursday, starting 1/20/11. The advertisements will also be placed

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in the *Minority Commerce Weekly* and a Spanish language newspaper, currently *El Diario*. For each RFP, a one-line description of the opportunity, such as appears for RED procurements on the MTA website now, will suffice. For an example of such a description, see Figure 13. The advertisement will direct readers to the MTA home page and then to the "Doing Business With Us" link; the reader will then see the "Real Estate" link and will be free to proceed to view RFPs for leasing or sales. Point of Contact information will be included in the RFP Cover Letters that are included in the RFPs on the website, but not in the advertisements in the periodicals noted above. Advertisements may also be placed in additional periodicals with the approval of the Director, Leasing & Acquisition, depending on the targeted market, size and location of the property, etc. (e.g. for a restaurant, trade journals targeted to franchisees might be included). A copy of all advertisements should be included in the RFP File. These advertisements may be required to include the language shown above in 1.(a)(1) and 1.(a)(2) and Point of Contact information.

Advertisement drafts must be submitted to the Director, Community Affairs - Government and Community Relations (currently Doug Sussman) by the Monday before the Thursday that the advertisement is to appear in *the Post*. In Doug's absence, the RE Manager should contact Ambika Mohan at Miller Advertising (amohan@milleraa.com) to have the RFP information placed in the next MTA advertisement. The RE Manager should also ensure that the RED Executive Secretary responsible for RFP management timely posts the RFP on the MTA's website. (For an example of a typical advertisement, see Figure 14).

5. At the same time, the RE Manager should send an email to the MTA press office, being sure to email the individual responsible for press for the relevant agency, advising that a RFP is forthcoming, indicating whether a purchaser or tenant is being sought and describing the property being offered.
6. On a case by case basis, the Director, Leasing & Acquisition may, with the concurrence of the Director of Real Estate, (a) elect to make RFPs available to brokers and undertake in such RFPs to pay brokerage commissions (at rates not to exceed industry standard rates) to any brokers that shall be the procuring cause of consummated sales or leases of properties that are the subject of such RFPs, and/or (b) procure (with MTA Board approval) the services of marketing consultants to identify prospective purchasers or tenants to which particular RFPs should be sent.
7. The RE Manager is responsible for seeing to it that each person that has made an Inquiry with respect to any particular property or type of property receives notice of the issuance of any RFP relating to such property or type of property.
8. A site inspection time is typically identified in the RFP. At the indicated inspection

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time, the RE Manager should be present at the site and available to answer any questions.

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

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

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

C. Single-Step Lease/Sale RFP Process

In a single-step Lease/Sale RFP Process, the RED's selection is based on the initial proposer submission (except that the RED may seek clarifications and/or completion of submissions as described below). Following review and consideration of the bids and the making of responsiveness and responsibility determinations, the RED determines which proposer's bid is most advantageous to the State, price and other factors considered. Unless it determines to reject all bids, the RED must then seek authorization from the MTA Board to enter into a lease or contract of sale, as applicable, with such proposer. All bids must be publicly disclosed in the agenda for the Finance Committee meeting at which the RED seeks such authorization.

D. Multi-Step Lease/Sale RFP Process

In a multi-step Lease/Sale RFP Process, the initial proposer submission is followed by one or more revised submissions. Following each submission, RED staff may communicate with proposers to clarify the bids or to obtain additional information. Following review and consideration of the bids and the making of responsiveness and responsibility determinations, the RED may decide to make a final determination based on such bids or it may request that proposers submit revised bids. At any point, the RED may eliminate from the next step those proposers determined to be unresponsive, not responsible or outside of the competitive range on the basis of the selection criteria specified in the RFP. When the RED decides that it is not going to seek any further submissions, it determines which bid is most advantageous to the State, price and other factors considered. Unless it determines to reject all bids, the RED must then seek authorization from the MTA Board to enter into a lease or contract of sale, as applicable, with

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such proposer. All bids must be publicly disclosed in the agenda for the Finance Committee meeting at which the RED seeks such authorization.

E. Earnest Money Deposits

Typically, the RED requires each proposer to deposit with the MTA, at the time of its initial submission (in the case of a single-step RFP), or best and final submission (in the case of a multi-step RFP), earnest money in the amount of the security deposit that will ultimately be required under the applicable lease or contract of sale, as the case may be. Except as the Director, Leasing & Acquisition may otherwise determine, such earnest money deposit should be in the amount of three times the proposed monthly rent in the fifth lease year, in the case of a lease, or ten percent of the purchase price, in the case of a sale.

All earnest money checks and W-9 forms should be forwarded to Tenant Management, which should make a record of such checks and then transmit such checks to the MTA Comptroller's office. Once a proposer has been eliminated from further consideration, Tenant Management and the MTA Comptroller's office should be so notified by the RE Manager and (except as described in Chapter IX of these Policies and Procedures) such proposer's earnest money deposit should be returned to such proposer.

F. Opening Proposals

The receipt of proposals should be conducted with a high degree of confidentiality until the selection process is complete. Documentation such as proofs of receipt, and preliminary screening for completeness of RFP submissions, are critical in maintaining the integrity of the process. The RED Receptionist should maintain a proposal log that includes the name, date and time of receipt of each RFP response (Figure 15). All proposals should be opened at once, in the presence of two RED staff members, and in the meanwhile they should remain sealed and unopened. Subsequent to opening the proposals, each submission should be examined to ensure that all required items have been included. A checklist should be used for that purpose (Figure 16).

G. Evaluating Proposals

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

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

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

Generally, a proposal must be complete to be considered, and an incomplete proposal should be disqualified if the deficiencies are material and allowing the proposer to correct the proposal would afford the proposer a significant unfair competitive advantage or would not be in the MTA's best interest. However, the MTA reserves the right to waive any non-conformity with an RFP's requirements and the RE Manager should afford a proposer an opportunity to rectify any such non-conformity if it is relatively minor or such proposer's proposal is the best or only viable one received. In all instances, the RE Manager must discuss any such non-conformity with his or her Deputy Director. If there is any doubt about the appropriate action to take, MTA Legal should be consulted, and all relevant decisions should be made by the Director, Leasing & Acquisition and/or the Director, Real Estate. If a decision is made to request action by the proposer to conform its submission with RFP requirements, an email or letter should be sent to the proposer requesting such action. Any such email or letter should state that the non-conformity must be rectified within five working days, except that a longer time may be allowed by the RE Manager, after consulting with his or her Deputy Director, if the nature of the non-conformity (e.g. missing architectural plans) warrants such longer period.

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

2. Responsibility. The second threshold to further consideration of a proposal is whether the proposer is "responsible". A proposer should be disqualified as "not responsible" if such proposer or any Affiliate of such proposer:

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- a. has been convicted of a felony or any misdemeanor involving moral turpitude;
- b. has been disqualified from contracting with the MTA, the City of New York, the State of New York, the Port Authority of New York and New Jersey or the federal government;
- c. has violated the Procurement Lobbying Law (as more particularly described in Chapter XI of these Policies and Procedures); or
- d. owes, with respect to amounts due not more than five years prior to the date of the RFP, in excess of \$10,000 to the MTA; such amount is not (in the view of the MTA Legal Department) the subject of a bona fide dispute; and such amount has remained unpaid for more than 90 days; provided, however, that before disqualifying any proposer by reason of any such non-payment, the RED must provide written notice of such non-payment to such proposer and afford such proposer 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 proposer (although it may be taken into account in scoring proposals, as described below).

If a proposer is deemed to be not responsible, no further consideration of such proposer's proposal should be undertaken.

For purposes of these Policies and Procedures, "Affiliate" of a proposer means any entity that (a) controls or owns more than a 30% equity interest in such proposer 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 proposer 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 proposer.

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

- Present value of proposed compensation to the MTA, including the present value to the MTA (if any) of any improvements to be paid for by the proposer but net of the cost of any improvements to be paid for by the MTA ("Net Present Value" or "NPV")
- Quality of proposed improvements
- Nature of proposed business and potential benefit to MTA customers
- Financial capability of proposer and adequacy of business plan

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- Business/personal references
- Management and operational experience of proposer
- Compatibility and consistency of proposed use with MTA Agency operations

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

In the case of any improvements that are to be made by a tenant and used by such tenant in its business (as opposed to any improvements to be made by a tenant or purchaser for the direct and immediate benefit of the MTA), the value of such improvements should be included in NPV only to the extent, if any, that such improvements are expected to have residual value to the MTA upon the scheduled expiration of the lease term; and then the NPV should include only the present value (as of the lease commencement date, calculated using the discount rate used to calculate the present value of the rents to be paid by such tenant) of the anticipated value of the MTA's reversionary interest in such improvements as of such scheduled expiration date, based on commercially recognized standards for depreciating the cost of improvements over their useful life. Typically, the installation of utility connections (conduit and lines for water, sewer, sprinkler, power, and telephone, for example) from some point outside of the leased premises to the premises, and roofs and windows, are improvements that will provide residual value to the MTA because the following tenant will not need to pay to make such installations, which should, all other things being equal, generate higher proposed rents in subsequent offers to lease the space. However, most pre-existing interior renovations will be demolished and replaced by a new tenant, and generally would therefore not have residual value for the purposes of calculating the NPV.

As part of the RFP evaluation process, the RE Manager should complete the RFP Evaluation Form (Figure 17), using the RED's NPV calculation Excel template, which has been designed to facilitate the calculation of Net Present Value and its components.

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

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

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

H. Selection Process

1. Oral Presentations.

After reviewing credit checks and completed Proposer Information Forms, the RE Manager should (except as described in the next paragraph) schedule an oral presentation with each responsive and responsible proposer. It is important that two staff persons attend each interview to maintain the integrity of the process. The oral presentation should focus on any aspects of the proposer's proposal that are not self-explanatory and any discrepancies in or questions concerning the proposer's Proposer Information Form or credit report. Following each oral presentation, the RE Manager should prepare a memo summarizing any material information gleaned from such presentation and such memo should be included as part of the RFP file. If, as the result of an oral presentation there are changes to any of the terms or conditions theretofore proposed by a proposer, the RE Manager should secure written confirmation of such changes from such proposer.

If there are several qualified and responsible proposers, the RE Manager may choose to conduct oral presentations with the two or three proposers whose offers, over all, are most highly rated. In cases where there is only highly rated proposer, the RE Manager, consulting with his or her Deputy Director, may choose to schedule an oral presentation with that proposer only. An oral presentation may be waived if the proposer is an existing MTA tenant or licensee.

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2. Short listing in Multi-Step RFP.

In the case of a multi-step RFP process, the RE Manager should determine (a) whether there will be any short listing of proposers before the revised offer stage and (b) whether oral presentations will be held before a revised offer stage. If there will be any short listing before the revised offer stage, the RE Manager should prepare an Authorization Memo recommending such short listing to his or her Deputy Director, the Director, Leasing & Acquisition, and the Director, Real Estate Operations. The purpose of such Authorization Memo is to provide support and justification for such short listing.

3. Revised Offer Stage in Multi-Step RFP.

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

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

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

4. Recommendation of Award

Single-Step RFP: In the case of a single-step RFP process, upon completion of all oral presentations, if any, the RE Manager should prepare an Authorization Memo to his or her Deputy Director, the Director, Leasing & Acquisition, and Director, Real Estate Operations (Figure 18). The purpose of such Authorization Memo is to provide support and justification for the rejection of all bids or the issuance of a Conditional Designation Letter. Each such Authorization Memo must include a SEQRA “type” determination or NEPA action and any follow-up action required prior to the disposition.

Multi-Step RFP: In the case of a multi-step RFP process, upon completion of all oral presentations, if any, and after the receipt of the final revised proposals, the RE Manager should prepare an Authorization Memo to his or her Deputy Director, the Director, Leasing & Acquisition, and the Director, Real Estate Operations. Again, the purpose of such Authorization

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Memo is to provide support and justification for the rejection of all bids or the issuance of a Conditional Designation Letter (see Chapter VII.A).

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

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CHAPTER IV – LEASE/SALE NEGOTIATION PROCESS

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

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

Applicability.

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

- (a) the estimated fair market value of the property to be leased-out or sold does not exceed \$15,000, or
- (b) bid prices after advertising are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition; or
- (c) the disposition will be to the State or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or
- (d) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;
- (e) the purpose of the transfer is within the purpose, mission or governing statute of the public authority; or
- (f) such action is otherwise authorized by law.

In the case of (a), (b) or (c) above, the disposition must be for no less than fair market value. In the case of (d) or (e), it can be for less than fair market value.

Negotiations with responsible prospective tenants or purchasers may under the foregoing circumstances be undertaken without utilizing the Lease/Sale RFP Process, but only pursuant to an Authorization Memo signed by the appropriate Deputy Director, the Director, Leasing & Acquisition, Director of Operations, MTA Legal, and the Director of Real Estate. (See Figure (19). At the first instance that a RE Manager, prior to or after obtaining a signed Authorization Memo for the Lease/Sale Negotiation Process, solicits an offer from the potential lessor or purchaser (which should be in writing), the RE Manager should send a letter or email to such

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other party stating that the RE Manager is the Point of Contact for the transaction and include in the letter the language in A.1(a)(1) and A.2(a)(2) of Chapter III. If he or she deems such negotiations to be successful, then in due course the Director of Real Estate may on the basis of such negotiations enter into a Conditional Designation Letter or lease with respect to a proposed transaction and then submit such transaction to the MTA Board for approval as contemplated by Chapter VII of these Policies and Procedures.

Explanatory Statements.

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

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

Each such explanatory statement must be transmitted to the NYS Comptroller, the Director of the Budget, Commissioner of General Services and Legislature not less than 90 days in advance of the closing of such disposition, and a copy thereof must be preserved in the RED's files.

The RE Manager is responsible for preparing any such transmittal, which should be reviewed and approved by his or her Deputy Director and the Director, Leasing & Acquisition before it is sent out.

State Comptroller Review & Approval

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

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

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Each eligible contract that the MTA anticipates entering into in a given year must be reported to OSC in December of the prior year. The Director, Leasing & Acquisition, with the assistance of the Deputy Directors, Leasing & Acquisition, will prepare this list on an annual basis. If an eligible contract that has not been previously reported arises after the December reporting period, then it must be reported to OSC. The Director, Leasing & Acquisition, with the assistance of the Deputy Directors, Leasing & Acquisition, will prepare this report. No eligible contract may be entered into less than ten days prior to the execution of the eligible contract.

OSC may designate specific eligible contracts that must be submitted automatically to OSC for prior review and approval, in the manner determined by OSC (various materials, including RFP or other solicitation materials, may need to be submitted). All eligible contracts submitted for review must contain a provision stating that such contracts are not valid until approved by OSC (unless OSC has not approved or disapproved a contract within ninety days, in which case such contract shall become valid and enforceable without such approval). For 2011, OSC has not identified any real estate lease or sale contracts as being designated for automatic review.

However, all eligible real-estate contracts that were not reviewed by OSC, must be filed with OSC within 60 days of execution. **That means in 2011 that all agreements, or amendments to agreements, using the Lease/Sale Negotiation Process with a value of over \$1 million must be filed with the OSC within 60 days of execution.**

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CHAPTER V – APPRAISALS AND FAIR MARKET VALUE

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CHAPTER V – APPRAISALS AND FAIR MARKET VALUE

Scope – This chapter contains guidelines for estimating the “fair market value” of MTA real property to be offered for lease or sale.

Responsibilities – As required by PAL Section 2897(3), the RED must obtain an “independent appraisal” in connection with every sale or lease of MTA real property (including an interest in real property, such as an easement).

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

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

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

In these Policies and Procedures, the term “Type I Transactions” is used to refer to sales or leases of MTA property (such as stores or independently developable parcels) where the purchasers or lessees could be anyone; and the term “Type II Transactions” is used to refer to sales or leases of

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MTA property to adjoining property owners where such property has unique value to such adjoining property owners.

PAL Section 2897 does not distinguish between Type I Transactions and Type II Transactions; in either case, it requires that an independent appraisal of fair market value be obtained and retained in RED's records and (except in the special circumstances identified in Chapter IV of these Policies and Procedures) requires public advertising for bids. However, because many of the transactions that the RED handles are Type II transactions (given that MTA rights-of-way often have only one logical adjacent user), it is important, as a practical matter, to recognize that the RED will not in fact receive competitive offers in the case of Type II Transactions, and for RE Managers to give suitable instructions to appraisers to avoid confusion and ensure that in all cases the intentions of this chapter are properly served by the appraiser's work.

In the case of a Type I Transaction, the RE Manager should instruct the appraiser to prepare a typical assessment of the value of the subject MTA property assuming full and adequate competition among potential purchasers or lessees, as the case may be. In the case of a Type II Transaction, the RE Manager should instruct the appraiser to prepare an assessment of the incremental value to the adjoining property owner of adding the subject MTA property (or interest therein) to such adjoining property owner's interest.

It is important to note that in either case, the value determined by the appraiser will not necessarily equate with "fair market value". Appraisers can only estimate value, and indeed appraisers commonly disagree when more than one is asked to value any given property. And, in the case of a Type I Transaction to be entered into after the Lease/Sale RFP Process has in fact resulted in competition between two or more typically motivated potential purchasers or lessees, the actual results of such Lease/Sale RFP Process constitute more concrete evidence of fair market value than an appraiser's estimate does. However, the estimate of value determined by an independent appraiser does nonetheless constitute rebuttable evidence of fair market value, and a tool for assessing the efficacy of the RED's efforts to maximize income from the disposition of MTA property (regardless of whether the Lease/Sale RFP Process of the Lease/Sale Negotiation Process is used). Accordingly, each Staff Summary presented for MTA Board approval should include a statement of the appraiser's estimate of value, and, if the proposed transaction would yield to the MTA less than such estimate of value, either (a) an explanation as to (i) why the RED does not believe such estimate of value coincides with fair market value and (ii) why the compensation to the MTA that is being recommended in the Staff Summary represents at least fair market value or (b) information and proposed MTA Board findings of the kind required by PAL Section 2897(7)(b) and (c), which read as follows:

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

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- (i) a full description of the asset;
 - (ii) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the board;
 - (iii) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
 - (iv) a statement of the value to be received compared to the fair market value;
 - (v) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
 - (vi) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.
- (c) Before approving the disposal of any property for less than fair market value, the board of any authority shall consider the information described in paragraph b of this subdivision and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of such transfer.”

Each appraisal commissioned by the RED pursuant to these Policies and Procedures should be prepared by a member of the Appraisal Institute, or the equivalent, except that in the case of a proposed space lease such appraisal may be prepared by a licensed real estate broker experienced in the leasing of space in the area where the subject property is located.

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CHAPTER VI - ANALYSIS OF PROPOSER'S FINANCIAL CAPABILITY

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

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

Objective - To evaluate the creditworthiness of a prospective tenant or purchaser.

Procedures - The necessary procedure for conducting the credit check begins with the RE Manager obtaining a completed Proposer Information Form from each proposer in order to gather reference and credit information for such proposer. The Proposer Information Form includes an authorization to order a credit report and check financial references. The RE Manager should provide the requisite information to the RED's credit reference service, LIDA Credit Agency, Inc., 450 Sunrise Highway, Suite 201, Rockville Center, NY 11570 (phone: 516-678-4600; fax: 516-678-4611), and order a credit report from such service. (See Figure 20). Typically this process takes two to three weeks.

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

In the case of a lease:

- (a) except in special circumstances with the approval of the Director of Real Estate (as, for example, where the tenant makes a substantial pre-payment of rent or funds a substantial improvement of substantial value to the MTA), the prospective tenant should be required to demonstrate that it is ready and able to post cash or a letter of credit as a security deposit in the amount of three times the projected monthly rent for the fifth year of the lease term;
- (b) the prospective tenant should be required to furnish a business plan, including pro forma projections of income and expense, that demonstrates that the tenant will be able to afford to pay the proposed rent from its operating revenues;

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- (c) if the proposed rent is substantially higher than the RED's estimate of fair market value, then (unless the tenant is itself a creditworthy entity or will make improvements that would have substantial residual value to the MTA if the lease were to be terminated for non-payment of rent) the tenant's obligation to pay such rent should be personally guaranteed by a creditworthy principal of the tenant;
- (d) alternatively, if the projected rent is not substantially higher than the RED's estimate of fair market value, it will suffice for a creditworthy principal of the tenant to provide a so-called "good guy" guaranty, pursuant to which the guarantor guarantees the payment of rent through the date that is six months after the date on which the tenant surrenders the premises (or such guaranty may be dispensed with entirely if the tenant itself is creditworthy); and
- (e) if the tenant is to be required to undertake and pay for substantial capital improvements, the tenant should be required to post security for the completion (and payment of the costs) of such improvements, which security may take the form of (i) a personal guaranty from a creditworthy principal of the tenant, or (ii) a letter of credit (the amount of which may be periodically reduced as construction costs are paid by the tenant).

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

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CHAPTER VII – BOARD APPROVAL PROCESS

Scope – This chapter reviews the process for the preparation of Conditional Designation Letters and Finance Committee Staff Summaries and for the obtaining of MTA Board approval of sale and leasing-out transactions recommended by the RED. All proposals to sell or lease out MTA property must be reviewed by the Finance Committee, and no such sale or lease can become effective until and unless the MTA Board (acting upon the recommendation of the Finance Committee) has specifically authorized such sale or lease.

A. Conditional Designation Letters

When the RED has determined that it wishes to accept the proposal of a prospective tenant to lease MTA property or of a prospective purchaser to purchase MTA property (whether pursuant to the Lease/Sale RFP Process or pursuant to the Lease/Sale Negotiation Process), the RE Manager should prepare a conditional designation letter for execution by the Director of Real Estate and counter-signature by such prospective tenant or purchaser (a “Conditional Designation Letter”). See Figure 21 for an example. Such letter should spell out the terms of the proposed transaction with as much specificity as possible under the circumstances, not in the body of the letter itself but by incorporating by reference the most recent written materials (typically a signed Parcel Information Sheet and signed Rent Proposal) that embody the agreements that the RED believes have been reached to date with respect to such transaction. Each Conditional Designation Letter must stipulate that it does not constitute a legally binding agreement insofar as the MTA is concerned and that it is subject to MTA Board approval.

Once an Authorization Memo has been signed, a lease or contract of sale executed by the prospective tenant may serve in place of the Conditional Designation Letter. Each such lease or contract must stipulate that it is not a legally binding agreement insofar as the MTA is concerned and that it is subject to MTA Board approval.

B. Staff Summaries

After the prospective purchaser or tenant counter-signs the Conditional Designation Letter or returns a signed lease or contract of sale, the RE Manager should prepare a Staff Summary for Finance Committee approval. The following is the sequence of steps for preparation of the Staff Summary. This process typically takes approximately three weeks and results in a presentation to and discussion with the Finance Committee.

1. The assigned Executive Secretary distributes a schedule of Finance Committee and MTA Board meeting dates to all RED staff. This schedule includes deadlines for the submission of Staff Summaries.

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2. The RE Manager submits a project title to his/her Deputy Director for review, and then to the assigned Executive Secretary who is responsible for RED's Finance Committee agenda.
3. The RE Manager prepares a first draft of the Staff Summary, using the RED's standard form (Figure 22). Details such as the following should be included as appropriate:
 - Finance Committee meeting date
 - MTA Agency involved
 - Purchaser or tenant
 - Location (street address)
 - Activity (use)
 - Action requested (approval, extension of term, etc.)
 - Term (years)
 - Renewal options (if any)
 - Space (square feet)
 - Compensation (annually, by term and by square foot, if appropriate)
 - Security deposit (if any)
 - Guarantor (if any)
 - Insurance (if any)
 - Required improvements (if any)
 - Comments

The comments section should review the justification for the selection of the proposed tenant or purchaser, and should include the number of proposals received (if the purchaser or tenant was selected via an RFP), the names of any proposers that were disqualified and the reasons why, the present values of the guaranteed compensation offered by each responsive and responsible proposer, the discount rate used to calculate such present values, and, if the responsible and responsive proposer with the highest such present value was not selected, an explanation as to why a different proposer was selected.

4. The applicable Deputy Director, the Director, Leasing & Acquisition, and the Director of Real Estate review the draft with the RE Manager and make changes as they see fit.
5. MTA executive staff (General Counsel, Managing Director, Chief of Staff and Chief Operating Officer) review and (following implementation of any changes they may require) initial the Staff Summary.

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6. The Director of Real Estate signs the Staff Summary.
7. The completed Staff Summary is submitted along with the remainder of the RED's Finance Committee agenda package for printing.

C. Board Approval

The RE Manager and his or her Deputy Director should be present during the Finance Committee discussion in order to help answer questions as needed. The Finance Committee may instruct the RED staff to make changes in the Staff Summary as reflected in the minutes of the Finance Committee meeting. Any such changes must be made to the Staff Summary prior to submission to the full MTA Board. If the transaction is recommended by the Finance Committee, the RE Manager should update Yardi with the Finance Committee approval date and the transaction is included in the Finance Committee's report to the MTA Board. Once the MTA Board has approved the transaction, the RE Manager should enter the MTA Board approval date into Yardi.

D. SEQRA Compliance

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

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CHAPTER VIII – PREPARATION OF FORMAL AGREEMENTS

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CHAPTER VIII - PREPARATION OF FORMAL AGREEMENTS

Scope - This chapter reviews procedures relating to the preparation of definitive legally-binding agreements.

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

Responsibilities - The RE Manager has primary responsibility for the preparation of the draft agreement, preparing the Document Approval Form ("DAF") and soliciting input from the applicable Deputy Director, the Director, Leasing & Acquisition and MTA Legal.

Procedures - The necessary procedures for preparing the lease or sale agreement include drafting the agreement and obtaining Legal Department approval and tenant concurrence with the written agreement.

A. Drafting of Formal Agreement

Prior to or following the acceptance of the terms of the agreement by the MTA Board, the RE Manager should in consultation with MTA Legal prepare a first draft of a formal agreement based on the Conditional Designation Letter, and Staff Summary, accompanied by the Authorization Memo and Document Approval Form. To the fullest extent possible and appropriate, such draft should be based on a form previously approved by MTA Legal.

B. Internal Review

Once the RE Manager has prepared such draft, it should be forwarded to the applicable Deputy Director for review. Depending on the Deputy Director's comments, the RE Manager may need to make additional modifications. The agreement should then be forwarded to the Director, Leasing & Acquisition and the assigned attorney at MTA Legal for their review and comment. As changes are made to the draft agreement, the RE Manager should highlight the changed text with each revision and have his or her Deputy Director, the Director, Real Estate Operations and the assigned attorney review and approve the changes. A draft agreement may not be sent to the prospective purchaser or tenant until such internal review has been completed.

C. Document Approval Form

The Document Approval Form is to be used for documenting revisions and approvals. (See Figure 23). The Document Approval Form should be routed with the draft agreement for all internal RED reviews, comments and approvals. The Document Approval Form itself does not

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travel to the Law Department during the review process. However, the date of sending the agreement to the Legal Department is to be noted on the form and resides in the tenant file. The Tenant ID # from Yardi should be included on the Document Approval Form.

D. Execution By Purchaser or Tenant

Once the required internal review has been completed, the RE Manager should send the proposed documentation to the prospective purchaser or tenant for execution. Should the prospective purchaser or tenant request changes, the RE Manager should present such requested changes to his or her Deputy Director, the Director, Leasing & Acquisition and/or MTA Legal for discussion as needed. Once the agreement is finalized, the prospective purchaser or tenant should be directed to execute five original counterparts of the agreement and return them to the RE Manager.

E. Execution By Director of Real Estate

Once the agreed-upon documentation has been executed by the tenant or purchaser, the RE Manager should use the Document Approval Form to send it (by way of his or her Deputy Director, the Director, Leasing & Acquisition and MTA Legal) to the Director of Real Estate for execution on behalf of the applicable MTA Agency.

F. Required Deliveries

In addition to executed copies of the agreement, the RE Manager should obtain the following from the purchaser or tenant:

1. Any required security deposit, to the extent, if any, not already deposited with the MTA, and any required personal guarantees of payment and/or performance, including any required guaranty of completion with respect to required improvements.
2. In the case of a lease, the first month's rent.
3. In the case of a lease, an insurance certificate evidencing coverage as required by the lease. This item must be delivered to the RE Manager prior to possession being granted. The RE Manager should make an initial inspection of the certificate to verify that the amounts specified match those in the agreement, and that all the additional insured's as required under the agreement are named on the certificate, that the address of the concession is correct and that the named insured is correct as per the lease. (After the file is conveyed to Tenant Management, Tenant Management will be responsible for forwarding the insurance certificate to MTA Risk Management for further review.)

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Note: Insurance for construction is due upon approval of plans and prior to commencement of any work.

All checks should be forwarded to Tenant Management immediately upon receipt. Copies of all the items referred to in this chapter should be maintained in the Tenant File.

G. Proposer's Failure to Execute

If a proposer has held a proposed agreement for more than two weeks, the RE Manager should send a letter to the proposer, UPS Next Day Air, stating that if the agreement is not executed within two weeks the subject property may be offered to another proposer.

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

If a proposer purports to withdraw such proposer's proposal or refuses to execute definitive documentation reflecting the terms of the proposal or Conditional Designation Letter, the RE Manager, after consulting with his or her Deputy Director and MTA Legal, should instruct Tenant Management to seize such proposer's earnest money deposit, and in such event Tenant Management should notify the MTA Comptroller's office that it should transfer such deposit to the applicable MTA Agency's operating account; provided, however, that the Director, Leasing & Acquisition may in any event elect to return any earnest money deposit received from any governmental agency or not-for-profit agency. Alternatively, if negotiations have terminated by reason of an impasse over contract terms that were not addressed in the proposal or Conditional Designation Letter, and if the RE Manager and his or her Deputy Director and MTA Legal concur that the proposer has been dealing in good faith, the MTA Comptroller's office should be directed to return the proposer's deposit with interest, if any.

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

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CHAPTER IX - TENANT INFORMATION TRANSFER

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

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

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

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

A. Documentation

1. If the Director, Leasing & Acquisition approves the selection, the RE Manager with the assistance of Information Management (which advises the Real Estate Manager of the correct property and unit descriptions) should enter basic proposer information (name, address, property unit) into Yardi. The RE Manager notifies Information Management via email to change status of tenant to "future".
2. Once a tenant has been selected, approved and entered into Yardi with "future" status, this tenant will now show up on Yardi's Lease Tracking Report. This report may be printed and reviewed at monthly staff meetings between the applicable leasing team and the Director, Real Estate Operations (Figure 24)
3. The Director of Real Estate signs all of the copies of the final lease agreement and these are returned to the RE Manager who distributes the signed copies of the agreement as follows:
 - The tenant (1 copy)
 - Tenant File - (2 copies)
 - One copy to MTA Agency legal department (if applicable)
4. The RE Manager assembles or updates the RFP File to include all proposals, rejection letters, copies of interview notes and memos pertaining to the project and forwards to the Information Center. The RE Manager assembles or prepares the Tenant File, which includes the original proposal, all correspondence with the tenant, confirmation letter, two copies of the agreement, Staff Summary, insurance certificate, W-9 form, construction security, Document Approval Form and the Routing Execution Form,

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and attaches the Tenant Control Checklist (Figure 25), which is affixed to the respective project file before forwarding to Tenant Management. Tenant Management is responsible for forwarding this to the Information Center.

The completed file for all new agreements or amendments and changes to existing agreements should immediately be handed over to Tenant Management staff. Within 24 hours of mailing a tenant a copy of an executed lease agreement, the RE Manager should e-mail Tenant Management staff for a meeting. At the meeting, Tenant Management staff will verify:

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

If all is in order, Tenant Management staff will enter the “hand-off” date into Yardi. If qualitative elements are not in order, the Real Estate Manager and Tenant Management staff will work together to remedy the matter, and once remedied, the “hand-off” date will be entered by the Tenant Management staff into Yardi.

NOTE: It is the responsibility of the RE Manager to ensure that no agreement is executed by the Director of Real Estate unless checks are received in the appropriate amounts, and from the appropriate corporate entity, and that initial insurance certificates are received in the limits and coverages contemplated by the lease.

5. For the Lease/Sale Negotiation Process, the Authorization Memo plus all correspondence, maps and the agreement serves as the Tenant File and is forwarded to Tenant Management.

B. Insurance Coordination

Note: If a tenant’s insurance forms are incomplete at the time the Tenant File is forwarded to Tenant Management, a notation as to the status of insurance should be made. Valid reasons for uninsured status typically include the tenant not being in possession or not being required to maintain insurance during the design and construction process. However, during construction, the tenant’s contractor is required to maintain adequate insurance. The tenant may not be in possession of the facility until active coverage is in place.

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C. Planning & Construction

Tenant Management is responsible for the coordination of the construction process from plan submission and approval through completion. Tenant Management should copy the RE Manager on all correspondence and include Tenant Management in all meetings relating to the construction process. Tenant Management is responsible for updating Yardi with respect to all construction activity.

D. Maintenance of Marketable Property List

The Deputy Directors are responsible for maintaining the Marketable Property List for their respective areas of responsibility. Tenant Management is responsible for notifying the appropriate Deputy Directors of previously leased or licensed property that is due to become available.

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CHAPTER X - CONSTRUCTION MANAGEMENT

Scope - This chapter provides guidelines for standardized monitoring of the tenant improvement construction process from design through construction completion and the commencement of operation.

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

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

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

A. Plan Submission

The tenant submits construction plans for approval by the MTA Agency through the RED.

1. Tenant Management, with the assistance of the leasing RE Manager, is generally responsible for coordinating the approval of design and plans for proposed improvements. After the lease is fully executed, the tenant has a prescribed number of days to submit plans to Tenant Management or its designated receiver. Tenant Management then forwards the plans to the RED's architectural and engineering ("A&E") consultant or to the appropriate MTA Agency for review. Subsequent to A&E review, the plans are forwarded to the applicable MTA Agency. If changes need to be made after the MTA Agency review, the tenant should be so notified in writing. The leasing RE Manager should be copied on all correspondence relating to plan submission and approval and all appropriate meetings held on tenant plans should include the leasing RE Manager.
2. Once plans are approved, a letter should be sent by Tenant Management to the tenant indicating that the plans have been approved and requesting evidence of contractor's insurance (if not already sent) so that construction may commence.
3. Each MTA Agency deals with tenant construction differently. Tenant Management tracks the MTA Agency process. As a general rule, the following paragraphs describe how the MTA Agencies manage tenant construction. Appropriate exceptions

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to these general rules can be made with the approval of the Director, Leasing & Acquisition in consultation with the Sr. Deputy Director, Tenant Management.

MTA NYCT: The Maintenance of Way Department approves plans. Tenant Management arranges a construction kick-off meeting. Attendees include: the tenant, its contractors, licensed subcontractors, architect and engineer, the RE Manager, Tenant Management, and Maintenance of Way. Maintenance of Way is responsible for all inspections and for Approval to Open (oral or written) and Final Approval (written). The Final Approval concludes the process for NYCT. Tenant Management communicates this information to the tenant.

MTA LIRR:

1. **For Penn Station Tenants:** The Capital Program Management (CPM) staff assigned to Penn Station approve the plans. CPM arranges a construction kick-off meeting. Attendees include Tenant Management, the Station Manager, the RE Manager, LIRR Engineering, CPM and the tenant and its contractors, architect and engineers. CPM is responsible for issuing a Construction Permit and for all inspections. After satisfactory construction completion, CPM issues a Certificate of Occupancy to the tenant with a copy to the RE Manager, who then forwards a copy to Tenant Management.
2. **For Tenants in Space Other Than Penn Station:** CPM staff approve the plans. CPM staff, together with LIRR Engineering Department personnel, are responsible for inspections and CPM issues the certificate of occupancy/construction approval. Tenant Management communicates the approval to the tenant.

MTA METRO-NORTH: Capital Programs (CP) approves the plans. CP is responsible for issuing a Building Permit and for inspections. Tenant Management coordinates the construction kick-off meeting. In attendance are: CP (including the Chief Architect, Engineers and Code Compliance) the RE Manager, Tenant Management, the tenant and its architect, engineers and contractors. CP issues a Certificate of Occupancy upon satisfactory completion of construction. The Certificate of Occupancy is forwarded to Tenant Management.

B. Construction Monitoring

1. Tenant Management communicates with the Engineering Department/Maintenance of Way on the status of the improvements. In some cases, Tenant Management will find it necessary to physically inspect the premises. Accordingly, Tenant Management

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essentially monitors the construction process endeavoring to ensure that construction proceeds according to schedule and that all inspections by the appropriate technical personnel occur. Tenant Management is responsible for documenting any delays and the reasons for such delays. Once the construction is completed, the applicable MTA Agency is notified that construction is complete and a final inspection is requested.

C. Construction Completion

1. Upon construction completion and approval, Tenant Management arranges the return of the construction security, if applicable.
2. Where an agreement indicates that rent commences upon completion of construction, Tenant Management sends the tenant a rent start notice and provides a copy to the RE Manager and Information Management.

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CHAPTER XI – NEW YORK STATE PROCUREMENT LOBBYING LAW

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

Objective - To enhance the public's confidence in State procurement processes by increasing disclosure requirements for persons attempting to influence a procurement or Real Estate transaction.

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

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

A. Definitions:

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

1. Contact: any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication is *intended to influence* an MTA real estate transaction.
2. Offerer: an individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts the MTA about a real estate transaction during the Restricted Period or that bids, proposes or enters into negotiations with respect to an MTA real estate transaction.
3. Restricted Period: the period of time commencing with the earliest written notice, advertisement or solicitation of an RFP or, in the case of a Lease/Sale Negotiation

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Process transaction, when the RE Manager first solicits a response from a potential lessor or purchaser intending to result in contract of sale or lease, which solicitation should be in writing, and ending with the final closing of the transaction.

B. Applicability:

1. The Procurement Lobbying Law applies to *all contracts* with an estimated annual expenditure in excess of \$15,000, including, but not limited to, RFPs and agreements entered into via the Lease/Sale Negotiation Process.
2. A transaction is not subject to the provisions of this section if the commencement of the Restricted Period occurred prior to the effective date of the Procurement Lobbying Law, even if the contract is awarded after the effective date.
3. During the Restricted Period, bidders/proposers, or those acting on their behalf, may only "Contact" the designated contact person or persons (as specified in the bid/solicitation documents as the designated "Point(s) of Contact") with regard to a real estate transaction. In addition, bidders/proposers may not attempt to influence a real estate transaction in a way that violates or attempts to violate the ethics provisions of the Public Officers Law Section 73(5), relating to the receipt of gifts intended to influence; and Section 74, which addresses the ethical standards of employees of state agencies (including public benefit corporations), members of the New York State Legislature and Legislative employees.

C. Communications Not Prohibited by the Procurement Lobbying Law:

1. Submission of written proposals in response to an RFP or other solicitation, pursuant to the submission requirements set forth in the solicitation documents.
2. Questions to the Point(s) of Contact set forth in the solicitation, advertisement and/or real estate transaction package, when all such questions and responses are to be disseminated to all Offerers who have expressed an interest in the RFP or other solicitation.
3. Participation in a pre-proposal conference, oral presentation or interview provided for in an RFP.
4. Complaints by an offerer regarding the failure of a designated contact to reply in a timely fashion.

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5. Communications by Offerors, who have been tentatively designated as the prospective tenant or purchaser, provided that such communications are solely for the purpose of receiving the terms of such designation and/or negotiating the terms of the lease or contract of sale after being notified of such designation.
6. Contacts regarding protests, appeals or other review proceedings before the MTA.
7. Complaints of alleged improper conduct.
8. Contact by a member of the New York State Legislature or legislative staff, when acting in their official capacity, regarding a particular real estate transaction.
9. Communications described in clauses 1 through 8 above and made to an authorized designee of the Point(s) of Contract, provided that the Point(s) of Contact participates in the communication. In addition and in the absence of the Point of Contact, the Director of Real Estate may authorize another contact within the Real Estate Department to receive communications on behalf of the Point(s) of Contact.

D. Procedures For Reporting Potential Violations of Policy Regarding Contact During Restricted Period:

1. Any employee of the MTA, including employees outside of the RED, who becomes aware that anyone has violated the Procurement Lobbying Law regarding permissible contacts, must inform the Director of Real Estate immediately, using the Report of Contact form. (Figure 26).
2. Upon any Contact during the Restricted Period, the employee being contacted must obtain the name, address, telephone number, place of employment and occupation of the person or organization making the Contact and whether or not such person or organization was retained, employed or designated by or on behalf of the Offerer to contact the MTA regarding the procurement. This information must be included on the Form submitted to the Director of Real Estate.
3. The person recording the information makes a copy of the form for themselves, and sends an additional copy to the Director who maintains a central repository of the forms as well as the original to the RE Manager for placement in the Project file. In addition, the Director of Real Estate will investigate the allegations. If there is reasonable cause to believe that the allegations are true, the Offerer must be notified of the investigation and given an opportunity to respond to the allegations in accordance with the MTA's procedure regarding responsibility determinations.

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4. The MTA Director of Real Estate must report knowing and willful violations of the Procurement Lobbying Law to the Executive Director of the MTA and the Office of General Services (“OGS”).

E. Contract Requirements:

1. All RFP or Lease/Sale Negotiation offering documents must contain the name of the designated contact(s) (the Point(s) of Contact) for that particular procurement.
2. All RFP or Lease/Sale Negotiation offering documents must contain a summary of the requirements of the Procurement Lobbying Law. This summary is contained within Schedule W.
3. Schedule W (Figure 27) must be made a part of, and returned with, the bid/solicitation documents for each real estate transaction covered under the Procurement Lobbying Law. *Failure of a bidder/proposer to return a completed Schedule W will deem such bidder/proposer as ineligible for award.* Schedule W consists of the following, which satisfy the submission requirements of the Procurement Lobbying Law:
 - a. Affirmation of the Offerer’s understanding of, and agreement to comply with, the Procurement Lobbying Law.
 - b. Certification that the information the Offerer has provided the MTA with is complete, true and accurate.
 - c. Disclosure of any findings of non-responsibility made within the previous four years that were due to a violation of the Lobbying Law or as a result of intentionally providing false or incomplete information to a government entity (as defined in the Procurement Lobbying Law). Failure to disclose such prior determinations of non-responsibility will be considered in the determination of responsibility.
 - d. The MTA may confirm the accuracy of the information provided in this disclosure by accessing the list of all Offerers who have been determined to be non-responsible or debarred due to violations of this section, maintained by the OGS.

F. Responsibility Determination:

1. A finding that an Offerer has knowingly and willfully violated the Procurement Lobbying Law may result in a determination of non-responsibility and the Offerer may not be awarded the lease or sale.
2. The lease or sale may be awarded to an Offerer found non-responsible as a result of a violation of the requirements of this section, if the MTA determines that the award of the license or sale to the Offerer is necessary to protect public property, health or safety, and that the Offerer is the only source capable of fulfilling the

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contract within the required timeframe. Such finding must be documented in the transaction file.

3. Any subsequent determination of non-responsibility due to a violation of this section within four years of a determination of non-responsibility will result in the Offerer being debarred from submitting a bid/proposal on or be awarded any real estate contract for four years from the date of the second determination.
4. Compliance with the requirements of the Procurement Lobbying Law and this Procedure will be considered in the overall responsibility determination of the Offerer.

G. Termination

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

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Authorization Memo: A memorandum prepared by a RE Manager seeking authorization as required by these Policies and Procedures.

Authorization Memos recommending award pursuant to an RFP require SEQRA check off and signature of the appropriate Deputy Director, Director, Leasing & Acquisition, and Director, Real Estate Operations.

Authorization Memos recommending award pursuant to the Lease/Sale Negotiation Process require SEQRA check off and the signatures of the appropriate Deputy Director, the Director, Leasing & Acquisition, the Director, Real Estate Operations, MTA Legal, and the Director, Real Estate.

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

Conditional Designation Letter: As described in Chapter VII.

Contact: As defined in Chapter XI.

Deputy Director: The Deputy Director of the RED who has primary responsibility for RED leasing & acquisition activities relating to property of a particular MTA Agency.

Document Approval Form: As described in Chapter VIII.

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

GCT Leasing Guidelines: As defined in the Introduction.

Information Center: The area of the RED office devoted to maintaining central files, Val maps, Sanborn maps, Tax maps, Station Diagrams and other documents that are regularly needed and must be permanently retained.

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

Inquiries: As defined in Chapter I.

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IPIS: IPIS is a database that contains a list of properties owned by the City of New York. Information concerning tax status, descriptive property history and any *in rem* action is also available. Access to this information is provided via CityNet Computer Hook-up. Certain items from this information can also be found in Yardi for each City-owned property.

Lease/Sale RFP Process: The leasing-out or selling of real property of the MTA pursuant to an RFP.

Lease/Sale Negotiation Process: The leasing-out or selling real property of the MTA other than pursuant to an RFP.

Licensing-Out Policies and Procedures: As defined in the Introduction.

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

MTA: The Metropolitan Transportation Authority.

MTA Agency: As defined in the Introduction.

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

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

Parcel Information Sheet: As described in Chapter II.

Procurement Lobbying Law: As defined in Chapter XI.

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

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

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projections and a credit check authorization. The PIF is used for both the Lease/Sale RFP Process and the Lease/Sale Negotiation Process.

Real Estate Data, Inc. (REDI): REDI is a resource of property ownership, tax maps and tax status on microfilm and land books, organized by block and lot and cross-referenced by name and address. REDI is available through the RED library. Any of the Metro-North lines outside of the five boroughs are available only in book form.

Recordation of Contact: As defined in Chapter XI

RED: The MTA real estate department.

RE Manager: A RED staffer who reports to a Deputy Director.

Restricted Period: As defined in Chapter XI.

RFP or Request for Proposals: A request for proposals issued in accordance with these Policies and Procedures.

RFP File: The RFP file results from the Project File after the Tenant File is assembled, and contains all relevant information regarding the RFP, including all proposals and correspondence with proposers and the RE Manager notes regarding the project. This file resides in the Information Center.

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

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

SEQRA: As defined in Chapter II.

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

Tenant File: The Tenant File contains all documentation relating to a given tenant, including correspondence, agreements and plans. The files for current tenants and recently (within the past two years) terminated tenants are maintained in the Information Center. All other terminated

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GLOSSARY

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files are maintained at MTA's offsite storage facility and are subject to MTA's document retention policy.

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

Type I Transaction: As defined in Chapter V.

Type II Transaction: As defined in Chapter V.

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

W-9 Form: Federal tax form W-9.

Work Sheet: As described in Chapter II.

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

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Figure 1 – Request to be on RFP Mailing List

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MTA Real Estate Department

Request to be included on the RFP (Request for Proposal) Mailing List

To be on the MTA mailing list, you must complete the following information, print the form, and mail it to:

RFP Mailing List
MTA Real Estate Department
347 Madison Ave., 8th Floor
New York, NY 10017

Location (Check the agency or location(s) that are of interest to you by clicking in the box)

- ☐ New York City Transit
Five Boroughs of New York
- ☐ Long Island Rail Road Company
Manhattan, Brooklyn, Queens, Nassau & Suffolk Counties
- ☐ Metro-North Commuter Railroad Company
Manhattan, Bronx, Westchester, Putnam,
Rockland, Orange and Dutchess Counties
- ☐ MTA Bridges & Tunnels
Five boroughs of New York

Concession Type (Check the type of concessions of interest to you by clicking in the box)

- | | |
|--------------------------------------|--|
| <input type="checkbox"/> Retail | <input type="checkbox"/> Vacant Lot |
| <input type="checkbox"/> Newsstand | <input type="checkbox"/> Mobile Food Service |
| <input type="checkbox"/> Parking Lot | <input type="checkbox"/> Vending Machines |
| <input type="checkbox"/> Taxi Stand | |

Applicant Information (enter the information by typing in the boxes).

Last Name			First Name		
Address					
City					
State		Zip Code			
Telephone No.					
Date					

Please notify this office when you change your address
(212) 878-7049

RED (02/02)

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Figure 2 – Property Subject to RFP

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EXAMPLE OF A PROPERTY SUBJECT TO RFP LETTER

(DATE)

(NAME)

(STREET ADDRESS)

(CITY), (STATE) (ZIP CODE)

Dear (NAME):

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

If you would like to be on our RFP mailing list, please complete the enclosed mailing list form and return it to my attention at your earliest convenience.

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

Sincerely,

(STAFF NAME)

Enclosure (RFP Brochure and Figure2)

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

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Figure 3 – Acknowledgement Letter

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EXAMPLE OF ACKNOWLEDGEMENT LETTER

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

(DATE)

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

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

Dear (NAME):

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

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

Should you have any questions, I can be reached at (212) (875-____).

Sincerely,

(NAME)
Real Estate Manager
Real Estate Department

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

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Figure 4 – Property Not Owned/Managed by MTA

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EXAMPLE OF PROPERTY UNAVAILABLE FOR LEASE LETTER

(DATE)

(NAME)

(STREET ADDRESS)

(CITY), (STATE) (ZIP CODE)

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

Dear (NAME):

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

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

Sincerely,

(NAME)

Real Estate Manager
Real Estate Department

Enclosure (RFP Brochure and Figure2)

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

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Figure 5 – Property Unavailable for Lease

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EXAMPLE OF PROPERTY UNAVAILABLE FOR LEASE LETTER

(DATE)

(NAME)

(STREET ADDRESS)

(CITY), (STATE) (ZIP CODE)

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

Dear (NAME):

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

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

Sincerely,

(NAME)

Senior Real Estate Manager
Real Estate Department

Enclosure (RFP Brochure and Figure2)

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

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Figure 6 – Letter Denying Request

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EXAMPLE OF LETTER DENYING REQUEST

(DATE)

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

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

Dear (NAME):

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

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

Sincerely,

(NAME)
Real Estate Manager
Real Estate Department

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

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Figure 7 – Parcel Information Sheet

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Metropolitan Transportation Authority

74th St.-Broadway / Roosevelt Ave.- Jackson Heights Station

MTA New York City Transit
Subway station / Bus terminal complex: Street level retail space plus basement
(corner of 75th Street & Roosevelt Avenue)

Parcel Number A1

Line	Flushing line & Queens Boulevard line (7, E, F, G, R trains)
Location	74 th St. / Roosevelt Ave.- Jackson Heights station Queens, NY 11372. Street level (plus basement) at the corner of 75 th Street & Roosevelt Avenue.
Property Code / Unit Code	tqb23100/18
Concession Area	Approximately 3,900 square feet total. Street level: 1,380sf; basement: 2,500sf.
Suggested Use	Retail concession. Food services (including on-site cooking) are permitted.
Reservations & Restrictions	The sale of newspapers and magazines is prohibited. The sale of candy and cigarettes is permitted.
Minimum Hours	9:00 a.m. - 5:00 p.m. Monday - Saturday
Average Weekday Station Customer Count	50,000
Suggested Annual Rent	Suggested annual rent is \$102,000 with a 3% annual escalation over the term of the lease. The proposer may offer more or less than this suggested annual rent. The proposer must specify the proposed annual rent for each year of the lease.
Security Deposit	Three months of the fifth year's rent for the first five years, increasing to three months of the tenth year's rent for years six through ten, increasing to three months of the fifteenth year's rent for years eleven through fifteen, increasing to three months of the twentieth year's rent for years sixteen through twenty. An additional deposit may be required to guarantee completion of required improvements.
Personal Guarantee	The MTA reserves the right to require a personal guarantee from the principal(s) of a corporation or limited liability company.
Term of Lease	Up to twenty years. A proposed term of lease greater than twenty years will be evaluated on a case by case basis.

2/2/2011

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Metropolitan Transportation Authority

Condition of Premises

Premises will be delivered "as is." Building permit for Tenant's initial improvements will be issued by MTA New York City Transit.

Utilities

Lessee shall, at its sole cost and expense, provide any and all necessary utilities and utility connections as noted under improvements. Lessee shall pay for all utilities consumed.

1. At present, there is no gas connection to the concession area. For uses that require gas service, the tenant must obtain gas connection from the street at his / her own expense.
2. The electrical service available at this concession is 800 amps / 3-phase.

Site Description

The 74 Street / Roosevelt Ave. - Jackson Heights station complex is a prominent and attractively rehabilitated station. This retail space (A1) was built as part of the bus terminal complex of the main station building. The retail space is located at street level and has a basement (with a high ceiling). The basement (2,500sf) has a larger footprint than the street level space (1,360sf). The basement has interior access and also exterior access from the street level; there is no loading dock. No separate public entrance is available to allow the basement to function as an independent concession area. The storefront and entrances are already completed.

Required Improvements

The MTA will insist on high quality design, materials, and workmanship for this retail space. Each proposer is responsible for performing all appropriate due diligence to make sure that his/her proposed use complies with all applicable regulations and codes.

Required improvements include:

1. Design the entire interior to accommodate a high quality establishment without altering the exterior storefront on any side. Use only fire retardant lumber, including plywood under laminated plastic that bears seals of the manufacturer. Exterior store signage must be confined within the approximately 24" high sign band that has already been provided around the concession area. Install appropriate security devices such as roll down gates or window grilles.
2. An automatic sprinkler fire protection system is required by MTA New York City Transit. Any HVAC systems and plumbing must be self-contained systems and meet all MTA New York City Transit and governing New York State code requirements.
3. The power feed will support an 800 amp / 3-phase service. Part of the power feed is constructed; complete an independent electrical system directly from Con Edison.
4. Openings (mechanical shaft & pit) are provided for a future elevator (or lift) between the street level concession area and the basement. Depending on tenant's proposed use for the basement area, construction of an elevator may or may not be required. Proposer is responsible for due diligence with respect to and compliance with all ADA accessibility requirements and New York State Fire Prevention & Building

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Metropolitan Transportation Authority

Code accessibility requirements.

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

We strongly encourage each proposer to obtain professional construction estimates before submitting his or her proposal. Per the attached General Affidavit (which can be found on page 12 of the Proposer Information Statement), all proposers are required to state approximately how much will be spent on improvements. If actual construction costs exceed estimated costs, the tenant should not anticipate any relief from the MTA. The tenant will, in any event, be responsible for completing all required improvements.

Insurance The lease agreement will specify the insurance requirements and will include:

- Commercial general liability insurance,
- Workers' compensation insurance,
- All-risk property insurance policy,
- All-risk builder's insurance.

Site Tour 10:00am, Wednesday January 12, 2011

10:00am, Wednesday January 26, 2011

Proposal Due Date 3:00pm, Friday February 18, 2011

Proposals should be submitted to:
MTA Real Estate Department
347 Madison Avenue, 8th Floor
New York, NY 10017-3739
Attention: NYC Transit RFP: 74th Street-Jackson Heights Station

Assignment Not permitted

Broker None

Commencement Date Delivery of Possession

Rent Commencement Date 60 days from delivery of lease

This Rent Proposal must be signed by an officer of the prospective tenant.

Prospective Tenant: _____

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

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Metropolitan Transportation Authority

Rent Proposal Form

MTA New York City Transit
Retail Concession RFP 2011 (MTT-02/11)

Proposers must specify their proposed annual rent for each year of the lease.
A 3% annual escalation over the term of the agreement is suggested.

If a proposer is submitting more than one proposal, each proposal must include a Rent Proposal Form, and each proposal must be submitted separately in its own envelope.

Parcel No. A1 (corner of 75 Street & Roosevelt Avenue)

Location: 74 Street-Broadway / Roosevelt Avenue-Jackson Heights Station

Proposed Annual Rent:

Years 1-10:

Year 1	\$	_____
Year 2	\$	_____
Year 3	\$	_____
Year 4	\$	_____
Year 5	\$	_____
Year 6	\$	_____
Year 7	\$	_____
Year 8	\$	_____
Year 9	\$	_____
Year 10	\$	_____

This Rent Proposal must be signed by an officer of the prospective tenant.

Prospective Tenant: _____

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

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RENT PROPOSAL – Percentage Rent

Location Name: [Enter identifying information for location]

Prospective Tenant: _____

The following chart must be completed:

Year(s)	Proposed Guaranteed Minimum Rent	Proposed Percentage (%) Rent Factor	Proposed Breakpoint
1	\$	plus % of gross sales over breakpoint of	\$
2	\$	plus % of gross sales over breakpoint of	\$
3	\$	plus % of gross sales over breakpoint of	\$
4	\$	plus % of gross sales over breakpoint of	\$
5	\$	plus % of gross sales over breakpoint of	\$
6	\$	plus % of gross sales over breakpoint of	\$
7	\$	plus % of gross sales over breakpoint of	\$
8	\$	plus % of gross sales over breakpoint of	\$
9	\$	plus % of gross sales over breakpoint of	\$
10	\$	plus % of gross sales over breakpoint of	\$

This Rent Proposal must be signed by an officer of the prospective tenant:

Prospective Tenant: _____

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

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Figure 8 – Market Analysis Work Sheet

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FACT SHEET
Parcel # 1
Market Analysis Work Sheet
RFP #

Property Description
Property Code _____ Unit Code _____ Parcel# _____
Address:
Brooklyn, New York

Comparables - For rental of vacant land

Source	Location	\$/SF
	Bushwick/Brooklyn	\$1.18
	Bushwick/Brooklyn	\$0.80- \$1.20
	Bushwick/Brooklyn	\$1.38

Comments: As mentioned above, there are approximately three buildings situated on this site which appear to be structurally unsound, and therefore would require a major capital investment to either refurbish or demolish. As such, the recommended asking compensation for this site is \$1.00 per square foot.

Asking Compensation or Comparable Value: \$1.00 per square foot (\$100,000.000 annually)

Recommended Term: Five (5) years

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Figure 9 – RFP Cover Letter

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347 Madison Avenue
New York, NY 10017-3739
212 678-7000 Tel



Metropolitan Transportation Authority

State of New York

December 23, 2010

Re: 74 Street / Roosevelt Avenue Station, Jackson Heights, Queens
Retail Concession Spaces for Lease

Dear Prospective Tenant:

Thank you for your interest in this offering of MTA New York City Transit retail spaces for lease at the 74 Street-Broadway / Roosevelt Avenue station in Jackson Heights. This offering contains two street level retail spaces and one subway mezzanine level retail space.

While prospective tenants may use a broker to assist them, no brokerage commission or any other type of fee or compensation will be paid by the MTA, or any affiliate or subsidiary of the MTA, in connection with any lease resulting from this RFP.

Enclosed is the entire Request for Proposals ("RFP") package, which is also available on the Internet at:

http://mta.info/mta/realstate/retail_leasing.html

The package includes the following components:

1. **Available Properties—Parcel Information Sheets.** This section provides information about each of the three spaces offered and the dates / times that these spaces may be viewed. For each space, the Parcel Information Sheet includes the suggested annual rent for Year 1. Respondents may offer to pay more or less than the suggested annual rent based on their professional judgment.
2. **Request for Proposals—Rules and Regulations.** This section contains regulations, information and instructions that relate to the submission of proposals. Please take the time to read this section carefully and refer to it as you fill out the Proposer Information Statement.
3. **Proposed Compensation Form.** This form is to be used to specify the rent that the prospective tenant proposes to pay to the MTA for the applicable space.
4. **The Proposer Information Statement.** The Proposer Information Statement is to be completed by prospective tenants. Please take the time to read the instructions carefully and ensure that all questions are answered completely. Also, please note that there are three sections where the proposer's signature must be notarized. Those sections are entitled "Credit Authorization," "Background," and "General Affidavit."

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Long Island Bus
MTA Metro-North Railroad

MTA Bridges and Tunnels
MTA Capital Construction

MTA Bus Company

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Request for Proposals
Page 2 of 3
December 23, 2010

Please note especially the section of the Proposer Information Statement entitled "Lobbying Law—Schedule W." This section must be completed; failure to complete and submit this section may result in a determination of non-responsiveness and disqualification.

5. *U.S. Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.* This Form W-9 must be completed and returned with the proposal.

6. *NYCT Concession Design Guidelines and the Standard Format for Architectural Drawing Submissions.* These guidelines are for the tenant and tenant's architect and contractor to use in preparing design plans following lease execution. Please note that all newly constructed spaces must comply with the Americans with Disabilities Act ("ADA").

You may submit proposals for one or more of these retail spaces. You must submit a separate proposal for each concession space that is of interest to you. See "Appendix A" attached to this cover letter for more details.

A suggested annual rent for each of the retail locations is included in each Parcel Information Sheet; however, proposers may offer to pay more or less than that amount. Your professional judgment as to the fair market value of a site based upon its location, size, current condition / required investment for build-out, income potential, etc. should form the basis for your offer. Proposers should be aware that, while rent is an important consideration in the MTA's evaluation of proposals, other criteria such as the desired retail mix at the station, the business experience of the proposer, and the proposer's record of past performance will also be considered.

Please note the requirement for a Proposal Deposit: the Proposal Deposit (checks or money orders) must equal three months of Year 5 Rent (i.e. proposed rent for Year 5). Proposals submitted with multiple checks drawn on different accounts will be rejected. You must enclose money orders or checks drawn on a single account. The Proposal Deposits of unsuccessful proposers will be returned. The Proposal Deposits of successful proposers will become the Security Deposits under the applicable leases.

The MTA reserves the right to require additional security for a retail space necessitating significant construction improvement work and a personal guarantee from the principal(s) of a corporation or limited liability company when the MTA determines that such entity is under-capitalized based on the information supplied.

All RFP proposals must be received by 3:00pm, Friday February 18, 2011. Proposals submitted after the deadline may not be considered. Each proposal must include those items listed in the "Submission Requirements" section of *Request for Proposals—Rules and Regulations*. Proposals not including all the items requested may be rejected.

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

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

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Long Island Bus
MTA Metro-North Railroad

MTA Bridges and Tunnels
MTA Capital Construction

MTA Bus Company

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Request for Proposals
Page 3 of 3
December 23, 2010

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

The designated Point(s) of Contact are:

Odette Forestier at (212) 878-1043
(for general inquiries regarding the RFP)

Michael T. Thadathil at (212) 878-0118
(for specific questions regarding the retail spaces or the RFP proposal requirements)

Please do not call or write anyone else at the MTA concerning this RFP.

Sincerely,

Michael T. Thadathil
Senior Real Estate Manager
MTA Real Estate Department

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Long Island Bus
MTA Metro-North Railroad

MTA Bridges and Tunnels
MTA Capital Construction

MTA Bus Company

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Figure 10 – Form of Proposer Information Form

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Metropolitan Transportation Authority

Proposer Information Form

The following information is provided to the Metropolitan Transportation Authority ("MTA") Real Estate Department in connection with the submittal of a proposal to lease or license space. The acceptance by MTA of this Proposer Information Form does not constitute an offer by the MTA or any affiliate or subsidiary thereof. Please attach additional sheets as necessary. **Please print or type.**

MTA Property	Parcel Number (if applicable)	Proposed Use
<hr/>		
Property Address		
<hr/>		

Proposer Information (if a sole proprietor)	Name	Social Security No.	-	-
	<hr/>			
	Street	<hr/>		
	City	State	Zip	
<hr/>				
	Telephone	Telephone (alternate)		
<hr/>				

P. 1 B.	Name of Business		
	<hr/>		
	Street		
	<hr/>		
	City	State	Zip
	<hr/>		
	Telephone	Telephone (alternate)	
	<hr/>		

Type of business:

☐ Corporation ☐ Joint Venture ☐ Partnership ☐ Limited Liability Corporation ☐ Sole Proprietor

Year Formed

Federal Tax ID No.

 State of Formation

Name of the business's president or most senior executive

Name of the business's chief financial officer or treasurer

**Information
Relating to
Affiliates**

Below, list all Affiliates of the proposer and provide the requested information for each Affiliate. Add additional pages if necessary. An "Affiliate" of a proposer is any entity that

- (a) directly or indirectly owns more than a 30% equity interest in such proposer, or
- (b) otherwise directly controls proposer, or
- (c) is controlled by, or has more than a 30% equity interest which is owned by or for the benefit of either
 - (i) such proposer, 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 proposer.

1	Name	% of Ownership
	<hr/>	
	Street	
	<hr/>	
	City	State Zip
	<hr/>	
	Telephone	Telephone (alternate)
	<hr/>	

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Proposer Information Form

Information
Relating to
Affiliates
(cont'd.)

2 Name _____ % of Ownership _____
Street _____
City _____ State _____ Zip _____
Telephone _____ Telephone (alternate) _____

3 Name _____ % of Ownership _____
Street _____
City _____ State _____ Zip _____

If, applicable, list below the name(s) of Principal(s) who will provide any guaranty or guaranties to the proposed lease or license

1 Name _____
Street _____
City _____ State _____ Zip _____
Telephone _____ Telephone (alternate) _____

2 Name _____
Street _____
City _____ State _____ Zip _____
Telephone _____ Telephone (alternate) _____

3 Name _____
Street _____
City _____ State _____ Zip _____
Telephone _____ Telephone (alternate) _____

Has the proposer or any of its principals done business under any other name within the past three years? ☐ Yes ☐ No

Is the proposer owned or controlled by any other organization or business entity? ☐ Yes ☐ No

Does the proposer own more than 30% of any other organization or business entity? ☐ Yes ☐ No

If yes was checked for any of the above, provide the following information for each organization, corporation, or business:

1 Name of Business _____
Federal Tax ID No. _____ Owner/Manager Name _____
Street _____
City _____ State _____ Zip _____
Telephone _____ Telephone (alternate) _____

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**Information
Relating to
Affiliates
(cont'd)**

2 Name of Business

Federal Tax No.

Owner/Manager Name

Street

City

State

Zip

Telephone

Telephone (alternate)

3 Name of Business

Federal Tax No.

Owner/Manager Name

Street

City

State

Zip

List gross receipts of each business for the past three years. Attach copies of Federal Income Tax returns.

1 Name of Business

Gross Receipts \$

Year

Gross Receipts \$

Year

Gross Receipts \$

Year

2 Name of Business

Gross Receipts \$

Year

Gross Receipts \$

Year

Gross Receipts \$

Year

3 Name of Business

Gross Receipts \$

Year

Gross Receipts \$

Year

Gross Receipts \$

Year

**Other Leases
or Licenses
with MTA and
its Subsidiaries
and Affiliates**

List all leases or licenses during the last 5 years between the MTA (and its subsidiaries and affiliates) and the proposer and any Affiliate of the proposer.

1 Name of lessee or licensee

Location

MTA Agency

2 Name of lessee or licensee

Location

MTA Agency

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**Other Leases
or Licenses
with MTA and
its Subsidiaries
and Affiliates
(cont'd.)**

3 Name of lessee or licensee

Location

MTA Agency

Describe any lessee or licensee defaults under such lease(s) or license(s).

**Business
History and
Experience**

List all relevant business experience

1 Name of Company

From

To

Type of Business

Your Title

Street

City

State

Zip

2 Name of Company

From

To

Type of Business

Your Title

Street

City

State

Zip

3 Name of Company

From

To

Type of Business

Your Title

Street

City

State

Zip

**Business
References**

Provide at least three references from companies with which the proposer, or one or more of its Principals, does business (include at least one vendor).

1 Name of Company

From

To

Street

City

State

Zip

Contact

Title

Telephone

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Proposer Information Form

**Business
References
(cont'd.)**

2	Name of Company	From	To
	Street		
	City	State	Zip
	Contact	Title	Telephone
<hr/>			
3	Name of Company	From	To
	Street		
	City	State	Zip
	Contact	Title	Telephone

**Bank
References**

Provide at least one reference from a bank with which the proposer (or a Principal) has an account and regularly does business. List all other bank account information that represents the means of financial support for the proposed business.

1	Bank Name	Branch Number or Location	
	Street		
	City	State	Zip
	Name of Bank Officer	Title	
	Telephone No.	Account No.	
	Name on Account		
<hr/>			
2	Bank Name	Branch or Location	
	Street		
	City	State	Zip
	Name of Bank Officer	Title	
	Telephone No.	Account No.	
	Name on Account		
<hr/>			
3	Bank Name	Branch or Location	
	Street		
	City	State	Zip
	Name of Bank Officer	Title	
	Telephone No.	Account No.	
	Name on Account		

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Proposer Information Form

**Bank
References
(cont'd.)**

Provide at least one bank reference for each guarantor identified on page 2 of this Proposer Information Statement.

1	Bank Name	Branch or Location
	Street	
	City	State Zip
	Name of Bank Officer	Title
	Telephone No.	Account No.
	Name on Account	
2	Bank Name	Branch or Location
	Street	
	City	State Zip
	Name of Bank Officer	Title
	Telephone No.	Account No.
	Name on Account	
3	Bank Name	Branch or Location
	Street	
	City	State Zip
	Name of Bank Officer	Title
	Telephone No.	Account No.
	Name on Account	

**Available
Financing**

Provide information about lines of credit, or other sources of financing, available to undertake required improvements and fulfill annual rental obligations.

1	Name of Source
	Street
	City State Zip
	Available Amount of Financing \$ Interest Rate
	Telephone No. Account No.
	Letter Attached? <input type="checkbox"/> Yes <input type="checkbox"/> No

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Available
Financing
(cont'd.)

2 Name of Source

Street

City

State

Zip

Available Amount of Financing \$

Interest Rate

Telephone No.

Account No.

Letter Attached? ☐ Yes ☐ No

3 Name of Source

Street

City

State

Zip

Available Amount of Financing \$

Interest Rate

Telephone No.

Account No.

Letter Attached? ☐ Yes ☐ No

Items to be
Sold

Proposed Staffing

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

Day(s) Hour(s) No. Personnel Manager at Location: ☐ Yes ☐ No

Day(s) Hour(s) No. Personnel Manager at Location: ☐ Yes ☐ No

Day(s) Hour(s) No. Personnel Manager at Location: ☐ Yes ☐ No

Day(s) Hour(s) No. Personnel Manager at Location: ☐ Yes ☐ No

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**Projected
Startup Costs**

1 - Architectural Fees \$

2 - Construction Costs \$

3 - Trade Fixtures \$

4 - TOTAL IMPROVEMENTS \$ add lines 1 to 3

The amount of total improvements on line 4, above, should
be entered in section C of the General Affidavit on page 12.

5 - Legal Costs \$

6 - Incorporation Fees \$

7 - Licensing Fees \$

8 - Franchise Fees \$

9 - Consulting Fees \$

10 - Merchandise Inventory \$

11 - Rent During Construction \$

12 - Miscellaneous \$

13 - TOTAL STARTUP COSTS \$ add lines 4 to 12

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Financial Statements: Provide financial statements (audited, if available) for prospective tenant and each guarantor for the past two full fiscal years. If financial statements are not otherwise available, please provide the following information.	
Assets	<p>Funds</p> <p>1 - Cash \$ _____</p> <p>2 - Checking \$ _____</p> <p>3 - Savings \$ _____</p> <p>4 - Other \$ _____</p> <p>5 - Subtotal-Funds \$ _____ add lines 1 to 4</p> <p>Receivables</p> <p>6 - Trade or Business \$ _____</p> <p>7 - Other \$ _____</p> <p>8 - Subtotal-Receivables \$ _____ add lines 6 and 7</p> <p>Securities</p> <p>9 - Stocks \$ _____</p> <p>10 - Bonds \$ _____</p> <p>11 - Other (Pensions, Annuities) \$ _____</p> <p>12 - Subtotal-Securities \$ _____ add lines 9 to 11</p> <p>Fixed Assets</p> <p>13 - Equipment \$ _____</p> <p>14 - Other \$ _____</p> <p>15 - Subtotal-Fixed Assets \$ _____ add lines 13 and 14</p> <p>Other Assets</p> <p>16 - Trade, Auto \$ _____</p> <p>17 - Life Insurance \$ _____</p> <p>18 - Subtotal-Other Assets \$ _____ add line 16 and 17</p> <p>19 - Inventory \$ _____</p> <p>20 - Miscellaneous \$ _____</p> <p>21 - Land and Buildings \$ _____</p> <p>22 - GRAND TOTAL ASSETS \$ _____ add lines 5,8,12,15, 18-21</p>
Liabilities	<p>23 - Payables \$ _____</p> <p>24 - Notes Payable \$ _____</p> <p>25 - Mortgages \$ _____</p> <p>26 - Deferred \$ _____</p> <p>27 - Miscellaneous \$ _____</p> <p>28 - GRAND TOTAL LIABILITIES \$ _____ add lines 23-27</p> <p>29 - CAPITAL/NET WORTH \$ _____ line 22 minus line 28</p>

☐ If the proposer is in the process of being organized and does not yet have assets or liabilities, check here and complete the financial statement on the basis of the Principal(s) personal assets and liabilities that will provide a guaranty. Clearly indicate all sources of capitalization

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Proposer Information Form

**Income:
One-year
Projection**

Proposed First Year Business Plan: Provide projected income and expenses for the first year of the lease or license term.

1 - Estimated Sales/Revenue	\$	
2 - Cost of Goods Sold	\$	
3 - GROSS PROFIT	\$	subtract line 2 from line 1

**Expenses:
One-year
Projection**

4 - Wages, Salaries	\$	
5 - Rent	\$	
6 - Telephone	\$	
7 - Gas	\$	
8 - Electricity	\$	
9 - Interest on Loan	\$	
10 - Advertising	\$	
11 - Postage	\$	
12 - Travel	\$	
13 - Vehicle Expense	\$	
14 - Payroll Taxes	\$	
15 - Other Taxes	\$	
16 - Supplies	\$	
17 - Legal Fees	\$	
18 - Accounting Fees	\$	
19 - Insurance	\$	
20 - Repairs	\$	
21 - Equipment Rental	\$	
22 - Depreciation	\$	
23 - Other	\$	
24 - TOTAL EXPENSES	\$	add lines 4 through 23
25 - ESTIMATED PROFIT (LOSS)	\$	subtract line 24 from line 3

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**Projected Sales
for Lease or
License Term**

Provide projected sales for the lease or license term after the first year (include only those years during the proposed lease or license term).

Year 2	\$
Year 3	\$
Year 4	\$
Year 5	\$
Year 6	\$
Year 7	\$
Year 8	\$
Year 9	\$
Year 10	\$

**Responsibility
Related Questions**

Has the proposer or any Affiliate thereof ever been barred from bidding on contracts, or declared not responsible by any city, town, village, county, state, or federal public entity?

☐ Yes ☐ No

Are any outstanding liens pending against the proposer or any Affiliate thereof?

☐ Yes ☐ No

Are any judgments outstanding against the proposer or any Affiliate thereof?

☐ Yes ☐ No

Is any suit or other legal action pending against the proposer or any Affiliate thereof?

☐ Yes ☐ No

Has the proposer or any Affiliate thereof been adjudged bankrupt, voluntarily or involuntarily, under any provision of the Bankruptcy Law, executed an assignment for the benefit of creditors, or abandoned a business without satisfying its outstanding debts?

☐ Yes ☐ No

Has the proposer or any Affiliate thereof ever been convicted of a felony?

☐ Yes ☐ No

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

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Proposer Information Form

General Affidavit

Representations, Warranties, Covenants, and Consent to a Credit Review

By executing this Proposer Information Form, the undersigned represents and warrants the following.

- A. The undersigned has received and read the entire Request for Proposals, has acquainted itself/himself/herself with all matters therein referred to in connection with this proposal, will accept the premises "as-is" and will secure any necessary permits and licenses pertaining to the operation of, or the making of any improvements to, the site. The undersigned acknowledges that the MTA makes no representation or warranties as to the information supplied herein or the type of use or development permitted at each location.
- B. The undersigned acknowledges that improvements and other work (1) may not be carried out without the prior approval of the MTA, (2) will become the property of the MTA, and (3) must conform to appropriate health, safety, fire, and building codes, as required.
- C. Neither the undersigned nor any Affiliate of the undersigned is in arrears in the payment of amounts due to the MTA or any of its affiliated agencies or the State of New York or the City of New York or any instrumentality thereof.
- D. The undersigned is of lawful age.
- E. No person, firm, or corporation other than herein above named has any interest in this proposed lease or license agreement.
- F. By executing this Proposer Information Form, the undersigned represents and warrants that:
 - (i) The compensation and other terms of this proposal have been arrived at independently without any agreement, collusion, consultation, or communications intended to restrict competition.
 - (ii) Unless otherwise required by law, the compensation and other terms quoted in this proposal have not been knowingly disclosed by the undersigned or any other individual and, before the proposal is opened, shall not knowingly be directly or indirectly disclosed by the prospective tenant or licensee or any other individual or by or on behalf of the proposer to any other proposer or to any competitor; and
 - (iii) No attempt has been made or will be made by the undersigned or by any other individual or by or on behalf of the prospective tenant or licensee to induce any other person, partnership, corporation, or other entity to submit or not to submit a proposal, for the purpose of restricting competition.
- G. The undersigned represents and warrants that no elected representative or other officer or employee or person whose salary is payable in whole or in part from the Federal Government or State or City of New York, and no member officer or employee of the Metropolitan Transportation Authority or any affiliate or subsidiary thereof is directly or indirectly interested in this proposal or in the proposed lease or license agreement to which it relates or will have an interest in any of the profits thereof.
- H. The undersigned declares under the penalties of perjury provided for by Article 210 of the New York Penal Law that the undersigned has read fully and understands all of the terms and conditions of this Request for Proposals, and all of the foregoing questions in the Proposer Information Statement and Proposed Compensation Form. The answers and statements herein including, without limitation, the Proposer Information Statement and the Credit Authorization, are to the best of the undersigned's knowledge and belief true, correct, and complete. The undersigned agrees that in the event that circumstances reflected by the answers herein change, the undersigned will promptly notify the Real Estate Department of the Metropolitan Transportation Authority in writing by certified mail. The undersigned also understands that a misstatement, omission, or failure to update information may be cause for the Metropolitan Transportation Authority not to award to the proposer, or its current principals, the proposed lease or license, and may have the effect of precluding persons or entities from doing business with the Metropolitan Transportation Authority or its affiliates or subsidiaries in the future.

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Proposer Information Form

By executing this Proposer Information Form, the undersigned authorizes the Metropolitan Transportation Authority or its designated agent or contractor to conduct a credit and reference investigation of the proposer and its Affiliates. This authorization includes commercial and financial institutions, credit reporting agencies and present and former customers, including without limitation the entities described in this Proposer Information Statement.

This Proposer Information Form must be signed below.

Proposer _____

Authorized Signature _____

Date _____

Print Name and Title _____

Sworn to me this _____ day of _____, 20____

Notary Public's Signature _____

Notary Seal

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NEW YORK STATE FINANCE LAW SECTIONS 139-j and 139-k
CERTIFICATION

**General
Information**

All procurements (which are defined to include essentially all real estate transactions) by the MTA in excess of \$15,000 annually are subject to New York State's State Finance Law Sections 139-j and 139-k, effective January 1, 2006 (the "Procurement Lobbying Law").

Pursuant to the Procurement Lobbying Law, all "contacts" (defined as oral, written or electronic communications with the MTA intended to influence a procurement) during a procurement must be made with one or more designated Point(s) of Contact only. Exceptions to this rule include written questions during the bid/proposal process, communications with regard to protests, contract negotiations and RFP conference participation. Nothing in the Procurement Lobbying Law inhibits any rights to make an appeal, protest or complaint under existing administrative or judicial procedures.

Violations of the policy regarding permissible contacts must be reported to the appropriate MTA officer and investigated accordingly. The first violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates and related entities. The penalty for a second violation within four (4) years is ineligibility for bidding/proposing on a procurement and/or ineligibility from being awarded any contract for a period of four (4) years. The MTA will notify the New York State Office of General Services ("OGS") of any determinations of non-responsibility or debarments due to violations of the Procurement Lobbying Law. Violations found to be "knowing and willful" must be reported to the MTA Executive Director and OGS.

Moreover, the statutes require the MTA to obtain certain affirmations and certifications from bidders and proposers. This Certification contains the forms with which to comply, together with additional information and instructions.

Instructions

New York State Finance Law §139-k (2) obligates the MTA to obtain specific information regarding prior non-responsibility determinations. This information must be collected in addition to the information that is separately obtained pursuant to New York State Finance Law §139-k, an offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any governmental entity due to: (a) a violation of New York State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a governmental entity.

As part of its responsibility determination, New York State Finance Law §139-k(3) mandates consideration of whether an offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no procurement contract shall be awarded to any offerer that fails to timely disclose accurate or complete information under this section, unless the factual elements of the limited waiver provision can be satisfied on the written record.

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Disclosure of Prior Non-Responsibility Determinations

Name of Prospective Tenant: _____

Address: _____

Name and Title
of Person Submitting
this Form: _____

Has any governmental entity¹ made a finding of non-responsibility regarding the prospective tenant or any Affiliate thereof in the previous four years? ☐ Yes ☐ No

If yes: Was the basis for such finding of the non-responsibility due to a violation of State Finance Law §139-j? ☐ Yes ☐ No

Was the basis for such finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity? ☐ Yes ☐ No

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

Governmental Entity: _____

Year of Finding of Non-Responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

Has any governmental entity terminated a procurement contract with the prospective tenant or any Affiliate thereof due to the intentional provision of false or incomplete information? ☐ Yes ☐ No

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

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Figure 11 – Authorization Memo – RFP Package Approval

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Memorandum



Metropolitan Transportation Authority

State of New York

Date: [month][day], 2011
To: Prescott Vann, David Bosch, Michael Bader
From: [project manager]
Re: AUTHORIZATION MEMO: RFP Package Approval

AGENCY: [enter agency name]
LESSEE: N/A
LOCATION: [descriptive information about the RFP]
ACTIVITY: Approval of RFP Package
SEQRA/NEPA: Type (check) Actions required:
1
2
Unlisted
EIS
NEPA

COMMENTS:

(Signatures on following page.)

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Comments: _____

RECOMMENDED: _____
Prescott Vann, Deputy Director Date _____

Comments: _____

RECOMMENDED: _____
David Bosch, Leasing & Acquisition Supervisor Date _____

Comments: _____

RECOMMENDED: _____
Michael Bader, Director of Operations Date _____

cc: S. Ambos
File

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Prospective Tenant's Affirmation and Certification

By signing below, the undersigned:

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

Prospective Tenant: _____

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

MTA's Right to Terminate:

The MTA reserves the right to terminate any lease with the prospective tenant arising out of this RFP in the event it is found that the foregoing certification, in accordance with New York State Finance Law §139-k, was intentionally false or intentionally incomplete. Upon such finding, the MTA may exercise its termination right by providing written notification to the tenant in accordance with the written notification terms of such lease.

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Figure 12 – Incumbent Notification

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EXAMPLE OF INCUMBENT NOTIFICATION

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

(DATE)

(NAME)

(STREET ADDRESS)

(CITY), (STATE) (ZIP CODE)

Re: Lease Agreement Between the Long Island Rail Road Company (LIRR) and
Dated March 20, 2008, for a Taxi Dispatch Office at the
Former Cedarhurst Station Building.
Tenant Code _____ Property Code _____ Unit Code _____

Dear (NAME):

Reference is made to my recent conversation with _____, former
president of _____, regarding your month-to-month tenancy at the
above referenced location. In accordance with the Metropolitan Transportation
Authority's (MTA) policy to offer lease opportunities through a request for proposals
(RFP) process, the referenced property will be offered in LIRR's upcoming RFP.

You will be receiving an RFP package within the next month and are invited to submit a
proposal for the use of the referenced property.

For your information, attached is a brochure which outlines the RFP process. If you have
any questions, I can be reached at (212) 878-_____.

Sincerely,

(NAME)

Real Estate Manager
Real Estate Department

Enclosure (brochure)

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

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Figure 13 – One-Line Description

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Figure 13
DESCRIPTION OF OPPORTUNITY IN MTA BI-WEEKLY ADVERTISEMENT

A description such as the one below will suffice for purposes of announcing an real estate opportunity in MTA's bi-weekly ad in the *New York Post*, *Minority Commerce Weekly*, and *El Diario*:

**Request for Proposals for Lease of Retail Space at the 74th Street-
Broadway/Roosevelt Avenue Station in Jackson Heights**

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Figure 14 – Sample Advertisements

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NOTICES

LEGAL NOTICES



Metropolitan Transportation Authority

Contractors will be required to comply with EEO, DAWBE and other federal and state procurement laws, regulations and Executive Orders.

MTA NEW YORK CITY TRANSIT (NYCT)

CONTRACT: C-34188, **DUE DATE:** 2/17/11, **TITLE:** Modification of Ventilation System at East New York Shop, in the Borough of Brooklyn.

BIDS: Opening Date: 02/11/11, #12, K8, of svc. More detailed info at the MTA website at www.mta.info/procurement/bidprocess.htm

MTA BRIDGES AND TUNNELS (B&T)

Scaled Bids for the below solicitations must be received by 5 & 7 at the Bid Suite, 3 Stone Street, New York, NY 10004. Scaled Bids will be publicly opened at the above address on the deadlines indicated. The complete project description can be viewed at www.mta.info/bid/procurement/purchase.htm (click on Bid No.)

Bids OP1458 - 2,500 lbs Lift Capacity Sid Slew Loader. Bid Opens: 2/3/11, 3PM.

Bids OP1459 - Cab Chassis and Utility Body and Crew Cab Pickups Vehicles. Bid Opening: 02/04/11 at 3:00 PM.

Bids OP1462X - Light Duty Wrecker Cab/Chassis. Bid Opens: 2/3/11 at 3:00 PM.

MTA METRO-NORTH RAILROAD (MNR)

MNR will receive sealed bids for the following. Bids must be submitted on inquiry forms provided by MNR by the specified date and time. Bid documents are available at the Procurement & Material Management Department, 347 Madison Ave, NY, NY 10017, 212-340-3222. **INQUIRY & DESCRIPTION, (DUE DATE, TIME, CONTACT):** W08: 959 - Purchase of various Signal Cables (Aerial, Burial, Duct, and Low Smoke Zero Halogen) for use by Metro-North Railroad within the wayside signal system. (2/8/11, 3:00 PM, R. Odujo); RFP No. 969 - Certified Qualified Security Assessor (COSA) Services to assist with the Payment Card Industry Data Security Standard Compliance. (2/10/11, 3:00 PM, R. Odujo).

PUBLIC NOTICE

NOTICE OF SALE

SUPREME COURT, COUNTY OF NEW YORK - 20 WEST 47TH OWNER, LLC, Plaintiff, v. F.M. RING ASSOCIATES, INC., ET AL., Defendant(s), Index No. 600538/08. Pursuant to an Amended Interlocutory Judgment entered on January 13, 2011, the undersigned Referee will sell at public auction in the lobby of the New York County Supreme Courthouse, 60 Centre Street, New York, on February 10, 2011 at 11:00 A.M., premises known as 20 West 47th Street, New York, NY 10036. All that certain plot piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being in the New York City Borough of MANHATTAN, County of New York and State of New York, Section, Block and Lot: Block 1262, Lot 68. Premises will be sold subject to provisions of the filed Amended Interlocutory Judgment, Index 600538/2008. The Amended Interlocutory Judgment sets forth the terms that will apply to the sale, including: The property is sold "AS IS" subject to any state of facts that an accurate survey would show and subject to the outstanding leases of the property. The sale shall be for cash, payable ten (10%) percent at the time of sale and the balance on delivery of the Referee's deed. Closing of title shall be scheduled to occur within thirty (30) days after the entry of a final judgment confirming the said sale. The parties to the above referenced action reserve the right to bid, and if they elect to do so, need only bid for the portion of the property that said party does not already own. Each purchaser shall pay the charge for stamps upon the deed, any charge or tax for recording the said deed, and the reasonable charge of the Referee for drawing the deed. Interested bidders should review the

Lema Devs

By MARK EVERSON

The Devils can only der whether they'd be i hunt for a 14th straight off if Jacques Lemaire been coaching from the of the season.

"Hell, yeah," one said. "Maybe we would at the top, but we'd be thick of things."

Lightning coach Guy cher says Lemaire have been the differenc

"They're totally formed. I think if Ja had been there since t ginning, they would b there again," Bouche after the Devils bea Lightning twice last we

Lemaire is still only compared to the 9-22 sank John MacLean t But as the Penguin Newark tonight, the are riding a 3-0-1 point that is their best of tl son.

"Because. it never pened, it's hard to sp But it surely looks i certain extent," said Brodeur, expected to his fifth straight start.

"I don't know, and

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Figure 15 – Proposal Receipt Log

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Figure 16 – Proposal Checklist

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Metropolitan Transportation Authority

Proposal Checklist

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

Project Manager _____

Parcel No. _____

Proposer's Name _____

Vendor _____

Location _____

Business Name _____

RFP Received	Accepted	Not Accepted	Not Reviewed	Not Sent	Follow Up
Applied Information Statement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Letter Sent <input type="checkbox"/>
Business Profile	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Response Due _____
Financial Profile	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Register _____
Credit Authorization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
One-year Business Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Background	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
General Affidavit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
NYC PLS 124 124-4 Lobby Lobby Questionnaire Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Proposed Compensation Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
UDA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Preliminary Plans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Deposit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
No Deposit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Cash In \$ _____					
Amount \$ _____					

Project Manager's Signature _____

Vendor's Signature _____

Date: _____

Date: _____

MTA 1000-0000-0000

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Figure 17 – RFP Evaluation Form

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Lease Proposal Evaluation Form

RFP Number	
RFP Date	
Location	
Property #	
Unit #	
Square Feet (if applicable)	
Proposer Name	
Corporation Name (if applicable)	
Current/Former MTA Tenant (Y/N) ?	
Is the Tenant in Good Standing (Y/N or N/A)	
Proposed Use	

Deposit \$

Discount Rate (%)

Cost of Improvements \$

Annual Compensation	Fixed Rent	PSF Fixed	Anticipated Percentage Rent	50% of Percentage Rent	Residual Value Tenant Improvements
Year 1	\$	\$	\$	\$	
Year 2	\$	\$	\$	\$	
Year 3	\$	\$	\$	\$	
Year 4	\$	\$	\$	\$	
Year 5	\$	\$	\$	\$	
Year 6	\$	\$	\$	\$	
Year 7	\$	\$	\$	\$	
Year 8	\$	\$	\$	\$	
Year 9	\$	\$	\$	\$	
Year 10	\$	\$	\$	\$	

PV of fixed rent \$

PV-50% of Percentage Rent \$

PV Residual Value of Improvements \$

Total (add lines 34, 35 & 36) \$

Less Estimated Cost of Improvements To Be Made
by MTA \$

Total (NPV)

Current Assets	\$
Total Assets	\$
Liabilities	\$
Net Worth	\$

Qualitative Factors

Quality of proposed improvements:

Nature of proposed business and potential benefit to MTA customers:

Financial capability of proposer and adequacy of business plan:

Management and operational experience of proposer:

Compatibility and consistency of proposed use with MTA Agency operations:

Comments:

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Figure 18 – Authorization Memo – RFP Award

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Memorandum



Metropolitan Transportation Authority

State of New York

Date: [month][day], 2011
To: Prescott Vann, David Bosch, Michael Bader
From: [project manager]
Re: AUTHORIZATION MEMO: Award recommendation, RFP [enter number],
[location].

AGENCY: [enter agency name]
LESSEE: [enter lessee/licensee name]
LOCATION: [station name/line name/other identifying information]
ACTIVITY: [describe proposed deal]
SEQR/NEPA: Type (check) Actions required:
1
2
Unlisted
EIS
NEPA

COMMENTS:

(Signatures on following page.)

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Comments: _____

RECOMMENDED: _____
Prescott Vann, Deputy Director Date _____

Comments: _____

RECOMMENDED: _____
David Bosch, Leasing & Acquisition Supervisor Date _____

Comments: _____

RECOMMENDED: _____
Michael Bader, Director of Operations Date _____

cc: S. Ambos
File

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Figure 19 – Authorization Memo – Lease/Sale Negotiation Process

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Memorandum



Metropolitan Transportation Authority

State of New York

Date: [month] [day], 2011
To: Prescott Vann, David Bosch, Michael Bader, [attorney name], Jeffrey Rosen
From: [project manager]
Re: AUTHORIZATION MEMO: Lease/Sale Negotiation Process Award - [project name/identifier]

AGENCY: [enter agency name]
LESSEE: [enter lessee/licensee name]
LOCATION: [station name/line name/other identifying information]
ACTIVITY: [describe proposed deal]
SEQR/NEPA: Type (check) Actions required:
1
2
Unlisted
EIS
NEPA

COMMENTS:

(Signatures on following page.)

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Comments: _____

RECOMMENDED: _____
Prescott Vann, Deputy Director Date

Comments: _____

RECOMMENDED: _____
David Bosch, Leasing & Acquisition Supervisor Date

Comments: _____

RECOMMENDED: _____
Michael Bader, Director of Operations Date

Comments: _____

APPROVED: _____
Jerry Page, Deputy General Counsel Date

Comments: _____

APPROVED: _____
Jeffrey R. Rosen, Director, Real Estate Date

cc: S. Ambros
File

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Figure 20.— Letter to Credit Agency

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March 13, 2001

Mr. Jim Farrell
LIDA Credit Agency, Inc.
330 Sunrise Highway
Rockville Center, NY 11570

Re: Credit Checks: MTA/New York City Transit Vending Machine RFP "DB1200"

Dear Mr. Farrell:

Enclosed please find copies of the MTA's Prospective Information Statements for the following potential MTA-NY City Transit vending machine service providers. Please perform the noted investigation on each of the respective candidates and their corporations:

1. (Name)
Full Credit Background Check
2. Full Credit Background Check
3. Full Credit Background Check
4. Full Credit Background Check

If you have any questions or comments, please contact me at (212) 878-0118. I would appreciate receiving the results of your investigation at your earliest convenience.

Sincerely,

David Bosch
Real Estate Manager

cc: R. Krsulic
M. McElroy
Chron

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Figure 21 – Conditional Designation Letter

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347 Madison Avenue
New York, NY 10017-3739
212 878-7000 Tel



Metropolitan Transportation Authority

State of New York

February 2, 2011

ADDRESS

Re: Request for Proposal [enter RFP identifying information]
Location [enter specific station/site, etc.]

Dear MR/ MS:

We have recently completed our analysis of the proposals we received in response to the above-referenced Request for Proposal for the site indicated above. I am pleased to inform you that [enter "you" if sole proprietor or "your company" if a corporation] [have/has] been conditionally designated as the successful proposer, subject to MTA Board approval, and that MTA Real Estate intends to seek such approval at an upcoming meeting of the MTA Board. In the meanwhile, we will proceed to prepare a draft lease based on your signed *Proposal Information Sheet* and signed *Rent Proposal* (copies of which is attached to this letter) ~~delete the following if a form of lease was not provided with the RFP~~ and the form of lease that was referenced in the Request for Proposals.

We are very glad that you have chosen to locate your business within the MTA system.

Please contact [enter PM point of contact info.], at [enter phone number] if you have any questions or concerns.

Sincerely,

Jeffrey B. Rosen
Director, Real Estate

JBR/nm

Enclosures

cc: JR/CHRON, JR FILES, project file

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Long Island Bus
MTA Metro North Railroad

MTA Bridges and Tunnels
MTA Capital Construction

MTA Bus Company

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Figure 22 – Staff Summary

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Staff Summary

Metropolitan Transportation Authority

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Subject LEASE
Department REAL ESTATE
Department Head Name JEFFREY S. ROSEN
Department Head Signature
Project Manager Name DORIS MASSARIA ROBERTS

Date NOVEMBER 8, 2009
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	Yo	Date	Approval	Info	Other
1	Current Contract	11/08/09	X		
2	Board				

Internal Approvals			
Order	Approval	Order	Approval
1	Executive Director	2	Chief of Staff
	Chief of Staff	3	Legal
	Director of Real Estate		
4	Dep. Exec. Dir. of Real Estate		

Narrative	
AGENCY:	MTA Long Island Rail Road ("LIRR")
LESSEE:	JJ Penn Station LLC d/b/a Jamie 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 8A, and approximately 100 square feet of Storage Space D
COMPENSATION	Retail

Year	Annual	PSE	% 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	\$151.64	5
6	\$255,258.00	\$158.64	5
7	\$268,018.00	\$167.91	5
8	\$281,420.00	\$176.89	5
9	\$295,491.00	\$184.68	5
10	\$310,266.00	\$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)

Stores

Year	Annual	PSE	% Increase
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	\$6,206.31	\$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 8%) ranged from \$88,708 to \$1,590,878. The highest proposal was received from Healthy Food Concepts at \$1,590,878. The remaining proposals were made by Sarah's Kitchen at \$1,398,792; Dunkin' Donuts at \$1,207,196; Michael Chung at \$1,154,168; Safer All 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 811 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. Aliaf 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.

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Figure 23 – Document Approval Form

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Document Approval Form



Metropolitan Transportation Authority
Real Estate Department

Transaction Type: [Leased Out / Leased In / Licensed Out / Licensed In / Sale / Permit / Other _____]

License / License/Permit/Lease / Grant		Yard Account #		Committee Approval Date																													
Use & Location		Yard Property # / Unit #		Board Approval Date																													
Project Manager	Attachments <table style="width: 100%;"> <tr> <td></td> <td>Yes</td> <td>N/A</td> </tr> <tr> <td>Proposer Info. Form</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>ATN / Selection Memo</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Credit Report</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Good Standing Opinion</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>NPV Analysis</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>			Yes	N/A	Proposer Info. Form	<input type="checkbox"/>	<input type="checkbox"/>	ATN / Selection Memo	<input type="checkbox"/>	<input type="checkbox"/>	Credit Report	<input type="checkbox"/>	<input type="checkbox"/>	Good Standing Opinion	<input type="checkbox"/>	<input type="checkbox"/>	NPV Analysis	<input type="checkbox"/>	<input type="checkbox"/>	SEORA / NEPA <table style="width: 100%;"> <tr> <td>Type 1</td> <td><input type="checkbox"/></td> <td rowspan="5" style="vertical-align: top;">Action to be Taken</td> </tr> <tr> <td>Type 2</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Unlisted</td> <td><input type="checkbox"/></td> </tr> <tr> <td>NEPA</td> <td><input type="checkbox"/></td> </tr> <tr> <td colspan="2"></td> </tr> </table>		Type 1	<input type="checkbox"/>	Action to be Taken	Type 2	<input type="checkbox"/>	Unlisted	<input type="checkbox"/>	NEPA	<input type="checkbox"/>		
			Yes	N/A																													
Proposer Info. Form			<input type="checkbox"/>	<input type="checkbox"/>																													
ATN / Selection Memo			<input type="checkbox"/>	<input type="checkbox"/>																													
Credit Report			<input type="checkbox"/>	<input type="checkbox"/>																													
Good Standing Opinion	<input type="checkbox"/>	<input type="checkbox"/>																															
NPV Analysis	<input type="checkbox"/>	<input type="checkbox"/>																															
Type 1	<input type="checkbox"/>	Action to be Taken																															
Type 2	<input type="checkbox"/>																																
Unlisted	<input type="checkbox"/>																																
NEPA	<input type="checkbox"/>																																
Deputy Director																																	

DOCUMENT REVIEW

I. Deputy Director			II. Tenant Management			III. L & A Supervisor		
Submitted	Reviewed	Approved	Submitted	Reviewed	Approved	Submitted	Reviewed	Approved
Comments			Comments			Comments		
IV. Legal Review			V. Final Review (if required)			VI. External Execution		
Submitted	Reviewed	Approved	Deputy Director		Approved	Sent		
Comments			Leasing & Acquisitions Supervisor		Approved	Via <input type="checkbox"/> Overnight <input type="checkbox"/> Certified <input type="checkbox"/> Hand		

DOCUMENT EXECUTION

Real Estate Department Staff

[Enter Name], Deputy Director, Leasing & Acquisition	Date	Date Returned to Real Estate Department
David Bosch, Leasing & Acquisitions Supervisor	Date	Date Returned to Project Manager
Legal Department Staff		
[Enter Name]	Date	Finance Committee Approval Date
Executed by Agency Officer		
Jeffrey B. Rosen, Director, Real Estate	Date	MTA Board Approval Date

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Figure 24 – Yardi Lease Tracking Report

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Agency: NYCT Property: tel18300, lnx25900, lbn30300, lby00500, lna0900, l Report Date: 10/16/2000										
AGCY A Code	Prop Name Tenant Code Tenant Name RE Manager	Unit Code Status Sq Ft	Tenant Use Location	Date Method	REC	Std Appr	Lea Date	Hand Off	Ofc's	Next Com
NYCT lbn30300	42 ST-TIMES SQ COMMON	02 Current 0	Pay Phone				06/01/1999			03/01/2000
NA0800	42 ST-TIMES SQ 10000083	01 Current 0					06/01/1999			03/01/2000
tel18300	42 ST 10000107	01 Current 0					06/27/1999			03/01/2000
	42 ST 10000108	02 Current 0	Barber				11/01/1995			03/01/2000
	42 ST 10000109	03 Current 0	HU/Beauty				11/01/1995			03/01/2000
	42 ST 10000110	04 Current 0	Flaunt				03/15/1997			02/28/2000
	42 ST 10000111	06 Current 0	Other Retail				06/02/1994			03/01/2000
	42 ST 10000112	08 Current 0	Newsstand				03/04/1994			03/01/2000
	42 ST 10000113	07 Current 0	Other Retail				11/01/1995			03/01/2000
	42 ST 10000114	09 Current 0					03/04/1994			03/01/2000
	42 ST 10000115	09 Current 0					03/01/1995			03/01/2000
	42 ST 10000116	10 Current 0	Newsstand				03/04/1994			
	42 ST 10000117	11 Current 0					06/02/1994			03/01/2000
	42 ST 10000118	12 Current 0	Newsstand				03/01/1995			03/01/2000

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Figure 25 – Tenant Control Checklist

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TENANT CONTROL LOG		
TENANT NAME: _____		ACCOUNT NO.: _____
AGENCY: _____	LTR _____ LIB _____ NVCT _____ SINTOA _____	BKT _____ MTA HQ _____ SBK _____
PROPERTY: _____		UNIT: _____
LOCATION: _____		
REQUIRED:	INITIALS	COMMENT
1. Executed original counterparts of Agreement	_____	_____
2. Staff Summary of Information Item	_____	_____
3. RFP Site Data Sheet or RTN	_____	_____
4. Routing Form for Execution	_____	_____
5. Document Preparation History Form	_____	_____
6. Determination of Responsibility [**]	_____	_____
LEASABLES:		
• IRS Form W-9	_____	_____
• Security Deposit	_____	_____
• Record of Contact(s)	_____	_____
• Certificate of Insurance	_____	_____
• D/B/A Certificate	_____	_____
• 1 st Month Rent	_____	_____
• Master Sub Report	_____	_____
• Applicant Information Statement [**]	_____	_____
• Credit Report	_____	_____
• Proof of Incorporation	_____	_____
• Copy of Advertisement	_____	_____
• RFP Proposal Analysis	_____	_____
• Agreement Transmittal Letter	_____	_____
• Other: _____	_____	_____
L&A PROJECT MANAGER NAME: _____		
NEW TENANT ACCEPTED FOR MANAGEMENT:		
By: _____	Date: _____	
<small> *1 This required if value of agreement is over \$10,000 in any year during term. **1 Verify completeness of lobbying Law Disclosure Statement page </small>		

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Figure 26 – Record of Contact Form

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 Metropolitan Transportation Authority
Real Estate Department

**RECORD OF CONTACT
UNDER THE NEW YORK PROCUREMENT LOBBYING LAW
(State Finance Law §139-j and §139-k)**

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

Check One: This Contact is: ☐ Permissible ☐ Impermissible ☐ I'm not sure

To: MTA Director of Real Estate, 347 Madison Avenue, 8th Floor, Fax: (212) 878-0152

*If this is an Impermissible Contact or you are not sure whether it is an Impermissible Contact, you must also send a copy to the Chief Compliance Officer, MTA Corporate Compliance, 2 Broadway, 16th Floor, Fax: (646) 252-1401, together with an Impermissible Contact Referral Form.

From: _____
(Your Name, Title and Department)

Date: _____

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

☐ correspondence ☐ telephone ☐ email ☐ in person ☐ other _____

Real Estate Transaction No. (if known): _____

Description of the Real Estate Transaction: _____

Contact's Name: _____

Contact's Address: _____

Contact's Telephone Number: _____

Contact's Place of Principal Employment: _____

Contact's Occupation/Title: _____

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

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

Date(s) Contact was made: _____

PDF is a scanned copy of the original document. No alterations or changes are allowed.

METROPOLITAN TRANSPORTATION AUTHORITY
REAL ESTATE DEPARTMENT
POLICIES AND PROCEDURES FOR THE LEASING-OUT
AND SALE OF REAL PROPERTY

March 2010


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Figure 27 – Procurement Lobbying Law Disclosure Statement

**METROPOLITAN TRANSPORTATION AUTHORITY
REAL ESTATE DEPARTMENT
POLICIES AND PROCEDURES FOR THE LEASING-OUT
AND SALE OF REAL PROPERTY**

March 2010

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 Metropolitan Transportation Authority

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

General Information All procurements (which are defined to include essentially all real estate transactions) by the MTA in excess of \$15,000 annually, are subject to New York State's State Finance Law Sections 139-j and 139-k effective January 1, 2009 ("Lobbying Law").

Pursuant to the Lobbying Law, all "contacts" (defined as oral, written or electronic communications with the MTA intended to influence a procurement) during a procurement must be made with one or more designated Point(s) of Contact only. Exceptions to this rule include written questions during the bid/preproposal process, communications with regard to protests, contract negotiations and RFP compliance participation. Nothing in the Lobbying Law, which affords any right to make an appeal, protest or complaint under existing administrative or judicial procedures.

Violations of the Lobbying Law regarding permissible contacts must be reported to the appropriate MTA officer and investigated accordingly. The first violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates and related entities. The violator for a second violation within four (4) years is ineligible for bid/preproposal or a procurement award, and is not eligible from being awarded any contract for a period of four (4) years. The MTA is a member of the New York State Office of General Services ("OGS") of any determinations of non-responsibility or determinations due to violations of the Lobbying Law. Violations found to be "knowing and willful" must be reported to the MTA Executive Director and OGS.

Moreover, the Lobbying Law requires the MTA to obtain certain affirmations and certifications from bidders and proposers. This Disclosure Statement contains the forms with which to comply, together with additional information and instructions.

Instructions New York State Finance Law §139-k(2) obligates the MTA to obtain specific information regarding prior non-responsibility determinations. This information must be collected in addition to the information that is separately obtained pursuant to New York State Finance Law §163(9). In accordance with New York State Finance Law §139-k, an offeror must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any governmental entity due to: (a) a violation of New York State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a governmental entity.

As part of its responsibility determination, New York State Finance Law §139-k(3) mandates consideration of whether an offeror has timely disclosed accurate or complete information regarding the above non-responsibility determination. In accordance with law, no procurement contract shall be awarded to any offeror that fails to timely disclose accurate or complete information under this section, unless the factual statements of the bidder/proposer can be satisfied on the written record.

Disclosure of Prior Non-responsibility Determinations

Name of Bidder/Proposer: _____

Address: _____

Name and Title of Person Submitting this Form: _____

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

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

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

MTA PR Law 139, 139-k (rev. 10-09), Page 1

METROPOLITAN TRANSPORTATION AUTHORITY
REAL ESTATE DEPARTMENT
POLICIES AND PROCEDURES FOR THE LEASING-OUT
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Page 129

Metropolitan Transportation Authority	
New York State Finance Law Sections 139-j and 139-k ("Lobbying Law") — Disclosure Statement	
<p>Was the basis for the finding of Bidder's/Proposer's non-responsibility due to the intentional provision of false or incomplete information to a governmental entity? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please provide details regarding the finding of non-responsibility below.</p> <p>Governmental Entity: _____</p> <p>Year of Finding of Non-responsibility: _____</p> <p>Class of Finding of Non-Responsibility: _____</p> <p>_____</p> <p>_____</p> <p>(Add additional pages as necessary)</p> <p>Has any governmental entity terminated a procurement contract with the Bidder/Proposer due to the intentional provision of false or incomplete information? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>Bidder's/Proposer's Affirmation and Certification</p> <p>By signing below, the Bidder/Proposer:</p> <p>a) Affirms that the Bidder/Proposer understands and agrees to comply with the policy regarding permissible contacts in accordance with New York State Finance Law Sections 139-j and 139-k.</p> <p>b) Certifies that all information provided to the MTA with respect to New York State Finance Law §139-j and §139-k is complete, true and accurate.</p> <p>By _____ Date _____ (Signature of Person Certifying)</p> <p>Print Name and Title: _____ Title: _____</p> <p>Bidder/Proposer or Contractor/Consultant (Full Legal Name): _____</p> <p>Address of Bidder/Proposer or Contractor/Consultant: _____</p> <p>_____</p> <p>Business Telephone Number: _____</p>	
<p>MTA's Right to Terminate</p>	<p>The MTA reserves the right to terminate a Contract (including any lease, license, entry permit, or sale documents) in the event it is found that the certification filed by the Bidder/Proposer, in accordance with New York State Finance Law §139-k, was intentionally false or intentionally incomplete. Upon such finding, the MTA may exercise its termination right by providing written notification to the Bidder/Proposer in accordance with the written notification terms of the Contract.</p>
MTA P-1 Loo 129, 130-k rev. 10-04-00-Page 3	

Staff Summary



Metropolitan Transportation Authority

Page 1 of 3

Subject SPONSORSHIP OF COMMISSARY CARTS
Department REAL ESTATE
Department Head Name JEFFREY B. ROSEN
Department Head Signature
Project Manager Name PETER LYONS

Date March 21, 2011
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
2	Finance Committee	3/21/11	X		
3	Board	3/23/11	X		
1	MNR/LIRR	3/21/11		x	

Internal Approvals			
Order	Approval	Order	Approval
		1	Legal
3	Chief of Staff		
2	Managing Director		
	Civil Rights		

Narrative

AGENCY: MTA Metro-North Commuter Railroad ("MNR") and MTA Long Island Rail Road ("LIRR") (together, the "Railroads")

LICENSEE: Coca-Cola Refreshments USA, Inc. ("Coca-Cola")

LOCATION: Approved locations in Grand Central Terminal, Penn Station, Jamaica Station and Atlantic Terminal and potentially elsewhere

ACTIVITY: This is a joint sponsorship and procurement whereby:

1. LIRR proposes to grant exclusive pouring rights for all non-alcoholic beverages for LIRR's commissary carts to Coca-Cola (which means that during the term of the arrangement LIRR will purchase all such beverages sold from its commissary carts solely from Coca-Cola). Coca-Cola will also pay to LIRR an annual payment for such exclusivity and will provide LIRR with 20 Coca-Cola-branded auxiliary stock/supply side carts.
2. MNR proposes to enter into an agreement with Coca-Cola that will give MNR the right to purchase Coca-Cola non-alcoholic beverages for MNR's commissary carts at favorable pricing, but on a non-exclusive basis. Coca-Cola will pay MNR an annual sponsorship payment and will provide MNR with 40 Coca-Cola-branded auxiliary side stock supply carts. In the future, due to MNR's larger volume of sales, if MNR elects to grant exclusive pouring rights for all non-alcoholic beverages for MNR's commissary carts to Coca-Cola, Coca-Cola will then pay an additional \$9000 annual payment to MNR.
3. The Railroads may elect to purchase 20 additional unbranded auxiliary stock/supply side carts at negotiated fixed prices during the term of the arrangement.

ACTION REQUESTED: Approval of terms

TERM: Three years with two one-year renewal options, in favor of the Railroads

COMPENSATION: The following compensation will be paid each year to the Railroads (split equally) for the duration of the contract and the option years, if the renewal options are exercised by the Railroads.

Contract Year	% Increase	Amount
One	-----	\$30,000.00
Two	2.5%	\$30,750.00
Three	2.5%	\$31,518.76
1st Option Year	2.5%	\$32,306.72
2nd Option Year	2.5%	\$33,114.38
Total	- 185 -	\$157,689.86

NARRATIVE:

I. Purpose

The Railroads have a very successful commissary cart program under which approximately 40 commissary carts are utilized to sell snacks, drinks and special services to customers at Grand Central Terminal, Penn Station, Jamaica Station and Atlantic Terminal, onboard select railcars and at other locations. The term of the current program is ending.

The Railroads, together with MTA Real Estate, sought to secure a supplier for a new term that would provide the Railroads with: 1) favorable pricing for sparkling and still beverage products; 2) additional non-fare-based revenues through fees for branded sponsorship cart rights and for exclusive non-alcoholic pouring rights; 3) in-kind compensation in the form of branded auxiliary carts and supply products; and 4) standardization and upgrading of the appearance of commissary carts, thereby providing enhanced amenities to the Railroads' customers.

II. Background

In May 2010, MTA Real Estate issued a Request for Proposals ("RFP") for a corporate sponsor for the Railroads' approximately 40 portable commissary carts. The RFP also offered "Non-Alcoholic Exclusive Pouring and Sampling Rights" for the following beverages sold at the commissary carts: sparkling beverages (e.g. colas and other carbonated sodas), still beverages (e.g. water, juices, teas, energy, and sports drinks), dairy beverages and coffee beverages. Under such an exclusivity arrangement, the Railroads would agree to purchase all the products in such categories from a single exclusive provider.

Proposals were received in response to the RFP from Coca-Cola, Danone Waters of America ("Evian") and Pepsi Cola Bottling Company of NY ("Pepsi"). Evian and Pepsi did not include monetary offers and therefore were deemed unresponsive by the Selection Committee. Coca-Cola's proposal included a payment comprised of both a sponsorship fee and a pouring rights fee, as well as provision of the auxiliary stock/supply carts and competitive pricing.

The Selection Committee met with representatives from Coca-Cola and negotiated both better pricing and price protection via Coca-Cola agreeing to provide "most favored customer" status to MNR and LIRR. As a most favored customer, the Railroads will not be charged more per unit for Coca-Cola products than any other Coca-Cola customers in the New York metropolitan region during the term of the agreement.

The Selection Committee has recommended that Coca-Cola be awarded the license for both Railroads, which represents the maximum revenue to the Railroads. LIRR currently exclusively sells Coca-Cola products from its commissary carts due to LIRR customers' higher preference for Coca-Cola beverages. As a result, LIRR will be awarding exclusive pouring rights to Coca-Cola. At this time, MNR has a diverse multi-branded drink offering and has decided not to award exclusive pouring rights to Coca-Cola. However, if in the future MNR does elect to agree to an exclusive pouring rights arrangement with Coca-Cola, it will receive, due to its larger volume of sales, an additional \$9,000 for each year of exclusivity, subject to the same 2.5% annual.

The beverages will primarily be sold in re-closeable 20-ounce recyclable plastic bottles, which should provide more convenience for the Railroads' customers and decrease the number of spills in the trains. MNR customers will pay \$2.25, and LIRR customers will pay \$1.75 for these beverages, which reflects the differences between MNR and LIRR's retail environments and vending machine competition.

III. Project Benefits

The Railroads will receive both cash and in-kind payments. Each Railroad will receive \$78,845 in cash over the five-year term for a total of \$157,600. The Railroads will receive 60 Coca-Cola-branded auxiliary supply/stock carts at no cost to them. These commissary side cart replacements, worth approximately \$25,000 in total, are critical to Agency cost-avoidance and program roll-out. Coca-Cola has also offered to provide at no cost, at the Railroads' option, branded commissary cart menu boards, branded counter bar merchandisers, branded recycling bins, Railroad "Bar Car" signs and related marketing material.

The total of cash and in-kind payments for this new tier of sponsorship is \$182,600.00 over the five-year term.

The Railroads' respective Procurement Departments have concurred in the recommendation that the Railroads enter into the above-described arrangements with Coca-Cola.

IV. Recommendation

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

Staff Summary



Metropolitan Transportation Authority

Page 1 of 2

Subject SPONSORSHIP OF COMMISSARY CARTS
Department REAL ESTATE
Department Head Name JEFFREY B. ROSEN
Department Head Signature
Project Manager Name PETER LYONS

Date MARCH 21, 2011
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
2	Finance Committee	3/21/11	X		
3	Board	3/23/11	X		
1	MNR/LIRR	3/21/11		x	

Internal Approvals			
Order	Approval	Order	Approval
		1	Legal
3	Chief of Staff		
2	Managing Director		
	Civil Rights		

Narrative

AGENCY: Metropolitan Transportation Authority ("MTA")

LICENSEE: Anheuser-Busch Distributors of NY ("Anheuser-Busch")

LOCATION: Approved locations in Grand Central Terminal, Penn Station, Jamaica Station and Atlantic Terminal and potentially elsewhere.

ACTIVITY: Display of Anheuser-Busch's "Budweiser" name and logo on forty (40) portable commissary carts used by Metro-North Commuter Railroad and Long Island Rail Road (together, the "Railroads") for the sale of snacks, soft drinks, beer, wine and liquor (the "Carts")

ACTION REQUESTED: Approval of terms

TERM: Three years with two one-year renewal options upon the mutual agreement of the parties subject to termination by the MTA in 60 days for transportation or corporate purposes.

COMPENSATION:

Contract Year	Amount
One	\$200,000.00
Two	\$90,000.00
Three	\$96,000.00
1st Option Year	\$102,000.00
2nd Option Year	\$108,000.00
Total	\$596,000.00

Anheuser-Busch has agreed that if additional locations and/or carts are added by the Railroads and made available to Anheuser-Busch, Anheuser-Busch will pay MTA additional compensation, based on the increased exposure provided to Anheuser-Busch.

NARRATIVE

I. Purpose

The Metropolitan Transportation Authority ("MTA") set out to secure a sponsor that would provide compensation reflecting the value of branded commissary carts, serving the Railroads' customer base to achieve 1) increases in non-fare based revenues through fees for branded sponsorship carts rights, and 2) standardization and upgrading of the appearance of commissary carts, thereby providing enhanced amenities to the Railroads' customers.

FINANCE COMMITTEE MEETING

Anheuser-Busch Distributors of NY ("Anheuser-Busch") (Cont'd)

II. Background

In May 2010, MTA Real Estate issued a Request for Proposals ("RFP") for a corporate sponsor for the approximately forty (40) portable commissary carts the Railroads use at Grand Central Terminal, Penn Station, Jamaica Station and Atlantic Terminal. The current sponsorship agreement with Anheuser-Busch, which commenced in 2001, recently expired and has been continued since then on a month-to-month basis.

Anheuser-Busch submitted the sole proposal received in response to the RFP. However, the proposal represents a significant increase relative to the \$3000-per-month compensation Anheuser-Busch has been paying to date.

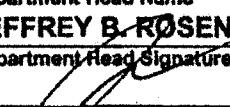
III. Project Benefits

Financial benefits, as indicated above, are significant. Total compensation for the five-year program is \$596,000. Additional commissary cart locations could generate additional compensation when and as added. In accordance with applicable law, exclusive pouring rights will not be granted to Anheuser-Busch.

IV. Recommendation


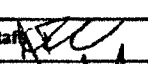
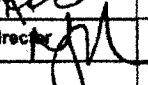
Based on the foregoing, MTA Real Estate requests authorization to enter into a sponsorship agreement with Anheuser-Busch on the above-described terms and conditions.

Staff Summary

Subject TEMPORARY ACCESS AND RELOCATION
Department REAL ESTATE
Department Head Name JEFFREY B. ROSEN
Department Head Signature 
Project Manager Name HELENE CINQUE

Date MARCH 21, 2011
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	3/21/11	X		
2	Board	3/23/11	X		

Internal Approvals			
Order	Approval	Order	Approval
		1	Legal 
3	Chief of Staff 		
2	Managing Director 		
	Civil Rights		

Narrative	
AGENCY:	MTA Capital Construction Company ("MTACC")
LOCATION:	1802 Second Avenue, located on the east side of Second Avenue in Manhattan between 93 rd and 94 th Streets.
ACTIVITY:	Temporary access to 1802 Second Avenue and temporary relocation of occupants in order to complete structural stabilization of 1802 Second Avenue.
ACTION REQUESTED:	Approval to enter into agreements to accommodate temporary relocation of residential occupants, or in the alternative, to acquire temporary access rights and to effectuate relocation of tenants by eminent domain.
COMMENTS:	
<p>To minimize the possibility that Second Avenue Subway construction activities will adversely affect the 15-unit residential building at 1802 Second Avenue ("Subject Property"), MTA Capital Construction Company ("MTACC") intends to perform remediation work to stabilize the building. As explained below, this work will require temporary access from the affected building owner to perform the work and temporary relocations of all apartment units, 5 of which currently are occupied. If voluntary agreements cannot be reached with the affected building owner and any of the occupants, approval is sought to secure the temporary access rights and temporary relocations in accordance with the Eminent Domain Procedure Law.</p> <p>Ongoing structural investigations have raised concerns about maintaining the structural stability of the Subject Property during upcoming excavation required for the adjacent ancillary facility that will be constructed on the northeast corner of 93rd Street and Second Avenue for the 96th Street Station. To address these concerns, MTACC has developed a plan to perform building stabilization and underpinning work. The work is expected to last for approximately 3 months and will require all occupants of the Subject Property to be temporarily relocated for the entire construction period.</p> <p>MTACC has requested that MTA Real Estate temporarily relocate all occupants from the Subject Property while the required work is performed. MTA Real Estate, in conjunction with the MTA's relocation consultant, O.R. Colan, will temporarily relocate all occupants to suitable accommodations until the construction work is completed and compensate the occupants for all necessary and reasonable out-of-pocket expenses resulting from these temporary relocations in accordance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act and applicable federal regulations. MTA also will compensate the Subject Property's owner for lost income from rents and use and occupancy charges that would result from the relocations.</p>	

Staff Summary

FINANCE COMMITTEE MEETING

Temporary Access and Relocation (Cont'd)

COMMENTS: (Cont'd)

MTA Real Estate and O.R. Colan will work with each displaced occupant to provide suitable temporary replacement accommodations. In order to accomplish this within MTACC's construction schedule, MTA Real Estate will need flexibility to address each person's needs. Because one temporary housing solution may not be appropriate for everyone, MTA Real Estate may need to enter into agreements with one or more short-term stay residential facilities to accomplish these relocations and/or to offer "in lieu of" housing stipends to temporarily displaced occupants who choose to find their own temporary accommodations.

MTACC and MTA Real Estate will endeavor to negotiate agreements with the affected property owner and occupants to effectuate the required building stabilization work and temporary relocations, but if negotiations are unsuccessful, MTA may be required to initiate condemnation proceedings under the Eminent Domain Procedure Law to secure temporary access rights to perform the stabilization work and temporarily relocate the occupants. MTA Legal has advised that such a proceeding would be exempt from public hearing requirements under the Eminent Domain Procedure Law because the acquisitions would be *de minimis* in nature and because the public interest would be endangered by any delay caused by the public hearing requirements. A resolution authorizing eminent domain for these purposes is attached hereto.

In addition, based on the foregoing, MTA Real Estate requests (and the attached resolution provides) authorization to enter into agreements with one or more short-term stay residential facilities, and/or to offer housing stipends to displaced occupants in lieu thereof, to accommodate the temporary relocation of occupants in the Subject Property as described above.

BOARD RESOLUTION

WHEREAS, MTA and MTA Capital Construction Company (collectively, "MTA") are engaged in constructing the Second Avenue Subway (the "Project"); and

WHEREAS, in the course of evaluating the structural stability of buildings adjacent to the Project's construction sites, MTA and its contractors have determined that it is advisable to stabilize the building located at 1802 Second Avenue (Block 1556, Lot 2) located between 93rd and 94th Streets (the "Subject Property"); and

WHEREAS, 5 of the 15 apartment units in the Subject Property currently are occupied; and

WHEREAS, all occupants must be temporarily relocated from the Subject Property for approximately 3 months or longer to allow MTA's contractors to complete the required stabilization work; and

WHEREAS, MTA will enter into agreements with one of more short-term stay residential facilities and/or offer housing stipends to occupants in lieu thereof, to accommodate such relocations; and

WHEREAS, MTA will endeavor to negotiate agreements with the affected property owner and occupants of the Subject Property to effectuate the required building stabilization work and temporary relocations, but if negotiations are unsuccessful, MTA must initiate condemnation proceedings under the Eminent Domain Procedure Law ("EDPL") to secure temporary occupancy of the Subject Property to perform the stabilization work and to temporarily relocate the affected occupants.

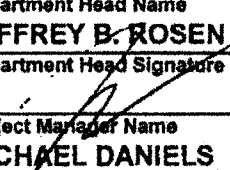
NOW THEREFORE, BE IT

RESOLVED that, pursuant to Section 1267 of the Public Authorities Law and the EDPL, MTA hereby is authorized to secure temporary occupancy of the Subject Property by negotiated agreements or by eminent domain and to temporarily relocate all occupants therein. Such acquisitions and temporary relocations, if effectuated by eminent domain, will be exempt from a public hearing under the EDPL because the acquisitions are temporary and *de minimis* in nature and because the public interest would be endangered by any delay caused by the public hearing requirements.

RESOLVED that MTA hereby is authorized to enter into agreements with one of more short-term stay residential hotels, and/or to offer housing stipends to occupants in lieu thereof, to accommodate the temporary relocation of occupants in the Subject Property as described above.


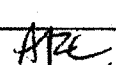
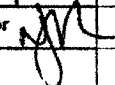
MTA NEW YORK CITY TRANSIT

Staff Summary

Subject LICENSE AGREEMENT
Department REAL ESTATE
Department Head Name JEFFREY B. ROSEN
Department Head Signature 
Project Manager Name MICHAEL DANIELS

Date MARCH 21, 2011
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	3/21/11	X		
2	Board	3/23/11	X		

Internal Approvals			
Order	Approval	Order	Approval
		1	Legal 
3	Chief of Staff 		
2	Managing Director 		
	Civil Rights		

Narrative

AGENCY: MTA New York City Transit ("NYCT")
LICENSOR: Charleston Enterprises, LLC
LOCATION: Bricktown Center, Staten Island N.Y.
ACTIVITY: Operation of S74/S84 and S78 bus route through the parking lot at Bricktown Center.
ACTION REQUESTED: Approval of terms
TERM: One year, commencing on date of the signing of the License, renewing automatically.
TERMINATION RIGHT: Upon prior written notice
SPACE: Roadway owned by Charleston Enterprises, LLC at the Bricktown Center
COMPENSATION: One dollar, payment waived
COMMENTS:


Charleston Enterprises, LLC, owner of Bricktown Center, has agreed to allow the Department of Buses to operate the S74/S84 and S78 routes on the Bricktown Center property. In order to serve the growing demand for bus service at the mall, in January 2011 NYCT informed the Board of its intention to modify the S74/84 and S78 routes to serve Bricktown Center. In order to facilitate this service change, a part of the routes would operate on Bricktown Center property.

Charleston Enterprises, LLC will maintain the roadway over which the bus routes will run and adjacent sidewalk and will be responsible for removing snow, ice and debris from both areas.

Based upon the foregoing, MTA Real Estate requests authorization to enter into a license agreement on the above described terms and conditions.

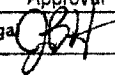
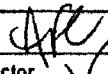

MTA LONG ISLAND RAIL ROAD

Staff Summary

Subject LICENSE AGREEMENT
Department REAL ESTATE
Department Head Name JEFFREY B. ROSEN
Department Head Signature 
Project Manager Name ROBERT GOLDBERG

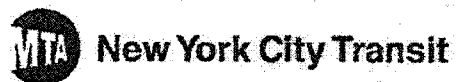
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Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	3/21/11	X		
2	Board	3/23/11	X		

Internal Approvals			
Order	Approval	Order	Approval
		1	Legal 
3	Chief of Staff 		
2	Managing Director 		
	Civil Rights		

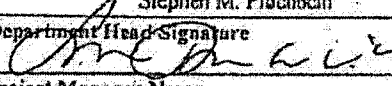
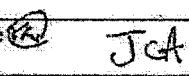


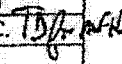
Narrative	
AGENCY:	MTA Long Island Rail Road ("LIRR").
LICENSEE:	Sunset Airport Trans Corp. d/b/a Sunset Taxi
LOCATION:	LIRR's Hicksville Station, Hicksville, New York (west plaza area)
ACTIVITY:	Taxi dispatch office
ACTION REQUESTED:	Approval of terms
TERM:	Month to month
SPACE:	Approximately 252 square feet
SECURITY:	Three months compensation
COMPENSATION:	\$1,000 per month
COMMENTS:	
<p>Pending MTA Real Estate's offering of taxi dispatch and taxi stands system-wide in 2011-2012, MTA Real Estate issued a Request For Proposals (RFP) for month-to-month licenses to operate the three kiosks located at LIRR's Hicksville Station as taxi dispatch offices. The RFP specified that each operator would only be eligible for one kiosk only. The north kiosk was previously awarded to Oyster Rides LLC, as approved by the Finance Committee and Board at last month's meetings. For the middle of the three kiosks, the only proposal was received from Sunset Taxi at \$1,000 per month. The improvement work to be performed at the middle kiosk will involve installation of telephone lines and equipment, a desk and chairs. While the use of the middle kiosk, heretofore used as storage by LIRR, will bring additional commercial activity to the plaza area of the station, the MTA will reserve the right to terminate the license on 30 days notice should the operation impede traffic or create any other undesirable issues at the station.</p> <p>Based on the foregoing, MTA Real Estate Department requests authorization to enter into a month-to-month license agreement with Sunset Taxi on the above-described terms and conditions.</p>	

Report



PROCUREMENTS

The Procurement Agenda this month includes 8 actions for a proposed expenditure of \$13.9M.

Subject Request for Authorization to Award Various Procurements						March 9, 2011						
Department Material Division - NYCT						Department Law and Procurement - MTACC						
Department Head Name Stephen M. Plachochi						Department Head Name						
Department Head Signature 						Department Head Signature 						
Project Manager Name Rose Davis						Table of Contents Ref #						
Board Action												
Order	To	Date	Approval	Info	Other	Internal Approvals						
1	Committee	3/21/11				  X	Approval		Approval		President MTACC. 	
2	Board	3/23/11					President NYCT		Executive VP			X
							Capital Prog. Management		X			Buses
							Law		X			Diversity/Civil Rights
Internal Approvals (cont.)												
Order	Approval	Order	Approval	Order	Approval	Order	Approval	Order	Approval	Order	Approval	
<p>PURPOSE:</p> <p>To obtain approval of the Board to award various contracts and purchase orders, and to inform the NYC Transit Committee of these procurement actions.</p> <p>DISCUSSION:</p> <p>NYC Transit proposes to award Non-Competitive procurements in the following categories: NONE</p> <p>MTA Capital Construction proposes to award Non-Competitive procurements in the following categories: NONE</p>												

NYC Transit proposes to award Competitive procurements in the following categories:

Procurements Requiring Two-Thirds Vote:

	<u># of Actions</u>	<u>\$ Amount</u>
Schedule B: Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)	1	\$ TBD M
Schedule C: Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)	1	\$ 4.4 M

Schedules Requiring Majority Vote

Schedule I: Modifications to Purchase and Public Works Contracts	1	\$.3 M
Schedule J: Modifications Miscellaneous Procurement Contracts	1	\$.3 M
Schedule L: Budget Adjustments to Estimated Quantity Contracts	2	\$ 2.1 M
SUBTOTAL	6	\$ 7.1 M

MTA Capital Construction proposes to award Competitive procurements in the following categories: NONE

NYC Transit proposes to award Ratifications in the following categories: NONE

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

Schedules Requiring Majority Vote:

Schedule K: Ratification of Completed Procurement Actions	2	\$ 6.8 M
SUBTOTAL	2	\$ 6.8 M
TOTAL	8	\$ 13.9 M

BUDGET IMPACT: The purchases/contracts will result in obligating NYC Transit and MTA Capital Construction Co. funds in the amounts listed. Funds are available in the current operating/capital budgets for this purpose.

RECOMMENDATION: That the purchases/contracts be approved as proposed. (Items are included in the resolution of approval at the beginning of the Procurement Section.)

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 work 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, and certain budget adjustments to estimated quantity contracts; and

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, 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; and 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.

MARCH 2011

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Two-Thirds Vote:

B. Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)
(Staff Summaries required for items estimated to be greater than \$1M.)

- | | | |
|--|-----------------------|------------------------------------|
| 1. Contractor To Be Determined | Cost To Be Determined | <u>Staff Summary Attached</u> 6.10 |
| Contract Term To Be Determined | | |
| Contract R-34190 | | |
| RFP Authorizing Resolution for the purchase of eight snowthrowers. | | |

C. Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)
(Staff Summaries required for items requiring Board approval.)

- | | | |
|-------------------------------------|----------------|------------------------------------|
| 2. Plasser American Corp. | \$4,406,808.00 | <u>Staff Summary Attached</u> 6.12 |
| Contract # R-34172 | | |
| One Proposal – 30 month contract | | |
| Purchase of two ballast regulators. | | |



MARCH 2011

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

I. Modifications to Purchase and Public Work Contracts

(Staff Summaries required for individual change orders greater than \$250K. Approval without Staff Summary required for change orders greater than 15% of the adjusted contract amount which are also at least \$50K.)

3. Judlau Contracting, Inc. \$274,000.00 *Staff Summary Attached* 6.14
Contract #C-34763.33

Modification to the contract for the rehabilitation of the Culver Line Viaduct, in order to install special low vibration track (LVT) blocks at skewed expansion joints on the Culver Line Viaduct.

J. Modification to Miscellaneous Procurement Contracts

(Staff Summaries required for individual change orders greater than \$250K. Approval without Staff Summary required for change orders greater than 15% of the adjusted contract amount which are also at least \$50K.)

4. Column Technologies, Inc. \$273,409.00 (NTE) *Staff Summary Attached* 6.15
PO # C000895172.1

Modification to the contract for the purchase of BMC Remedy software, in order to upgrade a help desk system and perform implementation services and extend the term of the contract.

MARCH 2011

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

L. Budget Adjustments to Estimated Quantity Contracts

(Expenditures which are anticipated to exceed the lesser of \$250,000 or \$50,000 in the event such expenditures exceed 15% of the adjusted contract budget, including any contract modifications.)

5. Palm Coast Data, LLC Contract # 05F9218 August 7, 2006 – August 8, 2011	Original Amount: \$ 13,567,242 Prior Modifications: \$ 0 Prior Budgetary Increases: \$ 0 Current Amount: \$ 13,567,242
	This Request: \$ 858,909
	% of This Request to Current Amount: 6.3%
	% of Mods/Budget Adjustments (including This Request) to Original Amount: 6.3%

Discussion

This contract supports MetroCard sales to the MetroCard Merchant Sales Network and other bulk purchasers (the Network) by providing secure warehousing, fulfillment, inventory management, payment processing, accounting and other related services. The Network is comprised of about 4,500 merchants located primarily throughout the New York City area to provide convenient alternative MetroCard sales and distribution options to customers, many of whom are bus-only customers. The Network Program has been in operation since 1997 and in 2010, 33 million MetroCards were sold through the Network accounting for \$340 million in sales revenue to NYC Transit. Contract pricing is based on estimated quantities of more than 30 different types of transactions related to ordering, packaging, shipping and payment for cards.

In July 2006 the Board approved the award of a competitively negotiated contract with Kable News Company, Inc. to provide MetroCard extended sales fulfillment services. In February 2009, the contract was assigned from Kable News Company, Inc. to Palm Coast Data, per a request made by their shared parent company. At the time of award, both the original five-year contract of \$13.57M and the two year option of \$5.5M was approved by the Board. The amount approved for the option will be requested by AFC Program Management and Sales. It is anticipated at this time that the transaction volume estimated for the option period will be sufficient.

This Budget Adjustment of \$858,909 is required to fully fund the work for the remaining months of the original five-year contract term through August 8, 2011. This amount, when added to the original \$13,567,242, will bring the total contract value to \$14,426,151. The primary reason for these additional funds is that there has been a greater than anticipated usage for the five-year term. The reasons for this additional usage are mainly attributable to higher than anticipated sales volume and additional costs associated with fare changes. Increased sales volume generated added expenses in several key areas, including order placement, phone operations, payment processing and fulfillment (packaging and shipping). Fare changes result in increased sales due to MetroCard Merchant orders for new value cards and substantial increases in credit processing due to the return of unsold, old-value cards from merchants' inventories.

MARCH 2011

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

L. Budget Adjustments to Estimated Quantity Contracts Cont'd

(Expenditures which are anticipated to exceed the lesser of \$250,000 or \$50,000 in the event such expenditures exceed 15% of the adjusted contract budget, including any contract modifications.)

6. Tool & Precision Machining Inc. Contract # 09C0065 December 7, 2009 – December 6, 2013	Original Amount:	\$	\$447,400
	Prior Modifications:	\$	0
	Prior Budgetary Increases:	\$	0
	Current Amount:	\$	\$447,400
	This Request:	\$	\$1,200,000
	% of This Request to Current Amount:		268%
	% of Mods/Budget Adjustments (Including This Request) to Original Amount:		268%

Discussion

Tool & Precision Machining Inc. is a machine shop that provides repair and fabrication services for elevator and escalator mechanical components, as well as for other Subways user groups. Replacement parts for some of the escalators and elevators are no longer kept in stock by manufacturers, or in some instances, the manufacturers are no longer in business. All work is done in the contractor's shop and the Contractor is required to fabricate components utilizing outdated drawings and designs and complex reverse engineering methods. For these reasons, the contractor is required to have a high degree of expertise. The price schedule includes hourly rates for labor and a markup on costs of material. Based upon these rates the Contractor develops a proposal for each task that must be approved by the project manager.

Almost the entire original contract amount was expended during the first year of this four-year contract. The estimate was based on the assumption that due to intensive remedial efforts during the prior contract the initial estimated amount for this contract would have been adequate. The additional monies requested represent unexpected repairs to elevators and escalators. They are sought in anticipation of continuing this volume of service of approximately \$400,000 per year for the balance of the contract term. This contract was solicited competitively; with the second and third bidders' bids almost double Tool & Precision Machining Inc.'s bid price.

MARCH 2011

LIST OF RATIFICATIONS FOR BOARD APPROVAL

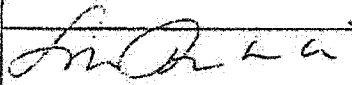
Procurements Requiring Majority Vote:

K. Ratification of Completed Procurement Actions (Involving Schedule E-J)

(Staff Summaries required for items requiring Board approval.)

1. PB Americas, Inc. \$5,600,000.00 (NTE) Staff Summary Attached 6.16
Contract #CM-1189R.23
Modification to the contract for engineering design services for the No. 7 Line extension, in order to revise the final design scope of work.
2. S3 Tunnel Constructors, JV \$1,200,000.00 Staff Summary Attached 6.17
Contract #C-26002.87
Modification to the contract for the construction of the Second Avenue Subway Tunnel from 92nd to 63rd Streets in order to perform mechanical excavation of contract rock in the launch box.

Staff Summary

Item Number 1						SUMMARY INFORMATION	
Division & Division Head Name: VP Materiel, Stephen M. Plochochi						Vendor Name	
						RFP Authorizing Resolution	
						Contract Number R-34190	
Board Reviews						Description	
Order	To	Date	Approval	Info	Other	Purchase of Eight Snowthrowers	
						Total Amount	
						TBD	
						Contract Term (including Options, if any)	
						TBD	
Internal Approvals						Option(s) included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Order	Approval	Order	Approval	Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
1 <input checked="" type="checkbox"/>	Materiel	5 <input checked="" type="checkbox"/>	Executive VP	Procurement Type			
2 <input checked="" type="checkbox"/>	Law	6 <input checked="" type="checkbox"/>	President	<input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive			
3 <input checked="" type="checkbox"/>	Subways	7		Solicitation Type			
4 <input checked="" type="checkbox"/>	Budget	8		<input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:			
				Funding Source			
				<input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:			

I. PURPOSE

To request that the Board adopt a resolution declaring that competitive bidding is impractical or inappropriate for the procurement of eight snowthrowers, and that it is in the public interest to issue a competitive request for proposals (RFP) pursuant to Subdivision 9(f) of Section 1209 of the Public Authorities Law.

II. DISCUSSION

Subdivision 9(f) of Section 1209 of the Public Authorities Law permits the Board to adopt a resolution declaring that competitive bidding is impractical or inappropriate because it is in the public interest to award a contract pursuant to a process of competitive requests for proposals. NYC Transit is desirous of utilizing such a procedure with respect to the procurement of these eight snowthrowers.

A snowthrower is a piece of snow removal equipment comprised of an operator cab and snow throwing apparatus mounted on two axles. It has no propulsion of its own. Snowthrowers are operated as a pair in five-car consists. These consists are comprised of snowthrowers at both ends with each snowthrower coupled to a NYC Transit locomotive. Both locomotives are coupled to a rider car (a retired "Redbird" subway car) in the middle of the consist. The purchase of these eight snowthrowers will enable NYC Transit to add four snowthrower consists to its fleet of snow removal equipment in order that heavy snow is removed from the subway system in a timelier manner.

Currently, there are four Snowthrowers (two consists) and five aged jet snowblowers in the NYC Transit fleet of snow removal equipment. Because of their restrictive capabilities, the snowblowers have been relegated to limited use in subway yards only. Snowthrowers are deployed to the six non-elevated open track lines in the transit system (the Rockaway, Dyre Avenue, Brighton, Sea Beach, West End and Franklin Shuttle lines). Presently as there are only two Snowthrower consists, only two subway lines can be addressed at one time. As such the purchase of these four additional Snowthrower consists will permit simultaneous snow removal from all six non-elevated lines and will allow for backup should a Snowthrower consist be unavailable for service. The jet snowblowers will ultimately be retired and as such the Snowthrowers will also be used to clear the subway yards which are located throughout Brooklyn, Queens, Manhattan and the Bronx.

Staff Summary



Page 2 of 2

NYC Transit will be utilizing a performance specification for this solicitation. Prospective proposers have advised that Snowthrowers will have to be custom designed to meet NYC Transit's tunnel, third rail and signal clearances. The use of a single specification in a bid would leave no latitude for NYC Transit to consider proposers' different design approaches. In addition, utilizing the RFP process enables NYC Transit to negotiate the price, terms and conditions such as warranty and payment terms, and other technical matters as deemed appropriate, as well as weigh the overall quality of the proposer and the product being offered.

The RFP process will allow NYC Transit to arrive at the best overall proposal through negotiations and evaluation based on criteria that reflect the critical needs of the agency. The award will require Board approval. NYC Transit will work to expedite the purchase of these Snowthrowers, however, NYC Transit's clearance requirements are unique with respect to tunnels, signals and third rail and thus will necessitate a custom Snowthrower design. Therefore, it is anticipated that these Snowthrowers will be available for service for the winter of 2012-2013.

III. IMPACT ON FUNDING

Funds for the snowthrowers are included in the 2010-2014 Capital Program. This funding, consisting of 100% MTA funds, is available under Planning Number MW 10-7148; Project PSE Number R34190, Primary MTA Project Number T61302/03.

IV. ALTERNATIVES

Issue a competitive IFB. Not recommended, given the complexity of this procurement and the advantages offered by the RFP process.

V. RECOMMENDATION

It is recommended that the Board adopt a resolution declaring that competitive bidding is impractical or inappropriate for the procurement of eight snowthrowers, and that it is in the public interest to issue a competitive request for proposals pursuant to Subdivision 9(f) of Section 1209 of the Public Authorities Law.

Staff Summary

Item Number 2						SUMMARY INFORMATION	
Division & Division Head Name: VP Materiel, Stephen Plochocki						Vendor Name	
Contract Number: R-34172						Contract Number	
Description						Purchase Two Ballast Regulators	
Total Amount						\$4,406,808.00	
Contract Term (including Options, if any)						34 months from NOA + extended warranties	
Option(s) included in Total Amount?						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Renewal?						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Procurement Type						<input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
Solicitation Type						<input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
Funding Source						<input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	

Board Reviews					
Order	To	Date	Approval	Info	Other

Internal Approvals			
Order	Approval	Order	Approval
1	Materiel	5	Subways
2	Law	6	Labor Relations
3	Capital Prog. Mgt.	7	Exec. VP
4	Div./Civil Rights	8	President

I. PURPOSE

To obtain Board approval to award a purchase contract to Plasser American Corp. (Plasser) to furnish and deliver two ballast regulators at a price of \$4,406,808.00.

II. DISCUSSION

Pursuant to subdivision 9(f) of Section 1209 of the Public Authorities Law, an Authorizing Resolution to issue a Request for Proposal (RFP) was approved by the Board in June 2008. The MTA Capital Program includes an allocation for the purchase of two ballast regulators which are earmarked to replace NYC Transit's two ballast regulators, BR002 and BR003, which were purchased in 1986 and 1989, respectively. Both BR002 and BR003 have reached the end of their useful life. Due to their age, both existing ballast regulators require frequent repairs and are often out of service. It is essential that these ballast regulators are replaced to assure availability and prevent any impact to the track replacement schedule.

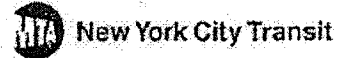
Ballast regulators are diesel-powered, self-propelled work equipment vehicles capable of operating in either direction that evenly distribute ballast after placement of new track throughout the NYC Transit outdoor track system as well as in a small percentage of indoor tunnels. Ballast Regulators are also used to sweep and redistribute excess ballast when work is being performed on old and new track. The proposed ballast regulators, like the current ones, will consist of a broom box, ballast hopper, plows and sweepers, as well as upgraded features, such as an HVAC unit and a video observation system.

NYC Transit performed an extensive search to identify potential proposers and in February 2009, issued an RFP which invited work car manufacturers to submit proposals for two ballast regulators. Four firms picked up the RFP package. Two of the firms, Plasser, the manufacturer of NYC Transit's two current ballast regulators, and ARVA, a work car manufacturer, attended the pre-proposal conference held on April 2, 2009. Both firms indicated that they were planning to propose. On September 30, 2009, one proposal, from Plasser in the amount of \$8,303,996.51, was received.

Procurement contacted the three companies that picked up the RFP package to inquire why they did not propose. Knox Kershaw indicated that it did not propose because the solicitation was for a small quantity of ballast regulators that would need to be specially designed to meet NYC Transit's requirement for inclusion of a hopper. While the bulk of the ballast is initially laid down by a separate hopper car that is pulled by a NYC Transit locomotive, it is critical to NYC Transit's operations that a small hopper be incorporated in its ballast regulators to pick-up excess ballast and redistribute it where necessary. Progress Rail believed it would not be competitive and therefore did not propose because it would have needed to expend substantial engineering resources for this small quantity of specialty equipment in order to meet NYC Transit's tunnel clearance and design requirements. ARVA indicated that it did not have the resources to enter the US market and as yet have not manufactured a self-propelled ballast regulator.

After evaluating Plasser's proposal, the Selection Committee determined Plasser was qualified to perform the Work. Said evaluation was conducted in accordance with the stated evaluation criteria which included the technical features, including compliance with specifications and product reliability; the proposer's experience in furnishing high quality work equipment that runs on rail and delivering on-schedule; qualifications and experience of the personnel and subcontractors assigned to the project; the

Staff Summary



Page 2 of 2

proposer's management approach; product maintainability and operation of equipment; the proposer's quality assurance; the proposer's plan to meet or reduce the maximum delivery schedule; the proposer's experience in providing documentation, warranty work, on-site support, special tools and aftermarket support; the subcontractor's and supplier's product reliability and after market support; overall project price; any exceptions taken to the terms and conditions of the proposed Agreement; the quality of the oral presentation and the proposer's written technical proposal submittals.

Plasser was invited to conduct an oral presentation and engage in technical discussions on November 16, 2009. Due to NYC Transit's concern with Plasser's initial proposed price of \$8.3M being significantly higher than the independent in-house estimate of \$4.45M, Plasser was asked to identify those cost drivers that had the biggest impact on its proposal. Plasser cited the following issues: the level of detail required for structural testing of the carbody and truck frames, NYC Transit's requirements for stress analysis, and the 3-truck articulated design. Plasser indicated it would need to meet NYC Transit's wheel load requirements (NYC Transit had specified a 2-truck configuration like the design of the current ballast regulators but Plasser indicated a three truck, articulated vehicle was necessary in response to NYC Transit's requirements for anti-climbers and couplers.)

Plasser sought relief on the level of detail required in NYC Transit's structural testing requirements. NYC Transit was able to waive the structural testing requirement for the carbody and truck frames after reviewing a Plasser service proven design on a similarly designed ballast regulator for another railroad which met NYC Transit's structural requirements. NYC Transit also was able to waive the requirement for anti-climbers and couplers which were intended to meet passenger car safety standards. This reduced the weight sufficient enough for Plasser to meet NYC Transit's weight requirements for wheel loads on a two truck configuration. Plasser also agreed to provide a 25-year warranty on the carbody and truck frames. NYC Transit agreed to accept a stress analysis prepared in accordance with Plasser's standard engineering practices in lieu of one conforming to the detailed requirements of the original specifications.

Through an extended series of offers and counter offers, NYC Transit worked out the difference between NYC Transit's specification and what Plasser was able to provide in light of the overall budget. The Selection Committee reviewed Plasser's final negotiated price of \$4,406,808.00 which is 0.85% less than the revised independent in-house estimate of \$4,444,560.00 and 46.9% lower than Plasser's original Price Proposal of \$8,303,996.51. DCE considers Plasser to have excellent experience in the design and manufacture of work car equipment and to be technically qualified to perform the work. MTA Audit and Cost/Price conducted an evaluation of Plasser's cost proposal and based on those recommendations the final negotiated price was deemed fair and reasonable. Plasser will be required to furnish and deliver the first ballast regulator within 24 months of Notice of Award (NOA) which then will undergo acceptance testing. The second ballast regulator shall be furnished and delivered within 30 days following acceptance of the first ballast regulator. Acceptance of the second ballast regulator is estimated to be 34 months after NOA.

There was significant adverse information (SAI) concerning Plasser within the meaning of the All-Agency Responsibility Guidelines. However, senior management approval was received on December 3, 2009 to continue to do business with Plasser barring any new SAI. NYC Transit's Vendor Relations Unit conducted a full background check on Plasser and found no new SAI. Procurement finds Plasser to be responsible and financially qualified to receive this contract award.

III. D/M/WBE INFORMATION

Based on the Scope of Work and lack of subcontracting opportunities, no goals were established.

IV. IMPACT ON FUNDING

Funds for the two ballast regulators are included in the 2005-2009 Capital Program. This funding, consisting of 100% MTA Funds, is available under Planning Number MW10-6421; Project Number T51302/03. A WAR certificate will be requested and the contract will not be executed until a WAR certificate has been issued.

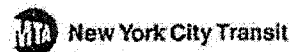
V. ALTERNATIVES

Reissue the RFP - not recommended. The reduction in specification requirements would not have generated any additional interest in this procurement. Knox Kershaw is not interested in producing a small quantity of specially designed ballast regulators that include a hopper and Progress Rail does not want to expend engineering resources to meet NYC Transit's tunnel clearance and design requirements for such a small quantity. ARVA still does not have the resources to enter the US market and still has not produced a self-propelled ballast regulator.

VI. RECOMMENDATION

It is recommended that the Board approve the award of a purchase contract to Plasser American Corporation to furnish and deliver two ballast regulators at a price of \$4,406,808.00.

Schedule I: Modifications to Purchase and Public Work Contracts



Item Number: 3

Vendor Name (& Location)	
Judlau Contracting, Inc. (College Point, NY)	
Description	
Rehabilitation of the Culver Line Viaduct	
Contract Term (including Options, if any)	
March 5, 2009 – February 5, 2013	
Option(s) included in Total Amount?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> n/a
Procurement Type	<input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive
Solicitation Type	<input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification
Funding Source	
<input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name:	
Capital Program Management, Frederick E. Smith	

Contract Number	AWO/Modification #
C-34763	33
Original Amount:	\$ 178,800,000
Prior Modifications:	\$ 4,915,684
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 183,715,684
This Request:	\$ 274,000
% of This Request to Current Amount:	0.1%
% of Modifications (including This Request) to Original Amount:	2.9%

Discussion:

This modification is for the installation of special low vibration track (LVT) blocks at skewed expansion joint locations on the Culver Line Viaduct.

The contract is for the partial rehabilitation of the Culver Line Viaduct, including rehabilitation of the concrete viaduct deck; installation of new track; installation of a new deck waterproofing membrane; truss steel repairs; and a new signal relay room. The Culver Line Viaduct was built in 1930 to carry the 'F' and 'G' Lines over the Gowanus Canal and local streets in Brooklyn.

LVT blocks are crucial components of an LVT system and will significantly reduce vibration from trains traveling over rails on the Culver Line Viaduct. The viaduct is an elevated structure with expansion joints. These expansion joints help maintain stability of the structure as it undergoes thermal expansion and contraction during the day and the seasons. Of the 44 expansion joint locations on the viaduct, 28 are perpendicular and 16 are skewed. The perpendicular expansion joints are at a right angle to the track bed. The LVT blocks also are normally installed at a right angle to the track and track bed. The skewed expansion joints (SEJ) are not at a right angle to the track bed, but instead are at various angles to the track bed where there are lateral turns on the viaduct.

The contract calls for standard LVT blocks at both the perpendicular expansion joint and the SEJ locations. However, it was determined that the contractor must provide special LVT blocks at the SEJ locations, because the LVT blocks must also be installed on skewed angles at the SEJ locations, parallel to the SEJs. Accordingly, the contractor must procure steel plates, shoulder blocks and inserts for the top of the special LVT blocks. The contractor must bolt the additional steel plates to the top of the LVT block and weld two metal shoulders with inserts to the plates, permitting the rail to be fastened on an angle. The additional work includes purchasing and staging the special LVT blocks and accessories at street level; transporting the blocks up onto the viaduct; maintaining proper spacing between blocks; and performing field welding. The extra work is offset by a credit for the standard LVT blocks not purchased.

The contractor's proposal was \$459,865. NYC Transit's revised estimate was \$252,000. Following negotiations, the lump sum of \$274,000 was agreed upon and found to be fair and reasonable. Savings of \$185,865 were achieved.

The contract was designed in-house. An error and omission analysis will be performed.

Schedule J: Modifications to Miscellaneous Procurement Contracts



Item Number: 4

Vendor Name (& Location) Column Technologies, Inc. (New York, NY)	
Description Purchase of BMC Remedy Software, support and implementation services	
Contract Term (including Options, if any) April 29, 2009 – June 22, 2012	
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a	
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification	
Funding Source <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name: Department of Subways, Carmen Bianco	

Contract Number	AWO/Modification #
PO#: C000895172	1
Original Amount:	\$ 441,281
Prior Modifications:	\$ 0
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 441,281
This Request:	\$ 273,409 (NTE)
% of This Request to Current Amount:	62%
% of Modifications (including This Request) to Original Amount:	62%

Discussion:

This modification is for the purchase of additional BMC Remedy software licenses, software support and implementation services that are needed to upgrade the in-house Help Desk for NYC Transit's Electronic Maintenance Division (EMD).

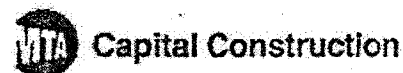
In April 2009, a miscellaneous procurement contract was awarded utilizing NYS OGS contracts to Column Technologies, Inc. (Column) for the purchase of 43 BMC Remedy software licenses with three years of support and implementation services. The software was intended for the creation of an in-house desktop Help Desk for logging desktop service requests and tracking desktop assets. The Division of Technology & Information Services (TIS) purchased BMC Remedy's incident management and trouble ticket management components to record and track all requests for repairs to NYC Transit's desktop equipment. At the time of purchase, NYC Transit had intended to perform desktop computer maintenance with in-house staff. Due to the MTA's financial situation, desktop support remained a contracted service.

In order to take advantage of the software that had been acquired, EMD is requesting the purchase of 5 additional licenses with implementation services and 15 months of software support for those additional licenses, in order to have support running coterminous with the 43 existing TIS licenses for which support is scheduled to expire on June 22, 2012. In addition, EMD will purchase three years of additional software support for all 48 software licenses to be implemented upon expiration of the remaining 15 month term.

The installation of the additional licenses and the setup of the Help Desk to conform to EMD's workflow will take five months, which also includes consulting services and migration of data. Presently, EMD is using two management systems that were acquired more than ten years ago, and are reaching the end of their useful life, to manage trouble tickets and respond to problems related to emergency telephones located in tunnels, public address systems, fire alarms, fiber optic network and data communication equipment devices and all other communications equipment managed by EMD. Although other products were reviewed, BMC Remedy was recommended because EMD has been using a prior version of this software and is familiar with its components, the interoperability of its applications and the fact that the BMC Remedy system was already put in place for TIS.

Column's price of \$273,409 is comprised of \$29,925 for BMC Remedy software licenses; \$121,974 for software support and \$121,510 for Column's implementation services. The final price was found to be fair and reasonable as it represents a discount of approximately 30% below the NYS contract price.

Schedule K: Ratification of Completed Procurement Actions



Item Number: 1

Vendor Name (& Location)	
PB Americas, Inc. (New York, NY)	
Preparation of a Draft and Final Environmental Impact Statement and Provision of Transit Engineering Design Services for the Proposed No. 7 Subway Line Extension – Far West Midtown Manhattan Rezoning	
Contract Term (including Options, if any)	
September 30, 2002 – August 7, 2013	
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a	
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification	
Funding Source	
<input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name:	
MTA Capital Construction, Michael Horodniceanu	

Contract Number	AWO/Modification #
CM-1189R	23
Original Amount:	\$ 40,784,046
Prior Modifications (including options):	\$ 114,094,039
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 154,878,085
This Request:	\$ 5,600,000 (NTE)
% of This Request to Current Amount:	3.7%
% of Modifications (including This Request) to Original Amount:	14%

Discussion:

This modification is for revisions to the final design scope of work.

This contract was awarded to PB Americas, Inc. (PBA) for the preparation of a draft and final environmental impact statement (D/FEIS) and for transit engineering design services for the No. 7 subway line extension. To date, twenty-two modifications have been issued, including exercise of options and extensions of the contract end date by 82 months to August 7, 2013. The contract is currently in the Final Design stage.

This retroactive modification includes the following additional final design services: vibration and noise analyses; revised drawings and specifications and creation of amplifying drawings for various sites; repackaging of the separate contract packages for Systems and Finishes into one contract package; repackaging of all Site P work into one contract package; revisions to the drainage system and redesign of track drainage; revisions to the Fire Alarm System; revised drawings for Site J to include provisions for future development structure connections; address variations in the reinforced concrete liner thickness; revisions to the alignment of Site J to Site K electrical connection; elimination of the skylight at the Site J entrance; incorporation of an access door and lighting into the Jacob Javits Convention Center Ventilation Tunnel; revisions to the Site P entrance per HYDC's request; modifying contract documents to reflect re-profiling of 33rd and 34th Streets by NYCDOT; reformatting of construction cost estimates for Sites A, J, K, P and Eleventh Avenue reconstruction; a credit for the deletion of the requirement for construction schedules from October 2007 through January 2009; performing additional environmental studies at Site P; design revisions to accommodate the latest NYC DEP requirements, NYCT Master Specifications and NYCT MOW design review comments; revisions to address the alignment of the running tunnels in the vicinity of the Port Authority Bus Terminal; and the design for a retaining wall and embankment/grading along 33rd St. east of Site J. In order to meet an aggressive construction schedule, PBA was directed by MTA CC to expedite the repackaging of various contracts. This required the review or revision of some 5,000 drawings and their related specifications. The results of these efforts during the past year included contracts for Sites L, J and K that resulted in highly competitive bids and contracts that cost substantially below estimates.

PBA's proposal based on the latest scope of work was \$6,262,574. MTACC's latest estimate was \$5,306,342. Negotiations resulted in the not-to-exceed amount of \$5,600,000. Savings of \$662,574 or 10.6% were achieved. The final negotiated amount is considered fair and reasonable and will use previously negotiated contract rates.

Schedule K: Ratification of Completed Procurement Actions



Capital Construction

Item Number: 2

Vendor Name (& Location)	
S3 Tunnel Constructors, JV (Queens, NY)	
Description	
Second Avenue Subway: Tunnels from 92 nd Street to 63 rd Street	
Contract Term (including Options, if any)	
March 20, 2007- July 20, 2011	
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> n/a	
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification	
Funding Source	
<input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name:	
MTA Capital Construction, Michael Horodniceanu, President	

Contract Number	AWO/Modification #
C-26002	87
Original Amount:	\$ 337,025,000
Prior Modifications:	\$ 40,190,930
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 377,215,930
This Request:	\$ 1,200,000
% of This Request to Current Amount:	0.3%
% of Modifications (including This Request) to Original Amount:	12.3%

Discussion:

This retroactive modification is for the excavation of the TBM launch box by mechanical methods, in lieu of drill and blast methods, from July to November 2009, including rock indicated by the contract documents ("contract rock") and rock above that indicated by the contract documents ("high rock").

The contract calls for the relocation and restoration of utilities, construction of access shafts at 69th Street and 72nd Street as well as providing sumps, drainage, lighting systems and temporary decking. The contract also calls for the construction of a watertight structure in Second Avenue between 91st and 95th Streets as a launch site for the tunnel boring machine ("the TBM launch box"), construction of shafts at 69th and 72nd Streets, and construction of two bored tunnels between 63rd and 92nd Streets.

In July 2009, in accordance with the approved contract schedule, the contractor was ready to begin rock excavation of the TBM launch box by drill and blast methods. However, when the contractor applied for a blasting permit, NYC Department of Buildings ("NYCDOB") instead issued an emergency declaration and ordered the building at 1766/1768 Second Avenue, which is adjacent to the TBM launch box work site, to be vacated in June 2009. NYCDOB would not permit blasting until the building was sufficiently stabilized to withstand the vibrations blasting causes. MTA acted to stabilize the building and NYCDOB finally issued the blasting permit on November 4, 2009.

If the contractor could not excavate rock throughout the summer and early fall of 2009, the contract would have suffered day-for-day delay with potentially high impact costs. Accordingly, to minimize schedule delay and impact costs the contractor was permitted to excavate rock in the TBM launch box area using less disruptive mechanical methods (hoe ram and rock drills) while the building stabilization was being performed. Rock was removed by mechanical methods from July 2009 through November 4, 2009, the date NYCDOB declared the building was stabilized and issued the blasting permit. The total amount of rock removed by mechanical methods was 6,477 cubic yards (CY), of which 5,427 CY had been indicated by the contracts ("contract rock") and 1,050 CY was above that indicated by the contract documents ("high rock").

The contract documents include a Geotechnical Baseline Report (GBR) which defines the quantity of rock to be excavated for the TBM launch box; the definition includes a profile indicating the top of the rock. The "contract rock" is the 5,427 CY indicated by the GBR profile. This modification covers differential cost for excavating 5,427 CY of "contract rock" using the mechanical methods (hoe ram and rock drills), in lieu of the less costly drill and blast methods.

As the contractor began excavation, it immediately encountered rock at elevations above that indicated by the GBR profile, or "high rock". This modification covers the cost for excavating 1,050 CY of "high rock", including: excavation of sound rock with mechanical methods; disposal of sound rock; and credit for not removing and disposing the same volume of contaminated soil.

The contractor's proposal was \$1,896,978. MTACC's revised estimate was \$1,105,433. Negotiations resulted in the agreed upon lump sum of \$1,200,000 and was found to be fair and reasonable. Savings of \$696,978 were achieved.

The MTACC President approved retroactive waivers in July 2010.

PROCUREMENTS

The Procurement Agenda this month includes 4 actions for a proposed expenditure of \$2.3M.

Staff Summary

Date	March 8, 2011
Vendor Name	N/A
Contract Number	N/A
Contract Manager Name	N/A
Table of Contents Ref #	

Internal Approvals			
Order	Approval	Order	Approval
3	President		
2	Executive VP		
1	General Counsel		

PURPOSE:

To obtain (i) approval of the Board to award various contracts/contract modifications and purchase orders, as reviewed by the MTA Bus Operations Committee, and (ii) ratification of the procurements listed below.

DISCUSSION:

MTA Bus Company proposes to award Non-Competitive procurements in the following categories:

None

Long Island Bus proposes to award Non-Competitive procurements in the following categories:

None

NYC Transit Department of Buses proposes to award Non-Competitive procurements in the following categories:

<u>Procurements Requiring Two-Thirds Vote</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule A: Non-Competitive Purchases and Public Work Contracts	1	\$1.7M
	<u># of Actions</u>	<u>\$Amount</u>
Total Non-Competitive Procurements	1	\$1.7M

MTA Bus Company proposes to award Competitive procurements in the following categories:

None

Long Island Bus proposes to award Competitive procurements in the following categories:

None

NYC Transit Department of Buses proposes to award Competitive procurements in the following categories:

<u>Procurements Requiring Two-Thirds Vote</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule B: Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)	1	TBD
<u>Procurements Requiring Majority Vote</u>		
Schedule G: Miscellaneous Service Contracts	2	\$0.6M
	<u># of Actions</u>	<u>\$ Amount</u>
Total Competitive Procurements	3	\$0.6M

MTA Bus Company proposes seeks Ratifications in the following categories:

None

Long Island Bus proposes to award Ratifications in the following categories:

None

NYC Transit Department of Buses seeks Ratifications the following categories:

None

	<u># of Actions</u>	<u>\$ Amount</u>
Total Procurements	4	\$2.3M

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 work contracts, and the solicitation and award of requests 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, and certain budget adjustments to estimated quantity contracts; and

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, 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.
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; and 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.

MARCH 2011

LIST OF NON-COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Two-Thirds Vote:

A. Non-Competitive Purchases and Public Work Contracts

(Staff Summaries required for all items greater than: \$100K Sole Source; \$250K Other Non-Competitive.) Note – in the following solicitations, NYC Transit attempted to secure a price reduction. No other substantive negotiations were held except as indicated for individual solicitations.

I. MV Sales & Leasing, Inc.

\$1,667,295.00 (Est.)

Staff Summary Attached

Contract # U-A221774, U-A221772

Purchase of 15 gasoline-powered MV-1 vehicles and 15 CNG powered MV-1 vehicles for test and evaluation.

MARCH 2011

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Two-Thirds Vote:

B. Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)

(Staff Summaries required for items estimated to be greater than \$1M.)

- | | | |
|--|-------------------------------------|--------------------------------------|
| <p>1. Contractor To Be Determined
 Contract # B-40647
 Contract Term To Be Determined</p> | <p>Cost To Be Determined</p> | <p><u>Staff Summary Attached</u></p> |
|--|-------------------------------------|--------------------------------------|
- RFP Authorizing Resolution for the purchase of 74 40-foot, low-floor CNG powered buses.

Procurements Requiring Majority Vote:

G. Miscellaneous Service Contracts

(Staff Summaries required for all items greater than: \$100K Sole Source; \$250K Other Non-Competitive; \$1M RFP; No Staff Summary required if sealed bid procurement.)

- 1. Crossroads Welding and Machine, Inc. \$249,000.00 (Est.)**
Two Bids/Low Bidder – Two year contract
Contract # 10I0309

This contract is for on-site counter boring of Detroit Diesel Series 50 and Series 60 engine blocks for installation of sleeves for in-chassis overhaul on an 'as-needed' basis for NYC Transit's Department of Bus (DOB). The bus fleets affected include: 40' Orion and Nova RTS diesel fleets and New Flyer Articulated diesel buses. The contractor performs, in a NYC Transit facility, specialized machine work on the engine block while it is mounted in the bus chassis without removing the engine from the bus. Two bids were received. Crossroads Welding and Machine Inc. (Crossroads) submitted a bid of \$280,000 and Atlantic Detroit Diesel Allison (ADDA) submitted a bid of \$291,500. Neither bid was deemed fair and reasonable, as historical pricing was lower. Additionally, Crossroads' bid did not include bid security, rendering it non responsive. A market survey was conducted and all bids were rejected. Numerous vendors were contacted and it was determined that Crossroads and ADDA were the only firms with the specialized equipment and ability to perform the work in-chassis. The market survey also identified certain reductions in insurance requirements that might elicit better pricing. As such, both companies provided quotations based on updated contract requirements, with Crossroads submitting a price of \$249,000, a reduction of \$31,000 from its original bid and ADDA submitting the same price as its original bid of \$291,500. Crossroads' overall pricing increased by 1.7% per year from the price of the previous procurement for this type of work. The final price is considered to be fair and reasonable.

MARCH 2011

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

G. Miscellaneous Service Contracts Cont'd

(Staff Summaries required for all items greater than: \$100K Sole Source; \$250K Other Non-Competitive; \$1M RFP; No Staff Summary required if sealed bid procurement.)

2. **Cummins Power Systems, LLC** **\$369,000.00 (Est.)**
Two Bids/Low Bidder – Three year contract
Contract # 10G0296A

This estimated quantity contract is for the repair of Cummins Diesel engines for NYC Transit's Department of Buses (DOB) and the MTA Bus Company (MTABC) bus fleets. The contractor is required to provide all work, labor, materials, transportation (towing), and expenses for the repair of Cummins diesel engines including M11, ISB, and ISB02. The work includes repair and/or replacement of fuel pumps, injectors, turbochargers, cylinder heads, valves, electronic control module reprogramming, etc. The contractor is required to pick up the bus within 24 hours of notification and complete the work within five business days from receipt of the Project Manager's notice to proceed. Repairs of this nature are critical in maintaining DOB and MTABC's bus fleets in a state of good repair in order to meet service demands.

As no bids were originally received at the bid opening, a survey was conducted that revealed that due to an administrative oversight, Cummins Power Systems, LLC (Cummins Power) missed the bid opening date and another vendor Truck and Bus Stop Company Inc. (Truck) indicated that they were unclear on the technical specifications. The survey also indicated that one additional potential vendor was unwilling to add additional resources to accommodate a contract of this size. All other companies surveyed indicated that they felt that they would not be competitive. Therefore Cummins and Truck were asked to provide quotations.

The incumbent, Cummins Power submitted the lowest quotation of \$390,000 while Truck submitted a quotation of \$621,470. Subsequent to receipt of these proposals cost discussions with Cummins Power resulted in a price concession of \$21,000 which included a reduction in the hourly labor rate from \$105 to \$102 and an increase in the pricebook discount rate from 20% to 30%. These rates are the same as those paid on the previous procurement. Labor charges for each repair are determined by multiplying the contractual labor rate times the hours specified in the *Standard Repair Time* Guidelines published by Cummins. The final price of \$369,000 (DOB \$239,850 and MTABC \$129,150) was found to be fair and reasonable.

Schedule A: Non-Competitive Purchases and Public Work Contracts



Item Number: **A-1**

Vendor Name (& Location) MV Sales & Leasing (Fairfield, CA)		Contract Number U-A221774, U-A221772	Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Description Purchase of 15 MV-1 gasoline vehicles and 15 MV-1 CNG vehicles for test and evaluation		Total Amount: \$1,667,295.00 (Est.)	
Contract Term (including Options, if any) Delivery within 90 days of notice of award		Funding Source <input checked="" type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> n/a		Requesting Dept/Div & Dept/Div Head Name: Department of Buses, Darryl C. Irick	
Procurement Type <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Non-competitive			
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Non-competitive			

Discussion:

It is requested that the Board declare competitive bidding impractical or inappropriate pursuant to Public Authorities Law §1209, subsection 9(d), and approve the purchase of 15 MV-1 gasoline vehicles and 15 MV-1 Compressed Natural Gas (CNG) vehicles for test and evaluation.

In an ongoing effort to reduce operating costs and environmental impact, Paratransit is currently evaluating all aspects of its operations, including its vehicle fleet size and type. Paratransit operates a fleet of 2,556 vehicles, comprised of 1,893 buses with wheelchair accessibility and 663 sedans dedicated to ambulatory customers. Paratransit is seeking flexibility and cost savings by considering the more versatile MV-1 vehicle as a replacement for the Paratransit bus.

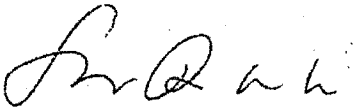


The Vehicle Production Group (VPG) is the designer, developer, marketer of the MV-1. The MV-1 is being manufactured under contract by AM General (manufacturer of the HUMVEE for the U.S. Military) and is the first OEM designed and assembled accessibility vehicle in the country. It is the first purpose-built vehicle for both ambulatory and mobility impaired passengers to meet ADA vehicle guidelines. It seats up to five passengers with dedicated space for a wheelchair or scooter situated next to the driver. The MV-1 features an extremely large doorway with a low step-in for easy entry and a fully integrated power ramp with a 1,200-lb capacity. VPG partnered with MV Transportation (MVT) and has identified MVT as the local service and warranty support facility for MV-1 vehicles. MV Sales & Leasing (MVSL), a subsidiary of MVT, is the sole authorized sales distributor for fleet application of the MV-1. NYC Transit will receive the same five year/175,000 mile extended structural warranty required by Paratransit for its buses.

The purpose of testing the MV-1 is to gain first-hand experience in operating this new vehicle in revenue service in the New York City environment, as well as to evaluate its reliability, maintainability and fuel economy. All major components and structures will be inspected on a monthly basis, along with a complete review of all maintenance files, fuel efficiencies and operational costs. The propulsion system of the MV-1 is available as gasoline or CNG. City fuel economy for the gasoline MV-1 is approximately 15 miles per gallon (MPG) and 13 MPG on the CNG MV-1 compared to the 7 MPG on the Paratransit bus.

The initial pricing received from MVSL was \$54,742.53 for each Gasoline model and \$67,806.53 for each CNG model. MVSL submitted its BAFO of \$49,231 for the gasoline model and \$61,922 for the CNG model. Through rigorous negotiations between Procurement and MVSL, the BAFO resulted in a total cost savings of \$170,941. The price received is either better or the same as other municipal agencies which have ordered like or significantly larger quantities. Based on this the final pricing was found to be fair and reasonable. Delivery will be 90 days after notice of award.

In accordance with Public Authorities Law Section 1209, paragraph 9, this contract will not be awarded earlier than 30 days from the date on which the Board declares competitive bidding impractical or inappropriate.

Staff Summary

Item Number B-1					
Division & Division Head Name: VP Materiel, Stephen M. Plochoch					
Division Head Signature & Date					
					
Board Reviews					
Order	To	Date	Approval	Info	Other
Internal Approvals					
Order	Approval	Order	Approval		
1	Materiel	5	Executive VP 		
2 <input checked="" type="checkbox"/>	Law	6	President 		
3 <input checked="" type="checkbox"/>	SVP Buses	7			
4 <input checked="" type="checkbox"/>	Budget	8			

SUMMARY INFORMATION	
Vendor Name NA	Contract Number B40647
Description Purchase of 74 40' buses powered by Compressed Natural Gas (CNG) with an option to purchase up to 30 additional buses.	
Total Amount N/A	
Contract Term (Including Options, if any) TBD	
Option(s) Included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
Solicitation Type <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
Funding Source <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	

PURPOSE/RECOMMENDATION:

To request that the Board determine that competitive bidding is impractical or inappropriate for the procurement of 74 40' low floor buses powered by compressed natural gas (CNG) for MTA Bus Company (MTABC) with an option to purchase up to 30 additional buses, and that it is in the public interest to issue a competitive request for proposals (RFP) pursuant to subdivision 4(g) of Section 1265-a of the Public Authorities Law.

DISCUSSION:

Subdivision 4(g) of Section 1265-a of the Public Authorities Law permits MTABC to use a competitive RFP in lieu of competitive bidding to award a contract based on a formal evaluation of characteristics such as quality, cost, etc. against stated selection criteria. MTABC is desirous of utilizing such a procedure with respect to the procurement of 74 low floor CNG buses. In compliance with the MTA directives regarding bus emissions, MTABC plans to continue to use CNG buses. Presently CNG buses are deployed in 2 MTABC depots, College Point (146) and Spring Creek (28).

The base quantity of 74 CNG buses will be purchased based on the replacement of aging CNG buses. The 30 option buses may be purchased to permit the possible conversion of routes presently using diesel buses to CNG and to maximize the capacity of depot utilization for CNG buses.

By utilizing the RFP process, MTABC will be able to: 1) weigh factors such as overall project price, overall quality of proposer and product; 2) negotiate specific contract terms, such as warranty and payment terms; 3) negotiate technical matters as deemed appropriate; and 4) include any other factors that MTABC deems relevant to its operation.

Staff Summary

The RFP process will allow MTABC to arrive at the best overall proposal through negotiations and evaluation based on criteria that reflect the critical needs of the agency. Upon completion of the RFP process, MTABC intends to obtain Board approval for the actual contract award.

The MTA applied for, and was granted funds in association with a Federal Transit Administration (FTA) State of Good Repair Bus initiative to fund in part, the purchase of these 74 CNG buses.

ALTERNATIVE:

Issue a competitive IFB. Not recommended, given the complexity of this procurement and the advantages offered by the RFP process.

IMPACT ON FUNDING:

Funds for the procurement of the 74 buses will be funded under SF02-0077. This project is anticipated to be 80% federally funded under the Federal Grant cited above and 20% MTA locally funded.

**METRO-NORTH/LONG ISLAND
COMMITTEES**

PROCUREMENTS

FOR

BOARD ACTION

March 23, 2011

Subject Request for Authorization to Award Various Procurements						Date March 23, 2011			
Department Procurement & Logistics - LIRR <i>[Signature]</i>						Department Law and Procurement - MTACC			
Department Head Name Dennis L. Mahon, Chief Procurement & Logistics Officer						Department Head Name <i>[Signature]</i> Jayne Czik, Acting General Counsel by JcA			
Department Head Signature <i>[Signature]</i>						Department Head Signature <i>[Signature]</i>			
Department Procurement & Material Management - MNR									
Department Head Name Anthony J. Bombace, Jr., Director, Procurement & Material Management									
Department Head Signature <i>[Signature]</i>									
Board Action						Internal Approvals			
Order	To	Date	Approval	Info	Other	Order	Approval	Order	Approval
1	LIRR/MNR Committee	3.21.11				X	President, LIRR <i>[Signature]</i>		
2	MTA Board	3.23.11				X	President, MNR <i>[Signature]</i>		
						X	President, MTACC		<i>[Signature]</i>

PURPOSE:

To obtain approval of the Board to award various contracts and purchase orders, and to inform the Metro-North/Long Island Committee of these procurement actions.

DISCUSSION:

LIRR proposes to award Non-Competitive procurements in the following categories: None

MNR proposes to award Non-Competitive procurements in the following categories:

Schedules Requiring Two-Thirds Vote

Schedule A: Non-Competitive Purchases and Public Work Contracts	# of Actions	\$ Amount
	1	\$1.450M

Schedules Requiring Majority Vote

Schedule G: Miscellaneous Service Contracts	SUBTOTAL:	
	1	\$8.305M
	2	\$9.755M

MTACC proposes to award Non-Competitive procurements in the following categories: None

LIRR proposes to award Competitive procurements in the following categories:

Schedules Requiring Two-Thirds Vote

	<u># of Actions</u>	<u>\$ Amount</u>
Schedule B: Competitive Requests for Proposals	1	\$TBD
SUBTOTAL:	1	\$TBD

MNR proposes to award Competitive procurements in the following categories:

Schedules Requiring Two-Thirds Vote

	<u># of Actions</u>	<u>\$ Amount</u>
Schedule C: Competitive Requests for Proposals	1	\$1.408M
SUBTOTAL:	1	\$1.408M

MTACC proposes to award Competitive procurements in the following categories:

Schedules Requiring Two-Thirds Vote

	<u># of Actions</u>	<u>\$ Amount</u>
Schedule I: Modifications to Purchase Contracts and Public Work Contracts	5	\$27.515M
SUBTOTAL:	5	\$27.515M

LIRR proposes to award Ratifications in the following categories: None

MNR proposes to award Ratifications in the following categories: None

MTACC proposes to award Ratifications in the following categories: None

TOTAL: 9 \$38.678M

The contractors noted above and on the following Staff Summary Sheets have been found in all respects responsive and responsible, and are in compliance with State laws and regulations concerning procurements.

BUDGET IMPACT:

The purchases/contracts will result in obligating Long Island Rail Road, Metro-North Railroad and MTA Capital Construction operating and capital funds in the amount listed. Funds are available in the current operating/capital budgets for this purpose.

RECOMMENDATION:

That the purchases/contracts be approved as proposed. (Items are included in the resolution of approval at the beginning of the Procurement Section.)

METROPOLITAN TRANSPORTATION AUTHORITY

WHEREAS, in accordance with Section 1265-a and Section 1209 of the Public Authorities law and the All Agency Procurement Guidelines, the Board authorizes the award of certain non-competitive purchase and public work 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 procurement contracts, and certain change orders to procurement, public work, and miscellaneous procurement contracts; and

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, the Board resolves as follows:

1. As to each purchase and public work contract set forth in the 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 it is deemed in the public interest to obtain authorization to solicit competitive proposals through a publicly advertised RFP for the reasons specified therein the Board declares it to be impractical or inappropriate to utilize a procurement process inviting sealed bids with award to the lowest responsive/responsible bidder.
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. The Board ratifies each action taken set forth in Schedule D 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; and 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.

MARCH 2011

METRO-NORTH RAILROAD

LIST OF NON-COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Schedules Requiring Two-Thirds Vote:

A. Non-Competitive Purchases and Public Work Contracts

(Staff Summaries required for all items greater than: \$100K; \$250K Other Non-Competitive)

1. Westcode, Inc. \$1,450,000 (not-to-exceed) Staff Summary Attached

Two (2) Year Purchase Agreement for M2/4/6 Air Brake Replacement Parts

Non-competitive, two (2) year purchase agreement for various OEM replacement parts for the air brake systems on MNR's M2/4/6 Railcar fleets. These replacement parts will be purchased as-needed and negotiated on an individual parts basis prior to their purchase. The projected usage of the Westcode material and the total not-to-exceed amount of this Board Authorization takes into consideration the projected retirement of the M2 Fleet.

Westcode is the OEM and sole source for this replacement part material. A sample of individual parts purchases from this vendor since 2008 has shown an average price increase of approximately 5.6%. This price increase compares favorably to an average increase of approximately 10 % in the US Bureau of Labor Statistics Producer Price Indices for the commodities most commonly used in the Westcode parts, as well as the Consumer Price Index, over the same two-year period. Pricing is deemed to be fair and reasonable. Advertisements placed in the last 12 months along with outreach to prospective alternate suppliers have not identified any additional sources of supply. LIRR's use of Westcode parts is minimal so a prospective joint procurement was not feasible at this time. The agreement is available for use (same terms/pricing) by LIRR if their usage increases. This procurement is to be funded by the MNR Operating Budget.

Schedules Requiring Majority Vote:

G. Miscellaneous Service Contracts

(Staff Summaries required for all items greater than: \$100K Sole Source; \$250K Other Non-Competitive; \$1M RFP; No Staff Summary required if Sealed Bid Procurement.)

2. PHW, Inc. \$8,304,923 (not-to-exceed) Staff Summary Attached

Design, Fabrication and Delivery of Integrated ATC/ACSES II package

Bombardier-manufactured Center-Door Coach Cars and GE-manufactured Genesis Locomotive Cab Signal Systems

Non-competitive, negotiated, miscellaneous service contract for the Design, Fabrication and Delivery of a Replacement Cab Signal/ATC System with an integrated ACSES II package for 22 Bombardier Center-Door Coach Cab Cars and 31 GE Genesis Locomotives at a total cost not-to-exceed \$7,679,371. An option in the amount of \$625,552 shall be included within this Board approval for the possible application of the Genesis package into MNR's six GP-35 Locomotives. The total value of the request is not-to-exceed \$8,304,923.

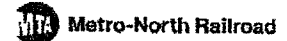
Due to their advanced service life, the diminishing reliability of the Shoreliner Center-Door Coach fleet's US&S-manufactured Cab Signal and Automatic Train Control (ATC) has been determined to be unacceptable and has negatively impacted the fleet's reliability in revenue service. In addition, MNR has incurred increased maintenance costs. The Genesis Locomotive's existing Alstom-manufactured Cab Signal system is creating operational problems with 22% of the failures resulting in train delays. Further, prospective design changes to the existing equipment are no longer supported by the OEMs. US&S and Alstom confirmed that updating the existing on-board systems was not cost effective in light of new cab signal technologies. MNR has determined that a replacement of the cab signal systems for both the Center-Door Coach Cab cars and the Genesis Locomotives should be performed as quickly as possible.

In order to reduce overall costs in the systems' replacement, MNR has determined that the replacement Cab Signal Systems should also include ACSES II PTC functionality which is federally mandated to be applied by 2015. MNR has selected the utilization of a Cab Signal/Automatic Train Control System with an integrated ACSES II package manufactured by the firm, PHW. PHW is the manufacturer of the integrated ATC/ACSES II Cab signal system currently being supplied to AMTRAK and is used on their Genesis Locomotives. By utilizing an existing product, MNR's Non-Recurring costs and risk are reduced. In addition, MNR's Mechanical Department shall be able to move forward with one common ADU (Aspect Display Unit) on its existing EMU and Locomotive fleets sans M7 thus reducing inventory and allows the Railroad to maximize the available space on both types of equipment, as this can only be accomplished by having a single integrated system.

Further, PHW was also the supplier of replacement cab signal/ATC systems that were successfully installed and were operating reliably on MNR End Door coaches during their recent overhaul. Non-Recurring costs will be reduced due to PHW's familiarity with the application along with additional cost savings resulting from concurrent application designs for both Cab Car and Genesis systems. Additionally, the common design results in a consistency of replacement parts that reduces overall inventory requirements and maximizes the efficiency of maintaining the rolling stock fleet. With non-recurring engineering costs reduced for both Coach Cars and Locomotives, the total one-time estimated cost avoidance is approximately \$470K.

The total proposed cost of these systems, \$8,304,923, is broken down as follows: \$3,871,548 for the Coach fleet and \$3,807,823 for the Genesis Locomotives and an option in the amount of \$625,552 for the GP-35 Locomotives. These costs were evaluated and deemed to be fair and reasonable in comparison to the prices paid for the recently solicited systems by Amtrak. Based upon the fact that LIRR does not operate Genesis Locomotives or Shoreliner Cab Cars, a joint procurement is not viable. This procurement is to be funded by the MNR Operating and Capital Budgets (\$5.9M) and by CDOT (\$1.8M) with an option amount of \$0.63M (.16M by CDOT).

Schedule A: Non-Competitive Purchases and Public Work Contracts



Item Number: **A**

Vendor Name (& Location) Westcode, Inc., Westchester, PA	
Description OEM Purchase Agreement for M2/4/6 Air Brake Replacement Parts	
Contract Term (including Options, if any) Two (2 Years)	
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Procurement Type <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Non-competitive	
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Sole Source/OEM	

Contract Number Purchase Agreement/Omnibus	Renewal? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Total Amount:	\$1,450,000 (not-to-exceed)
Funding Source <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name: Procurement & Material Management, Anthony J. Bombace, Jr.	
Contract Manager: David L. Smutzler	

Discussion:

Non-competitive, two (2) year purchase agreement for various OEM replacement parts for the air brake systems on MNR's M2/4/6 Railcar fleets. These replacement parts will be purchased as-needed and negotiated on an individual parts basis prior to their purchase. The projected usage of the Westcode material and the total not-to-exceed amount of this Board Authorization takes into consideration the projected retirement of the M2 Fleet.

Westcode is the OEM and sole source for this replacement part material. A sample of individual parts purchases from this vendor since 2008 has shown an average price increase of approximately 5.6%. This price increase compares favorably to an average increase of approximately 10 % in the US Bureau of Labor Statistics Producer Price Indices for the commodities most commonly used in the Westcode parts, as well as the Consumer Price Index, over the same two-year period. Pricing is deemed to be fair and reasonable. Advertisements placed in the last 12 months along with outreach to prospective alternate suppliers have not identified any additional sources of supply. LIRR's use of Westcode parts is minimal so a prospective joint procurement was not feasible at this time. The agreement is available for use (same terms/pricing) by LIRR if their usage increases. This procurement is to be funded by the MNR Operating Budget.

Schedule G: Miscellaneous Service Contracts



Page 1 of 2

Item Number: G

Vendor Name (& Location) PHW Inc.	
Description: Design, Fabrication and Delivery of a Replacement Cab Signal/ATC System with an integrated ACSES II package for Bombardier Center-Door Coach Cab Cars and GE Genesis P32-AC Locomotives.	
Contract Term (including Options, if any) Three (3) Years	
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Procurement Type <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Non-competitive	
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Sole Source	

Contract Number TBD	Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Total Amount:	\$8,304,923 (not-to-exceed)
Funding Source <input checked="" type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input checked="" type="checkbox"/> Other: CDOT	
Requesting Dept/Div: <u>Procurement & Material Management</u> Dept/Div Head Name: <u>Anthony J. Bombace, Jr.</u>	
Contract Manager: <u>A. Muir</u>	

Discussion:

Non-competitive, negotiated, miscellaneous service contract for the Design, Fabrication and Delivery of a Replacement Cab Signal/ATC System with an integrated ACSES II package for 22 Bombardier Center-Door Coach Cab Cars and 31 GE Genesis Locomotives at a total cost not-to-exceed \$7,679,371. An option in the amount of \$625,552 shall be included within this Board approval for the possible application of the Genesis package into MNR's six GP-35 Locomotives. The total value of the request is not-to-exceed \$8,304,923.

Due to their advanced service life, the diminishing reliability of the Shoreliner Center-Door Coach fleet's US&S-manufactured Cab Signal and Automatic Train Control (ATC) has been determined to be unacceptable and has negatively impacted the fleet's reliability in revenue service. In addition, MNR has incurred increased maintenance costs. The Genesis Locomotive's existing Alstom-manufactured Cab Signal system is creating operational problems with 22% of the failures resulting in train delays. Further, prospective design changes to the existing equipment are no longer supported by the OEMs. US&S and Alstom confirmed that updating the existing on-board systems was not cost effective in light of new cab signal technologies. MNR has determined that a replacement of the cab signal systems for both the Center-Door Coach Cab cars and the Genesis Locomotives should be performed as quickly as possible.

In order to reduce overall costs in the systems' replacement, MNR has determined that the replacement Cab Signal Systems should also include ACSES II PTC functionality which is federally mandated to be applied by 2015. MNR has selected the utilization of a Cab Signal/Automatic Train Control System with an integrated ACSES II package manufactured by the firm, PHW. PHW is the manufacturer of the integrated ATC/ACSES II Cab signal system currently being supplied to AMTRAK and is used on their Genesis Locomotives. By utilizing an existing product, MNR's Non-Recurring costs and risk are reduced. In addition, MNR's Mechanical Department shall be able to move forward with one common ADU (Aspect Display Unit) on its existing EMU and Locomotive fleets sans M7 thus reducing inventory and allows the Railroad to maximize the available space on both types of equipment, as this can only be accomplished by having a single integrated system.

Further, PHW was also the supplier of replacement cab signal/ATC systems that were successfully installed and were operating reliably on MNR End Door coaches during their recent overhaul. Non-Recurring costs will be reduced due to PHW's familiarity with the application along with additional cost savings resulting from concurrent application designs for both Cab Car and Genesis systems. Additionally, the common design results in a consistency of replacement parts that reduces overall inventory requirements and maximizes the efficiency of maintaining the rolling stock fleet. With non-

Schedule G: Miscellaneous Service Contracts

recurring engineering costs reduced for both Coach Cars and Locomotives, the total one-time estimated cost avoidance is approximately \$470K.

The total proposed cost of these systems, \$8,304,923, is broken down as follows: \$3,871,548 for the Coach fleet and \$3,807,823 for the Genesis locomotives and an option in the amount of \$625,552 for the GP-35 Locomotives. These costs were evaluated and deemed to be fair and reasonable in comparison to the prices paid for the recently solicited systems by Amtrak. Based upon the fact that LIRR does not operate Genesis Locomotives or Shoreliner Cab Cars, a joint procurement is not viable. This procurement is to be funded by the MNR Operating and Capital Budgets (\$5.9M) and by CDOT (\$1.8M) with an option amount of \$0.63M (.16M by CDOT)



MARCH 2011

MTA LONG ISLAND RAIL ROAD

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Two-Thirds Vote

Schedule B: Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)

(Staff Summaries only required for items estimated to be greater than \$1 million)

- | | | | |
|----|--|-------------|-------------------------------|
| 1. | TBD
Competitive RFP
Contract No. 6073 | STBD | <u>Staff Summary Attached</u> |
|----|--|-------------|-------------------------------|

LIRR requests approval to adopt a resolution declaring that competitive bidding is impractical or inappropriate and that it is therefore in the public interest to use the Request for Proposal (RFP) process pursuant to Section 1265-A of the Public Authorities Law to award a contract for the construction of the LIRR's Queens Blvd. Bridge. This bridge is located in Queens County, New York.

Schedule B: Competitive Requests for Proposals (Solicitation of Purchase & Public Work Contracts)

Staff Summary



Page 1 of 2

Item Number: 1					
Dept & Dept Head Name: Procurement & Logistics, Dennis Mahon					
Department Head Signature & Date					
Division & Division Head Name: Chief Prog. Officer, Kevin Tomlinson					
Division Head Signature & Date					
Board Reviews					
Order	To	Date	Approval	Info	Other
1	LI Committee	3.21.11			
2	MTA Board	3.23.11			
Internal Approvals					
Order	Approval	Order	Approval		
6	President <i>[Signature]</i>	3	VP/CFO <i>[Signature]</i>		
5	Executive VP <i>[Signature]</i>	2	Sr. VP/Operations		
4	VP/Gen'l Counsel & Sec'y <i>[Signature]</i>	1	Sr. VP/Administration		

SUMMARY INFORMATION	
Vendor Name	Contract Number
TBD	6073
Description	
Queens Blvd. Below Deck Repair Construction	
Total Amount	
TBD	
Contract Term (including Options, if any)	
18 months	
Options(s) included in Total Amount: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Procurement Type	
<input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-Competitive	
Solicitation Type	
<input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
Funding Source	
<input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	

Narrative:

I. PURPOSE/RECOMMENDATION

LIRR requests approval to adopt a resolution declaring that competitive bidding is impractical or inappropriate and that it is therefore in the public interest to use the Request for Proposal (RFP) process pursuant to Section 1265-A of the Public Authorities Law to award a contract for the construction of the LIRR's Queens Blvd. Bridge. This bridge is located in Queens County, New York.

II. DISCUSSION

The Bridge Replacement / Rehabilitation project is part of LIRR's 2005 to 2009 Capital Program plan to bring line structure elements to a state of good repair. The Queens Blvd Bridge has experienced a high degree of deterioration with localized states of disrepair and is not functioning as originally designed. This deterioration includes undermined bridge bearings, severe concrete cracking and spalling, structural steel section loss and has required LIRR to erect temporary shoring as a safety measure. These conditions have the potential to impact both safety and on-time performance. The bridge will require specialized construction involving temporary support of the bridge while structural work is performed, with reconstruction and replacements around the clock to minimize disruption to Queens Blvd. roadway, which is one of the largest and busiest traffic corridors in the nation. Railroad track outages will also have to be carefully coordinated with Queens Blvd. roadway lane closures to successfully complete the work. The construction is planned to span an eighteen-month period.

A Request For Expressions of Interest (RFEI) was conducted to obtain input from the contracting community. The feedback gained highlighted the difficulties of performing this specialized work under the difficult conditions; a congested roadway, the LIRR's main access tracks into Penn Station above and the restrictions imposed by NYCDOT. The NYCDOT is allowing very specific and restricted construction windows to complete work such as bearing replacements and underdeck concrete repairs that require traffic lane closures. The Contractor will be required to obtain lane closure permits from NYCDOT. The LIRR will be working closely with NYCDOT as well as local government and community officials to minimize impact on vehicular traffic and to make sure proper notifications to motorists and to LIRR customers are made well in advance of any planned work. The feedback also demonstrated that use of a competitive RFP process for this complicated project would lead to a partnering relationship with the contractor and a better understanding of project requirements prior to contract award, which would assist in obtaining a better contract price. The LIRR used a similar approach during recent reconstruction of the Atlantic Avenue viaduct in Brooklyn and was able to successfully keep both train and vehicular traffic moving during construction while minimizing impacts on local communities.

Schedule B: Competitive Requests for Proposals (Solicitation of Purchase & Public Work Contracts)

Staff Summary



Page 2 of 2

The utilization of the RFP process will allow the LIRR to better assess which Contractors are capable of performing the work and to work out a fair allocation of risk to insure competition. Additionally, the RFP process gives the Railroad the ability to negotiate and evaluate terms other than price alone, such as the Contractor's work plan, equipment, past performance and work experience on Railroad bridges, qualifications of key personnel and safety record.

III. D/M/WBE INFORMATION

Goals for this Contract are to be determined by the MTA Office of Civil Rights.

IV. IMPACT ON FUNDING

This project will be funded from the 2005 - 2009 Capital Program budget.

V. ALTERNATIVES

LIRR does not have in-house staff who can perform this work. The alternative to not performing this work at this time will be continued deterioration of the bridge should this project not go forward.

MARCH 2011

METRO-NORTH RAILROAD

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Schedules Requiring Two-Thirds Vote:

C. Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)
(Staff Summaries required for items requiring Board approval)

1. John Iacono, Inc. \$1,407,940 (not-to-exceed) Staff Summary Attached
Engineering, Design, Fabrication & Delivery of 34 Genesis Locomotive Air Compressors
RFP process, two (2) proposals received, 18-month contract to perform engineering, design, fabrication and delivery of 34 replacement Genesis Locomotive Air Compressors to the firm, John Iacono, Inc. (JII), to increase reliability and financial savings on the Genesis Locomotive fleet currently operated by MNR.

In February 2008, the MTA Board approved using a test program in which MNR installed two compressors manufactured by Knorr Brake Corp. (KBC) and Atlas Copco (John Iacono, Inc. is the distributor for Atlas Copco). The test program was conducted by MNR's Maint. of Equipment Department as a direct result of the poor performance on the existing air compressors which were achieving only 25% of their anticipated service life. The testing program was used to determine which was the best available air compressor unit suited for railroad service. As a result of that test it was determined that both Atlas Copco and Knorr Brake Corp. (KBC) had the capacity to design and deliver state-of-the-art equipment that could meet MNR's reliability goals for air compressors.

Subsequently, MNR issued an RFP in November 2010. The RFP clearly indicated to prospective vendors that life cycle costs and maintainability of the units were paramount in the determination of the most effective equipment to be supplied to MNR. Two technical and cost proposals were received on November 30, 2010 from the firms, JII and KBC. After considering their technical capability and price to provide the required equipment, the Selection Committee unanimously determined that John Iacono, Inc. was the best qualified vendor to provide the Locomotive Air Compressors and demonstrated that their units met or exceeded MNR's desired reliability objectives. In addition to the initial acquisition cost, the Atlas Copco unit met or exceeded the Life Cycle Cost and Total Cost of Ownership requirements outlined in the project work scope. Based on the existing average life of the GE-manufactured Genesis Locomotive air compressors and the labor and material used in their maintenance, the purchase of the John Iacono/Atlas Copco units will result in a benefit or cost avoidance total of approximately \$20K per year.

John Iacono's not-to-exceed price of \$1,407,940 is 35.5% less than the other vendor's and is deemed fair and reasonable for the services and equipment to be supplied during the 18-month term of the contract. This procurement is to be funded by the MNR Operating Budget.

Staff Summary

Item Number C					
Dept & Dept Head Name: Procurement & Material Management, Anthony J. Lombace, Jr.					
Division & Division Head Name: Sr. VP - Administration, Raymond Burney					
Board Reviews					
Order	To	Date	Approval	Info	Other
1	M-N Comm.Mtg.	3-21-11	X		
2	MTA Board Mtg.	3-23-11	X		
Internal Approvals					
Order	Approval	Order	Approval		
X	President	X	Sr. V.P. Operations		
X	Sr. V.P. Admin.		V.P. Planning		
X	V.P. Finance & IT	X	General Counsel		
	Capital Programs				

SUMMARY INFORMATION	
Vendor Name John Iacono, Inc. (Atlas Copco)	Contract Number 8654-A
Description Genesis P32-AC Air Compressor Procurement	
Total Amount \$1,407,940 (not-to-exceed)	
Contract Term (including Options, if any) 18 months	
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
Solicitation Type <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
Funding Source <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	

I. PURPOSE/RECOMMENDATION:

To obtain MTA Board approval to award an 18-month contract to perform engineering, design, fabrication and delivery of 34 replacement Genesis Locomotive Air Compressors to the firm, John Iacono, Inc. (JII), to increase the reliability and financial savings on the Genesis Locomotive fleet currently operated by MNR.

II. DISCUSSION:

The purpose and objective of this procurement is to purchase a replacement air compressor unit that will increase both reliability and the Mean Distance Between Failure (MDBF) of the Genesis locomotive fleet.

In February 2008, the MTA Board approved using a test program in which MNR installed two compressors manufactured by Knorr Brake Corp. (KBC) and Atlas Copco (John Iacono, Inc. is the distributor for Atlas Copco). The test program was conducted by MNR's Maint. of Equipment Department as a direct result of the poor performance on the existing air compressors which were achieving only 25% of their anticipated service. The testing program was used to determine which was the best available air compressor unit suited for railroad service. As a result of that test, it was determined that both Atlas Copco and Knorr Brake Corp. (KBC) had the capacity to design and deliver state-of-the-art equipment that could meet MNR's reliability goals for air compressors.

Subsequently, MNR issued a Request for Proposal in November 2010 and advertised in the New York State Contract Reporter, The New York Post and the Standard Minority paper on November 4, 2010. The RFP clearly indicated to the prospective vendors that life cycle costs and maintainability of these units were paramount in the determination of the most effective equipment to be supplied to MNR. Two technical and cost proposals were received on November 30, 2010 from JII and KBC.

A Selection Committee, comprised of 5 members of MNR's Mechanical, Quality Control, Equipment Engineering and P&MM Departments, evaluated the proposals. The criteria for the selection established in the RFP are as follows:

- A. Demonstrated understanding of the work scope requirements
- B. Project plan (detailed schedule of deliverables in accordance with the work scope)
- C. Confidence level, commitment of relevant resources to the project including the qualifications of key personnel and reliability to perform the services including Sub Consultant/Subcontractor Services.
- D. Life Cycle Cost.
-The initial cost of procurement and the total life cycle maintenance expenses for 16 years in accordance with the scope of work; ie.- the Total Cost of Ownership
- E. Past experience on similar projects.

After the Selection Committee's evaluation of both proposals, it was the Committee's unanimous determination that the Atlas Copco unit provided by JII was the best qualified unit and that JII possessed the technical capability to provide the required compressors. The

Staff Summary

J11-proposed Atlas Copco's unit is 35.5% less than the compressor supplied by KBC. In addition to the initial acquisition cost, the Atlas Copco unit met or exceeded the Life Cycle Cost and Total Cost of Ownership requirements outlined in the project work scope. Based on the existing average life of the GE-manufactured Genesis Locomotive air compressors and the labor and material used in their maintenance, the purchase of the John Iacono/Atlas Copco units will result in a benefit or cost avoidance total of approximately \$20K per year.

It is recommended that the MTA Board approve the selection of the firm, John Iacono Inc., for the design, fabrication and delivery of 34 replacement air compressors during an 18-month period at a total not-to-exceed amount of \$1,407,940.

III. D/M/WBE INFORMATION:

The MTA Office of Civil rights did not establish minority participation goals for this contract.

IV. IMPACT ON FUNDING:

The total cost of this contract for the 18-month period is not-to-exceed \$1,407,940. This procurement is to be funded by MNR's Operating Budget.

V. ALTERNATIVES:

None. MNR does not have the Manufacturing and Engineering capability to design and build a replacement air compressor.

Schedule I: Modifications To Purchase & Public Work Contracts
Item 1

Vendor Name (& Location) Perini Corporation, Civil Construction	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Contract Number CH053</td> <td style="width: 50%;">AWO/Modification # 49 Part I</td> </tr> </table>	Contract Number CH053	AWO/Modification # 49 Part I
Contract Number CH053	AWO/Modification # 49 Part I		
Description Harold Structures Part 1			
Contract Term (including Options, if any) 1/2/08 – 9/3/10			
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A			
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive			
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification			
Funding Source <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:			
Requesting Dept/Div & Dept/Div Head Name: East Side Access, A. Paskoff, P.E.			

Original Amount:	\$ 137,280,000.00
Prior Modifications:	\$ 26,438,211.01
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 163,718,211.01
This Request	\$ 415,629.00
% of This Request to Current Amount:	.3%
% of Modifications (including This Request) to Original Amount:	19.6%

Discussion:

MTACC request that the MTA Board approve a modification to Contract CH053 for the storage, loading and unloading and trucking of a prefabricated Substation (GO2).

This contract is for the construction of various civil infrastructure elements in Harold Interlocking and to expand the existing LIRR/Amtrak right-of-way to enable mainline track diversions and facilitate the future construction of tunnel boring machine tunnels for the East Side Access project. The Contract required that the Contractor to complete the construction of the GO2 Substation, energize and place into operation 590 calendar days from the date of the Notice to Proceed. The original schedule for the G02 Substation required that the fabrication, certification of the equipment and delivery to site was to be completed by March 4, 2009.

Field installation of the G02 Substation required construction of upper and lower foundations and a top slab. The foundation and vault work was delayed due to the presence of existing pole guy cables and anchors that were directly inside the footprint of where the substation foundations were to be construction. The removal of the pole and guy cables was originally to be performed by Amtrak after the installation of new Catenary poles. But delays to the design and staging drawings (which also required Amtrak approval) for the new catenary poles prevented removal of these structures in time to meet the March 4th completion date. The removal of the existing pole, guy cables and anchors required an intermediate staging design by the ESA General Engineering Consultant (GEC) and approval by Amtrak. An intermediate design was finally agreed to in August 2009. Perini was issued a modification for the installation of new Catenary pole B921EA on December 3, 2009. Installation of the new foundation and pole was completed on January 15, 2010 and the existing cables relocated by Amtrak. This allowed work on the lower vault to commence in February 2010. Once the G02 Substation Building had been fabricated and factory tested, it needed to be stored until it could be installed. This resulted in a 25 month storage period.

Perini submitted a cost proposal in the amount of \$499,972 and the MTACC estimate is \$420,212. Negotiations were held and the parties agreed to a cost of \$415,629 for the work which includes the costs associated with unloading and loading the substation at the storage facility. The negotiated cost is considered fair and reasonable as the negotiated cost compares favorably to the estimate. This modification shall be a one part modification with the time impact still under review and will be addressed in part two and as part of the overall contract re-baseline schedule. Funding for this modification will be provided by the contract contingency. An errors and omission analysis will be conducted to see if the cost incurred under this modification can be recovered.

Schedule I: Modifications To Purchase & Public Work Contracts
Item 2

Vendor Name (& Location) Perini Corporation, Civil Construction	
Description Harold Structures Part 2A	
Contract Term (including Options, if any) August – 2009 thru December 2011	
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> n/a	
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification	
Funding Source <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name: East Side Access, A. Paskoff, P.E.	

Contract Number	AWO/Modification #
CH054A	7
Original Amount:	\$ 21,777,777
Prior Modifications:	\$ 220,230
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 21,998,007
This Request	\$ 333,967
% of This Request to Current Amount:	1.6%
% of Modifications (including This Request) to Original Amount:	2.6%

Discussion:

MTACC request that the Board approve a modification to Contract CH054A for the construction of an additional retaining wall.

The work under this Contract involves civil construction work consisting of demolition, clearing, grubbing and grading, construction of retaining walls, storm sewers and utility relocation in the Harold Interlocking area.

Due to the need to relocate a Central Instrumentation Location (CIL) house to accommodate Catenary Pole relocation (done under a previous modification), it was determined that a retaining wall was needed to protect the new H-4 Signal house, which is currently in fabrication and to be completed in July 2011. Perini submitted a cost proposal in the amount of \$362,283 and the MTACC estimate is \$312,722. Negotiations were held and the parties agreed to a cost of \$333,967 for the work which is considered fair and reasonable as the cost falls within an acceptable parameter of the estimate. Funding for this modification will be provided by the contract contingency. There is no time impact associated with this modification. An errors and omissions analysis will be conducted to determine if the cost for this modification are recoverable from the designer.

Schedule I: Modifications to Purchase or Public Work Contracts

Item 3

Page 1 of 2

Vendor Name (& Location)	
Granite-Traylor-Frontier ("GTF"), Joint Venture	
Description	
Queens Bored Tunnels and Structures	
Contract Term (including Options, if any)	
9/28/09 – 4/30/12	
Option(s) included in Total Amount?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a
Procurement Type	<input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive
Solicitation Type	<input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification
Funding Source	
<input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name:	
East Side Access, A. Paskoff, P.E.	

Contract Number	AWO/Modification #
CQ031	37,39 & 40
Original Amount:	
	\$ 659,200,700.00
Prior Modifications:	
	\$ 74,987,489.20
Prior Budgetary Increases:	
	\$ 0
Current Amount:	
	\$ 734,188,189.20
This Request	
	\$ 21,815,000.00
% of This Request to Current Amount:	
	3.0%
% of Modifications (including This Request) to Original Amount:	
	14.7%

Discussion:

The work under the subject Contract generally consists of construction of four soft-ground bored tunnels and miscellaneous demolition of surface structures for the East Side Access project. MTACC request that the Board approve the following three modifications:

Modification No. 37

As awarded, the original Contract CQ031 required that the Contractor install a "mud slab" comprised of 12-inches of crushed stone overlain by 6-inches of unreinforced concrete, in the base of the Open Cut Excavation. During the course of the Work, it was determined that the thickness of the mud slab should be revised to 8 inches of crushed stone to 12 inches of reinforced concrete. This would provide additional support to the slurry walls and improve its stability to address and reduce perceived structural concerns regarding the stability of the Open Cut Excavation slurry wall-rock interface. It is noted that the increase in slab thickness results in a reduction in the amount of permanent concrete to be placed in the Open Cut Excavation in subsequent Contract CQ032.

GTF submitted a cost proposal in the amount of \$558,770 and the internal estimate is \$481,392. Negotiations were held and the parties agreed to a cost of \$525,000 for the work, which is considered fair and reasonable as the negotiated price falls within an acceptable parameter of the estimate. Funding for this modification will be provided by the contract contingency. There are no time impacts associated with this modification.

Modification No. 39

Contract CQ031 is responsible for the installation of the temporary support of excavation (SOE) and the excavation and construction of a shaft at the Yard Lead Emergency Exit (YLEE) site. Future Contract CQ032, Plaza Substation was to complete the construction of the shaft and also construct the above ground building (Superstructure) at the top of the YLEE shaft and to install the vent structure at the YLEE and construct a new substation, B13.

In order to maintain the scheduled opening date for revenue service, MTACC continues to look for ways to mitigate delays to the overall ESA project schedule. Based on this review, it was determined that construction of the YLEE Superstructure, vent structure and the B13 Substation, should be transferred from Contract CQ032 to CQ31. Currently, this scope is on the CQ032 critical path and could be affected if the adjacent CQ031 Contract is delayed in completing its work in this area. By transferring this work to CQ031, it will no longer be on the CQ032 critical path. The MTA further benefits by saving time on the contract schedule as the systems contractor can take possession of the substation constructed under CQ032 12 months earlier. If this scope of work is left in CQ032, construction of the superstructure and B13 substation structure would not commence until substantial completion of CQ031. It should be noted that this modification is the result of issues identified during the risk workshop held for the CQ032 contract.

GTF submitted a cost proposal in the amount of \$15,253,209 and the internal estimate is \$13,558,864. Negotiations were held and the parties agreed to a cost of \$14,650,000 for the work, which is considered fair and reasonable as it falls within an acceptable parameter of the estimate. The funding for this modification will be transferred from the CQ032 budget and there will be no increase in cost to the overall cost of the project. There are no time impacts associated with this modification.

Modification No. 40

This modification is for furnishing and installing formwork, steel rebar, concrete and waterproof membrane of the Plaza Substation structural invert slab and trench walls at the Yard Lead Trench. This is a scope transfer from Contract CQ032 and will not increase the overall cost of the project.

MTACC has determined that it would be beneficial to transfer the work under this proposed modification from future Contract CQ032, Plaza Substation and Queens Structures to Contract CQ031. The transfer of this scope would avoid potential negative schedule impacts to the critical path of the overall project schedule by placing this work within the CQ031 Contract where similar work is being performed. In addition, the transfer of this scope eliminates logistic problems that would be caused by a second contractor erecting the slab and walls in small constricted area during the mining of the tunnels by the CQ031 Contractor. It is noted that these were risks that were identified during the risk workshop for the CQ032 contract.

GTF submitted a cost proposal in the amount of \$7,275,732 and the internal estimate is \$6,806,185. Negotiations were held and the parties agreed to a cost of \$6,640,000 for the work, which is considered fair and reasonable. The funding for this modification will be transferred from the CQ032 budget and there will be no increase in cost to the overall cost of the project. There are no time impacts associated with this modification.

Schedule I: Modifications to Purchase or Public Work Contracts



Item 4

Vendor Name (& Location) Schiavone/Kiewit, JV	Contract Number CQ039	AWO/Modification # 4 Part I
Description Northern Blvd. Crossing		
Contract Term (including Options, if any) February 3, 2010 – February 5, 2012 (732 days)		
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a		
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive		
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification		
Funding Source <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:		
Requesting Dept/Div & Dept/Div Head Name: East Side Access, A. Paskoff, P.E.		
	Original Amount:	\$ 84,950,000
	Prior Modifications:	\$ (300,000)
	Prior Budgetary Increases:	\$ 0
	Current Amount:	\$ 84,650,000
	This Request	\$ 4,544,540
	% of This Request to Current Amount:	.54%
	% of Modifications (including This Request) to Original Amount:	.5%

Discussion:

The scope of work under this Contract includes but is not limited 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. MTACC request that the Board approve the following two modifications to this Contract:

Modification No. 4, Part I

This modification is for the removal and disposal of spoils created during jet grouting operations. Early Access Chamber jet grout columns were installed under adjacent Contract CQ31 as part of the remedial work for the repair of the existing slurry wall. In order to obtain the most economic price it was determined that it would be the CQ039 Contractor's responsibility for removing and disposing of the spoils created during the jet grouting operation since they already had access are were working in the area of the spoils.

Schiavone/Kiewit, JV submitted a cost proposal in the amount of \$473,223 while our internal the estimate is \$424,545. Negotiations were held and the parties agreed to a cost of \$460,000 for the work, which is considered fair and reasonable as it falls within an acceptable parameter of the estimate. This will be Part I of a two part Modification Part II will deal with the schedule impact which is still being negotiated. Funding for this modification will be provided by the contract's contingency.

Modification No. 6

This modification is to increase Contract Bid Item No. 4: Allowance - Ground Settlement Control. This allowance is to compensate the Contractor for work activities associated with the need to compensate for potential IND subway settlement. During the course of the work, a trial/heave settlement control program was conducted to verify the ground settlement program's effectiveness. The results showed that ground settlement control under the IND subway box will be required during the frozen arch freeze process to compensate for heave, as well as during the thaw process, to compensate for settlement. This will cause an overrun of the allowance item which therefore will need to be replenished in anticipation of the future work.

The increase on Contract Bid Item No. 4: Allowance – Ground Settlement Control from \$1,000,000 to \$2,984,640 (an increase of \$1,984,640) which will cover mobilization for void grouting, soil extraction, forced thaw system and compensation grouting. The Contractor will be paid at the pre-negotiated unit prices where applicable. Funding for the increase of the allowance will be provided by the Contract's contingency. There is no time impact associated with this change.

Modification No. 7

This modification is to increase Contract Bid item No. 3: Allowance – Repairs to slurry walls. This allowance is for repair work to the slurry wall in the CQ039 work area that was constructed under Contract CQ028, Queens Open-Cut Excavation (the Contract was terminated for default and the MTA received the full value of an \$83.7M performance bond as a settlement from the Surety Company).

During the course of the excavation of the Early Access Chamber ("EAC"), the defects in the slurry wall encountered during excavation to the current depth has been more extensive than anticipated. It has been determined that it will be necessary to increase this allowance item from \$100,000 to \$2,199,900 which represents an increase of \$2,099,900. This will cover the required slurry wall patching along with other miscellaneous repairs as the excavation of the EAC continues. The Contractor will be paid at the pre-negotiated unit prices where applicable. Funding for the increase of the allowance will be provided by the Contract's contingency. There is no time impact associated with this change.

Schedule I: Modifications to Purchase or Public Work Contracts



Item 5

Vendor Name (& Location)
CCA Civil – Halmar International, LLC (Jersey City, NJ)
Description
50 th Street Ventilation Facility For the East Side Access Project
Contract Term (including Options, if any)
Nine Hundred and Seventy-Five (975) Calendar Days
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Procurement <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive
Solicitation <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification
Funding Source
<input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:
Requesting Dept/Div & Dept/Div Head Name:
Alan Paskoff, Program Executive

Contract Number	AWO/Modification #
CM013	7
Original Amount:	
	\$ 94,355,000.00
Prior Modifications:	
	\$ 533,834.89
Prior Budgetary Increases:	
	\$ 0
Current Amount:	
	\$ 94,888,834.89
This Request:	
	\$ 405,000.00
% of This Request to Current Amount:	
	0.5%
% of Modifications (including This Request) to Original Amount:	
	1.0 %

Discussion:

MTACC request that the Board approve a modification to Contract CM013 for revisions to the structural steel and fireproofing material of a specified independent wall.

This contract is for the construction of the 50th Street Ventilation facility, which will provide ventilation to ESA's bored tunnels. The contract involves demolition of 5 buildings, excavation of a shaft from the street to the tunnel level, excavation under 50th Street to create an access tunnel and the construction of a multi-story steel-framed building.

The scope under this Contract requires the removal of a party wall between 300 Park Avenue and the now-demolished building at 50 East 50th Street. After removal of the party wall, a steel-framed, fire-rated independent wall is to be constructed by the Contractor. During the course of the work it was discovered that the field conditions differed from what was specified. There is actually less space than was anticipated between the existing 300 Park Avenue structure and the property line between the lots than probes and as-built information for the building at 300 Park Avenue (for which the design was base on). This necessitates revisions to the structural steel to ensure that each piece fits within 300 Park's property line, while maintaining the structural integrity of the new independent wall. In addition, the drywall assemblies within the revised structural steel need to be revised to fit within the new dimensions. Lastly, since the steel is no longer encased in the rated drywall partition, the steel has to be coated with intumescent paint instead of more traditional fireproofing materials in order to maintain the fire rating for the wall. The traditional materials can't be applied because the application would be too thick to allow the re-designed steel to fit in the tight space available.

The Contractor proposal was for \$580,491 while the estimate was for \$490,079. Negotiations were held and the parties agreed to a cost of \$405,000 which is considered to be fair and reasonable as compares favorable to the estimate. Funding for this Modification will be provided by the contract contingency. There is no time impact to the overall contract completion date associated with this change.



Bridges and Tunnels

Procurements March 2011

Staff Summary

Subject:	Request for Authorization to Award Various Procurements
Department:	Procurement
Department Head Name	Anthony W. Koestler
Department Head Signature	<i>Anthony W. Koestler</i>
Project Manager Name	Various

Date	March 7, 2011
Vendor Name	
Contract Number	
Contract Manager Name	
Table of Contents Ref #	

Board Action					
Order	To	Date	Approval	Info	Other
1	President	3/7/11	<i>[Signature]</i>		
2	MTA B&T Committee	3/21/11			
3	MTA Board	3/23/11			

Internal Approvals			
Order	Approval	Order	Approval
	President		VP Operations
	Executive Vice President		Chief Procurement Officer
	VP Staff Services/COS		Chief Engineer
	General Counsel		VP Labor Relations

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval
	Chief Financial Officer		Chief Technology Officer		Chief Health & Safety Officer		Chief EEO Officer
	Chief Security Officer		Chief Maintenance Officer		MTA Office of Civil Rights		

PURPOSE:

To obtain approval of the Board to award various contracts and purchase orders, and to inform the MTA B&T Committee of these procurement actions.

DISCUSSION:

MTA B&T proposes to award Non-Competitive procurements in the following categories: None

MTA B&T proposes to award Competitive procurements in the following categories:

Schedules Requiring Majority Vote		# of Actions	\$ Amount
Schedule F	Personal Service Contracts	1	\$.848M
Schedule H	Modifications to Personal/Miscellaneous Service Contracts	2	\$1.089M
SUBTOTAL		3	\$1.937M

MTA B&T presents the following procurement actions for Ratification: None

TOTAL	3	\$1.937M
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BUDGET IMPACT:

The purchases/contracts will result in obligating MTA B&T and Capital Construction funds in the amount listed. Funds are available in the current MTA B&T operating/capital budgets for this purpose.

RECOMMENDATION:

That the purchases/contracts be approved as proposed. (Items are included in the resolution of approval at the beginning of the Procurement Section.)

MTA BRIDGES & TUNNELS
TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY

WHEREAS, in accordance with §559 and §2879 of the Public Authorities Law and the All Agency Procurement Guidelines, the Board authorizes the award of certain non-competitive purchase and public work contracts, and the solicitation and award of request for proposals in regard to purchase and public work contracts; and

WHEREAS, in accordance with §2879 of the Public Authorities Law and the All Agency Procurement Guidelines, the Board authorizes the award of certain non-competitive miscellaneous procurement contracts, and certain changes orders to procurement, public work, and miscellaneous procurement contracts; and

WHEREAS, in accordance with § 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; and

NOW, 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. The Board ratifies each action set forth in Schedule D 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; the contract modifications to purchase and public work contracts set forth in Schedule I; and 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
MARCH 2011

MTA BRIDGES & TUNNELS

Procurements Requiring Majority Vote:

F: Personal Service Contracts

(Staff Summaries required for items greater than: \$100K Sole Source; \$250K Other Non-Competitive; \$1M Competitive)

1. STV, Inc. \$ 847,771.56
Contract No. PSC-10-2872

1 yr. 4 mo. contract – Competitive RFP – 3 Proposals

B&T requires the services of a consultant to provide construction administration and inspection services for Project RK-74, Replacement of T-48 Roadway Wearing Surface at the RFK Bridge. The construction entails replacing the existing T-48 overlay system with a new roadway overlay system. The service requirements were publicly advertised; eleven firms submitted qualification information. Three firms were chosen to receive the RFP based on a review of those qualifications and all three firms submitted proposals: Henningson, Durham and Richardson Architecture and Engineering, PC (HDR), Gibbons, Esposito, & Boyce Engineers, PC (GEB), and STV, Inc. (STV). The proposals were evaluated against established criteria set forth in the RFP, including an understanding of the technical requirements, technical expertise, proposed personnel, oral presentations and cost. In its written technical proposal, STV included 16,286 man-hours to perform the work. During its oral presentation, STV made an unsolicited reduction of man-hours from 16,286 to 7,454 while retaining the key components of its original technical proposal. Since by procedure no negotiations are permitted prior to the committee's selection, the committee evaluated STV's proposed cost of \$1,898,981.32 (based on the 16,286 man-hours) with consideration that STV's revised man-hours would have a significant impact on total cost. The committee unanimously selected STV on the basis that its proposal included: (i) a highly qualified team with familiarity of B&T facility operations such as MPT and experience inspecting the overlay system to be installed under this project; (ii) an office support staff that was also qualified to perform inspections, if needed; and (iii) proposed man-hours that most closely reflected the level of effort required for this project. GEB did not have experience inspecting overlays similar to those being used under this project. HDR did not demonstrate a clear understanding of this project as evidenced by its oral presentation and significant underestimation of man-hours necessary to perform the work. Subsequent to STV's selection, the consultant quantified its revised hours with a proposal of \$1,049,481. The Engineer's estimate is \$828,107. Negotiations were conducted and the parties agreed to the amount of \$847,771.56, which is 2.4% above the Engineer's estimate and is considered fair and reasonable. STV is deemed to be a responsible consultant. The MTA DDCR has established goals of 10% MBE and 5% WBE for the referenced contract. This contract will not be awarded without approval of MTA DDCR. Funding is available under Project RK-74 in the amount of \$847,771.56 in the 2010-14 Capital Budget.

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL
MARCH 2011

H: Modifications to Personal Service Contracts and Miscellaneous Service Contracts Awarded as Contracts for Services

(Approvals/Staff Summaries required for substantial change orders and change orders that cause original contract to equal or exceed monetary or durational threshold required for Board approval)

2. S.E.B. Services of New York, Inc. \$ 681,403.40 Staff Summary Attached
Contract No. 04-ISD-2707X

Add funding through November 2011 for the ongoing provision of uniformed armed guard services at various B&T sites.

3. Ammann & Whitney/Gannett Fleming, \$ 407,249.99 Staff Summary Attached
a Joint Venture
Contract No. PSC-04-2726

Additional design and design services during construction for Projects HH-85 and HH-10, Replacement of Upper Level Deck and Toll Plaza and the Upper Level Curb Stringer and Safety Barrier at the Henry Hudson Bridge.

**Schedule H: Modifications to Personal Service Contracts and Miscellaneous Service Contracts**Item Number: **2** (Final)

Vendor Name (& Location) S.E.B. Services of New York, Inc., Ossining, NY	Contract Number 04-ISD-2707X	AWO/Modification #
Description Armed Guard Services	Original Amount:	\$2,299,953.00
Contract Term (including Options, if any) July 1, 2005 through March 31, 2011	Prior Modifications:	\$2,540,525.95
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Prior Budgetary Increases:	N/A
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	Current Amount:	\$4,840,478.95
Solicitation Type <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	This Request:	\$681,403.40
Funding Source <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	% of This Request to Current Amount:	14.1%
Requesting Dept/Div & Dept/Div Head Name: Internal Security, Donald Look	% of Modifications (including This Request) to Original Amount:	140.1%

Discussion:

Approval is requested to amend Contract 04-ISD-2707X with S.E.B. Services of New York, Inc. (SEB) for additional funding in the amount of \$681,403.40. Pursuant to Board approval the contract was awarded on July 1, 2005 in the amount of \$2,299,953 for the provision of uniformed armed guard services at various B&T sites over a period of three years. Subsequent to the initial term, B&T exercised its 2 one year renewal options and extended the agreement through March 31, 2011 resulting in a revised contract value of \$4,840,478.95. B&T has initiated activity with NYCT to develop, negotiate and award a new joint procurement (no other MTA agencies require armed guard services). The user department has therefore requested that its current contract be extended from April 1 through November 30, 2011.

SEB submitted a cost proposal totaling \$699,263.56 for the eight month extension, which reflects the current prevailing wage rates for armed guard services set by the New York State Department of Labor effective July 1, 2010. The user's estimate is \$723,572.47. Negotiations were conducted and the parties agreed to the amount of \$681,403.40, which is \$42,169.07 or 5.8% below the user's estimate and is considered fair and reasonable. Consistent with the Procurement Guidelines, this amendment constitutes a substantial change. Funding is available in the Operating Budget chargeable to G.L. 710703.

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

Item Number: 3 (Final)

Vendor Name (& Location) Ammann & Whitney/Gannett Fleming, a Joint Venture, New York, NY		Contract Number PSC-04-2726	AWO/Modification #
Description Design and Design Services During Construction for Projects HH-85 and HH-10, Replacement of Upper Level Deck and Toll Plaza and the Upper Level Curb Stringer and Safety Barrier at the Henry Hudson Bridge			
Contract Term (including Options, if any) June 27, 2005– June 26, 2011			
Option(s) Included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive		Original Amount: \$2,399,999.83	
Solicitation Type <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:		Prior Modifications: \$768,360.20	
Funding Source <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:		Prior Budgetary Increases: N/A	
Requesting Dept/Div & Dept/Div Head Name: Engineering & Construction, Joe Keane, P.E.		Current Amount: \$3,168,360.03	
		This Request: \$407,249.99	
		% of This Request to Current Amount: 12.9%	
		% of Modifications (including This Request) to Original Amount: 49%	


Discussion:

B&T is seeking Board approval under the All Agency Guidelines for the Procurement of Services to modify this Contract with Ammann & Whitney/Gannett Fleming, a Joint Venture (AWGF) for additional funding in the amount of \$407,249.99. This proposed amendment is for three separate items as follows:

- 1) The Engineer determined that several items need to be included in the final design for Project HH-10: (i) upgrading security features; (ii) adding specifications for light poles north of the bridge to conform with New York City (NYC) requirements; and (iii) changing the construction contract's pricing methodology for the electrical work from unit prices to a lump sum. The effort required to design the bridge maintenance and protection of traffic was also greater than originally anticipated by AWGF and was further complicated by adding stages to permit a continuous center lane closure for structural repairs to the headers and to increase structural support for retaining walls. Additionally, the design effort required to depict the existing conditions, such as the steel repairs to the bridge towers and electrical conduits to be demolished was greater than AWGF anticipated. AWGF proposed \$161,635.33; the Engineer estimated \$76,655. Based on the above, the negotiated total of \$80,199.51 is considered fair and reasonable.
- 2) AWGF, with the concurrence of the Engineer, has advised that there is insufficient funding to complete construction support services. The additional services are needed due to changes to the design over the life of the contract including the changes referenced above. AWGF proposed \$237,862.41; the Engineer estimated \$230,251.14. Based on the above, the negotiated amount of \$227,050.48 is considered fair and reasonable.
- 3) The original contract included a reference to an allowance for unanticipated design services during construction to provide timely designs in response to field conditions that develop during construction. However, no such amount is included in the contract. The Engineer has determined that \$100,000 is a reasonable amount and will be allocated on an as-needed basis.

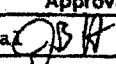
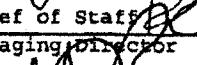

This contract requires a two year, eight month extension to reflect the current construction completion date for Project HH-10 as well as the services required after construction completion. Project HH-10 was postponed due to changes in connection with the capital program. There are no additional costs associated with this time extension. Based on the above, the negotiated amount of \$407,249.99 is considered fair and reasonable. Consistent with the Procurement Guidelines, this amendment constitutes a substantial change. Funding for this amendment is available in the 2005-09 Capital Budget under Project HH-10.

Staff Summary

Subject Mission Statement & Performance Indicator Report
Department Chief of Staff
Department Head Name Fredericka Cuenca
Department Head Signature 
Project Manager Name

Date March 17, 2011
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
	Governance	3/21/11			
	Board	3/23/11			

Internal Approvals			
Order	Approval	Order	Approval
		2	Legal 
		1	Chief of Staff 
		3	Managing Director 

Purpose: To obtain Board review of the MTA's mission statement and performance measurements and to authorize submission of the annexed 2010 Mission Statement and Performance Measurement Report to the State Authorities Budget Office.

Discussion: Section 2824-a of the Public Authorities Law directs state public authorities to reexamine annually their mission statements and selected performance measurement indicators and to submit a report based on the performance indicator results from the past year to the State Authorities Budget Office.

The MTA and its Board engages in oversight of agency operating performance throughout the year. The Board, through its various subway, bus, rail and bridge operation committees, closely monitors agency operating performance each month. Each operating agency reports its most recent performance data in posted monthly committee books. At monthly public MTA committee meetings, operating agency results are reviewed and discussed by board members and agency senior staff. In addition, presentations focused on particular areas of performance are made by the agency staff to the Board operating committees periodically through the year, in accordance with the work plan schedule of each operating committee. The MTA website also contains a "Performance Dashboard" for each of the MTA operating agencies, updated monthly, summarizing the agencies' leading performance measurements.

The attached report (the "2010 Mission Statement and Performance Measurement Report") compiles the MTA mission statement and the measurements from 2010 for the performance indicators listed in the MTA mission statement. The operating agencies have each submitted, within the Report, a summary that evaluates agency performance on the applicable indicators in the past year. The Report also contains a copy of the MTA mission statement, to facilitate the Board's annual review.

Recommendation: It is recommended that the MTA Board approve the annexed 2010 Mission Statement and Performance Measurement Report for submission to the Authorities Budget Office.

MISSION STATEMENT

&

PERFORMANCE

INDICATOR REPORT

2010



Metropolitan Transportation Authority

MTA Mission Statement

The MTA preserves and enhances the quality of life and economic health of the region we serve through the cost-efficient provision of safe, on-time, reliable and clean transportation services.

Stakeholder Assessment

These are the main stakeholders of the MTA and their expectations. A set of goals for each group have been defined, as well as performance indicators to measure attainment of these goals.

Customers	
Our customers are those who ride our trains and buses or cross our bridges and tunnels. They include residents in our region as well as the tourists and visiting business persons. Our customers expect service that is safe, on-time, reliable and provides good value for their money.	
MTA Goals	Performance Indicators
• Ensure our customers' safety	<ul style="list-style-type: none"> ✓ Customer injury rates ✓ Bus collision rate
• Provide on-time and reliable services	<ul style="list-style-type: none"> ✓ On-time performance (Subway/Commuter Railroads) ✓ Subway wait assessment ✓ Bus trips completed ✓ Mean distance between failures
• Provide services to people with disabilities	<ul style="list-style-type: none"> ✓ Elevator availability ✓ Escalator availability ✓ Bus passenger wheelchair lift usage (does not include paratransit) ✓ Paratransit ridership
• Repair, replace and expand transportation infrastructure	<ul style="list-style-type: none"> ✓ Capital Program commitments ✓ Capital Program completions

Businesses, Residents and Taxpayers	
The businesses, residents, and taxpayers in our service area want the MTA to spend its resources efficiently and appropriately while enhancing the mobility of the region.	
MTA Goals	Performance Indicators
• Perform services in an efficient manner	<ul style="list-style-type: none"> ✓ Farebox operating ratio ✓ Operating cost per customer ✓ Total support to mass transit
• Maximize system usage	<ul style="list-style-type: none"> ✓ Ridership ✓ Traffic volume
• Repair, replace and expand transportation infrastructure	<ul style="list-style-type: none"> ✓ Capital Program commitments ✓ Capital Program completions



Metropolitan Transportation Authority

Employees and Unions	
Our employees and unions expect a safe workplace, skills training relevant to their role, and opportunities for growth.	
MTA Goals	Performance Indicators
• Ensure our employees' safety	✓ Employee lost time and restricted duty rate
• Maintain a workforce that reflects the regional availability of all races, nationalities, and genders for our industry	✓ Female representation in MTA workforce ✓ Minority representation in MTA workforce

Government Partners (Federal, State, and Local Government)	
Our government partners expect us to enhance the mobility of the region by providing excellent service while spending our resources in a cost-effective and appropriate manner.	
MTA Goals	Performance Indicators
• Provide on-time and reliable services	✓ On-time performance (Subway and Commuter Railroads) ✓ Subway wait assessment ✓ Bus trips completed ✓ Mean distance between failures
• Maximize system usage	✓ Ridership ✓ Traffic volume
• Perform services in an efficient manner	✓ Farebox operating ratio ✓ Operating cost per customer
• Repair, replace and expand transportation infrastructure	✓ Capital Program commitments ✓ Capital Program completions



New York City Transit

Performance Indicator	2009 Actual	2010 Actual
Service Indicators		
On-Time Performance (Terminal)	88.7%	88.7%
Subway Wait Assessment	78.1%	78.6%
Elevator Availability - Subways	96.8%	97.1%
Escalator Availability - Subways	93.1%	92.6%
Total Ridership - Subways	1,579,866,600	1,604,070,667
Mean Distance Between Failures - Subways	148,002	170,217
Mean Distance Between Failures - Staten Island Railway	129,824	464,848
On-Time Performance - Staten Island Railway	95.6%	95.4%
% of Completed Trips - NYCT Bus	99.1%	98.1%
Total Paratransit Ridership - NYCT Bus	8,490,247	9,016,690
Bus Passenger Wheelchair Lift Usage - NYCT Bus	1,258,662	1,244,991
Total Ridership - NYCT Bus	716,824,107	696,923,393
Mean Distance Between Failures - NYCT Bus	3,921	3,678
Safety Indicators		
Customer Injury Rate - Subways	3.33	3.07
Customer Accident Injury Rate - NYCT Bus	1.09	1
Collisions with Injury Rate - NYCT Bus	6.09	7.64
Employee Lost Time and Restricted Duty Rate	3.02	3.05
Workforce Indicators		
Female Representatives in NYC Transit Workforce	17.70%	17.30%
Minority Representatives in NYC Transit Workforce	72.60%	72.60%
Financial Indicators		
Fare Operating Ratio	52.4%	55.7%
Operating Cost per Passenger	\$2.63	\$2.63
Capital Program Indicators		
Commitments in Millions of \$ (% of Planned Value)	\$1,843m (59%)	\$2,031m (54%)
Completions in Millions of \$ (% of Planned Value)	\$2,329m (85%)	\$2,439m (86%)

MTA New York City Transit

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

Customer safety continues to be one of NYCT's highest priorities. The number of Subway Customer injuries per million customers decreased from 3.33 in 2009 to 3.07 in 2010. The number of Bus Customer accident injuries per million customers decreased slightly from 1.09 in 2009 to 1.00 in 2010. However, the rate of Bus Customer injuries increased for Collision injuries from 6.09 in 2009 to 7.64 in 2010. In order to improve on these results, NYCT continues to reassess existing safety rules and procedures to ensure clarity and consistent implementation throughout the Departments of Subways and Buses.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: On-Time Performance, Mean Distance between Failures, Subway Wait Assessment, Bus Trips Completed

Subways. Subway On-Time-Performance (OTP), using the revised OTP methodology introduced in mid-2010, declined from 88.7% in 2009 to 87.7% in 2010. 2009 OTP statistics reflect the modified OTP methodology to ensure comparability. In 2010, the level of system rebuilding and maintenance work in the subways was a factor in the slight decline in OTP.

The Subway Wait Assessment indicator, which looks at performance from the perspective of the customer waiting on the platform, remains essentially unchanged from 2009 to 2010 increasing only slightly from 78.1% to 78.6%.

The 12 month Subway Mean Distance Between Failure (MDBF) for December 2010, 170,217 miles represents a 15% increase compared to December 2009 12 month MDBF of 148,002 miles. The main reason for this overall improvement of fleet performance is the delivery of very reliable R160 subway cars to replace older subway cars with a declining MDBF.

Buses. On the bus side, overall performance was down slightly from 2009 to 2010. Bus Wait Assessment declined 1.2% from 2009 to 2010; however, performance remains within historical norms (83.3% 2009 vs. 82.3% 2010).

The Bus Mean Distance Between Failures year end 2010 was 3,678 miles. This represents a 6.2% decrease from the 2009 actual of 3,921. This decline is the result of articulated bus engine failures, hybrid bus fuel issues, as well as MCI and COG bus component failures. Corrective actions are under way including warranty repairs, fleet-specific maintenance programs and the replacement of more than 750 buses scheduled for retirement in 2011. Additionally, 2009

performance was elevated by the delivery of 645 new buses which performed above expectations. In 2010, those new buses experienced a drop in performance that is customarily experienced from newly purchased buses, as the usual assortment of bugs in any new purchase were worked out.. Also, the impact of a record setting heat wave, in which there were over 30 days of 90 degree temperatures, adversely affected bus performance in 2010.

The percentage of bus trips completed declined from 99.1% in 2009 to 98.1% in 2010. The Bus Trips Completed indicator depends on both bus and bus operator availability. In advance of the June 2010 service cuts, bus operator vacancies were left unfilled. These vacancies, coupled with a higher than anticipated rate of absenteeism, are reflected in the decline of the number of trips operated. Also, the combination of winter storms and summer heat affected both the ability of bus operators to come to work as well as an increase in weather related roadcalls.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability, Bus Passenger Wheelchair Lift Usage, Paratransit Ridership

The 2010 elevator availability was 0.3% higher when compared to 2009 due to the prioritizing of the work performed on ADA elevators. The LiftNet remote monitoring system also contributed to the increase in elevator availability by providing an immediate indication of a shutdown, therefore allowing for prompt response to correct the elevator malfunction.

The 2010 escalator availability was slightly lower (92.6% vs. 93.1%) when compared to 2009 due to scheduled escalator step chain replacements that were performed during the 2010 calendar year. This work was required due to the age, rise and passenger loading for the escalators for which the step chains were replaced. NYCT is developing a "Maintenance Control program" for each piece of equipment and revising schedules for preventive maintenance based upon some basic criteria including equipment age, design and inherent quality of the equipment, usage, and environmental conditions. Strategies will be developed to prevent the reoccurrence of common equipment failures

Wheelchair ridership of 1.245 million passengers showed a slight decline of 1% over 2009. Contributing to the decline were the February and December blizzards which resulted in a 16% and 8% decline respectively over 2009. In 2011, the infusion of new buses will provide easier boarding and more reliable service for our wheelchair passengers.

The 6% increase in paratransit ridership continues a long-term trend of increasing demand for paratransit service, although the rate of increase slowed. In 2010, MTA increased use of voucher livery and black car services and also initiated a pilot with yellow taxis; these programs are designed to reduce cost while improving customers' trip.

MTA GOAL: Repair, Replace and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

In 2010, NYCT committed \$2 billion, representing 54% of the planned 2010 commitment goal of \$3.8 billion versus our 2009 performance of 59%. The shortfall in 2010 commitments was caused largely by delays in awarding a small number of high value projects, including the purchase of 290 subway cars (\$638m), the purchase of 185 articulated buses (\$158m), and the VHF Radio System Upgrade (\$256m).

In terms of number of projects committed, 75 of 95 projects (79%) were awarded in 2010, versus 99 of 116 projects (85%) in 2009. Notable 2010 commitments included Purchase of 23 A Division Subway Cars and Conversion of 10 R142A Cars, CBTC Signals on the Flushing line, Church Avenue Interlocking on the Culver line, reconstruction of Clara Hale Depot, Annual Track and Switch Program, the purchase of 90 Nova Buses, Rockaway & Far Rockaway Viaduct project, Cypress Hills Structure Rehab & Painting, and 207th St Overhaul Shop Electrical & Heating Plant.

In terms of capital projects completed against established goals, NYCT achieved 86% of the \$2.85 billion 2010 completion goal, versus 85% in 2009. In terms of number of projects completed, 66% of the goal of 98 projects was completed in 2010 versus 83% of 110 projects in 2009. Notable 2010 completions included accepting the last R160 subway cars (completing an order of 382 cars), accepting the last hybrid electric buses, completing a total order of 747 buses, the Track & Switch Program, Corona Yard Signals, Neck Rd & Avenue U Station Rehab, 96th St. Station Rehab, 90 Low-floor Articulated Buses, and Rehabilitation of Two Vent Plants at 53rd St and 6th Ave. and 53rd St. and Park Ave.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Customer

Farebox operating ratio increased to 55.7% in 2010 from 52.4% 2009. This is due in part to the annualization of the June 2009 fare increase, resulting in a higher rate of farebox revenue growth than expense growth in 2010. In 2010 NYCT lowered its costs significantly through reductions in administrative staffing, changes in maintenance practices resulting in both labor and material savings, control of unnecessary overtime, and targeted service reductions.

Operating cost per customer (which excludes debt service) remained level, at \$2.63 per customer in both 2009 and 2010.

MTA GOAL: Maximize System Usage
PERFORMANCE INDICATORS: Ridership

Subways. Subway ridership increased by 1.5% -- from 1.58 billion in 2009 to 1.6 billion in 2010, the second highest ridership since the 1950. Much of this growth is attributable to increases in off-peak ridership. For example, average weekend ridership increased by 3% while weekday ridership grew by 1.5%. Other factors include continued strong tourism and demographic changes, as well as diversion of some bus riders to the subway after of the June 2010 service reductions, which affected bus service more than subway service.

Buses. Adjusting for a methodology change implemented in 2010, the decrease in bus ridership was 2.8 percent (19.9 million trips). In general, bus ridership has been declining since 2002. In 2010, the bus ridership decline was due in part to the annualized effects of the June 2009 fare increase, a diversion of some riders from bus routes to the subway following the June 2010 service reductions, and severe winter storms in February and December.

MTA GOAL: Ensure Our Employees' Safety
PERFORMANCE INDICATORS: Employee Lost Time and Restricted Duty

The rate of Employee Lost Time and Restricted Duty accidents remained essentially unchanged with 3.02 employee injuries per 100 employees in 2009 and 3.05 in 2010. In order to reduce employee accidents further, NYCT continues to reassess existing safety rules and procedures.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders
PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

The composition of NYCT's workforce is extremely diverse with minorities making up approximately 73% and women comprising 17% of the workforce. Minority representation significantly exceeds the goal, which is set at 80% of the minorities in our service area who have the skills and have indicated that they are seeking work. However, female representation is below the 80% goal.

Approximately 85% of NYC Transit/Manhattan and Bronx Surface Transit Operating Authority titles are filled from Civil Service eligibility lists of individuals, ranked in order, who have taken and passed the relevant exam and have been certified as eligible for consideration for

appointment. Female applicants have applied to take examinations for NYC Transit jobs at a rate that is less than their male counterparts.

Notwithstanding limited employment opportunities in 2010, we have used NYC Transit's internal and external web sites in an effort to encourage women to consider non-traditional employment with NYC Transit. The sites display Transit's female employees with testimonials about their positive work experiences at NYC Transit.



Long Island Rail Road

Performance Indicator	2009 Actual	2010 Actual
Service Indicators		
On-Time Performance	95.2%	92.80%
Elevator Availability	97.2%	97.2%
Escalator Availability	93.8%	95.5%
Total Ridership	82,950,846	81,507,851
Mean Distance Between Failures	145,703	149,651
Safety Indicators		
Customer Injury Rate	5.96	5.29
Employee Lost Time and Restricted Duty Rate	2.3	2.74
Workforce Indicators		
Female Representatives in LIRR Workforce	15.5%	15.4%
Minority Representatives in LIRR Workforce	30.8%	31.4%
Financial Indicators		
Fare Operating Ratio	43.5%	45.9%
Operating Cost per Passenger	\$14.17	\$14.03
Capital Program Indicators		
Commitments in Millions of \$ (% of Planned Value)	\$307m (95%)	\$212m (128%)
Completions in Millions of \$ (% of Planned Value)	\$399m (117%)	\$260m (85%)

Long Island Rail Road

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

Transporting LIRR customers to their destinations safely and securely is the LIRR's highest priority. In this regard, 2010 was a successful year. There were approximately 5.29 injuries per 1 million customers. This was an 11.2% reduction in the customer injury rate when compared to 2009. The LIRR attributes this safety improvement to the success of several initiatives, including modifications to station platforms and train equipment (including the platform mitigation effort) as well as ongoing customer safety awareness campaigns (i.e., The Train Smart Program) that are effectively promoting safe riding practices.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: On-Time Performance, Mean Distance between Failures

One of the most important predictors of customer satisfaction is the ability of the LIRR to deliver passengers to their intended destinations on time. 2010 was a very difficult year in this regard. A fire in an important signal tower in August and numerous severe weather events, including a tornado in September and a blizzard in late December, had a significant impact upon LIRR's on-time performance. As a consequence, system-wide on-time performance dropped from 95.2% to 92.8%.

On the other hand, the LIRR's mean distance between failure (MDBF) performance was record-setting in 2010. Across the entire fleet, MDBF reached 149,651 miles, which was 2.71% better than the 2009 MDBF of 145,703 miles. The LIRR's M3 fleet showed the greatest improvement (15.82%), increasing from 49,003 miles to 56,754 miles. This success on the Rail Road's oldest fleet type was largely attributable to the efforts of the M3 Performance Improvement Team and initiatives targeting the propulsion system. The MDBF of the dual mode locomotives also improved from 15,723 miles to 17,085 miles. At the same time, the M7 fleet continues to exceed expectations, achieving an MDBF of 340,196 miles in 2010.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability

The LIRR has increased its focus on maintaining the operability of its elevators and escalators, and 2010 performance reflects the strength of this effort. Elevator availability remained steady at 97.2% in both 2009 and 2010. Escalator availability improved from 93.9% in 2009 to 95.5% in 2010. The LIRR now reports on the daily service status of 76 escalators and elevators on its website.

MTA GOAL: Repair, Replace and Expand Transportation Infrastructure**PERFORMANCE INDICATORS: Capital Program Commitments and Completions**

The LIRR recognizes that one of its greatest challenges and objectives is to maintain its infrastructure in a state of good repair while at the same time making investments in system-wide improvements and expansion. These two objectives are addressed in its five-year capital program. Year-to-year comparisons of the commencement and completion of projects are not always revealing because the capital program by nature varies annually and progress is often measured versus the five-year plan, not a single-year plan. Nevertheless, the LIRR does monitor annual commitments and completions as one measure of performance.

The LIRR's 2010 capital commitments totaled \$212.4 million, \$47 million greater than had been anticipated in the original five-year plan, and 128% of goal. Commitments that exceeded the anticipated plan expenditures included the acceleration of Phase IIb of the award-winning Atlantic Viaduct Project to correspond with the receipt of Federal Stimulus funding.

The LIRR's 2010 capital completions totaled \$260.1 million, or 88% of the planned amount. Phase IIa of the Atlantic Viaduct Project was completed well in advance of the June 2011 projected date; however, there were some minor delays in completion of annual track and direct fixation projects.

MTA GOAL: Perform Services in an Efficient Manner**PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Customer**

The LIRR's farebox operating ratio increased from 43.5% in 2009 to 45.9% in 2010. This increase reflects the annualization of the June 2009 fare change but also reflects the implementation of a series of cost-reduction measures that dramatically reduced expenses, including a 15% reduction in administrative staffing. Equally important was the agency's success at reducing overtime expenses by approximately 13% and scaling back materials purchases as a result of its inventory management initiative. It is important to note that excluding the LIRR's unfunded pension liability expenses, the LIRR's farebox operating ratio would have been 50.5% in 2010. The LIRR's operating cost per customer dropped from \$14.17 in 2009 to \$14.02 in 2010 – further evidence of the Rail Road's successful cost-cutting efforts.

MTA GOAL: Maximize System Usage**PERFORMANCE INDICATORS: Ridership**

The LIRR transported 81.51 million passengers in 2010. This was the largest ridership of any commuter railroad in North America.

That having been said, the 2010 total was a drop of 1.7% from the 82.95 million passengers transported in 2009. The largest impact on the LIRR's system usage is the condition of the local employment. When local employment rates suffer, particularly in the financial and professional services sectors, ridership drops and 2010 was no exception. The commutation market suffered the largest impact, declining 2.4% from 48.58 million to 47.41 million passengers.

Non-commutation dropped 0.8%, dropping from 34.37 million to 34.10 million. This was attributable to a series of unique events. The Jamaica Signal Modernization Project required two weekends of major service reduction and produced a loss of 162,000 passengers. A series of unexpected events, including a signal tower fire, blizzard and hurricane resulted in a loss of about 255,000 passengers. Service reductions implemented in 2010 affected frequency of service and caused a loss of 148,251 passengers. If not for these unique events, the LIRR estimates it would have experienced 1.4% growth in non-commutation ridership during 2010.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted Duty

It is impossible for the LIRR to provide reliable services to its customers without ensuring a safe workplace for its more than 6,500 employees. While the Employee Lost Time and Restricted Duty Rate remains below 3 reported incidents per 200,000 worker hours, it did increase from 2.30 in 2009 to 2.74 in 2010. The LIRR has initiated a multi-faceted plan to address the increase in employee injuries. The plan includes: updating and re-instituting several successful safety programs and initiatives; providing more focused analysis and reporting to all levels of management staff; improving the roadway worker protection program, and implementing Project FOCUS to increase awareness and reduce incidents resulting from distractive activities.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

Maintaining a diverse and representative workforce is a high priority of the LIRR. Minority representation of 31.4%, up slightly from 30.8% achieves the goal established as 80% of the minorities available in the regional workforce. However, female representation is below the goal and decreased slightly from 15.5% to 15.4%.

2010 was a difficult year to make progress in this area as the financial crisis limited hiring opportunities. The LIRR anticipates that progress will resume once the MTA's financial condition improves and it has a greater opportunity for external recruitment/hiring.



Long Island Bus

Performance Indicator	2009 Actual	2010 Actual
Service Indicators		
% of Completed Trips - LI Bus	99.55%	98.90%
Total Paratransit Ridership - LI Bus	394,917	356,690
Bus Passenger Wheelchair Lift Usage - LI Bus	N/A*	4,812
Total Ridership - LI Bus	30,787,662	30,816,889
Mean Distance Between Failures - LI Bus	2,605	3,744
Safety Indicators		
Customer Accident Injury Rate - LI Bus	1.1	1.82
Collisions with Injury Rate - LI Bus	2.35	4.99
Employee Lost Time Rate - LI Bus	3.54	3.15
Workforce Indicators		
Female Representatives in LI Bus Workforce	18.5%	17.9%
Minority Representatives in LI Bus Workforce	69.2%	71.5%
Financial Indicators		
Fare Operating Ratio	34.1%	33.1%
Operating Cost per Passenger	\$3.95	\$4.24

* LI Bus began tracking this indicator in July 2009.

MTA Long Island Bus

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

The 2010 Customer Accident Injuries per Million Customers rate was 1.82. This represents a 65.2% increase from the 2009 actual of 1.10. 2010 Bus Collision Injuries per Million Vehicle Miles was 4.99 which is 112.3% over the 2.35 actual of 2009. Performance management and accident reduction programs were modified to mitigate the occurrence and severity of customer and collision incidents. Beginning at the end of the fourth quarter 2009 Long Island Bus modified its customer and collision incident reporting threshold criteria to be consistent with all MTA bus agencies, which is substantially more inclusive in capturing accidents that do not result in liability claims. As the data aggregates over 2010 and 2011 the reporting statistic is expected to normalize. During 2010 we aggressively enforced our ban on the use of cell phones and other personal electronic devices.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: Mean Distance between Failures, Bus Trips Completed

The 2010 Mean Distance Between Failure (MDBF) is 3,744 which is 43.7% over the 2009 actual of 2,605. Contributing to the improvement was the higher MDBF that is customarily experienced from newly purchased buses that were delivered during 2009. However, bus performance was negatively impacted by the record setting heat wave, in which there were over 30 days of 90 degree temperatures.

In 2009, Trips Completed dropped slightly by 0.6% to 98.9% from 2009 results of 99.5%. Bus Trips Completed depends on both bus and bus operator availability. The combination of winter storms and summer heat impacted both the ability of bus operators to come to work as well as an increase in weather related roadcalls.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Bus Passenger Wheelchair Lift Usage; Paratransit Ridership

Tracking for Wheelchair passenger lift usage at LI Bus began in July 2009. In 2010, there were 4,812 requests to use a lift or ramp. Total ridership for LI Bus Able-Ride, Paratransit service decreased by 9.7% in 2010. The year end result was 356, 690 riders down from 394,917 riders in 2009.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

Total Ridership for LI bus increased slightly by 0.1% in 2010. The year end result was 30.82 million riders up from 30.79 million riders in 2009.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Customer

The farebox operating ratio was 33.1% in 2010 as compared to 34.1% in 2009. Operating cost per customer was \$4.24 in 2010 as compared to \$3.95 in 2009. The changes are mainly due to an increase of 7.4% in operating expenses while ridership remained essentially flat. The farebox operating ratio and the operating costs per customer were impacted negatively by mostly uncontrollable costs, including non-cash actuarial liability, Pension, Fuel, etc. Much of these increases in uncontrollable costs was offset by significant savings achieved by LI Bus in controllable cost areas. Specifically, there were budget reduction initiatives in administration, overtime controls, project deferrals and enhanced maintenance productivity. Had these uncontrollable costs not been included the farebox operating ratio would have improved from 34.1% to 36.2% and the operating cost per customer from \$3.95 to \$3.88.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted Duty

In 2009, the computation of employee lost time accidents was standardized to be consistent with the reporting at MTA Bus and NYCT Bus. The 2010 rate was 3.15 which improved 11.1% from the 3.54 rate in 2009. In order to reduce employee accidents further, LI Bus continues to reassess existing safety rules and procedures.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

The composition of LI Bus's workforce is extremely diverse with minorities making up approximately 71.5% and women comprising 17.9% of the workforce. Minority representation significantly exceeds the goal, which is set at 80% of the minorities in our service area who have the skills and have indicated that they are seeking work. However, female representation is below the 80% goal.

Fewer females have applied for the bus operator and maintainer positions than their male counterparts, resulting in representation of 17.9% of the workforce. In 2010, LI Bus had fewer

job postings as a result of a hiring freeze and internal monetary constraints. The agency continues to actively outreach to female and minority applicants to apply for available positions.



MetroNorth Railroad

Performance Indicator	2009 Actual	2010 Actual
Standard Indicators		
On-Time Performance (East of Hudson)	97.8%	97.7%
On-Time Performance (West of Hudson)	96.0%	96.5%
Elevator Availability	99.2%	98.5%
Escalator Availability	96.5%	96.8%
Total Ridership	79,899,098	81,095,848
Total Ridership on Connecting Services Provided by MNR Contractors	597,603	566,266
Mean Distance Between Failures	116,066	129,329
Safety Indicators		
Customer Injury Rate	2.96	2.74
Employee Lost Time and Restricted Duty Rate	2.14	1.88
Workforce Indicators		
Female Representatives in MNR Workforce	12.7%	12.4%
Minority Representatives in MNR Workforce	32.1%	32.0%
Financial Indicators		
Fare Operating Ratio	56.0%	59.9%
Operating Cost per Passenger	\$11.36	\$11.25
Capital Program Indicators		
Commitments in Millions of \$ (% of Planned Value)	\$228m (77%)	\$107m (60%)
Completions in Millions of \$ (% of Planned Value)	\$484m (88%)	\$278m (84%)

METRO-NORTH RAILROAD

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

MNR maintained its focus on injury reduction. In 2010, the number of customer injuries per million customers was reduced by 7.5% versus 2009, reflecting the lowest customer injury levels in MNR history. In addition to ensuring that the physical environment of MNR's trains and stations are maintained in a safe condition, the railroad also delivers its safety message to customers often and in a variety of media. Posters at stations, safety messages on the web-sites and each month a Safety article in Mileposts as well as announcements on-board trains and at stations are delivered reminding customers to travel safely.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: On-Time Performance, Mean Distance between Failures

MNR provides service with unparalleled reliability. In 2010, system-wide on-time performance was 97.7% — this marks the sixth year in a row that MNR has exceeded the 97% mark. MNR achieved the significant milestone of operating 100% on time during 8 days in 2010. All trains arrived on time on 6 weekend days and 2 weekday days in the course of the year.

A factor contributing to MNR's success was the reliability of the fleet. The average mean distance between failure was 129,329 miles—up from 2009's 116,066.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability

MNR's elevator and escalator availability remained high at 98.5% and 96.8% respectively. In addition to ensuring that elevators/escalators are functioning, MNR posts the current status of station elevator/escalators so that the physically challenged can be more informed before beginning travel.

MTA GOAL: Repair, Replace and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

Although additional pre-service testing of new M8 rail cars for the New Haven Line and further design of a federally-mandated Positive Train Control system resulted in lower

performance against goal for commitments/completions (60% and 84% respectively), MNR continued to rebuild its transportation network throughout 2010. Highlights are:

- Station improvements at Philipse Manor, Scarborough and Ossining stations on the Hudson Line achieved substantial completion in October 2010.
- Continuing through 2010 was the reconstruction of Tarrytown Station on the Hudson Line, which is separately funded through the American Recovery and Reinvestment Act (ARRA).
- At Poughkeepsie Station on the Hudson Line, construction was completed on the roof and upgrading the utilities. Replacement of the station building's windows and doors continues under a separate contract funded under ARRA.
- Station improvements at Croton-Harmon and Peekskill stations on the Hudson Line began third quarter 2010.
- A contract to perform inspection, evaluation, load rating and design of the rehabilitation of additional repairs to the Moodna Viaduct and rehabilitation of the Woodbury Viaduct was completed.
- The rehabilitation and upgrade of ten passenger elevators at Grand Central Terminal continued in 2010. To date, seven of the ten elevators have been rehabilitated and returned to service under this ARRA-funded project.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Customer

In 2010, MNR Cost Per Passenger decreased from \$11.36 to \$11.25 and its Fare Operating Ratio increased from 56.0% to 59.9%. The increase in the Fare Operating Ratio reflects the annualization of the 2009 fare change, an increase in non-passenger revenue with expense reductions also playing a significant role.

In spite of implementing budget and staff reductions, MNR continued to pursue excellence in the workplace and developed a budget reduction plan that minimized the impact to customers while ensuring that reduction targets were met. In addition to implementing reductions in administrative staff, MNR additionally streamlined procurement timing and strategies in its major operating departments, reduced inventory levels and reduced overtime usage. The railroad also completed construction of two new maintenance facilities in Croton-Harmon, NY that were built to allow for higher productivity and more efficient work flow. MNR also continued to monitor the

number of cars per train and the train schedule itself to ensure that equipment usage closely matched ridership levels.

Reducing expenditures and spending wisely are part of the financial equation. Maximizing revenue generation is another. In 2010, MNR brought in an additional \$11.7 million in non-passenger revenue. It did this through renegotiating a lease agreement with the management company for Grand Central Terminal, negotiated a new management contract with a parking vendor and aggressively pursued advertising opportunities in Grand Central Terminal & Yankees-East 153rd Street Station. And MNR launched the first official self-guided audio tour of Grand Central Terminal, with revenues over the five-year term of the contract estimated up to \$1.5 million.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

MNR's ridership increased by 1.5% to a system-wide ridership of 81.7 million; 81.1 million trips were made on its rail services and over 500,000 trips were taken on MNR's connecting services. MNR attributes its success in keeping and attracting new customers to maintaining a safe and highly reliable service, improving service quality wherever possible, and aggressively identifying new business opportunities and expanding into new markets.

Some examples of these efforts include: adjusting train schedules and adding connecting services so that people could use public transportation to outlying employment centers in White Plains and Stamford; partnering with sports, arts and entertainment venues in the service territory to encourage use of the railroad to attend events; and building a station to serve the area of the Bronx in the vicinity of Yankee Stadium – not only on game days but every day of the year.

MNR has also targeted improved communication to its customers as an important element of maximizing usage and satisfaction. A new system was launched in 2010 to provide customers with convenient, real-time access to train schedules and service status information from smart phones and desktop computers. Since the introduction of "Train Time™", as it is called, this free service has logged roughly 1,000,000 "hits." MNR has also begun to show current service status in Grand Central Terminal and on Ticket Vending Machines at all outlying stations.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted Duty

Although the injury frequency index increased versus goal, numbers of employee injuries were reduced versus 2009. In 2010, total injuries dropped by 16%. The number of employee injuries per 200,000 work hours was also reduced by 12.1% from 2.14 to 1.88. MNR continues to make safety Priority One, with continued focus on participation in district safety meetings and employees adhering to the use of proper personal protective equipment. The railroad also performed job safety briefings before work is performed and one-on-one safety audits.

Communication is key to ensuring that safety will remain Priority One. Daily safety statistics and other important safety messages are shown on all Employee Information Central monitors (which have been installed in 2010 at key work locations throughout the railroad). Also in 2010, MNR produced its first ever safety calendar, listing important safety hints and other information, dates of the local and district safety meetings and the contact information for the members of each district safety committee.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

The composition of MNR's workforce remained essentially unchanged with women representing 12.4% of the workforce (vs 12.7% in 2009) and minorities representing 32.0% of the workforce (vs 32.1% in 2009). As with the other MTA agencies, MNR achieves the goal for minority representation, established as 80% of the minorities available in the regional workforce. However, female representation is below the goal.

In 2010, MNR laid the groundwork to begin several initiatives in mentoring and management development to encourage a more diverse pipeline of leaders while increasing competencies of employees in their current functions. The railroad also conducted research and created the structure to pilot an "Inclusion Council" to support our recruitment and outreach efforts both within and without the railroad. Inclusion and diversity education was expanded both quantitatively and qualitatively, completing 21 sessions (395 employees). Lastly, MNR expanded exponentially its sources for outside recruitment.



Bridges and Tunnels

Performance Indicator	2009 Actual	2010 Actual
Service Indicators		
Total Traffic	291,383,388	291,614,634
Safety Indicators		
Collisions with Injury Rate	0.96	0.9
Employee Lost Time Rate	2.7	5.7
Workforce Indicators		
Female Representation in B&T Workforce	22.5%	21.5%
Minority Representation in B&T Workforce	50.3%	50.4%
Financial Indicators		
E-Zpass Market Share	73.9%	75.8%
Total Support to Transit	\$741.7m	\$842.6m
Capital Program Indicators		
Commitments in Millions of \$ (% of Planned Value)	\$28m (23%)	\$186m (99.5%)
Completions in Millions of \$ (% of Planned Value)	\$446m (90.8%)	\$256m (100%)

MTA Bridges and Tunnels

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

There were 265 customer accidents with injuries, the lowest ever recorded. In 2009, there were 283. The number of accident with injury per million vehicles also decreased from .96 to .90. Customer accidents overall were up slightly to a rate of 5.41 per million vehicles from 4.88 in 2009. Operations safety training and protocols, monitoring and enforcement of speeding and DWI laws, as well as, interdepartmental reviews of all accidents continue to reflect safety as the highest priority.

MTA GOAL: Repair, Replace and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

In 2010, a total of \$185.9 million was committed, which represents 99.5% of the annual goal, compared to \$27.6 million or 22.5% of goal committed in 2009 when two large projects were deferred. Major project commitments in 2010 include: replacement of electrical switchgear and equipment at the Brooklyn Battery Tunnel, Tower painting at the Verrazano Narrows Bridge, anchorage and tower protection at the Throgs Neck Bridge, sidewalk / curb stringer replacement on the Upper Level of the Henry Hudson Bridge, and work on substructure at the Cross Bay Bridge.

In 2010, a total of \$256.1 million was completed, representing 100% of the goal. In 2009, \$446.3 million was completed, representing 90.8% of the goal. 2010 completions included large deck replacement work at the Verrazano Narrows, Henry Hudson and Cross Bay Bridges, and structural steel repairs at the Verrazano Narrows Bridge.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS Total support to transit

A total of \$842.6 million in surplus revenue was provided for transit services, the second highest amount ever. The highest was \$983 million in 1999, which included \$340 million from the agency's sale of the Coliseum Complex.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Traffic Volume

The total of 291.6 million trips, was up slightly from 291.4 million in 2009, and the E-ZPass market share reached a high of 75.8 %

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted Duty

There were 95 lost time injuries, an increase from 50 in 2009; with the rate of injuries per 200,000 work hours increasing from 2.7 to 5.7. Analysis of the injury accidents, which were overwhelmingly slips, trips and falls, did not reveal any pattern or hazardous condition. Health and Safety staff is working closely with facility managers and has increased safety inspections.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

Female representation was 21.5%, down a percent from the previous year's 22.5%. Minority representation was 50.4 %, equivalent to 50.3% in 2009. More than two-thirds of the workforce are in uniformed positions and must be appointed from Civil Service lists of those who have passed the exam for the title. Women have historically been underrepresented in those taking the exams for our Bridge and Tunnel Officer and maintenance titles. The Authority works with community groups to publicize these Civil Service exams and has had some success in being able to appoint more women as Bridge and Tunnel Officers from the list and continues to encourage diverse maintenance candidates.

**MTA Bus**

Performance Indicator	2009 Actual	2010 Actual
Service Indicators		
% of Completed Trips - MTA Bus	98.91%	97.97%
Bus Passenger Wheelchair Lift Usage - MTA Bus	44,303	45,270
Total Ridership - MTA Bus	119,992,505	120,226,876
Mean Distance Between Failures - MTA Bus	3,372	3,438
Safety Indicators		
Customer Accident Injury Rate - MTA Bus	1.33	1.29
Collisions with Injury Rate - MTA Bus	4.38	5.96
Employee Lost Time Rate - MTA Bus	10.55	9.47
Workforce Indicators		
Female Representatives in MTA Bus Workforce	12.8%	12.6%
Minority Representatives in MTA Bus Workforce	63.7%	66.0%
Financial Indicators		
Fare Operating Ratio	37.9%	36.9%
Operating Cost per Passenger	\$3.82	\$4.09
Capital Program Indicators		
Commitments in Millions of \$ (% of Planned Value)	\$24m (35%)	\$51m (36%)
Completions in Millions of \$ (% of Planned Value)	\$13.4m (100%)	\$64m (80%)

MTA Bus

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

The rate of Bus Customer injuries per million customers decreased from 1.33 in 2009 to 1.29 in 2010 and increased for Bus Collision injuries from 4.38 in 2009 to 5.96 in 2010. In order to address these latter results, existing safety rules and procedures were reassessed to ensure clarity and consistent implementation throughout MTA Bus. Performance management and accident reduction programs were modified to mitigate the occurrence and severity of customer and collision incidents. A reduction in customer accidents and customer injuries was accomplished by year-end 2010. The New York State Public Transportation Board reviewed collision incidents meeting their investigation threshold criteria in 2010 and determined that the severity index was lower in 2010 than the comparable prior calendar year and had improved as well. With the exception of weather related collisions incidents resulting from the 2010 winter storms, there was a net decrease in collision incidents for MTA Bus. During 2010 we aggressively enforced our ban on the use of cell phones and other personal electronic devices.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: Mean Distance between Failures, Bus Trips Completed

Mean Distance Between Failures (MDBF) for year end 2010 was 3,438 miles. This represents a 2.0 % increase from the 2009 actual of 3,372. Performance improvements were a result of the delivery of new buses and improved maintenance practices. In 2010, buses with less than 2 years of service increased from 6% to 10%. However, the bus performance was also negatively impacted by the record setting heat wave, in which there were over 30 days of 90 degree temperatures.

Trips completed depend on both bus and bus operator availability. In 2010, there was slight decline of 1% in trips completed. The combination of the winter storms and summer heat wave impacted both the ability of the bus operators to come to work as well as an increase in weather related roadcalls.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Bus Passenger Wheelchair Lift Usage

Wheelchair ridership of 45,270 million passengers shows a slight increase of 2.2% over 2009.

MTA GOAL: Repair, Replace and Expand Transportation Infrastructure
PERFORMANCE INDICATORS: Capital Program Commitments and Completions

MTA Bus achieved 36% of the 2010 commitment goal of \$142.7M compared to 35.4% of the 2009 commitment goal of \$67.6M. The main reason for the 2010 shortfall was due to a few large projects that were pushed into 2011; some of these projects include the purchase of 83 CNG buses, new roof and ventilation systems at JFK, Baisley Park electrical upgrade and the installation of generators at multiple depots.

MTA Bus achieved 80.3% of the 2010 completion goal of \$79.7M compared to 100% of the 2009 completion goal of \$13.4M. The reason for the 2010 shortfall was due to two projects pushed into 2011; roof and ventilation at LaGuardia and new roof and ventilation at Far Rockaway.

MTA GOAL: Perform Services in an Efficient Manner
PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Customer

Farebox operating ratio was 36.9% in 2010 as compared to 37.9% in 2009. The Operating cost per customer was \$4.09 in 2010 as compared to \$3.82 in 2009. The changes are mainly due to an increase of 7.3% in operating expenses while ridership remained essentially flat. The farebox operating ratio and the operating costs per customer both were impacted negatively by mostly uncontrollable costs, including non-cash actuarial liability, pension, and fuel. These increases in uncontrollable costs were offset by significant savings achieved by MTA Bus in controllable areas. Specifically, there were budget reduction initiatives in administration, overtime controls, project deferrals and maintenance productivity. Had these uncontrollable costs not been included the farebox operating ratio would have improved from 37.9% to 39.9% and the operating cost per customer from \$3.82 to \$3.78.

MTA GOAL: Maximize System Usage
PERFORMANCE INDICATORS: Ridership

Total Ridership increased slightly by 0.2% in 2010. The year end result was 120.2 million riders in 2010 as compared to 119.9 million riders in 2009.

MTA GOAL: Ensure Our Employees' Safety**PERFORMANCE INDICATORS: Employee Lost Time and Restricted Duty**

The rate of Employee Lost Time and Restricted Duty accidents decreased from 10.55 in 2009 to 9.47 in 2010. In order to reduce employee accidents further, MTA Bus continues to reassess existing safety rules and procedures.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders**PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce**

MTA Bus values its diverse workforce. 66.0% of employees are minorities. Minority representation significantly exceeds the goal, which is set at 80% of the minorities in our service area who have the skills and have indicated that they are seeking work. However, females are underrepresented in the MTA Bus workforce. Fewer female applicants have applied for the positions of maintainer and bus maintenance supervisor than male applicants, which has resulted in the underrepresentation of females in these so-called non-traditional jobs. MTA Bus is working with outside organizations and New York City Transit to develop a recruitment strategy to increase female representation in so-called non-traditional jobs for females. Currently, 12.6% of MTA Bus's workforce is female.

MTA Capital Construction

MTA GOAL: Repair, Replace and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

MTACC had a 2010 total commitments goal of \$2.3b of which \$1.8b (75%) was achieved. The shortfall was partly due to projects delayed past 2010, notably the 2nd Ave Subway's 63rd Street Station Upgrade and #7 Extension's Site K. Notable commitments include #7 Extension Site L and #7 Extension Site J, an East Side Access Elevator and Escalator equipment contract and three Fulton Street Transit Center contracts—the Transit Center enclosure contract, the Dey Street Concourse and R Cortlandt Street Station underpass finishes contract, and the Corbin Building restoration contract.

MTACC's goal for completions in 2010 was \$322m, of which \$160m (50%) was achieved. Among the contributing project delays were the East Side Access GCT Madison Yard Preparation and Harold Structures Part 2A as well as South Ferry's Peter Minuit Plaza and Bollards. Notable completions in 2010 include East Side Access' MNR Modifications & Traction Power Relocation and the Fulton Street Transit Center's Foundation & Corbin Building Underpinning.


MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

With women comprising 28.6% of its workforce MTACC has nearly achieved the goal established of 80% of the availability of female workers in these fields. Minorities are 51.2% of the workforce and exceed the MTA goals. Nevertheless MTACC will continue its efforts to increase the diversity of its workforce.




Staff Summary

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Subject All Agency Procurement Guidelines and All Agency Guidelines for Procurement of Services
Department Legal
Department Head Name James Henly
Department Head Signature 
Project Manager/Division Head Roberta Bender

Date March 23, 2011
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Gov. Comm.	3/21			
2	Board	3/23			

Internal Approvals			
Order	Approval	Order	Approval
3	Managing Director 		Civil Rights
2	Chief of Staff 	1	Legal 
	Chief Financial Officer		Administration
	Procurement		Other

Purpose:

To adopt revised All Agency Procurement Guidelines and All Agency Guidelines for Procurement of Services (together, the "Procurement Guidelines") reflecting recent changes in the Public Authorities Law and the Executive Law.

Discussion:

To address changes in state statutes governing public authority procurements, a review of the existing Procurement Guidelines was conducted by the MTA Legal Department in consultation with agency counsel, agency procurement staff, and the Department of Diversity and Civil Rights. As a result of this review, a number of additions and modifications to the Guidelines are recommended. Copies of the proposed Procurement Guidelines, as revised, are annexed as Attachment 1.

The principal changes are summarized below:

- Small business mentoring program contracts. MTA small business mentoring program legislation enacted last year (Section 1265-b of the Public Authorities Law) granted the MTA authority to award designated public work contracts of \$1 million or less outside of the normal bidding/procurement processes to competing small businesses that have been pre-qualified to participate in the mentoring program. The Guidelines accordingly have been revised (see Article III.B of the All Agency Procurement Guidelines) to reflect the new statutory authority conferred on the Chairman or his designee relating to designation and award of public work contracts of \$1 million or less through the mentoring program.
- Certain contracts of \$200,000 or less. Last year, the Legislature also modified state procurement laws to authorize public authorities to award contracts not exceeding \$200,000 without traditional competitive bidding, in instances where the contract involves recycled or remanufactured goods or technology, or where the contract involves the purchase of goods or services from small business concerns or those certified as minority or women-owned business enterprises (MWBES). (Public Authorities Law Section 2879(3)(b)(i)). To reflect this change in state law, the proposed Guidelines (see Article III.C of the All Agency Procurement Guidelines and Article V.D of the All Agency Guidelines for Procurement of Services) are revised to permit the Chairman or his designee, in consultation with the

authorized officer of the appropriate agency, to designate eligible contracts under \$200,000 for award pursuant to PAL Section 2879(3)(b)(i); to specify modified competitive procedures for making such awards; and to provide for Board approval of such awards in instances in which the proposed award is other than to the lowest responsible, responsive proposer (or, in the case of service contracts, where Board approval is otherwise required by applicable law).

- MWBE Procurement Guidelines. Legislation was also enacted last year (amending Section 2879 of the Public Authorities Law and Section 15-A of the Executive Law) outlining in further detail the State's MWBE-related procurement requirements for public authorities. The legislation, among other things, requires public authorities to designate an officer for oversight of MWBE procurement-related responsibilities and to incorporate into an authority's procurement guidelines the statutory MWBE goal setting and outreach requirements (which, in the case of MTA, customarily have been outlined in MWBE program documents). In conformity with the new legislation, a recommended new Article VIII is added to the All Agency Procurement Guidelines and a new recommended Article VI is added to the All Agency Guidelines for Procurement of Services (and appropriate modifications are made regarding contractor outreach) to set out the principal responsibilities, tracking the MWBE-related procurement requirements set forth in these statutory amendments.

Several other technical modifications are incorporated, including updating Guideline terminology to reflect that the Chairman (rather than executive director) serves as the chief executive officer of the MTA and adding language to Article IX of the All Agency Procurement Guidelines and Article XIII of the All Agency Guidelines for Procurement of Services - Change Orders to implement an MTA Auditor General recommendation that this provision be modified to clarify that it applies to budget adjustments to estimated quantity contracts exceeding Board approval thresholds.

Recommendation:

It is recommended that the Board approve the annexed revised All Agency Procurement Guidelines and the All Agency Guidelines for the Procurement of Services.

RESOLUTION

WHEREAS, Metropolitan Transportation Authority and its subsidiaries and affiliates (collectively, "the MTA Agencies") desire to adopt the revised All Agency Procurement Guidelines and All Agency Guidelines for Procurement of Services (together, the "Procurement Guidelines") referred to in the Staff Summary to which this Resolution is attached (the "Staff Summary"), and which are appended hereto, reflecting recent changes in the Public Authorities Law and the Executive Law;

NOW, THEREFORE BE IT:

RESOLVED, that the revised Procurement Guidelines attached hereto are hereby adopted.

Dated: March 23, 2011

As of December 6, 2001 March 2011

ALL AGENCY PROCUREMENT GUIDELINES

These guidelines apply to the Metropolitan Transportation Authority ("MTA"), the New York City Transit Authority ("Transit"), the Long Island Rail Road Company ("LIRR"), The Metro-North Commuter Railroad Company ("MNCRR"), Staten Island Rapid Transit Operating Authority ("SIRTOA"), Metropolitan Suburban Bus Authority ("LI Bus"), Manhattan and Bronx Surface Transit Operating Authority ("MaBSTOA"), MTA Capital Construction ("MTACC"), MTA Bus Company ("MTA Bus"), and to the Triborough Bridge and Tunnel Authority ("Bridges and Tunnels") insofar as they are consistent with the provisions of law applicable to Bridges and Tunnels (each of which is referred to severally and together, as the "Authority").

Article I - Applicability of Guidelines

This policy applies to i) purchase contracts for supplies, materials or equipment ("purchase contracts"); ii) public work contracts ("public work contracts"); and iii) leases of equipment with or without an option to purchase, computer software licenses and maintenance agreements, printing contracts (where editorial services do not predominate), and to any other contract which is not otherwise classified under these guidelines or the All Agency Guidelines for Procurement of Services ("miscellaneous procurement contracts"). In the event a proposed contract contains elements of more than one type of contract under these Guidelines or the All Agency Guidelines for Procurement of Services, the elements which predominate shall determine the type of contract for purposes of both Guidelines.

Article II - Delegation of Authority

~~The executive director, the president of Transit (including Transit, SIRTOA and MABSTOA) Chairman, the presidents of the LIRR, MNCRR, Bridges and Tunnels and LI Bus (each referred to as the "Chief Operating Officer") Authorities, or the designated representative or representatives thereof (each referred to as the "Designee" and the Chief Operating Officer and the Designee together referred to as the~~ defined for purposes of these guidelines as an "Authorized Officer" are hereby empowered with respect to purchase contracts, public work contracts, and miscellaneous procurement contracts to be entered into by ~~his/her~~ the respective Authority acting on its own behalf or as agent for ~~the MTA, as follows:~~

- A. to establish procedures which shall be competitive to the extent deemed practicable by the ~~Chief Operating~~ Authorized Officer, for the award of purchase contracts estimated to involve the expenditure of \$15,000 or less and public work contracts estimated to involve the expenditure of \$25,000 or less;
- B. to establish procedures for the award of miscellaneous procurement contracts regardless of the estimated expenditure, which procedures shall provide for Board

Attachment 1

approval of the award if the contract provides for the estimated expenditure of more than \$25,000 and is not awarded pursuant to sealed competitive bidding. A majority of the members of the Board in attendance at a meeting at which a quorum is present shall be required to approve the resolution authorizing such award;

- C. for purchase contracts estimated to involve the expenditure of more than \$15,000 and public work contracts estimated to involve the expenditure of more than \$25,000:
 - 1. to determine the criteria for the evaluation of bids which may include but are not limited to unit or aggregate amount bid, life cycle costs or savings (including but not limited to costs or savings associated with installation, energy use, maintenance, operation, salvage and disposal), discounts and costs of maintenance and inspection services;
 - 2. to determine whether a contract required to be advertised in the New York State contract reporter is exempt from such requirement on the basis of a need to award the contract on an emergency or critical basis;
 - 3. to advertise for, solicit and open bids;
 - 4. to record the name of each bidder and the amount(s) bid;
 - 5. to determine the lowest responsive and responsible bidder, including, in the event two or more responsible bidders submit identical bids which are the lowest bids, to award the contract to any of such bidders or obtain new bids from such bidders;
 - 6. to reject all bids when it is determined to be in the public interest to do so;
 - 7. to award the contract.
- D. to determine whether a bidder or prospective bidder should be ineligible to act or bid as a contractor or act as a subcontractor for a fixed or indefinite period of time with respect to contracts of the Authority in question.
- E. in addition to the other authorizations set forth elsewhere in this document, to establish guidelines governing the qualifications of bidders for public works and public contracts, and to fix the standards for the prequalification of bidders entering into such contracts, for the East Side Access Project in accordance with Section 1265-a.2(c) of the Public Authorities Law.

Article III - Award of Contracts Without Competitive Bidding

- A. A purchase contract estimated to involve the expenditure of more than \$15,000 and a public work contract estimated to involve the expenditure of more than \$25,000 may be awarded without competitive bidding under the circumstances set forth below, provided that the Authorized Officer recommends such an action and the Board adopts a resolution declaring competitive bidding to be impractical or inappropriate and states the reasons therefore, and summarizes any negotiations that have been conducted. Except in a situation specified in Article III (A) (1),

such resolution shall be approved by two-thirds of the members of the Board then in office. A declaration under Article III (A) (1) shall require approval by a majority of the members of the Board in attendance at a meeting at which a quorum is present.

1. The existence of an emergency involving danger to life, safety or property which requires immediate action and cannot await competitive bidding; or when the item to be purchased is essential to the efficient operation of or the adequate provision of service and, as a consequence of an unforeseen circumstance, such purchase cannot await competitive bidding. Competitive bidding is hereby declared to be impractical and inappropriate in any of the foregoing situations where an Authorized Officer must take appropriate action and cannot await action by the Board; provided, however, that notice of such action shall be given to the Board at its next scheduled meeting together with a statement of the reasons for such action and a request for ratification by the Board.
2. The item to be purchased is available only from a single responsible source provided, however, that if bids have not been solicited for such item within the preceding twelve months, a notice must be published pursuant to Article VI(A) hereof which sets forth the Authority's intent to purchase the item without competitive bidding because the item is available from only one source and invites any firm which believes it can provide the item to so inform the Authority and to provide the Authority with additional information which confirms that it can supply the item.
3. Competitive bids are solicited and
 - a. no responsive bid is received; or
 - b. only a single responsive bid is received, and the Authorized Officer rejects the bid.
4. With respect to a product or technology, the Authority wishes to:
 - a. experiment with or test it;
 - b. experiment or test a new source for it; or
 - c. evaluate its service or reliability.

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

5. The item is available through an existing contract between a vendor and any of the following and the resolution adopted by the Board includes a determination that, and the reasons, why, it is in the public interest to do so:

- a. An Authority or any other public authority provided such contract had been awarded through a process of competitive bidding or a competitive request for proposals;
- b. The State of New York, The City of New York, or (except for Transit and MaBSTOA) the County of Nassau.

It is hereby determined that competitive bidding is inappropriate and, because of the likelihood that a competitive process will not result in better commercial terms, that it is in the public interest to purchase an item through an existing contract of the State of New York, The City of New York or an Authority, or in regard to LI Bus, the County of Nassau, where price and other commercial terms specified in such contract are satisfactory to the Chief Operating Authorized Officer. Such a determination shall be documented in writing by the Chief Operating Authorized Officer.

6. The Authority determines that it is in the public interest to award the contract though a competitive request for proposals ("RFP") in accordance with the procedures set forth in Article IV. For purposes of this subsection, a competitive RFP shall mean a method of soliciting proposals and awarding a contract on the basis of a formal evaluation of the characteristics which are deemed relevant to the Authority's operations, such as quality, cost, delivery schedule and financing, against stated selection criteria. Where the RFP involves the purchase or rehabilitation of rail cars, transit cars or buses, the selection criteria may also include the extent to which the performance of all or a portion of the contract will involve the use of sites within the State of New York or the use of goods produced or services provided within the State of New York.

B. A public work contract that is estimated to involve the expenditure of not more than \$1 million, is not federally funded and has been designated as a small business mentoring program contract pursuant to Section 1265-b of the Public Authorities Law, may be awarded pursuant to the provisions of Section 1265-b of the Public Authorities Law, notwithstanding any other provision of law or these guidelines. The Chairman or his designee is authorized by said Section 1265-b to designate which eligible public work contracts shall be small business mentoring program contracts.

C. A contract, in an amount not to exceed \$200,000 for the purchase of goods, for public works or for a miscellaneous procurement that is not federally funded, may be awarded pursuant to Section 2879(3)(b)(i) of the Public Authorities Law without competitive bidding or other formal competitive process, notwithstanding any other provision of law or these guidelines, where either (i) the contract involves goods or technology that are recycled or remanufactured or (ii) the proposed award is to a small business concern or a certified minority or women-owned business enterprise ("MWBE"). The Chairman or his designee shall determine which contracts are appropriate for such types of procurements in consultation with the Authorized Officer of the appropriate agency. In the case of

contracts that are designated pursuant to Section 2879 (3) (b) (i) for award to eligible small business concerns or MWBEs, there shall be notice of the proposed contract on the Authority website inviting responsive bids or proposals from qualified small business concerns and MWBEs. Notice of such procurement shall also be provided to identified organizations that represent or regularly notify small business concerns or MWBEs of the type of procurement opportunity that is the subject of the award. Awards pursuant to Section 2879(3)(b)(i) shall be made to the bidder or proposer determined to have submitted the bid or proposal that is most advantageous to the Authority, price and any other relevant factors considered. An award proposed to be made to a bidder or proposer other than the lowest responsible, responsive bidder or proposer shall require approval by a majority of the Board at which a quorum is present. The Chairman or his designee, in consultation with the Authorized Officer of the appropriate agency, may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to Section 2879(3)(b)(i) if the Chairman or his designee determines that an award will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority.

Article IV - Requests for Proposals

A contract authorized pursuant to Article III (FA)(6) may be awarded after the issuance of an RFP in the following manner:

- A. Public notice shall be given of the RFP in accordance with the procedures specified in Article VI(A) and (B). In addition to the information required under Article VI(C), the public notice must include a statement of the selection criteria. Such notice shall also be provided to professional and other organizations that represent or regularly notify certified MWBEs of the type of procurement opportunity that is the subject of the RFP. The Authority may engage in a selection process involving multiple steps such as requests for qualifications, requests for technical proposals and requests for quotations. After the publication of the notice, any or all of the selection criteria specified in the advertisement may be changed, provided that, if the change is material, proposers and potential proposers who, prior to the deadline for the receipt of proposals, have expressed an interest in the RFP, shall be informed of the change and afforded the opportunity to modify their proposals.
- B. After receipt of the proposals, an Authority may:
 - 1. change the selection criteria provided that, if the change is material, all proposers are informed of the change and afforded the opportunity to modify their proposals;
 - 2. request that any of the proposers make a presentation. If it does so, it is not required to afford such opportunity to all proposers;

3. negotiate with any of the proposers. If it does so, it is not required to negotiate with all proposers;
 4. reject any proposal at any time; and
 5. reject all proposals, in which event the Authority may decide to take no further action, solicit new proposals or solicit bids.
- C. A contract may be awarded pursuant to an RFP only after adoption of a resolution by a 2/3 vote of the Board members then in office (the "award resolution").
The award resolution:
1. must be recommended to the Board by the Authority's Authorized Officers;
 2. must identify all proposers;
 3. must set forth the substance of the proposals received;
 4. must, as applicable, summarize the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals; and
 5. must set forth the criteria upon which the selection was made.
- D. The award resolution may be adopted simultaneously with or subsequent to the adoption of the resolution declaring that competitive bidding is impractical or inappropriate because it is in the public interest to use the RFP process specified in the opening paragraph of Article III hereof (the "RFP authorizing resolution"), provided that, if the RFP authorizing resolution and the RFP award resolution are adopted simultaneously or within less than thirty days of each other, the contract may be executed by the Authority no less than thirty days after the adoption of the RFP authorizing resolution.

Article V - Qualified Products Lists ("QPL")

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

- A. The Authorized Officer of the Authority determines as to a specific item that, for reasons of efficiency, economy, compatibility or maintenance reliability, there is a need for standardization.
- B. The QPL is reviewed no less than two times per year. The purpose of this review is to evaluate whether to add or delete items or vendors to or from the QPL.
- C. A notice is published by the Authority no less than one time per year in a general circulation newspaper and in the New York State contract reporter which:

1. advertises the existence of the QPL;
 2. states that the QPL is available for public inspection; and
 3. specifies the name and address of the Authority's office which may be contacted in regard to the procedure for the compilation of the QPL.
- D. A contract for an item on the QPL may be awarded:
1. without competitive bidding if only one source for the item is specified on the QPL;
 2. by competitive sealed bidding but without advertising provided the invitation to bid is sent to all vendors listed on the QPL for the particular item;
 3. by competitive sealed bidding after advertising the bid pursuant to Article VI (A) of these procedures.
- E. Two or more Authorities may utilize the same QPL provided that such Authorities jointly comply with the provisions of this Article.

Article VI - Advertising

Except as provided in subsection D of this Article and Article II(C)(2), in those instances where advertising is required under these Guidelines:

- A. For purchase contracts in the actual or estimated amount in excess of \$15,000 for all Authorities ~~except Bridges and tunnels, and in excess of \$5,000 for Bridges and Tunnels,~~ and for public work contracts in the estimated amount in excess of \$25,000, the advertisement shall be published at least once in a newspaper of general circulation in the area served by the Authority and in the New York State contract reporter provided that, if the contract is to be awarded without the solicitation of competitive bids or RFP, the timing of the publication in the New York State contract reporter shall be determined by an Authorized Officer;
- B. The first publication shall be no less than fifteen business days prior to the planned bid opening date and the second publication shall be within a reasonable period prior to the planned bid opening date.
- C. The advertisement must contain, as applicable, a statement of: (i) the time and place where bids received will be publicly opened and read; (ii) the name of the contracting Authority; (iii) the contract identification number; (iv) a brief description of the public work supplies, materials, or equipment sought, the location where work is to be performed, goods are to be delivered or services provided and the contract term; (v) the address where bids or proposals are to be submitted; (vi) the date when bids or proposals are due; (vii) a description of any eligibility or qualification requirement or preference; (viii) a statement as to whether the contract requirement may be fulfilled by a subcontracting, joint venture or co-production arrangement; (ix) any other information which the Authority deems useful to potential contractors; and (x) the name, address, and

telephone number of the person to be contacted for additional information. In addition, if a purchase contract is involved, the advertisement in the New York State contract reporter shall also include a statement as to whether the goods sought had in the immediately preceding three year period been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law.

D. Advertisement in a general circulation newspaper and in the New York State contract reporter is not required if the Authority regularly purchases the particular supplies, material or equipment and bids are solicited from a list of potential suppliers for the item which has been established and maintained as set forth in Article VII hereof.

E. In addition to the above advertisements, the Authority shall provide notice to professional and other organizations that regularly notify certified MWBEs of the type of procurement opportunity that is the subject of the solicitation.

Article VII - Contractor Outreach

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

A. Suppliers Lists for Purchase Contracts: The Authority shall compile a list of potential sources of supplies, materials or equipment which it regularly purchases. Such list must be compiled in accordance with the following procedures:

1. Advertisements must be periodically placed in one or more publications which are likely to be read by manufacturers, suppliers and others who deal in the item including firms which may be minority or woman owned businesses, which set forth a general description of categories of items which are regularly procured by the Authority and invites firms to advise the Authority in writing of their interest in being placed on the suppliers list for specific items or categories of items.

2. A periodic effort:

i) must be undertaken to identify potential bidders for the item who are not on the list including minority or woman owned businesses. Such effort shall include the use of the Authorities' websites, use of appropriate publications, including those that serve minority and women's business communities, other sources of information, and cooperation with federal, state and local agencies and other Authorities. Where appropriate, a print or electronic letter shall be sent to a new potential bidder which invites it to request that it be added to the list and, if it does not wish to be added, requests that it indicate why.

ii) where appropriate, must be undertaken to identify firms which have not responded to bids or expressed an interest in remaining on a list. An effort should be made to contact such firms to determine why they have not bid., whether they are interested in remaining on the list and, if not, why not. A firm may be deleted from the list where it requests deletion, or where the circumstances indicate that it is unlikely that the firm is interested in remaining on the list.

3. The Authority will maintain lists of qualified and certified MWBEs, including professional firms that have expressed an interest in doing business with the Authority and ensure that such lists are updated regularly. The Authority will also consult the lists of certified MWBEs maintained by the New York State Department of Economic Development ("DED").

4. An advertisement must be placed quarterly in the State Register and in the New York State contract reporter.

5. In the event it is not practicable to maintain a suppliers list for a specific item, such item shall be included in a broader category or other appropriate classification which reasonably includes the item, and a suppliers list shall be maintained with respect to the category or classification.

B. Capital Program Purchase and Public Work Contracts: The Authority shall place an advertisement in the New York State contract reporter no less than four times per year which sets forth a general list of anticipated capital program purchase contracts and public work contracts, and the address of the Authority's office which may be contacted in order to be afforded the opportunity to compete for such contracts and for other Authority contracts. Advertisements will also be placed in publications that serve minority and women's business communities.

Article VIII -- Minority/Women Owned and Disadvantaged Business Enterprises

The potential exists for disadvantaged/minority/women owned business enterprise involvement in Authority contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of DBEs under the Authority's federal program, and MBEs/WBEs under the New York State program set forth in Public Authorities Law §2879, Article 15-A of the Executive Law and these guidelines.

A. The MTA Chief Diversity Officer ("Chairman's Designee") is responsible for overseeing the programs established by the MTA to promote and assist: i) the participation by certified MWBEs in procurement opportunities and facilitation of the award of procurement contracts to such enterprises; ii) the utilization of certified MWBEs as subcontractors and suppliers to Authority prime contractors; and iii) the utilization of partnerships, joint ventures ("JVs") or other similar

arrangements between certified MWBEs and prime contractors. The Chief Diversity Officer reports directly to the Chairman in connection with the responsibilities set forth herein, and will participate in the procurement process either directly or through his or her designees.

B. For contracts awarded pursuant to these Guidelines, the Authority shall establish appropriate goals for participation by certified MWBEs and for the utilization by prime contractors of MWBEs as subcontractors and suppliers. Statewide numerical participation target goals will be established by the Authority based on the findings of the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study.

C. The Authority will conduct procurements in a manner that enables the Authority to achieve the maximum feasible portion of the goals set pursuant to Article VIII (B) above, including by taking the following actions: i) establishing measures and procedures to ensure that certified MWBEs are given the opportunity for maximum feasible participation in the performance of Authority contracts and to assist in the identification of those contracts that are best suited for which certified MWBEs may best bid to actively and affirmatively promote and assist their participation in the performance of Authority contracts so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE goals; ii) designating the New York State Division of Minority and Women-owned Business Development ("DMWBD") to certify and decertify MWBEs for purposes of these guidelines; iii) setting forth in each contract solicitation the expected degree of MWBE participation based on potential subcontracting opportunities and the availability of certified MWBEs to respond competitively to those opportunities; iv) providing to prospective contractors in writing, or by identifying a link to a specific web site, a current list of MWBEs; v) with regard to joint ventures, allowing a bidder to count toward meeting its MWBE participation goal, the MWBE portion of the joint venture; vi) waiving a contractor's obligation relating to MWBE participation after a showing of good faith efforts to comply with the participation goal; and vii) verifying that MWBEs listed in a successful bid or proposal are actually participating to the extent listed in the project for which the bid or proposal was submitted. In implementing its MWBE programs, the Authority will also consider, where practicable: i) the severability of construction projects and other bundled contracts; ii) the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study; iii) compliance with the requirements of any federal law concerning opportunities for any MWBEs which effectuates the purpose of this section; and iv) consultation of the most recent disparity study.

Article VIIIIX - Change Orders

- A. A change order which exceeds the lesser of \$250,000 or \$50,000 in the event such change order exceeds 15% of the adjusted contract value, may be entered into by an Authorized Officer, upon the approval of the Board pursuant to a resolution adopted in accordance with Article IX hereof. The submission to the Board shall include an explanation of the need for the change order. All other change orders shall be approved by an Authorized Officer. For purposes of this Article, the "adjusted contract value" shall mean the original amount of the contract plus the aggregate amount of all prior change orders (whether or not approved by the Board). This provision applies to all contracts subject to these Guidelines, including budget adjustments to estimated quantity contracts previously approved by the Board which exceed the threshold.
- B. Notwithstanding the foregoing, an Authorized Officer may enter into a change order in any of the following situations as determined by an Authorized Officer:
 - 1. The existence of an emergency; or
 - 2. There is a risk of a substantial increase in cost or delay if prompt action is not taken.
- C. The Chief Operating Officer shall establish policies with respect to the delegation of responsibilities set forth in this Article.

Article IXX - Form of Board Resolution

- A. Except as otherwise required in Article III and Article IV(C), the procedure for the adoption by the Board and the format of a resolution pursuant to this policy shall be determined by the ~~Executive Director~~ MTA Chairman. Provided, however, that any Board resolution sought pursuant to these Guidelines shall (i) identify the contract by vendor; (ii) briefly describe the substance of the contract; (iii) specify all the information required under the applicable provisions of this policy; and (iv) specify the estimated or actual cost to the Authority.
- B. To the extent practicable, the request for the resolution shall first be submitted to the standing committee of the Board responsible for the Authority.
- C. The ~~Executive Director of the MTA~~ Chairman may modify the procedures in this Article for all Authorities.

Article XXI - Miscellaneous

- A. Any provision of this policy may be waived by the Chairman, ~~a Chief Operating Officer or an Authority President~~, or the Board except to the extent prohibited by law. A waiver may also be in the form of a ratification.
- B. No Board Committee action or Authority policy, other than one approved by the Chairman, shall be inconsistent with these Guidelines.

- C. An Authority may not divide or split any contract or series of contracts for the purpose of avoiding the requirements of these Guidelines.
- D. If prior to the commencement of an Authority fiscal year, an Authorized Officer reasonably anticipates that, during the next fiscal year, the Authority will expend, in the aggregate, in excess of ~~ten~~fifteen thousand dollars for a series of purchase contracts for the same or substantially similar good: i) such requirement shall be met pursuant to a requirements contract(s) awarded pursuant to the applicable provisions of these guidelines; or ii) each such contract shall be awarded pursuant to the provisions of Article II(C), III, IV, V or Article VII of these Guidelines.
- E. If prior to the commencement of an Authority fiscal year, an Authorized Officer reasonably anticipates that, during the next fiscal year, the Authority will expend, in the aggregate, in excess of twenty-five thousand dollars for a series of contracts for same or substantially the same type of public work: i) such requirements shall be met pursuant to a requirements contract(s) awarded pursuant to the provisions of Article II(C), III, or IV or a procedure determined by an Authorized Officer to be comparable to Article V or VII of these Guidelines; or ii) each such contract shall be awarded pursuant to the provisions of Article II(C), III, or IV or a procedure determined by an Authorized Officer to be comparable to Article V or VII.
- F. Nothing in these Guidelines shall preclude the Authority from accepting bids or proposals in an electronic format, to the extent permitted by law.
- G. A contract awarded by an Authority pursuant to these Guidelines may provide that the contract includes the requirements of one or more other Authorities.
- H. These guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof.

As of ~~December 6, 2001~~ March 2011

**ALL AGENCY GUIDELINES FOR
PROCUREMENT OF SERVICES**

These guidelines apply to the Metropolitan Transportation Authority ("MTA"), the New York City Transit Authority ("Transit"), the Long Island Rail Road Company ("LIRR"), the Metro-North Commuter Railroad Company ("MNCRR"), Staten Island Rapid Transit Operating Authority ("SIRTOA"), Metropolitan Suburban Bus Authority ("LI Bus") ~~and Manhattan and Bronx Surface Transit Operating Authority ("MaBSTOA")~~, MTA Capital Construction ("MTACC"), MTA Bus Company ("MTA Bus") and to the Triborough Bridge and Tunnel Authority ("Bridges and Tunnels") insofar as they are consistent with the provisions of law applicable to Bridges and Tunnels (each of which is referred to as the "Authority").

Article 1-Applicability of guidelines

This policy applies to contracts for services. A contract for services is either a personal service contract or a miscellaneous service contract.

A. Personal services contracts generally involve retaining a consultant who specializes in one of the following:

- (1) Legal
- (2) Financial
- (3) Accounting
- (4) Auditing
- (5) Management
- (6) Human Resources
- (7) Investment
- (8) Bonds
- (9) Planning
- (10) Analysis
- (11) Training
- (12) Data Processing
- (13) Computer Systems
- (14) Statistics
- (15) Research
- (16) Public and corporate relations
- (17) Architecture
- (18) Engineering
- (19) Surveying
- (20) Labor Relations

- (21) Real Estate
- (22) Legislation
- (23) Public Affairs
- (24) Marketing
- (25) Advertising
- (26) Records Management
- (2627) Office services requiring specialized skills
- (2728) Printing where editorial services predominate
- (28)-(29) Other Consulting, Professional or Technical Services

- B. A miscellaneous service contract is any contract for service which is not a: i) personal service contract; ii) public work contract; or iii) a miscellaneous procurement contract. Examples include but are not limited to contracts for guard service, custodial service and maintenance work performed by laborers, workers or mechanics which does not result in a substantial improvement to a building or other fixed asset.
- C. In the event a proposed contract contains elements of more than one type of contract under these guidelines or the All Agency Procurement Guidelines, the elements which predominate shall determine the type of contract for purposes of both Guidelines.

Article II - Delegation of Authority

The executive director, the president of Transit (including Transit, SIRTGA and MABSTGA), and ~~and Chairman~~, the presidents of the LIRR, MNCRR, Bridges and Tunnels and LI Bus (each referred to as the "Chief Operating Officer"), Authorities or the designated representative or representatives thereof (each referred to as the "Designee" and the Chief Operating Officer and the designee collectively referred to as the defined for purposes of these guidelines as an "Authorized Officer") are hereby empowered with respect to service contracts to be entered into by his/her respective Authority acting on its own behalf or as agent for the MTA, as follows:

- A. to implement these guidelines.
- B. to establish procedures which shall be in accordance with these guidelines to the extent deemed practicable by the ~~Chief Operating~~ Authorized Officer, for the award of: (i) a miscellaneous service contract estimated to involve the expenditure of \$15,000 or less; and (ii) a personal service contract estimated to involve the expenditure of \$25,000 or less, provided that the contract shall be advertised, Board approval of the award obtained and reported if otherwise required under these guidelines.
- C. to determine whether a miscellaneous service contract shall be awarded pursuant to the provisions of these guidelines or the provisions of the All Agency Procurement Guidelines, provided that, notwithstanding the vote otherwise

required by the All Agency Procurement Guidelines, the vote of approval of a majority of the members of the Board present at a meeting at which a quorum is present shall in any event be required for the award of the following miscellaneous service contracts:

- i) ~~Miscellaneous Service contracts:~~ Without regard to whether or not the contract was awarded pursuant to sealed competitive bidding, the actual or estimated amount of the contract is \$15,000 or more and the services will be rendered over a period in excess of one year.
- ii) Without regard to the period of performance of the services, the miscellaneous service contract provides for the expenditure of more than \$25,000. and was not awarded pursuant to sealed competitive bidding.

Article III - Policy

It is the policy of the Authority to contract for personal and miscellaneous services when, because of factors such as timing, costs, qualifications or the nature of the services to be rendered, it is more beneficial for such services to be contracted for than performed by employees of the Authority.

Contractors shall be selected on a competitive basis except when competition is not required pursuant to these Guidelines or is waived as impractical or inappropriate.

Article IV - Advertising

- A. Regardless of the selection process used, notice of a contract for the acquisition of services of any kind in the actual or estimated amount of \$15,000 or more shall be published at least one time in New York State Contract Reporter, except as provided in paragraph C of this Article. The publication shall be no less than fifteen business days prior to the planned date on which a bid or proposal is due, provided that if the contract is to be awarded without bids or proposals and advertising is required, the timing of the publication shall be, determined by an Authorized Officer.
- B. The notice must contain, as applicable, a statement of: i) the name of the contracting Authority; ii) the contract identification number; iii) a brief description of the services sought, the location where services are to be provided and the contract term; iv) the address where bids or proposals are to be submitted; v) the date when bids or proposals are due; vi) a description of any eligibility or qualification requirement or preference; vii) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture or co-production arrangement; viii) any other information which the Authority deems useful to potential contractors; ix) the name, address and the telephone number of the person to be contacted for additional information; and x) a statement as to whether the services sought had, in the immediately preceding three year period, been supplied by a

foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law.

C. The advertisement is not required under the following circumstances:

- i) In the event of an emergency or critical need for the services as determined by an Authorized Officer;
- ii) The contract is re-bid or re-solicited for substantially the same services within forty-five business days after the date bids or proposals were originally due;
- iii) The contract is awarded to a not-for-profit provider of human services;
- iv) The contract is awarded pursuant to the provisions of Article V(C)(1) or (2) (single or unique source) of these Guidelines.

D. In addition to the above advertisements, the Authority shall provide notice to professional and other organizations that regularly notify certified minority and women owned business enterprises ("MWBEs") of the type of procurement opportunity that is the subject of the solicitation.

Article V - Selection of Personal Services Contractors

A. Requirements

The following are the requirements to be followed for selection of contractors for personal services, except for: i) contracts for architectural, engineering, and survey services (which are subject to paragraph B); ii) contracts equal to or less than \$25,000 (which may be entered into pursuant to the provisions of this paragraph or pursuant to procedures established by Designeean Authorized Officer which shall be competitive to the extent deemed practicable by the Chief Operating Authorized Officer); and iii) contracts for services for which a competitive selection process is inappropriate pursuant to the provisions of paragraph C.

1. The Division/Department of the Authority requiring the services shall prepare a written statement containing a description of the services, the reasons why they are required, and the required or estimated schedule or duration of the services.
2. A request for proposals ("RFP") to perform the required services shall be sent to three or more firms to assure competition, including any DBE/WBE/MBE firms selected to receive the RFP pursuant to applicable Authority or New York State DBE/WBE/MBE programs, unless there are only two qualified firms or unless competition is waived as hereinafter provided. The RFP or notice thereof shall also be provided to professional and other organizations that represent or regularly notify certified MWBEs

of the type of procurement opportunity that is the subject of the RFP notice.

3. The RFP shall describe the services to be performed, any completion dates or time requirements, DBE/WBE/MBE requirements, if applicable, and the criteria to be utilized by the Authority in evaluating proposals and shall contain a requirement for a cost proposal and the date, time and place when proposals must be received.
4. The Authority may select one or more proposers with which to negotiate after evaluation of the proposals received. The award shall be made to the proposer or proposers whose proposal(s) will be the most advantageous to the Authority, price, qualifications and other factors considered, using the evaluation criteria specified in the RFP as the basis for the decision.

B. Architectural- Engineering and Survey Contracts

1. In the procurement of architectural, engineering and surveying services, the Authority shall determine whether to comply with the RFP procedures set forth in paragraph A or the "Brooks" method set forth in this paragraph, provided that if federal assistance is involved, the decision shall take into account applicable federal requirements.
2. The Authority shall encourage professional firms engaged in the lawful practice of the profession to submit an annual statement of qualifications and performance data. For each proposed project identified in accordance with Article V(A)(1), the Authority shall evaluate current statements of qualifications and performance data on file with the Authority. If desired and to the extent appropriate if federal assistance is involved, the Authority may conduct discussions with three or more professional firms regarding anticipated design concepts and proposed methods of approach to the assignment.
3. The Authority shall then evaluate whether a modification to the written statement prepared in accordance with subparagraph 1 of Paragraph A is appropriate, and shall then comply with the provisions of subparagraphs 2 and 3 of Paragraph A.
4. The Authority shall select from the proposals submitted, in order of preference, based upon the criteria established by the Authority, no less than three professional firms deemed to be the most highly qualified to provide the services required.
5. The Authority shall negotiate a contract with the highest qualified professional firm for architectural, engineering or surveying services at compensation which the Authority determines in writing to be fair and

reasonable. In making this decision, the Authority shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the Authority be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified, at a fee it determines to be fair and reasonable, negotiations with that professional firm shall be formally terminated. The Authority shall then undertake negotiations with the second most qualified professional firm. Failing accord with the second most qualified professional firm, the Authority shall formally terminate negotiations. The Authority shall then undertake negotiations with the third most qualified professional firm. Should the Authority be unable to negotiate a satisfactory contract with any of the selected professional firms it shall select additional professional firms, in order of their competence and qualification and it shall continue negotiations in accordance with this subparagraph until an agreement is reached.

6. The provisions of this paragraph B shall apply only to engineering, architectural, or surveying services contracts in excess of \$25,000.00. Contracts for engineering, architectural or surveying services involving lesser amounts may be entered into pursuant to the provisions of this paragraph or pursuant to procedures established by Designeean Authorized Officer which shall be competitive to the extent deemed practicable by the Chief Operating Authorized Officer.

C. It is hereby determined that a competitive selection process is inappropriate and that a competitive process shall not be required in the following instances:

1. When the services are obtainable from one source only.
2. When the provider of the services has unique or otherwise outstanding qualifications.
3. When an emergency or other circumstances exist which make competition impracticable or inappropriate.
4. Legal Services.

D. Pursuant to Section 2879(3)(b)(i) of the Public Authorities Law, a contract in an amount not to exceed \$200,000, that is not federally funded, for personal services or miscellaneous services may be awarded without competitive procedures otherwise required by law or these Guidelines, where the proposed award is to a small business concern or a certified minority or women-owned business enterprise ("MWBE"). Contracts may be designated for solicitation and award pursuant to Section 2879(3)(b)(i) by the Chairman or the Chairman's designee in consultation with the Authorized Officer of the appropriate agency. In the case of contracts that are designated pursuant to Section 2879(3)(b)(i) for award to eligible small business concerns or MWBEs, there shall be notice of the proposed contract on the Authority website inviting responsive bids or proposals from qualified small business concerns and MWBEs. Notice of such procurements shall also be provided to identified organizations that represent or regularly notify

small business concerns or MWBEs, of the type of procurement opportunity that is the subject of the award. Awards pursuant to Section 2879(3)(b)(i) shall be made to the bidder or proposer determined to have submitted the bid or proposal that is most advantageous to the Authority, price and any other relevant factors considered. An award proposed to be made to a bidder or proposer other than the lowest responsible, responsive bidder or proposer, shall require approval by a majority of the Board at a meeting at which a quorum is present; in addition, the approval of the Board is required in any other instance in which it is required by law. The Chairman or his designee, in consultation with the Authorized Officer of the appropriate agency, may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to Section 2879(3)(b)(i) if the Chairman or his designee determines that an award will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority. The requirements of Article IV and of Article V(B) shall not apply to contracts awarded in accordance with Section 2879(3)(b)(i).

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

Article VI – Minority/Women Owned and Disadvantaged Business Enterprises

The potential exists for disadvantaged/minority/women owned business enterprise involvement in personal service and miscellaneous service contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of DBEs under the Authority's federal program, and MBEs/WBEs under the New York State program set forth in Public Authorities Law §2879, Article 15-A of the Executive Law and these guidelines.

A. The MTA Chief Diversity Officer ("Chairman's Designee") is responsible for overseeing the programs established by the MTA to promote and assist: i) the participation by certified MWBEs in procurement opportunities and facilitation of the award of procurement contracts to such enterprises; ii) the utilization of certified MWBEs as subcontractors to Authority prime contractors; and iii) the utilization of partnerships, joint ventures ("JVs") or other similar arrangements between certified MWBEs and prime contractors. The Chief Diversity Officer reports directly to the Chairman in connection with the responsibilities set forth herein, and will participate in the procurement process either directly or through his or her designees.

B. For contracts awarded pursuant to these Guidelines, the Authority shall establish appropriate goals for participation by certified MWBEs and for the utilization by prime contractors of MWBEs as subcontractors and suppliers. Statewide numerical participation target goals will be established by the Authority based on the findings of the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study.

C. The Authority will conduct non-federally funded procurements in a manner that enables the Authority to achieve the maximum feasible portion of the goals set pursuant to Article VI(B) including taking the following actions: (i) establishing measures and procedures to ensure that certified MWBEs are given the opportunity for maximum feasible participation in the performance of Authority contracts and to assist in the identification of those contracts that are best suited for which certified MWBEs may best bid to actively and affirmatively promote and assist their participation in the performance of Authority contracts so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE goals; (ii) designating the New York State Division of Minority and Women-owned Business Development ("DMWBD") to certify and decertify MWBEs for purposes of these guidelines; (iii) setting forth in each contract solicitation the expected degree of MWBE participation based on potential subcontracting opportunities and the availability of certified MWBEs to respond competitively to those opportunities; (iv) providing to prospective contractors in writing or by identifying a link to a specific web site a current list of MWBEs; (v) with regard to JVs, allowing a bidder to count toward meeting its MWBE participation goal, the MWBE portion of the JV; (vi) waiving a contractor's obligation relating to MWBE participation after a showing of good faith efforts to comply with the participation goal; and (vii) verifying that MWBEs listed in a successful bid or proposal are actually participating to the extent listed in the project for which the bid or proposal was submitted. The Authority will also consider, where practicable: (i) the severability of service requirements and other bundled service contracts; (ii) the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study; (iii) compliance with the requirements of any federal law concerning opportunities for any MWBEs which effectuates the purpose of this section; and (iv) consultation of the most recent disparity study.

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

A. The following types of provisions shall be contained in all personal services contracts, except that it is not necessary to include any provision which is inapplicable or unnecessary because of the nature or duration of the services to be performed, the location or locations where they are to be performed or the type of compensation being paid.

1. Description of Services

2. Compensation
 3. Time for Performance or Date of Completion
 4. Liability of Contractor or Consultant; Indemnification of Authority
 5. Reports of Contractor or Consultant
 6. Ownership of Plans, Drawings or Other Products of the Performance of the Services
 7. Assignments; Subcontracts
 8. Maintenance of Records, Accounts
 9. Right of Authority to Inspect and/or Audit Books and Records of Contractor or Consultant
 10. Insurance Requirements
 11. Termination
 12. Monitoring of the Performance of Services
 13. Use of Authority Supplies, Facilities or Property
 14. Use of Authority Personnel
 15. All Provisions required to be included in Authority contracts by Federal, State or Local Laws Ordinances, Codes, Rules or Regulations.
 16. Such modifications and additions as are appropriate in light of the specific circumstances presented.
- B. To the extent practicable, a verbal authorization to commence work and a writing which is not intended to constitute the final agreement, at a minimum shall:
1. Describe the services to be performed;
 2. Specify the amount of compensation to be paid or the rates or fees which will be utilized to determine such compensation; and
 3. Specify a date for completion or the anticipated duration of the services (except in instances where the nature of the services makes an estimate of the time required impossible or impracticable or where the contract is a retainer for the performance of services over an extended period of time on an "as-needed" basis and contains provisions allowing termination by the Authority at any time without cause).
- C. Miscellaneous service contracts shall contain those provisions of paragraph A and of other standard forms of contract deemed appropriate by an Authorized Officer.

Article VIII - Responsibilities of Services Contractors

A service contractor shall have the following responsibilities:

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

monitoring the performance of the services or who are assisting in their performance.

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

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

Article X - Monitoring, of Service Contracts

The Division/Department of the Authority requiring the services shall be responsible for monitoring the performance of the contract to assure that the contract is performed in accordance with its terms.

Article XI Reporting of Service and Purchase Contracts

- A. Each Division/Department of an Authority shall maintain records, for each fiscal year, of the following contracts entered into by the Authority at the request of such Division/Department: i) personal service contracts in the actual or estimated amount of \$15,000 or more; ii) miscellaneous service contracts in the actual or estimated amount of \$15,000 or more; and iii) purchase contracts in an actual or estimated amount of \$15,000 or more.
- B. The Authority's ~~Chief Operating~~Authorized Officer shall designate a Division or Department which shall be responsible for preparing a report at the end of each fiscal year with respect to the foregoing contracts. With respect to each such contract, the report shall contain the following information:
 1. Name of Contractor;
 2. Short description of the services involved;
 3. Amounts paid pursuant to the contract as of the end of such fiscal year;
 4. The selection process used;
 5. Status of the contract;
 6. If it was exempt from advertising in the New York State Contract Reporter pursuant to Article IV(C) of these Guidelines:
 - i) a statement to that effect; and
 - ii) the basis for such exemption; and
 7. Whether the contract was entered into with a New York State business enterprise or a foreign business enterprise, as those terms are defined in Public Authorities Law § 2879.
 8. Whether the contract was entered into with a New York State certified minority or women-owned business enterprise.

9. Referrals to and penalties imposed by the Director of DMWBD pursuant to Executive Law § 316.

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

Article XII-Personal Service Contracts Requiring Approval of the Board

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

- A. Personal Service Contracts of all Authorities except for Bridges and Tunnels: All personal service contracts entered into by an Authority in the actual or estimated amount of \$20,000 or more;
- B. Personal Service Contracts of Bridges and Tunnels: All personal services contracts entered into by Bridges and Tunnels in the actual or estimated amount of \$15,000 or more where the services will be rendered over a period in excess of one year; and
- C. Miscellaneous service contracts: See Article ~~III~~(C) of these guidelines.

Article XIII-Change Orders

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

- A. The contract did not equal or exceed the applicable monetary or durational threshold for board approval set forth in Article XII or Article II of these guidelines and the applicable threshold is equaled or exceeded as a result of the change order or amendment. This provision applies to all contracts subject to these Guidelines, including budget adjustments to estimated quantity contracts previously approved by the Board which exceed the threshold.
- B. The contract was approved by the Board and the change order or amendment, including any change orders or amendments since Board approval was last obtained, results in a substantial change in the contract as determined by an Authorized Officer.
- C. The miscellaneous service contract was awarded pursuant to the All-Agency Procurement Guidelines and the change order or amendment equals or exceeds the requirements for Board approval under Article VIII of the All Agency Procurement Guidelines.

- D. Notwithstanding the foregoing, an Authorized Officer may enter into a change order or amendment in any of the following situations as determined by an Authorized Officer,
1. The existence of an emergency; or
 2. The risk of a substantial increase in cost or delay if prompt action is not taken.
- E. The Chief Operating Officer shall establish policies with respect to the delegation of responsibilities set forth in this Article.

Article XIV – Miscellaneous

- A. Any provision of these guidelines may be waived by the Chairman, a ~~Chief Operating Officer, the Executive Director~~ Authority President or the Board, or such individuals as they may designate, except to the extent prohibited by law. A waiver may also be in the form of a ratification. If a contract is federally assisted, prior to issuing a waiver, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.
- B. No Board committee procedure or action or Authority policy, other than one approved by the Chairman, shall be inconsistent with these Guidelines.
- C. A contract awarded by an Authority pursuant to the provisions of these Guidelines may provide that the contract includes the requirements of one or more other Authorities.
- D. An Authority may contract for a service available through an existing contract between a contractor and the State of New York or the City of New York or another Authority if: i) the existing contract was awarded pursuant to a process of competitive sealed bids or a competitive request for proposals; ii) the Authority's ~~Chief Operating~~ Authorized Officer determines that the price and other commercial terms specified in the contract are satisfactory; and iii) if board authorization would otherwise be required under these Guidelines, the Board adopts a resolution by a majority vote of the members of the Board present meeting at which a quorum is in attendance which sets forth the reasons why a competitive process is impractical or inappropriate and authorizes the Authority to enter into the contract.
- E. These Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under or by reason, of any requirement or provision thereof.
- F. Nothing contained in these Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of these Guidelines.

- G. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements which are in conflict with or which impose greater obligations upon the Authority than these Guidelines, then such requirements shall take precedence over those contained herein.
- H. Nothing in these guidelines shall preclude the Authority from accepting bids or proposals in an electronic format, to the extent permitted by law.