



Metropolitan Transportation Authority

March 2012

MTA Board Action Items



MEETING AGENDA
METROPOLITAN TRANSPORTATION AUTHORITY BOARD
March 28, 2012 9:30 a.m.

347 Madison Avenue
Fifth Floor Board Room
New York, NY

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Date of next MTA Board meeting: Wednesday April 25, 2012 at 9:30 a.m.

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

**Wednesday, February 29, 2012
9:30 a.m.**

The following members were present:

**Hon. Joseph Lhota, Chairman and CEO
Hon. Andrew M. Saul, Vice Chairman
Hon. Jonathan A. Ballan
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Fernando Ferrer
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Carl V. Wortendyke**

The following members were absent:

**Hon. John H. Banks, III
Hon. Mark Page
Hon. Ed Watt**

Nuria Fernandez, Chief Operating Officer, Catherine Rinaldi, Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Board Member Ira R. Greenberg, Thomas Prendergast, President, NYCTA, Helena E. Williams, President of Long Island Railroad, Howard Permut, President of Metro-North Rail Road, James Ferrara, President of TBTA, Darryl Irick, President of MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, and Hilary Ring, Director, 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, 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.

1. **PUBLIC SPEAKERS.** There were eighteen (18) public speakers; the speakers listed below addressed items specific to the MTA agenda. Refer to the video recording of the meeting produced by the MTA and maintained in MTA records for the content of these speakers' statements and to the other agencies' minutes of this date for the list of other speakers.

John Mineka – Occupy Wall Street
Walter Edwards – Harlem Business Alliance

2. **CHAIRMAN'S REMARKS.**

Chairman Lhota noted the resignation of Jeremy Soffin, Director of Media Relations, who has announced his intention to return to the private sector in mid-March. Chairman Lhota thanked Mr. Soffin for his contributions to the MTA and wished him and his family well.

Chairman Lhota also noted that the Board intends to acknowledge and honor the contributions and services of four former Board members at a future meeting.

3. **MINUTES.** Upon motion duly made and seconded, the Board approved the minutes of the regular Board meeting held on January 25, 2012.

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 staff summaries and documentation filed with the meeting materials.

1. **2011 TBTA Operating Surplus.** Approved resolutions which will:

- (i) Certify and transfer \$527,658,028 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;
 - (ii) Transfer \$85,100 representing 2011 investment income to the MTA pursuant to Section 569-c of the Public Authorities Law of the State of New York;
 - (iii) Deduct from the operating revenues of the TBTA for its fiscal year ending December 31, 2012 the amount of \$14,548,000, which amount shall be paid into the Necessary Reconstruction Reserve established by the Authority by resolution adopted March 29, 1968;

- (iv) Deduct from the operating revenues of the TBTA for its fiscal year ending December 31, 2012 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; and
- (v) Advance the 2012 TBTA Surplus as per the resolution.

- 2. Mortgage Recording Tax – Escalation Payment to Dutchess, Orange, and Rockland Counties. Approved the escalator payments totaling \$1,314,298.74 to Dutchess, Orange and Rockland counties from available funds on deposit in the MRT-2 Corporate Transportation Account.

B. Procurement Items. Upon motion duly made and seconded, the Board approved the following procurement items, described in further detail in the staff summaries and documentation filed with the meeting materials.

- 1. Oracle America, Inc. – Maintenance and Monitoring Services of Proprietary Oracle Hardware – No. 01186-0100. Approved an amendment to an existing competitive contract to continue the maintenance of proprietary Sun Microsystems' equipment and software, which are required to support all Internet/Intranet applications, the MTA.info website, as well as LIRR and MNR Schedules.
- 2. TDX Construction Corporation – Small Business Federal Program Services (“SBFPS”) – No. 10009-00100, S/A #3. Approved an amendment to an existing competitive personal services contract to provide services to support a newly created SBFPS upon approval by the Federal Transportation Administration.

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 staff summaries and documentation filed with the meeting materials.

Long Island Rail Road

- 1. License agreement with Hempstead Lincoln-Mercury Motors Corp. for parking of cars and trucks on vacant land located on the West Hempstead Branch right-of-way located between Wendell Street and Intersection Street, Hempstead, N.Y.
- 2. License agreement with 82-60 Austin Street Corp., d/b/a Austin's Ale House, for the operation of a seasonal outdoor dining area and the maintenance of a landscape right-of-way adjacent to the Kew Gardens Station, N.Y.

5. **ADJOURNMENT.**

Upon motion duly made and seconded, the Board voted to adjourn the meeting at 10:20 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 29, 2012
9:30 a.m.**

The following members were present:

**Hon. Joseph Lhota, Chairman and CEO
Hon. Andrew M. Saul, Vice Chairman
Hon. Jonathan A. Ballan
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Fernando Ferrer
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Carl V. Wortendyke**

The following members were absent:

**Hon. John H. Banks, III
Hon. Mark Page
Hon. Ed Watt**

Nuria Fernandez, Chief Operating Officer, Catherine Rinaldi, Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Board Member Ira R. Greenberg, Thomas Prendergast, President, NYCTA, Helena E. Williams, President of Long Island Rail Road, Howard Permut, President of Metro-North Rail Road, James Ferrara, President of TBTA, Darryl Irick, President of MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, and Hilary Ring, Director, 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. CHAIRMAN LHOTA CALLED THE MEETING TO ORDER

2. PUBLIC COMMENT PERIOD

Seventeen (17) public speaker addressed NYC Transit/MTA Bus issues.

Marty Goodman, TWU Local 100, urged the MTA to rehire laid off station agents and restore service cuts.

Murray Bodin suggested that Board members use computers at Board meetings and that Board materials be put into a usable format.

John Mineka, Occupy Wall Street, urged the Board to cancel interest rate swaps as the only sustainable way for the MTA to go forward.

Linda Harrison, TWU Local 100, a laid off station agent, asked that the remaining station agents who were laid off be reinstated and that service cuts be restored.

Brenda Edwards, TWU Local 100, a laid off station agent, implored the Board to give all 120 laid off station agents their jobs back.

Tony Murphy protested the NYCT's maintenance of a retiree fund and urged the MTA to use the money it has to re-hire the 120 workers still unemployed.

Moises DelRio, an employee for NYCT since 2008, requested that the Board use money being saved for a retiree fund to give station agents their jobs back and restore service cuts.

Lennette Silva, TWU Local 100, a laid off station agent, asked the Board to reinstate laid off station agents.

Michael Alden, TWU Local 100, stated that transit workers are entitled to a raise.

Paul Piazza, TWU Local 100, expressed the view that the MTA is wasting money and not accepting the union's ideas to save money.

Maurice Jenkins, TWU Local 100, Vice President of the Stations Division, stated opposition to the preservation of a retiree fund.

John Dennie urged the Board to restore the 120 station agents laid off.

Christine Williams, TWU Local 100, described an incident in which an elderly woman sought the support of a station agent and appealed to the Board to rehire laid off station agents.

Jackie DiSalvo, Occupy Wall Street, argued that the interests of the riders and transit workers were the same and that laid off station agents should be restored.

Bernard Cylich asked the Board restore Bx26 and Bx28 service, which he believes was unreasonably cut.

Walter Edwards, Harlem Business Alliance, expressed support for the program implemented by the MTA to promote diversity.

Narinder Singh, TWU Local 100, a laid off station worker, discussed the passing of a laid off station worker and asked the Board to restore laid off station agents.

Derick Achdavarria, TWU Local 100, Chairman of Stations, urged the Board to work together with the union in contract negotiations in order to find ways to save money.

3. CHAIRMAN LHOTA'S COMMENTS

Details of Chairman Lhota'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 NYC Transit, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Railway Transit Operating Authority, and MTA Bus Company held on January 25, 2012.

5. 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 majority vote (Schedule E 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 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.

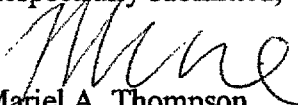
Procurement Ratifications: Upon motion duly made and seconded, the Board approved the ratifications requiring a majority vote (Schedule K in the Agenda). Details of the above items

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.

6. **ADJOURMENT**

Upon motion duly made and seconded, the Board voted to adjourn the meeting at 10:20 a.m.

Respectfully submitted,


Mariel A. Thompson
Assistant Secretary

Minutes of the Regular Meeting
Metro-North Commuter Railroad Company
Wednesday, February 29, 2012
9:30 a.m.

The following members were present:

Hon. Joseph Lhota, Chairman and CEO
Hon. Andrew M. Saul, Vice Chairman
Hon. Jonathan A. Ballan
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Fernando Ferrer
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Carl V. Wortendyke

The following members were absent:

Hon. John H. Banks, III
Hon. Mark Page
Hon. Ed Watt

Nuria Fernandez, Chief Operating Officer, Catherine Rinaldi, Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Board Member Ira R. Greenberg, Thomas Prendergast, President, NYCTA, Helena E. Williams, President of Long Island Railroad, Howard Permut, President of Metro-North Rail Road, James Ferrara, President of TBTA, Darryl Irick, President of MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, and Hilary Ring, Director, 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. Chairman Lhota called the meeting to order.
2. Public Comment:

There were 18 public speakers who did not discuss items specific to Metro-North. The subject matter of the public speakers' comments is contained in the minutes of

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

3. Chairman's Opening Remarks:

Chairman Lhota commented on the departure of Jeremy S. Soffin who is leaving the MTA for a position in the public sector. He noted that former Board members Patrick J. Foye and Nancy Shevell will be honored at an upcoming meeting. The details of Chairman Lhota's statement are contained in the minutes of the meeting of the Board of the Metropolitan Transportation Authority held this day.

4. Approval of Minutes – Upon motion duly made and seconded, the minutes of the Regular Board Meeting of January 25, 2012 were unanimously approved.

5. Committee on Finance Committee:

Action Item:

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

- Mortgage Recording Tax Escalation Board approval to authorize MRT-2 escalator 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.

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

Metro-North/Long Island Rail Road Action Items:

Long Island Rail Road

The Board voted on Long Island Rail Road items. Among the items approved is a competitive procurement requiring majority vote to award a miscellaneous service contract for concrete testing and inspection services. The details of this item are contained in the Minutes of the Long Island Rail Road held this day and the staff summaries and reports filed with those minutes.

Metro-North Procurements:

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

Miscellaneous Service Contracts

- Walco Electric Company – Pick-up, repair and delivery of gear box shells used on Metro-North's M-2/M-3/M-4 and M-6 commuter railcar fleet.
- CR Quality Services, Inc. – At plant inspection services for railroad ties and timber both for MTA Metro-North Railroad and Long Island Rail Road projects.

Upon motion duly made and seconded, the Board approved the following ratification.

Ratification of Completed Procurement Actions

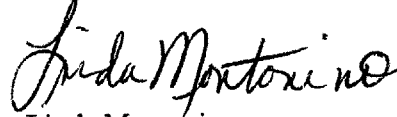
- Brookville Equipment Corporation – Purchase of 1 Module Induction Generator for a Metro-North BL-14 locomotive assigned to the East Side Access project, which is currently out-of-service.

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

7. Adjournment:

Upon a motion duly made and seconded, the members of the Board present voted to adjourn the meeting at 10:20 a.m.

Respectfully submitted,

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

Linda Montanino
Assistant Secretary

Feb 2012 Board Minutes
Legal/Corporate

Minutes of the Regular Meeting
Long Island Rail Road Company
Wednesday, February 29, 2012
9:30 a.m.

The following members were present:

Hon. Joseph Lhota, Chairman and CEO
Hon. Andrew M. Saul, Vice Chairman
Hon. Jonathan A. Ballan
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Fernando Ferrer
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Carl V. Wortendyke

The following members were absent:

Hon. John H. Banks, III
Hon. Mark Page
Hon. Ed Watt

Nuria Fernandez, Chief Operating Officer, Catherine Rinaldi, Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Board Member Ira R. Greenberg, Thomas Prendergast, President, NYCTA, Helena E. Williams, President of Long Island Railroad, Howard Permut, President of Metro-North Rail Road, James Ferrara, President of TBTA, Darryl Irick, President of MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, and Hilary Ring, Director, 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. Chairman Lhota called the meeting to order.

2. **Public Speakers**

There were 18 public speakers who did not discuss items specific to LIRR. The subject matter of the public speakers' comments is contained in the minutes of the meeting of the Board of the Metropolitan Transportation Authority held this day.

3. **Chairman's Opening Remarks**

Chairman Lhota commented on the departure of Jeremy S. Soffin who is leaving the MTA for a position in the public sector. He noted that former Board members Patrick J. Foye and Nancy Shevell will be honored at an upcoming meeting. The details of Chairman Lhota's statement are contained in the minutes of the meeting of the Board of the Metropolitan Transportation Authority held this day.

4. **Approval of Minutes**

Upon motion duly made and seconded, the minutes of the Regular Board Meeting of January 25, 2012 were unanimously approved.

5. **Committee on Finance**

Real Estate Action Items

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

- License Agreement with Hempstead Lincoln-Mercury Motors Corp., for parking of cars and trucks on the non-operating West Hempstead Branch right of way, between Wendell Street and Intersection Street, Hempstead, NY
- License Agreement with 82-60 Austin Street Corp., d/b/a Austin's Ale House, for the operation of an outdoor dining area and maintenance of adjacent LIRR Green Area, at Kew Gardens Station, New York

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

6. **Committee on Metro-North Railroad and Long Island Rail Road Operations**

Long Island Rail Road Procurements

Upon motion duly made and seconded, the Board unanimously approved a competitive procurement to award miscellaneous service contracts to HAKS Engineering, Tectonic Engineering, Haider Engineering and Advance Testing Co. for LIRR, NYCT and Metro-North for concrete testing and inspection services.

MTACC Procurements

Upon motion duly made and seconded, the Board unanimously approved three competitive procurements: a request that competitive bidding be declared impractical or inappropriate, and that it is in the public interest to issue a competitive Request for Proposal for Systems Package 3 – Tunnel Signal Procurement Package, for East Side Access; a modification to Contract No. CQ 032 with Tutor Perini Corporation to provide for temporary support of the conveyor system in use on Contract CM019 and other related work; and a modification to Contract CQ039 with Schiavone/Kiewit JV to modify the contract for the relocation of utilities.

Metro-North Procurements

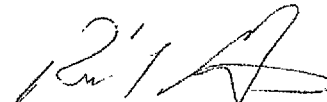
The Board voted on Metro-North items. Among the items approved is a competitively solicited miscellaneous service contract with CR Quality Services, Inc. for at-plant inspection services of railroad ties and timber for Metro-North and LIRR projects.

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

7. Adjournment

Upon a motion duly made and seconded, the members of the Board present voted to adjourn the meeting at 10:20 a.m.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R. Gans', written over a horizontal line.

Richard Gans
Secretary

**Minutes of the Regular Meeting
Triborough Bridge and Tunnel Authority
February 29, 2012**

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

9:30 a.m.

The following members were present:

Hon. Joseph J. Lhota, Chairman and CEO
Hon. Andrew M. Saul, Vice Chairman
Hon. Jonathan A. Ballan
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Fernando Ferrer
Hon. Jeffrey A. Kay
Hon. Mark D. LeBow
Hon. Susan Metzger
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James E. Sedore, Jr.
Hon. Carl V. Wortendyke

Not Present:

Hon. John H. Banks, III
Hon. Mark Page
Hon. Ed Watt

Nuria Fernandez, Chief Operating Officer; Catherine Rinaldi, Chief of Staff; James B. Henly, General Counsel, MTA; Board Member Andrew Albert; Board Member Norman Brown; Board Member Ira Greenberg; James Ferrara, President, MTA Bridges and Tunnels; Michael Horodniceanu, President, MTA Capital Construction; Darryl Irick, President, MTA Bus Operations; Thomas F. Prendergast, President, New York City Transit; Howard Permut, President, Metro-North Commuter Railroad; Helena E. Williams, President, Long Island Rail Road; and Hilary Ring, Director, Community Affairs, MTA 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 Lhota called the meeting to order.

1. Public Speakers

There were eighteen public speakers. Mr. Murray Bodin, Concerned Grandparents, stated that a presentation given at the Bridges and Tunnels Committee this past Monday was not available on-line. As a result, he did not have an opportunity to review the presentation in advance and comment on it at the meeting. Mr. Bodin stated that Bridges and Tunnels is wasting money unnecessarily on high-speed tolling. The remaining public speakers did not specifically comment on issues regarding the Triborough Bridge and Tunnel Authority. The subject matter of the speakers' comments is contained in the minutes of the meeting of the Board of the Metropolitan Transportation Authority.

2. Chairman Lhota's Opening Comments

Chairman Lhota stated that MTA Director of Media Relations, Jeremy Soffin, is leaving the MTA for a position in the public sector. He also stated that four former Board Members would be honored at a future Board meeting.

The details of Chairman Lhota's statements are contained in the minutes of the meeting of the Board of the Metropolitan Transportation Authority.

3. Approval of the Minutes of the Regular Meeting January 25, 2012

Upon a motion duly made and seconded, the minutes of the Meeting held January 25, 2012 were unanimously approved.

4. Finance Committee

2011 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 \$527,658,028 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 \$85,100 representing 2011 investment income to the MTA pursuant to Section 569-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, 2012 the amount of \$14,548,000 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, 2012 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.

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 Cappelli stated that there are no non-competitive procurements this month.

Competitive Procurements

Commissioner Cappelli stated that there are four competitive procurements totaling \$1.688 million.

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

Miscellaneous Procurement Contracts

Shared Solutions and Services, Inc.	Contract No. 3000000827 Contractor to provide all labor and materials required to maintain, repair and provide spare parts for Ciena Dense Wavelength Division Multiplexing (DWDM) hardware and software for a period of one year. The solicitation included two one year renewal options. DWDM provides a network communications path between multiple facilities where dedicated fiber is available. This technology integrates data from different sources on fiber while simultaneously enabling the separation of networks (e.g. Integrated Electronic Security System, E-ZPass, etc.) so that specific information may be received at the appropriate destination.	\$25,686.38
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Personal Service Contracts

Hardesty & Hanover, LLP	Contract No. PSC-11-2892 Consultant to provide construction management and inspection services for Project HH-07, Structural Rehabilitation at the Henry Hudson Bridge (HHB). The construction includes repairing or replacing various deteriorated structural steel members of the bridge and repairing and sealing concrete surfaces of the approach piers and skewbacks.	\$878,368.00
EnviroMed Services, Inc.	Contract No. PSC-11-2898 Consultant to provide independent safety monitoring services for ongoing construction projects. The Contract requires the consultant to perform short term and continuous on-site monitoring; safety analysis; report preparation and presentations; training and additional services as required to maximize a safe working environment in connection with our construction projects.	\$734,085.00

Miscellaneous Service Contracts

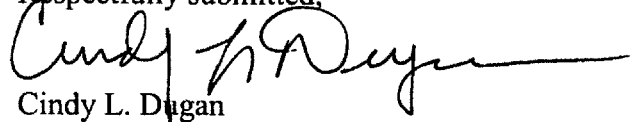
Verrazano Exterminating Corp.	Contract No. 11-MNT-2889 Contractor to provide all labor, materials and equipment necessary to perform indoor and outdoor extermination services at various facilities. The total value of this procurement is \$49,695 over a period of three years.	\$49,695.00
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Commissioner Cappelli stated that there are no ratifications.

6. **Adjournment**

Upon a motion duly made and seconded, the Board unanimously voted to adjourn the meeting at 10:20 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cindy L. Dugan", written over the printed name.

Cindy L. Dugan
Assistant Secretary

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

Wednesday, February 29, 2012
9:30 a.m.

The following members were present:

Hon. Joseph Lhota, Chairman and CEO
Hon. Andrew M. Saul, Vice Chairman
Hon. Jonathan A. Ballan
Hon. Robert C. Bickford
Hon. James F. Blair
Hon. Allen P. Cappelli
Hon. Fernando Ferrer
Hon. Jeffrey A. Kay
Hon. Mark D. Lebow
Hon. Susan Metzger
Hon. Charles G. Moerdler
Hon. Mitchell H. Pally
Hon. James L. Sedore, Jr.
Hon. Carl V. Wortendyke

The following members were absent:

Hon. John H. Banks, III
Hon. Mark Page
Hon. Ed Watt

Nuria Fernandez, Chief Operating Officer, Catherine Rinaldi, Chief of Staff, James B. Henly, MTA General Counsel, Board Member Andrew Albert, Board Member Norman Brown, Board Member Ira R. Greenberg, Thomas Prendergast, President, NYCTA, Helena E. Williams, President of Long Island Railroad, Howard Permut, President of Metro-North Rail Road, James Ferrara, President of TBTA, Darryl Irick, President of MTA Bus Operations, Michael Horodniceanu, President of MTA Capital Construction, and Hilary Ring, Director, 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 and CEO Lhota 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 25, 2012.

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:

- Modification to the Second Avenue Subway Tunneling contract with S3 Tunnel Constructors, JV.
- Modification to the Fulton Street Transit Center Dey Street Concourse Finishes contract with Skanska USA Civil Northeast, Inc.
- Ratification of a modification to the No. 7 Line Extension Site K contract with Scalamandre/Oliveira JV.
- A resolution authorizing the use the competitive Request for Proposal (RFP) process to procure the East Side Access System Package 3 contract.
- Modification to the East Side Access Plaza Substation and Queens Structures contract with Tutor Perini Corporation.
- Modification to the East Side Access Northern Boulevard Crossing contract with Schiavone/Kiewit, JV.



Adjournment

Upon motion duly made and seconded, the MTA Board voted to adjourn the public meeting at 10:20 a.m.

Respectfully submitted,

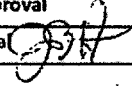

Patrick Killackey
Secretary

Staff Summary

Subject Authorization to issue TBTA General Revenue Bonds, Series 2012A
Department Finance
Department Head Name Robert E. Foran, Chief Financial Officer
Department Head Signature 
Project Manager Name Patrick J. McCoy, Director of Finance 

Date March 28, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Comm.	3/26	X		
2	Board	3/28	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal 	2	Chief of Staff 

Background:

In connection with the proposed issuance of Triborough Bridge and Tunnel Authority General Revenue Bonds, the MTA Finance Department is seeking MTA Board authorization and approval of the necessary documentation to issue new money bonds, notes or other obligations to provide net proceeds (exclusive of premiums) sufficient to fund up to \$250 million of capital projects contained in approved capital programs of the Triborough Bridge and Tunnel Authority.

The MTA Finance Department will continue to report to the Finance Committee of the Board at each regularly scheduled meeting of such committee on the status of the proposed debt issuance schedule, the results of each bond issue, planned bond issues for the following month, including potential refundings, and information relating to amendments, modifications, or terminations of previously outstanding swap transactions.

PURPOSE:

1. To obtain MTA Board approval of the following resolution and activities in connection with the issuance of bonds in an aggregate principal amount necessary to provide net proceeds (exclusive of premiums) sufficient to fund up to \$250 million of capital projects of the Triborough Bridge and Tunnel Authority:
 - o Series 2012A Supplemental Resolution authorizing Triborough Bridge and Tunnel Authority General Revenue Obligations, including providing for the issuance of an aggregate principal amount of Triborough Bridge and Tunnel Authority General Revenue Bonds in one or more series necessary to finance capital projects of the Triborough Bridge and Tunnel Authority, plus applicable issuance costs, and any original issue discount.

2. With respect to the above-referenced financial transactions set forth in paragraph 1, to obtain MTA Board approval delegating authority to the Chairman and Chief Executive Officer, the Vice-Chairman, the Chair of the Finance Committee, and in each case, on behalf of MTA and TBTA, the Chief Financial Officer of MTA, and the Director of Finance of MTA to award the obligations either pursuant to competitive bid or to members (or entities

related to such firms) of the MTA underwriting syndicate (as referred to in the Supplemental Resolution) and 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, (incorporating the most recent applicable continuing disclosure filings of the MTA, as well as the most current "recent developments" disclosure available and reasonably current TBTA financial and traffic data)
- o Continuing Disclosure Agreements and related filings, and
- o Dealer and Broker-Dealer Agreements.

Any such documents will be in substantially the form of any document previously entered into by MTA 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 related thereto, as they shall deem advisable.

3. On behalf of MTA and its subsidiaries and affiliates, to authorize the Chairman and Chief Executive Officer, the Chair of the Finance Committee, the Vice-Chairman, and in each case, on behalf of MTA Bridges and Tunnels, the Chief Financial Officer of MTA, and the Director of Finance of MTA to take such other actions as may be necessary or desirable to effectuate the issuance of the new money bonds.

ALTERNATIVES:

There are no alternative sources of funds to provide for the capital needs of the Triborough Bridge and Tunnel Authority.

RECOMMENDATION:

The MTA Board approve the above-referenced 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.

TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY

**SERIES 2012A
GENERAL REVENUE BOND
SUPPLEMENTAL RESOLUTION**

Adopted March __, 2012

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**SERIES 2012A
GENERAL REVENUE BOND
SUPPLEMENTAL RESOLUTION**

BE IT RESOLVED by the Triborough Bridge and Tunnel Authority (the "Issuer"), as follows:

ARTICLE I

DEFINITIONS AND STATUTORY AUTHORITY

SECTION 1.01. Supplemental Resolution. This resolution is supplemental to, and is adopted, in accordance with Article II and Article A-VIII of, a resolution of the Issuer adopted on March 26, 2002, entitled "General Resolution Authorizing General Revenue Obligations" (the "Resolution").

SECTION 1.02. Definitions.

1. All capitalized terms which are used but not otherwise defined in this Series 2012A General Revenue Bond Supplemental Resolution (the "Supplemental Resolution") shall have the same meanings, respectively, as such terms are given by Section 102 of the Resolution.

2. In this Supplemental Resolution:

"Authorized Officer" shall include the officers designated as such in the Resolution, and the Chairman and Chief Executive Officer, the Chair of the Finance Committee, the Chief Financial Officer or the Director of Finance, as well as any officer duly designated as "Acting" in said officer's capacity, except that, for the purposes of any delegation set forth herein that does not expressly include any Assistant Secretary, "Authorized Officer" shall not include any Assistant Secretary of the Issuer.

"Board" shall mean, when used with respect to the Issuer, the board of the Issuer acting as such pursuant to the provisions of the Issuer Act, and when used with respect to the MTA, the members of the MTA acting as such pursuant to the provisions of the MTA Act.

"Bond Counsel" shall mean Hawkins Delafield & Wood LLP, Nixon Peabody LLP or any other attorney or firm of attorneys of nationally recognized standing in the field of law relating to the issuance of obligations by state and municipal entities, selected by the Issuer.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and regulations thereunder.

SECTION 1.03. Authority for this Supplemental Resolution. This Supplemental Resolution is adopted pursuant to the provisions of the Issuer Act and the Resolution.

ARTICLE II

AUTHORIZATION OF SERIES 2012A BONDS

SECTION 2.01. Authorized Principal Amount, Designation and Series. Pursuant to the provisions of the Resolution and in order to finance Capital Costs, a Series of General Revenue Obligations (which may be issued in one or more Series or subseries, which for purposes of this Supplemental Resolution shall collectively be referred to herein as the "Series 2012A Bonds", constituting Capital Cost Obligations, subject to redesignation as hereinafter provided) entitled to the benefit, protection and security of such provisions are hereby authorized to be issued in an aggregate principal amount not exceeding the principal amount necessary so that, after giving effect to any net original issue discount and underwriters' discount from the principal amount, the amount to be deposited in the Proceeds Account pursuant to, or otherwise applied to effectuate the purposes of, Section 2.02 and Section 3.01 of this Supplemental Resolution (exclusive of the amount so deposited therein determined in any Certificate of Determination as estimated to be necessary to pay capitalized interest or to pay any Costs of Issuance of the Series 2012A Bonds) shall not exceed the amount or amounts determined in one or more Certificates of Determination to be necessary to effectuate the purposes set forth in Section 2.02 hereof; provided, however, that the Series 2012A Bonds issued to finance Capital Costs shall not exceed \$250,000,000 (excluding all amounts excluded above, such as net original issue discount, underwriters' discounts, capitalized interest and Costs of Issuance). For all purposes of this Section 2.01, net original issue premium as determined to be advisable by an Authorized Officer in connection with the marketing of the Series 2012A Bonds, shall not be counted.

Series 2012A Bonds shall be designated as, and shall be distinguished from the Obligations of all other Series by the title, "General Revenue Bonds, Series 2012A" or such other title or titles set forth in one or more Certificates of Determination.

SECTION 2.02. Purposes. The purposes for which the Series 2012A Bonds are issued shall be set forth in one or more Certificates of Determination and may include the payment of all or any part of the Capital Costs, all to the extent and in the manner provided in this Supplemental Resolution.

SECTION 2.03. Dates, Maturities, Principal Amounts and Interest. The Series 2012A Bonds, except as otherwise provided in the Resolution, shall be dated the date or dates determined in the related Certificate of Determination. The Series 2012A Bonds shall mature on the date or dates and in the year or years and principal amount or amounts, and shall bear interest at the rate or rates per annum, if any, specified in or determined in the manner provided in any Certificate of Determination.

SECTION 2.04. Interest Payments. The Series 2012A Bonds shall bear interest from their date or dates and be payable on such date or dates as may be determined pursuant to any Certificate of Determination. Except as otherwise provided in any Certificate of Determination, interest on the Series 2012A Bonds shall be computed on the basis of twelve (12) 30-day months and a 360-day year.

SECTION 2.05. Denominations, Numbers and Letters. Unless otherwise provided in any Certificate of Determination, the Series 2012A Bonds shall be issued in fully registered form without coupons in the denomination of \$5,000 or any integral multiple thereof.

The Series 2012A Bonds shall be lettered and numbered as provided in any Certificate of Determination.

SECTION 2.06. Places of Payment and Paying Agent. Except as otherwise provided in any Certificate of Determination, principal and Redemption Price of the Series 2012A Bonds shall be payable to the registered owner of each Series 2012A Bond when due upon presentation of such Series 2012A Bond at the principal corporate trust office of the Trustee. Except as otherwise provided in any Certificate of Determination, interest on the registered Series 2012A Bonds will be paid by check or draft mailed on the interest payment date by the Paying Agent, to the registered owner at his address as it appears on the registration books or, at the option of any Owner of at least one million dollars (\$1,000,000) in principal amount of the Series 2012A Bonds, by wire transfer in immediately available funds on each interest payment date to such Owner thereof upon written notice from such Owner to the Trustee, at such address as the Trustee may from time to time notify such Owner, containing the wire transfer address (which shall be in the continental United States) to which such Owner wishes to have such wire directed, if such written notice is received not less than twenty (20) days prior to the related interest payment date (such notice may refer to multiple interest payments).

SECTION 2.07. Sinking Fund Installments. The Series 2012A Bonds, if any, determined in any Certificate of Determination shall be subject to redemption in part, by lot, or otherwise as determined in accordance with Section A-404 of the Resolution, on each date in the year or years determined in any Certificate of Determination at the principal amount thereof plus accrued interest up to but not including the date of redemption thereof, from mandatory Sinking Fund Installments which are required to be made in amounts sufficient to redeem on each such date the principal amount of such Series 2012A Bonds.

SECTION 2.08. Redemption Prices and Terms. The Series 2012A Bonds may also be subject to redemption prior to maturity, at the option of the Issuer, upon notice as provided in Article A-IV of the Resolution, at any time as a whole or in part (and by lot within a maturity, or otherwise as determined in accordance with Section A-404 of the Resolution, if less than all of a maturity is to be redeemed), from maturities designated by the Issuer on and after the date and in the years and at the Redemption Prices (expressed as a percentage of principal amount or otherwise as determined pursuant to Section 2.09.1(f)) determined in any Certificate of Determination, plus accrued interest up to but not including the redemption date.

SECTION 2.09. Delegation to an Authorized Officer. 1. There is hereby delegated to each Authorized Officer, subject to the limitations contained in this Supplemental Resolution, the following powers with respect to the Series 2012A Bonds:

(a) to determine whether and when to issue any Series 2012A Bonds constituting Capital Cost Obligations, the amount of the Series 2012A Bonds to be applied to finance Capital Costs, and the amount of the proceeds of the Series 2012A Bonds estimated to be necessary to pay the Costs of Issuance of the Series 2012A Bonds and capitalized interest, if any;

(b) to determine the purpose or purposes for which the Series 2012A Bonds are being issued, which shall be one or more of the purposes set forth in Section 2.02 of this Supplemental Resolution;

(c) to determine the principal amounts of the Series 2012A Bonds to be issued for the purposes set forth in Section 2.02 of this Supplemental Resolution and whether such principal amounts constitute a separate Series or a subseries of Series 2012A Bonds, which principal amounts (and the aggregate of all such Series and subsuries) shall not exceed the principal amounts permitted by Section 2.01 of this Supplemental Resolution, and to determine Accreted Values and Appreciated Values, if applicable;

(d) to determine the maturity date and principal amount of each maturity of the Series 2012A Bonds and the amount and due date of each Sinking Fund Installment, if any;

(e) to determine the date or dates which the Series 2012A Bonds shall be dated and the interest rate or rates of the Series 2012A Bonds or the manner of determining such interest rate or rates; provided, however, that any Series 2012A Bonds issued as Tax-Exempt Obligations shall be subject to a maximum interest rate of not greater than 10% per annum, any Series 2012A Bonds issued as Taxable Obligations shall be subject to a maximum interest rate of not greater than 12% per annum, any Variable Interest Rate Obligations issued as Tax-Exempt Obligations shall be subject to a maximum interest rate of not greater than 15% per annum, any Variable Interest Rate Obligations issued as Taxable Obligations shall be subject to a maximum interest rate of not greater than 18% per annum and any Parity Reimbursement Obligations shall be subject to a maximum interest rate of not greater than 25% per annum, or, in each such case, such higher rate or rates as determined by the Issuer's Board;

(f) to determine the Redemption Price or Redemption Prices, if any, and the redemption terms, if any, for the Series 2012A Bonds; provided, however, that if the Series 2012A Bonds are to be redeemable at the election of the Issuer, the Redemption Price shall not be greater than one hundred three percent (103%) of the principal amount of the Series 2012A Bonds to be redeemed, plus accrued interest thereon up to but not including the date of redemption;

(g) to determine whether the sale of the Series 2012A Bonds shall be conducted on either a negotiated or competitive bid basis and, as applicable, to determine the purchase price for the Series 2012A Bonds to be paid by the purchasers referred to in one or more Purchase Agreements or the purchase price for the Series 2012A Bonds to be paid by the winning bidder, if such sale is conducted by competitive bid pursuant to a Notice of Sale, in either case as such document is described in Section 2.10 of this Supplemental Resolution, which may include such original issue discount and original issue premium as shall be determined in the related Certificate of Determination; provided, however, that the underwriters' discount reflected in such purchase price shall not exceed \$10.00 for each one thousand dollars (\$1,000) principal amount of the Series 2012A Bonds;

(h) to take all actions required for the Series 2012A Bonds to be eligible under the rules and regulations of The Depository Trust Company ("DTC") for investment and trading as uncertificated securities, to execute and deliver a standard form of letter of representation with

DTC and, notwithstanding any provisions to the contrary contained in this Supplemental Resolution, to include in any Certificate of Determination such terms and provisions as may be appropriate or necessary to provide for uncertificated securities in lieu of Series 2012A Bonds issuable in fully registered form;

(i) to determine whether to issue all or any portion of the Series 2012A Bonds as Tax-Exempt Obligations, Taxable Obligations, Put Obligations, Variable Interest Rate Obligations or as any other form of Obligations permitted by the Resolution and any matters related thereto, including (i) the terms and provisions of any such Series 2012A Bonds, (ii) the selection of remarketing agents, tender agents, calculation agents, auction agents, dealers, bidding agents or any other agents or parties to ancillary arrangements and the terms of any such arrangements, and (iii) the methods for determining the accrual of Debt Service;

(j) to determine the advisability, as compared to an unenhanced transaction, of obtaining one or more Credit Facilities, to select a provider or providers thereof and to determine and accept the terms and provisions and price thereof, to determine such other matters related thereto as in the opinion of the officer executing any Certificate of Determination shall be considered necessary or appropriate and to effect such determinations by making any changes in or additions to this Supplemental Resolution required by Credit Facility providers, if any, or required by a Rating Agency in order to attain or maintain specific ratings on the Series 2012A Bonds, or relating to the mechanisms for the repayment of amounts advanced thereunder or payment of fees, premiums, expenses or any other amounts, notices, the provision of information, and such other matters of a technical, mechanical, procedural or descriptive nature necessary or appropriate to obtain or implement a Credit Facility with respect to the Series 2012A Bonds, and to make any changes in connection therewith;

(k) to make such changes in or from the form of this Supplemental Resolution as may be necessary or desirable in order to cure any ambiguities, inconsistencies or other defects; and

(l) to determine such other matters specified in or permitted by (i) Sections 202, 203, and A-201 of the Resolution or (ii) this Supplemental Resolution, including preparation of any documentation therefor.

2. Any Authorized Officer shall execute any Certificate of Determination evidencing the determinations made pursuant to this Supplemental Resolution and such Certificate of Determination shall be conclusive evidence of the determinations of such Authorized Officer, as stated therein. More than one Certificate of Determination may be delivered to the extent more than one Series or subseries of Series 2012A Bonds are delivered, or other authority is exercised under this Supplemental Resolution from time to time and each such Certificate of Determination shall be delivered to the Trustee prior to the authentication and delivery of the respective Series or subseries of Series 2012A Bonds by the Trustee or other documentation. Determinations set forth in any Certificate of Determination shall have the same effect as if set forth in this Supplemental Resolution. Any such Authorized Officer may exercise any authority delegated under this Supplemental Resolution from time to time following issuance of any Series 2012A Bonds, as appropriate for any purposes, including, in order to change interest rate modes or auction periods, obtain a substitute or additional Credit Facility or to

appoint new or additional agents or other parties deemed appropriate to a particular form or mode of Obligation or manner of sale.

SECTION 2.10. Sale of Series 2012A Bonds. If it is determined that any sale of Bonds shall be conducted on a negotiated basis, each Authorized Officer is hereby authorized to sell and award the Series 2012A Bonds to the purchasers who shall be on the list of underwriters then approved by the Issuer and shall be referred to in the Purchase Agreement or Agreements, which Purchase Agreement or Agreements shall be substantially in the form most recently executed or delivered by the Issuer in connection with the sale of Obligations, with such revisions to reflect the terms and provisions of the Series 2012A Bonds as may be approved by the officer executing the Purchase Agreement (each, a "Purchase Agreement"). Each Authorized Officer is hereby authorized to agree to the selection of the representative of the underwriters as referred to in the Purchase Agreement or Agreements and to execute and deliver the Purchase Agreement or Agreements for and on behalf and in the name of the Issuer with such changes, omissions, insertions and revisions as may be approved by the officer executing the Purchase Agreement or Agreements, said execution being conclusive evidence of such approval and concurrence in the selection of the representative of the underwriters.

If it is determined that any sale of Series 2012A Bonds shall be conducted on a competitive bid basis each Authorized Officer is hereby further authorized to conduct the sale and award of the Series 2012A Bonds on the basis of a competitive bid, pursuant to the terms of a notice of sale, including bid form (the "Notice of Sale"), in a form, including any limitations on permitted bidders and a description of the basis for determining the winning bidder or bidders, determined by such Authorized Officer. Each Authorized Officer is hereby authorized to conduct such competitive sale of the Series 2012A Bonds in a manner consistent with this Supplemental Resolution and to utilize the services of the Authority's financial advisor and the services of an electronic bidding service, as such Authorized Officer shall determine, and the execution by such Authorized Officer of a letter of award shall be conclusive evidence of such award.

Each Authorized Officer is hereby authorized to make public and to authorize the use and distribution by said purchasers or other appropriate parties of a preliminary official statement, offering circular, or other disclosure document (the "Preliminary Official Statement") in connection with each public offering or any private placement of the Series 2012A Bonds, in substantially the form most recently executed or delivered by the Issuer in connection with the sale of Obligations, with such changes, omissions, insertions and revisions as such officer shall deem advisable. The Issuer authorizes any of said officers to deliver a certification to the effect that such Preliminary Official Statement or Official Statement, if deemed necessary or appropriate, together with such other documents, if any, described in such certificate, was deemed final as of its date for purposes of Rule 15c2-12 of the Securities and Exchange Commission as applicable.

Each Authorized Officer is hereby authorized to make public and to authorize distribution of a final Official Statement in substantially the form of each Preliminary Official Statement or the most recently executed and delivered Official Statement if there is not a Preliminary Official Statement, with such changes, omissions, insertions and revisions as such officer shall deem advisable, to sign such Official Statement and to deliver such Official

Statement to the purchasers of such issue of the Series 2012A Bonds, such execution being conclusive evidence of the approval of such changes, omissions, insertions and revisions.

Each Authorized Officer is hereby authorized to execute and deliver for and on behalf and in the name of the Issuer, to the extent determined by such Authorized Officer to be necessary or convenient, a Continuing Disclosure Agreement, substantially in the form appended to the Purchase Agreement or Notice of Sale, with such changes, omissions, insertions and revisions as such officer shall deem advisable (the "Continuing Disclosure Agreement"), said execution being conclusive evidence of the approval of such changes, omissions, insertions and revisions.

The proceeds of each good faith check, if any, received by the Issuer from the purchasers of the Series 2012A Bonds under the terms of the related Purchase Agreement or Notice of Sale may be invested by the Issuer pending application of the proceeds of such good faith check for the purposes provided in Section 2.02 of this Supplemental Resolution at the time of the issuance and delivery of such Series 2012A Bonds.

Each Authorized Officer (including any Assistant Secretary of the Issuer) is hereby authorized and directed to execute, deliver, amend, replace or terminate any and all documents and instruments (including any remarketing agreements, tender agency agreements, dealer agreements, broker-dealer agreements, tender agent agreements, or auction agency agreements, any investment agreements or arrangements, or any reimbursement agreements or documents or instruments relating to a Credit Facility deemed appropriate to a given form or mode of an Obligation) and to do and cause to be done any and all acts necessary or proper for carrying out each Purchase Agreement or Notice of Sale, each Continuing Disclosure Agreement, the terms of any Credit Facility or other such agreement or arrangement, and the issuance, sale and delivery of the Series 2012A Bonds and for implementing the terms the Series 2012A Bonds and the transactions contemplated hereby or thereby.

When reference is made in this Supplemental Resolution to the authorization of an Authorized Officer to do any act, such act may be accomplished by any of such officers individually.

SECTION 2.11. Forms of Series 2012A Bonds and Trustee's Authentication Certificate. Subject to the provisions of the Resolution, the form of registered Series 2012A Bonds, and the Trustee's certificate of authentication, shall be substantially in the form set forth in Exhibit One to the Resolution including, if necessary, any changes to comply with the requirements of DTC or the provisions of this Supplemental Resolution or any Certificate of Determination.

SECTION 2.12. Appointment of Trustee and Paying Agent. Unless otherwise provided by Certificate of Determination, U.S. Bank Trust National Association shall be the Trustee under the Resolution and the Paying Agent for the Series 2012A Bonds.

ARTICLE III

DISPOSITION OF SERIES 2012A BOND PROCEEDS

SECTION 3.01. Disposition of Series 2012A Bond Proceeds. Any proceeds of the sale of the Series 2012A Bonds, other than accrued interest, if any, shall be deposited, simultaneously with the issuance and delivery of the Series 2012A Bonds, in the Proceeds Account which is deemed to be established for such Series in the Proceeds Fund to be applied, or shall otherwise be applied pursuant to a Certificate of Determination to:

(a) the payment of all or any part of the Capital Costs;

(b) the balance of such proceeds, exclusive of accrued interest, shall be deposited in the COI Account and applied to the payment of Costs of Issuance or otherwise applied to the payment of Costs of Issuance.

Unless otherwise provided in a Certificate of Determination, the accrued interest, if any, and any capitalized interest, received on the sale of the Series 2012A Bonds shall be deposited in the Debt Service Fund.

ARTICLE IV

TAX COVENANTS AND DEFEASANCE


SECTION 4.01. Tax Covenants Relating to the Series 2012A Bonds. The Issuer covenants that, in order to maintain the exclusion from gross income for Federal income tax purposes of the interest on the Series 2012A Bonds issued as Tax-Exempt Obligations, the Issuer will satisfy, or take such actions as are necessary to cause to be satisfied, each provision of the Code necessary to maintain such exclusion. In furtherance of this covenant, the Issuer agrees to comply with such written instructions as may be provided by Bond Counsel. In furtherance of the covenant contained in the preceding sentence, the Issuer agrees to continually comply with the provisions of any "Arbitrage and Use of Proceeds Certificate" or "Tax Certificate" to be executed by the Issuer in connection with the execution and delivery of any Series 2012A Bonds issued as Tax-Exempt Obligations, as amended from time to time.

Notwithstanding any other provision of the Resolution to the contrary, upon the Issuer's failure to observe, or refusal to comply with, the above covenant (a) the Owners of the Series 2012A Bonds, or the Trustee acting on their behalf, shall be entitled to the rights and remedies provided to Owners or the Trustee under Section 702 of the Resolution, other than the right (which is hereby abrogated solely as to the Issuer's failure to observe, or refusal to comply with the above covenant) to declare the principal of all Obligations then Outstanding, and the interest accrued thereon, to be due and payable pursuant to Section 567 of the Issuer Act, and (b) neither the Owners of the Obligations of any Series or holders of any Parity Debt (other than the Series 2012A Bonds or the Trustee acting on their behalf), nor the Trustee acting on their behalf, shall be entitled to exercise any right or remedy provided to the Owners, the Parity Debt holders or the Trustee under the Resolution based upon the Issuer's failure to observe, or refusal to comply with, the above covenant.

The provisions of the foregoing covenants set forth in this Section shall not apply to any Series 2012A Bonds, including any subseries thereof, which the Issuer determines pursuant to the applicable Certificate of Determination to issue as Taxable Obligations.



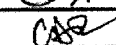

SECTION 4.02. Defeasance. In the event the Issuer shall seek, prior to the maturity or redemption date thereof, to pay or cause to be paid, within the meaning and with the effect expressed in the Resolution, all or less than all Outstanding Series 2012A Bonds issued as Tax-Exempt Obligations and the provisions of Section 4.01 hereof shall then be of any force or effect, then, notwithstanding the provisions of Article A-XI of the Resolution, the Series 2012A Bonds issued as Tax-Exempt Obligations which the Issuer then seeks to pay or cause to be paid shall not be deemed to have been paid within the meaning and with the effect expressed in Section A-1101 of the Resolution unless (i) the Issuer has confirmed in writing that the Owners of the Series 2012A Bonds issued as Tax-Exempt Obligations which the Issuer then seeks to pay or cause to be paid will continue, after such action, to have the benefit of a covenant to the effect of the covenant of the Issuer contained in Section 4.01 hereof or (ii) there shall have been delivered to the Trustee an Opinion of Bond Counsel to the effect that non-compliance thereafter with the applicable provisions of the Code will not affect the then current treatment of interest on the Series 2012A Bonds issued as Tax-Exempt Obligations in determining gross income for Federal income tax purposes.

Staff Summary

Subject
2011 Annual Procurement Report
Department
MTA Business Service Center
Department Head Name
Diana E. Beecher
Department Head Signature
 3/14/12
Division Head Name
Procurement Directors

Date
March 28, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance	3/26/12	X		
2	Board	3/28/12	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal 		
2	Corporate Compliance 		
3	Director, Strategic Initiatives 		
4	Chief of Staff 		

Purpose:

To authorize the filing with the State of New York of the annual MTA All-Agency Procurement report for the period January 1, 2011 – December 31, 2011 as required under Section 2879 of the Public Authorities Law.

This report includes the following required material:

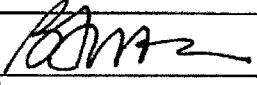
1. Contracts awarded in 2011 as prepared by each agency with payments made in 2011 as prepared by each agency and
2. Contracts awarded prior to 2011 as prepared by each agency with payments made in 2011 as prepared by each agency.

The report, which is being submitted on CD, conforms to the format/content requirements of the Public Authorities Reporting Information System (PARIS) overseen by the New York State Authorities Budget Office. The All -Agency Procurement Guidelines will be attached to the report, as required by Section 2879 of the Public Authorities Law.

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.


Staff Summary

Page 1 of 2

Subject MTA Prompt Payment Annual Report 2011
Department Chief Financial Officer
Department Head Name Bob Foran
Department Head Signature 
Project Manager/Division Head Patrick Kane

Date March 16, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Comm.	3/26/12			
2	Board	3/28/12			

Internal Approvals			
Order	Approval	Order	Approval
	Chief of Staff		Chief Financial Officer
	Chief Operating Officer	2	Legal 
1	Senior Director of Business Service Center <i>DOB 3/19/12</i>		Administration
	Other		

Purpose:

To submit to the Board the MTA All Agency Annual Prompt Payment Report for 2011.

Discussion:

State legislation enacted in April, 1988 required that the Authority adopt a Prompt Payment policy. Consistent with this legislation, the MTA Prompt Payment Policy requires payment of 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

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

For the year 2011, the total amount of prompt payment interest paid, Agency-wide, was \$31,170 on a total invoice value paid of \$8,639,766,641.

Enclosed is a copy of the Annual Prompt Payment Report for 2011, which in accordance with the legislative requirement will be filed 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.

METROPOLITAN TRANSPORTATION AUTHORITY
2011 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		57	1,650.28	954	2,124	MISSING INVOICE INTERNAL PROCESS DELAY
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA - BRIDGES AND TUNNELS			57	\$1,650.28	954	2,124	

GRAND TOTAL FOR MTA - ALL AGENCIES

470	\$31,169.86	13,195	27,625
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**METROPOLITAN TRANSPORTATION AUTHORITY
2011 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	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		3	4.29	38	128	UNPAID BALANCE PRIOR TO BSC
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA - LONG ISLAND BUS			3	\$4.29	38	128	

**METROPOLITAN TRANSPORTATION AUTHORITY
2011 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		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		158	3,847.99	3,854	9,104	MISSING INVOICES, INTERNAL PROCESS DELAY LATE PAYMENT OF INVOICES
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA - METRO-NORTH RAILROAD			158	\$3,847.99	3,854	9,104	

METROPOLITAN TRANSPORTATION AUTHORITY
2011 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 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 - STATEN ISLAND RAILWAY			0	\$0.00	0	0	

**METROPOLITAN TRANSPORTATION AUTHORITY
2011 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 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 - NEW YORK CITY TRANSIT			0	\$0.00	0	0	

**METROPOLITAN TRANSPORTATION AUTHORITY
2011 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	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		193	6,635.75	5,648	11,288	UNPAID BALANCE PRIOR TO BSC DELAY IN PAYMENT, INVOICE GOING TO AGENCY, NOT
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA - LONG ISLAND RAIL ROAD			193	\$6,635.75	5,648	11,288	

METROPOLITAN TRANSPORTATION AUTHORITY
2011 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION

REPORTING AGENCY: MTA - HEADQUARTERS

V-24

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		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		31	607.43	1,331	2,801	MISC LATE CHARGES INTERNAL PROCESS DELAY
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA - HEADQUARTERS			31	\$607.43	1,331	2,801	

METROPOLITAN TRANSPORTATION AUTHORITY
2011 ANNUAL REPORT OF CONTRACTS AND PAYMENTS SUBJECT TO PROMPT PAYMENT LEGISLATION

REPORTING AGENCY: MTA - BUS COMPANY

V25
- 45 -

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		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		28	18,424.12	1,370	2,180	UNPAID BALANCE PRIOR TO BSC MISSING INVOICES, INTERNAL PROCESS DELAY
6. MISCELLANEOUS	YES		0	0.00	0	0	
TOTALS FOR MTA - BUS COMPANY			28	\$18,424.12	1,370	2,180	

Staff Summary



Metropolitan Transportation Authority

Page 1 of 1

Subject
Request for Authorization to Award Various Procurements
Department
Strategic Initiative
Department Head Name
Charlie Monheim
Department Head Signature
<i>Charles Monheim</i>
Division Head Name
Clifford Shockley <i>C. Shockley</i>

Date
March 19, 2012
Vendor Name
Various
Contract Number
Various
Contract Manager Name
Various
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance	3/26/12			
2	Board	3/28/12			

Internal Approvals			
Order	Approval	Order	Approval
			Office of Civil Rights
		2	Legal <i>JA</i>
4	CFO <i>BAZ</i>		EITG
1	Procurement <i>CS</i>	3	Strategic Initiative <i>CM</i>

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

None None

MTAHQ proposes to award Competitive procurements in the following categories:

Schedules Requiring Majority Vote

Schedule C: Competitive Request for Proposals (Award of Purchase and Public Works Contracts)	1	\$ 3,444,749.00
Schedule E: Miscellaneous Procurement Contracts	1	\$ 771,758.05
Schedule F: Personal Services Contracts	2	\$ 10,990,050.00
Schedule G: Miscellaneous Service Contracts	1	\$ 8,737,764.00
Schedule J: Modifications to Miscellaneous Procurement Contracts	1	\$ 250,000.00
SUBTOTAL	6	\$ 24,194,321.05

MTAHQ presents the following procurement actions for Ratification:

None None

TOTAL 6 \$ 24,194,321.05

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 2012
COMPETITIVE PROCUREMENTS

METROPOLITAN TRANSPORTATION AUTHORITY

Procurements Requiring Majority Vote:

C. Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)
(Staff Summaries required for items requiring Board approval)

1. All Agency E-Procurement of PCs and Laptops \$3,444,749 Staff Summary Attached
Contract No. 12003-0100 thru -0200 (not-to-exceed)
- a. Dell Marketing LP (or their M/WBE Authorized Resellers)
- b. Derive Technologies
- Competitively negotiated – 5 proposals – 24 months
- To obtain Board approval to award two All Agency competitively negotiated, purchase contracts using the e-procurement process to Dell Marketing, LP (or their M/WBE authorized resellers) to provide standard and power desktop PCs and Derive Technologies, Inc. to provide standard and power laptop computers on an as-needed basis. This PC Purchase Contract is required to standardize desktops and laptops across all agencies. As a result of the e-procurement RFP process, the total cost of \$2,872,422 submitted by Dell Marketing is \$3,038,544 or an average of 51.2% lower than New York State's Micro Computer contract for desktops (standard and power). The total cost of \$572,327 submitted by Derive Technologies is \$528,733 or an average of 46.3% lower than New York State's Micro Computer contract for laptops (standard and power). Based on the above and the negotiated savings of \$3,567,277 for the two-year term of the contracts, the above cost is considered to be fair and reasonable.

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

2. Acquia, Inc. \$771,758.05
Cloud Based Infrastructure (not-to-exceed)
And Web Application
Contract No. 12059-0100
- New York State Contract Ride – 36 months
- The installation of countdown clocks in more than 160 subway stations has been wildly successful with the MTA's customers. A 2011 MTA survey found that 96% of customers were satisfied or very satisfied with countdown clocks. The MTA can build on that success and expand our customers' access to real-time data exponentially if the MTA creates a web feed for application software developers. Creation of an MTA web feed of subway arrival estimates for A Division lines 1 through 6 will make it possible for app developers to deliver real-time information currently displayed in countdown clocks to our customers' cell phones, smartphones and other hand-held digital devices.

METROPOLITAN TRANSPORTATION AUTHORITY

COMPETITIVE PROCUREMENTS

With the launch of this MTA web feed for app developers, 37% of our 5.3 million weekday subway riders will gain access to new apps that will offer real-time subway-arrival estimates. The real-time information our customers now see in countdown clocks on station mezzanines and subway platforms would now be readily available *before* they enter the station because this real-time information is on their phones or other hand-held devices – and, most important, available on demand. In future phases of this Open Data initiative, the MTA should be able to broaden our customers' access to subway arrival estimates to riders of B Division lines, including the L line and the 40% of the B Division that is at-grade or elevated.

A launch of a web feed for lines 1 through 6 would significantly improve customer service and begin to deliver the same level of customer service available to those who use mass transit in other major U.S. and world cities, including London, Chicago, Boston, San Francisco and Washington. All of these mass transit operators publish feeds of train-arrival estimates for app developers. Providing this real-time data to customers anytime they need it is consistent with other successful MTA Open Data initiatives, including the roll-out of BusTime for bus riders and Train Time for customers on MTA Metro-North.

To ensure that the MTA web feed for app developers has the optimal IT architecture and is operated and maintained in a cost-effective manner, the MTA will have its web feed – and other projects described herein – hosted and managed in the cloud. To achieve this objective, the MTA will utilize an existing New York State Senate contract with Acquia Inc. Acquia will be tasked with providing a suite of cloud services and associated professional services, which will meet the MTA's requirements. In order to increase capability while simultaneously reducing costs associated with supporting the MTA's Website, MTA.INFO, the MTA is seeking to enter into an agreement with Acquia Inc. to provide hosted internet cloud services and associated professional services. Acquia's services will include support for open source software such as Drupal, Apache and MySQL, which will eliminate software licensing costs for the MTA. Acquia will also provide 24x7 monitoring and support of MTA's sites. The use of Drupal, a content management and development framework, will give the MTA access to a large and growing development community which will provide the MTA with an innovative and efficient platform for current and future development of MTA.INFO. The cloud solution will afford the MTA significant increases in scalability at a fraction of the cost the MTA would incur if we were to attempt to provide the same capability using on-premise resources. In addition, Acquia can automatically and proactively increase capability based on MTA customer demand and Acquia can contract that capability as demand subsides. Acquia's infrastructure will initially be leveraged for the following:

1. MTA.INFO Weather and Emergency System
2. "A" Division Real Time Data Feeds (Count Down Clock Data) for external developers
3. MTA's Capital Program Dashboard
4. MTA Press Release Management System
5. MTA Web News Management System
6. "Eye on the Future" Update System

METROPOLITAN TRANSPORTATION AUTHORITY COMPETITIVE PROCUREMENTS

Over time, the MTA expects to move more and more public-facing content to a cloud-based architecture to achieve significant reductions in the need to maintain in-house assets and resources for the support of the MTA's website.

Acquia's Professional Services on-site engagement will assist and guide the MTA in designing, developing, building and maintaining the aforementioned "cloud based" infrastructure and web applications.

As a result of negotiations, the initial cost of \$623,469 for three years of hosting and technical support, was reduced to \$521,758.05 for a savings of \$101,710.95, which is 16.3% lower than the New York State and Federal Government pricing. A contingency of \$250,000 is being included under this contract. Based on the above, the total not-to-exceed amount of \$771,758.05 is considered fair and reasonable.

F. Personal Service Contracts

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

3. **All-Agency Transportation Planning** **\$10,000,000** **Staff Summary Attached**
Consulting Retainer Services
Contract Nos. 11007-0100 thru 0600'

Competitively negotiated – 7 proposals – 48 months

Contractors to provide transportation planning consultant services on an as-needed basis for a period of forty-eight months. The MTA and its operating agencies require the services of transportation planning firms to conduct research projects on an ad hoc basis to support capital investments and improvements, service planning, and strategic business initiatives. Examples of projects planned for the next four years include: origin-destination surveys of transit and commuter rail customers required by FTA regulations, studies of travel needs in selected corridors (such as the Queens Boulevard corridor) in support of the development of the next twenty Year Needs Assessment, and studies of ridership demand to help inform capital program needs. The six (6) selected firms originally proposed hourly rates ranging from \$58.75 (for technician) to \$318.03 (for system expert). These hourly rates were negotiated down to a range of \$58.75 to \$241.90 representing a reduction of 0% to 23.9%. These rates will remain the same for the full term of the contract. The negotiated hourly rates are in the same range of the current MTA contracts for these services that have been in effect for four (4) years. Based on the above, the negotiated hourly rates are considered fair and reasonable.

4. **AFT Project** – AFT to provide technical design, fabrication, crating, storage, delivery and oversight of installation of materials at the bus depot specified below.
Competitively negotiated – 120 proposals – 24 months
Shinique Smith, Mother Clara Hale Bus Depot-NYCT (Contract No. 12057-0100- \$990,050)

METROPOLITAN TRANSPORTATION AUTHORITY
COMPETITIVE PROCUREMENTS

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)

- 5 **Guardian Service Industries, Inc.** **\$8,737,764** **Staff Summary Attached**
 Custodial and Unarmed Security Guard Services (Not-to-exceed)
 For MTAHQ and Custodial Services for MTAPD
 Contract No. 11159-0100

Competitively negotiated – 7 proposals – 36 months

To obtain Board approval to award a competitively negotiated, miscellaneous services contract using the e-procurement process for custodial and unarmed security guard services for MTA Headquarters and nine (9) MTA Police Facilities. The custodial contractor is required to provide a high quality level of cleaning and un-armed security guard services for MTAHQ. As a result of the e-procurement RFP process, the total cost of \$8,737,764 is \$772,229.06 or 8.1% lower than the current three-year contract of \$9,509,993.06. Based on the above and the negotiated savings of \$772,229.06 for the three-year term of the contract, the above cost is considered to be fair and reasonable.

J. Modifications to Miscellaneous Procurement Contracts

(Approvals/Staff Summaries required for individual change orders greater than \$250K. Approvals without staff summaries required for change orders greater than 15% of previously approved amount which are also at least \$50K)

6. **MIS Science Corporation** **\$250,000**
 All-Agency Customer E-Mail Alert System (not-to-exceed)
 Contract No. 07252-0100, c/o # 2

Base plus Change Order No. 1 = \$680,000

In February 2008 the Board approved a five-year, competitively negotiated, miscellaneous procurement contract expiring March 20, 2013 for an all-agency email and text message notification system (the Authority will be seeking competitive proposals for a new contract in the Fall). Additional funds are required to replenish contract funding through the contract expiration. This notification system allows the MTA to notify customers of both planned service changes and service advisories if service is disrupted. In order to participate, customers sign up for this service via MTA's website and indicate which of our transportation facilities they wish to be notified about. Due to the overwhelming success of the e-mail and text message alert program, resulting in a larger than anticipated number of customers who have signed up for alerts, there has been a substantial increase of SMS messages. This increase has caused the contract funds to be depleted sooner than expected. This depletion of funds is because regular cell phones get text messages for free as part of a web-based service, whereas newer "smart" phones (including Blackberrys) use SMS for their text messages, a situation not known or anticipated when the contract was written. The fixed monthly cost for unlimited text messages and e-mails remain unchanged. For SMS to designated e-mail accounts, cell phones, Blackberrys and other similar communications devices and voice messages, the base unit price for messages over the contract limit (50,000/each/monthly) was reduced from \$0.025 per message to \$0.0115 for a savings of 54% as compared to the current price.

Staff Summary

Schedule C: Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)

Page 1 of 1

Item Number: 1

Vendor Name (& Location): Dell Marketing LP Derive Technologies
Description: All-Agency E-Procurement of PCs and Laptops
Contract Term (including Options, if any): April 1, 2012 through March 31, 2014
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
Solicitation Type: <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:

Contract Number: 12003-0100 thru 0200	Renewal? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Total Amount: \$3,444,749 (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: Charles Monheim	
Contract Manager: Elissa Stewart	

DISCUSSION:

To obtain Board approval to award two All-Agency competitively negotiated, purchase contracts using the e-procurement process, to Dell Marketing, LP (or their M/WBE authorized resellers) to provide standard and power desktop PCs and Derive Technologies, Inc. to provide standard and power laptop computers on an as-needed basis, for a period of two (2) years from April 1, 2012 through March 31, 2014 at a not-to exceed cost of \$3,444,749, which represents a total negotiated savings of \$3,567,277 off of the New York State's Micro Computer contract for desktops and laptops.

These PC purchase contracts are required to standardize desktops and laptops across all agencies. A competitive Request for Proposal (RFP) using the e-procurement process was publicly advertised and letters informing prospective proposers of the availability of the RFP package were sent to twenty two (22) firms of which five (5) were D/M/WBE firms. The Office of Diversity and Civil Rights established mandatory goals of 10% MBE and 10% WBE for these contracts. Five proposals were received, two of whom were certified MBE firms.

A Selection Committee consisting of representatives from MTAHQ, Metro-North, MTAPD, LIRR, NYCT, MTA Bus, and MTA B&T recommended that, through the e-procurement process, Procurement negotiate with all five technically qualified firms (Dell Marketing, Inc., Hewlett Packard, Lenovo, Derive Technologies, Inc., and Compulink Technologies, Inc.). As a result of the e-procurement RFP process, Dell Marketing LP offered the MTA the best prices for desktop computers and Derive Technologies, a certified MBE and HP authorized reseller, offered the best prices for laptop computers. MTA has conducted a responsibility review and other due diligence on Dell Marketing and Derive Technologies and has deemed them to be responsible for award.

As a result of the e-procurement RFP process, the total cost of \$2,872,422 submitted by Dell Marketing is \$3,038,544 or an average of 51.2% lower than New York State's Micro Computer contract for desktops (standard and power). The total cost of \$572,327 submitted by Derive Technologies is \$528,733 or an average of 46.3% lower than New York State's Micro Computer contract for laptops (standard and power). Based on the above and the negotiated savings of \$3,567,277 for the two-year term of the contracts, the above cost is considered to be fair and reasonable.

Staff Summary

Schedule F: Personal Service Contracts

Item Number:					
Dept & Dept Head Name: Planning/William Wheeler					
Division & Division Head Name:					
Board Reviews					
Order	To	Date	Approval	Info	Other
1	Finance	3/26/12			
2	Board	3/28/12			
Internal Approvals					
Order	Approval	Order	Approval		
1	Procurement	4	Diversity and Civil Rights		
2	Planning	5	Legal		
3	Capital Programs	6	CFO		

SUMMARY INFORMATION	
Vendor Name: Various	Contract Number: 11007-0100 thru -0600
Description: All-Agency Transportation Planning Consultant Retainer Services	
Total Amount: \$10,000,000 (for first year)	
Contract Term (including Options, if any) April 1, 2012 – March 31, 2016	
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Renewal? <input checked="" type="checkbox"/> Yes <input 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 checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	

Narrative

I. PURPOSE/RECOMMENDATION

To recommend that the Board approve the award of six (6) competitively negotiated, all-agency personal services contracts for Transportation Planning Consultant Retainer Services on an as-needed basis for a period of forty-eight months from April 1, 2012 to March 31, 2016 to the firms listed below. The combined cost for all transportation planning contracts will not exceed \$10 million in 2012, the amount allocated to planning studies in the approved first two years of the 2010-2014 capital program. Funding for subsequent years will be based on the Board approved budgets for MTA headquarters and the operating agencies for those years and will not exceed limits approved by the Board.

- | | |
|---------------------------------|--|
| 1. AECOM USA, Inc. | 4. Stantec Consulting Services, Inc. |
| 2. Cambridge Systematics, Inc. | 5. URS Corporation – New York |
| 3. The Louis Berger Group, Inc. | 6. VHB Engineering, Surveying & Landscape Architecture, PC |

II. DISCUSSION

The current all-agency planning retainer contracts will expire on March 31, 2012. The MTA and its operating agencies require the services of transportation planning firms to conduct research projects on an ad hoc basis to support capital investments and improvements, service planning, and strategic business initiatives. In order to continue these services, a Request for Proposals (RFP) was publicly advertised and letters advising potential proposers of the RFP's availability were mailed to eighty-one (81) vendors, thirty seven (37) of which were D/M/WBE firms. Seven (7) proposals were received. The Selection Committee, consisting of representatives from MTA Headquarters, Long Island Rail Road, Metro-North Railroad, Bridges & Tunnels, New York City Transit, and MTA Bus, evaluated the proposals and determined that the six firms listed above were the most technically qualified and best suited to perform the services identified by the RFP.

MTA headquarters and the operating agencies will use transportation planning firms to conduct research related specifically to demand modeling for service planning, cost/benefit analyses for capital investments and budget priority setting, sample design for large origin and destination surveys, demand estimation and forecast studies, feasibility studies, and long term service planning and strategic business initiatives. Examples of projects planned for the next four years include: origin-destination surveys of transit and commuter rail customers required by FTA regulations, studies of travel needs in selected corridors (such as the Queens Boulevard corridor) in support of the development of the next twenty Year Needs Assessment, and studies of ridership demand to help inform capital program needs. MTA has conducted a responsibility review and other due diligence on these firms. Review of information submitted by three of the firms, AECOM, The Louis Berger Group, Inc. and URS Corp., revealed significant adverse information within the definition of the All Agency Responsibility Guidelines ("Guidelines"). MTA has reviewed the information in accordance with the Guidelines and following such review has found each of the firms to be responsible for award.

The six (6) selected firms originally proposed hourly rates ranging from \$58.75 (for technician) to \$318.03 (for system expert). These hourly rates were negotiated down to a range of \$58.75 to \$241.90 representing a reduction of 0% to 23.9%. These rates will remain the same for the full term of the contract. The negotiated hourly rates are in the same range of the current MTA contracts for these services that have been in effect for four (4) years. Based on the above, the negotiated hourly rates are considered fair and reasonable.

III. D/M/WBE INFORMATION

The MTA's Department of Diversity and Civil Rights established 10% MBE and 10% WBE goals for these contracts.

IV. IMPACT ON FUNDING

The total cost for the work assigned for this contract in 2012 will not exceed \$10,000,000. Funding for subsequent years will be based on the Board approved budgets for MTA headquarters and the operating agencies for those years and will not exceed limits approved by the Board.

Actual expenditures for Year 2012 are dependent upon approval of projects in development by the MTA headquarters and the operating agencies. Any expenditure incurred will be apportioned to the operating agencies in accordance with the cost of projects actually implemented by an agency.

V. ALTERNATIVES

1. Perform all services in-house. This alternative is not feasible since performing these specialized functions in-house would require full and part-time employees, including associated overhead costs, which would not be cost effective. These projects are managed better by independent outside firms monitored closely by MTA staff.

2. Do not approve award of the contracts. This would severely curtail MTA's ability to implement a comprehensive planning program to support capital investments and improve customer services. Also, some of these studies are mandated by the federal government.

Staff Summary

Schedule G: Miscellaneous Service Contracts

Page 1 of 1

Item Number:

Vendor Name (& Location): Guardian Service Industries, Inc.		Contract Number: 11159-0100	Renewal? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Description: Custodial and un-armed Security Guard Services for MTAHQ and Custodial Services for MTAPD		Total Amount: \$8,737,764 (not-to-exceed)	
Contract Term (including Options, if any): April 1, 2012 through March 31, 2015		Funding Source: <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Requesting Dept/Div & Dept/Div Head Name: Chief Financial Office/Facilities/ Phil DeCapua	
Procurement Type: <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive		Contract Manager: Scott Mayclim	
Solicitation Type: <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:			

DISCUSSION:

To obtain Board approval to award a competitively negotiated, miscellaneous services contract using the e-procurement process, to Guardian Service Industries, Inc., the incumbent, to provide custodial and un-armed security guard services at MTA Headquarters and various MTA Police locations for a period of three (3) years from April 1, 2012 through March 31, 2015 at a not-to exceed cost of \$8,737,764.

The current competitively awarded custodial and un-armed security guard contract which was approved by the Board in June 2008 for a period of three years (which was subsequently extended pending a collective bargaining agreement between local 32BJ and the Realty Advisory Board) will expire on March 31, 2012. The custodial contractor is required to provide a high quality level of cleaning and un-armed security guard services for MTAHQ. In order to continue these essential services, a competitive Request for Proposal (RFP) using the e-procurement process was publicly advertised and letters informing prospective proposers of the availability of the RFP package were sent to fifty (50) firms of which ten (10) were D/M/WBE firms. The office of civil rights established mandatory goals of 10% MBE and 10% WBE for these contracts. Seven proposals were received.

A Selection Committee consisting of representatives from MTAHQ, Metro-North, and MTAPD recommended that, through the e-procurement process, Procurement negotiate with the six technically qualified firms (Pritchard Industries, Inc., Airway Cleaners (LLC), Guardian Service Industries, Quality Building Services, Collins Building Services, Inc., and ABM Building Services). As a result of the e-procurement RFP process, Guardian Service Industries, Inc. offered the MTA the best prices. MTA has conducted a responsibility review and other due diligence on Guardian Service Industries, Inc. and has deemed Guardian Service Industries to be responsible for award.

The proposed contract provides for on-site coverage at the following locations:

- MTA Headquarters (341, 345 and 347 Madison Avenue)
- The Transit Museum Store in Grand Central Terminal
- MTA Police:
 - 565 Commercial Ave., Garden City, NY 11530
 - 7-11 Beckman St., Beacon, NY 12508
 - 1 Station Drive, Harriman, NY 10926
 - 24 South Maquesten Parkway, Mt. Vernon, NY 10552
 - 65 Third Ave., Mineola NY 11501
 - 14 Perrin Lane, Stormville, NY 12582
 - Sunrise Highway (between Hewlett and Merrick Ave.), Merrick, NY 11566
 - 10 W. Suffolk Ave. Central Islip, NY 11722
 - 3301 Northern Blvd. Long Island City, NY 11101

As a result of the e-procurement RFP process, the total cost of \$8,737,764 is \$772,229.06 or 8.1% lower than the current three-year contract of \$9,509,993.06. Based on the above and the negotiated savings of \$772,229.06 for the three-year term of the contract, the above cost is considered to be fair and reasonable.

MARCH 2012
MTA REAL ESTATE
LIST OF REAL ESTATE ACTION ITEMS FOR BOARD APPROVAL

ACTION ITEMS

METROPOLITAN TRANSPORTATION AUTHORITY

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

MTA LONG ISLAND RAIL ROAD

License agreements with JMS Catering, Inc., for the coffee truck concession at Bellmore Station in Bellmore, New York; with Sal Boniventre for the coffee truck concession at Lindenhurst Station in Lindenhurst, New York; and with Partnered Beverages LLC for the coffee truck concessions at Seaford Station in Seaford, New York, Amityville Station in Amityville, New York, Kings Park Station in Kings Park, New York, Massapequa Station in Massapequa, New York, and Bay Shore Station in Bay Shore, New York

MTA METRO-NORTH RAILROAD

Approval of easement grant to the Village of Larchmont for emergency access to housing development in Larchmont, New York

Staff Summary

Subject PROPERTY DISPOSITION GUIDELINES
Departments REAL ESTATE
Department Head Names JEFFREY B. ROSEN; LAMOND KEARSE
Department Head Signature
Project Managers Name DAVID BOSCH; LAMOND KEARSE

Date MARCH 26, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	3/26/12	X		
2	Board	3/28/12	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal <i>[Signature]</i>		
4	Chief of Staff <i>[Signature]</i>		
2	Chief Financial Officer <i>[Signature]</i>		
3	Chief Compliance Officer <i>[Signature]</i>		

Purpose:

To obtain MTA Board approval of revised and updated 2012 MTA Real Estate Department Policies and Procedures for the Leasing-Out and Sale of Real Property (the "2012 Real Property Disposition Guidelines") and the 2012 All-Agency Guidelines for the Disposal of Personal Property (the "2012 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 annually review and approve guidelines regarding the disposition of property. The 2012 Real Property Disposition Guidelines, prepared by the MTA Real Estate Department, are annexed as Attachment A to this staff summary. The 2012 Personal Property Disposition Guidelines, prepared by MTA Corporate Compliance in consultation with Agency procurement departments, are annexed as Attachment B to this staff summary. Attachment C to this staff summary contains a list of the Personal Property Disposition Contracting Officers, as required by Property Disposition Law

Real Property Disposition Guidelines

In March of 2011 the MTA Board 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 2012 Real Property Disposition Guidelines (see Attachment A) are substantially the same as the 2011 guidelines, and contain only minor technical changes and clarifications.

Personal Property Disposition Guidelines

In March of 2011, the MTA Board adopted All-Agency Guidelines for the Disposal of Personal Property (see Attachment B) to provide a consistent set of personal property disposal policies and practices, which comply with the Property Disposition Law, across the MTA agencies. The 2012 Personal Property Disposition Guidelines are unchanged from the Guidelines adopted in 2011.

Recommendation:

It is recommended that the Board adopt the resolution attached to this Staff Summary approving the 2012 Real Property Guidelines and the 2012 Personal Property Guidelines, ratifying the appointment of the MTA Director of Real Estate as

Staff Summary

FINANCE COMMITTEE MEETING

Property Disposition Guidelines (Cont'd.)

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the Real Property Disposition Contracting Officer for the MTA and MTA Agencies, and designating the MTA and MTA agency staff members listed on Attachment C to this Staff Summary as the Contracting Officers for the MTA and MTA Agencies as the officers responsible for disposition of personal property.

RESOLUTION

WHEREAS, the Public Authorities Law in Sections 2895-2897 (the "Property Disposition Law") requires annual review and approval by resolution of guidelines detailing a public authority's operative policy and instructions regarding disposition of property and the designation of a contracting officer responsible for the administration of such disposition guidelines;

WHEREAS, the boards of Metropolitan Transportation Authority and its subsidiaries and affiliates (collectively, the "MTA Agencies"), in accordance with the requirements of the Property Disposition Law, have reviewed and by this resolution wish to approve of the MTA Real Estate Department Policies and Procedures for the Leasing-Out and Sale of Real Property (the "2012 Real Property Guidelines") and the MTA All-Agency Guidelines for the Disposal of Personal Property (the "2012 Personal Property Guidelines") referred to in the Staff Summary to which this Resolution is attached (the "Staff Summary") and to designate the MTA Director of Real Estate as the Real Property Disposition Contracting Officer and to designate the MTA Agency staff persons listed in Attachment C to the Staff Summary as Personal Property Disposition Contracting Officers;

NOW, THEREFORE, BE IT:

RESOLVED, that the 2012 Real Property Guidelines are hereby adopted in accordance with the requirements of the Property Disposition Law; and

RESOLVED, that the 2012 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 the Real Property Disposition Contracting Officer for the MTA Agencies in accordance with the requirements of 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 28, 2012

Attachment A - 2012 Real Property Disposition Guidelines



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~~28, 2012

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

March, 2011-2012

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METROPOLITAN TRANSPORTATION AUTHORITY
REAL ESTATE DEPARTMENT
POLICIES AND PROCEDURES FOR THE LEASING-OUT
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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~~ Except to the extent incorporated by reference in the “**MTA Real Estate Department Policies and Procedures for the Licensing of Real Property dated November 29, 2011 (the “Licensing-Out 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~~23, 2011. Insofar as ~~they~~licenses are also superseded, and they are therefore hereinafter referred to as the “**concerned, all references in the Licensing-Out Policies and Procedures**”, to such 2011 guidelines will now be deemed to refer to these 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

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

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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.

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:

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- (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.

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 1 - INQUIRIES

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CHAPTER 1 - 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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CHAPTER 1 - INQUIRIES

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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

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consultation may be necessary as 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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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 highlights information about the offering, 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 or Term 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.

A form of agreement may be included as well. The RE Manager should discuss with his or her Deputy Director whether it is appropriate to include a form of agreement with a given RFP.

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.

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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~~appears every other Thursday, ~~starting 1/20/11.~~ The advertisements will also be placed 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.

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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 time, the RE Manager should be present at the site and available to answer any questions. The RE Manager should maintain a sign-in sheet for each location visited.
9. Addenda to RFPs can and should be issued as appropriate to apprise prospective purchasers or tenants 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

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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 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.

The submission of earnest money may be waived for a given RFP by the Director, Leasing & Acquisitions.

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

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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:

- 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

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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:

- 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

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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
- 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.

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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:

- (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~~

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~~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.

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

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(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 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

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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,~~ Leasing & Acquisition (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

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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 Term or 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~~ 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 Financial 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, form of lease provided with the RFP (if applicable), 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

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internal RED reviews, comments and approvals. The Document Approval Form itself does not 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

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responsible for forwarding the insurance certificate to MTA Risk Management for further review.)

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; only if necessary.
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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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.

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

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 or other agency review must take place, if Real Estate Manager in further judgment believes a research or agency review is forthcoming, this acknowledgment can be foregone. Telephone contact is then deemed appropriate.)

(DATE)

(NAME)

(STREET ADDRESS)

(CITY), (STATE) (ZIP CODE)

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

Dear (NAME):

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

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

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

Sincerely,

(NAME)

Real Estate Manager

Real Estate Department

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

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Figure 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: 1,360sf; 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.

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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	<p>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.</p> <ol style="list-style-type: none">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	<p>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.</p>
Required Improvements	<p>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.</p> <p>Required improvements include:</p> <ol style="list-style-type: none">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	S/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
212 878-7000 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/realestate/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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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

Property Address

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

Proposed Business Name of Business
Street
City State Zip
Telephone Telephone (alternate)

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 or 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
Street
City State Zip
Telephone Telephone (alternate)

MTA RE (PIF 02/11) Page 1

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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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Metropolitan Transportation Authority

Proposer Information Form

**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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Proposer Information Form

**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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Metropolitan Transportation Authority

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

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Proposer Information Form

**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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Proposer Information Form

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

☐ If the 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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Proposer Information Form

**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 *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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Metropolitan Transportation Authority

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 (ii) 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
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 Ambros
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.

BID#: Opening Date: 02/04/11, #12, Kt, oil svc. More detailed info at the MTA website at www.mta.info/contractors/purchasing.htm

MTA BRIDGES AND TUNNELS (B&T)

Sealed bids for the below solicitations must be received by B & T at the Bid Suite, 3 Stone Street, New York, NY 10004. Sealed bids will be publicly opened at the above address on the dates/times indicated. The complete project description can be viewed at www.mta.info/contractors/purchasing.htm (click on Bid No.)

BID# OP1455 - 2,500 lbs Lift Capacity Skid Steer Loader. Bid Opens: 2/3/11, 3PM.
BID# OP1459 - Cab Chassis and Utility Body and Crew Cab Pickups Vehicles
Bid Opening: 02/04/11 at 3:00 PM.

BID# OP1452X - Light Duty Wheeled 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, 212-340-3223. **INQUIRY & DESCRIPTION, (DUE DATE, TIME, CONTACT):** INQR: 988 - Purchase of various Signal Cables (Aerial, Burial, Duct, and Low Smoke Zero Halogen) for use by Metro-North Railroad within the wayside signal system. (2/9/11, 3:00 PM, R. Oduño); RFP No. 989 - Certified Qualified Security Assessor (QSA) Services to assist with the Payment Card Industry Data Security Standard Compliance. (2/10/11, 3:00 PM, R. Oduño).

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, I, 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 place 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 48. 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'inning, 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 E 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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Parcel No. _____

[illegible]

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Figure 16 – Proposal Checklist

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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	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	
Year 2	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	
Year 3	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	
Year 4	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	
Year 5	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	
Year 6	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	
Year 7	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	
Year 8	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	
Year 9	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	
Year 10	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	

PV of fixed rent \$

PV-50% of Percentage Rent \$

PV Residual Value of Improvements \$

Total (add lines 34, 36 & 38) \$

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

Total (NPV)

Current Assets	\$ <input type="text"/>
Total Assets	\$ <input type="text"/>
Liabilities	\$ <input type="text"/>
Net Worth	\$ <input type="text"/>

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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Page 2

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
212 676-7000 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




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

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

Board Action					
Order	To	Date	Approval	Info	Other
1	Contract documents	11/08/09	X		
2	Board				

Internal Approvals			
Order	Approval	Order	Approval
	Executive Director	2	Civil Rights 
	Chief of Staff	1	Legal 
	Director of MTRP		
5	Top State Rep of Adults 		

Narrative:

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

LESSEE: JJ Penn Station LLC d/b/a Jamba Juice

LOCATION: Level A, Penn Station, New York

ACTIVITY: Retail sale of food and non-alcoholic beverages

ACTION REQUESTED: Approval of terms

TERM: Ten (10) Years

SPACE: Approximately 1000 square feet of Retail Space SA, and approximately 100 square feet of Storage Space D

COMPENSATION: Retail

Year	Annual	PSE	% Increase
1	\$200,000.00	\$128.00	
2	\$210,000.00	\$131.26	5
3	\$220,500.00	\$137.81	6
4	\$231,626.00	\$144.70	6
5	\$243,101.00	\$151.94	6
6	\$255,238.00	\$159.64	5
7	\$268,018.00	\$167.51	5
8	\$281,420.00	\$175.89	5
9	\$295,481.00	\$184.68	5
10	\$310,286.00	\$193.92	5

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CAPITAL CONSTRUCTION PLANNING/REAL ESTATE COMMITTEE MEETING
JJ Penn Station LLC d/b/a Jamba Juice (Cont'd)

Storage

Year	Actual	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	\$5,909.62	\$59.10	5
10	\$6,205.31	\$62.05	5

COMMENTS:

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

The rental payments proposed (calculated on a present value basis, using a discount rate of 9%) ranged from \$26,708 to \$1,580,578. The highest proposal was received from Healthy Food Concepts at \$1,580,578. The remaining proposals were made by Sarah's Kitchen at \$1,388,782; Dunkin' Donuts at \$1,207,186; Michael Chang at \$1,154,168; Baker Ali at \$729,931 and Subway Restaurants at \$68,708. 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 728 stores, including 611 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. Alief 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 Rose'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 _____]

Lease / License/Permittee / Grantee		Yard Account #	Committee Approval Date
Use & Location		Yard Property # / Unit #	Board Approval Date
Project Manager	Attachments <div style="display: flex; justify-content: space-between;"> <div> Proposer Info. Form ATN / Selection Memo Credit Report Good Standing Opinion NPV Analysis </div> <div style="text-align: center;"> Yes N/A <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> </div>	SEQR / NEPA <div style="display: flex; justify-content: space-between;"> <div> Type 1 <input type="checkbox"/> Type 2 <input type="checkbox"/> Unlisted <input type="checkbox"/> NEPA <input type="checkbox"/> </div> <div> Action to be Taken _____ _____ _____ _____ </div> </div>	
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		Approval	Sent		Via
Comments			Leasing & Acquisitions Supervisor		Approval	Refused		<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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<div> <div>Source: Transacting</div> <div>Agency: NYCT</div> <div>Property: tel18300, tax28900, bus30300, by00500, H40900, 1</div> <div>Report Date: 10/18/2000</div> <div>10/17/00 10:15 AM</div> </div>										
Agency Code	Prop Name Tenant Code Tenant Name RE Manager	Und Code Status SQ	Tenant Use Location	Dist Method	REC	Est Acqr	Lea Expt	Hand Off	Chg-B	Ren Com
NYCT Bus00300	43 ST-TIMES SQ 10001078	02 Current 0	Pay Phone				08/01/1999			03/01/2000
H40900	43 ST-TIMES SQ 10001080	01 Current 0					05/01/1998			03/01/2000
tel18300	43 ST 10001107	01 Current 0					08/27/1998			03/01/2000
	43 ST 10001108	02 Current 0	Barber				11/01/1998			03/01/2000
	43 ST 10001109	03 Current 0	Hair Beauty				11/01/1998			03/01/2000
	43 ST 10001110	04 Current 0	Farm				03/15/1997			02/28/2000
	43 ST 10001111	05 Current 0	Other Retail				05/02/1994			03/01/2000
	43 ST 10001112	06 Current 0	Newstand				03/04/1994			03/01/2000
	43 ST 10001113	07 Current 0	Other Retail				11/01/1998			03/01/2000
	43 ST 10001114	08 Current 0					03/04/1994			03/01/2000
	43 ST 10001115	09 Current 0					03/01/1998			03/01/2000
	43 ST 10001116	10 Current 0	Newstand				03/04/1994			
	43 ST 10001117	11 Current 0					05/02/1994			03/01/2000
	43 ST 10001118	12 Current 0	Newstand				03/01/1998			03/01/2000

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Figure 25 – Tenant Control Checklist

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TENANT CONTROL LOG		
TENANT NAME: _____		ACCOUNT NO.: _____
AGENCY: <u> LIRN </u> <u> LIB </u> <u> JIN </u> <u> REI </u> <u> MTA (H) </u> <u> NYCT </u> <u> SIRTOA </u> <u> SBK </u>		
PROPERTY: _____		UNIT: _____
LOCATION: _____		
REQUIRED:	INITIALS	COMMENT
1. 2 executed original counterparts of Agreement	_____	_____
2. Staff Summary of Information Item	_____	_____
3. RFP Site Data Sheet at RTN	_____	_____
4. Routing Form for Execution	_____	_____
5. Document Preparation History Form	_____	_____
6. Determination of Responsibility [*)]	_____	_____
IF APPLICABLE:		
• IRS Form W-9	_____	_____
• Security Deposit	_____	_____
• Record of Comm(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 _____	_____	_____
LEA PROJECT MANAGER NAME: _____		
NEW TENANT ACCEPTED FOR MANAGEMENT:		
By: _____	Date: _____	
(*) Only required if value of agreement is over \$15,000 in any year during term (**) Verify completeness of Lobbying Law Disclosure Statement page		

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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) 878-0162**

*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) 252-3493, 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

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

Date(s) Contact was made: _____

NYC 11/15/09 Form A (Lobbying Law) Revised 01/09/10, 02/01/10, 03/01/10
Rev. 1-07

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Figure 27 – Procurement Lobbying Law Disclosure Statement

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REAL ESTATE DEPARTMENT
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Metropolitan Transportation Authority

New York State Finance Law Sections 130-j and 130-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 \$10,000 annually, are subject to New York State's State Finance Law Sections 130-j and 130-k effective January 1, 2006 ("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/proposal process, communications with regard to protest, contract negotiations, and RFP contingency participation. Nothing in the Lobbying Law restricts 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 office and must be paid 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 bid/contracting on a procurement under penalty 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 determinations as 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 statute 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 §130-k(2) obligates the MTA to obtain specific information regarding each non-responsibility determination. This information must be collected in addition to the information that is separately obtained pursuant to New York State Finance Law §165(3). In accordance with New York State Finance Law §130-k, an officer must be asked to ascertain 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 §130-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 §130-k(3) mandates consideration of whether an officer has 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 officer that fails to timely disclose accurate or complete information under this section, unless the factual elements of the bidder's answer provision 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 at the previous four years? ☐ Yes ☐ No

If yes, Was the basis for the finding of the State's/Proposer's non-responsibility due to a violation of State Finance Law §130-j? ☐ Yes ☐ No

A "governmental entity" is: (1) any department, bureau, bureau, commission, division, office, cabinet, committee or officer of New York State; (2) any permanent or temporary (3) each house of the New York State Legislature; (4) the unified court system; (5) any public authority; (6) public benefit corporation or commission created by or existing pursuant to the public authorities law; (7) 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 title of office of the State; (8) a financial agency as that term is defined in paragraph (b) of subsection (a) of section 100 of the Legislative Law; or (9) a subsidiary or affiliate of (a) a public authority (NYL §130-j, paragraph 1.a.)

MTR Form 128-128, 125-01-01 12-07-08-Page 1

Attachment B - 2012 Personal Property Disposition Guidelines



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

Adopted by the Board on March 28, 2012

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 §§ 2895 – 2897).

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	Anthony D'Amico	646-252-4200	AD'Amico@mtacc.info
Metro-North Railroad	Anthony J. Bombace, Jr.	212-340-3055	bombace@mnrr.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	Stephen M. Plochochi	646-252-6050	Stephen.Plochochi@nyct.com

Staff Summary

Subject LICENSE AGREEMENT
Department REAL ESTATE
Department Head Name JEFFREY B. ROSEN
Department Head Signature
Project Manager Name JOHN COYNE

Date MARCH 26, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	3/26/12	X		
2	Board	3/28/12	X		

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

AGENCY: MTA Long Island Rail Road ("LIRR")
LICENSOR: JMS Catering, Inc.; Sal Boniventre; and Partnered Beverages LLC
LOCATION: Bellmore Station; Lindenhurst Station; Seaford Station; Amityville Station; Kings Park Station; Massapequa Station; Bay Shore Station
ACTIVITY: Operation of coffee trucks
ACTION REQUESTED: Approval of terms
TERM: Ten years, subject to termination by LIRR on 60 days' notice
COMPENSATION:

Bellmore Station	
Proposer: JMS Catering, Inc.	
Year	Compensation
1	\$5,400
2	\$5,562
3	\$5,729
4	\$5,901
5	\$6,078
6	\$6,260
7	\$6,448
8	\$6,641
9	\$6,841
10	\$7,046
PV (9%):	\$38,908

Lindenhurst Station	
Proposer: Sal Boniventre	
Year	Compensation
1	\$6,500
2	\$6,695
3	\$6,896
4	\$7,103
5	\$7,316
6	\$7,536
7	\$7,762
8	\$7,995
9	\$8,235
10	\$8,482
PV (9%):	\$46,837

Seaford Station	
Proposer: Partnered Beverages LLC	
Year	Compensation
1	\$5,600
2	\$5,880
3	\$6,174
4	\$6,483
5	\$6,810
6	\$7,147
7	\$7,505
8	\$7,880
9	\$8,274
10	\$8,687
PV (9%):	\$43,673

Staff Summary

FINANCE COMMITTEE MEETING

Subject (Cont'd)

Amityville Station Proposer: Partnered Beverages LLC

Year	Compensation
1	\$5,200
2	\$5,460
3	\$5,733
4	\$6,020
5	\$6,321
6	\$6,637
7	\$6,969
8	\$7,317
9	\$7,683
10	\$8,067
PV (9%):	\$40,552

Kings Park Station Proposer: Partnered Beverages LLC

Year	Compensation
1	\$4,200
2	\$4,410
3	\$4,631
4	\$4,862
5	\$5,105
6	\$5,360
7	\$5,628
8	\$5,910
9	\$6,205
10	\$6,516
PV (9%):	\$32,753

Massapequa Station Proposer: Partnered Beverages LLC

Year	Compensation
1	\$7,500
2	\$7,875
3	\$8,269
4	\$8,682
5	\$9,116
6	\$9,572
7	\$10,051
8	\$10,553
9	\$11,081
10	\$11,635
PV (9%):	\$58,488

Bay Shore Station Proposer: Partnered Beverages LLC

Year	Compensation
1	\$4,200
2	\$4,326
3	\$4,456
4	\$4,589
5	\$4,727
6	\$4,869
7	\$5,015
8	\$5,165
9	\$5,320
10	\$5,480
PV (9%):	\$30,262

COMMENTS

MTA Real Estate recently offered coffee truck concessions at eleven LIRR stations for ten-year license agreements via a request for proposals process. These locations were previously licensed for coffee trucks, but the terms of the agreements had expired and were in holdover status. In January, 2012, the Board approved MTA Real Estate's recommendations with respect to four of the eleven locations. MTA Real Estate is now requesting authorization to grant concessions at the remaining seven locations as set forth above. The aggregate present value of the proposed compensation for all eleven coffee truck locations is \$655,912, compared to a present value of \$133,770 were the current coffee truck operators to be kept in place at their existing rents.

After initial proposals were received in October, MTA Real Estate gave each proposer the opportunity to increase the amount of compensation it had proposed. Subsequently MTA Real Estate solicited best and final offers at two locations (Bellmore and Lindenhurst) where the incumbents' proposals were within 20% of the high proposal.

Two proposals were received for the coffee truck concession at the Bellmore Station: Partnered Beverages LLC submitted a compensation proposal with a present value discounted at 9% ("PV") of \$38,992.17; and the incumbent, JMS Catering, Inc., submitted a compensation proposal with a PV of \$34,585.20. Per the best and final offer process described above, JMS Catering, Inc., submitted a best and final offer with a PV of \$38,908.37, an amount that is only \$83.80 less on a present value basis than the compensation proposal submitted by Partnered Beverages LLC. MTA Real Estate deems this amount to be de minimis in light of JMS Catering's experience as incumbent at this location. JMS Catering, Inc., and its principal, John Gonias, have sufficient assets to guarantee the compensation they have proposed.

Staff Summary

FINANCE COMMITTEE MEETING Subject (Cont'd.)

Two proposals were received for the coffee truck concession at the Lindenhurst Station: Partnered Beverages LLC initially proposed compensation with a PV of \$41,331.69; and Sal Boniventre, the incumbent, initially proposed compensation with a PV of \$38,195.54. Per the best and final offer process described above, Mr. Boniventre submitted a final offer with a PV of \$46,863.65, while Partnered Beverages LLC declined to increase its offer. Mr. Boniventre's credit score is good and he has sufficient assets to guarantee the compensation he has proposed for this concession.

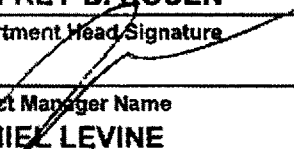
Partnered Beverages LLC, submitted the highest proposal for the Seaford, Amityville, Kings Park, and Seaford stations, and submitted the only proposal for Bay Shore station:

- Two proposals were received for the coffee truck concession at the Seaford Station: Partnered Beverages LLC proposed compensation with a PV of \$43,673.18; and Maglios Catering, the incumbent, proposed compensation with a PV of \$32,423.64.
- Two proposals were received for the coffee truck concession at the Amityville Station: Partnered Beverages LLC proposed compensation with a PV of \$40,551.85; and Victor Ferrugiari, the incumbent, proposed compensation with a PV of \$15,337.41.
- Two proposals were received for the coffee truck concession at the Kings Park Station: Partnered Beverages LLC proposed compensation with a PV of \$32,753.42; and Sal Boniventre, the incumbent, proposed compensation with a PV of \$23,777.23.
- Two proposals were received for the coffee truck concession at the Massapequa Station: Partnered Beverages LLC proposed compensation with a PV of \$58,488.25; and Kenneth James Patrick Doran, the incumbent, proposed compensation with a PV of \$25,933.58.
- One proposal was received for the coffee truck concession at the Bay Shore Station: Partnered Beverages LLC proposed compensation with a PV of \$30,262.06.

Partnered Beverages LLC, doing business under the name Mountain Mudd Espresso, is a company based in Billings, Montana that operates coffee kiosks throughout the United States. Partnered Beverages and its principal, John Adams, have sufficient assets to guarantee the compensation proposed.

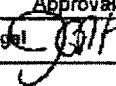
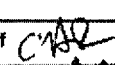

Based on the foregoing, MTA Real Estate requests authorization to enter into license agreements for the operation of coffee concessions at the Bellmore, Lindenhurst, Seaford, Amityville, Kings Park, Massapequa and Bay Shore stations on the above described terms and conditions.

Staff Summary

Subject EASEMENT GRANT
Department REAL ESTATE
Department Head Name JEFFREY B. ROSEN
Department Head Signature 
Project Manager Name DANIEL LEVINE

Date MARCH 26, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	3/26/12	X		
2	Board	3/28/12	X		

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

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

GRANTEE: Village of Larchmont

LOCATION: The subject easement parcel is located south of North Avenue, west of Palmer Avenue, and east of Metro-North's New Haven Line tracks, in the Village of Larchmont, Westchester County, New York.

ACTIVITY: Grant of easement to the Village of Larchmont for emergency first responder access.

ACTION REQUESTED: Approval of terms.

TERM: Permanent, non-exclusive

SPACE: 12,756 square feet

COMPENSATION: \$1.00 (payment waived)

COMMENTS:

At its January 2012 meeting, the Board approved three easement actions related to a low-income housing development planned by WB Pinebrook Associates, LLC ("WB") in the Village of Larchmont (the "Village"). The three actions involved (1) the termination of an easement that burdened Metro-North's right-of-way, (2) the relocation of an easement that burdens WB's property for the benefit of Metro-North, and (3) the grant of an easement from Metro-North to Westchester County to permit public passage and emergency vehicle access to the rear of WB's property ("Emergency Easement 1"). The Staff Summary for these actions is attached.

Subsequent to the Board's January approval, the Village advised WB that it requires an additional, irrevocable easement over MTA property to provide emergency vehicle access easement from North Avenue, another public street of the Village (such easement, "Emergency Easement 2"). While WB has a pre-existing terminable, non-exclusive easement for public access over the parcel that will be encumbered by Emergency Easement 2 that was granted in 2005 to a previous developer, this public access easement is terminable and the Village requires an irrevocable easement for emergency purposes. Emergency Easement 2 will be a permanent, non-exclusive easement, granted to the Village and would give first responders emergency access from North Avenue to meet the area covered by Emergency Easement 1, providing continuity of emergency coverage for persons living and working at the WB development.

Additionally, the Village has determined that the Public Access Easement to be granted to the County of Westchester, pursuant to the Board action at its January meeting as indicated in the attached, must be granted instead to the Village of Larchmont. All other aspects of the transactions contemplated in the January staff summary remain unchanged.

Staff Summary


FINANCE COMMITTEE MEETING Easement Grant (Cont'd.)

Pursuant to the Public Authorities Law Section 2897, an appraisal of the proposed Emergency Easement 2 was obtained. The easement was valued at \$10,000. No compensation is being required from the Village or Westchester County, as the easement grant is for a public benefit, the easement will continue to be held by the Village only for emergency access purposes, and there is no reasonable alternative to the transfer that would achieve the same purpose.

Granting this easement will not negatively impact Metro-North's interests or day-to-day use of the subject easement area, as the use of the easement will be only for first responder emergencies.




Based on the foregoing, MTA Real Estate requests the Board determine that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of such transfer and authorize (a) the execution of the above-described easement agreement with the Village of Larchmont on the terms described above, and (b) execution of the Public Access Easement described in attached January 2012 staff summary with the Village of Larchmont instead of the County of Westchester.

Staff Summary

Subject EASEMENT RELATED ACTIONS
Department REAL ESTATE
Department Head Name JEFFREY B. ROSEN
Department Head Signature 
Project Manager Name DANIEL LEVINE

Date JANUARY 23, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	1/23/12	X		
2	Board	1/25/12	X		

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

FOR REFERENCE
PURPOSES ONLY

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

GRANTOR/GRANTEE: WB Pinebrook Associates, LLC ("WB")

GRANTEE: Westchester County

LOCATION: The subject parcels are generally south of North Avenue, west of Palmer Avenue, and east of Metro-North's New Haven line tracks, in the Village of Larchmont, Westchester County, New York

ACTIVITY: Termination, relocation, and grant of easement rights

ACTION REQUESTED: Approval of terms

PARCELS: Easement 1 – 7,048 square feet: Metro-North's right-of-way is currently burdened by a 20' wide easement for pedestrian, vehicular and utility access in favor of WB.
Easement 2 – 3,700 square feet: WB's property is currently burdened by an easement in favor of Metro-North for pedestrian, vehicular and utility access.
Public Access Easement – 7,409 square feet ("Easement 3"): Metro-North will grant a permanent easement to Westchester County for public passage and for emergency vehicle access to the rear of one of WB's buildings.

TERMS: Easement 1 will be terminated, freeing the affected Metro-North right-of-way for Metro-North unfettered usage. WB will make improvements to the Metro-North property, including installation of a sound wall, gates and a drainage system.
Easement 2 will be relocated to continue to provide Metro-North access over WB's property.
Metro-North will grant Easement 3 to Westchester County, to allow required emergency and public access to the back of WB's property, as required by code.

COMMENTS:

WB, a developer of affordable residential homes for families, is working with New York State and Westchester County to build affordable housing that satisfies the August, 2009 settlement reached between the U.S. Department of Housing and Urban Development and Westchester County. Pursuant to this effort, WB has become the contract vendee of an approximately 1.5 acre site in Larchmont, New York, located generally south of North Avenue, west of Palmer Avenue,

Staff Summary

FINANCE COMMITTEE MEETING Exchange of Easements (Cont'd.)



Page 2 of 2

and east of and adjacent to the New Haven Line right-of-way. WB intends to construct two multi-family buildings containing a total of fifty-one condominium housing units, all of which will be affordable to families earning up to eighty percent of the Westchester County median income (the "Project").

The Planning Board of the Village of Larchmont (the "Village") granted site plan approval for the Project conditioned on the provision of emergency vehicle access between Palmer Avenue, a public street of the Village, and the rear of the full length WB's property, which can only be reached by using a portion of Metro-North's right-of-way. To permit this access, Metro-North will grant to Westchester County an irrevocable, non-exclusive easement (Easement 3), for emergency vehicle access and passage of the general public.

In consideration of the benefits to WB of the grant of Easement 3 to Westchester County by Metro-North, WB will improve the Easement 3 area for use as a vehicle right-of-way, including the removal of existing covered sidetrack, grading, paving, installation of a new drainage system, guardrail, curb and sound wall along part of Metro-North's property. Metro-North will benefit from these installations, as its access to the right-of-way will be facilitated and separated from WB's property by a sound wall. Flooding of the right-of-way that tends to occur in the area will be mitigated by the installation of the drainage system containing a retention system. WB will maintain these improvements as necessary.

It is also necessary for the advancement of the Project that Easement 2 be relocated. Easement 2 is an access easement that burdens WB's property in favor of Metro-North, allowing it to reach the right-of-way from the south. The relocation of Easement 2 will not affect Metro-North's ability to access its property. WB will maintain the relocated Easement 2.

In consideration of Metro-North agreeing to relocate Easement 2, WB will terminate and release Easement 1 to Metro-North. The termination of Easement 1 will be beneficial to Metro-North because it will be able to use the released easement area for future railroad uses without any obligation to keep the property free for private vehicular access.

Pursuant to the Public Authorities Law Section 2897, appraisals were obtained with respect to Easements 1 and 3. Both easements were valued at \$10,000.00. Although the easement interest to be granted by Metro-North (Easement 3) and the easement interest to be gained by Metro-North (Easement 1) are of equal value, Metro-North will also be gaining significant improvements to its property that WB will construct and maintain.

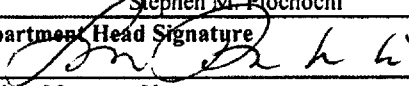
In summary, the result of these easement transactions will not only permit the development of this housing project, but will provide Metro-North with the following benefits: 1) Improved access to the New Haven Line right-of-way for Metro-North and its contractors; 2) elimination of WB's easement over a portion of the right-of-way will free areas for Metro-North use, while sound walls will insulate the development from Metro-North work; and 3) drainage will be improved, mitigating flooding problems that Metro-North has experienced in this area


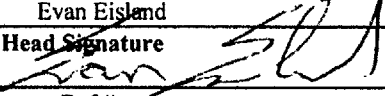



Based on the foregoing, MTA Real Estate requests authorization to execute the above described easement agreements on the terms described above.



PROCUREMENTS

The Procurement Agenda this month includes 8 actions for a proposed expenditure of \$606.6M.

Subject Request for Authorization to Award Various Procurements					
Department Materiel Division – NYCT					
Department Head Name Stephen M. Plochochi					
Department Head Signature 					
Project Manager Name Rose Davis					
Board Action					
Order	To	Date	Approval	Info	Other
1	Committee	3/26/12			
2	Board	3/28/12			

March 14, 2012			
Department Law and Procurement - MTACC			
Department Head Name  Evan Eisland			
Department Head Signature 			
Table of Contents Ref #			
Internal Approvals			
	Approval		Approval
	President NYCT		President MTACC
	Executive VP	X	Subways
X	Capital Prog. Management	X	Buses
	Law	X	Diversity/Civil Rights

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval

PURPOSE:

To obtain approval of the Board to award various contracts and purchase orders, and to inform the NYC Transit Committee of these procurement actions.

DISCUSSION:

NYC Transit proposes to award Non-Competitive procurements in the following categories: NONE

MTA Capital Construction proposes to award Non-Competitive procurements in the following categories: NONE

NYC Transit proposes to award Competitive procurements in the following categories:

Procurements Requiring Two-Thirds Vote:

	<u># of Actions</u>	<u>\$ Amount</u>
Schedule C: Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)	1	\$ 599.5 M

Schedules Requiring Majority Vote

Schedule H: Modifications to Personal/Miscellaneous Service Contracts	1	\$ 1.0 M
SUBTOTAL	2	\$ 600.5 M

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

Schedules Requiring Majority Vote

Schedule F: Personal Service Contracts	3	\$ 5.0 M
Schedule I: Modifications to Purchase and Public Works Contracts	1	\$.4 M
SUBTOTAL	4	\$ 5.4 M

NYC Transit proposes to award Ratifications in the following categories:

Schedules Requiring Majority Vote:

Schedule K: Ratification of Completed Procurement Actions	1	\$.3 M
SUBTOTAL	1	\$.3 M

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

Schedules Requiring Majority Vote:

Schedule K: Ratification of Completed Procurement Actions	1	\$.4 M
SUBTOTAL	1	\$.4 M
TOTAL	8	\$ 606.6 M

COMPETITIVE BIDDING REQUIREMENTS: The procurement actions in Schedules A, B C and D are subject to the competitive bidding requirements of PAL 1209 or 1265-a relating to contracts for the purchase of goods or public work. Procurement actions in the remaining Schedules are not subject to these requirements.

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 2012

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements 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. Bombardier Transit Corporation
Eighty-Month Contract
Contract # R-34179
Purchase of 300 "B" Division subway cars. | \$599,473,746 | <u>Staff Summary Attached</u> |
|--|----------------------|--------------------------------------|

Procurements Requiring Majority Vote:

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 the original contract to equal or exceed the monetary or durational threshold required for Board approval.)

- | | | |
|--|-------------------------|--------------------------------------|
| 2. Henry Brothers Electronics, Inc.
Contract # 06G9430.4
Modification to the contract for preventive and remedial maintenance of security systems at revenue facility sites, in order to extend the term of the contract and upgrade the network video switching system and cameras. | \$979,974 (Est.) | <u>Staff Summary Attached</u> |
|--|-------------------------|--------------------------------------|

MARCH 2012

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

F. Personal Service Contracts

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

1. Armand Resource Group, Inc. \$5,000,000.00 (NTE)

Staff Summary Attached

2. Navigant Consulting, Inc.



3. Thacher Associates, LLC

Twelve Proposals– Five-year contracts

Contract #PS833

Independent Compliance Monitors for MTACC projects.

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.)

4. WDF, Inc. \$363,525

Staff Summary Attached

Contract # A-36137.68

Modification to the contract for the rehabilitation of the 4/5 Fulton Street Station and Dey Street Head House, in order to perform revisions to the electrical work.

MARCH 2012

LIST OF RATIFICATIONS FOR BOARD APPROVAL

K. Ratification of Completed Procurement Actions (Involving Schedule E-J)
(Staff Summaries required for items requiring Board approval.)

- | | | |
|--|------------------|--------------------------------------|
| 1. WDF, Inc. | \$330,000 | <u>Staff Summary Attached</u> |
| Contract # A-36068.16 | | |
| Modification to the contract for the rehabilitation of three stations on the Rockaway Park Line, in order to install modified windscreen support posts at the Beach 90 th , 98 th and 105 th Street Stations. | | |

MARCH 2012

LIST OF RATIFICATIONS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

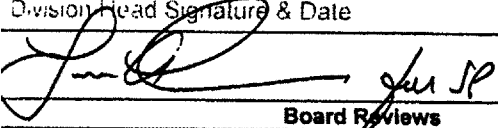
K. Ratification of Completed Procurement Actions (Involving Schedule E-J)
(Staff Summaries required for items requiring Board approval.)

1. **E.E. Cruz and Tully Construction Company, JV, LLC**
Contract # C-26005.54 \$368,750

Staff Summary Attached

Modification to the contract for civil, structural, and utility relocation for the Second Avenue Subway, 96th Street Station, in order to install gas mains according to the revised contract drawings.

Staff Summary

Item Number 1					
Division & Division Head Name: VP Materiel, Stephen M. Plochochi					
Division Head Signature & Date					
					
Board Reviews					
Order	To	Date	Approval	Info	Other
Internal Approvals					
Order	Approval	Order	Approval		
1 <i>MB</i>	Executive VP	<i>5/13/11</i>	President		
2 <i>X</i>	Senior VP, Subways	6			
3 <i>X</i>	VP, Gen. Counsel	7			
4 <i>X</i>	Budget	8			

SUMMARY INFORMATION

Vendor Name Bombardier Transit Corporation	Contract Number R34179
Description Purchase of 300 New "B" Division Subway Cars	
Total Amount \$599,473,746	
Contract Term (Including Options, if any) April 2012 – December 2018 (includes 2 Yr. Warranty)	
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:	

Narrative

I. PURPOSE: To obtain Board approval for NYC Transit to award contract R34179 to Bombardier Transit Corporation (Bombardier) to design, furnish and deliver 300 new "B" Division subway cars and related non-car items such as spare parts, special tools, diagnostic test equipment, technical documentation and training.

II. DISCUSSION: The MTA 2010 – 2014 Capital Program includes \$748 Million for the purchase of 340 "B" Division Subway Cars in the format of 290 base award cars and an option for an additional 50 cars. Based on the technical qualifications and a comparison of best and final offers (BAFOs) from ALSKAW LLC (a LLC comprised of ALSTOM and Kawasaki) and Bombardier, NYC Transit recommends award of a contract to Bombardier for 300 cars in the amount of \$599,473,746. The capital award value of this contract including all costs, i.e., bid; bid contingency, design, in-house and consultant construction administration and NYC Transit force account labor, totals \$735.6M, resulting in a capital budget savings of \$12.4M.

In June 2010, NYC Transit issued a Request for Proposal (RFP) which invited carbuilders to submit proposals for a single award of 290 cars with options for 50 and 80 cars. In compliance with Public Authorities Law § 1209, the RFP was advertised in the New York State Contract Reporter and the New York Post, and was also placed on the MTA website. Nine separate vendors purchased the RFP package.

Initial price and technical proposals for 290 cars were received on November 12, 2010 from ALSKAW (Compliant \$845,419,893 – Alternate \$733,120,713) and Bombardier (Compliant \$674,045,024). Prices for option cars were also provided. The proposals were evaluated by the Selection Committee in accordance with the advertised criteria which included technical proposal and overall technical qualifications, overall project cost, best value and other relevant matters. Both proposers were invited for oral presentations and ultimately for negotiations.

Negotiations were held with both proposers between June and October, 2011. Staff worked with both proposers from a technical and pricing perspective to enable them to offer the most competitive proposal while ensuring that each would be technically acceptable. Detailed negotiations of all of the pricing elements and commercial alternatives offered such as bonding and payment schedules were conducted. Technical negotiations with ALSKAW centered on its alternate proposal in order to maximize the potential to integrate the value of a similar car design previously built by ALSKAW (1,662 R160 cars). With regard to Bombardier, the NYC Transit negotiations team's focus included confirming that the configuration of the proposed car and the technical solutions proposed conformed to NYC Transit's specifications.

A commitment was secured from each proposer to make parts available for twenty years after the warranty for the last car delivered has expired. Also, the proposers agreed to provide cost disclosure to NYC Transit for its procurement of sole source parts in the after-market as well as a cap on profit. This provision for cost disclosure and a cap on profit will also flow down to the major subcontractors who in most cases are sole-source suppliers in the aftermarket for parts.

Based on a recommendation from Oliver Wyman, a consultant hired by the MTA to recommend strategies for reducing costs in the agencies' acquisition of rolling stock, staff negotiated a "product cost-down" provision as part of the contract terms and conditions. Under this provision, which is a form of post-award value engineering, an incentive is granted to the car builder to identify and implement, including with its subsystem component providers, improved design, processes or procedures to achieve an acceptable product at lower cost. Any savings achieved will be shared between the carbuilder and NYC Transit.

In Q3 2011, the original car quantity requirements were reassessed. This R179 purchase had originally been structured with a base order of 290 cars plus an option of 50 cars as a result of funding constraints. An option for 80 additional R179 cars was later included, contingent upon additional funding, for 2nd Avenue Subway Phase I service. A reassessment of projected ridership growth as well as anticipated changes in ridership due to changes in demographics in certain parts of New York City led to the conclusion that 300 new cars would satisfy NYC Transit's needs in lieu of the original 290 plus 50 cars; this change will be reflected in the next administrative update to the 2010-2014 Capital Program. It was also decided to delete the second option of 80 cars as it was determined that car requirements for 2nd Avenue Subway Phase I service can be accommodated with existing spare cars. The 300 cars shall be used for replacement of R32 and R42 cars.

After the change in car quantities, negotiations were completed and requests for BAFOs were sent on October 14, 2011. Responses were received on February 7, 2012. Bombardier's BAFO, which is compliant with the RFP, is \$599,473,746. ALSKAW's alternate BAFO is \$657,003,141. These BAFO prices (inclusive of all related non-car items) reflect NYC Transit's selection of acceptable credits delineated in the price schedule from each proposer. The contract price differential between Bombardier's compliant BAFO and ALSKAW's alternate BAFO is \$57,529,395 (8.8%). (Note: ALSKAW's compliant offer, i.e. full compliance with the R179 Technical Specification with no exceptions, was deemed unfavorable due to its significantly higher price of \$785,832,434.) The final prices from Bombardier and ALSKAW are 18.5% and 5.7% respectively below the corresponding in-house estimates. As compared with the initial proposals, the final negotiated BAFO prices achieved savings of \$74M (11.1%) for Bombardier and \$76M (10.4%) for ALSKAW. These savings are calculated from the initial pricing for the base order of 290 cars and the BAFO pricing for 300 cars.

Evaluative credits were applied to both proposers for the improved delivery schedules each offered as against the contractual delivery schedule as well as for differences in car weight. These respective credits did not yield an appreciable change to the overall price variance between the competing proposals.

Procurement, NYC Transit's independent consultant Louis T. Klauder and Associates, NYC Transit's Cost/Price Analysis Unit and NYC Transit's Division of Car Equipment reviewed the prices and concluded that Bombardier's price of \$599,473,746 is fair and reasonable. Bombardier is a qualified carbuilder of NYC Transit subway cars and has performed satisfactorily on various NYC Transit projects for subway cars, including the R62A (824 cars) and R142 (1030 cars) projects.

The Selection Committee evaluated the technical proposals, technical qualifications, pricing and other relevant matters for both proposers. In technical merit, ALSKAW ranked higher than Bombardier; however the Selection Committee determined that the combination of Bombardier's acceptable technical proposal and significantly lower price provided the best overall value to NYC Transit and unanimously recommended Bombardier for award. The Executive Committee concurred with the Selection Committee's recommendation.

A review of its financials by NYC Transit's Controller's Office found that there is reasonable assurance that Bombardier is financially qualified to perform this contract. Prior to submission of the BAFOs, a potential responsibility issue arose that led NYC Transit to request the assistance of the MTA Inspector General. The Inspector General's inquiry concluded that Bombardier committed no impropriety that impaired the integrity of the procurement itself. It was ultimately determined, after a responsibility hearing conducted by NYC Transit, that Bombardier is a responsible contractor for the purposes of this award. In addition, NYC Transit's background search of Bombardier and its proposed subcontractors with a potential subcontract value of \$1M or more also disclosed no significant adverse information within the meaning of the Responsibility Guidelines.

The test cars (10 cars) will be delivered 31 months after Notice of Award (NOA). Delivery of production cars will commence 38 months after NOA and complete 56 months after NOA.

III. D/M/WBE INFORMATION: Because this Contract is FTA funded, the FTA Transit Vehicle Manufacturer (TVM) program applies. Bombardier complies with this FTA program.

IV. CAPITAL PROGRAM REPORTING: This contract has been reviewed for compliance with the requirements of the 1986 legislation applicable to Capital Contract Awards and necessary inputs have been secured from responsible functional departments.

V. IMPACT ON FUNDING: This contract will be funded with FTA funds. The approved 2010-2014 Capital Program includes \$748.0 million for this project. The capital award value of this contract for 300 cars, including all costs, i.e., bid; bid contingency, design, in-house and consultant construction administration and NYC Transit force account labor, totals \$735.6M, resulting in a budget surplus of \$12.4M. A WAR certificate will be requested and the contract will not be executed until a WAR Certificate has been issued.

VI. ALTERNATIVES: None recommended. A new solicitation is unlikely to result in better pricing and will prolong NYC Transit's ability to replace cars in the existing fleet which have exceeded their useful life.

VII. RECOMMENDATION: It is recommended that the Board approve the award of a competitively negotiated contract to Bombardier in the amount of \$599,473,746 to design, furnish and deliver 300 R179 subway cars and related non-car items such as spare parts, special tools, diagnostic test equipment, technical documentation and training for the "B" Division fleet.

Schedule H: Modifications to Personal Service & Miscellaneous Contracts



Item Number: 2

Vendor Name (& Location)	
Henry Brothers Electronics, Inc. (Fairlawn, NJ)	
Description	
Preventive and remedial maintenance for security systems at two revenue facility sites and a remote site.	
Contract Term (including Options, if any)	
April 1, 2008 – March 31, 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:	
Division of Revenue Control, Alan Putre	

Contract Number	AWO/Modification #
06G9430	4
Original Amount:	
	\$ 1,298,500
Option Amount:	
	\$ 1,318,908
Total Amount:	
	\$ 2,617,408
Prior Modifications:	
	\$ 255,344
Prior Budgetary Increases:	
	\$ 0
Current Amount:	
	\$ 2,872,752
This Request:	
	\$ 979,974 (Est.)
% of This Request to Current Amount:	
	34.1%
% of Modifications (including This Request) to Total Amount:	
	47.2%

Discussion:

This modification is to extend the contract for one year through March 31, 2013 and to upgrade the existing network video switching system and 40 cameras. Under this contract, Henry Brothers Electronics, Inc. (HBE) provides preventive and remedial maintenance for security systems at the Consolidated Revenue Facility (CRF) shared by NYC Transit and MTA Bridges and Tunnels (B&T), a reviewing and access control station at a B&T remote site and NYC Transit's disaster recovery site to ensure that all electronic intrusion detection devices, access control and CCTV equipment, including approximately 700 cameras, and related software are in good working order. It has been established that B&T's portion of the security systems at the CRF and their remote site make up 14.4% of the overall security systems, and, therefore, B&T will be responsible for 14.4% of the recurring monthly costs and any applicable proportional amount of task order work.

Under this modification, the contract will be extended for an additional year for services at the CRF and other sites while a new five year contract is solicited. This modification also includes the removal and replacement of the network video switching system (matrix switch) and existing Pan/Tilt/Zoom (PTZ) cameras with a new matrix switch and PTZ cameras. Since the matrix switch is one of the most critical components of the security system, these upgrades can not be deferred as the current matrix switch has reached the end of its useful life and is no longer supported and parts are difficult, if not impossible, to find. The replacement of the existing PTZ cameras with new PTZ cameras will ensure compatibility with the new matrix switch. These upgrades will also foster competition for the successor maintenance contract as the entire system will be in a state of good repair.

Following negotiations with HBE, the agreed upon cost is \$979,974 and consists of \$414,312 for monthly preventive and remedial maintenance of the security systems at the CRF and other sites, including a 3% increase consistent with the current contract. The balance is for the replacement of the current matrix switch system, PTZ cameras and associated hardware. The cost of the matrix switching system, PTZ cameras and associated hardware is 35% less than prices offered to other customers utilizing HBE's NYS Office of General Services contract. Labor rates to install the new equipment will remain the same for this extension. Based on the forgoing, the cost is considered fair and reasonable.

Staff Summary

Item Number 1-3					
Department & Department Head Name: EVP, William Goldstein					
Department Head Signature & Date <i>[Signature]</i>					
Board Reviews					
Order	To	Date	Approval	Info	Other
Internal Approvals					
Order	Approval		Order	Approval	
1. <i>[Signature]</i>	Chief Procurement Officer		5 <i>[Signature]</i>	President	
2. <i>[Signature]</i>	SVP & Gen. Counsel		6 <i>[Signature]</i>		
3. <i>[Signature]</i>	Chief Financial Officer		7 <i>[Signature]</i>		
4. <i>[Signature]</i>	Chief Compliance Officer		8 <i>[Signature]</i>		

SUMMARY INFORMATION	
Vendor Name Various See Below	Contract Number PS833
Description Independent Compliance Monitor	
Total Amount \$5,000,000 Aggregate (NTE)	
Contract Term (including Options, if any) 5 Years	
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: Settlement	

I. PURPOSE

Pursuant to Article V of the MTA All Agency Guidelines for the Procurement of Services, MTACC requests MTA Board approval to award a competitively solicited personal service requirements contracts to monitor contractor compliance with laws, rules and contractual requirements in the areas of (i) Disadvantaged Business Enterprise (DBE); (ii) payments to Subcontractors and Suppliers (iii) payment of prevailing wages to workers and (iv) other areas of potential fraud as identified by the Chief Compliance Officer. The approval sought is for an amount not to exceed \$5,000,000 aggregate for a term of 5 years. The Contractors for whom approval is sought are Armand Resource Group, Inc., Navigant Consulting, Inc. and Thacher Associates, LLC. The contracts to be awarded are zero dollar based contracts and do not obligate MTACC to commit any minimum dollar amount to the contractors. Rather, the scope of specific investigations will be determined by MTA's Chief Compliance Officer, in consultation with MTACC and the MTA Office of the Inspector General (MTAOIG), who will issue task orders for specific investigations.

II. DISCUSSION

In 2005, due to the scope and aggregated value of several of the expansion and mobility projects (the "Mega-projects"), the MTA hired an Integrity Compliance Monitor to ensure compliance with laws, rules, regulations and contract requirements including (i) Disadvantaged Business Enterprise (DBE) participation; (ii) payment of prevailing wages to workers; (iii) employment goals; and (iv) timely payments to subcontractors and suppliers. This monitoring contract was managed by the Chief Compliance Officer. Although the work of that Monitor was viewed a success by the MTAOIG, USDOT, the MTA Chief Compliance Officer and MTACC, when the contract ended no new funding source was available to continue this work. The FTA, who administers the Federal grants related to several of these projects, has strongly encouraged MTACC to pursue strategies to reinstate monitoring efforts.

In March 2011, based on findings that were uncovered by the original monitor and the investigation by the MTAOIG, the US Attorney for the Southern District of New York entered into a settlement agreement with a contractor from which the MTAOIG has received \$9.8M. The MTAOIG has recommended that a portion of those funds be made available to fund a new Integrity Compliance Monitor for the Mega-Projects.

The scope of work for the new Integrity Compliance Monitor will include monitoring contractor compliance with laws, rules and contractual requirements in the areas of (i) Disadvantaged Business Enterprise (DBE); (ii) payments to Subcontractors and Suppliers (iii) payment of prevailing wages to workers and (iv) other areas of potential fraud as identified by the Chief Compliance Officer. As described below, through a competitive RFP process three Monitors have been selected. MTA's Chief Compliance Officer, in consultation with MTACC and the MTAOIG, will issue "task orders" against base contracts with these three monitors for specific investigative services.

III. PROCUREMENT PROCESS

The requirements were advertised in the New York Post, ENR and Minority Commerce Weekly and twelve (12) firms requested a copy of the RFP. On July 11, 2011, proposals were received from the following twelve (12) firms: 1) Armand Resource Group, Inc. 2) BDO consulting 3) Calyptus Consulting Group 4) Dora Rieck Kaley & Mack 5) Empire State Integrity Monitor 6) Fortress Monitoring Group 7) Guidepost Solutions LLC. 8) J.H. Cohen, LLP 9) Navigant Consulting, Inc. 10) Qwic Inc. 11) Summit Security Services and 12) Thacher Associates LLC. A Selection Committee evaluated the proposals based on the following criteria in order of relative importance:

III. PROCUREMENT PROCESS CON'T

1. Experience in relevant areas of Compliance Monitoring
2. Experience of Project Team
3. The firm's understanding of the technical requirement of the Independent Compliance Monitor Consulting Services
4. Responsiveness to the RFP
5. Maximum work for minimum dollar value
6. Other Relevant Matters

The initial phase of the RFP process required that proposals be evaluated based on technical factors only. A discussion of all proposers led to the short listing of six (6) firms the Committee believed were most technically qualified. Those firms were 1) Thacher Associates LLC 2) Navigant Consulting, Inc. 3) Armand Resource Group, Inc. 4) BDO consulting 5) Fortress Monitoring Group and 6) Guidepost Solutions LLC. The six were invited for oral presentations. After the oral presentations an in-depth review of the firms' proposals and their relevant experience and references, the Selection Committee unanimously selected the following firms for negotiations: 1) Armand Resource Group, Inc.; 2) Navigant Consulting, Inc.; and 3) Thacher Associates, LLC. The decision was based on the Committee's determination that these three firms all demonstrated and possess the capacity, understanding, experience and commitment to perform the subject work.

Negotiations focused on hourly rates based on the various levels and skill sets. Negotiations with each firm resulted in an average reduction of 30% off the proposed rates and the rates were deemed to be fair and reasonable as compared to the internal estimate. After negotiations were completed, it was determined to award contracts to all three firms. The services to be provided under this Contract will be awarded on an as-needed basis at the negotiated billing labor rates which will be fixed for a period of five (5) years from the Notice of Award. Responsibility reviews were performed on all three firms and all three were determined to be responsible.

IV. D/M/WBE

A 17% DBE goal was established for this contract by the MTA Office of Civil Rights. Please note that Armand Resource Group, Inc. is a certified DBE firm.

V. IMPACT ON FUNDING

The total contract value is based upon projection and is used for budget purposes only. Funding for this Contract is available through utilization of a portion of a civil settlement that the MTAOIG received from the US Attorney through the efforts of the initial Compliance Monitor and the MTAOIG.

VI. ALTERNATIVES

MTACC does not have the in-house personnel to perform the tasks anticipated under this contract .

VII. RECOMMENDATION

Pursuant to Article V of the All-Agency Guidelines for the Procurement of Services, MTACC recommends the Board approve the award of a competitive personal services indefinite quantity consultant contract to provide Compliance monitoring consultant services to support MTA Capital Construction projects for an amount not to exceed \$5,000,000 in the aggregate and for a term of five (5) years to 1) Armand Resource Group, Inc.; 2) Navigant Consulting, Inc.; and 3) Thacher Associates, LLC.

Item Number: 4

Vendor Name (& Location)	
WDF, Inc. (Mt. Vernon, NY)	
Description	
Rehabilitation of the 4/5 Fulton Street Station and Dey Street Head House	
Contract Term (including Options, if any)	
August 27, 2009 – March 27, 2012	
Option(s) included in Total Amount?	<input 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 checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name:	
MTA Capital Construction, Dr. Michael Horodniceanu	

Contract Number	AWO/Modification #
A-36137	68
Original Amount:	
	\$ 57,757,000
Prior Modifications:	
	\$ 2,231,023
Prior Budgetary Increases:	
	\$ 0
Current Amount:	
	\$ 59,988,023
This Request:	
	\$ 363,525
% of This Request to Current Amount:	
	0.6%
% of Modifications (including This Request) to Original Amount:	
	4.5%

Discussion:

This modification is for revisions to the electrical rough out and panels for the rehabilitation of the Fulton Street Station and Dey Street Head House.

This contract is for the rehabilitation of the 4/5 Fulton Street Station and construction of the Dey Street Head House including installation of a new elevator and escalator that connects the platform level to the concourse level, new relocated EDR rooms, and all new finishes under the 4/5 Line Station on the concourse level.

This is another of several modifications to be presented to the Board, across the various Fulton Street Transit Center (FSTC) contracts, for the implementation of technology changes and the reprogramming of space previously identified for use by NYC Transit personnel at the FSTC and Corbin Building into commercial tenant, retail and public spaces. The original design called for an LED wall strip to be installed at the concourse level of the 4/5 Line underpass to assist in the way-finding of transferring passengers. After this contract was awarded, and as a result of a new technology initiative undertaken by the MTA, the designer proposed a new continuous station-wide technology system that would utilize dynamic visual displays. The new system will network all way-finding signage and information panels throughout the FSTC's various subway lines and also create uniformity.

This modification will provide the necessary power and communication infrastructure to support the new dynamic LED panels in the 4/5 Station and the Dey Street Head House. The work includes the addition of new power panels, connections, conduit & cable, new communication panels and equipment for both power and fiber optics to support the new LED panels. The cost of power and communications work for other portions of the FSTC and the furnishing and installation of the actual display panels will be covered under future modifications.

The contractor submitted a proposal in the amount of \$494,700; MTACC's estimate was \$347,570. Negotiations resulted in the agreed upon sum of \$363,525. Savings of \$131,175 were achieved. The final price was found to be fair and reasonable.

Schedule K: Ratification of Completed Procurement Actions

Item Number: 1

Vendor Name (& Location) WDF Inc. (Mt. Vernon, NY)	
Description Rehabilitation of three stations – Rockaway Park Line	
Contract Term (including Options, if any) January 28, 2009 – February 28, 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 type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name: Capital Program Management, Frederick E. Smith	

Contract Number A-36068	AWO/Modification #: 16
Original Amount:	\$ 39,387,000
Prior Modifications:	\$ 1,283,257
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 40,670,257
This Request:	\$ 330,000
% of This Request to Current Amount:	0.8%
% of Modifications (including This Request) to Original Amount:	4.1%

Discussion:

This retroactive modification is for revised structural connections for windscreen support posts at three stations on the Rockaway Park Line: Beach 90th, 98th, and 105th Street Stations.

This contract is for the rehabilitation of these three stations including electrical, architectural, communications and structural work. The contract calls for the furnishing and installation of new windscreens and vertical support posts on the platforms. The windscreens are supported by vertical posts which are connected to the platform structure. The contract specifies connection details for all the posts.

After this contract was designed, new fiber optic cables were attached to the exterior of the platform structure under a separate communications contract. These cables were later found to interfere with 47 of the vertical support posts for the new windscreens which were to be installed on the southbound side of the three stations. This required NYC Transit to redesign the structural connections to allow clearance for the cables. The original contract design called for all posts to be cantilevered about two inches away from the outer edge of the platform. The redesign called for the affected posts to be cantilevered about a foot away from the outer edge of the platform so as not to interfere with the cables.

Separately, it was determined that two additional windscreen support posts could not be securely fastened to a bent (the major support structure for the track bed) as had been specified in the contract. Accordingly, NYC Transit had to design, and the contractor had to install, additional structural members to enable these two posts (located adjacent to the communications rooms at Beach 98th and 105th Street Stations) to be securely connected to the structure.

With respect to the 47 posts on the southbound side, this modification includes the cost of larger, more complex structural steel connections between the windscreen support posts and the platform structure, and the removal and replacement of a greater quantity of concrete to make room for those connections. Due to the need to achieve the required dates for returning the platforms to customer service, the contractual concrete platform work had to be performed first. Therefore this modification also includes the costs for the contractor to box-out the 47 locations where the windscreen posts would subsequently be installed, perform additional rebar work, and do an additional concrete pour. With respect to the 2 posts adjacent to the communications rooms, this modification includes the cost of new steel members and a different, more complex connection. With respect to all 49 posts, the costs reflect the difficulties of working on elevated structures from aerial lifts, etc. The contractor's revised proposal was \$598,720; NYC Transit's revised estimate was \$330,160. Following negotiations, the lump sum of \$330,000 was agreed upon and found to be fair and reasonable. Savings of \$268,720 were achieved.

The portion of this modification associated with the 2 posts adjacent to the communications rooms represents approximately \$60K of the lump sum price. It may have been caused by the designer's error or omission. An error and omission analysis will be performed.

The contractor submitted a claim for delay and impact costs. The contractor has agreed to defer its claim for an extension of time and impact costs; NYC Transit is also willing to defer its evaluation and determination on these issues. Impact costs, if any, will be negotiated under a separate modification and submitted for separate approval. To mitigate delay, on May 11, 2011, the SVP & Chief Engineer approved a retroactive waiver and the contractor was directed to proceed. The work is essentially complete.

Schedule K: Ratification of Completed Procurement Actions

Item Number: 1

Vendor Name (& Location) E.E. Cruz and Tully Construction Company, JV, LLC (Holmdel, NJ)	
Civil, structural, and utility relocation for the Second Avenue Subway route – 96 th Street Station	
Contract Term (including Options, if any) May 28, 2009 – June 14, 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 checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Dept/Div & Dept/Div Head Name: MTA Capital Construction, Dr. Michael Horodniceanu	

Contract Number	AWO/Modification #:
C-26005	54
Original Amount:	\$ 303,863,700
Option 1 Amount:	\$ 17,526,300
Option 2 Amount:	\$ 3,610,000
Total Amount:	\$ 325,000,000
Prior Modifications:	\$ 13,681,195
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 338,681,195
This Request:	\$ 368,750
% of This Request to Current Amount:	0.1%
% of Modifications (including This Request) to Total Amount:	4.3%

Discussion:

This retroactive modification is for the resizing, rerouting and installation of gas mains.

This contract is for civil, structural, and utility relocation work for the new 96th Street Station for the Second Avenue Subway.

The work to be performed under this contract includes: the relocation of utilities, demolition of the existing Century Lumber Building and interior demolition at Astor Terrace Condominium; construction of temporary and permanent Support of Excavation retaining structures including the construction of slurry walls, secant piles and micro pile walls; connection to the existing tunnel north of 99th Street; installation of temporary roadway decking; construction of the 96th Street Station invert slab; and construction of certain station entrance and ancillary building structural elements.

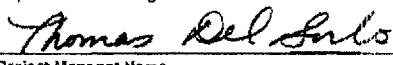
This retroactive modification addresses changes required by Con Ed to gas main installations along the length of 2nd Avenue from 95th Street to 99th Street as a result of Con Ed's review of the conformed Contract C-26005 bid documents. These changes affected the sizing of gas lines to be installed along with associated connection work. In addition, during the construction of required installations, minor modifications were necessary to accommodate field conditions which varied from what was depicted in the contract drawings. This Modification also includes the installation of approximately 28 feet of additional 30-inch gas main to route around a Con Ed manhole at 96th Street and an offset to avoid a conflict between a 12-inch and 30-inch gas main also at 96th Street.

The contractor submitted a revised cost proposal in the net amount of \$425,556; MTACC's revised estimate was \$371,880. Negotiations resulted in the agreed upon net lump sum price of \$368,750, which is considered fair and reasonable. Savings of \$53,806 were achieved. MTACC approved a retroactive waiver and the contractor was directed to proceed on February 23, 2011. However, processing this ratification was delayed as the final scope was not agreed upon until August 2011 and the contractor's revised cost proposal was not received until January 2012.

PROCUREMENTS

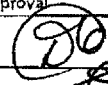
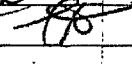
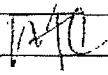
The Procurement Agenda this month includes 4 actions for a proposed expenditure of \$34.0M.

Staff Summary

Subject	Requests for Authorization to Award Various Procurements
Department	MTA Bus Company/NYCT Department of Buses
Department Head Name	Thomas Del Sorbo
Department Head Signature	
Project Manager Name	James P. Curry

Date	March 12, 2012
Vendor Name	N/A
Contract Number	N/A
Contract Manager Name	N/A
Table of Contents Ref #	

Board Action					
Order	To	Date	Approval	Info	Other
1	Committee	3/26/12	X		
2	Board	3/28/12	X		

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

NYC Transit Department of Buses proposes to award Non-Competitive procurements in the following categories:

<u>Procurements Requiring Majority Vote</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule I: Modifications to Purchase and Public Works Contracts	1	\$22.6M

	<u># of Actions</u>	<u>\$ Amount</u>
Total Non - Competitive Procurements	1	\$22.6M

MTA Bus Company 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 Majority Vote</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule G: Miscellaneous Service Contracts	1	\$ 0.4M
Schedule L: Budget Adjustments to Estimated Quantity Contracts	1	\$ 5.6M
	<u># of Actions</u>	<u>\$ Amount</u>
Total Competitive Procurements	2	\$6.0M

MTA Bus Company seeks Ratifications in the following categories:

<u>Procurements Requiring Majority Vote</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule K: Ratifications of Completed Procurement Actions (involving Schedules E-J)	1	\$5.4M

NYC Transit Department of Buses seeks Ratifications in the following categories:

None

	<u># of Actions</u>	<u>\$ Amount</u>
Total Ratifications	1	\$5.4M
	<u># of Actions</u>	<u>\$ Amount</u>
Total Procurements	4	\$34.0M

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 2012

LIST OF NON-COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

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.)

- | | | |
|---|--------------|-------------------------------|
| 1. UTC Fire and Security
A United Technologies Company
Contract # C-52097.3 | \$22,642,618 | <u>Staff Summary Attached</u> |
|---|--------------|-------------------------------|

Modification to the contract for Bus Camera Security Systems, in order to exercise an option to purchase additional Bus Camera Security systems for 1150 buses and 12 depots and purchase three additional servers.



MARCH 2012

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

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.)

2. **Permadrur Industries d/b/a/ Sissco** \$360,823 (Est.)
One Bid Only – Four-year contract
RFQ #13742

This contract is for the diagnosis and repair of parallelogram-type vehicle lifts.

The contractor is required to provide all labor, materials, and equipment as required for the repair of parallelogram-type vehicle lifts manufactured by Rotary, Mohawk, Sefac, Dyno and Hunter. These lifts are used at NYC Transit Department of Buses and MTA Bus depots as well as the two Support Fleet Service shops that service non-revenue vehicles. The parallelogram is a surface mounted runway style lift. The vehicle drives onto the lift rather than being supported by fixed posts.

The single bid was submitted by the incumbent, Permadrur Industries, Inc. D/B/A Sissco (Sissco). Procurement attempted to obtain competition by reaching out to additional vendors and waiving the fee to purchase the bid package. In addition to Sissco, two other vendors attended the pre-bid conference and expressed interest, but did not submit bids, stating that they are unable to handle additional workload at this time. Procurement contacted additional vendors whose names had been provided by other regional transit properties and large fleet operators, and these vendors advised that they would not have been able to provide lower pricing than that offered by Sissco.

Procurement compared the unit prices of the previous contract awarded May 2008 to this contract. All unit pricing has remained the same, except the hourly labor rate and the round trip flat rate transportation fee for Years 1 and 2. The labor rate decreased by 4.5% from \$83 to \$79 and the transportation fee decreased by 1.9% from \$161 to \$158. The price of \$360,823 is considered fair and reasonable.

MARCH 2012

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.)

3. Skyline Credit Ride, Inc. Contract # 10E0281E November 14, 2010 – November 13, 2013	Original Amount:	\$	4,077,765
	Prior Modifications:	\$	0
	Prior Budgetary Increases:	\$	0
	Current Amount:	\$	4,077,765
	This Request:	\$	5,620,140
	% of This Request to Current Amount:		137.8%
	% of Mods/Budget Adjustments (including This Request) to Original Amount:		137.8%

Discussion:

This budget adjustment will provide additional funding for increased capacity of voucher based car services.

Voucher based car service plays a major role in Paratransit's overall plan to increase service capacity during peak times for transporting ambulatory customers in a cost efficient manner. This contract provides transportation for Access-A-Ride customers for miscellaneous/recurring citywide trips.

As part of an ongoing cost savings initiative, Paratransit has pursued the goal of increasing the booking of trips utilizing voucher based car service. Skyline Credit Ride, Inc.'s (Skyline) current average cost per voucher trip is \$30.46, as compared to the average cost per trip for Primary Paratransit carriers of approximately \$58.00, all of which include fare revenue. In the past, lack of industry capacity prevented growth in this program. However, current economic conditions have freed up capacity formerly utilized by private industry allowing voucher based car service to provide more trips previously allocated to Primary carriers. As a result, Paratransit has also increased the number of trips allocated to the voucher based car service and taxi providers from approximately 15% in 2010 to 20% in 2011 of the total amount of Paratransit trips. Due to the increased trip volume allocated to this program, some voucher based car service firms have had difficulty meeting the demand. Skyline has the capacity to satisfy a large quantity of trips and thus has been able to take on a larger amount of the work than was originally estimated, which has resulted in a higher draw-down of available contract funds than originally anticipated. Procurement attempted to secure a price concession but Skyline indicated that its rates, which were competitively awarded in November 2010, are as low as it could offer without impacting service. However, Skyline did agree to forego the annual Consumer Price Index adjustment permitted by the contract and hold its pricing firm throughout the remainder of the contract term. This budget adjustment for additional funding is necessary to continue providing voucher based car service to facilitate an increase in the number of trips by approximately 184,000 for the remainder of the contract term.

MARCH 2012

LIST OF RATIFICATIONS FOR BOARD APPROVAL

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)

4. Trillium, USA. \$5,401,074 (est.) Staff Summary Attached
Contract No. CNG200501
Maintenance of MTA Bus Company's Compressed Natural Gas facilities at College Point and Spring Creek
depots

Item Number: 1

Vendor Name (& Location)	
UTC Fire & Security, America's Corporation (Salem, OR)	
Description	
Installation of Bus Camera Security Systems	
Contract Term (including Options, if any)	
February 15, 2011 – December 31, 2017	
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a	
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: 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:	
Department of Buses, Darryl C. Irick	

Contract Number	AWO/Modification #
C-52097	3
Original Amount:	\$ 9,748,256
Prior Modifications:	\$ 144,663
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 9,892,919
This Request:	\$ 22,642,618
% of This Request to Current Amount:	228.8%
% of Modifications (including This Request) to Original Amount:	233.8%

Discussion:

This modification will exercise an option for the provision and installation of additional Bus Camera Security Systems (BCSSs) for 1,150 buses and 12 depots and purchase three additional servers. These systems will enhance safety and security for employees and the riding public

This contract was awarded to UTC Fire & Security (UTCFS) under an Immediate Operating Need for the provision and installation of a BCSS consisting of cameras and digital video recorders on 426 buses as well as software and hardware for nine depots with an option for an additional 1,150 buses and corresponding depots. The decision to select UTCFS was the result of an informal competitive Request For Proposal process which allowed the Authority to evaluate technical performance, price and warranty provisions and ultimately select a superior product at a competitive price. The BCSS allows video images to be captured on buses and then wirelessly uploaded along with a system health report from buses to depot servers during the refueling process. As of March 1, 2012, BCSS have been installed on 297 buses and five depots.

Modification #1 incorporated the provision, installation and integration of a central server into the BCSS to enable NYC Transit's Department of Buses (DOB) to conduct system-wide searches for video data without the need to physically access each depot's local server. Modification #2 is for the provision of Data Management Services (DMS). The UTCFS provided data manager will process video requests, retrieve video data, package the video data for distribution, and ensure the integrity of the video data collection and the retention process. These DMS are required due to the increase in the number of buses and depots with BCSS equipment being installed.

This modification will exercise an option for the provision and installation of additional BCSSs for 1,150 buses and 12 depots and purchase three additional servers. The 1,150 BCSS will be installed on new bus fleets that are being delivered pre-wired by the bus manufacturers. The depot equipment is required to accommodate BCSS installations on these new fleets. The three additional servers are required to replace aging servers that were provided under a previous contract and are approaching the end of their useful life.

The pricing for this option was included in the base contract. The contract contains three pricing Tiers (Tier 1: 1-1000, Tier 2: 1001-2000, Tier 3: 2000+). In the event that the total quantity of BCSSs installed and accepted on buses (base plus option[s]) crosses into the next pricing Tier, the Authority is entitled to receive a credit equal to the difference between the pricing Tier previously paid and the pricing associated with the Tier achieved. UTCFS has agreed to provide all of the 1,150 BCSSs for buses which are the subject of this modification #3 at the Tier 2 prices and will provide the NYC Transit a credit in the amount of \$72,607 for the first 426 buses once Tier 2 has officially been achieved.

The total option award of \$22,642,618 will consist of BCSSs on 1,150 buses at an average price of approximately \$17,524/bus (\$20,153,060), 12 depots at a price of \$208,573/depot (\$2,502,876), three server systems at a price of \$19,763/server (\$59,289) and a credit in the amount of approximately \$72,607. The credit for the original 426 buses will be triggered once more than 1,000 total buses (base and option) have been outfitted with BCSSs and accepted by DOB. The final price of \$22,642,618 was found to be fair and reasonable.

A background check and review of information submitted by UTCFS revealed significant adverse information (SAI) within the meaning of the All Agency Responsibility Guidelines concerning its parent, United Technologies Corporation (UTC) and its affiliates. Following review by Senior Management, UTCFS has been found to be a responsible contractor for award of this option.

Schedule K: Ratification of Completed Procurement Actions



Item Number: 4	
Vendor Name (& Location) Trillium USA.	
Description Maintenance and repair services for the CNG Fueling Facilities at the College Point and Spring Creek Depots	
Contract Term (including Options, if any) March 1, 2006 through December 31, 2014	
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	
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: Facilities/ George Menduina	

Contract Number CNG200501	AWO/Modification # 8
Original Amount including options:	\$2,062,900
Prior Modifications (including options):	\$6,539,039
Prior Budgetary Increases:	\$445,000
Current Amount:	\$9,046,939
This Request:	\$5,401,074
% of This Request to Current Amount:	60%
% of Modifications (including This Request) to Original Amount:	262%

Discussion:

It is requested that the Board formally ratify this modification to extend the contract for the maintenance of Compressed Natural Gas (CNG) facilities at MTA Bus Company's (MTABC) College Point (CP) and Spring Creek (SC) depots for 3 years utilizing the per therm pricing contained in NYC Transit (NYCT) Contract No. 06A9336 for the operation and maintenance of the CNG facility at the Jackie Gleason depot. The term of this contract will be co-terminous with the NYCT contract base term ending December 31, 2014.

MTABC and NYCT have 4 fast-fill compressed natural gas (CNG) facilities operated and maintained by Trillium USA (Trillium) under two contracts at NYCT and one at MTABC, all competitively negotiated. The three contracts provide for operation, maintenance, and equipment replacement. Pricing for the NYCT contracts is calculated based on the number of CNG therms used at each facility per month for regular maintenance and contains separate pricing for equipment replacement or overhaul, i.e. compressor engines are overhauled after 25,000 hours of service – typically 6-7 years. Pricing for the original MTABC contract was based on actual time and materials (T&M) cost, which is not as advantageous as per therm pricing.

The CP and SC Depots are responsible for operating and fueling 153 and 50 CNG buses respectively, approximately 16% of MTABC's fleet. The unique technical nature of the facilities as well as the need to safely manage the high pressure in the fueling facilities requires an experienced, technically qualified contractor to operate and maintain the facilities, ensuring safe and continuous operation so MTABC as well as NYCT can provide the high standard of service on which its customers depend.

The February 2006 Board approved the award of an 18 month competitively negotiated MTABC contract to Trillium USA (Trillium) for the design, construction and installation of a compressed natural gas (CNG) compressor skid and for the operation and maintenance of the existing CNG fueling facility at the CP depot through August 31, 2007. The contract contained two options, each to extend the contract for 1 year and a clause which permitted MTABC to add the same or similar services at other MTABC facilities. Pursuant to this clause, when KeySpan terminated its operator/maintainer agreement in 2007, MTA Bus added SC to the contract. In addition, six other modifications have been issued to date exercising both extension options, for upgrades and replacement of equipment beyond its useful life, and further extending the term through February 2012.

In 2009, a plan was developed to conduct a joint procurement with Long Island Bus (LIB) when its CNG maintenance contract under a different vendor expired. However, that plan was first delayed due to funding source issues between the agencies and then halted in 2011 due to the termination of the Lease and Operating Agreement with Nassau County for the operation of LIB.

MTABC determined the most advantageous method to continue these required services was to extend its current contract with Trillium converting the current payment terms from T&M to per therm of CNG used, utilizing the terms and conditions of NYCT's existing Contract No. 06A9336 with Trillium for the operation and maintenance of the CNG facility Jackie Gleason Depot. Of the two NYCT contracts, Trillium's contract for the Jackie Gleason depot provided more favorable tier pricing for MTABC's CNG volume than the West Farms contract.

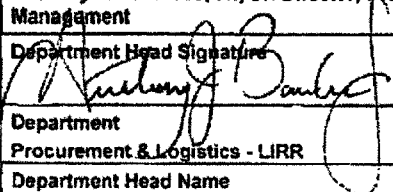
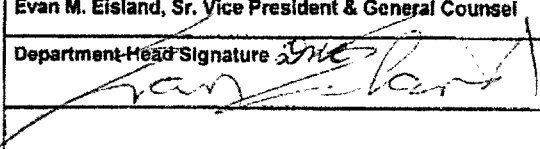
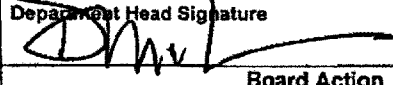
This Modification No. 8 provides for (i) 3 years of labor and materials for standard maintenance of the CNG facilities at per therm pricing, estimated at \$3,223,930, a \$534,339 (14.2%) savings over the estimated expenditures utilizing T&M pricing (\$3,758,269) for the same period; (ii) \$1,861,784 for replacement of 2 compressors (SC/CP) and 1 gas dryer at SC which are over 15 years old; and (iii) \$315,359 for the balance of the unanticipated work in 2011 including the full redesign, relocation, and replacement of the CNG muffler system at College Point, compressor overhaul and gas dryer rebuild at Spring Creek, all for a total estimated amount of \$5,401,074. Although the 3 year term begins in 2012, Trillium also conceded to a retroactive savings of \$136,322 for per therm pricing for calendar year 2011, which is captured in this modification. Both the MTABC and NYCT contract terms include an annual escalation factor tied to a CPI index. All estimated amounts include 2.5% annual escalation to account for fluctuations in CNG volume and increases to the CPI, and the estimated T&M amount was calculated based on 2011 T&M actuals with the 2.5% annual escalation. Actual amounts may increase or decrease based on the CNG volume and the annual CPI adjustment. Total estimated savings are \$670,661 (retroactive actual and projected).

Based on the above, this modification is considered fair and reasonable and was issued in March 2012 to take advantage of the significant savings retro and proactively. MTABC will participate in a follow-on joint procurement with NYCT for future CNG operations and maintenance. NYCT's contract contains an option for 3 additional years of maintenance. Should NYCT determine that due to market conditions it is in its best interest to exercise the option, MTABC will seek Board approval at that time for the option period.

**METRO-NORTH/LONG
ISLAND COMMITTEES**

**PROCUREMENTS FOR
BOARD ACTION**

MARCH 28, 2012

Subject Request for Authorization to Award Various Procurements						Date March 6, 2012			
Department Procurement & Material Management - MNR						Department Law and Procurement - MTACC			
Department Head Name Anthony J. Bombace, Jr., Sr. Director, Procurement & Material Management						Department Head Name Evan M. Eisland, Sr. Vice President & General Counsel			
Department Head Signature 						Department Head Signature 			
Department Procurement & Logistics - LIRR									
Department Head Name Dennis L. Mahon, Chief Procurement & Logistics Officer									
Department Head Signature 									
Board Action						Internal Approvals			
Order	To	Date	Approval	Info	Other	Order	Approval	Approval	
1	MNR/LIRR Committee	3-28-12	X			1	President, MNR	X	
2	MTA Board	3-28-12	X			2	President, LIRR	X	
						3	President, MTACC	X	

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:

MNR proposes to award Non-Competitive procurements in the following categories: NONE

LIRR proposes to award Non-Competitive procurements in the following categories: NONE

MTACC proposes to award Non-Competitive procurements in the following categories: NONE

MNR proposes to award Competitive procurements in the following categories:

<u>Schedules Requiring Two-Thirds Vote (or more, where noted)</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule G: Miscellaneous Service Contracts	2	\$13,208,363
SUBTOTAL:	2	\$13,208,363

LIRR proposes to award Competitive Procurements in the following categories: NONE

MTACC proposes to award Competitive Procurements in the following categories:

<u>Schedules Requiring Majority Vote</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule I: Modifications to Purchase & Public Work Contracts	2	\$1,312,404
SUBTOTAL:	2	\$1,312,404

MNR proposes to award Ratifications in the following categories: NONE

LIRR proposes to award Ratifications in the following categories: NONE

	<u># of Actions</u>	<u>\$ Amount</u>
MTACC proposes to award Ratifications in the following categories: Schedule K: Ratification of Completed Procurement Actions	1	\$355,477
SUBTOTAL:	1	\$355,477

TOTAL: 5 \$14,876,244

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 2012

METRO-NORTH RAILROAD

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

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.)

- | | |
|--|---------------------------|
| 1. Walco Electric Co. | \$3.8 Million (estimated) |
| Ram Industrial Svc. | \$4.2 Million (estimated) |
| Sherwood Electromotion Inc. | \$4.3 Million (estimated) |
| Repair and Return of DC-Powered Traction Motors-MNR | |

Approval is requested to award 3 competitively solicited, 5-year miscellaneous service agreements (4 bids received) for the pick-up, repair, and delivery of DC-powered traction motors used on MNR's M-3 and M-2/M-4/M-6 Commuter Railcar Fleets. These agreements are required to maintain MNR's M-3 fleet's long-term operation and the M-2/M-4/M-6 fleet until their anticipated retirement in 2014. The scope of services includes but is not limited to, armature testing and rewind, installation of coils, and repair, recondition and rebuild of motor assemblies. These repairs ensure the efficient, timely, and safe operation of the respective fleets. MNR does not have the capabilities to perform this work.

In order to ensure that MNR has an appropriate inventory of working traction motors particularly during the winter (when failure rates on these older cars spike because of snow/ice ingestion) and to protect against any one vendor not meeting production capacity, MNR Procurement structured the solicitation to allow for award to more than one qualified contractor. The solicitation of potential bidders included both advertisements placed in required publications as well as additional direct outreach to vendors known to perform this unique type of work. Further, the solicitation was based on historical data of the estimated amount of traction motor assemblies requiring various repairs during a 5-year period, taking into account the year-by-year reduction of the M-2/4/6 fleets as the M-8 cars arrive, and the increase in M-3 traction motor repairs as that fleet ages.

Four vendors responded to the solicitation, and 3 of the 4 were deemed responsive and responsible. Walco Electric Company, Ram Industrial Services Inc., and Sherwood Electromotion Inc., the incumbent vendors for this work, submitted bids in accordance with the solicitation and awards to each are requested at this time. The estimated individual award amounts are based on the projected distribution of work to the different vendors and their unit costs. The actual distribution of work to the vendors will be based on cost, operational requirements, and vendor capacity, with the goal of meeting service requirements at the lowest possible cost. MNR's Maintenance of Equipment Department in coordination with MNR's Procurement and Material Management Department manages the distribution of motors and the work performed. As this Board authorization shall not guarantee any one vendor a fixed amount of work, the overall budget may be reallocated as necessary to ensure the most economical repair of these motors.

Unit prices for the new agreements are fixed for the first 2 years, with the 3rd through 5th years' prices adjusted in accordance with pre-designated tables of escalation formulae published by the Bureau of Labor Statistics. The cost of these services has increased 1% per year comparing the midpoint of the two contracts.

The estimated annual cost for the first 3 years of these new agreements shall be \$2.98M, reducing to \$1.68M each year over the last 2 years (through December 2016) or an estimated total of \$12.3M. In contrast, the 5-year cost under the prior agreements was \$20M. The prices for the new agreements are deemed fair and reasonable for the work to be performed. These agreements are to be funded by the MNR Operating Budget.

2. Sissco Material Handling, Inc **\$908,363 (not-to-exceed)**
Inspection, Maintenance and Parts Replacement -MNR & LIRR Portable Railcar Floor Jacks, Overhead Cranes, Turntables and Car Hoists

Competitively solicited (1 bid received), negotiated, miscellaneous service contract for a 3-year period for preventative and remedial maintenance, inspection services and parts replacement for MNR's portable railcar floor jacks and LIRR's overhead cranes, turntables and car hoists. MNR currently has 27 machines located in the New Haven, Stamford, North White Plains and Harmon facilities. LIRR has 11 machines located in the Morris Park, Richmond Hill and Long Island City facilities. The LIRR machines are larger, older and require more detailed maintenance, repair and parts replacement than the MNR machines.

Sissco Material Handling was the sole bidder for the solicitation, and is a new vendor for these services. Whiting, the incumbent vendor and the OEM for the machines, did not respond to the solicitation. A comparison of prices paid in the previous agreement (2008-2011) with the new 3-year agreement reflects a significant decrease. The cost of these services has decreased approximately 10% per year comparing the midpoint of the two contracts. Further, all replacement parts to be used in the agreement are at-cost with no additional markup. The total award for both Railroads is not-to-exceed \$908,363 for the 3-year period (MNR = \$298,217 and LIRR = \$610,146). This procurement is funded by each Railroad's Operating Budget.



March 2012

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Majority Vote

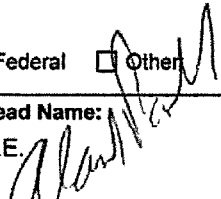
I. Modifications To Purchase and Public Work Contracts

(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)

1. **Tutor Perini Corporation** **\$987,904** *Staff Summary Attached*
 Contract No. CH053
 Modification No. 71
 Pursuant to Article IX of the All-Agency Procurement Guidelines, Board approval is requested to modify the contract to add the location Amtrak Signal and Communications utility lines. This is a scope and budget transfer from Force Account Package FHA02.

2. **Granite-Traylor-Frontier ("GTF"), JV** **\$324,500** *Staff Summary Attached*
 Contract No. CQ031
 Modification No. 61
 Pursuant to Article IX of the MTA All-Agency Procurement Guidelines, MTACC seeks Board approval to modify the contract to provide additional geotechnical and structural instrumentation as well as improvements to the structure of the GM Bridge.

Item Numbers 1

Vendor Name (& Location)	
Tutor Perini Corporation (Peekskill, New York)	
Description	
Construct Harold Structures Part I for the ESA Project	
Contract Term (including Options, if any)	
42 Months	
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 checked="" 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 #
CH053	71
Original Amount: \$ 139,280,000	
Prior Modifications: \$ 31,468,739	
Prior Budgetary Increases: 0	
Current Amount: \$ 170,748,739	
This Request	\$ 987,904
% of This Request to Current Amount: .01%	
% of Modifications (including This Request) to Original Amount: 23.3%	

Discussion:

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 tunnels for the East Side Access ("ESA") Project. Pursuant to Article IX of the MTA All-Agency Procurement Guidelines, MTACC seeks Board approval of a modification to add work related to the location of Amtrak Signal and Communications utility lines. This is a scope and budget transfer.

Amtrak Force Account Package FHA02 showed conduit and wire for future Amtrak Signal and Communications in Sunnyside Yard for the Q-Tower interlock running in a cable trough which would be at grade level. The revised plans for the West Bound Bypass track structure ("WBY") to be constructed under future Contract CH057, calls for it to be constructed in the location of the cable trough. This will require the signal and communications cables to be located above future WBY in an aerial structure in lieu of the at grade cable trough. In addition, Amtrak forces can no longer perform this work due to the complexity of this steel fabricated structure and lack of resources. Therefore, MTACC has determined that this work should be transferred to Contract CH053 since its contractor is already mobilized on-site, has the required experience and capability to perform the work.

The Contractor submitted a cost proposal of \$1,229,627 while MTACC's project estimate was \$912,227. Negotiations were held, and the parties agreed to a cost of \$987,904 which is considered fair and reasonable as it falls within an acceptable parameter of the estimate. There is no time impact associated with the modification. The budget for this work will be transferred from package FHA02. An errors and omission analysis will be conducted to determine if the cost for this modification are recoverable from the designer.

Item Numbers 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 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 checked="" 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	61
Original Amount: \$ 659,200,700	
Prior Modifications:	\$ 103,614,739 (includes an option of \$58,400,700)
Prior Budgetary Increases:	0
Current Amount:	\$ 762,815,439
This Request	\$ 324,500
% of This Request to Current Amount:	0.43%
% of Modifications (including This Request) to Original Amount:	158%

Discussion:

The work under the subject contract generally consists of construction of four soft-ground bored tunnels and demolition of surface structures for the East Side Access project. Pursuant to Article IX of the All-Agency Procurement Guidelines, MTACC seeks Board approval of a modification to provide additional geotechnical and structural instrumentation as well as improvements to the structure of the GM Bridge ("Bridge").

Under the Contract, the Contractor is required to submit a monitoring plan detailing the geotechnical and structural instrumentation which is to be installed on the Bridge and how movements will be monitored during the underpinning operations prior to Tunnel Boring Machine ("TBM") tunneling operations proceed underneath it. Based on further analysis on the ground stability in the area, the potential for settlement of the bridge piers, as well as a request from the bridge owner, MTACC has determined that the Contractor should provide additional measures to protect the Bridge. The protective measures include removal of the column foundation (including excavation, shoring and partial demolition of concrete), removal and replacement of gabion slope protection, lead abatement, adjustments to the lateral bracing at all piers and additional instrumentation.

The Contractor submitted a cost proposal in the amount of \$408,079. MTACC's estimate was \$319,142. Negotiations were held and the parties agreed to a cost of \$324,500 which is considered to be fair and reasonable as it falls within an acceptable parameter of the estimate. An errors and omissions analysis is required to determine if the cost for this modification is recoverable from the designer. Funding is available through the Contract's contingency.



March 2012

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.)

- | | | | |
|----|---|-----------|-------------------------------|
| 3. | Tutor Perini Corporation
Contract No. CH053
Modification No. 70 | \$355,477 | <u>Staff Summary Attached</u> |
|----|---|-----------|-------------------------------|
- Pursuant to Article IX of the All-Agency Procurement Guidelines, Board is requested to ratify a modification for the replacement of the Mixed-Face Cutterhead for the Microtunnel Boring Machine with a Rock-Face Cutterhead. Funding is available from the Project's contingency

Schedule K: Ratification of Completed Procurement Actions

Item Number 3

Vendor Name (& Location)	
Tutor Perini Corporation (Peekskill, New York)	
Description	
Construct Harold Structures Part I for the ESA Project	
Contract Term (including Options, if any)	
42 Months	
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 checked="" 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 #
CH053	70
Original Amount: \$ 139,280,000	
Prior Modifications: \$ 31,468,739	
Prior Budgetary Increases: 0	
Current Amount: \$ 170,748,739	
This Request	\$ 355,477
% of This Request to Current Amount:	.01%
% of Modifications (including This Request) to Original Amount:	22.8%

Discussion:

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 tunnels for the East Side Access ("ESA") Project. Pursuant to Article IX of the MTA All-Agency Procurement Guidelines, MTACC seeks Board ratification of a modification for the substitution of a Rock-Face Cutterhead for the Contract specified Mixed-Face Cutterhead on the Microtunnel Boring Machine ("MTBM").

The Contract Specification required a Mixed-Face Cutterhead for MTBM to do the tunneling in Sunnyside Yard. During the course of the work, large boulders were encountered which caused the Mixed Face Cutterhead to jam and prevented the MTBM to proceed under the tracks. Therefore in order to progress the work, a Rock-Face Cutterhead had to be purchased and installed on the MTBM.

The Contractor submitted a cost proposal of \$374,356 while MTACC's project estimate was \$335,304. Negotiations were held, and the parties agreed to a cost of \$355,477 which is considered fair and reasonable as it falls within an acceptable parameter of the estimate. There is no time impact associated with the modification. The budget for this modification will come from the ESA Project's contingency. An errors and omission analysis will be conducted to determine if the cost for this modification are recoverable from the designer.

The Contractor was directed to proceed with the work in order not to negatively impact the overall project schedule.



Bridges and Tunnels

Procurements March 2012

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, 2012
Vendor Name	
Contract Number	
Contract Manager Name	
Table of Contents Ref #	

Board Action					
Order	To	Date	Approval	Info	Other
1	President	3/7/12			
2	MTA B&T Committee	3/26/12			
3	MTA Board	3/28/12			

Internal Approvals			
Order	Approval	Order	Approval
	President <i>[Signature]</i>		VP Operations
	Executive Vice President <i>[Signature]</i>		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:

<u>Schedules Requiring Majority Vote</u>		<u># of Actions</u>	<u>\$ Amount</u>
Schedule G	Miscellaneous Service Contracts	1	\$.768M
Schedule I	Modifications to Purchase & Public Works Contracts	1	<u>\$.884M</u>
SUBTOTAL		2	\$1.652M

MTA B&T presents the following procurement actions for Ratification: None

TOTAL	2	\$1.652M
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BUDGET IMPACT:

The purchases/contracts will result in obligating MTA B&T and Capital 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.)

The legal name of MTA Bridges and Tunnels is Triborough Bridge and Tunnel Authority.

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 2012

MTA BRIDGES & TUNNELS

Procurements Requiring Majority Vote:

G: Miscellaneous Service Contracts

(Staff Summaries required for items greater than: \$100K Sole Source; \$250K Other Non-Competitive; \$1M RFP;
No Staff Summary required if Sealed Bid Procurement)

- | | | |
|----|--|----------------------|
| 1. | Transpo Industries | \$ 654,414.00 |
| | Traffic Safety Service, LLC | \$ 113,490.00 |
| | Contract No. 10-MNT-2864A and B | |

3 yr. contracts – Competitive Bid – One bid each Schedule

On August 24, 2011 B&T issued a solicitation for contractors to repair, maintain and replace impact attenuators (collision energy absorbing devices) at various locations since B&T neither has the personnel nor the equipment to perform this work. All repaired impact attenuator systems shall meet the requirements of the Federal Highway Administration. Two Price Schedules were included in the solicitation based on equipment currently owned by B&T; one for attenuators manufactured by Energy Absorption Systems (Schedule A) and one for attenuators manufactured by SCI Inc. (Schedule B). Bidders were advised that they may submit a bid under one or both Schedules and the award would be made to the lowest responsive and responsible bidder for each Schedule. The solicitation was publicly advertised and notices were sent to two hundred firms. Three firms requested copies of the solicitation. On September 28, 2011 two bids were received, one bid under each Schedule. Both Transpo Industries and Traffic Safety Service, LLC are authorized distributors for the attenuator manufacturers. A market survey was conducted to determine why additional bids were not received; we were unable to identify any other firms authorized to maintain this equipment. Schedule A contained seven additional equipment line items compared with those included in the current contract. The prices for items in Schedule A are 6.9% higher compared with the same items in the current contract. Items included in Schedule B are not included under any B&T maintenance contract. The total bid amount under Schedule A is 4.1% higher than the user's estimate of \$628,781; under Schedule B it is 2.2% above the user's estimate of \$111,051. The prices are fixed for a three year period. After evaluation of the bids, it was determined that Transpo Industries and Traffic Safety Service, LLC are considered responsive, responsible bidders. In comparison with the estimates, the prices are considered fair and reasonable. Funding is available in the Operating Budget under GL #713011.

I: Modifications to Purchase & Public Works Contracts

(Approvals/Staff Summaries required for individual change orders greater than \$250K. Approvals without Staff Summaries required for change orders greater than 15% of previous approved amount which are also at least \$50K)

- | | | | |
|----|---|----------------------|--------------------------------------|
| 2. | El Sol Contracting and Construction Corp./El Sol Limited Enterprises Inc.,
(a Joint Venture) | \$ 884,399.00 | <u>Staff Summary Attached</u> |
| | Contract No. TN-85C | | |

Additional work to upgrade the existing suspended span under deck shield to current OSHA standards, which is necessary to allow the Contractor to access and perform the required structural repairs under Contract TN-85C, Suspended Span Repairs at the Throgs Neck Bridge.

Schedule I: Modifications to Purchase and Public Works Contracts

Item Number: 2

(Final)

Vendor Name (& Location) El Sol Contracting and Construction Corp./El Sol Limited Enterprises Inc., (a Joint Venture), Maspeth, New York
Description Suspended Span Repairs at the Throgs Neck Bridge
Contract Term (including Options, if any) June 30, 2011 – February 28, 2013
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive
Solicitation Type <input type="checkbox"/> RFP <input checked="" 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:
Requesting Dept/Div & Dept/Div Head Name: Engineering & Construction, Vincent Montanti, P.E.

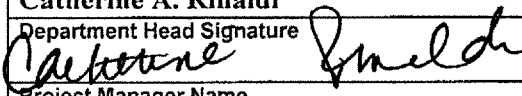
Contract Number TN-85C	AWO/Modification #
Original Amount: \$24,369,700.00	
Prior Modifications: \$0.00	
Prior Budgetary Increases: \$0.00	
Current Amount: \$0.00	
This Request: \$884,399.00	
% of This Request to Current Amount: 3.6%	
% of Modifications (including This Request) to Original Amount: 3.6%	

Discussion:

B&T is seeking the Board's approval under the All-Agency Procurement Guidelines to modify the Contract with El Sol Contracting and Construction Corp./El Sol Limited Enterprises Inc., (a Joint Venture) (El Sol) to upgrade the existing suspended span under deck shield (work platform) to current OSHA standards for a net increase of \$884,399, which is necessary to allow El Sol to access and perform the required structural repairs at the Throgs Neck Bridge.


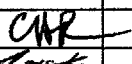

The Contract TN-85C scope includes an under deck work platform that had been previously installed under Project TN-85, Main Cable and Suspender Rope Investigation, Structural Steel Repairs, Painting and Catwalk Replacement. Utilizing this approach resulted in reduced construction costs, ensured the availability of the work platform during the required biennial inspections and eliminated safety risks involved in removing and reinstalling a work platform. Contract TN-85C required El Sol to inspect and provide a detailed engineering report for the upgrades to the work platform to comply with OSHA standards. The passage of time and harsh environment has resulted in a greater number of work platform elements that require hands-on inspection, replacement or upgrade than originally anticipated. El Sol submitted a proposal in the amount totaling \$1,560,252. The Engineer's estimate is \$1,128,083. Negotiations resulted in B&T and El Sol agreeing to an amount totaling \$1,384,399, which is considered fair and reasonable. Since the Contract included an allowance of \$500,000 to re-work the platform, the net increase to this contract equates to \$884,399. The cost of removing and installing a new platform would have been considerably higher than performing these repairs. Funding for this amendment is available in the 2010-2014 Capital Program under Project TN-85C.

Staff Summary

Subject Mission Statement & Performance Indicator Report
Department Chief of Staff
Department Head Name Catherine A. Rinaldi
Department Head Signature 
Project Manager Name

Date March 28, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
	Corporate Governance	3/26/12			
	Board	3/28/12			

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

Purpose:

To obtain Board review of the MTA's mission statement and performance measurements and to authorize submission of the annexed 2011 Mission Statement and Performance Measurement Report to the State Authorities Budget Office.

Discussion:

Section 1269-f and Section 2824-a of the Public Authorities Law require MTA annually to reexamine its mission statement 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 "2011 Mission Statement and Performance Measurement Report") compiles the MTA mission statement and the measurements from 2011 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 2011 Mission Statement and Performance Measurement Report for submission to the Authorities Budget Office.



Metropolitan Transportation Authority

**Mission Statement, Measurements, and Performance
Indicator Report**

**Covering Fiscal Year 2011
(in compliance with PAL §1269-f and §2824-a)**



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
<ul style="list-style-type: none"> • Ensure our customer's safety 	<ul style="list-style-type: none"> ✓ Customer injury rates ✓ Bus collision rate
<ul style="list-style-type: none"> • 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
<ul style="list-style-type: none"> • 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
<ul style="list-style-type: none"> • Repair, replace and expand transportation infrastructure 	<ul style="list-style-type: none"> ✓ Capital Program Commitments ✓ Capital Program completions

Business, 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
<ul style="list-style-type: none"> • Perform services in an efficient manner 	<ul style="list-style-type: none"> ✓ Farebox operating ratio ✓ Operating cost per customer ✓ Total support to mass transit
<ul style="list-style-type: none"> • Maximize system usage 	<ul style="list-style-type: none"> ✓ Ridership ✓ Traffic volume
<ul style="list-style-type: none"> • Repair, replace and expand transportation infrastructure 	<ul style="list-style-type: none"> ✓ Capital Program commitments ✓ Capital Program completions

Employees and Unions	
Our employees and unions expect a safe workplace, skills training relevant to their role and opportunities for growth.	
MTA Goals	Performance Indicators
<ul style="list-style-type: none"> • Ensure our employees' safety 	<ul style="list-style-type: none"> ✓ Employee lost time and restricted duty rate
<ul style="list-style-type: none"> • Maintain a workforce that reflects the regional availability of all races, nationalities, and genders for our industry 	<ul style="list-style-type: none"> ✓ Female representation in MTA workforce ✓ Minority representation in MTA workforce

Government Partners (Federal, State and Local 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
<ul style="list-style-type: none"> • Provide on-time and reliable services 	<ul style="list-style-type: none"> ✓ On-time performance (Subway and Commuter Railroads) ✓ Subway wait assessment ✓ Bus trips completed ✓ Mean distance between failures
<ul style="list-style-type: none"> • Maximize system usage 	<ul style="list-style-type: none"> ✓ Ridership ✓ Traffic volume
<ul style="list-style-type: none"> • Perform services in an efficient manner 	<ul style="list-style-type: none"> ✓ Farebox operating ratio ✓ Operating cost per customer
<ul style="list-style-type: none"> • Repair, replace and expand transportation infrastructure 	<ul style="list-style-type: none"> ✓ Capital Program commitments ✓ Capital Program completions

MTA New York City Transit

Performance Indicator	2010 Actual	2011 Actual
Service Indicators		
On-Time Performance – Terminal	88.7%	85.4%
Subway Wait Assessment	77.9%	78.8%
Elevator Availability – Subways	97.1%	96.2%
Escalator Availability – Subways	92.6%	93.7%
Total Ridership – Subways	1,604,070,667	1,640,434,672
Mean Distance Between Failures – Subways (miles)	170,217	172,700
Mean Distance Between Failures – Staten Island Railway (miles)	464,848	201,523
On-Time Performance – Staten Island Railway	95.4%	95.1%
% of Completed Trips – NYCT Bus	98.1%	98.1%
Total Paratransit Ridership – NYCT Bus	9,016,690	8,947,191
Bus Passenger Wheelchair Lift Usage – NYCT Bus	1,244,991	1,280,678
Total Ridership – NYCT Bus	696,923,393	665,312,549
Mean Distance Between Failures – NYCT Bus (miles)	3,678	3,340
Safety Indicators		
Customer Injury Rate – Subways (per million customers)	3.07	2.91
Customer Accident Injury Rate – NYCT Bus (per million customers)	1.00	1.17
Collisions with Injury Rate – NYCT Bus (per million vehicle miles)	7.64	6.92
Employee Lost Time and Restricted-Duty Rate (per 100 employees)	3.05	3.33
Workforce Indicators		
Female Representatives in NYCT Workforce	17.30%	17.4%
Minority Representatives in NYCT Workforce	72.60%	73.1%
Financial Indicators		
Farebox Operating Ratio	55.7%	59.5%
Operating Cost per Passenger	\$2.63	\$2.70
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$2.031 (54%)	\$1,811 (50%)
Completions in \$ Millions (% of planned value)	\$2.439 (86%)	\$1,794 (60%)

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

The rate of Subway Customer Injuries declined for the second year in a row.

The 17 percent increase in the Bus Customer Accident Injury rate in 2011 compared to 2010 is being addressed in several ways, including issues related to the introduction of a variety of new bus models during the second half of 2011. Supplemental training is being provided to bus operators, in concert with in-service safety performance observation campaigns.

Although the 9.4 percent decrease in the Collision Injury rate is an improvement, it has been challenging to interpret performance and establish programs to further improve operations, because Bus Operations continues to see collisions where the multiple reported injuries are not necessarily consistent with the circumstances of the accidents. This perspective is shared by the New York State Public Transportation Safety Board. Specifically, while the PTSB continues to investigate and report on collisions meeting their threshold criteria of five or more injuries, they continue to observe a frequent disconnect between the purported injuries sustained in an accident and the physical evidence at the scene, including a lack of property damage. NYCT vigorously defends claims that it has reason to believe are without factual basis.

NYC Transit will continue to make every effort to incorporate related findings into its safety and training initiatives. Most recently, in 2011, it implemented a zero tolerance policy banning cell phones and other electronic devices for bus operators, in conjunction with an agreement with all the represented labor unions. NYC Transit has observed an improved compliance rate in response to its zero tolerance policy.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: On-Time Performance, Mean Distance Between Failures, Subway Wait Assessment, Bus Trips Completed

Subway On-time Performance (OTP) declined 3.3 percent in 2011 compared to 2010. The level of system rebuilding and maintenance work in the subways was increased, which adversely affected OTP.

Subways Wait Assessment increased 0.9 percent in 2011 compared to 2010 for the same reasons.

The Subways 2011 Subway Mean Distance Between Failure (MDBF) of 172,700 miles represents a 1.5 percent increase compared to 2010's MDBF of 170,217. The main reason for this overall improvement of fleet performance has been the delivery of very reliable R160 subway cars to replace older subway cars that had been experiencing a declining MDBF.

The Staten Island Railway 2011 Mean Distance Between Failure (MDBF) of 201,523 represents a 56.7 percent decrease as compared to 2010's MDBF of 464,848. The main reason for this overall decrease in fleet performance was component failures related to converters and door systems of the car fleet, which is more than 38 years old.

The Bus Mean Distance Between Failures (MDBF) for 2011 was 3,340 miles. This represents a decrease of 9.2 percent from the 2010 actual of 3,678. Improvements in MDBF were seen in the fourth quarter as maintenance initiatives started in mid- or late-2011 began to show results.

The Bus Trips Completed result of 98.1 percent remained constant with the 2010 result of 98.1 percent. Trips completed depends on both bus and bus operator availability. Vacancies, coupled with a higher than anticipated rate of absenteeism, are reflected in the number of trips completed.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability, Bus Passenger Wheelchair Lift Usage, Paratransit Ridership

Elevator availability decreased by 0.9 percent compared to 2010 due to increased breakdowns and also because of the preventive maintenance program that was started in March 2011, which causes increased elevator downtime. As the cycle of increased preventive maintenance reaches all elevators, availability is expected to increase. The elevator equipment failures requiring correction included long duration repairs not addressed as preventative maintenance, such as control valve replacements, door overhauls, and a hydraulic cylinder replacement as well as repairs to outdated controllers.

Escalator availability increased by 1.1 percent compared to 2010. The increase is attributable to working continuously on machines that were out for repairs in the second half of 2011, shortening the length of time equipment was not working. Station closings due to General Orders (GO's) allowed for work to be done on the equipment. (When the station is out of commission, the equipment outages do not count against availability.)

Wheelchair ridership of 1.28 million passengers shows an increase of 2.9 percent over 2010 with monthly increases since April. In 2012, NYCT is scheduled to receive more than 300 new low-floor buses that provide for easier boarding and more reliable service for wheelchair passengers.

For 2011, a 4.3 percent decrease in Access-A-Ride requests for service was offset by a 26.2 percent decline in No Show Customers, resulting in a 0.8 percent decrease in annual ridership.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

In 2011, NYCT committed \$1.8 billion, representing 50 percent of the planned 2011 commitment goal of \$3.6 billion versus its 2010 performance of 54 percent. The shortfall in 2011 commitments was caused largely by delays in awarding a small number of high value projects, including the purchase of 300 subway cars (\$638 million), the purchase of 104 articulated buses (\$81 million), construction of the Mulry Square vent plant (\$81 million), and the VHF Radio System Upgrade (\$256 million). In terms of number of projects committed, 93 of 101 projects (92 percent) were awarded in 2011, versus 75 of 95 projects (79 percent) in 2010. Notable 2011 commitments included the purchase of 769 express buses, providing full ADA

accessibility at the Forest Hills-71st Avenue Station on the Queens Boulevard line, construction of a CBTC Test Track on the Culver line, and the purchase of 103 A Division subway cars and conversion of 370 R142A cars.

In terms of capital projects completed against established goals, NYCT achieved 60 percent of the \$3.0 billion 2011 completion goal, versus 86 percent in 2010. In terms of number of projects, 68 percent of the goal of 137 projects was completed in 2011 versus 66 percent of 98 projects in 2010. Notable 2011 completions included the construction of the Charleston Annex Bus Depot, the rehabilitation of the Columbus Circle Station Complex, rehabilitation of five (5) stations along with line structure rehabilitation on the Brighton line, the rehabilitation of five (5) stations on the Pelham Line, construction of ventilation facilities at eight (8) locations on the Archer Avenue line, the rehabilitation of the East 180th Street yard signals and interlocking on the Dyre/White Plains Road lines, and the rehabilitation of the Jay Street-Borough Hall Station in Brooklyn. NYCT's 2011 Capital Program completion performance was short of its goal by \$1.2 billion mainly due to the delayed completion of several major projects, including B Division - ATM Network / 253 Stations, PA/CIS Phase 2 at 156 Stations - IRT, 2011 Track & Switch Program and rehabilitation of five Far Rockaway Line Stations.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

This preliminary 2011 Farebox Operating Ratio result increase was primarily due to the December 31, 2010 fare increase.

The Operating Cost per Passenger represents an increase of 2.7 percent, which is very close to the local inflation rate.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

Subway ridership continued to increase in 2011 and was the highest annual ridership since 1950. The 2011 subway ridership increase was primarily attributable to the improving New York City economy.

Bus ridership continued a trend of ridership decreases, worsened by annualization of the 2010 service reductions, severe winter weather, and Tropical Storm Irene.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

The rate increased in 2011 vs. 2010. Extreme weather conditions in early 2011 contributed to the higher frequency of some types of employee accidents.

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 agency-wide continues to be below the estimated percentage of females available for work within NYC Transit's recruiting area. A contributing factor is the low percentage of females who apply for what are generally considered non-traditional jobs. NYC Transit will continue to increase its outreach and recruitment efforts to improve female representation. The percentage of minority representation exceeds the estimated percentage of minorities available for work within NYC Transit's recruiting area.

MTA Long Island Rail Road

Performance Indicator	2010 Actual	2011 Actual
Service Indicators		
On-Time Performance	92.8%	93.7%
Elevator Availability	97.2%	97.2%
Escalator Availability	95.5%	95.8%
Total Ridership	81,507,851	80,988,003
Mean Distance Between Failures (miles)	149,651	169,724
Safety Indicators		
Customer Injury Rate (per million customers)	5.29	5.85
Employee Lost Time and Restricted-Duty Rate (per 200,000 worker hours)	2.74	2.86
Workforce Indicators		
Female Representatives in LIRR Workforce	15.4%	15.2%
Minority Representatives in LIRR Workforce	31.4%	32.0%
Financial Indicators		
Farebox Operating Ratio	45.9%	50.8%
Operating Cost per Passenger	\$14.03	\$13.96
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$212 (128%)	181.33 (101%)
Completions in \$ Millions (% of planned value)	\$260 (85%)	\$336.72 (119%)

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

In 2011, customer injury rate was 5.85, representing an increase of 9 percent when compared to 2010. The increase is attributable to severe winter weather in the first quarter of 2011. In order to reduce these injuries, the LIRR plans to continue modifying station platforms and train equipment, as well as its ongoing customer safety awareness campaigns, (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

LIRR OTP for 2011 was 93.7 percent, an increase of 1 percent. OTP had been lower in 2010 following a fire in an important signal tower and numerous severe weather events.

The LIRR's mean distance between failure (MDBF) performances in 2011 was record setting. Across the entire fleet MDBF reached 169,724 miles, which was 13.4 percent better than the 2010 MDBF of 149,651 miles. This increase is largely attributable to the efforts of the M3 Performance Improvement Team (which improves performance on LIRR's oldest fleet) and initiatives targeting the propulsion system, and the performance of the M7 fleet, which continues to exceed expectations.

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 2011 performance reflects the strength of this effort. Elevator availability remained steady at 97.2 percent in both 2010 and 2011. Escalator availability improved slightly from 95.5 percent in 2010 to 95.8 percent in 2011. The LIRR now reports on the daily service status of elevators and escalators on its website.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

The LIRR's 2011 capital commitments totaled \$183 million, \$4 million greater than had been anticipated in the original five-year plan, and 102 percent of goal. Commitments that exceeded the anticipated plan expenditures included the new elevators for Queens Village Station, and a design for a pocket track at Massapequa.

The LIRR's 2011 capital completions totaled \$337.7 million, or 118 percent of the planned amount. Phase IIb of the Atlantic Avenue Viaduct, ACL Direct Fixation, and the Port Washington Branch Walls projects were completed.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

The LIRR's farebox operating ratio increased from 46.1 percent in 2010 to 50.8 percent in 2011. This increase reflects the increase in farebox revenue stemming from the December 30, 2010 fare increase, offset by a slight reduction in ridership from 2010 to 2011 of approximately 0.7 percent.

The LIRR's operating cost per passenger in 2011 of \$13.96 was essentially unchanged from the 2010 level of \$13.97. Total 2011 expenses were 0.3 percent below 2010 levels. This

demonstrates that the LIRR has maintained the cost reduction initiatives that were started in 2010, including reduced administrative headcount, overtime and inventory controls.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

The LIRR's overall ridership in 2011 dipped slightly lower than 2010 adjusted ridership (adjusted for workday differences with 2011) by 0.5 percent – going from 81.4 million riders in 2010 to 81.0 million in 2011. This decrease was due to the significant amount of severe weather experienced all year, including snow, ice, lightning and Tropical Storm Irene. LIRR is developing a positive trend, with four consecutive months of ridership increases at the end of 2011. Ridership during September through December increased by 2.2 percent over the same period in the prior year – going from 27.2 million riders in 2010 to 27.8 in 2011, carrying about 600,000 more passengers.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

The Employee Lost Time and Restricted Duty Rate based on reported incidents per 200,000 worker hours increased from 2.74 in 2010 to 2.86 in 2011. The LIRR has initiated a multi-faceted plan to address the increase. 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 distracting 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

The percentage of minority representation exceeded the estimated percentage of minorities available in LIRR's recruiting area. The percentage of female representation continues to be below the estimated percentage of females available for work. Many of the vacancies that occurred during 2011 are generally considered to be non-traditional for females; as a result, there are a low percentage of females applying for these positions. LIRR has developed an aggressive outreach and recruitment strategy to attract qualified females for non-traditional positions.

MTA Long Island Bus

Performance Indicator	2010 Actual	2011 Actual
Service Indicators		
% of Completed Trips	98.90%	97.43%
Total Paratransit Ridership	356,690	341,140
Bus Passenger Wheelchair Life Usage	4,812	5,910
Total Ridership	30,816,889	30,327,226
Mean Distance Between Failures	3,744	4,192
Safety Indicators		
Customer Accident Injury Rate (per million customers)	1.82	1.91
Collisions with Injury Rate (per million vehicle miles)	4.99	7.29
Employee Lost Time Rate (per 100 employees)	3.15	3.04
Workforce Indicators		
Female Representatives in LI Bus Workforce	17.9%	17.5%
Minority Representatives in LI Bus Workforce	71.5%	75.1%
Financial Indicators		
Farebox Operating Ratio	33.1%	35.6%
Operating Cost per Passenger	\$4.24	\$4.26

Please note: MTA Long Island Bus was established to provide bus and paratransit services in Nassau County pursuant to a Lease and Operating Agreement with the County which terminated at the end of 2011. Effective January 1, 2012, MTA Long Island Bus no longer provides these services, which have been assumed by Veolia Transportation Services, Inc., a private operator under contract with the County. MTA performance measurements for future periods accordingly will no longer contain MTA Long Island Bus performance indicators.

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

The customer accident injury rate increased 3.5 percent. Long Island Bus provided supplemental training to bus operators, in concert with in-service safety performance observation campaigns.

While the 46 percent increase in the Collision Injury Rate at Long Island Bus was significant both in whole numbers and on a percentage basis, it is important to note that changing the

definition of a collision injury event for consistency with NYCT and MTA Bus skewed the comparison. Moreover, as with the other two bus entities, it was challenging to interpret performance and establish programs to further improve operations, because bus operations continued to see collisions where the multiple injuries reported were not necessarily consistent with the circumstances of the accidents. As noted for NYCT Bus and MTA Bus, the New York State Public Transportation Safety Board shared this perspective concerning this disconnect, and continued to both report on incidents that met their threshold criteria and to monitor trends. Like NYCT and MTA Bus, Long Island Bus vigorously defends claims that it has reason to believe are without factual basis.

Also, in 2011, Long Island Bus implemented a zero tolerance policy banning cell phones and other electronic devices for bus operators, in conjunction with an agreement with all the represented labor unions. The company observed an improved compliance rate in response to its zero tolerance policy.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: Mean Distance Between Failures, Bus Trips Completed

The 2011 Mean Distance Between Failures (MDBF) was 4,192, which is 12.0 percent better than the 2010 actual of 3,744. New buses delivered in 2011 contributed to the improved MDBF result.

In 2011, Trips Completed dropped slightly by 1.5 percent to 97.43, from the 2010 result of 98.9 percent. Bus Trips Completed depends on both bus and bus operator availability. Accordingly, Trips Completed performance was adversely affected in the latter months of 2011 as both bus and bus operator availability were hindered by the preparation for Nassau County's transition of the bus operation to a private operator effective January 1, 2012.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Bus Passenger Wheelchair Lift Usage, Paratransit Ridership

Wheelchair ridership of 5,910 passengers shows a 22.8 percent increase over 2010. Except for April, 2011 wheelchair ridership showed increases each month over 2010 levels. New bus deliveries have provided for easier boarding and more reliable service resulting in increased wheelchair ridership.

For 2011, a 4.5 percent decrease in Able-Ride requests for Service was offset by a 37.9 percent decline in No Show Customers, which resulted in a 4.4 percent decrease in annual ridership. The year-end ridership of 341,140 Able-Ride riders was down from 356,690 million riders in 2010.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

Total ridership decreased by 1.6 percent (118.3 million riders in 2011, compared to 120.2 million in 2010). Bus ridership was negatively affected by severe winter weather and Tropical Storm Irene.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

The farebox operating ratio was 35.6 percent in 2011, compared to 33.1 percent in 2010. The increase of 2.5 percent is mainly due to a decrease of \$3.0 million in operating expenses and an increase of \$2.2 million in farebox revenues. The decrease in operating costs is attributable to vacancies that were not backfilled in anticipation of the transfer of Long Island Bus operations. The increase in revenue is mainly due to an increase in the average fare that resulted from the December 2010 fare increase.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

The 12-month rate for Employee On-Duty Lost-Time Accidents was 3.5 percent lower than in 2010, and overall performance in complying with on-the-job injury protocols during the reporting period was positive. In order to improve employee accident prevention, LI Bus informed employees of critical safety subject matter relevant to their job responsibilities, reassessed existing safety rules and procedures, audited work tasks through direct observations of employees in the workplace, critiqued hazards in the employee work environment, and provided new and refresher training to ensure the workforce had the appropriate skill set.

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 percentage of females and minorities in LIB's workforce exceeded the estimated availability of females and minorities in its recruiting area.

MTA Metro-North Railroad

Performance Indicator	2010 Actual	2011 Actual
Service Indicators		
On-Time Performance (East of Hudson)	97.7%	96.9%
On-Time Performance (West of Hudson)	96.5%	96.6%
Elevator Availability	98.5%	99.3%
Escalator Availability	96.8%	95.5%
Total Ridership	81,095,848	82,037,784
Total Ridership on Connecting Services Provided by MNR Contractors	566,266	555,281
Mean Distance Between Failures (miles)	129,329	114,347
Safety Indicators		
Customer Injury Rate (per million customers)	2.74	3.20
Employee Lost Time and Restricted-Duty Rate (per 200,000 worker hours)	1.88	2.04
Workforce Indicators		
Female Representatives in MNR Workforce	12.4%	12.4%
Minority Representatives in MNR Workforce	31.1%	32.5%
Financial Indicators		
Farebox Operating Ratio	59.9%	61.1%
Operating Cost per Passenger	\$11.25	\$11.70
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$107 (60%)	\$397 (60%)
Completions in \$ Millions (% of planned value)	\$278 (84%)	\$138 (74%)

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

Customer injuries increased from 2.76 to 3.20 per million customers, a 15.94 percent increase. This increase was due to the severe weather in the first three months of the year. MNR kept its focus on injury reduction and ensuring that the physical environment of trains and stations are maintained in a safe condition. The railroad also continued its programs to communicate directly

with customers by printing safety reminders in customer publications and the Internet. The railroad's community Safety Awareness Program also continued in 2011.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: On-Time Performance, Mean Distance Between Failures

At 96.9 percent, systemwide on-time performance for 2011 fell below 2010's 97.7 percent. Performance was most affected by the effect of the harsh and snowy winter in the first part of the year on the aging cars which make up the New Haven Line fleet. At the worst point of the winter, half of the New Haven Line's electric cars were out of service, resulting in overcrowded trains and diminished on-time performance. Compounding this problem was the significant operating constraint caused by the continued replacement of the over-age system that powers New Haven Line trains in the state of Connecticut.

Fleet MDBF was 114,347, below 2010's 129,329, due to the same factors that affected OTP.

Of special note, after Tropical Storm Irene washed out the Port Jervis Line in late August, Metro-North with the aid of its partners at MTA Bus and NJ TRANSIT, developed and implemented a multi-staged bus operation providing service to Port Jervis Line stations. By September 19, partial train service was restored, with full service restored on the line by November 28.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability

At 99.3 percent, MNR's elevator availability improved over 2010's already high service level. The rehabilitation and upgrade of ten passenger elevators in Grand Central to meet current life safety codes and ADA Requirements was also completed.

Escalator availability dropped slightly to 95.5 percent. MNR is working with its vendor for escalator repair – in particular in Grand Central Terminal – to improve maintenance practices so that there will be better availability in 2012. In addition to ensuring that elevators and escalators are functioning as intended, MNR posts the current status of station elevators and escalators online.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

Numeric measures for commitments and completions came in at 60 percent and 74 percent of goal, respectively. In addition to the significant and unanticipated work to return the Port Jervis Line to operation, important milestones were also reached for planned projects. Various options were exercised to purchase an additional 105 M-8 cars for service on the New Haven Line. However, three significant signaling projects were delayed due to a combination of Positive Train Control issues (while federally mandated, the technology that will drive this project has not

been completely defined) and restoration of damage caused by Tropical Storm Irene, while several other projects were delayed due to enhanced scope and justification reviews.

Completions included the acceptance of 60 new M-8 cars for service on the New Haven line newly built Fairfield Metro Station (service began December 5), rehabilitation of Port Chester, Tarrytown, Mamaroneck and Fordham, station building improvements at Poughkeepsie, the first phase of rehabilitation at Port Chester and Rye stations and the Grand Central Terminal Employee Facility Rehabilitation Project. The shortfall in completions, in part was caused by the fact that one of the bridges in the Undergrade Bridge project could not be completed with in-house forces as planned and had to be re-packaged for third party construction. The Tagging relay project was delayed due to the incorporation of site specific modifications that were required for several of the relays.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

Fare Operating Ratio increased by 2.1 percent in 2011 vs. 2010. The favorable increase is due to higher farebox revenues from the 2011 NYS fare increase (6.3 percent) and higher ridership (1.2 percent), offset by expense increases related to higher overtime for weather emergency coverage incurred, Port Jervis Line alternate service and repair costs due to damage from Tropical Storm Irene, rising employee benefit costs, and spiraling diesel fuel prices.

Cost per Passenger increased by \$0.29 in 2011 vs. 2010. The unfavorable increase is due to higher expenses related to overtime coverage for weather emergencies, Port Jervis Line alternate service and repair costs due to damage from Tropical Storm Irene, rising employee benefit costs, and spiraling diesel fuel prices. These increases are offset by ridership growth of 1.2 percent.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

Total Metro-North system ridership in 2011 was approximately 82 million rides – a 1.4 percent increase vs. 2010, making it the busiest commuter railroad in the nation. This increase occurred despite a series of snowstorms in January, an unprecedented three-day shutdown of service due to Tropical Storm Irene in August, and a significant snowstorm that curtailed service in late October. Factors contributing to the increase were the stirring of an economic recovery in the region and the high prices of gasoline, parking, and tolls.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

Total injuries for 2011 were 13 percent over 2010's totals. The results were greatly affected by the major snowstorms in January, which led to a 400 percent increase in injuries for that month alone. MNR continues to press forward with its Local Safety Committee structure. These groups

perform yard walks and inspections in their districts and promote the "I'm a Lifesaver" concept of peer-to-peer responsibility for identifying and eliminating unsafe behavior. District-wide meetings held twice a year were also implemented in 2011 to promote the exchange of ideas and best safety practices among local committees. Successful Safety Accident Prevention Programs continued and were expanded in 2011, and all departments and districts were directed to enhance the Job Safety Briefings that are conducted every day.

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 percentage of minority representation exceeded the estimated percentage of minorities available for work within MNR's recruiting area. However, the percentage of female representation remains below the estimated percentage of females available for work within MNR's recruitment area due to a variety of reasons. MNR will continue its outreach and recruitment efforts to attract qualified females.

MTA Bridges and Tunnels

Performance Indicator	2010 Actual	2011 Actual
Service Indicators		
Total Traffic	291,614,634	283,470,727
Safety Indicators		
Collisions with Injury Rate (per million vehicles)	0.90	0.87
Employee Lost Time Rate (per 200,000 work hours)	5.7	5.4
Workforce Indicators		
Female Representation in B&T Workforce	21.5%	21.0%
Minority Representation in B&T Workforce	50.4%	50.8%
Financial Indicators		
E-ZPass Market Share	75.8%	79.4%
Total Support to Transit (\$ millions)	\$842.6	\$939.6
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$186 (99.5%)	\$367 (59%)
Completions in \$ Millions (% of planned value)	\$256 (100%)	\$109 (129%)

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATOR: Customer Injury Rate

There were 248 customer accidents with injuries, the lowest ever recorded; in 2010 there were 265. The number of accidents with injury per million vehicles decreased from 0.90 to 0.88.

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. Delineators were monitored and maintained at the Throgs Neck and Bronx-Whitestone bridges to reduce collisions.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

In 2011 Bridges and Tunnels committed 114 projects against a plan of 103. While B&T exceeded its goal in the number of commitments made, the total value of the awards was \$366.8 million, which represents 59 percent of the annual goal. compared to \$185.9 million and 99.5 percent of goal committed in 2010. Favorable market conditions in 2011 resulted in actual

awards being \$254.5 million less than their planned values. Major project commitments in 2011 include: deck replacement of the Bronx-Whitestone Bridge Queens elevated and on-grade approach; design services and utility relocation for the deck replacement of the Bronx/Manhattan ramps and toll plaza of the Robert F. Kennedy Bridge; rehabilitation of the orthotropic deck-phase B, and painting as well as suspended span repairs and painting at the Throgs Neck Bridge; east- and west-bound toll plaza ramp improvements at the Verrazano-Narrows Bridge; structural rehabilitation of the Henry Hudson Bridge; and the replacement of the RFK Harlem River Drive Ramp, B&T's first application of a Design/Build contract to an infrastructure project.

In 2011 a total of \$108.5 million was completed, against a plan of \$84.1 million, 129 percent of the goal. In 2010 a total of \$256.1 million was completed, representing 100 percent of the goal. Major projects completed in 2011 included replacement of T-48 wearing surface on the Robert F. Kennedy Bridge, ramp replacement at the RFK Harlem River Drive, and replacement of the concrete deck on the Throgs Neck Bridge. Additionally, project AW52, Advanced Automated Traffic Detection System, was completed in December for a project value of \$2.9 million.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Total Support to Transit

A total of \$939.6 million in surplus revenue was provided for transit services, the second highest amount ever. The highest was \$983.3 million in 2000, 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 283.5 million trips was down from 291.7 million in 2010, and the E-ZPass market share reached a high of 79.4 percent, compared to 75.8 percent the previous year. High gas prices, severe weather, and a toll increase contributed to the reduction in total traffic.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

There were 87 lost-time injuries, a decrease from 95 in 2010; with the rate of injuries per 200,000 work hours decreasing from 5.7 to 5.4. 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. Employee safety programs included communicating prevention of injuries through roll call discussions, safety meetings, safety audits, safety interactions, and incident investigations by supervisory personnel. Bridges and Tunnels has invited unions to participate in partnership to reduce injuries and address specific safety concerns.

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 percentage of minority representation exceeds the estimated percentage of minorities available for work within B&T recruiting area. The percentage of female representation continues to remain below the estimated percentage of females available for work due to attrition. B&T will continue its outreach and recruitment efforts to attract qualified females.

MTA Bus Company

Performance Indicator	2010 Actual	2011 Actual
Service Indicators		
% of Completed Trips	97.97%	97.42%
Bus Passenger Wheelchair Life Usage	45,270	42,935
Total Ridership	120,226,876	118,281,292
Mean Distance Between Failures	3,438	3,430
Safety Indicators		
Customer Accident Injury Rate (per million customers)	1.29	1.54
Collisions with Injury Rate (per million vehicle miles)	5.96	4.72
Employee Lost Time Rate (per 100 employees)	9.47	8.49
Workforce Indicators		
Female Representatives in MTA Bus Workforce	12.6%	12.3%
Minority Representatives in MTA Bus Workforce	66.0%	67.0%
Financial Indicators		
Farebox Operating Ratio	36.9%	36.8%
Operating Cost per Passenger	\$4.09	\$4.42
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$51 (36%)	\$113.3 (63.6%)
Completions in \$ Millions (% of planned value)	\$64 (80%)	\$7.5 (12.7%)

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

The 19.4 percent increase in the Customer Accident Injury rate in 2011 compared to 2010 is being addressed. Supplemental training is being provided to bus operators, in concert with in-service safety performance observation campaigns.

Although the 21 percent decrease in the Collision Injury rate is an improvement, it has been challenging to both interpret performance and establish programs to further improve operations, because (as noted also for NYCT Bus and Long Island Bus) bus operations continued to see collisions where the multiple reported injuries are not necessarily consistent with the circumstances of the accidents. This perspective is shared by the New York State Public Transportation Safety Board. Specifically, while the PTSB continues to investigate and report on

collisions meeting their threshold criteria of five or more injuries, they continue to observe a frequent disconnect between purported injuries sustained and the physical evidence at the scene of the accident, including a lack of property damage. Like NYCT and Long Island Bus, MTA Bus vigorously defends claims that it has reason to believe are without factual basis.

MTA Bus will continue to make every effort to incorporate related findings into its safety and training initiatives. Most recently, in 2011, MTA Bus implemented a zero tolerance policy banning cell phones and other electronic devices for bus operators, in conjunction with an agreement with all the represented labor unions. The company has observed an improved compliance rate in response to its zero tolerance policy.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: Mean Distance Between Failures, Bus Trips Completed

The Mean Distance Between Failures (MDBF) for 2011 was 3,430 miles. This represents a slight decrease of 0.3 percent from the 2010 actual of 3,438. The year-end fleet age increased from 6.70 to 7.32 years, with buses 12 years and older increasing slightly to 26 percent of the fleet. However, improvements in MDBF were seen in the fourth quarter of 2011 as maintenance initiatives started in mid- to late-2011 began to show results.

Trips Operated depend on both bus and bus operator availability. In 2011, there was a slight decline of 0.6 percent in Trips Operated. Trips completed depends on both bus and bus operator availability. Vacancies, coupled with a higher than anticipated rate of absenteeism, are reflected in the number of trips completed.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Bus Passenger Wheelchair Lift Usage

Wheelchair ridership of 42,935 million passengers shows a decrease of 5.2 percent from 2010. The decline is attributable primarily to inclement weather that caused significant drops in wheelchair ridership in January, August, and September.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

In 2011, MTA Bus committed \$113.3 million in capital projects. This represents 63.6 percent of planned commitments, compared to 36.0 percent in 2010. The planned commitments not achieved in 2011 primarily consist of a few facility projects that were pushed from 2011 to 2012.

In terms of projects committed, 11 of 18 (61 percent) were awarded in 2011 compared to 6 of 14 (42 percent) in 2010. Notable 2011 commitments include the award of 79 CNG buses in June, the award of 74 CNG buses in December, and the roof and ventilation project at JFK Depot.

In 2011 MTA Bus completed \$7.5 million in capital projects. This represents 12.7 percent of planned completions, compared to 80.3 percent in 2010. The reduced performance in 2011 is primarily a result of four roofing projects that were delayed until 2012.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

The farebox operating ratio was 36.8 percent in 2011, compared to 36.9 percent in 2010. The 0.1 percent decrease is mainly due to an increase of 6.4 percent in operating expenses, offset by an increase in revenue of 6.1 percent. The increase in operating expenses is primarily attributable to retroactive payments for collective bargaining. Higher pension, health, and welfare costs added to operating expenses. The increase in revenue is mainly due to an increase in the average fare resulting from the December 2010 fare increase.

The operating cost per customer was \$4.42 in 2011, compared to \$4.09 in 2010. The \$0.33 increase is the result of increased operating costs combined with reduced ridership.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

Total Ridership decreased by 1.6 percent (118.3 million riders in 2011, compared to 120.2 million in 2010). Bus ridership was negatively affected by severe winter weather and Tropical Storm Irene.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

The annual rate for Employee On-Duty Lost-Time Accidents was 10.3 percent lower for 2011 compared to 2010, and overall performance in complying with on-the-job injury protocols during the reporting period was positive. In order to improve employee accident performance, MTA Bus continues to inform employees of critical safety information relevant to their job responsibilities, reassess existing safety rules and procedures, audit work tasks through direct observations of employees in the workplace, critique hazards in the employee work environment, and provide new and refresher training to ensure the workforce has the appropriate skill set.

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 percentage of minority representation continues to exceed the estimated percentage of minorities available for work within MTA Bus recruitment area. The percentage of female representation continues to be below the estimated percentage of females available for work as a result of the low percentage of female applicants. A majority of the positions filled at MTA Bus

are positions that are generally considered non-traditional for females. MTA Bus will increase its recruitment and outreach efforts to attract qualified females.

MTA Capital Construction

Performance Indicator	2010 Actual	2011 Actual
Workforce Indicators		
Female Representatives in MTACC Workforce	28.6%	28.2%
Minority Representatives in MTACC Workforce	51.2%	51.6%
Capital Program Indicators		
Commitments in \$ Billions (% of planned value)	\$1.75B (75%)	\$1.86B (63%)
Completions in \$ Millions (% of planned value)	\$160M (50%)	\$387M (83%)

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

MTACC had a 2011 total commitment goal of \$2.91 billion, of which \$1.84 billion (63 percent) was achieved. The shortfall was partly due to delayed contract awards related to the reforecasting of East Side Access, the staggering of two large systems contracts, and a protest to a Second Avenue Subway contract that delayed award to January 2012. Notable commitments included the Second Avenue Subway 63rd Street Station Upgrade and 86th Street Station Structure contracts, the 7 Line Extension Site K and Systems/Finishes contracts, and the East Side Access Plaza Substation and Grand Central Terminal Concourse Finishes Early Work contracts.

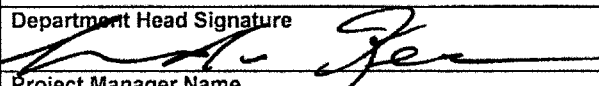
MTACC's goal for completions in 2011 was \$467 million, of which \$387 million (83 percent) was achieved. Notable completions included the Second Avenue Subway 86th Street Station Open Cuts and Utility contract, the Fulton Street Transit Center R Southbound Platform work, the Peter Minuit Plaza work at South Ferry, and the East Side Access Madison Yard Demolition contract and F Interlocking work.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

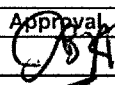
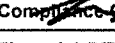
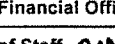

The percentage of female and minority representation exceeds the estimated percentage of females and minorities available for work within Capital Construction recruiting area.

Staff Summary

Subject Travel and Business Expense Policy
Department Corporate Compliance
Department Head Name Lamond W. Kears
Department Head Signature 
Project Manager Name Lamond W. Kears

Date March 28, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Governance	3/26/10	X		
2	Board	3/28/10	X		

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

Purpose:

To obtain Board authorization of proposed revisions to the All-Agency Travel and Business Expense Policy.

Discussion:

Pursuant to Public Authority Law Section 2824, Board members of state authorities are to establish written policies and procedures on policies regarding travel. The MTA All-Agency Travel and Business Expense Policy was last revised in 2010. Based upon a recent review of the Policy by the Agency Comptrollers, several minor updates to the Policy are proposed.

Among the proposed changes, this revision will allow MTA Employees to purchase Amtrak tickets directly, at widely available discounts, thereby avoiding any additional travel agency fees that might otherwise be incurred. In addition, the automobile reimbursement rate, which changes frequently, will be removed from the policy and instead be posted on the BSC portal, and updated quarterly. Finally, the revised policy incorporates the current practice of having the Chief of Staff authorize certain out of area travel requests.

Recommendation:

It is recommended that the Board adopt the annexed policy with respect to travel.

All Agency Policy Directive

TRAVEL AND BUSINESS EXPENSE

Policy Number	Responsible Agency/Department	Effective Date	Page
11-022	Chief of Staff	July 28, 2010TBD	Page 1 of 21

Statement of Purpose:

I. PURPOSE

The purpose of this All-Agency policy instruction is to establish a standardized policy for employees of MTA Headquarters and its Constituent Agencies (collectively, to be referred to as the "Authority") when incurring, recording, approving and claiming reimbursement for eligible travel and business expenses.

II. SCOPE

This policy directive applies to all employees of the MTA including MTA Headquarters, MTA Business Service Center, MTA Long Island Rail Road, MTA Capital Construction, MTA Bridges and Tunnels, MTA Bus Company, ~~MTA Long Island Bus~~, MTA Metro-North Railroad, MTA New York City Transit, and all future subsidiary/affiliated entities of the MTA.

III. DEFINITIONS

1. Agency Head: An "Agency Head" is defined as including: the Chairman/Chief Executive Officer and Agency Presidents.
2. Authorized Signer: An individual who has been granted the authority to approve employee expense documents and travel authorization requests.
3. Business Meal: A meal (breakfast, lunch, dinner, or other) whereby the attendees' principal function is to conduct Authority business.
4. Constituent Agencies: For the purposes of this policy, the group of agencies referred to as "Constituent Agencies" include: MTA Long Island Rail Road; MTA Metro-North Commuter Railroad; MTA New York City Transit; MTA Staten Island Railway; MTA Bridges and Tunnels; MTA Capital Construction; ~~MTA Long Island Bus~~; MTA Bus Company and all future subsidiary/affiliated entities of the MTA.
5. Foreign Travel: Travel outside the Continental United States is considered "Foreign

All Agency Policy Directive

TRAVEL AND BUSINESS EXPENSE

Policy Number	Responsible Agency/Department	Effective Date	Page
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Travel.”

6. Local Travel: Travel inside the New York Metropolitan area is considered “Local Travel.”
7. Official Station: A location within 35 miles of the office where an employee is regularly assigned is her/her “Official Station.”
8. Out-of-Area Travel: Travel outside the New York Metropolitan area or an employee’s Official Station; and beyond the boundaries of the States of New York, New Jersey and Connecticut is considered “Out-of-Area Travel.”
9. Per Diem Allowance: A payment made to reimburse, without receipts, the personal meal expenses of an Authority employee, payable under certain conditions on days when the employee is in travel status is a “Per Diem Allowance.” See Section VI, Attachment A, for per diem rates in force at the time of publication of this policy.
10. Travel Status: An employee who travels outside his/her Official Station for at least three consecutive hours on Authority business on a regular workday, authorized holiday or weekend is in “Travel Status.” Employees of the Long Island Rail Road and ~~and~~ Metro-North Commuter Railroad and ~~Long Island Bus~~ must see “SPECIAL NOTE”, below, for proper determination of travel status designation.

SPECIAL NOTE:

Long Island Rail Road employees must travel outside of their Official Station and outside of the Borough of Queens and the Counties of Nassau and Suffolk to be considered in any type of travel status.

Metro-North Commuter Railroad employees must travel at least 35 miles beyond Metro-North territory to qualify for any type of travel status designation.

~~Long Island Bus employees must be outside of their official Station and outside the limits of New York City or Long Island to qualify for travel status designation.~~

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IV. POLICY

A. GENERAL

1. Policy Authority: This policy takes precedence over all other policies of any MTA Constituent Agency regarding reimbursement of employee travel and business expenses.
2. Categories of Expenditures: This policy instruction covers the general categories of expenditures related to business travel and meal expenses, such as, transportation, lodging, per diem meals, business meals, and other miscellaneous expenses.
3. Actual and Necessary Expenses: Reimbursement for travel and business expenses will be made only for actual and necessary expenses incurred in the performance of official duties and upon submission of properly documented and approved employee expense reports as outlined in this policy instruction.
4. Travel Arrangements through Travel Agent: Except as set forth herein, employees must make all arrangements for lodging and transportation (excluding local travel) through the Authority's official Travel Agent. Amtrak train tickets may be purchased directly from Amtrak without use of the Travel Agent provided such tickets are purchased at a widely available discount rate. Employees can make lodging reservations directly at a location if they are attending conferences, seminars or meeting at that location and the travel agent is unable to book alternative lodging that is cost effective (after taking into account the cost of travel to alternative lodging). Travel arrangements secured by any other means must be fully explained and justified in writing by the employee and approved according to the Agency-specific procedures covered in Section VII.
5. Discounted, No Cost or Reimbursed Travel: Prior to accepting discounted or no cost travel arrangements or travel arrangements reimbursed by a source other than MTA, Employees should review Sections 2.01, 3.03, and 3.08 of the MTA All Agency Code of Ethics or consult their Agency Ethics Officer.
6. Emergency Situations: During an emergency situation or under extraordinary

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circumstances, expenses which normally would be ~~unallowed~~,disallowed may be considered for reimbursement. The employee must provide a complete explanation of the emergency and the need for the expense, and obtain approval from the respective Agency Head or his/her designee. This documentation must be submitted along with the employee's expense report.

B. AUTHORIZATION

1. General: All employee travel and business expense reports must be approved by the employee's Supervisor or, if the Supervisor is not authorized to approve such expenses, by the next highest individual in the employee's chain of command designated as the Authorized Signer to approve expense documents.
2. Expense Reports of Agency Heads: Travel and business expense reports of Agency Heads must be approved by the MTA Chairman/CEO or his/her designee.
3. Reports Covering Business Meals for More than One Employee: Travel and business expense reports covering business meals for more than one employee must be submitted by the highest-ranking employee and approved according to this policy.
4. Expenditures Requiring Prior Approval: All business travel must be approved in advance. Requests for travel must be made by an employee by completing an Agency-designated travel request form. In addition, prior approval is required for cash advance requests; expenses to be directly billed to the Authority; interview and relocation expenses; and other special circumstances as described in this policy instruction. See the respective section of this policy to determine the approval requirements.

C. METHODS OF PAYMENT

1. Payment by Employees: Employees are expected to pay for their business and travel expenses at the time they are incurred. Payment in advance is permitted if necessary to secure reservations and/or advantageous rates.
2. Direct Billing: Direct billing to the Authority is permitted when advantageous to the Authority. Arrangements for direct billing are subject to prior approval. See

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Section VII, Agency-specific procedures for the required approvals.

3. Cash Advances: An Employee may request a cash advance to cover anticipated business and travel expenditures eligible for reimbursement under this policy instruction. No cash advances will be granted for interview and relocation expenses. Requests for cash advances must be made using an Agency-designated form and must be approved according to the Agency-specific procedures. Cash advances needed for out-of-area travel must be approved by the Agency Head, or designee.

Cash advances will be made by check. Refunds of unused portions of cash advances from employees will be accepted only by personal check, money order, or bank check. Cash will not be accepted.

If the trip is canceled or postponed, appropriate documentation must be filed and the cash advance must be returned within five business days of notification of the cancellation or postponement.

4. Credit Cards: Employees who have been authorized to purchase goods and services for business and travel purposes with an Authority credit card must account for these purchase by filing expense reports. Expense reports must be filed even in those instances when no additional business expenses are incurred. Authority credit cards are not to be used for personal items.

D. DOCUMENTATION

1. Use of Travel Request Form: Plans for travel must be documented and requested, in specific detail, by the employee on an Agency-designated travel request form.
2. Use of Expense Report Form: Travel and business expenses must be reported on an Agency-designated employee expense report form.
3. Actual Expenditures: Unless specifically exempted herein, all reimbursements for employee expenses must be based on actual expenditures and must be supported by receipts or other acceptable documentation.
4. Acceptable Documentation: Acceptable documentation may include ticket stubs;

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paid receipts; invoices indicating dates and amounts of payment; original cardholder's copies of validated credit card charge vouchers; or copies of the employee's canceled checks. With the exception of canceled checks, original documents, not copies, must be submitted.

5. Statement of Purpose: A specific statement of the business purpose must be included on the employee's expense report. General statements such as "on official business," "by direction of supervisor," or "in connection with duties as director of division" will not suffice.
6. Conventions and Conferences: Travel vouchers for expenses incurred when attending conventions and conferences must be supported by program literature setting forth the opening and closing dates of the convention.
7. Documentation of Authorization: Copies of any documents approved by an appropriate Agency official authorizing the travel must be attached to the employee's expense report.
8. Cash Advances: Cash advances must be requested using an Agency-designated cash advance request form. The approved form must be attached to the expense report along with related schedules and other documentation.
9. Separate Reports: Separate reports should be filed for each business trip. Requests for reimbursement for different types of expenses (local business meals; business travel and out-of-town business meals; interview and relocation expenses) should be submitted on separate employee expense report forms.
10. Timeliness of Report Submission: Employee expense reports must be submitted in accordance with the time frames established by the respective Agency Head or his/her designee. See Section VII, Agency-specific Procedures, for timing requirements regarding the filing of expense reports.

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E. TRAVEL (GENERAL POLICY)

1. Official Business: Reimbursement for travel and business expenses of employees will be made only for actual and necessary expenses in the performance of official duties upon proper documentation.
2. Out-of-Area Travel: Employees who are planning out-of-area travel for business must obtain prior written approval of their respective Agency Head or his/her designee. Employees, who usually travel to Washington, D.C.; or other out-of-area locations, should request blanket approval from their Agency Head or his/her designee. Out of area travel costing more than \$1,500 or by an Agency Head requires the prior written approval of MTA's Chief of Staff.
3. Travel: Except as provided above in Section IV. A.4, aAll Authority business travelers must make arrangements for all lodging and transportation needs (excluding local travel) through the Authority's official Travel Agent. Travel must be by the most cost effective route reasonably possible, and must be by either coach, economy, or equivalent discount fare unless (a) the trip is of an emergency nature and coach, economy or equivalent discount fares are not available; or (b) a business purpose necessitates late night and/or over-night travel or requires continuous air travel in excess of six hours in duration. Any travel by other than coach, economy, or equivalent fare must be approved in writing in advance by the Agency Head or his/her designee. Unless so approved, an employee shall assume any extra expense incurred.

It is important that travelers make airline reservations as much in advance as possible to secure the lowest possible fare.

F. BUSINESS MEALS

1. Business Purpose: Business meal expenses are reimbursable only when the principal purpose of the meeting or meal is to transact Authority business. A statement of the business purpose must be set forth on the expense report.
2. Attendance: A list of attendees present at the business meal must be included with the expense report.

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The cost of food at a business meeting attended only by Authority employees must be approved by an Agency Head or his/her direct reports to be eligible for reimbursement. If a business meal involves consultants and/or contractors hired by the Authority, prior approval is required to be eligible for reimbursement.

3. Responsibility to Report Meals: Business meal expenses must be reported by the highest-ranking employee in attendance.
4. Documentation: Original receipts must be attached to the travel and business expense report.
5. Maximum Allowance: Business meal expenses are reimbursed at actual but reasonable cost.

G. PER DIEM MEAL ALLOWANCE (DOMESTIC TRAVEL)

1. Eligibility: Employees in travel status are eligible for a per diem allowance (or a portion thereof) to cover certain meals, subject to the following limits on time of departure and return:

When departing from home or office at the beginning of a trip before the following hours:

Breakfast	6:00 a.m.
Dinner	6:00 p.m.

When returning to home or office at the conclusion of a trip after the following hours:

Breakfast	8:00 a.m.
Dinner	8:00 p.m.

Foreign travelers should see Foreign Travel Expense section for per diem allowance discussion.

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2. Ineligibility within Employee's Official Station: No per diem meal allowance shall be allowed while an employee is within his or her official station or place of residence, regardless of the departure or arrival times of a particular trip.
3. Ineligibility of Meal Reported as Business Meal: An employee who has been included in an employee expense report requesting reimbursement for a business meal is not eligible for a per diem allowance for the same meal.
4. Documentation: The per diem allowance is payable upon approval of an employee expense report. No receipts are required. The per diem allowance pertains only to an employee's personal meal expenses; business meals involving non-MTA Headquarters or Constituent Agency personnel are discussed in Section IV-F.
5. Maximum Allowance: The maximum allowable per diem meal allowances for domestic travel may be adjusted from time to time by the MTA Comptroller. See Section VI, Attachment A, for rates in force at the time of publication of this policy instruction.

H. TRANSPORTATION

1. Intercity Travel: (Plane, Train, or Bus)
 - a. Travel must be arranged through the authorized MTA Travel Agency except as authorized above in Section IV.A.4. – Travel generally shall be by either coach, economy, or equivalent discount fare. All other travel at rates other than coach, economy, or equivalent rates must be approved in advance by the Agency Head or his/her designee to secure reimbursement.
 - b. The employee must attach the passenger's portion of used tickets and must return any unused tickets.

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2. Local Travel: (Mass Transit, Taxicabs, etc.)
 - a. The use of established mass transit lines is encouraged.
 - b. If it is necessary to use taxicabs, receipts must be submitted for expenses of \$10 or more (including tips).
 - c. If receipts are not available for individual taxicab rides or mass transit fares of \$10 or more, the employee must explain the circumstances when submitting his/her expense report.
3. Automobiles
 - a. Official Cars. If travel by an automobile is required, employees are encouraged to use official vehicles. The MTA All-Agency Policy, 41-002, regarding use of official automobiles must be followed.
 - b. Personal Cars. Employees will be reimbursed for the use of personal cars at the mileage rate established at intervals by the Authority. This mileage rate, as calculated, includes costs for depreciation, gasoline, oil, maintenance and repairs, and insurance. See Section VI, Attachment B, for the mileage rate in force at the time of publication of this policy instruction.
 - c. Tolls and Parking Fees. Tolls and parking fees are reimbursable at actual cost. Receipts must be submitted for expenses of \$10 or more. Long-term parking fees (4 or more consecutive days) must be justified as cost effective and reimbursement for long-term fees requires pre-approval.
4. Rental Cars
 - a. Justification: Car rental expenses will not be reimbursed unless cost savings based on alternative modes of transportation and/or business necessity can be substantiated. Compact cars should be chosen unless a larger car is justified.

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- b. Arrangements: If an employee has been approved to use a rental car while on a business trip, arrangements to rent a car must be made through the Authority's official Travel Agent.
- c. Documentation: The signed car rental agreement, other appropriate receipts and the justification must be submitted with documentation.
- d. Drop-Off Charges: Drop-off charges for one-way rentals should be avoided, if possible, by obtaining a vehicle assigned to the destination city. Advance reservations and/or early inquiry will assist in obtaining such vehicles.
- e. Insurance: When renting a car in a domestic location, collision insurance and third-party liability insurance coverage available through the car rental company should not be selected and will not be reimbursed. Employees are covered for any accidents that occur through:

MTA Self Insurance
Risk Management
347 Madison Avenue
New York, New York 10017

This address should be given to the rental car agency if it is requested.

When renting a car in a foreign location, employees are advised to purchase collision insurance and third-party insurance coverage if available through the rental company. These insurance costs are reimbursable to the employee.

- f. Weekly of Discount Rates: If the use is sufficiently long to justify a weekly or other discount rate, efforts should be made to secure such a rate.

I. LODGING

- 1. Official Business: Hotel and motel room expenses shall be reimbursed when incurred in the conduct of official business.
- 2. Arrangements: Reservations for hotel/motel stays should be made through the

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Authority's official Travel Agent.

3. Government Rates: State or Government discount rates shall be secured whenever possible.
4. Weekly or Monthly Rates: If the stay is sufficiently long to justify a weekly or monthly rate, efforts should be made to secure such rates.
5. Documentation: Original hotel bills and receipts for hotel and motel room expenses must be attached to the travel and business expense report.
6. Tax-Exemption: Lodging accommodations on official business are exempt from payment of occupancy tax in New York State. In addition, Metro-North Commuter Railroad employees are exempt from paying occupancy tax in the State of Connecticut. Employees will not normally be reimbursed for any ineligible taxes included in their bills for lodging. Employees can obtain tax exemption forms to supply to vendors from their respective Agency Comptroller's Office (Accounts Payable Manager).
7. Advance Payment: Requests for a check from MTA Headquarters or a Constituent Agency to make an advance payment for hotel accommodations or registration fees must be made by submitting the applicable agency form to the Agency Comptroller and approved in advance.
8. Ineligible Costs: When the cost of lodging has been included in the cost of a program reimbursable under this policy, no reimbursement will be made for lodging substituted at additional cost.
9. Maximum Allowance: Lodging costs are reimbursed at actual but reasonable cost.

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J. EXTENDED OR WEEKEND STAYS; TRAVELING WITH SPOUSE OR OTHERS

1. Extended or Weekend Stays: Any extension of business travel to include weekends or any days prior or following the minimum time necessary to accomplish Authority business is subject to prior written approval. Such approval must be attached to the related employee expense reports. If such an extension will result in increased costs for the Authority, prior approval must be requested from the respective Agency Head or his/her designee. Reimbursement for meals and lodging for authorized extended or weekend stays would apply.
2. Extensions Resulting in Cost Savings: If the extension of business travel beyond the normal length of time necessary will result in overall savings to the Authority when all costs are considered, an analysis of the cost savings using the lowest rates available must be included in the request for approval of the extension. Expenses incurred during the extended portion of trip will be reimbursed only when savings to the Authority can be substantiated.
3. Traveling with Spouse or Others: Expenses incurred on behalf of a spouse or other person who is not involved in the conduct of Authority business, or expenses incurred while on vacation or personal leave, will not be reimbursed. Such expenses should be deducted from the related expense reports.

K. TELEPHONE AND SIMILAR SERVICES

1. Business Calls and Similar: Employees will be reimbursed for all business calls, telegrams, express mail, facsimile transmissions, or similar expenditures required in the performance of their official duties. Receipts for these expenses must be included as supporting documentation with the employee's expense report.
2. Personal Calls: Reimbursement for personal telephone calls is limited to two per day while in travel status. The calls must be reasonable in length in order to obtain full reimbursement.

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L. FOREIGN TRAVEL BUSINESS

1. Foreign travelers can use a per diem rate for reimbursement of meals and incidental travel costs such as laundry and dry cleaning. The Authority uses the foreign travel per diem rates of the U.S. State Department. The rates are available from the MTA Comptroller's Department or from the following Internet website: http://aoprals.state.gov/web920/per_diem.asp Reimbursement for partial day travel should follow the same allocation method as defined for the domestic per diem allowance.
2. Other allowable expenses related specifically to foreign travel include the cost of passports and visas, the cost of immunizations and inoculations (if required or recommended), the cost of car rental insurance coverage, travelers' check fees, currency exchange fees, travel fees and taxes, and airport fees and taxes.
3. It is important that all currency exchange transactions are supported by documentation which reflects the exchange rates used for the transactions. Acceptable documentation will include the exchange rate per the credit card statement or, if not available, the Wall Street Journal rate on the last day of the trip.
4. Lodging costs are reimbursed at actual but reasonable cost.

M. OTHER REIMBURSABLE EXPENSES

Expenses not specifically listed in the preceding paragraphs shall be reimbursable when incurred for business purposes as follows:

1. Laundry and Dry Cleaning: On domestic trips lasting more than three days, employees will be reimbursed for the actual cost of such services when incurred and paid for after the third day in travel status. Foreign travelers are reimbursed for laundry and dry cleaning costs through the per diem allowance which includes a portion of the rate for incidental cost items.
2. Baggage Checking and Tips: Baggage checking, tips, and normal gratuities are reimbursable. Tips related to another expense such as meals, taxi fare, etc. should

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be reported in the total cost of the related expenses.

3. Other Miscellaneous Expenses: Reimbursement for any other category of expenditures is subject to the interpretation of the Agency Comptroller.

N. INTERVIEW & RELOCATION EXPENSES

Employees and job candidates eligible for the reimbursement of certain travel, lodging, meal, or other expenses pursuant to the All-Agency Interview and Relocation Policy (11-001) should refer to that policy instruction for further details. Nothing in the Travel and Business Expense Policy shall be interpreted as in any way superseding or mitigating the requirements of the Interview and Relocation Policy.

O. UNALLOWABLE EXPENSES

The following categories of expenditures are eligible for reimbursement only on an exceptional basis, or under the special circumstances outlined in this policy instruction.

1. Direct Billing: No employee may incur business expenses to be billed directly to the Authority, except for the authorized use of Authority credit cards for air travel or gasoline, or as otherwise authorized in advance.
2. Expenses Incurred on Behalf of Spouse or Others: The costs of travel, lodging, meals, or other expenses for a spouse, dependent, or other person who is not performing official Authority business and who accompanies an employee on a business trip are not reimbursable.
3. Personal, Recreational or Entertainment Expenses: Costs incurred for personal, recreational or entertainment purposes, or while on vacation or personal leave, even when such leave has been approved as an extension of approved business travel, are not reimbursable.

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4. Commuting Costs: Transportation costs incurred for commuting between the employee's residence and official work station are not reimbursable.
5. Expenses Eligible for Third-Party Recovery: Business expenses which are legitimately recoverable from a third-party are not reimbursable. Such expenses and recovery must be explained on the employee's expense report.
6. Personal Losses: Reimbursement is not allowed for losses of personal property or the loss of funds or tickets.
7. Substituted Lodging: Costs for this item included in a seminar or other package is not allowed.
8. Clothing, Valet Service, and Similar: Reimbursement for clothing, toiletries, barbering, or similar personal goods or services is not allowed. Laundry and dry cleaning or valet services are reimbursed at actual cost for domestic trips only after an employee has been in travel status for at least three consecutive days, as explained in Section IV-M.1., and as part of the per diem allowance for foreign trips.
9. Alcoholic Beverages: The cost of alcoholic beverages, of any kind, are not reimbursable.
10. Personal Car Expenses: Repairs or maintenance costs of any kind are not reimbursable. Expenses for gasoline, motor oil and other automobile fluids are not reimbursable. These types of expenses are included when the standard mileage rate of reimbursement is calculated and determined.
11. Insurance, Fines and Fees: Reimbursement is not allowed for personal credit cards fees, fines for traffic/parking violations, third-party liability insurance on automobile rentals, or travel insurance.

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P. RESPONSIBILITIES

1. Agency Comptrollers: Each Agency Comptroller is responsible for overall administration of this policy instruction for his/her respective agency, and for ensuring that all expenditures included in employee expense reports are in accordance with Authority policy.
2. MTA Comptroller: The MTA Comptroller is responsible for administration of this policy for MTA Headquarters, for providing policy interpretation to the Constituent Agencies, and for establishing effective reimbursement rates.
3. Agency Heads: Exceptions to this policy may be approved in writing by the respecting Agency Head or his/her designee based on the recommendation of the Agency Comptroller.
4. MTA Chairman and Chief Executive Officer: The MTA Chairman/CEO or his/her designee has the authority to grant exceptions to this policy without the recommendation or approval of another Agency Head in circumstances deemed by the MTA Chairman/CEO to warrant special consideration.
5. Authorized Signers: Authorized Signers are responsible for informing their staffs of this policy instruction; for controlling expenditures by careful examination of travel requests and expense reports; and for insuring that only reasonable expenses actually incurred and directly related to Authority business are reported.
6. All Employees: Employees are responsible, prior to incurring any expenses or submitting expense reports, for seeking appropriate authorization from their supervisors and/or clarification from their respective Agency Comptroller's Office of any exceptional circumstances or expenditures.

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V. ADDITIONAL REQUIREMENTS

MTA Headquarters and each of its Constituent Agencies shall issue Agency-specific procedures consistent with this policy instruction for the recording and claiming of reimbursement for eligible employees travel and business expenses.

Each Agency shall issue its own reporting forms and/or authorizing documents which will allow their employees to obtain pre-approval for all travel requests and cash advances, and for the recording and filing for reimbursement of travel and business expenses. Detailed instructions for completing and filing these forms/documents should also be provided.

VI. ATTACHMENTS/LINKS

Attachment A. Expense Limits: Meals/Lodging

B. Automobile Expense Limits: Automobiles See BSC Portal for current applicable automobile expense limits.

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ATTACHMENT A EXPENSE LIMITS: MEALS AND LODGING

MEALS WHILE IN TRAVEL STATUS: PER DIEM ALLOWANCES

Domestic Travel.

A per diem meal allowance of \$40.00 is allowed for an entire day while in travel status. For less than a full day while in travel status, the per diem allowance is allocated as follows:

<u>Per Diem Meal</u>	<u>Amount</u>	<u>Beginning of Trip</u>	<u>Conclusion of Trip</u>
Breakfast	\$10.00	Prior to 6:00 AM	After 8:00 AM
Dinner	\$30.00	Prior to 6:00 PM	After 8:00 PM

It is the policy of the Authority that lunch expenses while in travel status shall remain the obligation of the employee. An employee who has been included in a business meal for which reimbursement is sought under the employee expense policy is not eligible for a per diem allowance for the same meal.

Foreign Travel.

A per diem allowance for a specific foreign destination, as set by the U.S. State Department, is allowed for meals and incidentals. Rates are available from the MTA Comptroller's Department or from the website: http://aoprals.state.gov/web920/per_diem.asp

Receipts for per diem allowances are not required.

BUSINESS MEALS

Actual, but reasonable.

(The cost of alcoholic beverages is not subject to reimbursement.)

LODGING (Hotels and Motels)

Actual, but reasonable.

OTHER

Valet Charges (laundry, dry cleaning).

Domestic Travel	Actual, after third day in travel status.
Foreign Travel	Included in foreign per diem allowance.

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ATTACHMENT B

EXPENSE LIMITS: AUTOMOBILE

MILEAGE ALLOWANCE

_____ 50¢ per mile

(This rate, as calculated, includes costs for depreciation, gasoline, oil, maintenance and repairs, and insurance.)

PARKING TOLLS

_____ Parking and tolls are reimbursable at actual cost.

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VII. AGENCY-SPECIFIC PROCEDURES, FORMS AND ATTACHMENTS

- A. TRAVEL AND BUSINESS EXPENSE PROCEDURES
- B. TRAVEL REQUEST FORM/INSTRUCTIONS
- C. CASH ADVANCE REQUEST FORM/INSTRUCTIONS
- D. EXPENSE REPORT FORM/INSTRUCTIONS

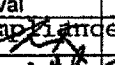
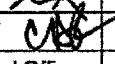
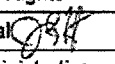
Staff Summary

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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 28, 2012
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Gov. Comm.	3/26			
2	Board	3/28			

Internal Approvals			
Order	Approval	Order	Approval
3	Chief Compliance Officer 		Civil Rights
2	Chief of Staff 	1	Legal 
	Chief Financial Officer		Administration
	Procurement		Other

Purpose:

To revise the All Agency Procurement Guidelines and All Agency Guidelines for Procurement of Services (together, the "Procurement Guidelines") to encompass the award of contracts through the MTA Small Business Federal Program ("SBFP") and to reflect the requirement that the Authority prepare an annual procurement report, in compliance with the Authority's existing practice and applicable law.

Discussion:

Last year, the Board approved changes to the Procurement Guidelines reflecting the MTA's implementation of the Small Business Mentoring Program, in accordance with New York State law. That program, which provides competitive contracting opportunities for small businesses on MTA Agency contracts that are non-federally funded, is currently ongoing.

Recent federal regulations authorize agencies receiving funds from the Department of Transportation ("DOT") to adopt programs to promote small business participation, and MTA has undertaken establishment of a federal small business program for certain DOT funded contracts that parallels its state Small Business Mentoring Program. The annexed proposed revision to the All Agency Procurement Guidelines accordingly incorporates into the Guidelines the award of contracts through the Authority's planned SBFP, which will be implemented after any further necessary authorizations are received from the Federal Transit Administration. As with awards under the existing state Small Business Mentoring Program, the mentoring program procedures for the federal program will require that awards under the SBFP be made under competitive circumstances, requiring that projects will be competitively bid among a minimum of three (but typically eight) firms that have been prequalified by the MTA.

In addition, a provision has been added to the Procurement Guidelines reflecting the requirement, long observed by the MTA, to submit an annual procurement report to the State, in compliance with applicable law.

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.

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 Chairman, the presidents of the Authorities, or the designated representative or representatives thereof (each 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 the respective Authority acting on its own behalf or as agent for MTA, as follows:

- A. to establish procedures which shall be competitive to the extent deemed practicable by the 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 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 Authorized Officer. Such a determination shall be documented in writing by the Authorized Officer.

6. The Authority determines that it is in the public interest to award the contract through 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. Under the MTA Small Business Mentoring Program, a non-federally funded **public work contract that is designated by the Authority as a small business mentoring program contract** within the meaning of Section 1265-b(1)(e) of the Public Authorities Law, **may be awarded** in accordance with the provisions of **Section 1265-b of the Public Authorities Law**, notwithstanding any other provision of law or these guidelines. A public work contract that is partially or wholly federally funded, subject to Department of Transportation regulations and estimated to involve an expenditure of not more than \$3 million, may be awarded pursuant to the MTA Small Business Federal Program established under 49 CFR 26.39 in accordance with the competitive procedures established under that Program, notwithstanding any other provision of law or these guidelines. **The Chairman or his designee is authorized to designate which eligible public work contracts shall be small business mentoring program or small business federal 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 (A)(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 Officer;
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 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 IX - 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 X - 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 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 MTA Chairman may modify the procedures in this Article for all Authorities.

Article XI - Miscellaneous

- A. Any provision of this policy may be waived by the Chairman, 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 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 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 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. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- I. These 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.

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") 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
- (27) Office services requiring specialized skills
- (28) Printing where editorial services predominate
- (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 Chairman, the presidents of the Authorities or the designated representative or representatives thereof (each 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 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) 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 an Authorized Officer which shall be competitive to the extent deemed practicable by the 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 an Authorized Officer which shall be competitive to the extent deemed practicable by the 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).

- E. The Chairman, President, General 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 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 II(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, an Authority President or the Board, or such individuals as they may designate, except to the extent prohibited by law. A waiver may also be in the form of a ratification. If a contract is federally assisted, prior to issuing a waiver, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.
- B. No Board committee 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 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. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report, in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- I. Nothing in these guidelines shall preclude the Authority from accepting bids or proposals in an electronic format, to the extent permitted by law.