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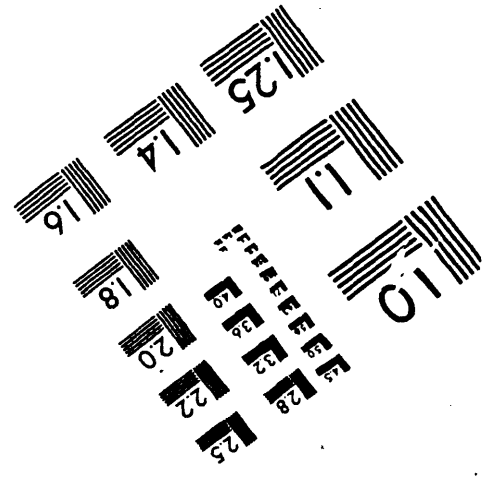
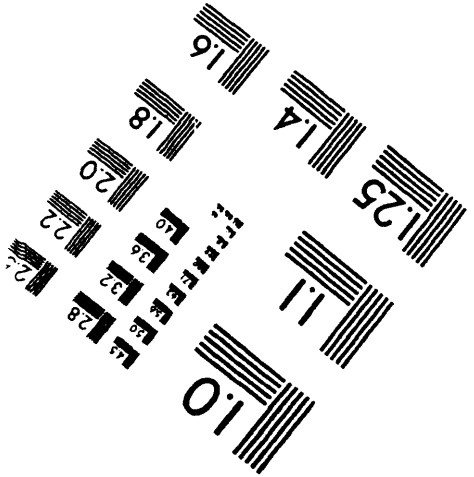
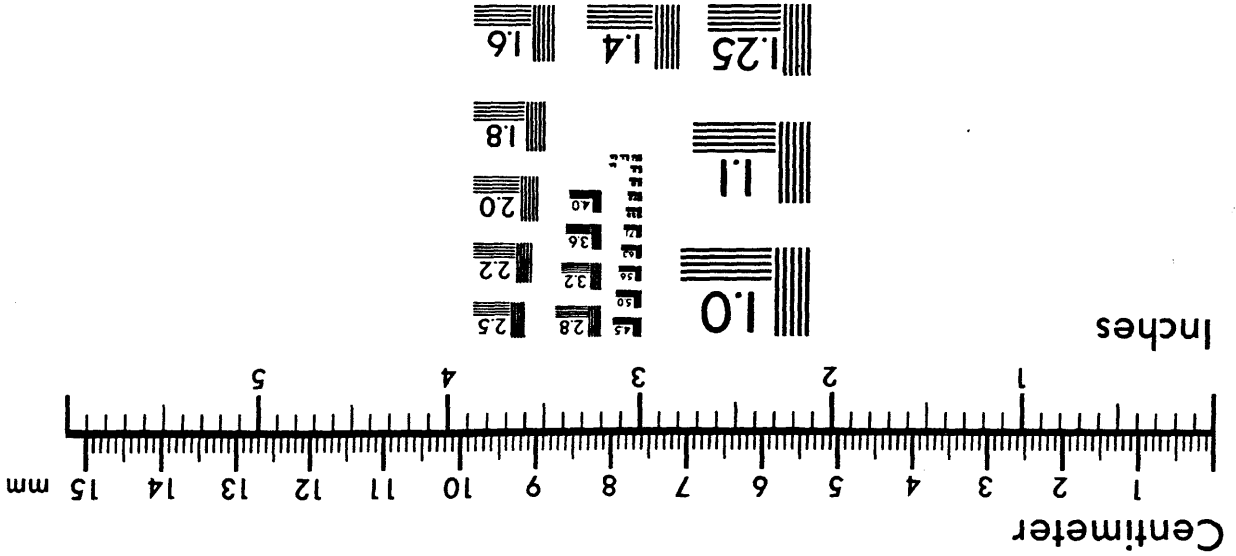
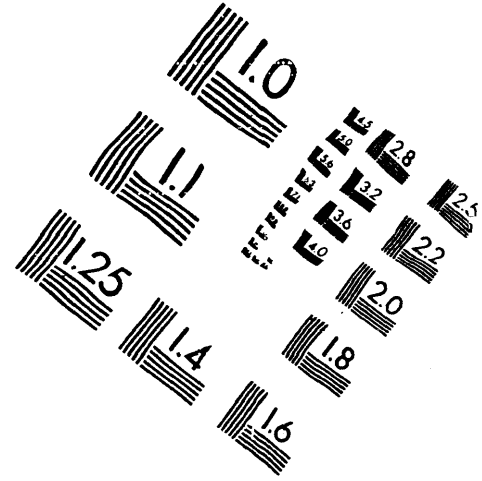
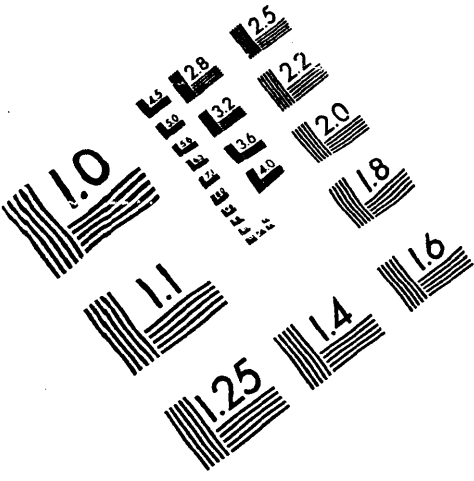


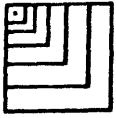
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Metropolitan Transportation Authority

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2003 JAN

January 2003

MTA Board Action Items





Metropolitan Transportation Authority

State of New York

REGULAR MEETING OF THE BOARD OF THE METROPOLITAN TRANSPORTATION AUTHORITY

January 30, 2003 - 9:30 a.m.

347 Madison Avenue

Fifth Floor Board Room

New York, NY

January 2003 Board Agenda

Public Comments Period

	Page
I APPROVAL OF BOARD MINUTES	
Metropolitan Transportation Authority Regular Meeting of December 18, 2002	1
NYCT/MaBSTOA/Staten Island Railway Regular Meeting of December 18, 2002	9
MTA Long Island Rail Road Regular Meeting of December 18, 2002	13
MTA Metro-North Railroad Regular Meeting of December 18, 2002	23
MTA Bridges & Tunnels Regular Meeting of December 18, 2002	27
II COMMITTEE ON FINANCE	
MTA Debt Restructuring Program Report	33
New Money Portion of Debt Restructuring Program	43
Engineering and Program Management Services	49
Queens Open-Cut Excavation at the Bellmouth	51
MTA HQ Procurements	53
III COMMITTEE ON NYC TRANSIT/SIR OPERATIONS	
NYC Transit Procurements	59
IV COMMITTEE ON LIRR/LI BUS OPERATIONS	
LIRR Procurements	75
LI Bus Revised Drug and Alcohol Policy	93

V	COMMITTEE ON METRO-NORTH RAILROAD OPERATIONS	
	Port Jervis Line	141
	MNR Procurements	145
VI	COMMITTEE ON MTA B&T OPERATIONS	
	MTA B&T Procurements	155
VII	COMMITTEE ON REAL ESTATE	
	See Attached Agenda	165
VIII	EXECUTIVE SESSION	
	Labor Issue	

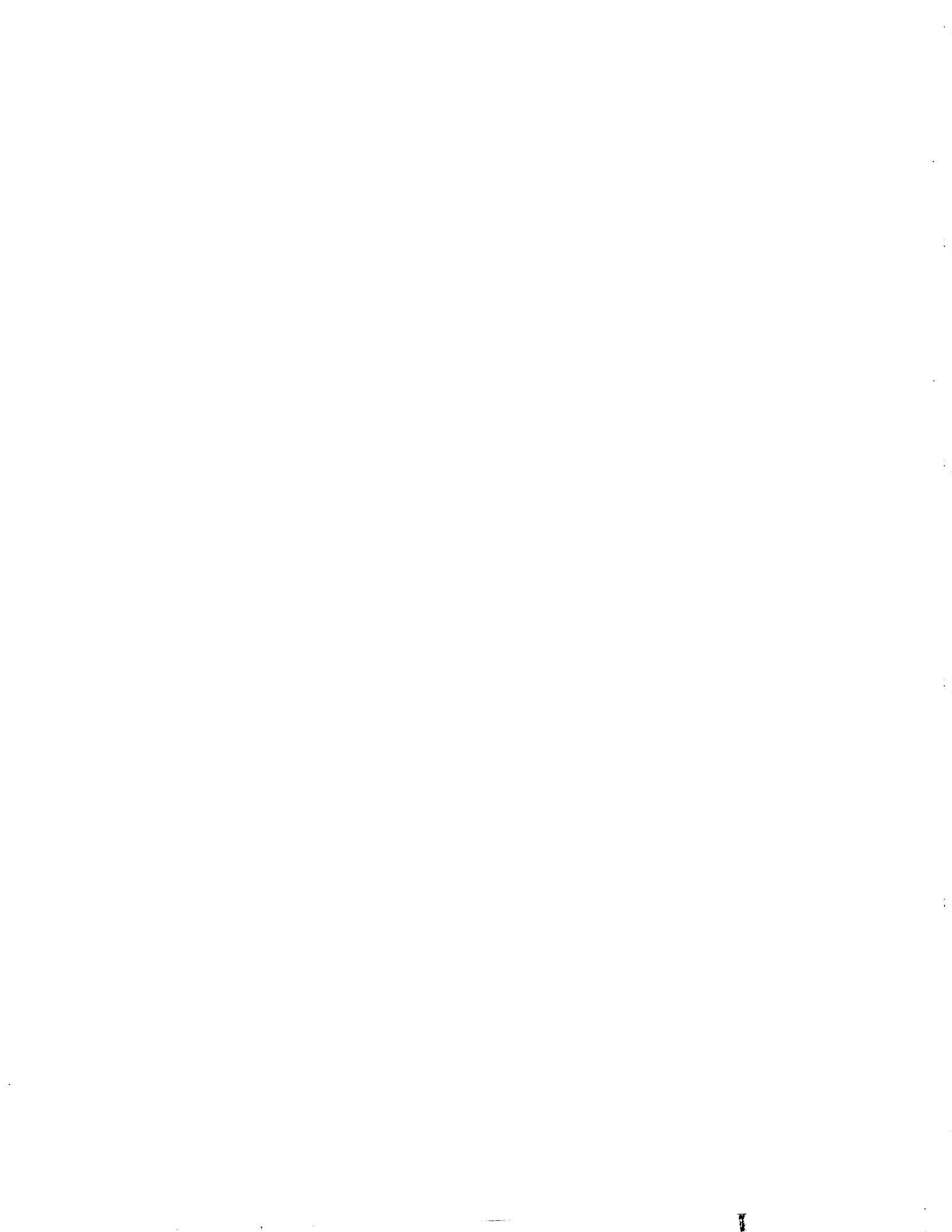
Date of next MTA Board meeting: Thursday, February 27, 2003 at 9:30 a.m.

The legal and popular names of the Metropolitan Transportation Authority's operating agencies are used throughout this agenda package. The following table displays the official name and corresponding legal name for each agency.

Official Name	Legal Name	Abbreviation
MTA New York City Transit	New York City Transit Authority	NYC Transit
MTA Long Island Rail Road	The Long Island Rail Road Company	LIRR
MTA Long Island Bus	Metropolitan Suburban Bus Authority	LI Bus
MTA Metro-North Railroad	Metro-North Commuter Railroad Company	MNR
MTA Bridges and Tunnels	Triborough Bridge and Tunnel Authority	B&T

Staten Island Rapid Transit Operating Authority is a subsidiary of the Metropolitan Transportation Authority. Its popular name is MTA Staten Island Railway (abbreviated as SIR).

Manhattan and Bronx Surface Transit Operating Authority is a subsidiary of the New York City Transit Authority (abbreviated as MaBSTOA).



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

**Wednesday, December 18, 2002
9:30 a.m.**

The following members were present:

**Hon. Peter S. Kalikow, Chairman
Hon. David S. Mack, Vice Chairman
Hon. Ronnie Ackman
Hon. Nancy Shevell Blakeman
Hon. Kenneth A. Caruso
Hon. Edward B. Dunn
Hon. Barry Feinstein
Hon. Lawrence Gamache
Hon. James H. Harding, Jr.
Hon. Susan L. Kupferman
Hon. Mark D. LeBow, Esq.
Hon. Ernest J. Salerno
Hon. Andrew M. Saul
Hon. James L. Sedore, Jr.
Hon. James S. Simpson
Hon. Edward A. Vrooman
Hon. Rudy Washington
Hon. Alfred E. Werner**

The following member was absent:

Hon. Thomas J. Cassano

Katherine N. Lapp, Executive Director, Maureen E. Boll, Chief of Staff, and Gary Caplan, Director, Budgets and Financial Management, 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, and the Metro-North Commuter Railroad Company.

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

1. **PUBLIC SPEAKERS:** Douglas Sussman, Government and Community Relations, introduced the following public speakers:

David Kupferberg, Private Citizen – Mr. Kupferberg spoke against increasing the fare and reducing service, and suggested that there are more than three options for the Board’s consideration.

Gene Russianoff, Straphangers Campaign – Mr. Russianoff said that the Straphangers Campaign applauds the MTA and Local 100 of the Transport Workers Union for agreeing to a contract settlement, and that transit workers and management deserve great credit for the improved subway and bus services. Mr. Russianoff said that as the MTA officially starts consideration of fare increases and service reductions, he presented several questions for the Board to address as we move on to this debate.

Susan Stetzer, Coalition to Save the Fare – Ms. Stetzer said that members of the Coalition believe that MTA’s current policy direction is expected to place an undue burden on New Yorkers that can least afford a fare increase and reduced services. Ms. Stetzer said that the Coalition is asking that the MTA open its books and present the financial reports that would serve as evidence to justify the need for increased resources to support transit operations.

Rocky Chin, Coalition to Save the Fare – Mr. Chin spoke of the impact of fare increases and service reductions on New Yorkers, and the public’s right to know how the MTA spends its money. Mr. Chin asked the Board to consider other options to raise revenue.

Garfield Clark, Jr., Student, Queens Borough Community College – Mr. Clark stated that MTA spends money toward financing unnecessary construction projects instead of investing in the security and safety of the MTA employees. Mr. Clark asked the Board to reevaluate how they spend the MTA finances.

Murray Bodin, Concerned Grandparents – Mr. Bodin commented on the budget and reminded the Board that those with ADA and Dyslexia do not look at the facts and budgets in the same way as other people, and asked understanding of this by the Board.

Ed Watt, Secretary Treasurer of Local 100 – Mr. Watt said that Local 100 pledges its full cooperation to work with MTA to obtain federal, state and city funding to help support the system. However, Mr. Watt said the union calls on MTA to open its books, have more transparency in its structure, look seriously into their proposals for changing the system. Mr. Watt said that Local 100 is committed to no fare hikes and no service cuts.

Anthony Winn, NYC Environmental Justice Alliance and Save the Fare Coalition - Mr. Winn emphasized that a fare hike would have its greatest impact on the most needy of New Yorkers, and that every effort should be made to counteract such measures.

With respect to the MTA's disclosure of financial information, Mr. Kalikow spoke of the Annual Reports and a variety of other disclosure documents noting the costs associated with printing the documents. He said that the MTA has a Web Site (MTA.Info) that discusses the deficit and other financial information. In addition, Mr. Kalikow noted that the MTA files regular reports with governmental agencies as required. Chairman Kalikow noted that the MTA has received an annual award from the Government Finance Officers Association for excellent financial reporting, and has had its Bond Ratings raised by three rating agencies.

Chairman Kalikow urged those who report stories about the MTA and its agencies to verify all the facts, and said that the MTA will make every effort to refute unfair remarks about the MTA's reporting. Chairman Kalikow said that the MTA prides itself on reporting its finances and facts about the MTA and its agencies.

2. **MINUTES.** Upon motion duly made and seconded, the Board unanimously approved the minutes of the regular Board meeting held on November 21, 2002.
3. **RESOLUTION COMMENDING CHAIRMAN KALIKOW ON THE LABOR NEGOTIATION.** Upon motion duly made and seconded, the Board unanimously approved the following resolution:

WHEREAS, over the past week, MTA Chairman Peter S. Kalikow led the MTA's labor management team to a successful conclusion of an extremely complex negotiation with the Transport Workers Union, and;

WHEREAS, Peter Kalikow and his MTA team worked round-the-clock for several days to construct a fair and equitable resolution of disputed issues at the bargaining table, and;

WHEREAS, the final agreement creates a dynamic of cooperation rather than confrontation between MTA management and its employees, and ushers in a new era of labor-management harmony based on dignity and respect, and;

WHEREAS, under Peter Kalikow's steady hand, the final agreement not only addresses the stated needs of the members of the affected workforce in a fair manner, but simultaneously maintains the highest levels of fiscal responsibility to the riding public and New York's taxpayers, and;

WHEREAS, the final agreement most importantly achieves a tremendous victory for MTA New York City Transit's seven million daily bus and subway riders by guaranteeing them safe, clean and reliable service;

NOW THEREFORE BE IT RESOLVED that the Board of Directors of the Metropolitan Transportation Authority extends its most sincere gratitude and heartfelt thanks to Chairman Peter S. Kalikow and his MTA management team for leadership and creativity in helping to resolve difficult bargaining issues and reaching a milestone labor agreement that truly benefits all New Yorkers.

Chairman Kalikow said that he appreciates the Board confidence, good wishes and support through this process, and he thanked the Board and the staff members.

4. **COMMITTEE ON FINANCE.** Upon motion duly made and seconded, the Board unanimously approved the following items listed below. The specifics are set forth in the attached staff summaries and documentation.
 - A. MTA and Subsidiaries 2002-2004 Financial Plan Resolution. Resolution authorizing and directing the Chairman and his designees to take the steps necessary to commence the implementation of fare and access changes in connection with the proposed Financial Plan, including the solicitation of the views of the public in accordance with the applicable provisions of law and the MTA Locally Developed Process for the Solicitation and Consideration of Public Comment, and following the solicitation of views from the public, the proposed fare and access changes are subject to the further approval of the Board of the MTA acting on its own behalf and on behalf of the LIRR, M-N, SIRTOA, and MSBA, referred to collectively as the Subsidiaries.
 - B. NYCTA and MaSBTOA 2002-2004 Financial Plan Resolution. Resolution authorizing and directing the Chairman and his designees to take the steps necessary to commence the implementation of the changes in connection with the proposed Financial Plan, including the solicitation of the views of the public in accordance with the MTA Locally Developed Process for the Solicitation and Consideration of Public Comment, and following the solicitation of views from the public, the proposed fare and access changes are subject to the further approval of these Boards.
 - C. TBTA's 2002-2004 Financial Plan Resolution. Resolution authorizing and directing the Chairman and his designees to take the steps necessary to commence the implementation of crossing charge increases in connection with the proposed Financial Plan, including compliance with all applicable laws and solicitation of the views of the public in accordance with the MTA Locally Developed Process for the Solicitation and Consideration of Public Comment, and following the solicitation of views from the public, the proposed crossings charge increase are subject to the further approval of the Board.
 - D. Amendment to 2000-2004 MTA Five Year Capital Program: MTA Infrastructure and Facilities Security. Amendment to the MTA's 2000-2004 Capital Program to add the capital projects and funding necessary to implement the MTA's Infrastructure and Facilities Security Program; and authorization to the Executive Director and Chief Operating Officer to submit any required plan amendments to the MTA Capital Program Review Board ("CPRB") to secure approval for capital program modifications in accordance with State statute. A CPRB amendment is not necessary for proposed changes to the Bridge and Tunnels 2000-2004 Capital Program.

- E. EIS & Co-Lead Agency Declarations - #7 Extension – Far West Midtown Manhattan Rezoning. Approval of the issuance of a Positive Declaration, requiring the preparation of an environmental impact statement under the State Environmental Quality Review Act, and under the City Environmental Review for the westward extension of the #7 subway by the MTA and the rezoning of Manhattan’s far West Side, an area of 64 square blocks designated by the New York City Planning Commission (“CPC”) as the Hudson Yards area; and approval of a Co-lead Agency Declaration, establishing the MTA and CPC as co-lead agencies for the proposed action.
- F. Procurement Items. Upon motion duly made and seconded, the Board unanimously approved the following procurement items. The specifics are set forth in the attached staff summaries and documentation.
1. STCR Business Systems, Inc. – Acquisition, Installation and Maintenance of a Point of Sale System for MTA Transit Museum – No. 6-01-02137-0-1. Competitively negotiated contract for the acquisition, installation and maintenance for one year of hardware and software for a point of sale system for MTA Transit Museum stores located in Grand Central Terminal and Brooklyn.
 2. TM Vista, Inc. – Acquisition, Installation and Maintenance of a Reservation and Ticketing System for MTA Transit Museum – No. 6-01-02137-0-2. Competitively negotiated contract for the acquisition, installation and maintenance for one year of hardware and software for a reservation and ticketing system for MTA Transit Museum stores located in Grand Central Terminal and Brooklyn.
 3. Colleen P. Gray – Consulting Services to Assist with the Administration of MTA Real Estate’s Customized Yardi Real Estate Information System – No. 5-01-02138-0-0. Competitively negotiated contract to assist MTA in maintaining the operational reliability of the Real Estate Information System which was installed by Yardi under a competitively awarded contract in August 1998. Consultant services will include testing and installation of software upgrades, report writing, customized user training and system support, documentation of features and reports, preparing specifications for new tables, screens and reports as may be necessary to meet the business needs of MTA Real Estate Department.
 4. Primavera Systems, Inc. – All-Agency Project Management Software Maintenance Renewal – No. 6-01-91210-0-0, S/A #15. Increase funding to extend the all-agency license for MTA agencies to use 279 currently licensed copies of Primavera’s proprietary project management software products for a period of two years, from February 1, 2003 through January 31, 2005.

5. Unisys Electric, Inc. – As-Needed Electrical Maintenance and Repair Services at MTAHQ, The Manhattan Data Center and East Side Access – No. 5-01-02076-1-0. Board ratification of a contract to provide electrical maintenance and repair services on an as-needed basis for the MTAHQ locations (MTAHQ: 341, 345 and 347 Madison Avenue; The Manhattan Data Center: 460 W. 34th Street; and East Side Access: 469 and 470 Seventh Avenue, various floors), for a period of 32 months.

5. **COMMITTEE ON MSBA.** Upon motion duly made and seconded, the Board unanimously approved the following items. The specifics are set forth in the attached documentation:
 - A. Xebec Inc. – OEM Replacement Parts for Xebec CNG - #E-3237. Non-competitive award of a purchase contract for OEM replacement parts for Xebec CNG (compressed natural gas) dryer for fixed route bus fueling station.

 - B. Contractor To Be Determined – Competitive Request - #E-3263. Approval to adopt a resolution declaring that competitive bidding is impractical or inappropriate because it is in the public interest to use the Request for Proposals (RFP) process for the procurement of a state-of-the-art transit bus simulator and information technology to upgrade bus operator training and enhance safety practices.

6. **COMMITTEE ON REAL ESTATE.** Upon motion duly made and seconded, the Board unanimously approved the following items. The specifics are set forth in the attached staff summaries. Chairman Kalikow abstained from the vote on Item # 3.

New York City Transit Authority

1. Resolution authorizing the Chairman or a designated staff member of the Authority to proceed with the acquisition by negotiation or condemnation of the fee interests in properties known as 30, 32, and 34 Fanchon Place, Block 3482, Lots 16, 17, and 19 in Brooklyn, New York, on behalf of the NYCTA Department of Buses, and to schedule and undertake such preliminary actions and proceedings as may be required in accordance with the New York Eminent Domain Procedure Law in connection with this acquisition.

2. Lease extension agreement with Teldaro Realty, Inc. for bus swing space at 3120 Bainbridge Avenue, Bronx, N.Y.

3. License agreement extension with New York Presbyterian Hospital for overnight bus parking at 220th Street and Broadway, Manhattan, N.Y.

4. Amendment to the current Urban Panel Advertising License with Adshel Inc., a subsidiary of Clear Channel Communications (“Adshel”), to provide for (i) an expansion of types of advertising devices permitted to include the installation,

display and maintenance of LED displays; (ii) a three (3) year extension of the term; and (iii) inclusion of a provision to allow the licensee to undertake "New Types Of Advertising Devices" in the New York City transit system.

Long Island Rail Road

5. Transfer of a parcel of land, located on the south side of the ROW at LIRR Port Jefferson Station, from the Town of Brookhaven to the LIRR, for pedestrian overpass in Port Jefferson, N.Y.

MTA LIRR East Side Access

6. Approval of settlement offer with Owners of seventy-four (74) lots located in Manhattan, between 2nd Avenue/63rd Street and Park Avenue/52nd Street for Deep Tunnel Easements for the MTA LIRR East Side Access Project, Long Island City, N.Y.

Metro-North Railroad

7. Lease amendment with Leeper Kids, Inc. for additional storage space in Grand Central Terminal (SE-1A), Manhattan, N.Y.

Metropolitan Transportation Authority

8. Contract for services with Cityrax, Inc. for the design and implementation of a systemwide modular news rack program at various Metro-North and LIRR Stations.

Triborough Bridge and Tunnel Authority

9. License Agreement with Con Edison Communications LLC for installation, maintenance and operation of a fiber optic cable across the Verrazano-Narrows Bridge, between Brooklyn and Staten Island, N.Y.

With respect to the recent collective bargaining negotiation with TWU, Local 100, Chairman Kalikow complimented Katherine Lapp, Executive Director, Gary Dellaverson, Director of Labor Relations, Lawrence Reuter, President of the NYCTA, Barbara Spencer, NYCTA and everyone from the Transit Authority on their contributions to the negotiation process. Finally, Chairman Kalikow thanked Roger Toussaint, TWU Local 100, and the TWU Executive Board for the professional way in which Local 100 conducted itself in the negotiation process.

In conclusion, Chairman Kalikow said that the MTA is pleased that it was able to reward the employees for their loyal service and negotiate a contract that is within the financial plan.

7. **EXECUTIVE SESSION**. Upon motion duly made and seconded the Board unanimously voted to convene an executive session to discuss labor matters.
8. **PUBLIC SESSION RESUMED**. Upon motion duly made and seconded, the public session resumed.

Upon motion duly made and seconded, the Board unanimously voted to adjourn the meeting.

Respectively submitted,

Victoria Clement
Assistant Secretary

**Minutes of Regular Board Meeting
MTA New York City Transit
and
Manhattan and Bronx Surface Transit Operating Authority**

December 18, 2002

**Meeting Held At:
Metropolitan Transportation Authority
347 Madison Avenue
New York, New York 10017
9:30 A.M.**

The following members were present:

Hon. Peter S. Kalikow, Chairman
Hon. David S. Mack, Vice Chairman
Hon. Ronnie Ackman
Hon. Nancy Shevell Blakeman
Hon. Kenneth A. Caruso
Hon. Edward B. Dunn
Hon. Barry L. Feinstein
Hon. Lawrence Gamache
Hon. James H. Harding, Jr.
Hon. Susan Kupferman
Hon. Mark D. LeBow
Hon. Ernest J. Salerno
Hon. Andrew M. Saul
Hon. James L. Sedore, Jr.
Hon. James S. Simpson
Hon. Edward A. Vrooman
Hon. Rudy Washington
Hon. Alfred E. Werner

The following member was absent:

Hon. Thomas J. Cassano

Katherine N. Lapp, Executive Director, Gary Caplan, Director of Budget, and Douglas Sussman, Deputy Director of Government and Community Relations were also present.

The members also met as the Board of the Staten Island Rapid Transit Operating Authority.

1. Chairman Kalikow called the meeting to order.

2. Public Comment Period

There were seven public speakers on items pertaining to NYC Transit.

David Kupferberg, private citizen, Gene Russianoff, Straphangers Campaign, Susan Stetzer, Coalition to Save the Fare, Rocky Chin, Coalition to Save the Fare, Garfield Clark, Jr., Straphangers Campaign, Ed Watt, Secretary Treasurer of TWU, Local 100, and Anthony Winn, NYC Environmental Justice Alliance all spoke in opposition to a fare increase.

3. Comments by Chairman Kalikow

Chairman Kalikow described recent criticism of the MTA for its purported failure to provide financial information as unfair and untrue.

Chairman Kalikow commended the MTA negotiating team and President Reuter and his staff for their participation in the successful labor negotiations. The Chairman also thanked Roger Touissant, President, TWU, Local 100, for his professionalism during these negotiations.

4. Minutes

Upon a motion duly made and seconded, the members unanimously approved the Minutes of the regular meeting of MTA New York City Transit, the Manhattan and Bronx Surface Transit Operating Authority and the Staten Island Rapid Transit Operating Authority held on November 21st 2002.

5. Comments by Vice Chairman Mack

Vice Chairman Mack presented a resolution by the members of the Board thanking and commending Chairman Kalikow for his strong leadership during the recent labor negotiations.

6. Finance Committee

Upon a motion duly made and seconded, the members unanimously approved a resolution for the NYCT and MaBSTOA authorizing and directing the Chairman and his designees to take the steps necessary to solicit the views of the public on the fare increase proposal, the closing of certain token booths and the elimination of the token for use as fare media.

Chairman Kalikow announced that public hearings on these proposals will be held in all five boroughs and encouraged Board members to attend.

7. Committee on New York City Transit/SIR Operations

Procurements: Upon a motion duly made and seconded, the members approved the procurements requiring a two thirds vote (Schedules A and C in the Agenda) and those procurements requiring a majority vote (Schedules E, F, H and 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 this meeting.

8. Real Estate Committee


Upon motion duly made and seconded, the Board unanimously approved the items pertaining to the NYC Transit recommended to it by the Committee on Real Estate as set forth below. Chairman Kalikow recused himself from the vote on the item involving New York Presbyterian Hospital.

- Acquisition by negotiation or through eminent domain of fee interest in property known as 30, 32, and 34 Fanchon Place, Block 3482, Lots 16, 17 and 19 on behalf of the MTA-NYCT Department of Buses, Brooklyn, New York.
- Lease extension agreement with Teldaro Realty, Inc. for bus swing space at 3120 Bainbridge Ave., Bronx, New York
- License agreement extension with New York Presbyterian Hospital for overnight bus parking at 220th Street and Broadway, Manhattan, New York.
- Amendment to Urban Panel Advertising License with Adshel Inc. for installation, maintenance and display of advertising at subway entrances in the New York City Transit system

9. Executive Session and Adjournment

Upon motion duly made and seconded, the members unanimously voted to convene in Executive Session during which the Members discussed ongoing labor issues. Following the Executive Session, the Board reconvened the public session. Upon motion duly made and seconded, the members unanimously voted to adjourn the meeting.

Respectfully submitted,



Wendy Goldman
Assistant Secretary

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

December 18, 2002 - 9:30 A.M.

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

The following members were present:

Hon. Peter S. Kalikow, Chairman
Hon. David S. Mack, Vice Chairman
Hon. Nancy Shevell Blakeman
Hon. Kenneth A. Caruso
Hon. Edward B. Dunn
Hon. Barry Feinstein
Hon. James H. Harding, Jr.
Hon. Susan L. Kupferman
Hon. Mark D. LeBow, Esq.
Hon. James S. Simpson
Hon. Andrew M. Saul
Hon. Rudy Washington
Hon. Alfred E. Werner
Hon. Lawrence Gamache
Hon. Ernest J. Salerno
Hon. James L. Sedore, Jr.
Hon. Edward A. Vrooman
Hon. Ronnie Ackman

Katherine N. Lapp, Executive Director & Chief Operating Officer, Maureen E. Boll, Chief of Staff, Douglas R. Sussman, Deputy Director of Government and Community Relations, Christopher Boylan, Deputy Corporate Affairs-Communications, Gary Caplan, Director Budgets & Financial Management and Mary Jennings Mahon, Deputy Executive Director/MTA General Counsel also attended the meeting.

The following member was absent:

Hon. Thomas J. Cassano

The meeting was called to order by Chairman Peter S. Kalikow.

Public Speakers

There were nine public speakers, 8 of whom addressed issues relating to the MTA agency wide budget. Please see MTA minutes for a complete listing of speakers and issues.

There was one public speaker on an issue regarding the Long Island Rail Road Company. David Andres, Vice President of Russell Reid Waste Hauling and Disposal Service Co., Inc. (Russell Reid), addressed the Board with respect to Long Island Rail Road Procurement No. 8. In that procurement, the LIRR was requesting Board approval to award a change order to William A. Mallins Cesspools, Inc., extending their toilet waste removal contract for an additional 30 days. Mr. Andres advised the Board that Russell Reid was found to be the lowest responsible bidder by the LIRR in connection with a five-year toilet waste removal procurement. Mr. Andres noted that the LIRR sought approval for a contract award to Russell Reid from the Long Island Committee at the December 10, 2002 meeting. Mr. Andres voiced his concern that the Long Island Rail Road procurement process be followed with respect to a protest and request for reconsideration filed by Mallins. Mr. Andres requested that the Long Island Committee and MTA Board approve the award to Russell Reid as the lowest responsible bidder.

Approval of Minutes

Upon motion duly made and seconded, the Board unanimously approved the minutes of the regular Board meeting held on November 21, 2002.

Procurements

Upon motion duly made and seconded, the Board approved the following procurements, recommended to it by the Committee on LIRR/LI Bus Operations:

Procurements Requiring Two-Thirds Vote

Schedule A: Non-Competitive Purchase and Public Work Contracts

- | | | |
|----|--|-------------------------|
| 1. | North American Signal Inc. | \$282,950 |
| | Sole Source | Firm Fixed Price |
| | Approval to award a sole source procurement to North American Signal for the purchase of a Centralized Event Monitoring System. This system will remotely monitor grade crossing event recorders including crossing gate operation movement, warning times, battery voltages, power status and compliance with pre-determined FRA standards. | |

2. **Plasser American Corp.** **\$15,910,000**
Sole Source **Firm Fixed Price**
BPO #TBD
- Approval to award a sole source purchase order to Plasser American Corporation ("Plasser") to procure equipment capable of installing panelized track and switches. Plasser, which is the only known manufacturer that produces this type of equipment, has previously manufactured seven of these systems.

Procurements Requiring Two-Thirds Vote

Schedule D: Ratification of Completed Procurement Actions

3. **Risa Management Corp.** **\$219,162**
Emergency Procurement **Not-to-Exceed**
- To effectuate the timely installation of Express TVM's which have been accelerated to commence in January 2003, a Purchase Order with Risa Management to supply 17 TVM kiosks is required to be entered into immediately. The TVM's have touch screens that require shelter kiosks to protect them from direct weather elements.

Procurements Requiring Majority Vote

Schedule E: Miscellaneous Procurement Contracts

4. **IBM Software** **\$29,580**
Sole Source Procurement **Firm Fixed Price**
Contract No. TBD
- Approval to award a sole source miscellaneous procurement contract to IBM Corp. for one year of software maintenance/technical support for IBM's AIX software, which operates LIRR's 17 RS6000 IBM computers, for the period January 1, 2003 through December 31, 2003.

Procurements Requiring Majority Vote

Schedule F: Personal Service Contracts

5. **Telesoft Corporation** **\$150,000**
Audit of Telecommunication Billings **Not-to-Exceed**
Contract No. IT02755
Ride NYSOGS Contract No. PS59327
- Approval to award a personal services contract in the not-to-exceed amount of \$150,000 to Telesoft Corporation (Telesoft) for the audit of LIRR's telecommunications and data communications service bills to identify billing

errors and negotiation with the billing company to correct the errors, settle payment discrepancies and ensure that refunds are received by the LIRR.

Procurements Requiring Majority Vote

Schedule G: Miscellaneous Service Contracts

- | | | |
|----|------------------------------|----------------------|
| 6. | 14 Bus Companies | \$5,300,000 |
| | Emergency Bus Service | Not-to-Exceed |
| | Scheduled Bus Service | |
| | Contract Nos. TBD | |

Approval to award blanket requirements contracts to 14 bus companies to provide LIRR with as-needed emergency and scheduled bus service over a two-year contract term. Each bus company will be awarded a separate contract for emergency and scheduled service in a not-to-exceed amount. Bus companies are given work and called out by LIRR in order of sequence based on low price for the required type of service. If the lo-priced supplier is not available to provide service, LIRR continues to call the suppliers in sequence of price until a supplier confirms it can provide service. The 14 bus suppliers being recommended for award are as follows: Inter-County Division of Babylon Transit, ACME Bus, Alert Coach, Baumann & Sons, Long Island Limousine Service, Huntington Coach, Coling Ambulette Service, Harran Transportation Company, Express Bus Tours, Inc. We Transportation, Suffolk Transportation Service, Veterans Transportation, Independent Coach and At Your Service.

- | | | |
|----|----------------------------------|----------------------|
| 7. | Mazal Moving, Inc. | \$183,235 |
| | Contract No. IT02661-GS52 | Not-to-Exceed |
- Approval to award a competitively bid miscellaneous service contract to Mazal Moving, Inc., for as-required moving services for a term of five years.

Schedule H: Mods. To Personal Service Contracts and Miscellaneous Service Contracts Awarded as Contracts for Services.

- | | | |
|----|---|----------------------|
| 8. | Waste Extracting & Cleaning of Railcar Toilets | \$250,000 |
| | Contract No. S0723/PO81987 | Not-to-Exceed |

Approval to award a change order to William A. Mallins Cesspools, Inc. in the not-to-exceed amount of \$250,000 to cover the additional costs associated with extending Mallins current contract to provide waste hauling services. *

*This is a modification to the publication book which reduces the change order for the extension from "\$500,000" to "\$250,000" and also reduces the term from "up to two months" to "up to one month."

A copy of the revised Schedule H as modified is on file with the records of this meeting.

Alfred E. Werner, Chairman of the Long Island Committee moved the procurement as modified. Board Member James S. Simpson inquired as to why this is being extended and Chairman Kalikow advised that there were allegations of impropriety, and that one month was the shortest period possible during which to look into the allegations.

- 9. **Simplex Grinnell** **\$123,159**
Contract No. TBD **Not to Exceed**
Non-Competitive Procurement

LIRR requests the Board to authorize the LIRR to proceed with a contract modification to Simplex Grinnell in a not to exceed amount of \$123,159 to cover costs associated with the upgrading of the wiring for the LIRR's Hillside Maintenance Complex fire alarm system.

Details of the above items are set forth in a revised staff summary, a copy of which is on file with the records of this meeting.

Real Estate Committee:

Upon motion duly made and seconded, the Board unanimously approved the following item which had been recommended by the Committee on Real Estate.

1. Transfer of property from the town of Brookhaven to the LIRR for a pedestrian overpass at LIRR's Port Jefferson Station, Port Jefferson New York.
2. Approval of Settlement Offer for Deep Tunnel Easements for the MTA LIRR East Side Access Project, Long Island City, New York.

Details of the above items are set forth in staff summary, copy of which is on file with the records of this meeting as modified.

Other Business

Chairman Kalikow presented a resolution providing that the Chairman and his designees are hereby authorized and directed to take the steps necessary to commence the implementation of fare and access changes in connection with the proposed Financial Plan, including the

solicitation of the views of the public in accordance with the applicable provisions of law and the MTA Locally Developed Process for the Solicitation and Consideration of Public Comment.

A copy of the resolution is on file with the records of this meeting

Executive Session

Upon motion duly made and seconded, the Board unanimously voted to convene in Executive Session to discuss security issues.

Public Session

Upon motion duly made and seconded, the Board unanimously voted to reconvene in Public Session.

Adjournment

There being no further business before the Board, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in black ink that reads "Tricia Troy Alden". The signature is written in a cursive style and is positioned above a horizontal line.

Tricia Troy Alden
Vice President/General Counsel & Secretary

SCHEDULE H

**MODIFICATIONS TO PERSONAL SERVICE CONTRACT AND MISCELLANEOUS
SERVICE CONTRACTS AWARDED AS CONTRACTS FOR SERVICES**

LIRR COMMITTEE - December 10, 2002

MTA BOARD MEETING - December 18, 2002

Vendor/Contractor	Procurement Number Item/Purpose	Cost	
William A. Mallins Cesspools, Inc. 54 Union Avenue Ronkonkoma, NY 11779	Contract No. S0723/PO81987 Waste Extracting & Cleaning of Railcar Toilets	Original Contract	\$6,410,488
		Prior Modifications	\$2,752,169
		Adj. Contract Amount	\$9,162,657
		For Approval	\$ 250,000
		Revised Contract Amount	\$9,412,657
		For Approval %	2.7%
		% of Modifications to Original Contract	32%

Requestor

Bill McVey, ACOMO, Fleet Cleaning
M/E Department

Remarks

In October 1997, the Board approved an award of a five-year contract with William A. Mallins Cesspools, Inc. (Mallins) to provide for waste extraction and cleaning of all electric railcar toilets. A change order in the amount of \$1,078,900 to include servicing the new C-3 bi-level coach toilets was approved by the Board in February 2000. LIRR originally opened bids for its new toilet servicing contract on June 4, 2002. LIRR received two bids – one for \$11,350,158.50 and the other for \$12,438,112-which were rejected because both bids were substantially above LIRR estimate (\$10M) and the low bidder's bid included a mistake that rendered it non-responsive. At a rebid opening on September 12, 2002, LIRR received three (3) bids with the following prices: \$9,898,600.74, \$10,142,610.39 and \$11,679,845. While the bids were being evaluated, on September 26, 2002, the Board approved a change order to Mallins for an additional amount of \$1,053,330 to provide funding for work required through the original contract expiration date of September 30,2002 to November 30, 2002. Thereafter, Mallins, the second low bidder, filed a protest on October 15, 2002 claiming that the low bidder, Russell Reid, does not have the capability to fully meet the specification. As a result, on October 29, 2002, the Board granted LIRR a further extension of service through January 31, 2003 at an additional not-to-exceed amount of \$400,000 to allow time to review Mallins' Bid Protest and make a new contract award. The protest was denied on December 5, 2002. The protestor, however, has the right to seek reconsideration of the decision and has indicated that it will formally request reconsideration of the protest decision. Pursuant to the LIRR Protest Procedure, the request for reconsideration does not automatically require the withholding of award and the suspension of contract performance. LIRR presented a recommendation to the MTA Long Island Committee on December 10, 2002, to proceed with the award to Russell Reid. At the December 10th Long Island Committee Meeting, an attorney for Mallins stated why it believed that Russell Reid should not be considered a "Responsible" bidder. The Long Island Committee directed that questions regarding the low bidder's responsibility be more fully investigated and that LIRR delay awarding a contract pursuant to the bid.

In view of this, LIRR requires that its current contract with Mallins be extended for up to one month at an additional not-to-exceed amount of \$250,000.

Impact on Funding

This change is funded by the LIRR's Operating Budget.

Recommendation

Board approval in the not-to-exceed amount of \$250,000 is recommended.

**METROPOLITAN TRANSPORTATION AUTHORITY
LONG ISLAND RAIL ROAD COMPANY
METRO-NORTH COMMUTER RAILROAD COMPANY
STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY
METROPOLITAN SUBURBAN BUS AUTHORITY**

RESOLUTION

WHEREAS, the MTA's 2002-2004 financial plan (the "Financial Plan") has been submitted to the Board of the Metropolitan Transportation Authority ("MTA") acting on its own behalf and on behalf of the Long Island Rail Road Company ("LIRR"), the Metro-North Commuter Railroad Company ("Metro-North"), the Staten Island Rapid Transit Operating Authority ("SIRTOA") and Metropolitan Suburban Bus Authority ("MSBA"), (LIRR, Metro-North, MSBA and SIRTOA shall be referred to collectively as the "Subsidiaries"); and

WHEREAS, the Financial Plan contemplates certain proposed fare increases and the closing of certain token booths; and

WHEREAS, such changes as described in the Financial Plan would be expected to provide the resources necessary for the MTA and the Subsidiaries to maintain fiscal stability and continue their operations on a self-sustaining basis through 2004; and

WHEREAS, the Boards and the relevant committee members have been advised of the necessity for the solicitation of the views of the public prior to approving and implementing any fare changes; the closing of full time and part time token booths at certain locations; the elimination of the New York City Transit Authority's token as fare media.

NOW THEREFORE BE IT RESOLVED by the Boards of the MTA and the Subsidiaries:

1. That the Chairman and his designees are hereby authorized and directed to take the steps necessary to commence the implementation of fare and access changes in connection with the proposed Financial Plan, including the solicitation of the views of the public in accordance with the applicable provisions of law and the MTA Locally Developed Process for the Solicitation and Consideration of Public Comment.
2. That following the solicitation of views from the public, the proposed fare and access changes are subject to the further approval of these Boards.
3. This resolution shall take effect immediately.

Dated: December 18, 2002

Minutes of the Regular Meeting
Metro-North Commuter Railroad Company

Wednesday, December 18, 2002

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

9:30 a.m.

The following members were present:

Hon. Peter S. Kalikow, Chairman
Hon. David S. Mack, Vice Chairman
Hon. Ronnie Ackman
Hon. Nancy Shevell Blakeman
Hon. Kenneth A. Caruso
Hon. Edward B. Dunn
Hon. Barry Feinstein
Hon. Lawrence W. Gamache
Hon. James H. Harding, Jr.
Hon. Susan L. Kupferman
Hon. Mark D. Lebow, Esq.
Hon. Ernest J. Salerno
Hon. Andrew M. Saul
Hon. James L. Sedore Jr.
Hon. James S. Simpson
Hon. Edward A. Vrooman Hon. Rudy Washington
Hon. Alfred E. Werner

Not Present:

Hon. Thomas J. Cassano

Also Present:

Katherine N. Lapp, Executive Director, MTA
Gary G. Caplan, Director of Budgets and Financial Management, MTA
Douglas R. Sussman, Deputy Director of Government and Community Relations, MTA

1. Public Comment: No Metro-North matters were discussed.
2. Chairman Kalikow noted that MTA's Annual Reports detailing the finances of all MTA agencies are sent to the New York City Comptroller, New York State Comptroller and the legislature and that information concerning the deficit is available to the public at MTA's Website.

3. Approval of Minutes - The minutes of the regular meeting of November 21, 2002 were unanimously approved.

4. Committee on Finance

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

- 2003 MTA Operating Budgets and 2002-2004 MTA-Wide Financial Plan
- Amendment to 2000-2004 MTA Five Year Capital Program
- Authorization, in the form set forth in the attached resolution, for the Chairman and his designees to take the steps necessary to commence the implementation of fare increases and related actions in connection with the financial plan, including the solicitation of the views of the public.

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

5. Committee on Metro-North Railroad Operations

Upon motion duly made and seconded, the Board unanimously approved the following items recommended to it by the Committee on Metro-North Operations:

Action Items

- Salisbury Mills/Cornwall Station Parking & Access Improvements

Procurements:

Non-Competitive Purchases and Public Works Contracts

- Railroad Friction Products Corp.
- Monogram Industries
- Ohio Transformer

Request to use RFP for Procurement of Purchases and Public Works in lieu of Sealed Bids

- Mid-Harlem Line Station Improvements
- Harmon Shop Replacement Program Phases II and III

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

- Pre-Qualification of Fifteen (15) Construction Firms

Ratifications

- Standard Steel Inc.

Personal Service Contracts

- Velasco Associates, Inc. (primary firm)/Brown and Associates, Inc. (secondary firm)

Miscellaneous Service Contracts

- Cummins-Allison Corp.
- Various Contractors – MTA All Agency IT Training Services

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

- Winston Staffing, Inc.
- Crown Lift Trucks
- Sprague Energy Corp.
- Scheidt & Bachmann, GmbH

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

6. Real Estate:

Upon motion duly made and seconded, the Board unanimously approved the following item recommended to it by the Committee on MTA Planning/Real Estate:

- Lease Agreement with Leeper Kids, Inc for additional storage space in Grand Central Terminal, Manhattan, New York.

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

7. Executive Session: Upon motion duly made and seconded, the Board voted to convene in Executive Session to discuss collective bargaining issues. Thereafter, upon motion duly made and seconded, the Board unanimously voted to re-convene in Public Session.

8. Next Meeting - Thursday, January 30, 2003 at 9:30 a.m.
9. Upon motion duly made and seconded, the Board voted to adjourn the meeting.

Respectfully submitted,



Linda Montanino
Assistant Secretary

Dec 2002 Board Minutes
Legal/Corporate

**Minutes of the Regular Meeting
Triborough Bridge and Tunnel Authority
December 18, 2002**

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

9:30 A.M.

The following members were present:

Hon. Peter S. Kalikow, Chairman
Hon. David S. Mack, Vice Chairman
Hon. Ronnie Ackman
Hon. Nancy Shevell Blakeman
Hon. Kenneth A. Caruso
Hon. Edward B. Dunn
Hon. Barry Feinstein
Hon. Lawrence Gamache
Hon. James H. Harding, Jr.
Hon. Susan L. Kupferman
Hon. Mark D. Lebow
Hon. Andrew M. Saul
Hon. Ernest J. Salerno
Hon. James L. Sedore
Hon. James S. Simpson
Hon. Edward A. Vrooman
Hon. Rudy Washington
Hon. Alfred E. Werner

Not Present

Hon Thomas J. Cassano

Katherine N. Lapp, Executive Director; Douglas R. Sussman, Deputy Director of Government and Community Relations; Gary G. Caplan, Director, MTA Budget; Mary J. Mahon, Deputy Executive Director and MTA General Counsel also attended the meeting.

Public Speakers

There were no public speakers on issues regarding the Triborough Bridge and Tunnel Authority.

Approval of Minutes

The Minutes of the regular meeting held on November 21, 2002 were unanimously approved.

Finance

Bridges and Tunnels 2002-2004 Executive And Financial Plan

Upon a motion duly made and seconded, the members unanimously approved Bridges and Tunnels 2002-2004 Interim Executive Budget and Financial Plan. A staff summary setting forth the details of the above item is on file with the minutes of this meeting.

Upon a motion duly made and seconded, the members unanimously adopted the following resolution which authorized the Chairman and his designees to take the steps necessary to commence the implementation of toll changes in connection with the proposed Financial Plan, including compliance with all applicable laws and solicitation of the views of the public in accordance with the MTA Locally Developed Process for the Solicitation and Consideration of Public Comment.

Resolution

Triborough Bridge and Tunnel Authority

WHEREAS, the MTA's 2002-2004 financial plan (the "Financial Plan") has been submitted to the Board of the Triborough Bridge and Tunnel Authority ("TBTA"); and

WHEREAS, a crossing charge increase proposal described in the Financial Plan would be expected to provide the revenues necessary for the integrated transportation system of the Metropolitan Transportation Authority ("MTA") and its affiliates and subsidiaries to maintain fiscal stability and continue their operations on a self-sustaining basis through 2004; and

WHEREAS, the Board and the relevant committee members have deemed it appropriate to solicit of the views of the public prior to approving and implementing any crossing charge increase.

NOW THEREFORE BE IT RESOLVED by the Board of the TBTA:

1. That the Chairman and his designees are hereby authorized and directed to take the steps necessary to commence the implementation of crossing charge increases in connection with the proposed Financial Plan, including compliance with all applicable laws and solicitation of the views of the public in accordance with the MTA Locally Developed Process for the Solicitation and Consideration of Public Comment.

2. That following the solicitation of views from the public, the proposed crossing charge increase are subject to the further approval of this Board.
3. This resolution shall take effect immediately.

Dated: December 18, 2002

Procurements

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

Ratifications

Miscellaneous Procurement Contracts

General Fiber Communications, Inc.	Contract No. 01-MNT-2619 Maintenance services for the underground wireless telecommunication systems at the Queens Midtown and Brooklyn-Battery Tunnels.	\$784,000.00 Not-to-exceed
RapidToll Systems, Inc.	Contract No. 02-TD-2663 Furnish a DataLogger System to be used to perform diagnostic activities on the Electronic Toll Collection System.	\$48,700.00

Personal Service Contracts

Nasco Construction Services, Inc. STV Inc. PACO Group, Inc.	Contract Nos. PSC-02-2655 A-C Miscellaneous estimating services on an as-needed basis. The aggregate not-to-exceed amount for the three contracts is \$450,000.00.	\$450,000.00 \$450,000.00 \$450,000.00
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Miscellaneous Service Contracts

Protection Specialist, Inc.	Contract No. 02-MNT-2657 Provide maintenance and repair of boiler room fire alarm systems at various Authority facilities.	\$28,700.00
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Modifications to Personal Service Contracts and Miscellaneous Service Contracts Awarded as Contracts for Services

Jacobs Engineering New York, Inc.	Contract No. PSC-01-2643 Additional consultant air monitoring and supervision services for Project BB-28/BB-81, Rehabilitation of the Tunnel Walls, Roadway and Drainage System,	\$1,457,642.19
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	Rebuild Tunnel Water System at the Brooklyn-Battery Tunnel and extend contract term by nine (9) months.	
Weidlinger Associates	Contract No. PSC-96-2464 Additional design and design support services for movable platforms for under bridge access for Project BW-82, Replacement Roadway Deck for Suspended Spans and Aerodynamic Study at the Bronx-Whitestone Bridge.	\$848,273.00
New York State Industries for the Disabled (NYSID)	Contract No. 97-MNT-2468 Extend the period of performance of a non-competitive miscellaneous service contract for three (3) years for the contractor to provide janitorial services at the Brooklyn-Battery Tunnel Service Building and Trailers.	\$579,952.80
New York State Industries for the Disabled (NYSID)	Contract No. MNT 97-2467 Extend the period of performance of a non-competitive miscellaneous service contract for three (3) years for the consultant to provide janitorial services at the Queens Midtown Tunnel Service Building and Annex.	\$560,371.74
New York City Fire Department	Contract No. PSC-96-2439 Extend the period of performance of a non-competitive personal service contract for one (1) year for the consultant to provide fire prevention and control training to all newly appointed Bridge and Tunnel Officers and Maintenance Employees in accordance with Public Authorities Law 55-g (fire training).	\$115,385.20
New York City Fire Department	Contract No. PSC-96-2440 Extend the period of performance of a non-competitive personal service contract for one (1) year for the contractor to provide annual fire fighting refresher training to Bridge & Tunnel Officers and Maintenance Employees in accordance with Public Authorities Law 55-g (fire training).	\$82,418.00

**Modifications to Purchase
and Public Works Contracts**

Nab Construction Corp.	Contract No. BW-82A Fabrication and installation of additional miscellaneous steel and fiberglass reinforced polymer (FRP) grating materials.	\$856,273.80
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**Modifications to Miscellaneous
Procurement Contracts**

Cisco Systems, Inc.	Contract No. 32086 Extend the period of performance of a non-competitive contract for one (1) year for Cisco Systems, Inc. (Cisco) to provide maintenance of Cisco routers on the Authority's Local Area Network. Cisco is the original equipment manufacturer and the only firm capable of maintaining its equipment. The contract was awarded under New York State Office of General Services Contract T940118.	\$143,360.90
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Executive Session

Upon a motion duly made and seconded, the members unanimously voted to convene in Executive Session to discuss labor issues. These matters did not pertain to the Triborough Bridge and Tunnel Authority.

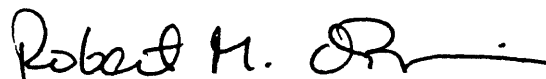
Public Session

Upon a motion duly made and seconded, the Board voted to reconvene in Public Session.

Adjournment

There being no further business before the Board, the meeting was adjourned.

Respectfully submitted,



per Cindy L. Dugan
Acting Assistant Secretary



MTA Debt Restructuring Summary

**Presentation to the MTA Board
January 30, 2003**

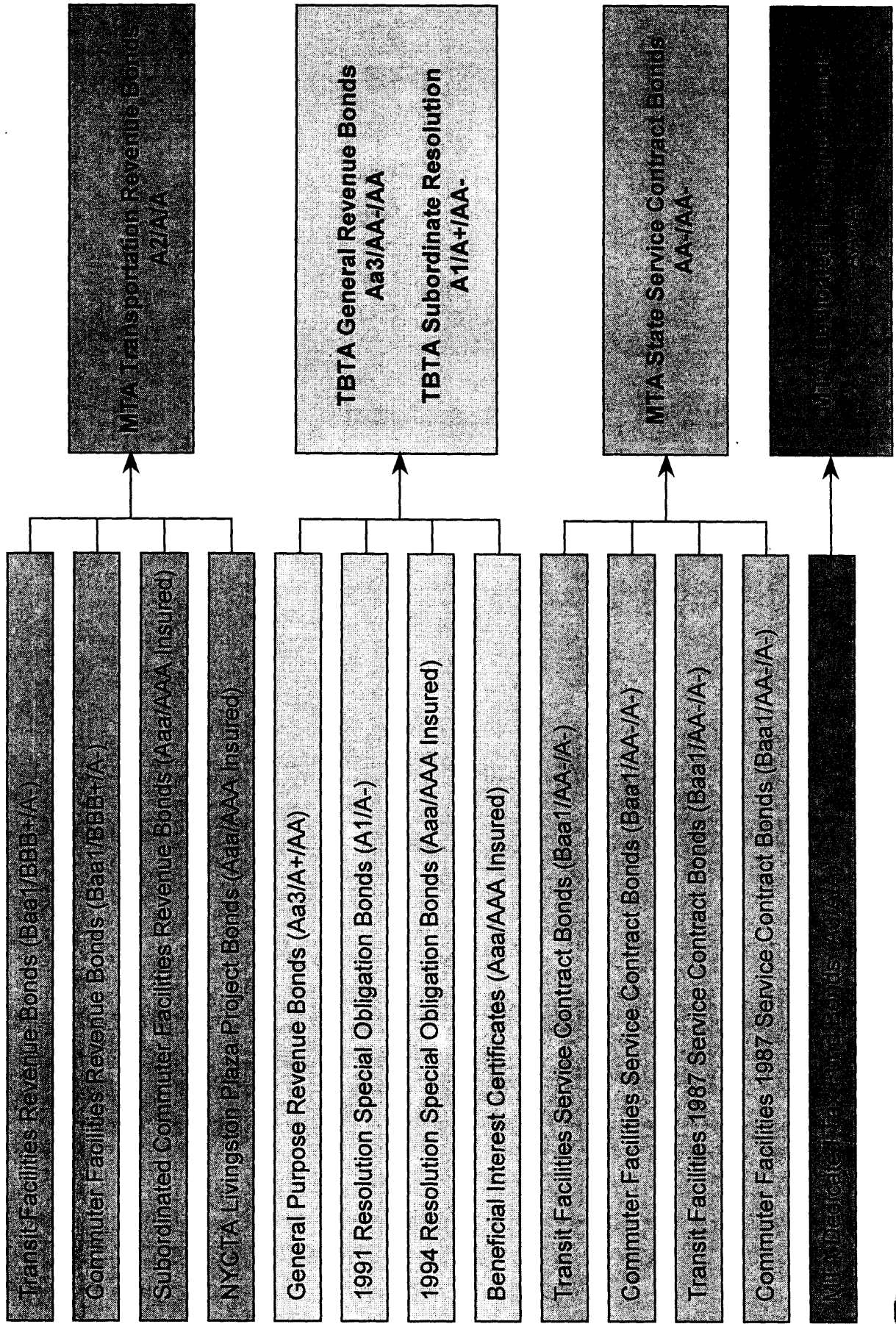
MTA Debt Restructuring – Program Highlights

- \$13.5 billion issued since May in 18 separate transactions
- Benefited from historically low long- and short-term interest rates
- On target to meet the \$4.5 billion funding goal in the current capital program
- New transportation credit received higher ratings from all three rating agencies
- Scope of program allowed MTA to take advantage of all market sectors and types of municipal debt
- Named “Municipal Deal of the Year” by Institutional Investor Magazine and “Regional Deal of the Year” by the Bond Buyer newspaper

Debt Restructuring Objectives

- **Simplify and restructure credits**
 - Consolidate Commuter and Transit credits to provide an even stronger credit
 - Allow interagency transfers for cash flow flexibility
- **Modernize resolutions to reflect:**
 - Improved creditworthiness
 - Demonstrated track record
 - Current municipal bond market
- **Restructure existing debt to:**
 - Create additional bonding capacity without increasing current maximum annual debt service
 - Better match maturity of liabilities with economic life of assets being financed
- **Release \$1.16 billion of unnecessary reserve funds for capital investment**

The Restructuring Consolidated Thirteen Credits Into Four Primary Credits



Affirmation Despite Elimination of Reserve Funds and Restrictive Financial Covenants

- *“Key credit strengths ... include...continuing improvements to the performance, efficiency, and demand of MTA’s services, the importance of the authority’s transit and commuter rail networks to the economy of the New York region, and its proven track record in managing financial challenges.”*
Fitch Ratings
- *“The rating is based on the essential mass transit service the MTA provides to the New York City metropolitan area, improving operations and ridership trends, a diverse revenue stream, and strong support from the state and city...”* **Standard & Poor’s**
- *“The new credit will provide a more diversified revenue base as security for the bonds, and increase cash flow flexibility. ... positive financial and operating trends over the last two decades despite a series of financial and economic challenges.”* **Moody’s Investors Service**

\$13.5 Billion in Bonds Were Issued in 18 Separate Transactions

<i>Credit</i>	<i>Par Amount</i>	<i>TIC</i>
Transportation 2002A (5/9/02)	\$ 2,894,185,000	5.25%
Transportation 2002B (5/28/02)	\$ 210,500,000	--
Transportation 2002C (5/29/02)	\$ 219,600,000	--
Transportation 2002D (5/29/02)	\$ 400,000,000	--
Transportation 2002E (6/12/02)	\$ 397,495,000	5.04%
Transportation 2002F (11/14/02)	\$ 446,110,000	4.76%
Transportation 2002G (11/19/02)	\$ 400,000,000	--
Transportation CP-1 (6/12/02)	\$ 750,000,000	--
Service Contract 2002A (6/5/02)	\$ 1,715,755,000	5.22%
Service Contract 2002B (6/26/02)	\$ 679,450,000	4.83%
Dedicated Tax Fund 2002A (8/7/02)	\$ 1,246,870,000	4.98%
Dedicated Tax Fund 2002B (9/4/02)	\$ 440,000,000	--
TBTA – Senior 2002B (9/19/02)	\$ 2,157,065,000	4.45%
TBTA – Senior 2002C (10/7/02)	\$ 103,305,000	--
TBTA – Subordinate 2002D (10/4/02)	\$ 261,700,000	--
TBTA – Subordinate 2002E (10/23/02)	\$ 756,095,000	5.34%
TBTA – Senior 2002F (11/8/02)	\$ 246,480,000	--
TBTA – Subordinate 2002G (11/25/02)	\$ 181,025,000	--

Weighted Average True Interest Cost for Fixed-Rate Issues: 4.99%

- \$10.3 billion fixed rate, \$3.2 variable rate debt

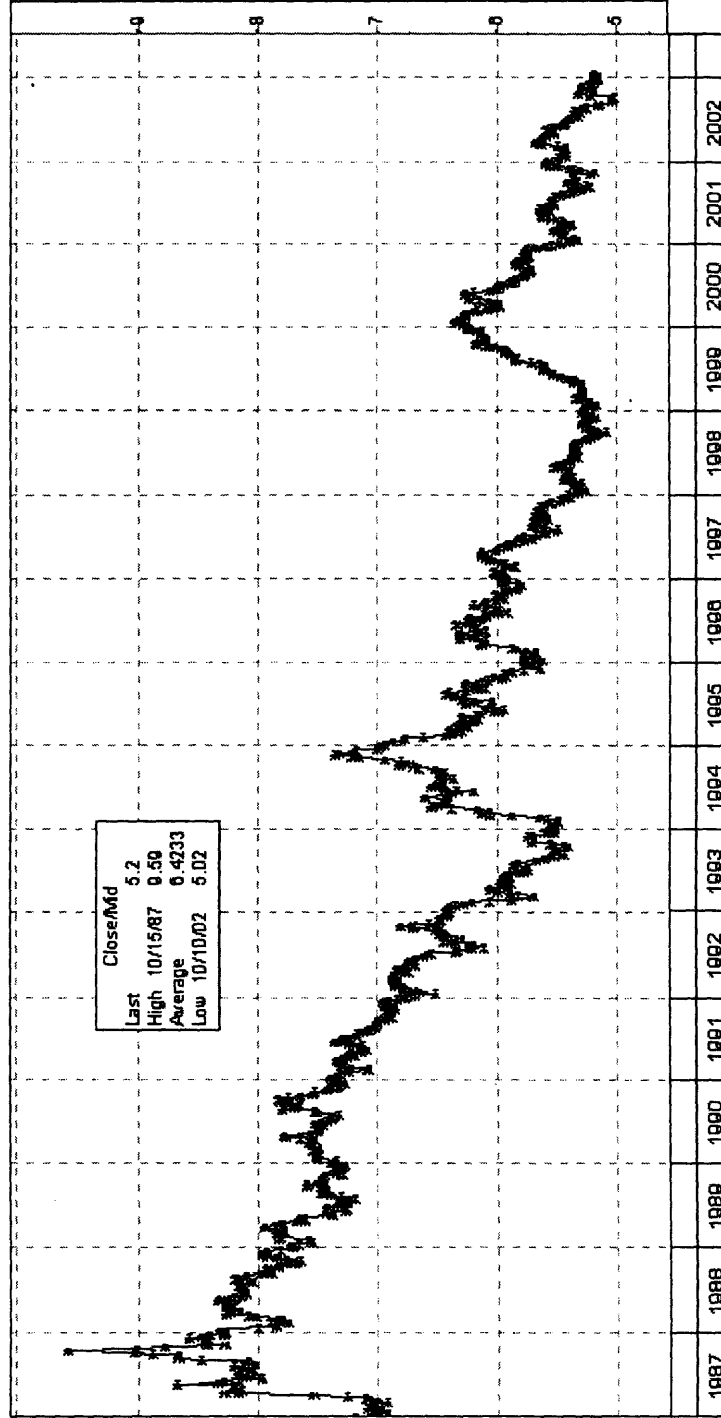
- Used 7 different senior managers and 23 co-managers

- Used \$8 billion in insurance capacity with five different bond insurers

- \$2.3 billion in liquidity facilities with 10 different banks

The MIA Took Advantage of Historically Low Interest Rates in the Municipal Market

Bond Buyer 25 Bond Revenue Bond Index



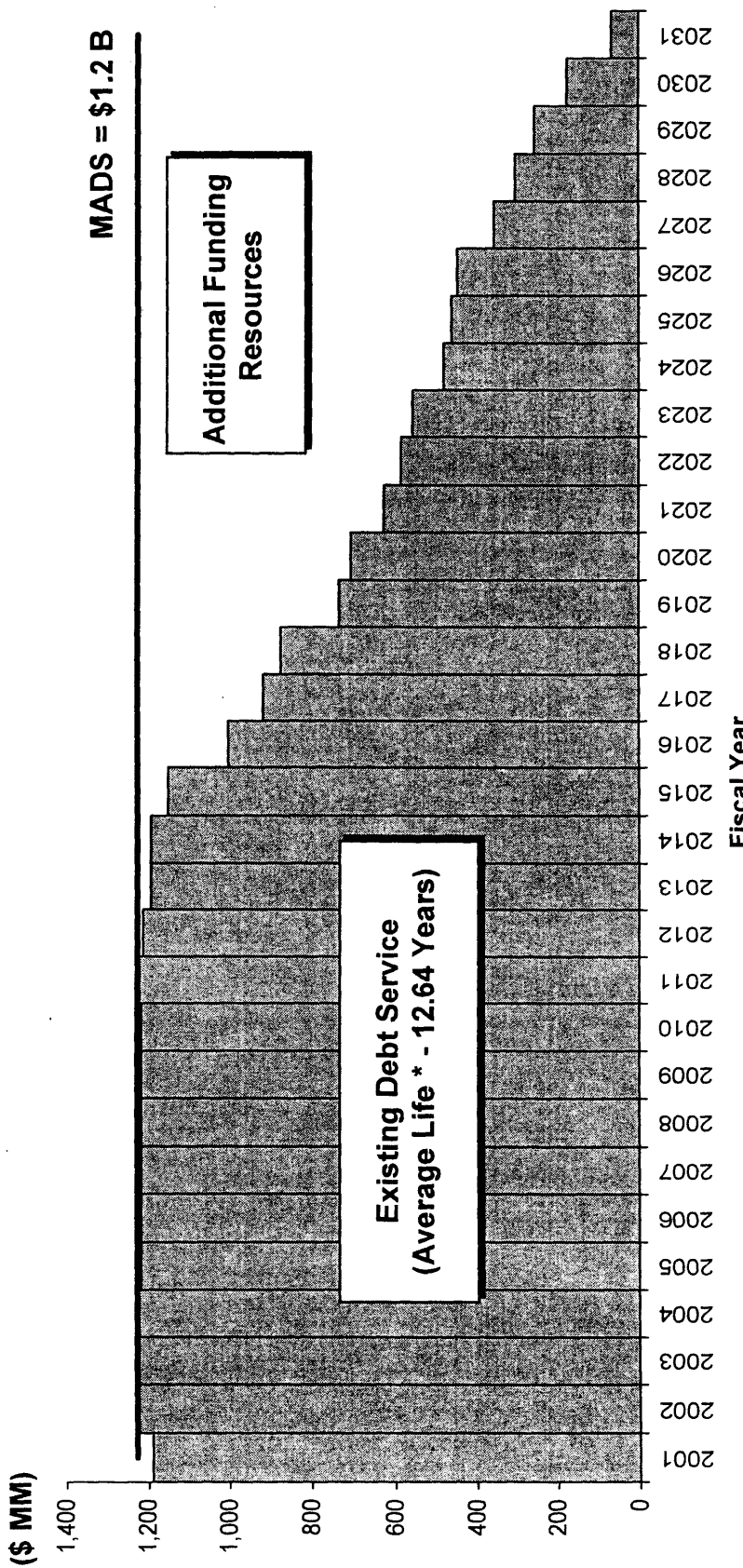
Close/Md 5.2
 Last 10/15/87 9.50
 High 6.4233
 Average 5.02
 Low 10/10/02 5.02

The MTA Was Able to Meet the Funding Target in the Capital Program

	New Money Capacity Created	Released Reserves	Total Capital Program Contribution
Transportation Revenue Credit	\$ 2,440	\$ 364	\$ 2,804
State Service Contract Credit	649	127	776
TBTA Senior Credit	452	385	837
TBTA Subordinate Credit	500	68	568
Dedicated Tax Fund Credit	<u>102</u>	<u>219</u>	<u>321</u>
Total	\$ 4,143	\$ 1,163	\$ 5,306
		Reimbursement of MTA Funds Used	(801)
		Total Proceeds	\$ 4,505

Proceeds increased from prior estimates due to favorable market conditions and passage of the federal economic stimulus package which eliminated the need for taxable debt and tender offers.

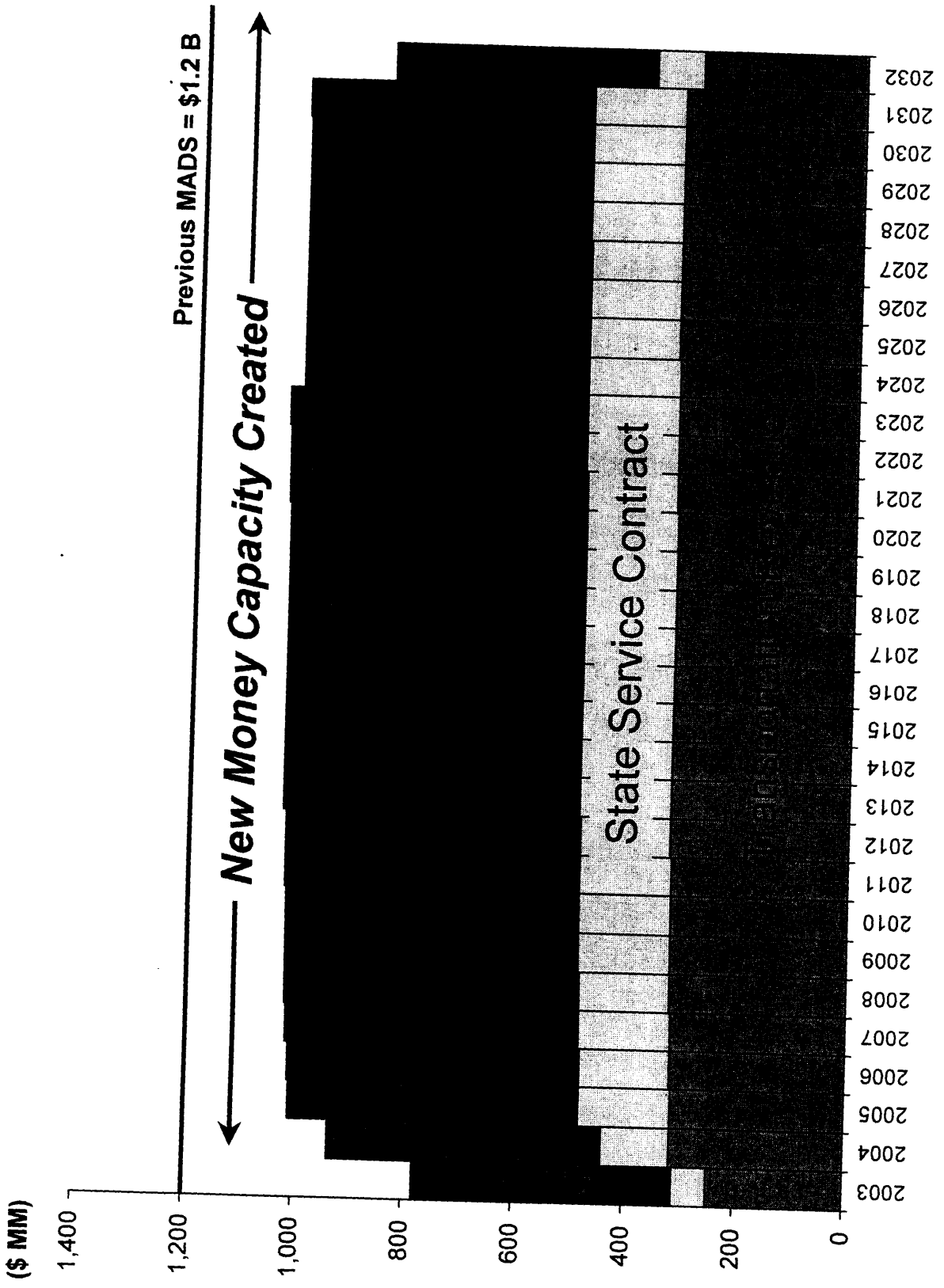
MTA's Old Debt Maturities Did Not Match the Useful Lives of Assets Financed

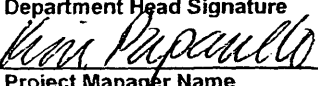


* Represents average life of bonds to be restructured.

- Useful lives of selected current assets:
 - Road and Track: 25-60 years
 - Bridges and Tunnels: 100 years
 - Buildings and Structures: 25-50 years
 - Rolling Stock: 25-35 years

Post Restructuring Debt Service Is More Efficient



Subject New Money Portion of Debt Restructuring Program
Department Executive Director/Finance
Department Head Name Katherine N. Lapp
Department Head Signature 
Project Manager Name Kim Paparello

Date January 10, 2003
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Comm.	1/27	X		
2	Board	1/30	X		

Internal Approvals			
Order	Approval	Order	Approval
3	Executive Director	2	Legal
	Chief of Staff		IST&P
	Procurement	1	Dir. of Budgets & Fin. Mgmt.
	Affirmative Action		

The MTA recently completed the refunding portion of the debt restructuring program. This involved refunding and defeasing substantially all outstanding debt, consolidating credits and modernizing bond resolutions. One of the primary goals of the restructuring was to free up new money capacity to issue bonds without increasing the overall maximum annual debt service in effect prior to the restructuring. The MTA Finance Department is now ready to start the new money portion of the program and will begin to issue the new money bonds as needed for the 2000-2004 Capital Program and timed to take advantage of favorable market conditions.

PURPOSES

1. To obtain MTA and TBTA Board approval of the following resolutions, documents and activities:
 - Multiple Series Supplemental Resolution authorizing Metropolitan Transportation Authority Transportation Revenue Obligations, including providing for the issuance of the following:
 - An aggregate principal amount of Transportation Revenue Bonds in one or more series necessary to finance up to \$2.0 billion of capital projects of the transit and commuter systems, plus applicable issuance costs, and
 - Parity Reimbursement Obligations, Parity Swap Obligations and other Parity Debt in an amount sufficient to secure any Credit Facilities and Qualified Swaps entered into in connection with the issuance of the Transportation Revenue Bonds.
 - Multiple Series Supplemental Resolution authorizing Triborough Bridge and Tunnel Authority General Revenue Obligations, including providing for the issuance of the following:
 - An aggregate principal amount of Triborough Bridge and Tunnel Authority General Revenue Obligations in one or more series necessary, together with Subordinate Revenue Obligations, to finance up to \$1 billion of capital projects of the TBTA, transit and commuter systems, plus applicable issuance costs. The combination of senior and subordinate TBTA bonds will not exceed \$1 billion.
 - Parity Reimbursement Obligations, Parity Swap Obligations and other Parity Debt in an amount sufficient to secure any Credit Facilities and Qualified Swaps entered into in connection with the issuance of the General Revenue Obligations.
 - Multiple Series Supplemental Resolution authorizing Triborough Bridge and Tunnel Subordinate Revenue Obligations, including providing for the issuance of the following:

- An aggregate principal amount of Triborough Bridge and Tunnel Authority Subordinate Revenue Obligations in one or more series necessary, together with General Revenue Obligations, to finance up to \$1.0 billion of capital projects of the TBTA, transit and commuter systems, plus applicable issuance costs. The combination of senior and subordinate TBTA bonds will not exceed \$1 billion.
 - Parity Reimbursement Obligations, Parity Swap Obligations and other Parity Debt in an amount sufficient to secure any Credit Facilities and Qualified Swaps entered into in connection with the issuance of the Subordinate Revenue Obligations.
- With respect to the above-referenced MTA Transportation Revenue Obligations, TBTA General Revenue Obligations, and TBTA Subordinate Revenue Obligations, the delegation of authority to the Chairman, the Vice Chairman, and the Executive Director of MTA or TBTA as appropriate, and in each case the Director of Budgets and Financial Management of MTA and the Director of Finance of MTA to award the obligations to members of the Board-approved MTA underwriting syndicate under certain parameters, as more fully described in such Supplemental Resolutions, and to execute and deliver in each case, where appropriate:
 - Purchase Agreements with underwriters,
 - Official Statements and other disclosure documents,
 - Remarketing Agreements,
 - Issuing and Paying Agent Agreements,
 - Dealer and Broker-Dealer Agreements,
 - Auction Agreements,
 - Credit Facilities and related Parity Reimbursement Obligations and Parity Debt,
 - Parity Swap Obligations, and
 - Related Subordinated Contract Obligations.

Any such documents may be in substantially the form of any document previously entered into by MTA or TBTA in the context of the refunding portion of the restructuring program, with such changes as approved by any one or more of the foregoing officers.

2. To approve separate reimbursement resolutions for MTA and TBTA for the reimbursement from tax-exempt bond proceeds of expenses already incurred or to be incurred.
3. To authorize the Chairman, the Vice Chairman and the Executive Director of the MTA or TBTA, as appropriate, and in each case the Director of Budgets and Financial Management 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, including the paying off and/or defeasance of outstanding commercial paper.

RECOMMENDATION:

The Board approve the above-referenced resolutions and documents and all other actions necessary and/or desirable in order to permit MTA and TBTA to issue the debt restructuring new money bonds in accordance with the attached resolutions and documents.

RESOLUTION

WHEREAS, the Metropolitan Transportation Authority (the "Authority") intends to finance the Authority's transit and commuter capital improvement program as more fully described in the accompanying staff summary (the "Project");

WHEREAS, the Authority desires to finance the Project through the issuance of tax-exempt debt;

NOW, THEREFORE, BE IT:

RESOLVED, that the statements contained in this Resolution with respect to the reimbursement of the expenditures described in this resolution are intended to be statements of official intent as required by, and in conformance with, the provisions of Treasury Regulation Section 1.150-2 (e); and

RESOLVED, that the expenditures to be reimbursed pursuant to this Resolution have been incurred within 60 days prior to the date hereof or will be incurred after the date hereof in connection with the Project; and

RESOLVED, the maximum principal amount of debt expected to be issued for the Project is \$2.2 billion; and

RESOLVED, that the Authority reasonably expects to reimburse the expenditures set forth in this Resolution with the proceeds of tax-exempt debt, including tax exempt commercial paper and bond anticipation notes, to be incurred by the Authority subsequent to the date hereof;

RESOLVED, that this Resolution shall take effect immediately.

January 30, 2003

RESOLUTION

WHEREAS, the Triborough Bridge and Tunnel Authority (the "Authority") intends to finance the Authority's capital improvement program as more fully described in the accompanying staff summary (the "Project");

WHEREAS, the Authority desires to finance the Project through the issuance of tax-exempt debt;

NOW, THEREFORE, BE IT:

RESOLVED, that the statements contained in this Resolution with respect to the reimbursement of the capital expenditures described in this resolution are intended to be statements of official intent as required by, and in conformance with, the provisions of Treasury Regulation Section 1.150-2 (e); and

RESOLVED, that the capital expenditures to be reimbursed pursuant to this Resolution have been incurred within 60 days prior to the date hereof or will be incurred after the date hereof in connection with the Project; and

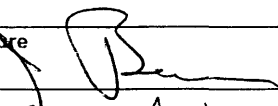
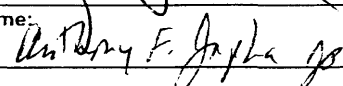
RESOLVED, the maximum principal amount of debt expected to be issued for the Project is \$1.1 billion; and

RESOLVED, that the Authority reasonably expects to reimburse the capital expenditures set forth in this Resolution with the proceeds of tax-exempt debt, including tax exempt commercial paper and bond anticipation notes, to be incurred by the Authority subsequent to the date hereof;

RESOLVED, that this Resolution shall take effect immediately.

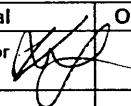
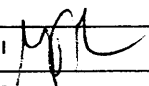

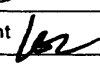
January 30, 2003

Staff Summary

Subject: Engineering and Program Management Services
Department: East Side Access
Department Head Name: Kenneth J. Bauer
Department Head Signature 
Project Manager Name: Anthony F. Japha 

Date
Vendor Name See Below
Contract Number: 98-0001-01, 98-0030-01, 98-0040-01
Contract Manager Name: David K. Cannon
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	1/27/03	X		
2	Board	1/30/03	X	X	

Internal Approvals			
Order	Approval	Order	Approval
4	Executive Director 		Civil Rights
	Chief of Staff	2	Legal 
3	Director of ES&PM 		IST&P
1	Procurement 		Other

Purpose: To request MTA Board approval to (1) increase the total contract value of a Board approved personal service contract with Parsons Transportation Group (PTG) for systems engineering services for the East Side Access project to \$162.1 million and (2) establish new contingency allocations for (a) Bechtel/URS (BURS) for program management services, (b) Parsons Brinkerhoff/STV (PB/STV) for tunnel engineering services, and (c) PTG for systems engineering services. In addition, to notify the Board of the exercise of the contract options with BURS, PB/STV, and PTG for work scheduled to begin during 2003 and 2004.

Discussion: The MTA Board has previously authorized the following professional services contracts for East Side Access (ESA):

1. BURS for program management services at a total contract cost of \$198.574 million and a contingency of \$8.5 million (July 1998, revised October 2000).
2. PTG for systems engineering services at a total contract cost of \$139.437 million and a contingency of \$10.4 million (June 1999, revised June 2001).
3. PB/STV for tunnel engineering services at a total contract cost of \$202.407 million and a contingency of \$14.2 million (January 1999, revised June 2001).

These contracts were approved for the full contract value and authorizations for various work packages have been released in phases. The Board also authorized ESA to exercise options for additional work packages upon notification of the Board.

In August 2002, the East Side Access Executive Committee approved an increase in the budget for East Side Access from \$4.351 billion to \$5.264 billion. Included in this budget increase was the allocation of additional contingencies for the BURS, PB/STV and PTG contracts. These allocations in contingency are summarized in the table below. Approval is being requested to adjust the previous Board approved contingency amounts to the levels approved by the ESA Executive Committee as indicated below. Contingency will continue to be released with the approval of the Chairman of the ESA Executive Committee.

Company	Board Authorized			Executive Committee Authorized	
	Contract Value (millions \$)	Contingency (millions \$)	Authorized Budget (millions \$)	Additional Contingency (millions \$)	Revised Budget (millions \$)
BURS	\$198.574	\$ 8.500	\$207.074	\$ 1.064	\$ 208.138
PTG	139.437	10.366	149.803	16.606	166.049
PB/STV	202.407	14.159	216.565	8.317	224.882

(Note: excludes general conditions (\$11.9 million) and construction management services (\$120.7 million) in BURS agreement)

The contingency needs to be increased at this time because of the additional design and management costs associated with the value engineering done on the Grand Central Terminal and Harold Interlocking design and to make the Board authorized budget consistent with the recent action of the ESA Executive Committee. The design for the alignment in Queens has also undergone several revisions to insure that sufficient capacity is available through the Harold Interlocking to meet future operating requirements and capacity needs. The value engineering initiatives and management cost reduction initiatives, while increasing the cost of design, have avoided additional construction costs in excess of \$200 million dollars.

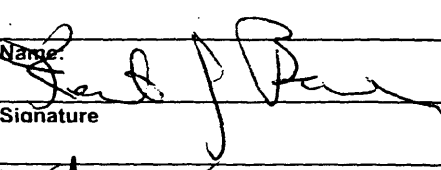
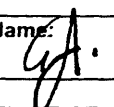
In the case of PTG, this required significant redesign and therefore an increase in the total contract value from \$149.452 million to \$162.137 million. The addition of tail tracks in Manhattan required design of associated ventilation, traction power and track systems. The need for these refinements was revealed during preliminary design. The option for work commenced by PTG in the 2003-2004 period will total \$11.247 million.

Despite these additional work efforts, current projections of the full cost of the BURS and PB/STV contracts suggest that their work can be managed within their current contract values. Therefore, no increase in the total contract value of the BURS and PB/STV contracts is being requested at this time. The options for work commenced in the 2003-2004 period will total \$42.079 million for BURS and \$47.104 million for PB/STV.

Impact on Funding: The ESA budget approved by the ESA Executive Committee in August 2002 includes these modifications. Funding is available in the ESA 2000-2004 Capital Program for these modifications, including the exercise of the options for work commenced in the 2003-2004 period.

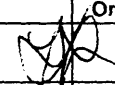
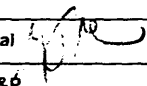
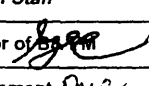
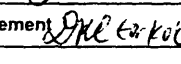
Recommendation: It is recommended that the MTA Board (1) approve the modification to the PTG contract to increase the total contract cost to \$162.137 million, and (2) establish new contingency levels for BURS, PTG and PB/STV as noted above.

Staff Summary

Subject: Queens Open-Cut Excavation at the Bellmouth
Department: East Side Access
Department Head Name: Kenneth J. Bauer 
Department Head Signature
Project Manager Name: Anthony F. Japha 

Date January 14, 2003
Vendor Name Kiewit Constructors, Inc.
Contract Number: CQ026, Modification No. 3
Contract Manager Name: David K. Cannon
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	01/27/02	X		
2	Board	01/30/02	X		

Internal Approvals			
Order	Approval	Order	Approval
4	Executive Director 		Civil Rights
	Chief of Staff	2	Legal 
3	Director of 		IST&P
1	Procurement 		Other

Purpose:

To obtain Board approval of a modification to a public works contract with Kiewit Constructors, Inc. (Contract CQ026) Queens Open-Cut Excavation at the Bellmouth) for revisions to the slurry wall layout at a cost of \$327,901.

Discussion:

The original contract for the Queens Open-Cut Excavation was awarded to the lowest responsive and responsible bidder, Kiewit Constructors, Inc. on October 7, 2002 at a cost of \$15,800,650. The Contract requires Kiewit to provide all labor, materials, plant, equipment and incidentals, required to complete the open-cut excavation at the existing Bellmouth of the 63rd Street Tunnel in Queens and build required slurry walls. The completion of this work will allow subsequent contractors direct access to the lower level of the existing 63rd Street Tunnel. The slurry wall work that was originally included in the contract has been modified to reflect a change that was recently made to the planned work for an adjacent contract that is scheduled to be awarded in the first quarter of 2003. (Queens Open-Cut Excavation at the Existing Rail Yard – CQ028). This change in design to CQ028 was needed to maintain flexibility for alternative alignment configurations that may result once a project wide agreement is reached with Amtrak. Making this change allows for the project to proceed as scheduled while negotiations with Amtrak continue.

The Contractor's proposal for the modification was \$378,709 while the MTA's estimate was \$316,196. Negotiations were held and the parties agreed to a cost of \$327,901 for the additional work. The negotiated cost is determined to be fair and reasonable.

Impact on Funding:

Funding for this work can be accommodated within the budgeted contingency for this contract.

Contract Summary:

Original Contract Amount:	\$ 15,800,650
Prior Modifications:	<u>63,542</u>
Current Contract Amount:	\$ 15,864,192
This Modification:	<u>327,901</u>
New Contract Amount:	\$ 16,192,093
% this modification to original contract:	2.1%
% all modifications to original contract:	2.5%

Alternatives:

The change could be avoided under the assumption that the final alignment will match the preferred alignment. Such an assumption could, however, result in higher costs if changes must be made in the future.

Recommendation:

It is recommended that the Board approve a contract modification to Contract CQ026, Queens Open-Cut Excavation at the Bellmouth, for revisions to the slurry wall layout at a cost of \$327,901.

LIST OF PROCUREMENTS FOR BOARD APPROVAL, JANUARY, 2003

METROPOLITAN TRANSPORTATION AUTHORITY

Page

E. Miscellaneous Procurement Contracts

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

1. **Google, Inc.** **\$28,000**

Lease of Google Search Engine Appliance

Contract No. 2-01-02283-0-0

Non-competitive – 24 months

Provide a 24-month proprietary license for MTA to use a secure Internet search engine appliance which will enable MTA's customers to search the MTA's website for information. While this search engine will allow users to access information on the MTA website that is not conveniently displayed on existing web pages, it will also provide controls that prevent users from accessing confidential information. Google's search engine is the only one that affords the required level of security, because their product includes its own server and software, and will be integrated into MTA's infrastructure – protected and secured by MTA's firewall. Other search engine appliances are externally hosted, thus requiring extensive development, maintenance and support which would leave MTA's data vulnerable to security break-ins from the vendor site.

F. Personal Service Contracts

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

2. **Administrative and Investment Services** **\$21,000,000*** **Staff Summary Attached** 57

for MTA Deferred Compensation Plans

Contract Nos. 5-01-02115-0-1 and -2

(*Combined for both contracts)

a. **Financial Administrative Services Corp. (FASCorp)
and Benefits Corp., Inc. (BenefitsCorp)**

b. **Galliard Capital Management, Inc.**

Competitively negotiated – 22 proposals – 5 years

Board approval requested to award a contract to FASCorp/BenefitsCorp, wholly owned subsidiaries of Great West, to provide administrative/record-keeping and mutual fund investment services for the MTA Deferred Compensation Plans (Section 401k and 457 Plans). The Board is also informed that the MTA Deferred Compensation Committee will award a separate contract to Galliard Capital Management, Inc. to provide stable value fund management services under the plans.

I. Modifications to Purchase & Public Work 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)

3. **Corporate Express** **\$100,000**

All-Agency Office Supplies Purchase Contract

(Not-to-Exceed)

Contract No. 5-01-00132-0-0, C/O #1

Base Amount = \$315,000

Increase funding under the all-agency contract for office supplies to cover additional supplies needed by MTAHQ for all of its departments until the expiration of the contract, i.e., 9/30/03, and until a new competitive, all-agency bidding process is conducted to replace the current contract. The additional funding is required due to increase in personnel at MTA Police Department and relocation of MTAHQ personnel to 2 Broadway; and for East Side Access.

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

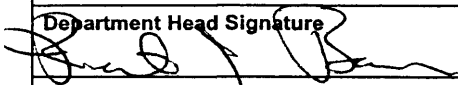
WHEREAS, in accordance with the All Agency Procurement Guidelines, the Board authorizes the award of certain non-competitive miscellaneous procurement contracts, and certain change orders to procurement, public work, and miscellaneous procurement contracts; and

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, upon the recommendation of the Executive Director, 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.

Staff Summary

Subject Administrative/Investment Services For Deferred Comp. Plans
Department MTA Deferred Compensation Committee
Department Head Name Kenneth J. Bauer
Department Head Signature 
Division Head Name Salomon C. Acosta

Date January 15, 2003
Vendor Name (a) Financial Administrative Services Corp. (FASCorp) and Benefits Corp., Inc. (Benefits Corp) and (b) Galliard Capital Management, Inc.
Contract Number 5-01-02115-0-1 and -0-2
Contract Manager Name P. Fallon
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Comm.	1/27/03	X		
2	Board	1/30/03	X		

Internal Approvals			
Order	Approval	Order	Approval
	Executive Director	3	Office of Civil Rights 
5	Chief of Staff 	4	Legal 
6	Bridges and Financial Mgmt. 		EITG
1	Procurement 	2	Deferred Compensation 

Narrative

I. PURPOSE:

To obtain Board approval to award a competitively negotiated, personal services contract to provide administrative/record-keeping services and mutual fund investment services for the MTA Deferred Compensation Plans to Financial Administrative Services Corp. (FASCorp) and Benefits Corp., Inc. (BenefitsCorp), wholly owned subsidiaries of Great West Life and Annuity Insurance Company. The Board is also informed that a separate contract will be awarded by the Deferred Compensation Committee to Galliard Capital Management, Inc. (Galliard) to provide stable value fund management services under the plans. The two contracts will be for a concurrent period of five years from July 1, 2003 through June 30, 2008, for a cost estimated not to exceed \$15,500,000 or 0.30% of total assets for FASCorp/Benefits Corp. and \$5,500,000 or 0.10% of total assets for Galliard, all of which will be paid from the assets of the plans.

II. DBE/EEO:

The MTA Office of Civil Rights established no D/M/WBE goals for these contracts.

III. DISCUSSION:

The MTA Deferred Compensation Plan began operation in 1985 and offers a choice of plans under Sections 401(k) and 457 of the Internal Revenue Code to eligible employee groups. By December 2002, the total plan assets had grown to approximately \$900 million with approximately 37,000 active and retired participants.

In order to continue the Deferred Compensation Program, and in accordance with New York State Law, which requires that a new Request for Proposals (RFP) be issued at the expiration of the existing five-year contract for the 457 Plan, a new RFP was publicly advertised and issued in June 2002. Letters advising potential proposers of the RFP's availability were mailed to a combined list of 72 firms of which 10 were WBE/MBE firms. The RFP requested separate proposals for three categories of services as follows: (i) administrative/record keeping services and mutual fund services, (ii) stable value fund management, and (iii) financial education services. The Selection Committee determined that the most expeditious course of action is to award contracts for the first two categories of services and award the financial education services category at a later date. The Deferred Compensation committee retained the services of William Mercer, Inc. to assist in evaluating the proposals.

Twenty-two firms submitted proposals to provide administrative, record-keeping, mutual fund and stable value investment services. In October, 2002, the Selection Committee, made up of finance and human resources representatives from the MTA, Bridges and Tunnels, LIRR, MNR and the NYC Transit, conducted interviews with five (5) administrative services companies (Prudential,

Citistreet, FASCorp, Fidelity and ING), and seven (7) stable value management firms (Prudential, Citistreet, Galliard, Fidelity, Dwight, PIMCO and Vanguard). The Selection Committee found FASCorp/BenefitsCorp to be the most technically qualified and most cost-effective proposer to provide the administrative/record keeping services. Galliard was found to be the most technically qualified to provide the stable value structure and the services for the Stable Value Fund.

Third Party Administrator – The current five-year contract for administrative services, which was competitively awarded with Board approval in 1998 to Prudential Insurance Co. of America, will expire on June 30, 2003. This Prudential contract was largely an “unbundled” contract, i.e., Prudential provided all administrative and some investment services, and most of the investment options were independent of Prudential; and the Committee could change the investment services if desirable. The contract with FASCorp/BenefitsCorp will be completely “unbundled.” FASCorp will provide the administrative and record keeping services and mutual fund investment services and BenefitsCorp, a registered broker/dealer will handle all communication with participants as part of the administrative services. FASCorp/BenefitsCorp will coordinate with the mutual funds managers and Galliard, the stable value fund manager, to continue the various investment fund options to participants. At this time, the Committee does not expect significant changes in the mutual fund options offered to participants.

Stable Value Fund – The current program has approximately \$428 million invested with Prudential Investments, T. Rowe Price, Galliard and the Wells Fargo Stable Return Fund. Under the new contract, the Stable Value Fund will be composed of three sub-funds: the Liquidity Fixed Maturity Fund (40%), the Intermediate Government Fund (30%), and the Lehman Brothers Aggregate Fund (30%). Galliard will have overall responsibility for the funds with various sub-managers. First, Galliard, which is a subsidiary of Wells Fargo Company, will utilize the current Wells Fargo Stable Return Fund as the Liquidity Fixed Maturity Fund. This fund is the benefit-responsive, short- to intermediate-term fixed portfolio. Galliard will subcontract with Pacific Investment Management Company (PIMCO) to manage the Intermediate Government Fund. As to the third fund, Galliard, along with PIMCO and Wellington Management Company, LLP, will manage the Lehman Brothers Aggregate Fund. The actively managed funds will have insurance “wrappers” and will not be subject to any one firm’s financial health. The funds will be held in trust. In addition, by choosing this structure, the Committee hopes to promote rate competition among the providers and that competition should produce higher rates of return to the participants. The Committee will be able to adjust the percentage distribution noted above as cash flows and experiential performance dictate.

IV. HISTORICAL INFORMATION:

The current contract holder for the administrative services is Prudential Retirement Services. Prudential has been the plan administrator since 1988. Neither FASCorp nor BenefitsCorp has previously had a contract with the MTA for these services.

V. IMPACT ON FUNDING:

None. There is no cost to the MTA for this plan. All administrative costs for the program will be paid from the assets of the plan.

VI. ALTERNATIVES:

1. **Do not continue the Defined Contribution Plans.** This is not recommended as this program has been widely accepted by both non-represented and represented employees in providing additional retirement resources at no additional cost to the MTA or its subsidiary agencies.

VII. RECOMMENDATION:

It is recommended that the Board approve the award of the competitively negotiated, personal services contract with FASCorp and BenefitsCorp, wholly owned subsidiaries of Great West, for providing administrative/record-keeping services and mutual fund investment services for the MTA Deferred Compensation Plans. The contract will be for a period of five years effective July 1, 2003 through June 30, 2008 for a cost estimated not to exceed \$15,500,000, which will be paid from the assets of the plan.



LIST OF PROCUREMENTS FOR BOARD APPROVAL, JANUARY 2003

NEW YORK CITY TRANSIT

Procurements Requiring Two-Thirds Vote:

Page

A. Non-Competitive Purchases and Public Work Contracts

(Staff Summaries required for all items greater than: \$100K Sole Source; \$250K Other Non-Competitive.) Note – in the following solicitations, NYC Transit attempted to secure a price reduction. No other substantive negotiations were held except as indicated for individual solicitations.

- | | | | |
|---|-----------------------|-------------------------------|----|
| 1. Railroad Friction Products Corp.
Sole Source – Two year contract
Solicitation #18-42-3304
Purchase of non-flanged brake shoes used on R142/R142A/R143 subway cars. | \$1,280,772.00 (Est.) | <u>Staff Summary Attached</u> | 65 |
| 2. Orion Bus Industries
Sole Source – Three year omnibus contract
Omnibus approval for various Orion bus parts. | \$5,000,000.00 (Est.) | <u>Staff Summary Attached</u> | 66 |
| 3. Prestige Equipment
No Responsive Bids – Three month contract
Contract #01J8315
The contractor will furnish, deliver and assemble one used Ingersoll rail planer mill at the Linden Shop in Brooklyn. This machine will provide the Division of Track with the in-house capability to convert 39' 100-lb. heat-treated running rails into guard rails and to fabricate nosings. The procurement was publicly bid and three non-responsive bids were received. Two bidders took such extreme exceptions to the terms and conditions that NYC Transit deemed negotiations with them to be not worth pursuing. Prestige's non-responsiveness was due to the age of the machine, which could be waived in a negotiated procurement. Negotiations were held with Prestige, and a price of \$390,000 was agreed upon. This price is 2% lower than the in-house estimate of \$399,000, and compares to an estimated price of \$3 to \$4 million for a new machine. The used machine has a life expectancy of at least 20 years and will be supported by Ingersoll, the OEM, during its remaining life. | \$390,000.00 | | |
|
<u>C. Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)</u>
(Staff Summaries required for items requiring Board approval.) | | | |
| 4. ABC Construction Contracting, Inc.
Three Proposals – Three year contract with an option for one additional year
Contract #C-33256
Indefinite quantity asbestos abatement. | \$2,500,000.00 (Est.) | <u>Staff Summary Attached</u> | 67 |

Procurements Requiring Majority Vote:

Page

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.)

5. Underwriters Laboratories, Inc. \$4,764,500.00 (Est.) Staff Summary Attached 69
Contract #CMM-1126.4
Modification to extend the contract to perform worldwide in-plant material inspections and audits.

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.)

6. STS/US&S/RWKS Comstock (JV) \$1,492,000.00 Staff Summary Attached 71
Contract #S-32333.77
Modification to the contract for design, procurement and installation of an Automatic Train Supervision System.

K. Ratification of Completed Procurement Actions (Involving Schedule E-J)

(Staff Summaries required for items requiring Board approval.)

7. Edison Lithographing & Printing \$500,000.00 (Est.) Staff Summary Attached 73
Corp.
Contract #97C6919.5
Modification to extend the term of the contract for printing and delivering subway station posters and car cards.
8. Slattery Skanska/Gottlieb \$2,200,000.00 Staff Summary Attached 74
Skanska (JV)
Contract #A-35647.28
Rehabilitation of the Lexington Avenue and 53rd Street station.

BOARD RESOLUTION

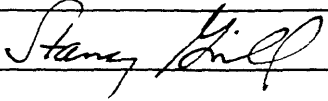
WHEREAS, in accordance with Section 1265-a and 1209 of the Public Authorities Law and the All Agency Procurement Guidelines, the Board authorizes the award of certain non-competitive purchase and public work contracts, and the solicitation and award of request for proposals in regard to purchase and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

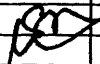
WHEREAS, in accordance with the All Agency Procurement Guidelines, the Board authorizes the award of certain non-competitive miscellaneous service and miscellaneous procurement contracts, and certain change orders to purchase, public work, and miscellaneous service and miscellaneous procurement contracts; 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, upon the recommendation of the Executive Director, the Board resolves as follows:

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

Subject Request for Authorization to Award Various Procurements					
Department Materiel					
Department Head Name Stanley J. Grill					
Department Head Signature 					
Project Manager Name Constance Mistretta-Thomas					
Board Action					
Order	To	Date	Approval	Info	Other
1	Committee	2/24/03			
2	Board	2/27/03			

January 7, 2003		
Vendor Name		
Contract Number		
Contract Manager Name		
Table of Contents Ref #		
Internal Approvals		
	Approval	Approval
	President	X Telecomm and Info Servi
	Executive VP	X Subways
X	Capital Prog. Management	X Buses
	Law	X Off. Of 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 procurements in the following categories:

Schedules Requiring Two-Thirds Vote (or more, where noted)

	<u># of Actions</u>	<u>\$ Amount</u>
Schedule A: Non-Competitive Purchases and Public Work Contracts	3	\$ 6.7M
Schedule B: Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)	None	None
Schedule C: Competitive Requests for Proposals (Award of Purchase and Public Work Contracts)	1	\$ 2.5M
Schedule D: Ratification of Completed Procurement Actions	None	None

Schedules Requiring Majority Vote

Schedule E: Miscellaneous Procurement Contracts	None	None
Schedule F: Personal Service Contracts	None	None
Schedule G: Miscellaneous Service Contracts	None	None
Schedule H: Modifications to Personal/Miscellaneous Service Contracts	1	\$ 4.8M
Schedule I: Modifications to Purchase and Public Work Contracts	1	\$ 1.5M
Schedule J: Modifications to Miscellaneous Procurement Contracts	None	None
Schedule K: Ratification of Completed Procurement Actions	2	\$ 2.7M

TOTAL	8	\$ 18.2M
--------------	----------	-----------------

BUDGET IMPACT: The purchases/contracts will result in obligating NYC Transit funds in the amount listed. Funds are available in the current NYC Transit 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.)

NON-COMPETITIVE PURCHASES AND PUBLIC WORK CONTRACTS
REQUIRING TWO-THIRDS BOARD APPROVAL

Board Mtg. January 30, 2003

<u>VENDOR/CONTRACTOR</u>	<u>ITEM/ PURPOSE</u>	<u>COST</u>
1. Railroad Friction Products Corp. Laurinburg, NC	Solicitation #18-42-3304 Purchase of Non-Flanged Brake Shoes For use on R142/R142A/R143 NYC Transit subway cars Requested by the Department of Subways Michael Lombardi, Acting Department Head Two year contract	\$ 1,280,772.00 (Estimated)

REMARKS

This authorization will cover the purchase of an estimated quantity of 42,480 non-flanged brake shoes for use on R142/R142A/R143 ("New Train") NYC Transit subway cars. Railroad Friction Products Corp. (RFPC) is the only known manufacturer of non-flanged brake shoes designed for use on NYC Transit New Trains. Although flanged brake shoes are the standard for use on the older subway cars in NYC Transit's fleet (R26 through R68A), the New Train's brake systems are designed to accommodate only non-flanged brake shoes. While DCE has had numerous discussions with other suppliers of brake shoes, no other supplier has expressed interest in designing and testing non-flanged brake shoes for use by NYC Transit. Negotiations with RFPC resulted in a reduction of the quoted unit price from \$30.45 to \$30.15 each, which is 1.0% less than the previous price of \$30.45 each negotiated in 2001. The price of \$30.15 each represents a discount of 33% off RFPC's 2002 published list price of \$45.00.

NON-COMPETITIVE PURCHASES AND PUBLIC WORK CONTRACTS
REQUIRING TWO-THIRDS BOARD APPROVAL

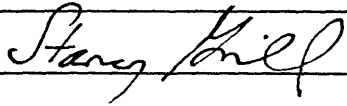
Board Mtg. January 30, 2003

<u>VENDOR/CONTRACTOR</u>	<u>ITEM/ PURPOSE</u>	<u>COST</u>
2. Orion Bus Industries Oriskany, NY	Furnish and Deliver Various Orion Bus Parts Used for normal stock and non-stock requirements Requested by the Division of Materiel Stanley Grill, Division Head Three year omnibus approval	\$5,000,000.00 (Estimated)

REMARKS


This authorization will cover approximately 5,915 items identified as obtainable only from Orion Bus Industries. These items are advertised a minimum of once every twelve months to seek additional competition. This omnibus approval will eliminate the need to advertise and prepare individual procurement staff summaries for each procurement over \$15,000.00. A price analysis for all sole source items purchased from Orion Bus Industries over the past three years has shown an overall price decrease of .62% annually. Presently, NYC Transit receives a 25% discount off Orion's published price list. This discount is the largest discount offered to any of Orion's customers.


Staff Summary

Subject Indefinite Quantity Asbestos Abatement
Department Procurement
Department Head Name Stanley J. Grill
Department Head Signature 
Project Manager Name Carl Hamann

Date January 7, 2003
Vendor Name ABC Construction Contracting, Inc.
Contract Number C-33256
Contract Manager Name Mary Helmsworth-Hamby <i>MH2</i>
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other

Internal Approvals			
Order	Approval	Order	Approval
7	President 	X 1	System Safety
6	Executive VP		Subways
	Capital Prog. Management		Buses
2	Law <i>W.J.M.C.</i>	X 4	Civil Rights

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval
3	Budget Approval		Human Resources		Labor Relations	5	Material 

PURPOSE:
To obtain Board approval to award an indefinite quantity asbestos abatement contract on a competitive basis to ABC Construction Contracting, Inc. for an estimated cost of \$2,500,000.00 and with a contract duration of 36 months and an option to extend the agreement for an additional 12 months at the same terms and conditions.

DISCUSSION:
The contractor will remove and dispose of asbestos containing materiel, ranging from floor tiles to pipe insulation, as required, for the Office of System Safety (OSS), on a work order basis. The cost of the work order will be based on the unit prices established in the contract. The OSS contract is different from the contracts C-332501/1/2 Indefinite Quantity Environmental Remediation approved at the October Board meeting and requested for CPM. Through its contracts, OSS supports the needs of the operating departments and responds to emergencies, while the CPM contracts support the capital program. A full range of remediation services – including asbestos abatement, battery removal and disposal, and pigeon dropping removal - are handled through the CPM contracts, while equivalent services are provided directly to the operating departments under separate contracts. Firms selected to work for OSS will provide asbestos abatement as well as lead abatement when it is incidental to the asbestos work.

In April 2002, the Board authorized issuing an RFP for this work. The RFP was conducted as a two step process. During the first step, 10 firms submitted qualification statements. The statements were reviewed for comparable experience performing asbestos abatement in a transit environment, for experience providing asbestos abatement in New York City, and for problems that might prevent them from being found responsible for an award. After the review, a short list was developed. Five firms were found qualified and were recommended to receive the RFP and submit a cost and technical proposal. The five firms were International Asbestos Removal (IAR); Admiral Environmental, LLC (Admiral); ETS Contracting, Inc. (ETS); ABC Construction Contracting, Inc. (ABC) and LVI Environmental Services, Inc. (LVI). Four firms submitted cost and technical proposals but LVI did not. It advised NYCT that it did not believe that it could be competitive on small dollar value jobs. The committee then reviewed the technical proposals and invited all four firms to make oral presentations. Based on the technical proposals and the oral presentations, the committee recommended negotiations be held with three firms. IAR was not recommended for negotiations. IAR consistently failed to follow instructions concerning the submittal requirements, repeatedly expressed doubts about its bonding capability and was unable to adequately demonstrate its familiarity with the scope of work. Negotiations were held with Admiral, ETS and ABC and focused on prices that seemed very high compared to previous contracts and the Engineer's Estimate (EE). For this unit price contract, the proposers were directed to provide pricing for about 10 items that asbestos abatement work typically involves. The unit prices were multiplied by an estimated quantity to facilitate comparison. The EE was \$2,500,217 and: ABC offered \$2,573,360; ETS offered \$3,064,428 and Admiral offered \$3,230,191.

Staff Summary

Questions were raised by the proposers about the definition of unit price for scaffolding. The BAFO instructions directed the proposers to price scaffolding on a standard size frame as the basic unit.

BAFOs were received on October 21, 2002 and were as follows: ABC \$2,415,317; ETS \$2,970,438; Admiral \$3,478,861. Based on the attached evaluation criteria, the Committee recommended both ABC and ETS for award. Their BAFOs are considered fair and reasonable both by Procurement and OSS. The Committee did not recommend Admiral for award as its pricing was about 41% higher than ABC, 17% higher than ETS and 39% higher than the EE. The ETS award was approved by the November Board, but ABC was held back as ABC had advised us that it was having unforeseen difficulty obtaining the required bonding. This bonding issue has been resolved and therefore ABC is now recommended for award.

The contract amount does not represent a commitment on the part of NYCT to the awardee beyond the minimum payment of \$5,000. As part of the proposal process, the firms submitted unit prices for approximately 50 different work items that commonly comprise asbestos abatement work. Costs are incurred only when a work order is issued and work is performed. When the need for a work order is identified, a scope and specifications are developed which identify the location, type and quantities of the materials to be removed from the site. The firm with the overall lowest price, all other factors being equal, will receive the work order assignment. Should the work require any specialty item, a price will be negotiated.

Reference checks were made on ABC and confirmed that the firm's performance is satisfactory. The firm has previously performed asbestos abatement work for a number of private construction firms and has worked for such public agencies as LIRR and the School Construction Authority

Background investigations and materials submitted by this firm disclosed no "significant adverse information" within the meaning of the All-Agency Responsibility Guidelines. This contractor has been found fully responsible for award.

MBE/WBE:

The Affirmative Action goals for the project have been established at 15% Minority Business Enterprises (MBE) and 5% Women owned Business Enterprises (WBE). A contract will not be awarded until the Department of Business Programs requirements are satisfied

PREVIOUS WORK OF THE SELECTED ENVIRONMENTAL REMEDIATION CONTRACTORS FOR MTA OR AFFILIATES:

ABC Construction Contracting, Inc.	Long Island Railroad	Contract # 5385
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CAPITAL PROGRAM REPORTING:

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

ALTERNATIVE:

Perform the work using in-house personnel. At this time, NYCT lacks available staff to perform the specific tasks required when needed or when emergencies arise.

IMPACT ON FUNDING:

The cost of these contracts will be funded with 100% MTA funds. A WAR Certificate will be issued for each work order.

RECOMMENDATION:

That the Board approve this request to award an indefinite quantity asbestos abatement contract on a competitive basis to ABC Construction Contracting, Inc. for an estimated cost of \$2,500,000.00 and with a contract duration of 36 months, and an option to extend the agreement for an additional 12 months at the same terms and conditions.

MODIFICATIONS TO
PERSONAL/MISCELLANEOUS SERVICE CONTRACTS
REQUIRING BOARD APPROVAL

Board Mtg. January 30, 2003

<u>VENDOR/CONTRACTOR</u>	<u>ITEM/PURPOSE</u>	<u>CONTRACT PRICE/CONTRACT HISTORY</u> <u>BREAKDOWN</u>	<u>OST/PRICE</u>
5. Underwriters Laboratories, Inc. Melville, NY	Contract #CMM-1126	Original Contract	\$ 11,399,158.31
	Worldwide Technical Inspection	Prior Modifications	\$ 137,421.36
	Services	Budgetary Adjustments	<u>\$ 2,982,748.33</u>
	Requested by the Department	Adjusted Contract Amount	\$ 14,519,328.00
	of Materiel		
	Stanley Grill, Department Head	For Approval	\$ 4,764,500.00
	Mod. #4		(Estimated)
			(32.8%)
Submitted for:	Original Contract	% of Mods to Org. Contr.	(69.2%)
Approval	Award Date: 3/30/1998		
	Original Contract Subject		
	To Board Approval: <u>YES</u>		
	Original Contract Let By		
	Competitive Process: <u>YES</u>		

REMARKS

In March 1998 Underwriters Laboratories (UL) was awarded a five year contract to perform in-plant material inspections and audits at locations throughout the world. The inspection categories included: steel and miscellaneous material, special track lumber, electrical, paints and chemicals. Due to critical safety aspects of the materials to be inspected, inspectors must be appropriately certified for the various inspections and provide inspection reports detailing adherence to NYC Transit's specifications and/or drawings prior to shipment. This modification will extend the contract term by eight months to November 30, 2003 at a 2% rate increase and allow sufficient time to competitively solicit and award the successor contract. It is estimated that \$3,600,000 will be expended during the eight month extension. During the remaining months of the base term, \$1,208,772 will be required to satisfy current commitments for increased inspections of capital items, including signal and communications equipment. Extending this contract will prevent a lapse in the inspections performed by the contractor that could delay a number of vital Capital Program Management and Operations Department projects.

MODIFICATIONS TO
PURCHASE AND PUBLIC WORK CONTRACTS
REQUIRING BOARD APPROVAL

Board Mtg. January 30, 2003

<u>VENDOR/CONTRACTOR</u>	<u>ITEM/PURPOSE</u>	<u>CONTRACT PRICE/CONTRACT HISTORY BREAKDOWN</u>	<u>COST/PRICE</u>
6. STS/US&S/RWKS Comstock (JV) New York, NY	Contract #S-32333 Design, Procurement and Installation of an Automatic Train Supervision System Requested by the Department of Capital Program Management Mysore Nagaraja, Department Head AWO #77	Original Contract Prior Modifications Adjusted Contract Amount For Approval % of Mods to Org. Contr.	\$128,375,000.00 <u>\$ 2,255,488.02</u> \$130,630,488.02 \$ 1,492,000.00 (1.1%) (2.9%)
Submitted for: Approval	Original Contract Award Date: 11/3/97 Original Contract Subject to Board Approval: <u>NO</u> Original Contract Let By Competitive Process: <u>YES</u>		

REMARKS

The original contract was awarded in November 1997 for the design and installation of an Automatic Train Supervision System (ATS) for the "A" Division. The ATS project provides for equipping the new Rail Control Center (RCC) and furnishing and installing wayside equipment. When the contract for the RCC was awarded, it was planned that the control center at the 370 Jay Street Subway Control Center would be moved to the new RCC, but that the servers and the Emergency Booth Communication System/Mass Call (EBCS/Mass Call) would remain at Jay Street. There are over 100 servers that support the communication and information needs of NYC Transit. The EBCS/Mass Call provides emergency communication to and from the token booths. However, now that the 370 Jay Street building is planned to be shut down, this communication focal point and the EBCS/Mass Call system must be re-created at the new RCC. In addition, several security initiatives are being undertaken as a result of the September 11, 2001 events. In November, the Board approved the first of a series of AWOs that will be required to implement these changes. This AWO provides for electrical, telecommunication and grounding provisions for the installation of approximately 37 servers at the RCC; modification to the main distribution frame room to protect equipment from water damage; additional consoles in the operating theatre and ATS training room for EBCS/Mass systems. The costs for these items are approximately \$1.4M, \$15K and \$77K respectively. Additional AWOs will be presented in the next several months to cover the remaining work required to recreate these systems and make the RCC fully functional. The contractor's proposal was \$2,034,150 vs. NYC Transit's estimate of \$1,634,241. The negotiated price of \$1,492,000 is 8.7% below the Engineer's estimate and is considered fair and reasonable.

RATIFICATION OF COMPLETED PROCUREMENT ACTIONS
REQUIRING MAJORITY BOARD APPROVAL

Board Mtg. January 30, 2003

<u>VENDOR/CONTRACTOR</u>	<u>ITEM/PURPOSE</u>	<u>CONTRACT PRICE/CONTRACT HISTORY</u> <u>BREAKDOWN</u>	<u>COST/PRICE</u>
7. Edison Lithographing & Printing Corp. North Bergen, NJ	Contract #97C6919	Original Contract	\$ 2,055,285.00
	Extension of Time for	Prior Modifications	\$ 700,000.00
	Printing and Delivering	Budgetary Adjustments	\$ 1,746,000.00
	Subway Station Posters	Adjusted Contract Amount	\$ 4,501,285.00
	and Car Cards		
	Requested by the	For Approval	\$ 500,000.00
	Department of MetroCard		(Estimated)
	Operations		(11.1%)
	Tom Savage, Department	% of Mods to Org. Contr	(143.3%)
	Head		
Submitted for:	Mod. #5	Original Contract	
Approval	Original Contract	Award Date: 11/1/97	
	Original Contract Subject	To Board Approval: <u>NO</u>	
	Original Contract Subject	Competitive Process: <u>YES</u>	

REMARKS

In November 1997, Edison was awarded a three-year indefinite quantity contract for the printing and delivering of subway station posters and car cards. Since award, there have been five budgetary adjustments for additional funding and four modifications, which increased the award amount by \$2,446,000 from \$2,055,285 to \$4,501,285 and extended the term through 12/31/02. This modification is required to extend the contract by seven months to ensure uninterrupted and continuous printing of required posters and car cards until a new contract is in place. During this extension the scope of work and pricing will remain unchanged. Urgent printing assignments prevented MetroCard operations from initiating a new procurement or modification sooner. A review of the producer price index and Bureau of Labor Statistics indicate that the cost of paper and labor has increased by 8% and 16% over the last 5 years. Based on these increases Edison's prices are still considered fair and reasonable.

RATIFICATION OF COMPLETED PROCUREMENT ACTIONS
REQUIRING MAJORITY BOARD APPROVAL

Board Mtg. January 30, 2003

<u>VENDOR/CONTRACTOR</u>	<u>ITEM/PURPOSE</u>	<u>CONTRACT PRICE/CONTRACT HISTORY</u> <u>BREAKDOWN</u>	<u>COST/PRICE</u>
8. Slattery Skanska/ Gottlieb Skanska (JV) New York, NY	Contract #A-35647	Original Contract	\$ 58,951,805.00
	Lexington Avenue and 53rd Street Station Rehabilitation	Prior Modifications	\$ <u>1,755,208.69</u>
	Requested by the Department Capital Program Management	Adjusted Contract Amount	\$ 60,707,013.69
	Mysore Nagaraja, Department Head	For Approval	\$ 2,200,000.00 (3.6 %)
	AWO #28	% of Mods to Org. Contr.	(6.7 %)
	Submitted for: Approval	Original Contract Award Date: 1/31/01	
	Original Contract Subject to Board Approval: <u>NO</u>		
	Original Contract Let By Competitive Process: <u>YES</u>		

REMARKS

The purpose of this project is to improve passenger circulation within this congested station by: providing a new mezzanine extension to connect the existing Lexington Avenue/53rd Street mezzanine with the Third Avenue/53rd Street mezzanine, constructing an additional escalator on the station mezzanine extension at the Lexington Avenue side, a new elevator leading to the platform, and expanding the width of the transfer corridor area near the Lexington/53rd St. escalators. To install the new escalator, it was necessary to erect a barricade on the E & V line platform for the period from September 1, 2002 until September 20, 2004, the current scheduled completion date for the escalator. This barricade has created a restricted clearance area between it and the platform edge, limiting the available area for passenger circulation and exacerbating the existing congested conditions. To improve passenger safety and circulation and to minimize the extended use of NYC Transit personnel to direct passengers, it is in the best interests of NYC Transit to accelerate the installation of the escalator from its currently scheduled completion date of September 20, 2004. The proposed acceleration of the escalator installation, related architectural, electrical and mechanical work and the mezzanine structural work will begin on January 15, 2003 and be completed by October 15, 2003, resulting in the escalator being completed 11 months earlier than originally forecasted. Upon completion of the escalator installation and associated architectural work, the barricade will be removed and the escalator will be ready for testing by NYC Transit and anticipated to be placed in service for passenger use approximately two weeks later, by October 31, 2003. As a result of negotiations, the contractor and NYC Transit agreed to a total lump sum cost of \$2,200,000 of which \$2,000,000 represents the contractor's direct labor and overhead which will be paid in 9 equal monthly progress payments of \$222,222. The remaining \$200,000, which represents the contractor's profit for the work, will be paid upon the successful completion of the escalator on October 15, 2003. For each day thereafter that the contractor does not complete the installation by October 15, 2003, NYC Transit shall deduct the cost of \$13,284 per day from the profit component of the agreed upon sum. This represents the cost of NYC Transit station personnel required to be used after October 15, 2003 up to and including October 31, 2003 if the contractor fails to complete the work as scheduled. If the contractor fails to complete the work by October 31, 2003, the contractor shall be subject to a daily liquidated damage rate of \$13,284 for each day until Beneficial Use of the escalator is achieved. The agreed upon amount is within 7% of the NYC Transit estimate. On December 17, 2002, the Senior Vice President and Chief Engineer authorized this work to start retroactively in order for the contractor to adequately prepare for the acceleration to begin on January 15, 2003.

LIST OF PROCUREMENTS FOR BOARD APPROVAL JANUARY 2003

MTA LONG ISLAND RAIL ROAD

Procurements Requiring Two-Thirds Vote

Page

Schedule A: Non-Competitive Purchase and Public Works Contracts

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

- | | | | | |
|-----------|--|--------------------------------------|--------------------------------------|-----------|
| 1. | Knorr Brake Corp.
Sole Source | \$1,679,100
Not to Exceed | <u>Staff Summary Attached</u> | 83 |
| | <p>LIRR requests approval to award a sole source procurement to Knorr Brake Corp. ("Knorr") for the purchase of 87 Air Supply Units. The Air Supply Units, which will be installed by LIRR forces, is part of the Operating Budget funded portion of LIRR's M3 Overhaul Program. The Knorr Units, which will replace the WABCO D-4A Air Compressor, will result in performance improvement, particularly reliability. Based on LIRR's price analysis, the \$19,300 Unit Price is considered fair and reasonable.</p> | | | |
| 2. | Transit Sourcing Services
Sole Source
BPO #1695 | \$311,655
Not to Exceed | <u>Staff Summary Attached</u> | 84 |
| | <p>LIRR requests approval to award a sole source blanket order procurement to Transit Sourcing Services for the purchase of the wheels and axles for the C-3 passenger bi-level coaches for a three-year period. The wheels and axles will enable LIRR to maintain operational reliability on the C-3 fleet. The price for this material, which has decreased 22% since last purchased in June 2000, is considered fair and reasonable.</p> | | | |

Procurements Requiring Two-Thirds Vote

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

(Staff Summaries only required for items requiring Board approval)

- | | | | | |
|-----------|---|---|--------------------------------------|-----------|
| 3. | (1) ABC Construction Contracting Inc.
(2) PDG, Inc.
(3) Pinnacle Environmental Corp.
(4) Trio Asbestos Removal Corp.
Trio General Construction Corp.
RFP
Contract #s 5859-5862 | \$12,000,000
Not to Exceed/
Five-year Period | <u>Staff Summary Attached</u> | 85 |
| | <p>LIRR requests Board approval to award four Task Order Indefinite Quantity type contracts for three separate categories of abatement work. Awards to the four contractors listed are recommended in order to provide system-wide demolition, asbestos, lead, biological and other hazardous material abatement services on Long Island Rail Road property for capital and operating funded projects. Work will be performed on an as needed basis for a three-year period with an option to extend contracts for two additional one-year periods. The total aggregate amount of work to be contracted over the five years is not to exceed \$12M.</p> | | | |

Schedule D: Ratification of Completed Procurement Actions

(Ratifications are to be briefly summarized with staff summaries attached only for unusually large or especially significant items.)

4. **Advanced Automation Technologies** **\$32,700** **Staff Summary Attached** 89
Emergency Procurement **Firm Fixed Price**
PO96631

Pursuant to an Emergency Declaration, LIRR requests the Board to authorize LIRR to proceed with a non-competitive procurement in the amount of \$32,700 to Advanced Automation Technologies, for the purchase of two air buffers that are required to repair the Wreck Lead Bridge in Long Beach, New York.

5. **Bubenzler Bremsen America, LLC** **\$17,955** **Staff Summary Attached** 90
Emergency Procurement **Firm Fixed Price**
PO96616

Pursuant to an Emergency Declaration, LIRR requests the Board to authorize LIRR to proceed with a non-competitive procurement in the amount of \$17,955 to Bubenzler Bremsen America, LLC to furnish brakes that are required for the repair of the Wreck Lead Bridge in Long Beach, New York.

Procurements Requiring Majority Vote

Schedule E: Miscellaneous Procurement Contracts

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

6. **Kronos, Inc.** **\$57,330**
Ride of NY SOGS **Firm Fixed Price**
Contract No. PT00470

LIRR requests approval to award a miscellaneous procurement contract to Kronos, Inc. for a one-year period from February 9, 2003, through February 8, 2004, to provide software and hardware maintenance support service for the LIRR's Kronos Time and Attendance System. LIRR uses the Kronos Time and Attendance System to keep track of employee time and attendance in its Maintenance of Equipment Department. The System is critical to the operation of the LIRR. Kronos is the only responsible source able to provide maintenance services for its propriety Time and Attendance System. Kronos is affording the LIRR a 5% discount off its commercial list prices as contained in its contract with the New York State Office of General Services - Contract No. PT00470. All prices are determined to be fair and reasonable.

Procurements Requiring Majority Vote

Schedule F: Personal Service Contracts

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

7. **Dvirka & Bartilucci** **\$187,973** **Staff Summary Attached** 91
Sole Source **Not to Exceed**
Contract No. TBD

LIRR requests approval to award a sole source contract to the firm of Dvirka & Bartilucci Consulting Engineers (D&B) to perform a Remedial Investigation/Feasibility Study and Engineering Oversight of Interim Remedial Measures at LIRR's Yaphank site. The investigation and remediation measures are necessary to comply with a mandate by the New York State Department of Environmental Conservation.

Procurements Requiring Majority Vote

Schedule 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)

8. **Meteorlogix, LLC** **\$61,450**
Sole Source **Not to Exceed**
Contract No. IT02756-GS29

LIRR requests approval to award a sole source miscellaneous service contract to Meteorlogix, LLC for a license to use its Logix GIS software and data subscriptions for three users for a period of three years. The license includes maintenance and support services. Meteorlogix and another vendor, ESRI, have teamed up to provide the only Geographical Information System (GIS) Based Weather Tracking System that will enable LIRR to track the exact location of storm cells. It is critical for the LIRR to monitor the specific location of storm cell activity in relation to our tracks, culverts and streams because flooding has previously created track washouts, which have disrupted service. The Meteorlogix software will allow the LIRR to better track and prepare for potentially harmful storms. LIRR advertised its notice of intent to procure the system on a sole source basis and did not receive a response from any other firm.

9. **Russell Reid Waste Hauling & Disposal** **\$9,898,600**
Service Co., Inc. **Not to Exceed**
Competitive Procurement
Contract No. IT02491R

LIRR requests approval to award a contract to Russell Reid Waste Hauling and Disposal Service Co, Inc. (Russell Reid) for waste extraction and cleaning of LIRR Railcar Toilets for a five-year period. Russell Reid has submitted the lowest, responsive bid and has been determined to be a responsible contractor. LIRR requires the scheduled servicing of toilets on its M-1, M-3, Diesel and M-7 fleets on a three-day cycle at various yard locations throughout the system. The services required under the contract include pumping of waste from individual toilets, transporting and dumping of waste in accordance with all appropriate city, state and federal regulations, and other maintenance services. This procurement was advertised in the NY Post and NY State Contract reporter. LIRR received three (3) bids with the following prices: \$9,898,600.74, \$10,142,610.39 and \$11,679,845.00. Prices have been determined to be fair and reasonable based on a comparison of the low bid and the using department's estimate. Funding is included in LIRR's Operating Budget. By letter dated October 16, 2002, the second low bidder, William A. Mallins Cesspools, Inc. (Mallins), filed a Protest claiming that Russell Reid does not have the capability to fully meet the specification. After the Protest was denied, Mallins sought reconsideration of the decision as well as filed a Protest based on several new grounds challenging Russell Reid's technical qualifications. NYC Transit's Vice President-Division of Materiel, acting as Reconsideration Officer, upheld LIRR's denial of Mallins Protest. Additionally, acting as Protest Officer, he denied Mallins' Protest on the grounds that the Protest was untimely, and, also, that even if the Protest was timely filed, the grounds are not supported. Pursuant to the LIRR Protest Procedure, Mallins may request Reconsideration of the part of decision related to the Protest; however, such request would not require LIRR to withhold the recommended award to Russell Reid.

**STANDARD FORM OF RESOLUTION PURSUANT TO ALL-AGENCY PROCUREMENT
GUIDELINES AND THE GUIDELINES FOR SERVICE CONTRACTS**

THE LONG ISLAND RAIL ROAD

WHEREAS, in accordance with Section 1265-a and Section 1209 of the Public Authorities and the All-Agency Procurement Guidelines, the Board authorized with 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, upon the recommendation of the Executive Director, the Board resolves as follows:

1. As to each purchase and public work contract set forth in annexed Schedule A, the Board declares competitive bidding to be impractical or inappropriate for the reasons specified there in 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 authorized 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.

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SCHEDULE A

NON-COMPETITIVE PURCHASES AND PUBLIC WORK CONTRACTS

LIRR COMMITTEE - **January 21, 2003**

MTA BOARD MEETING - **January 30, 2003**

Vendor/Contractor	Procurement Number Item/Purpose	Cost
Knorr Brake Corp. P.O. Box 9300 Westminster, MD 21157	Sole Source	\$1,679,100 Not to Exceed

Requestor

Charles P. Kalkhof, Chief Mechanical Officer
Maintenance of Equipment

Remarks

LIRR requests approval to award a sole source procurement to Knorr Brake Corp. ("Knorr") for the purchase of 87 Air Supply Units. The Air Supply Units, which will be installed by LIRR forces, is part of the Operating Budget funded portion of LIRR's M3 Overhaul Program.

Knorr and WABTEC (WABCO Units) are the only approved suppliers of Air Supply Units for M-3 Cars. Based on a test of nine Knorr Air Supply Units for a one-year period, during which there were no failures, LIRR has determined that Knorr Units will perform substantially better than WABCO units. Thus, the Knorr Units, which will replace the WABCO D-4-A Air Compressor, will result in performance improvement, particularly reliability. Knorr Air Supply Units have also been selected for LIRR's new M-7 Cars.

After negotiations, Knorr reduced the Unit Price previously paid by LIRR for Air Supply Units from \$19,500 to \$19,300. Based on LIRR's price analysis, the price is considered fair and reasonable.

Impact on Funding

LIRR's Operating Budget funds these contracts.

Recommendation

Board approval to Knorr Brake Corp. in the amount of \$1,679,100 is recommended.

SCHEDULE A

NON-COMPETITIVE PURCHASES AND PUBLIC WORK CONTRACTS

LIRR COMMITTEE – **January 21, 2003**

MTA BOARD MEETING – **January 30, 2003**

Vendor/Contractor	Procurement Number Item/Purpose	Cost
Transit Sourcing Services 161 Woodford Avenue Plainville, CT 06062	Sole Source BPO 1695	\$311,655 Not to Exceed

Requestor

Charles P. Kalkhof, Chief Mechanical Officer
Maintenance of Equipment

Remarks

LIRR requests approval to award a sole source blanket order procurement to Transit Sourcing Services for the purchase of wheels and axles to be used on the C-3 passenger bi-level coaches for a three-year period. The unit prices of each wheel and axle are \$603 and \$1,455, respectively. Pricing for this material has decreased 22% since last purchased in June 2000 by virtue of LIRR committing to a minimum purchase of 240 wheels and 45 axles, at a total cost of \$210,195. LIRR will be able to purchase additional C-3 wheels and axles that it may require during this period for the same unit prices, subject to the \$311,655 not to exceed limitation.

Transit Sourcing Services is the only approved source qualified to manufacture C-3 wheels and axles.

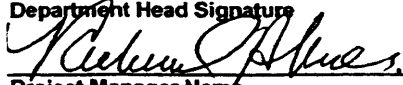
Impact on Funding

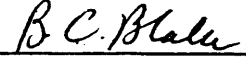
The LIRR's Operating Budget funds these contracts.

Recommendation

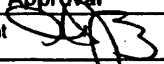

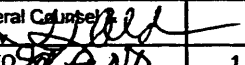
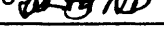
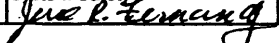
Board approval of an award to of Transit Sourcing Services to supply wheels and axles for cars in the not to exceed amount of \$311,655 is recommended.

Staff Summary

Subject	Award for Demolition and Abatement Services
Department	Contracts, Planning & Construction
Department Head Name	Richard A. Mack
Department Head Signature	
Project Manager Name	Adam S. McCool

Date	January 6, 2003
Vendor Name	See Schedule A
Contract Number	5859, 5860, 5861 and 5862
Contract Manager Signature	Barbara Blake 

Board Action					
Order	To	Date	Approval	Info	Other
1	LI Committee	1/2/03	x		
2	MTA Board	1/2/03	x		

Internal Approvals			
Order	Approval	Order	Approval
5	President 		Information Services Chief Information Officer
4	Executive VP 		M of E Chief Mechanical Officer
3	VP/General Counsel / Secretary 		Engineering Chief Engineer
2	VP & CFO 	1	System Safety 

Purpose
LIRR requests Board approval to award four Task Order type contracts for (i) system-wide demolition, asbestos, lead, biological and other hazardous material abatement services in buildings, bridges and structures ("Category 1") to Trio Asbestos Removal ("Trio"); Pinnacle Environmental Corp., ABC Construction Contracting ("ABC"), and PDG Inc. ("PDG"), (ii) asbestos, lead and biological material abatements in LIRR manholes and cables ("Category 2") to ABC and PDG and (iii) LIRR rolling stock abatement ("Category 3") to ABC. The services, which will commence in February 2003 and continue for up to five years, will be performed on an as needed basis. Total amount of work to be contracted over the five-year period shall not exceed \$12M.

Remarks
In October 2001, the Board authorized LIRR to use the Competitive Request for Proposal (RFP) process to select firms to provide asbestos, lead, and biological abatement services in the following three categories:

- Category 1 – Demolition/Asbestos, Lead and Biological Material Abatement Services in buildings, bridges and structures.
- Category 2 – Asbestos, Lead and Biological Material Abatement in LIRR manholes and cables
- Category 3 – Asbestos Abatement for LIRR Rolling Stock

The contracts are indefinite quantity contracts, with services being assigned on an "as needed" basis by Task Order. To insure that qualified contractors were available at all times to do the work at competitive prices, the RFP called for up to four contract awards for Category 1 work, and up to two contract awards for Category 2 work. When specific non-emergency abatement services are needed for Category 1 and 2 work, each of the contracted firms will be required to submit proposals. Task Order awards would be issued to the Contractor submitting the most favorable proposal in terms of price, work plan and schedule. The RFP also called for one contract for Category 3 work because facility space constraints where most rolling stock abatement work will be done makes awards to multiple contractors impractical.

The RFP was advertised in November 2001. On December 10, 2001, technical proposals were received from 11 firms for Category 1 work and 12 firms for Category 2 and 3 work. Two firms receiving high technical ratings and a third firm that was deemed technically qualified were the subject of questions regarding business integrity, an element of professional responsibility. Specifically, these firms may have engaged in improper conduct and improper billing practices on LIRR and NYCT Contracts. The firms are also the subject of MTA Inspector General investigations. The prolonged LIRR "Responsibility" reviews substantially delayed the RFP process.

In May 2002, the Board ratified LIRR's award of the following Task Order type contracts on a non-competitive emergency basis for a five month period: Category 1 - Awards to Trio, ABC and PDG; Category 2 - Awards to ABC and PDG; Category 3 - Award to PDG. In October 2002, Board approved an additional three-month extension of those contracts. The emergency awards were made in order to allow LIRR's abatement program to continue uninterrupted while LIRR investigated and resolved responsibility issues, and solicited and reviewed best and final offers.

The two highly rated firms under investigation agreed to withdraw their proposals. Thereafter, Best and Final Offers (BAFOs) were solicited from the remaining contractors.

Seven firms submitted BAFOs for Category 1 and 3, and nine firms submitted BAFOs for Category 3. BAFOs, which were evaluated by the Systems Safety and Contracts Departments were based equally on cost and technical criteria. The technical criteria for each Category included prior experience with similar work and ability to handle the proposed work.

Upon completion of the evaluation, the Evaluation Committee selected four firms for Category 1, two firms for Category 2, and one firm for Category 3, that offered the best overall technical and cost proposals. LIRR evaluated each proposer's price proposal (primarily labor rates) utilizing a model that set forth labor classifications (e.g., asbestos handlers, supervisors) and related hours and wage rates that represent typical projects in each category of work. The proposed awardees for each Category submitted the lowest prices. The attached Schedule "A" lists the names of the firms and Categories under which they have been selected to provide services on a "Task Order" basis, and a summary of the BAFO evaluations.

Impact on Funding

The three-year contracts with two one-year options will be funded by Capital or Operating funds. No funds will be obligated unless a specific project has been approved for implementation. The value of all contracts is not to exceed \$12M.

Recommendation

It is recommended that the Board approve award of four task order type contracts, for a three-year period with two one-year options, to the firms listed in the attached Schedule "A" at an aggregate not-to-exceed amount of \$12M.

SCHEDULE A

Task Order Contracts to Provide

System-Wide Demolition, Asbestos, Lead, Biological and Other Hazardous Material Abatement Services

Company Name Contract No.	Category 1: Rank Demolition Services and Asbestos, Lead and Biological Material Abatement Services in LIRR buildings, bridges and structures			Category 2: Rank Asbestos, Lead and Biological Material Abatement in LIRR manholes and cables			Category 3: Rank Asbestos Abatement for LIRR Rolling Stock		
	Cost	Technical	Overall	Cost	Technical	Overall	Cost	Technical	Overall
ABC Construction Contracting Contract No. 5859	1	1	1*	1	3	2*	1	1	1*
PDG, Inc. Contract No. 5860	3	3 (tie)	3*	2	1	1*	2	2	2
Pinnacle Environmental Corp. Contract No. 5861	2	2	2*	4	2	3	Proposer not short listed		
Trio Asbestos Removal Corp. Contract No. 5862	4	5	4*	3	5	4 (tie)	3	3	3
Delta Environmental	5	4	5	6	7	5	5	6	5
Gramercy Group	6	6	6	7	9	6	Proposer not short listed		
Tradewinds Environmental	7	3 (tie)	7	8	6	7	6	5	6
Metron Environmental Ltd.	Did not propose for Category 1.			9	8	8	7	7	7
Niram, Inc.	Did not propose for Category 1.			5	4	4 (tie)	4	4	4
USA Remediation Services	Did not submit Best and Final Offer			Did not submit Best and Final Offer			Proposer not short listed		

* Indicates Award

SCHEDULE D

RATIFICATION OF COMPLETED PROCUREMENT ACTIONS

LIRR COMMITTEE - **January 21, 2003**

MTA BOARD MEETING - **January 30, 2003**

Vendor/Contractor	Procurement Number Item/Purpose	Cost
Advanced Automation Technologies 640 River Blvd. Exton, PA 19341	Non-Competitive Procurement PO96631	\$32,700 Firm Fixed Price

Purpose

Pursuant to an Emergency Declaration, LIRR requests the Board to adopt a resolution declaring competitive bidding to be impractical and inappropriate and to authorize LIRR to proceed with a non-competitive procurement, in the amount of \$32,700 to Advanced Automated Technologies ("AAT").

Discussion

Wreck Lead Bridge, which extends over the Reynolds Channel, is located on the Long Beach Branch. Because the bridge had experienced a significant increase in the number of failures, LIRR awarded a contract to Lichtenstein Engineering Consultants ("Lichtenstein") to issue a report listing corrective action recommendations. The most critical improvements recommended by Lichtenstein were rebalancing the bridge, and replacing the bridge air buffers and brakes. LIRR, utilizing its own forces, completed rebalancing of the bridge on October 27, 2002. Shortly thereafter, the design for replacement of air buffers, which could only be done after completion of rebalancing, was finalized.

The two air buffers, assist in seating the span during bridge closing. The Lichtenstein report stated that "the physical condition of the buffers is suspect and it is unlikely that the buffers will function properly in the event that they are required to bring the span safely to a stop from full speed". Failure of the air buffers could take the bridge out of operation to train and marine traffic for an indefinite time period. Rebalancing the bridge, which required adding more weight to the span of the bridge, has made replacement of the air buffer system urgent and unable to await competitive bidding.

The Declaration of Emergency was issued in accordance with the All Agency Guidelines, which states "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".

Three responsible sources for the require air buffers were identified and quotes obtained. The low bid was received from AAT at a firm fixed price of \$32,700. The two other quotes were \$49,000 and \$84,872. LIRR found the price of \$32,700 for air buffers to be fair and reasonable.

Impact on Funding

This contract will be funded by LIRR's Operating Budget

Recommendation

The Board adopt a resolution declaring competitive bidding to be impractical and inappropriate because an emergency exists, and authorize LIRR to proceed with a non-competitive procurement and award to AAT in the amount of \$32,700.

SCHEDULE D

RATIFICATION OF COMPLETED PROCUREMENT ACTIONS

LIRR COMMITTEE - **January 21, 2003**

MTA BOARD MEETING - **January 30, 2003**

Vendor/Contractor	Procurement Number Item/Purpose	Cost
Bubbenzer Bremsen America, LLC Commerce Square 47 East Main Street Flemington, NJ 08822	Non-Competitive Procurement PO96616	\$17,955 Firm Fixed Price

Purpose

Pursuant to an Emergency Declaration, the LIRR requests the Board to authorize LIRR to proceed with a non-competitive procurement in the amount of \$17,955 to Bubbenzer Bremsen America, LLC ("BBA") to furnish brakes required for the repair of the Wreck Lead Bridge in Long Beach, New York.

Discussion

Wreck Lead Bridge, which extends over the Reynolds Channel, is located on the Long Beach Branch. Because the bridge had experienced a significant increase in the number of failures, LIRR awarded a contract to Lichtenstein Engineering Consultants ("Lichtenstein") to issue a report listing corrective action recommendations. The most critical improvements recommended by Lichtenstein were rebalancing the bridge, and replacing the bridge air buffers and brakes. LIRR, utilizing its own forces, completed rebalancing of the bridge on October 27, 2002. Shortly thereafter, the designs for replacement of brakes, which could only be done after completion of rebalancing, was finalized.

The Lichtenstein report stated "with the existing span drive system if the machinery brake fails, the system can not be safely operated." Failure of the brakes could damage the bridge span, the mechanical and electrical components, and take the bridge out of operation to train and marine traffic for an indefinite time period. The rebalancing of the bridge, which added extra tonnage to the toe end of the bridge span, has made replacement of the brakes of the bridge more urgent and unable to await competitive bidding.

The Declaration of Emergency was issued in accordance with the All Agency Guidelines, which states "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".

Three responsible sources for the required air buffers were identified and quotes obtained. The low bid was received from BBA at a firm fixed price of \$17,955. The two other quotes were \$21,514 and \$29,280. LIRR found the price of \$17,955 for brakes to be fair and reasonable.

Impact on Funding

This contract will be funded by LIRR's Operating Budget

Recommendation

The Board adopt a resolution declaring competitive bidding to be impractical and inappropriate because an emergency exists, and authorize LIRR to proceed with a non-competitive procurement and award to BBA in the amount of \$17,955.



Staff Summary

Subject	Schedule F-Personal Service Contracts
Department	Procurement & Logistics
Department Head Name	Robert Tobin, Chief Procurement & Logistics Officer
Department Head Signature	<i>Robert Tobin</i>
Project Manager Name	L. Wunderlich, Environmental Engineer

Date	January 7, 2003
Vendor Name	Dvirka & Bartilucci
Contract Number	To be Determined
Contract Manager Signature	<i>Ron Ferriello</i>

Board Action					
Order	To	Date	Approval	Info	Other
1	LI Committee	1/21/03	X		
2	MTA Board	1/30/03	X		

Internal Approvals			
Order	Approval	Order	Approval
5	President <i>[Signature]</i>		Information Services Chief Information Officer
4	Executive VP <i>[Signature]</i>		M of E Chief Mechanical Officer
3	VP/General Counsel & Secretary <i>[Signature]</i>		Engineering Chief Engineer
2	VP & CFO <i>[Signature]</i>	1	VP Safety <i>[Signature]</i>

Purpose

LIRR requests approval to award a sole source personal service contract to Dvirka & Bartilucci (D&B) for a Remedial Investigation/Feasibility Study and Engineering Oversight of Interim Remedial Measures (IRM) at LIRR's Yaphank site. The investigation and remediation are necessary in order to comply with a mandate by the New York State Department of Environmental Conservation (DEC) with regard to its review of a Supplemental Preliminary Site Assessment performed for the LIRR by D&B.

Discussion

In reviewing D&B's Supplemental Preliminary Site Assessment of LIRR's former Hazardous Waste site at Yaphank, DEC concurred with D&B's findings that additional fieldwork was required to delineate the extent of contamination and that Interim Remedial Measures (IRM) were necessary to protect the health of individuals living in close proximity to the site. Under this proposed contract, D&B will perform the required additional sampling work and recommend Interim Remedial Measures required to adequately protect the public from the high level of lead at this site. The scope of work also requires D&B to prepare a Remedial Investigation Work Plan, a Remedial Investigation Final Report and an Exposure Assessment. D&B's service under a Supplemental Contract will likely be required in connection with the Remedial Investigation Final Report recommendation.

D&B, which was competitively selected under LIRR's General Engineering Contracting ("GEC") program, has been working on this project since 1997 under LIRR Contract GS-0507 which has expired. D&B has conducted extensive site research at Yaphank and has prepared several site assessments including the Supplemental Preliminary Site Assessment in October 2000. The prolonged period to complete the Preliminary Site Assessment at Yaphank had been due to the extensive fieldwork, regulatory review and coordination, comment response, report revisions, supplemental reporting requirements, voluntary cleanup agreement negotiations, and protracted multi-agency coordination, that were required.

D&B is familiar with the project, the community and DEC/County requirements that must be met to successfully close this former Hazardous Waste Site. D&B's first-hand knowledge of the site, coupled with their understanding of operational constraints to access and safely work on the property, render D&B uniquely qualified to effectively perform the work for this project.



LIRR's System Safety Department, which has worked with D&B to develop the Scope of Work for D&B's work at Yaphank, has reviewed D&B's cost proposal and has determined it to be fair and reasonable. D&B's price to perform the work based on rates contained in its current GEC contract with LIRR, which have previously been determined to be fair and reasonable. The MTA Board approved LIRR's GEC contract with D&B at its February 2001 meeting.

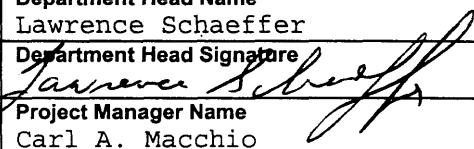
Impact on Funding

This contract is funded by the LIRR's Operating Budget.

Recommendation





Board approval of an award to D&B to provide personal services in the not-to exceed amount of \$187,973 is recommended.

Staff Summary

Subject Revised Drug and Alcohol Policy
Department Legal
Department Head Name Lawrence Schaeffer
Department Head Signature 
Project Manager Name Carl A. Macchio

Date January 7, 2003
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	LI Committee	1/21/03	X		
2	MTA Board	1/30/03	X		

Internal Approvals			
Order	Approval	Order	Approval
4	President 		VP Finance
	VP Policy & Planning		Audit
3	VP Operations 	2	VP Administration 
1	General Counsel 		Other

Narrative

PURPOSE:

To obtain MTA Board approval of MTA Long Island Bus's Revised Drug and Alcohol Policy Instruction.

DISCUSSION:

The Federal Transit Administration's drug and alcohol regulations require employers such as MTA Long Island Bus to develop and disseminate a policy statement describing its drug and alcohol policy. This statement must then be adopted by the local governing board, i.e., the MTA Board, and made available to all covered employees.

LI Bus has modified its policy so that it clearly distinguishes between FTA mandates and that which is required pursuant to LI Bus internal rules, policy instructions, and collective bargaining agreements.

Once approved, the drug and alcohol policy will be disseminated to all LI Bus employees and contract vendors, where appropriate.

IMPACT ON FUNDING:

The revisions to the policy instruction will have no impact on operating funds.

RECOMMENDATION:

It is recommended that the MTA Board approve LI Bus's Revised Drug and Alcohol Policy as presented.

**MTA LONG ISLAND BUS
REVISED DRUG AND ALCOHOL POLICY**

DATED: December 31, 2002

MTA Long Island Bus Drug & Alcohol Policy Statement

Introduction

MTA Long Island Bus is committed to operating and maintaining an alcohol-free and drug-free workplace to provide a safe environment for its passengers and employees. The following policy statement updates the drug and alcohol policy statement in effect since March 16, 2000.

LI Bus policies, consistent with federal and state law, prohibit all employees from using, possessing or being under the influence of alcohol during an employee's tour of duty, while an employee is on LI Bus's premises or otherwise engaged in LI Bus business and/or when such use would make them unfit to report for duty or to be on duty. State law also prohibits the use of alcohol by a bus operator within six hours of beginning service, regardless of any effects. LI Bus policy prohibits the unlawful manufacture, distribution, dispensation, possession or use of controlled substances at the workplace. In addition, the unlawful use of any drug or controlled substance at any time is also prohibited.

LI Bus requires all employees to abide by the terms of these policies as a condition of employment. Violation of the alcohol, drug and controlled substance policy is considered to be a major offense. Employees who violate this policy may be disciplined, with punishment up to and including termination from employment.

LI Bus performs drug and alcohol tests of employees who perform safety-sensitive functions pursuant to Federal Transit Administration regulations. All LI Bus employees are subject to drug and alcohol testing in additional circumstances pursuant to internal policy and/or collective bargaining agreements. Employees are encouraged to familiarize themselves with policies covering their titles. Questions about LI Bus anti-drug and alcohol misuse program should be directed to Carl A. Macchio, Senior Manager, Labor Relations at (516) 542-0100 extension 4423.

Employees placed under arrest, while on or off duty, for an alleged violation, among other things, of any criminal drug statutes, are required to notify their immediate supervisor, in writing, immediately. This applies to all incidents of an alcohol or drug related arrest. Upon conviction of any criminal drug statute, employees are required to notify their immediate supervisor, in writing, within five (5) days of such conviction. An arrest, conviction or failure to report such may lead to disciplinary action.

This policy statement is divided into two primary sections. Part I addresses drug and alcohol testing that occurs pursuant to Federal Transit Administration regulations. Part II addresses drug and alcohol testing that is conducted under LI Bus's own authority pursuant to internal rules, policy/instructions and collective bargaining agreements. Part I addresses only "safety-sensitive" employees as defined under federal regulations. Please consult Part I to determine whether a particular employee is "safety-sensitive" and subject to FTA testing. Part II addresses *all* LI Bus employees, regardless of their status under federal law. LI Bus, under its own authority, tests all employees in circumstances not required by federal law. Part II also addresses the disciplinary consequences of drug and alcohol positives and other violations of the rules.

Because a Long Island Bus employee may at some point in his or her career be transferred or seek to transfer to a safety-sensitive position, it is important to read both Parts I and II for a full understanding of the federal testing program and the program conducted under Long Island Buses' own authority.

As indicated in the section of this Policy Statement entitled "NOTICE OF ADOPTION BY THE AGENCY'S GOVERNING BOARD AND STATEMENT ON FEDERAL PREEMPTION", LI Bus recognizes that FTA drug and alcohol rules preempt any state or local requirement that conflicts with the federal rule or thwarts its proper application.

**MTA Long Island Bus Drug & Alcohol Testing:
Federal Transit Administration (FTA) Program**

THE RULES

The Federal Transit Administration (FTA) has issued rules requiring alcohol misuse prevention programs, including alcohol testing of safety-sensitive employees. The FTA also has issued an anti-drug rule requiring drug testing of safety-sensitive transit employees. The DOT rules (49 CFR Part 40) establish procedures for urine drug testing and alcohol breath testing.

APPLICABILITY

This policy applies to all safety-sensitive transit system employees (full and part-time) and contractors performing any transit-related, safety-sensitive functions as defined by FTA. Contract employees will not be permitted to conduct business with Long Island Bus if found to be in violation of this policy. Non-safety sensitive employees are subject to this policy as noted. A safety-sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles and any other LI Bus employee who is required to hold a Commercial Drivers License. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions.

DEFINITIONS

4.1 Accident means an occurrence associated with the operation of a revenue service vehicle even when not in revenue service or which requires a Commercial Drivers License to operate, if as a result--

- (1) A person dies;
- (2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or
- (3) The mass transit vehicle involved is a bus, electric bus, van, or automobile, in which one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle.

4.2 Adulterated specimen – A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

4.3 Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol contained in any beverage, mixture, mouthwash, candy, food preparation or medication.

4.4 Alcohol concentration is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device,

4.5 Canceled test is a drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither positive or negative.

4.6 Covered employee means an employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function.

4.7 Dilute specimen is a specimen with creatinine and specific gravity values that are lower than expected for human urine.

4.8 Disabling damage means damage which precludes departure of any vehicle from the scene of an accident in its usual manner in daylight after simple repairs.

4.9 Evidentiary Breath Testing Device (EBT) – A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations.

4.10 Medical Review Officer (MRO) means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

4.11 Negative test result for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02 BAC is a negative test result.

4.12 Positive test result for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.02 BAC or greater.

4.13 Prohibited drug means marijuana, cocaine, opiates, amphetamines, or phencyclidine specified in 49 CFR Part 40, as amended.

4.14 Safety-sensitive functions include (a) the operation of a transit revenue service vehicle even when the vehicle is not in revenue service; (b) the operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL); (c) maintaining a revenue service vehicle or equipment used in revenue service; (d) controlling the movement of a revenue service vehicle; and (e) carrying a firearm for security purposes.

4.15 Substance Abuse Professional (SAP) means a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

4.16 Substituted specimen – A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

4.17 Test Refusal – The following are considered a refusal to test if the employee:

- Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations;
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen;
- Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test the employer or collector has directed you to take;
- Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process or as directed by the Designated Employer Representative (DER) as part of the “shy bladder” or “shy lung” procedures;
- Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process);
- If the MRO reports that there is a verified adulterated or substituted test result;
- Failure or refusal to sign Step 2 of the alcohol testing form.

PROHIBITED ALCOHOL USE

Because alcohol is a legal substance, the FTA rules define specific prohibited alcohol-related conduct. Alcohol use means the consumption of any beverage mixture, or preparation, including any medication, containing alcohol. Performance of safety-sensitive functions is prohibited:

- While having an alcohol concentration of 0.02 or greater as indicated by an alcohol breath test;
- While using alcohol regardless of source;
- Within four hours after using alcohol regardless of the source;

In addition, refusing to submit to an alcohol test and/or using alcohol within eight hours after an accident or until tested (for employees required to be tested) is prohibited.

In addition, by LI Bus policy, both safety-sensitive and non safety-sensitive employees are prohibited from possessing, using or being under the influence of alcohol while on duty which is discussed in Part II.

REQUIRED ALCOHOL TESTS

The following FTA alcohol tests are required:

Post Accident – an accident is defined as an occurrence associated with the operation of a revenue service vehicle even when not in revenue service or which requires a Commercial Drivers License to operate, if as a result 1) an individual dies; 2) an individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or 3) the mass transit vehicle involved is a bus, electric bus, van, or automobile, in which one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For accidents involving fatalities, each surviving safety sensitive employee operating the mass transit vehicle at the time of the accident must be tested. Safety sensitive employees not in the vehicle (e.g. maintenance personnel), whose performance could have contributed to the accident (as determined by the transit agency using the best information available at the time of the accident) must be tested. For non-fatal accidents involving a bus, van or automobile, employers shall test each safety sensitive employee operating the mass transit vehicle at the time of the accident unless their behavior can be completely discounted as a contributing factor to the accident. For non-fatal accidents, the employer shall test any other safety sensitive employee whose performance could have contributed to the accidents determined by the employer using the best information available at the time of the accident. Post accident alcohol tests must be performed as soon as practicable, but no later than eight hours after the accident. If the test is not administered within two hours following the accident, the employer's representative (dispatcher, line supervisor) must still attempt to administer the test and must also prepare and maintain on file a record stating the reasons the test was not promptly administered.

Reasonable suspicion – conducted when one trained supervisor can articulate and substantiate physical, behavioral and performance indicators of probable drug use or alcohol misuse by observation of specific behavior, speech or appearance of the covered employee.

Random – conducted on a random unannounced basis just before, during or just after performance of safety-sensitive functions. (see Random Alcohol Testing, discussed below.)

Return to duty and Follow-up – conducted when an individual who has violated the prohibited alcohol conduct standards returns to performing safety-sensitive duties or may be directed following a verified prior FTA positive drug test or refusal. Frequency and duration of the testing period beyond 12 months is determined by the Substance Abuse Professional. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty and may include drug testing.

Note: In addition, LI Bus policy requires alcohol testing in additional circumstances for both FTA covered and non-FTA covered employees as discussed in part II.

RANDOM ALCOHOL TESTING

Random alcohol testing must be conducted just before, during, or just after an employee's performance of safety-sensitive duties. The employee is randomly selected for testing (from a "pool" of employees subject to testing). The testing dates and times are unannounced and are with unpredictable frequency throughout the year. Each year, the number of random alcohol tests conducted by the employer must equal at least 10% of all the safety-sensitive employees.

ALCOHOL TESTING PROCESS

The rules require breath testing utilizing evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration (NHTSA). Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result with less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted. The employee and the individual conducting the breath test (called a Breath Alcohol Technician (BAT)) complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results. A "positive" alcohol test is one in which both the screening test and the confirmation test are at .02 or greater.

The confirmation test results determine any actions to be taken. Testing procedures that ensure accuracy, reliability and confidentiality of test results are outlined in the Part 40 rule. These procedures include training and proficiency requirements for Breath Alcohol Technicians (BAT), quality assurance plans for the breath testing devices (including calibration), requirements for a suitable test location, and protection of employee test records.

A breath alcohol test will be deemed invalid and therefore "cancelled" where 1) the next external calibration check of an EBT produces a result that differs by more than the tolerance stated in the Quality Assurance Plan (QAP) from the known value of the test standard; 2) the BAT does not observe the minimum 15 minute waiting period prior to the confirmation test; 3) the BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to or after administration of the test; 4) the BAT does not sign FTA required form; 5) the BAT has failed to note on the remarks section of the form that the employee has failed or refused to sign the form following the recording on, and attachment to the form of the test result; 6) An EBT fails to print a confirmation test result; or 7) on a confirmation test and, where applicable, on a screening test, the sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.

Failure to appear for a test without an acceptable reason will be treated as a refusal. When the employee receives notification to appear for testing, employees should proceed immediately to the test site. Any employee who fails to arrive at the test site within a reasonable time, as determined by LI Bus, after being directed to do so by a supervisor, shall be presumed to be a refusal and therefore a positive under the FTA. The employee shall then have the burden of

establishing an inability to appear within a reasonable time to the test site. A failure to meet the burden of proof will result in the "refusal" standing.

A covered employee who remains subject to post-accident testing and who fails to remain readily available for such testing, including notifying the employer or employer representative of his/her location if he/she leaves the scene of the accident prior to submission to such test shall be deemed by the employer to have refused to submit to testing. A written or verbal refusal to provide a required breath specimen or to sign the DOT-required testing forms also constitutes a refusal. In addition, employees who fail to cooperate with the testing process in a way that prevents the completion of the test and/or who provide insufficient breath shall be deemed a refusal where the Medical Review Officer determines that no valid medical reasons exists for such failure. Refusal to take a test is considered to be a "positive" and may have further disciplinary consequences, up to and including dismissal.

EFFECTS, SIGNS, SYMPTOMS OF ALCOHOL MISUSE AND METHODS OF INTERVENTION

Alcohol misuse can lead to violence at home or in the workplace. It can also result in missed work, poor judgement, at home or on duty accidents, and trouble with law enforcement. It can also cause malnutrition, brain damage, cancer, heart disease, liver damage, ulcers, gastritis, damage to adrenal and pituitary glands and birth defects. Signs and symptoms of alcohol misuse may include: dulled mental processes, lack of coordination or unsteady gait, slowed reaction time, slurred speech, odor of alcoholic beverage on breath, sleepy condition, memory lapses, the "shakes" or "tremors", personality changes, an inability to control drinking and a denial that alcohol use is a problem, and a preoccupation with alcohol.

Intervention is an effort to halt the pattern of an individual's use of alcohol and other drugs. Friends and family may intervene with care and concern and, where met with resistance, stronger methods of intervention may be necessary. These include peer intervention, professional counseling, the use of hotlines and group discussions. Another form of intervention is where alcohol use is evident on the job and the employer refers the employee to treatment as a condition of his/her continued employment.

THE CONSEQUENCES OF ALCOHOL MISUSE

Employees who engage in prohibited alcohol conduct must be immediately removed from safety-sensitive functions. Employees who have engaged in alcohol misuse cannot return to safety-sensitive duties until they have been evaluated by a Substance Abuse Professional and have complied with any treatment recommendations to assist them with an alcohol problem. To further safeguard transportation safety, employees who have any alcohol concentration of 0.02 or greater in their breath but less than .04, when tested just before, during or just after performing safety-sensitive functions, must also be removed from performing such duties for 8 hours or until breath test is administered and the result is less than 0.02, whichever first occurs.

For employees performing safety-sensitive functions who test at a level of 0.04 or greater, the result is deemed positive and requires referral to a Substance Abuse Professional. The employee may not be returned to a safety-sensitive position until recommended by a Substance Abuse Professional.

If an employee's behavior or appearance suggests alcohol misuse, a reasonable suspicion alcohol test must be conducted. If a breath test cannot be administered, the employee must be removed from performing safety-sensitive duties for at least 8 hours.

There may be additional consequences for alcohol misuse such as discipline in accordance with LI Bus policy or collective bargaining agreements. See Part II and appended matrices that identify these consequences for various employees.

REHABILITATION

Employees who violate the alcohol misuse or drug use rules will be referred to a Substance Abuse Professional (SAP) for evaluation. Where there is a verified positive drug or alcohol test result, or where the employee is deemed a refusal, the Substance Abuse Professional's role is to: 1) conduct an initial evaluation to determine what assistance the employee needs in resolving problems associated with prohibited drug use or alcohol misuse; 2) determine the types of assistance needed by the employee and recommended a course of action to the employee; 3) determine whether the employee (1) has followed the course of action recommended by the SAP, (2) has successfully completed the course of treatment, and (3) is ready to return to safety sensitive duties; 4) determine whether the Return-to Duty test and subsequent follow-up tests, will be for drugs only, alcohol only, or both drugs and alcohol; 5) determine the frequency and duration of follow-up testing for each covered employee on an individual, case-by-case basis. At a minimum, the SAP must require a frequency and duration of 6 tests during the first 12 months back to work. That frequency may be increased or reduced at any time during the course of follow-up testing. The SAP determines a follow-up testing program that is individual and tailored to the circumstances of the employee, and which may continue for as long as 60 months, but no longer; after 12 months, determine whether to continue or terminate the follow-up testing program, and adjust the frequency and duration as appropriate. This requirement implies that there will be a one-year evaluation of the employee, with subsequent modification to the follow-up program as appropriate; 7) maintain records related to the referral and return to duty and follow-up testing, including: (i) records pertaining to a determination by a substance abuse professional concerning a covered employee's need for referral for assistance in resolving problems associated with prohibited drug use and alcohol misuse; (ii) records concerning a covered employee's entry into and completion of the program of treatment recommended by the substance abuse professional.

The SAP must present a written report to LI Bus at the time the SAP recommends that the employee is ready to take a return-to-duty test and return to a safety-sensitive position if the return-to-duty test is negative. The SAP's report, outlining the employee's ability to demonstrate successful compliance to LI Bus will be in letter format with the SAP's official letterhead, signed by the SAP, and contains the following: 1) The employee's name and social security number; 2) The employer's name and address; 3) Reason for initial assessment (specific violation of the

rules and violation date); 4) Date(s) of initial assessment and brief synopsis of the rehabilitation plan; 5) Name and practice or program providing the treatment; 6) Inclusive dates of the employee's treatment program; 7) Clinical characterization of the employee's participation in the treatment program; 8) The SAP's clinical determination as to the employee's demonstration of successful compliance; 9) Follow-up testing plan; 10) The SAP's telephone number.

The FTA requires that safety-sensitive employees who test positive for drugs and/or alcohol in an FTA test be referred to a Substance Abuse Professional for evaluation and appropriate referral even when the employee is dismissed and not eligible for restoration to duty under LI Bus policy. This requirement applies to both probationary and non-probationary employees

DRUG TESTING

The FTA has issued a rule requiring drug testing of safety-sensitive transit employees also beginning in January 1995. The drug testing rules cover the same categories of safety-sensitive employees as the alcohol testing rules – reasonable suspicion; post accident; return to duty; and follow-up – and also include pre-employment testing:

The following FTA drug tests are required:

Pre-employment – Candidates for employment must produce a negative drug test result prior to being hired (i.e. going on the payroll) and if the test is cancelled, Pre-employment testing is also required when employees transfer to a safety-sensitive position. Transferees must provide a verified negative drug test result prior to performing a safety sensitive function.

Post Accident – an accident is defined as an occurrence associated with the operation of a revenue service vehicle even when not in revenue service or which requires a Commercial Drivers License to operate, if as a result 1) an individual dies; 2) an individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or 3) the mass transit vehicle involved is a bus, electric bus, van, or automobile, in which one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For accidents involving fatalities, each surviving safety sensitive employee operating the mass transit vehicle at the time of the accident must be tested. Safety sensitive employees not in the vehicle (e.g. maintenance personnel), whose performance could have contributed to the accident (as determined by the transit agency using the best information available at the time of the accident) must be tested. For non-fatal accidents involving a bus, van or automobile, employers shall test each safety sensitive employee operating the mass transit vehicle at the time of the accident unless their behavior can be completely discounted as a contributing factor to the accident. For non-fatal accidents, the employer shall test any other safety sensitive employee whose performance could have contributed to the accidents determined by the employer using the best information available at the time of the accident. Post accident drug tests must be performed as soon as practicable, and within 32 hours after the accident.

Reasonable suspicion – conducted when one trained supervisor can articulate and substantiate physical, behavioral and performance indicators of probable drug use or alcohol misuse by observation of specific behavior, speech or appearance of the covered employee.

Random – conducted on a random unannounced basis for safety-sensitive employees. (See explanation of the random testing process, discussed later in this policy statement.)

Return-to-duty and Follow-up – conducted when an individual who has a verified prior FTA positive drug test or refusal returns to performing safety sensitive duties or may be directed following a FTA verified positive alcohol test or refusal. Frequency and duration of the testing period is determined by the Substance Abuse Professional. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty and may include alcohol testing.

In addition, LI Bus policy requires drug testing in additional circumstances for both FTA covered and non-FTA covered employees as discussed in Part II.

DRUG TESTING PROCEDURES

The DOT drug and alcohol testing procedures rule (49 CFR Part 40) sets forth the procedures for drug testing in all transportation industries. Drug testing is conducted by analyzing an employee's urine specimen. The analysis is performed at laboratories certified and monitored by the U.S. Department of Health and Human Services (DHHS). For primary specimen analysis, LI Bus has contracted with a laboratory service which is a DHHS certified laboratory. The employee provides a urine specimen in a location that affords privacy and the "collector" seals and labels the specimen, completes the chain of custody documents, and prepares the specimen and accompanying paperwork for shipment to the drug testing laboratory.

The specimen collection procedures and chain of custody documents ensure that the specimen's security, proper identification, and integrity are not compromised. When an individual arrives at the collection site, the collection site person must ensure that the individual is positively identified as the employee selected for testing (e.g. through presentation of photo identification or identification by the employer's representative). If the individual's identity cannot be established, the collection site person must not proceed with the collection. An intact Chain of Custody must be maintained throughout the testing process. The collection site person must place a tamper proof seal securely on the bottle and preprinted identification label which contains the date, the individual's specimen number and any other identifying information provided by the employer. The individual must initial the identification label on the specimen bottle for the purpose of certifying that is the specimen collected from him or her. Federally approved Chain of Custody documents are used at LI Bus for FTA required tests. Those chain of custody forms are distinct from Chain of Custody Forms that are used for testing conducted under LI Bus's own authority by collective bargaining agreement or policy instruction.

If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee will be notified by the MRO that the employee has a confirmed, verified positive test and that the employee has 72 hours to request the split specimen be sent to another DHHS certified laboratory to have it analyzed for the presence of the drug found in the primary sample. If the employee makes the request within 72 hours of the time the employee has actual knowledge of the MRO's verification of a positive on the primary specimen, the MRO will direct, in writing, the laboratory to provide the split specimen to another DHHS certified laboratory for analysis. Only the MRO can initiate "second opinion". If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug testing or untestable, or if the results of the split sample are not scientifically adequate, the MRO shall declare the original test to be "cancelled" and report the reasons to the employee, the employer and the DOT. A "cancelled test" is neither positive nor negative.

Failure to appear for a test without an acceptable reason will be treated as a refusal. When the employee receives notification to appear for testing, employees should proceed immediately to the test site. Any employee that fails to arrive at the test site within a reasonable time, after being directed to do so by the employer, shall be presumed to be a refusal and therefore positive under the FTA. The employee shall then have the burden of establishing the reason for the inability to arrive at the test site within a reasonable time. A failure to meet the burden of proof will result in the "refusal" standing.

A covered employee who remains subject to post-accident testing and who fails to remain readily available for such testing, including notifying the employer or employer representative of his/her location if he/she leaves the scene of the accident prior to submission to such test shall be deemed by the employer to have refused to submit to testing. Where the employee subject to post-accident testing is required to assist in the resolution of the accident or receives medical attention following the accident, post-accident testing is stayed during that period. A written or verbal refusal to provide a required urine specimen or to sign the DOT-required testing forms also constitutes a refusal. In addition, employees who fail to cooperate with the testing process and/or unable to provide a minimum of 45 ml cc of urine within three hours of the commencement of the testing process shall be deemed a refusal where the Medical Review Officer determines that no valid medical reasons exists for such failure. Refusal to take a test is considered to be a "positive" and may have further disciplinary consequences, up to and including dismissal.

DRUGS TESTED

The FTA requires that all urine specimens be analyzed for the following drugs:

1. Marijuana (THC metabolite)
2. Cocaine
3. Amphetamines
4. Opiates (including heroin)
5. Phencyclidine (PCP)

In addition, under LI Bus policy, as discussed in Part II, for non-FTA tests, urine specimens are analyzed for additional drugs to those listed above.

The testing is a two-stage process. First, a screening test is performed. If it is positive for one or more of the drugs, then a confirmation test is performed for each identified drug using state of the art gas chromatography/mass spectrometry (GCMS) analysis.

REVIEW AND INTERPRETATION OF THE LABORATORY RESULTS

LI Bus, pursuant to FTA regulations, employs the services of a Medical Review Officer (MRO). As required by FTA regulations, MRO's are licensed physicians who have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his or her medical history and any other relevant biomedical information. All drug test results are reviewed and interpreted by the Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the employee will be directed to see the MRO for an interview to determine if there is an alternative medical explanation for the drugs found in the employee's urine specimen. If the employee provides appropriate documentation and the MRO determines that it is legitimate medical use of the prohibited drug, the drug test result is reported as negative to the employer.

PROHIBITED DRUG USE

The drug rules prohibit any unauthorized use of the DOT specified controlled substances. Illicit use of drugs by FTA covered employees is prohibited on or off duty as discussed in Part II.

THE CONSEQUENCES OF A POSITIVE DRUG TEST

As with an alcohol misuse violation, a FTA covered employee must be removed from safety-sensitive duty if he/she has a positive drug test result. An employee cannot be returned to safety-sensitive duties until he/she has been evaluated by a Substance Abuse Professional and/or MRO, complied with recommended rehabilitation, and has a negative result on a return-to-duty drug test. Follow-up testing to monitor the employee's continued abstinence from drug use is required, and may include testing for alcohol.

The FTA requires that FTA covered employees who test positive for drugs and/or alcohol in an FTA test be referred to a Substance Abuse Professional for evaluation and appropriate referral even when the employee is dismissed and not eligible for restoration to duty under LI Bus Policy. This requirement applies to both probationary and non-probationary employees.

There may also be disciplinary consequences for both FTA covered and non-covered employees in accordance with LI Bus Policy or applicable collective bargaining agreements. See Part II for a detailed description of these consequences for various employees.

RANDOM DRUG TESTING

Employers are responsible for conducting random, unannounced drug tests. The selection of employees for random testing, pursuant to FTA regulations, is accomplished by a scientifically validated method by means of a computer program. The total number of tests conducted each year must equal at least 50% of the number of FTA covered employees. Some employees may be tested more than once each; some may not be tested at all depending on the random selection. Random tests are spread reasonably throughout the year and are continuous throughout the year, and during all hours of operation of the service. Random testing for drugs does not have to be conducted in immediate time proximity to performing safety-sensitive functions. Once an employee is selected for random testing through the computer selection process, there is no managerial discretion in selection or notification to employees of the requirement for testing. Once notified of selection for testing, an employee must immediately proceed to a collection site to accomplish the urine specimen collection.

REQUIRED EMPLOYEE EDUCATION AND TRAINING

LI Bus provides information on drug use, alcohol misuse and treatment resources to FTA covered and non-covered employees. LI Bus provides one hour of training for employees on the dangers of controlled substances use and alcohol misuse. All supervisors of FTA covered employees must attend at least one hour of training on reasonable suspicion testing and at least one hour to training of the signs and symptoms of alcohol misuse. This training is necessary to assist supervisors in making appropriate determinations for reasonable suspicion testing.

RECORDS, SPECIMEN STORAGE AND CONFIDENTIALITY OF EMPLOYEES'S RECORDS

Federal rules require that the testing laboratory report test results to the MRO within an average of five working days after receipt of the specimen by the laboratory. Before any test result is reported, it shall be reviewed and the test certified as an accurate report by the responsible individual. The report is required to identify the drugs/metabolites tested for, whether positive or negative, the specimen number assigned by the employer, and the drug testing laboratory specimen identification number (accession number). The laboratory is required to report as negative all specimens that are negative on the initial test or negative on the confirmation test. Only specimens confirmed positive are reported positive for a specific drug. The MRO may request a quantitation level that the laboratory must supply. The MRO is required to report whether the test is positive or negative, and may report the drug(s) for which there was a positive test, but is not permitted to disclose the quantitation of test results to the employer. However, the MRO may reveal the quantitation of a positive test result to the employer, the employee, or the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the employee and arising from a verified positive drug test. Reports from laboratories to the MRO may be made by electronics means in a confidential manner but may not be provided verbally by telephone.

Employee drug and alcohol testing results and records are available to the employee and are maintained under strict confidentiality by the employer, the testing laboratory, and the Medical Review Officer. They cannot be released to others without the written consent of the employee. Exceptions to these confidentiality provisions are limited to DOT agencies when license or certification actions are required or to a decision maker in arbitration, litigation or administrative proceedings arising from a positive test. Statistical records and reports are maintained by employers and testing laboratories. This information is aggregated data and is used to monitor compliance with the rules and to assess the effectiveness of the testing programs.

**MTA Long Island Bus Drug & Alcohol Testing:
MTA Long Island Bus Non-Federal Program**

I. THE RULES AND POLICY INSTRUCTIONS GOVERNING AGENCY-BASED TESTING

To the extent that any provisions of the LI Bus policy, rules and/or collective bargaining agreements are inconsistent with federal regulations, they are considered modified to conform with such regulations.

These rules are separate and distinct from but not in conflict with the Federal Transit Administration (FTA) issued rules described in Part I.

II. EMPLOYEES AFFECTED BY THESE RULES AND POLICIES

Both safety-sensitive and non-safety sensitive employees are covered by the following internal policies and collective bargaining agreement provisions as a condition of employment.

III. REQUIRED ALCOHOL TESTS

The following LI Bus alcohol tests are required. These are in addition to FTA tests for safety-sensitive employees that are enumerated in Part I:

- When directed by a member of supervision following any accident or unusual incident that occurs while on duty where it is reasonable to conclude that drug/alcohol use could have contributed to the accident.
- When supervision or management has reason to believe the employee is impaired.
- Unannounced recheck after a prior positive test.

IV. ALCOHOL TESTING PROCESS

Long Island Bus rules, policy instructions and collective bargaining agreements require breath testing using evidential breath testing devices (EBT) approved by the National Highway Traffic Administration (NHTSA). A screening breath test is conducted first. Any result with less than 0.02 alcohol concentration is considered a “negative” test and no further testing is done. If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted. A “positive” alcohol test is one in which both the screening test and the confirmation test are at .04 or greater.

Failure to appear for a test without an acceptable reason will be deemed a refusal. Employees who fail to appear for testing within a reasonable time after being directed without an acceptable reason for the delay may be treated as a refusal and/or appropriately disciplined. A written or a verbal refusal to provide a required breath specimen or to sign required testing forms also constitute a refusal. In addition, employees who fail to cooperate with the testing process in a way that prevents the completion of the test and/or who provide insufficient breath shall be deemed a refusal where the Medical Review Officer determines that no valid

medical reasons exists for such failure. Refusal to take a test is considered to be a "positive" and may have further disciplinary consequences, up to and including dismissal.

V. DISCIPLINARY ACTIONS FOR VIOLATIONS OF LONG ISLAND BUS ALCOHOL POLICY

These disciplinary actions are in addition to the FTA mandated consequences discussed in detail in Part I and apply to **all** employees.

1. When the test reading is greater than .02 for an employee with less than one (1) year of service, such employee will be dismissed from LI Bus.
2. When the test reading is greater than .02 but less than .04 for an employee with more than one (1) year of service, in the absence of an in-service accident or incident or other evidence of unsatisfactory job performance, such employee will be suspended from performing safety sensitive duties until a reading of less than .02 is obtained, or until eight (8) hours have elapsed. A reading of less than .02 must be obtained before returning the employee to duty. In addition, the employee will be mandated into EAP and must participate in an accredited alcohol abuse program.
 - a. Failure to participate in and satisfactorily meet the requirements of the program will result in dismissal.
 - b. If within one (1) year from the .02 test reading such employee has a test reading of .02 or more, such employee will be dismissed from service.
3. When the test reading is .04 or more for an employee with more than one (1) year of service, in the absence of an in-service accident or incident or other evidence of unsatisfactory job performance, such employee will be suspended for a period of up to thirty (30) days and be required to participate in an accredited alcohol abuse program.
 - a. Only upon the recommendation of an accredited alcohol abuse program and the conclusion of the suspension period, the employee will return to full duty.
 - b. Failure to participate in and satisfactorily meet the requirements of the program will result in dismissal
 - c. If within one (1) year from such suspension, such employee has a test reading of .04 or greater, such employee will be dismissed from service.
4. If there is an in-service incident or accident or other evidence of unsatisfactory job performance, employees with more than one (1) year of service and a test reading of .02 or more will be dismissed.
 - Failure or refusal to submit to testing will result in dismissal and will be deemed an admission of improper alcohol use.

- A dismissed or suspended employee will be subject to the provisions specified in the section addressing “Application for Rehire After Discharge or Return to Title After Suspension.”
- Possession of alcohol while on duty or on the property of MTA LI Bus is prohibited and may result in disciplinary action, including dismissal from service.

VI. RULE ENFORCEMENT

LI Bus internal standards must be strictly enforced by supervisors and managers. LI Bus policy is zero tolerance for drug use and alcohol violations. The riding public and all LI Bus employees have a right to expect a drug and alcohol free Transit system.

VII. MTA LONG ISLAND BUS DRUG POLICY

All employees, safety-sensitive as well as non-safety-sensitive are:

- Prohibited from using illegal drugs on or off duty.
- Prohibited from unauthorized use of controlled substances.
- Prohibited from using, possessing, selling, manufacturing, or distributing illegal drugs or controlled substances in the workplace.
- Under an affirmative and legal obligation not to be under the influence of any substance, prescribed or not, which can in any way impair their ability to perform their respective job function.
- Required to submit to any drug screening test pursuant to federal regulations and/or LI Bus policy.
- Prohibited from tampering with or adulterating a urine specimen.

LI Bus requires that for all tests conducted under its own authority, urine specimens will be analyzed for the following nine panel protocol containing drugs and substances listed in the New York State Public Health Law, Section 3306, Schedules of controlled substances.

- Marijuana
- Cocaine
- Opiates (including heroin)
- Amphetamines
- Phencyclidine (PCP)
- Barbiturates
- Methadone
- Benzodiazepines
- Phenytoin

Note: As indicated in Part I, for tests conducted under DOT and FTA authority urine specimens are analyzed only for drugs on the DOT-DHHS approved five panel protocol.

Violations of any part of this policy may result in disciplinary action up to and including dismissal. See “**Disciplinary Actions for Violations of LI Bus Drug Policy**” for penalties.

VIII. DRUG TESTING

LI Bus has issued rules, policy instructions and entered into collective bargaining agreements that require drug testing of all LI Bus employees. The drug testing rules cover the same categories of employees as the alcohol testing rules – reasonable suspicion; post-accident; return to duty; follow up and pre-employment.

In addition, LI Bus policy requires drug testing in **the following circumstances for FTA covered and non-FTA covered employees**: Return to Duty physical following extended absences or other non-DOT regulated absences of more than five (5) days; biennial and/or annual periodic physicals; when directed by members of supervision following any accident or unusual incident that occurs while on duty where it is reasonable to conclude that drug/alcohol use could have contributed to the accident; unannounced recheck after a prior positive.

IX. DRUG TESTING PROCEDURES

Drug testing is conducted by analyzing an employee’s urine specimen. The analysis is performed at laboratories and monitored by the Department of Health and Human Services (DHHS). The employee provides a urine specimen in a location that affords privacy and the “collector” seals and labels the specimen, completes a chain of custody documents and prepares the specimen and accompanying paperwork for shipment to the drug testing laboratory.

If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee will be notified by the agency via the MRO that the employee has a confirmed, verified positive test. The employee has seventy-two (72) hours in which to request a test of the split specimen. If a timely request is received, the MRO shall direct the laboratory, in writing, to ship the split specimen to another DHHS-certified lab to have it analyzed for the presence of the drug found in the primary sample. The split specimen procedure essentially provides the employee with an opportunity for a “second opinion”.

Failure to promptly appear for a test without an acceptable reason will be treated as a refusal. An employee who remains subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or employer representative of his/her location if he/she leaves the scene of the accident prior to submission to such test shall be deemed by the employer to have refused to submit to testing. In addition, employees who fail to cooperate with the testing process and/or are unable to provide a minimum of 45cc of urine within three hours of the commencement of the testing process shall be deemed a refusal where the Medical Review Officer determines that no valid medical reasons exists for such

failure. Refusal to take a test is considered to be a “positive” and may have further disciplinary consequences up to and including dismissal.

XI. REVIEW AND INTERPRETATION OF THE LABORATORY RESULTS

All drug test results are reviewed and interpreted by the Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the employee will be directed to see the MRO for an interview to determine if there is an alternative medical explanation for the drugs found in the employee’s urine specimen. If the employee provides appropriate documentation and the MRO determines that it is legitimate medical use of the prohibited drug, the drug test result is reported as negative to the employer.

XII. DISCIPLINARY ACTIONS FOR VIOLATIONS OF LI BUS DRUG POLICY

A. The following disciplinary actions are in addition to the FTA mandated consequences discussed in detail in Part I and apply to all employees. Briefly, the FTA mandated consequences require the employee to immediately cease performing his/her safety sensitive function; evaluation by a SAP; successful completion of any accredited education and treatment program prescribed by the SAP; negative results from any Return to Duty testing; compliance with any follow-up testing program as directed by the SAP.

1. Use of any drug or substance listed in Public Health Law section 3306 (Schedules I through V), including but not limited to heroin, LSD, concentrated cannabis, hashish or hash oil, morphine or its derivatives, mescaline, peyote, phencyclidine (PCP), opium, opiates, methadone, cocaine, quaaludes, amphetamines, seconal, codeine, phenobarbital, valium, and/or any drug or substance for which an employee does not have proper medical authorization, is strictly prohibited and will result in dismissal from service.

No employee shall consume drugs or controlled substances, or be under the influence of an intoxicating drug within six hours before going on duty in a job function which requires operating or having physical control of a bus.

Evidence of such use shall be by drug screening urinalysis to be conducted under the circumstances set forth in the Drug Testing Section of this policy instruction. Failure or refusal to take such test will be deemed a positive finding and will result in dismissal from service.

Tampering with or adulterating a urine sample will result in disciplinary action up to and including dismissal from service.

Possession of substances or drugs not properly medically authorized is prohibited and will result in disciplinary action, up to and including dismissal from service.

B. Detection of a Substance or Drug Not Medically Authorized Following a Random Drug Screening:

1. Use of a prohibited substance, as defined above, is strictly prohibited. Evidence of such use shall be by random and unannounced drug screening urinalysis to be conducted in accordance with the Random Drug/Alcohol Testing Procedures.
2. Failure or refusal to take an unannounced random drug test will result in suspension without pay from the time the employee fails or refuses to submit to the random drug test until he/she:
 1. Has passed a return to duty drug screening urinalysis test;
 2. Is cleared by LI Bus's Medical Review Officer to return to work; and
 3. Returns to work

A medical emergency involving the employee or an immediate member of his/her family will **not constitute a failure or refusal to submit to a random drug test if the employee can provide documentation satisfactory to LI Bus to substantiate the medical emergency.**

3. First positive drug test as a result of a random drug test:

1. An employee who, for the first time, tests positive for drugs in a random drug test will be disciplined as follows:
 - (i) The employee will be suspended for not less than thirty (30) days.
 - (ii) The employee will be mandated into the EAP and must demonstrate that he/she is drug free by means of a LI Bus administered urinalysis test before he/she will be returned to duty
 - (iii) The employee must follow and comply with the provisions of Section XV, Application for Rehire after Discharge or Return to Title after Suspension.
 - (iv) When returned to title, the employee will be subject to periodic drug screening by LI Bus for one year.

Note: All the requirements for a mandated EAP participant will apply to the employee.

4. First positive drug test other than as a result of a random drug test:

1. An employee who, for the first time, tests positive by means of any drug or alcohol test other than a random drug/alcohol test administered in accordance with this policy instruction will be disciplined as follows:
 - (i) The employee will be subject to discipline including suspension and/or discharge in accordance with this policy instruction.

- (ii) The employee must follow and comply with the provisions of Section XV, Application for Rehire after Discharge or Return to Title after Suspension

Note: If the employee has previously tested positive by means of any drug or alcohol test administered in accordance with this Policy Instruction, other than a random drug test, a second positive that results from a random drug test will subject the employee to discipline including suspension or discharge as specified in this Policy Instruction. In such instance, the second positive from the random test will not be treated as the employee's first positive.

5. Second positive drug test result of any drug/alcohol test:

- a. If an employee, other than a paratransit employee, tests positive a second time by means of any drug or alcohol test administered in accordance with this policy instruction, he/she will be disciplined including suspension and/or discharge in accordance with this policy instruction as if it were his/her first positive test, provided that the first positive finding was the result of a random drug/alcohol test. The disciplinary penalties for the use of alcohol, the use of substances and drugs or marijuana will apply.
- b. A paratransit employee who provides a first time drug/alcohol positive result at any testing time will not be able to waive that result in the event of another positive test result. The first positive result will constitute a first time violation of the policy instruction.

- 6. Tampering with or adulterating a sample will result in disciplinary action up to and including dismissal from service.

C. Use of Medically Authorized Drugs

The use of medically authorized drugs and substances must be reported to the Medical Review Officer.

Employees should check with their personal physician or LI Bus's Medical Division before engaging in their job function while taking any medication, prescribed or not.

Employees are under affirmative obligation to provide written authorization for medically authorized drugs listed in Public Health Law Section 3306, Schedules of controlled substances (Schedules I through V), including methadone provided in the course of a drug treatment program. Evidence of medical authorization shall be provided upon request.

Employees must list any medication being taken on the Drug Advisory Form (attachment 1) available in the Medical Division.

An employee may be required to take a leave without pay until such medically authorized use is discontinued.

The failure to report the use of medically authorized drugs or controlled substances will result in disciplinary action, up to and including dismissal. See “**Disciplinary Actions for Violations of LI Bus Drug Policy**” for penalties.

D. Use of Marijuana

1. Use of marijuana by LI Bus employees at any time is prohibited.
 2. All employees are required to submit to urinalysis under the circumstances as set forth in Section VIII Drug Testing.
 3. Failure or refusal to submit to such testing will result in dismissal.
 4. a. When the urinalysis test is positive for marijuana and the employee has less than one (1) year of service: he/she will be dismissed from service.

b. When the urinalysis test is positive for marijuana for an employee with more than one (1) year of service, in the absence of an in-service incident or accident or other evidence of unsatisfactory job performance, the employee will be suspended up to thirty (30) days, and is required to participate in an accredited counseling program. If there is an in-service incident or accident or other evidence of unsatisfactory job performance, employees with more than one (1) year of service and a positive reading for marijuana will be dismissed.
 - c. If the counseling program so recommends at the conclusion of the suspension, the employee will return to full duty
 - d. Failure to participate in and satisfactorily meet the requirements of the program will result in dismissal.
 - e. If within one (1) year from such suspension, such employee has a positive urinalysis test for marijuana, such employee will be dismissed from service.
 5. Possession of marijuana while on duty or on the property of LI Bus is prohibited and will result in disciplinary action up to and including dismissal.
- E. An employee suspended or dismissed for violating this policy instruction will be subject to the provisions of Section XV, Application for Rehire After Discharge or Return to Title After Suspension.

XIII. PROCEDURE FOR ILL/INJURED EMPLOYEE WHO REQUESTS TO GO TO THE HOSPITAL

- A. An employee who is required to submit to a drug and alcohol test in accordance with any of the provisions contained in this policy instruction and has indicated to his/her

supervisor that he/she is ill or injured and requests to be taken to the hospital, will be transported or accompanied to the hospital by a supervisor.

- B. The supervisor will determine whether the employee can perform the drug and alcohol test in the Medical Division within the applicable time frames.
- C. In the event it becomes necessary to conduct the drug and alcohol test in the hospital, the supervisor will contact the Mitchel Field crew dispatcher and arrange for transporting the appropriate Medical Division personnel and the necessary urine and breath specimen collection devices required to complete the tests as follows:
 - 1. The supervisor should arrange for a collection site. If a public restroom is used, the collector, if he/she is of the same gender as the employee must accompany the employee to the restroom. The collector will remain in the restroom but outside the stall while the specimen is collected. If the collector is not of the same gender as the employee, he/she must locate a single stall restroom to insure that no other person is present.
 - a. The employee will provide the sample in private and not observed by the collector.
 - b. The collector will follow the specimen collection procedure and the Chain of Custody form completion instructions as specified in Appendix A, except for the following:
 - 1) Once the employee has closed the Transport Box and inserted Parts 4, 5, 6 and 7, and the Self-Executing Affidavit into the envelope marked with the employee's identification number: the specimen and envelope will be transported to the Mitchel Field Depot.
 - 2) The collector will enter the Medical Unit and sign in the appropriate information in the Medical logbook.
 - 3) The collector will enter the Medical Unit and sign the appropriate information in the Medical logbook.
 - 4) The collector will unlock the refrigerator and place the specimen in the refrigerator.
 - 5) The collector will lock the refrigerator and follow the procedure as specified in Section III, Paragraphs S, T, and U of Appendix A.
 - c. If the employee is discharged, the supervisor will return the employee to his/her depot with the specimen.

2. If the employee elects to provide the urine sample at LI Bus's collection site he/she will be transported to the Medical Division by his/her supervisor to provide a urine sample following treatment or release from the hospital. The collector will follow the chain of custody procedures described above. If an employee's medical condition is such that he is unable to provide a urine sample at the hospital and the employee's medical condition requires that he be admitted to the hospital, the collector should:
 - a. Request that the employee, if capable of providing his/her consent, sign a consent form to permit the hospital to obtain a urine sample (annexed as Attachment 2). Failure to sign the consent form will be deemed a refusal to provide a urine sample and will subject the employee to applicable disciplinary penalties for refusal to provide a urine sample.
 - b. If the employee is not capable of consenting to urine testing at the time he/she is admitted to the hospital, the employee will be requested to provide documentation prior to returning to work that he/she did not have a prohibited drug/alcohol in his/her system when the illness, incident or accident occurred.

XIV. EMPLOYEE ASSISTANCE PROGRAM ("EAP")

- A. In order to fulfill LI Bus's primary duty to provide safe and efficient public transportation and also to assist LI Bus employees with drug and/or alcohol problems, LI Bus shall provide assistance to all LI Bus employees in referring those employees to an accredited counseling program, including those employees who voluntarily participate. Assistance will be provided on a confidential basis to all employees referred to any EAP and those who volunteer to participate as well. The Human Resources Division shall be responsible for the administration and coordination of any alcohol and drug treatment programs as appropriate.
- B. All LI Bus's employees except where otherwise noted, are entitled to the referral services to be provided by or offered through the Human Resources Division.
- C. Employees mandated to participate in programs under the provisions of this Policy must comply in all respects with the directions and program requirements or be subject to dismissal from service.
- D. Employees who voluntarily participate in an accredited counseling program may be given authorized leaves of absence without pay until the program counselor recommends their return to full time duty. Placements on leave of absence will be accomplished on a confidential basis.
- E. An employee who voluntarily enters the EAP more than once requires a second leave of absence will be considered a mandated EAP participant.

F. An employee may not avoid pending disciplinary charges for violation of the Policy Instruction by voluntarily enrolling in the EAP. The employee will be treated as a mandated EAP participant.

XV. APPLICATION FOR REHIRE AFTER DISCHARGE OR RETURN TO TITLE AFTER SUSPENSION

A. Discharge with less than one year of service:

An employee who has been discharged from service for alcohol or drug possession or use and who has less than one (1) year of service when discharged will not be returned to title or rehired.

B. Discharged with more than one year of service :

1. An employee, who has one (1) or more years of service when discharged may reapply after the submission of satisfactory proof to LI Bus that he or she has:

- a. Enrolled in a drug program and is certified by such program or the medical authority as drug free.
- b. Enrolled in an alcohol abuse program and is certified by such program or other medical authority as alcohol free.
- c. Passed a LI Bus administered DOT drug and alcohol test.

2. Such employee has seven (7) working days after discharge to contact LI Bus's EAP Coordinator and be referred to an alcohol or substance abuse program.

- a. The employee has not less than thirty (30) days or more than one hundred eighty days (180) to successfully complete the program to which he/she has been referred.
- b. Following the successful completion of the program the employee has seven (7) working days to reapply for his /her position by submitting a request that he/she be rehired. The Request for Rehire is annexed as Attachment 3. The decision to rehire such employee is within the discretion of LI Bus.

C. An employee with more than one year of service who is suspended pursuant to the provisions of this Policy Instruction for a positive test reading of .04 for alcohol (Section) or the use of marijuana (Section) will be returned to title in the absence of an in-service accident or without any other evidence of unsatisfactory job performance only upon either:

1. Proof of termination of use of the drug.
2. Where alcohol was identified by an EBT reading of .04 or more by participation in an alcohol treatment program.

3. Such employee has seven (7) working days after suspension to contact LI Bus's EAP Coordinator and be referred to an alcohol or substance abuse program.
 - a. The employee has up to thirty (30) days to successfully complete the program to which he/she has been referred.
 - b. Following the successful completion of the program, the employee has seven (7) working days to request that he/she be returned to title. The Request for Return to Title form is annexed as Attachment 4.
- D. An employee may be re-employed under the provisions of this section only one time. A second dismissal will be final.



Neil S. Yellin
January 7, 2003

**NOTICE OF ADOPTION BY THE AGENCY'S GOVERNING BOARD AND
STATEMENT ON FEDERAL PREEMPTION**

This policy statement has been adopted by the Metropolitan Transportation Authority's governing board and is in full force and effect subject to future amendment and revisions as necessary.

Also, to the extent that any provisions of the LI Bus policy, rules and/or collective bargaining agreements are inconsistent with federal regulations, they are considered modified to conform with such regulations.

SAFETY SENSITIVE JOB TITLES

Occupational Code	Occupational Description
051	Command Center Dispatcher
060	Plant & Equipment Technician
090	Lead Plant & Equipment Technician
200	Security Agent
201	Supervisor of Security
206	Assistant Plant & Equipment Technician
305	Dispatcher
310	Bus Operator
311	Limited Assignment Bus Operator
312	Paratransit Bus Operator (part time)
313	Paratransit Bus Operator (full time)
320	Paratransit Mechanic (full time)
321	Paratransit Mechanic (part time)
322	Paratransit Mechanic's Helper (full time)
323	Paratransit Mechanic's Helper (part time)
326	Paratransit Transportation Coordinator (full time)
327	Paratransit Transportation Coordinator (part time)
403	Line Supervisor
610	Mechanic
611	Mechanic – Body
612	Mechanic – Electrical
614	Mechanic – Signs
620	Mechanic's Helper
621	Mechanic's Helper – Body Trainee
622	Mechanic's Helper – Electrical Trainee
624	Mechanic's Helper – Sign Trainee
630	Storekeeper
631	Storekeeper Trainee
440	Cleaner – Caretaker
441	Cleaner – Revenue Equipment
445	Plant & Equipment Technician Level I
446	Plant & Equipment Technician Level II
447	Plant & Equipment Technician Level III
929	Tire Contractor

MTA Long Island Bus Drug & Alcohol Policy Instruction for Contractors

1.0 APPLICABILITY

This policy applies to all safety sensitive contractors when performing any transit-related safety sensitive business.

A safety sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch, maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and any other employee who holds a Commercial Driver's License. Maintenance functions include but are not limited to the repair, overhaul, and rebuild of engines, vehicles and/or equipment.

All safety sensitive employees working on/performing services for LI Bus are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended. Violation of these provisions is prohibited and will disqualify safety sensitive employees from working on LI Bus equipment and/or vehicles.

2.0 PROHIBITED SUBSTANCES

"Prohibited substances" addressed by this policy include the following:

2.1 Illegally Used Controlled Substances or Drugs

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legal prescription drugs, and use of illegally obtained prescription drugs. Safety sensitive employees will be tested for marijuana, cocaine, amphetamines, opiates, and phencyclidine as described in Section 4.0 of this policy.

3.0 PROHIBITED CONDUCT

3.1 Intoxication/Under the Influence

Any safety sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be prohibited from working on LI Bus vehicles and equipment pending an investigation and verification of condition. Employees found to be under the influence of a prohibited substance or who fail to pass a drug or alcohol test shall be prohibited from working on LI Bus equipment and/or vehicles. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

3.2 Alcohol and Drug Use

No safety sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No safety sensitive employee shall use alcohol while on duty, in uniform, while performing safety sensitive functions, or just before or just after performing a safety sensitive function. No safety sensitive employee shall use alcohol within four hours of reporting for duty, or during the hours that they are on call.

3.3 Compliance with Testing Requirements

All safety sensitive employees performing services for the contractors of LI Bus will be subject to urine drug testing and breath alcohol testing as a condition of employment. Any safety sensitive employee who refuses to comply with a request for testing shall be prohibited from working on LI Bus equipment and/or vehicles. Any safety sensitive employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of falsifying test results will result in the employee being disqualified from working on LI Bus equipment and/or vehicles. The following are also considered a refusal to test if the employee:

- Fails to appear for any test within a reasonable time, as determined by LI Bus, after being directed to do so by the employer
- Fails to remain at the testing site until the testing process is complete
- Fails to provide a urine or breath specimen for any drug test required by this part or DOT agency regulations
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of provision of a specimen
- Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- Fails or declines to take a second test the employer or collector has directed the employee to take
- Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
- Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- If the MRO reports that there is verified adulterated or substituted test result

Drug tests can be performed any time a safety sensitive employee is on duty. An alcohol test can be performed when the safety sensitive employee is actually performing a safety sensitive duty, just before, or just after the performance of a safety sensitive duty.

3.4 Notifying the Transit System of Criminal Drug Conviction

All contractors are required to notify LI Bus of any employee's criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in the disqualification of the employee from performing work on LI Bus equipment and/or vehicles.

4.0 TESTING PROCEDURES

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as required by Federal regulations. All safety sensitive employees shall be subject to drug testing prior to performing work on LI Bus equipment and/or vehicles, for reasonable suspicion, and following an accident as defined in Section 4.2, 4.3 and 4.4 of this policy. All safety sensitive employees shall be subject to alcohol testing for reasonable suspicion and following an accident as defined in Section 6.2, 6.3 and 6.4.

Those employees who perform safety sensitive functions as defined in Section 1.0 (Applicability) shall also be subject to testing on a random, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. Urine specimens will be collected using the split specimen collection method described in 49 CFR Part 40. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. An initial drug screen will be conducted on the primary urine specimen. For those specimens that are not negative, appear to be substituted, or adulterated, a confirmatory Gas Chromatography/Mass Spectrometry (C/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended. Attachment 1 lists the minimum thresholds established for each drug and/or its metabolites. The test results from the laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive test result, substitution or adulteration. The MRO will contact the employee, notify the employee of the positive, substitute, or adulterated laboratory result, and provide the employee with an opportunity to explain the confirmed test result. The MRO will subsequently review the employee's medical history/medical records to determine whether there is a legitimate medical explanation for a positive, substitute or adulterated laboratory result. If no legitimate medical explanation is found, the test will be verified positive, substitute, or adulterated and reported to the company program manager. If a legitimate explanation is found, the MRO will report the test result as negative.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer.

Observed collections:

Consistent with 49 CFR Part 40 collection under direct observation (by a person of the same gender) with no advance notice will occur if:

- (1) The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the MTA Long Island Bus Senior Manager, Labor Relations that there was not an adequate medical explanation for the result; or

- (2) The MRO reports to the Senior Manager of Labor Relations that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.

The collector must immediately conduct a collection under direct observation if:

- (a) They are directed by the Senior Manager, Labor Relations to do so; or
- (b) The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen; or
- (c) The temperature on the original specimen was out of range; or
- (d) The original specimen appeared to have been tampered with.

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test will be performed using an NHTSA-approved evidential breath-testing device (EBT) operated by a trained breath alcohol technician (BAT). The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout along with an approved alcohol testing form will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40 as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

A safety sensitive employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be prohibited from working on LI Bus vehicles and equipment for eight hours unless a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Part 655 for safety sensitive employees.

Any safety sensitive employee that has a confirmed positive drug or alcohol test will be prohibited from working on LI Bus vehicles and referred to a Substance Abuse Professional (SAP).

4.1 Employee Requested Testing

Any safety sensitive employee who questions the results of a required drug test under paragraphs 4.2 through 4.5 of this policy may request that the split sample be tested. This test must be conducted at a different DHHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. The split sample test will occur regardless of up front payment, but LI Bus reserves the right to seek reimbursement from the employee. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

4.2 Pre-Employment Testing

All safety sensitive position applicants shall undergo urine drug testing prior to hire or transfer into a safety sensitive position. Receipt by the transit system of a negative drug test result is required prior to

employment. Failure of a pre-employment drug test will disqualify an employee from working on LI Bus equipment and/or vehicles.

In addition, FTA requires all safety sensitive employees who have been off duty for 90 or more days for any reason to successfully pass a pre-employment drug test prior to the performance of a safety sensitive function.

A pre-employment/pre-transfer test will also be performed anytime an employee's status changes from an inactive status in a safety sensitive position to an active status in a safety sensitive position (i.e., return from absence for illness or injury in excess of five days).

4.3 Reasonable Suspicion Testing

All safety sensitive employees may be subject to a fitness for duty evaluation, and urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the short-term effects of substance abuse or alcohol misuse.

Reasonable suspicion referrals must be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse.

4.4 Post-Accident Testing

All safety sensitive employees will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle (regardless of whether or not the vehicle is in revenue service) that results in a fatality. This includes all surviving safety sensitive employees that operated the vehicle and any other whose performance could have contributed to the accident. In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility or one or more vehicles incurs disabling damage, unless the operator can be completely discounted as a contributing factor to the accident. The accident definition may include some incidents where an individual is injured even though there is no vehicle collision.

Following an accident, the safety sensitive employees will be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing. Any safety sensitive employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any safety sensitive employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test. Employees tested under this provision will include not only the operations personnel, but any other covered employee whose performance could have contributed to the accident.

If LI Bus is unable to perform a FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), LI Bus may use drug and alcohol post-accident test results administered by State and local law enforcement officials. The State and local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with state and local law.

4.5 Random Testing

Employees in safety sensitive positions will be subjected to random, unannounced testing. The selection of safety sensitive employees for random drug and alcohol testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year. Tests can be conducted at any time during an employee's shift (i.e., beginning, middle, end). Employees are required to proceed immediately to the collection site upon notification of their random selection.

5.0 INFORMATION DISCLOSURE

All safety sensitive applicants who will be assigned to work on LI Bus vehicles and equipment will be asked to give consent to LI Bus for a background check of his/her previous DOT covered employer over the past two years. Information requested will include:

1. Alcohol test results of 0.04 or higher alcohol concentration.
2. Verified positive drug tests.
3. Refusals to be tested (including verified adulterated or substituted drug test results.)
4. Other violations of DOT agency drug and alcohol testing regulations.
5. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests).

All drug and alcohol testing records will be maintained in a secure manner so that disclosure of information to unauthorized persons does not occur. Information will only be released in the following circumstances:

1. To a third party only as directed by specific, written instruction of the employee
2. To the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on the behalf of the employee tested
3. To a subsequent employer upon receipt of a written request from the employee
4. To the National Transportation Safety Board during an accident investigation
5. To the DOT or any DOT agency with regulatory authority over the employer or any of its employees, or to a State oversight agency authorized to oversee rail fixed-guideway systems
6. To the employee, upon written request
7. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over LI Bus or the employee.
8. If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 necessary legal steps to contest the issuance of the order will be taken.

6.0 EMPLOYEE AND SUPERVISOR TRAINING

All safety sensitive employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited drug use.

Supervisors will also receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicator of probable alcohol misuse.

7.0 SYSTEM CONTACT

Any questions regarding this policy or any other aspect of the drug free and alcohol free transit program should contact the following transit system representative:

Program Manager:

Name: Carl Macchio
Title: Senior Manager, Labor Relations
Address: 700 Commercial Avenue, Garden City, NY 11530
Telephone Number: 516-542-0100 extension 4423
FAX Number: 516-542-1428

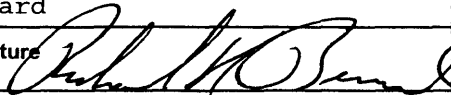
Medical Review Officer:

Name: Dr. Burton Miller
Title: Medical Review Officer
Address: 700 Commercial Avenue, Garden City, NY 11530
Telephone Number: 516-542-4419
FAX Number: _____

Substance Abuse Professional:

Name: To Be Determined
Title: _____
Address: _____
Telephone Number: _____
FAX Number: _____



Subject Port Jervis Line
Department Legal
Department Head Name Richard K. Bernard
Department Head Signature 
Project Manager Name

Date January 17, 2003
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	Comm. Mtg.	1/22	X		
2	Fin. Comm.	1/27	X		
3	Real Est. Com	1/27	X		
4	Board Mtg.	1/30	X		

Internal Approvals			
Order	Approval	Order	Approval
	President		Budget
	VP Operations		Capital Programs
	VP Financial Admin		Engr/Const
	Controller		Project Reporting

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval
	VP Planning & Development		Government Relations		Labor Relations		General Counsel
	Press				Personnel		Other

Narrative

PURPOSE -- Authorization is requested to lease on a long-term basis the Port Jervis Line from Norfolk Southern Railway Company ("NSR"), upon the terms and conditions described below, which include provision for eventual acquisition of the Line by Metro-North.

BACKGROUND -- The Port Jervis Line runs approximately 65 miles from Port Jervis, N.Y. in Orange County to Suffern, N.Y. in Rockland County. The service over the Line is operated for Metro-North by New Jersey Transit Rail Operations, Inc. ("NJTRO") pursuant to a service agreement which also covers Metro-North's other West-of-Hudson rail operation, the Pascack Valley Line. Metro-North and its contractor, NJTRO, operate over the Port Jervis Line pursuant to the provisions of a Trackage Rights Agreement ("TRA") with NSR (as successor to Conrail) entered into as of January 1, 1983. (The stations and adjacent parking facilities are owned by Metro-North.)

The term of the TRA expires at the close of 2003 and NSR has advised Metro-North that it will not renew the TRA under its present terms and conditions. The TRA provides for the negotiation of a new Agreement upon its termination but does not require a specific form of replacement agreement.

Ridership on the Line has grown 67% over the past 10 years, is projected to increase another 30% upon the opening of the Secaucus Transfer Station and to double by 2010. Significant increases in the level of service on the Line will be required to accommodate this growth. The Line will be an essential link in the rail corridor created as part of the I287/Trans Hudson project, if built, thereby providing direct service to GCT. Rail access to Stewart Airport, if constructed, will utilize the Line. Significant additional increases in ridership will result as a consequence of implementation of either of these projects.

The legal name of MTA Metro-North Railroad is Metro-North Commuter Railroad Company

NSR is required under the soon to expire TRA to maintain the Line at its expense to a standard which permits train operations at 60 mph for about 40 miles of its length and 79 mph for the balance. While the Line generally meets these standards, the Line is not maintained to the standards generally associated with Metro-North's East-of-Hudson operations. As a freight carrier operating at present only 2 regularly scheduled daily freight moves over the Line, NSR does not require for its operations the levels of maintenance required for a heavily traveled commuter rail line. Moreover, NSR, given its limited use of the Line, does not plan to make any investment of significance in the infrastructure of the Line. Early on in our discussions with NSR for a replacement agreement, it indicated that maintenance responsibility and improvement of the infrastructure must rest with Metro-North.

To support the current and future commuter service levels over the Line and to bring the Line to a state of repair equivalent to Metro-North's other operations, investment is required for improvements to the Line's right-of-way, including new signal and communications systems, new track and maintenance-of-way facilities. This is in addition to an investment in rolling stock acquisitions, as well as station and parking improvements.

Given the imperative to support the operational and capital needs of this fast growing segment of MTA's rail network in Orange and Rockland Counties, long-term control of the Line is essential.

THE TRANSACTION -- NSR is presently leasing the Line from a subsidiary of Conrail and cannot commit at this time to a sale of the Line. The Transaction, therefore, is structured as a sublease with these terms:

Term: 49 years

Rent: 9/1/02- 12/31/02 0 (waiver of trackage rights fees of \$200,000)

2003	\$.5 million
2004	\$1.5 million
2005	\$3.0 million
2006 and beyond	\$3.0 million subject to CPI adjustment every 3 years

PURCHASE PROCESS -- Beginning in 2006 (when NSR is expected to be in a position to sell) and at any time thereafter, either Metro-North or NSR may initiate negotiations for Metro-North's acquisition of the Line at a price determined by a mutually agreed upon appraiser using the average of the values determined under two appraisal methodologies:

1. "Over-The Fence" or market value.
2. "Assembled Rail Corridor" (market value multiplied by a factor to account for additional costs associated with assembling a 65 mile rail corridor).

The proposed agreement allows Metro-North to finance the acquisition by delaying the closing for up to 5 years, with interest at NSR's cost of capital but with a credit for rent paid in those 5 years.

RENT ADJUSTMENT -- If the sale is not consummated, rent is adjusted based upon which party is unwilling to conclude the transaction:

If NSR backs out -- rent is the lesser of (i) "over-the-fence" value (lower value) multiplied by Metro-North's cost of capital or (ii) \$3 million plus prior CPI adjustments (if any).

If Metro-North backs out -- greater of the above.

Either party may reinstate sale/purchase process after two years and, if a sale is not concluded, rent would be adjusted as above.

TAXES--The Line will be exempt from real property taxes and assessments.

MAINTENANCE --Metro-North is responsible for maintaining the Line.

CONTROL -- Metro-North will dispatch the Line, thereby controlling movements over the Line, with greater flexibility in scheduling commuter service.

FREIGHT OPERATIONS --. NSR will have exclusive freight trackage rights at no cost, except to the extent usage exceeds 2000 Level.

ALTERNATIVES -- Continuation of the present TRA is not possible given NSR's termination of the TRA and its insistence that in any new arrangement it must be relieved of responsibility for maintaining the Line at a level which is not required for its slower moving freight operations and that it also be relieved of real estate tax liability given its limited use of the Line. Moreover, from Metro-North's perspective, a continuation of the TRA would not give Metro-North the long-term control of the Line that is critical to meeting the expected increase in demand for improved commuter rail service in Orange and Rockland Counties and is essential before any major capital investment in the Line can be made.

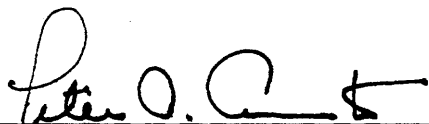
Any attempt by Metro-North to condemn the Line would be strongly resisted by NSR who would argue that federal law precludes condemnation of rail lines in active interstate commerce. A lengthy legal battle of uncertain outcome would ensue, during which time commuter service would deteriorate.

An arrangement with NSR for long-term control of the Line upon fair and reasonable terms achieved through negotiation is the desired alternative. The agreement submitted for your consideration reflects this approach.

BUDGET IMPACT -- Metro-North's operating cost for the new agreement will increase over the current costs of operating under the TRA. While rent in the early years is relatively low as compared to fees under the TRA, depending upon which of the rent scenarios is applicable and whether Metro-North has acquired the Line, the financial impact in 2007 (when acquisition is possible) will range from \$5.66 million to \$6.73 million (inclusive of debt service).

RECOMMENDATION -- Authorization to enter into the transaction for long-term control of the Line as described in this staff summary is recommended.

APPROVED FOR SUBMISSION TO THE BOARD

A handwritten signature in black ink, appearing to read "Peter A. Cannito", written over a horizontal line.

Peter A. Cannito, President

Port Jervis Line.SSS
Attachments

LIST OF PROCUREMENTS FOR BOARD APPROVAL, JANUARY 2003

METRO-NORTH COMMUTER RAILROAD

A. Non-Competitive Purchases and Public Work Contracts

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

1. **Applied Power Systems, Inc. \$64,000**
Purchase of 8 additional IGBT (Insulated Gate Bi-polar Transistor) to replace obsolete GTO (Gate Turn off Thyristor) in MNR M4/M6 Railcar Fleet.
MNR currently has eight GTO components, a component of the M4/M6 Railcar inverters that are no longer functioning. The GTO components are obsolete and essentially no longer repairable. MNR therefore recommends that they be replaced by new IGBT technology components. The IGBT technology will improve the performance and reliability of the inverters. Applied Power Systems is the recommended vendor because the firm has developed similar components for NYCT and MNR entered into a prior agreement with Applied Power for the conversion of 7 GTO components for purposes of testing them as prototypes. Price comparisons between the first 7 purchased with these 8 are not appropriate since the first 7 were rebuilt and these 8 are completely new. Funding for this procurement is included in MNR's Operating Budget.

2. **Koni North America \$17,120 (estimate)**
Two-Year Repair and Return Agreement for Koni Locomotive Dampers for Genesis Locomotives
Non-Competitive negotiated agreement. Repair and return of horizontal, vertical, and lateral dampers, including the pick-up, testing, repair, and return for the MNR Genesis locomotive fleet. Koni North America is the original equipment manufacture (OEM) of this equipment and the sole authorized repair facility for this equipment. This is MNR's first multi-year agreement for repair of this material. Previous repairs have been authorized on an individual basis and MNR has determined that it is economically beneficial to treat the dampers as a routine repair and return item. Advertisements placed in the last 12 months have not identified any additional interest from other sources, confirming the sole source status of these parts. This funding is included in MNR's Operating Budget.

3. **Okonite Company \$68,106**
Purchase of Various Cable for the East Side Access Project MNR Utility Relocation
MNR issued a publicly advertised Solicitation for purchase of the referenced cable. MNR received two bids. Both bidders took exception to MNR's Terms and Conditions. As a result, MNR rejected both bids and converted the solicitation to a negotiated procurement. MNR negotiated with low bidder, the Okonite Company, as the second bidder was considerably higher in price (62%). Negotiations with Okonite resulted in the following, (i), acceptance of the Contractor's original unit price bid with acceptance of minimum order requirements, which were higher than requested in the original bid, (ii), negotiation of an acceptable escalation cost as part of the final contract price, and (iii), manufacture and delivery of the material in a single shipment. All other terms and conditions of the original bid remain in effect. The resulting price of \$68,106 is deemed fair and reasonable. MNR will be reimbursed for the cost of the material by the East Side Access Project.

B. Request to use RFP for Procurement of Purchases and Public Works in lieu of Sealed Bids

(Staff Summaries only required for items estimated to be greater than \$1 million)

4. Implement an "Adopt-A-Station" Program for MNR Landscape Maint.

Metro-North requests permission to use the RFP process to evaluate prospective contractors to provide and administer an "Adopt-a-Station" program for landscaping maintenance at approx. 45 MNR-owned railroad station properties in NYS. The initial term for this contract will be for 5yrs. with an option for a five (5) year renewal period. Metro-North's goal is to implement a program involving the private sector to help upgrade landscape maintenance in its station areas at no cost.

This project will provide an opportunity for the selected firm(s) to earn revenue from sponsors who, in turn, will gain from the advertising value of having their "Adopt-A-Station" signs placed at these locations. Metro-North will have approval over the design, size and placement of these signs. This program would be similar to the Adopt-A-Highway programs found in many states throughout the country, and would be the initial application of the concept at a transit system.

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

(Staff Summaries required for items requiring Board approval)

5. Seasons Industrial Contracting Corp. \$15,000,000 (not-to-exceed)**Staff Summary Attached** 151**Asbestos, Lead, and Hazardous Material Abatement**

RFP Process (Non-Brooks Method); six (6) proposals received. Contract term is for five (5) years (Feb. 2003 - Jan 2008). The scope of work includes; (1) the abatement of asbestos, lead from interior structures and exterior structural steel, microbial growth, and other hazardous materials; (2) the preparation of filings, variance requests, and work plans for regulator agency review/approval; and (3) contain, test, and label waste for transport. Seasons Industrial Contracting Corp. (SIC) received the highest overall score based on the weighted criteria for selection, as set forth in the RFP. The Selection Committee unanimously selected the firm Seasons Industrial Contracting Corp. for their comprehensive and thorough understanding of MNR's requirements. All work will be performed on an as needed basis. The total cost of this service is not to exceed \$15,000,000 for five (5) years. Funding is included in the MNR Operating and Capital Budgets.

D. Ratifications

(Ratifications are to be briefly summarized with staff summaries attached only for unusually large or especially significant items)

6. Williams Scotsman, Inc.**\$135,340****Purchase Two (2) Triple-Wide, Retrofitted Office Trailers for MTA Police**

Competitively solicited miscellaneous purchase of two (2) triple-wide, retrofitted modular office trailers for the MTA Police Department at Yonkers Station. As part of the Hudson Line Stations Improvement Project, the MTA Police Dept. required relocation from its present location at Yonkers Station. A survey of existing properties, both offices and storefronts in the Yonkers vicinity, was conducted and many of the properties inspected required extensive construction and do not meet the needs and requirements of the MTA Police. MNR Capital Programs' continued review of this situation prompted the consideration of other options,

notably the purchase of temporary trailers, to house the MTA Police while construction work continues unabated on the Hudson Line Stations Project. The configuration of office trailers required to meet the needs of the MTA Police was difficult to locate, but MNR Procurement expedited a competitive solicitation in November that will result in delivery in January 2003. If the MTA Police are not temporarily relocated, extensive delays to the progress of construction for the Hudson Line Stations Project may arise resulting in costly claims. The two units are to be utilized thereafter for the duration of the Hudson Line Project. Funding for this purchase is included in the MNR Capital Budget.

E. Miscellaneous Procurement Contracts

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

7. The Helmsley Hotel-New York

The Grand Hyatt-New York

The Roosevelt Hotel

As -Needed Rental of Hotel Rooms to support MNR Operations

Indefinite quantity, letter agreements with three (3) Midtown-NY hotels for the period 2003-2004. In order to support MNR operations during emergencies, outages and other unforeseen circumstances, as well as during anticipated special events, MNR's senior staff as well as other select staff in various MNR Depts. may require midtown hotel accommodations easily accessible to GCT, MNR's OCC and the MNR Emergency Situation Room. These hotels allow MNR support staff to respond and act quickly and directly to any event or occurrence.

The MTA, on behalf of all the Agencies, has received a special price consideration for Corporate Rates at both the New York Helmsley Hotel and The Roosevelt Hotel. The room rates received by MNR from 11 hotels in the midtown area range from \$160-225 per night; The Helmsley, Roosevelt and the Grand Hyatt rates are \$160, \$185 and \$208 respectively. The decision on which hotel to use will be based upon several factors, including but not limited to season, price and room availability. There are no room guarantees associated with these agreements as MNR will only use accommodations on an as-needed basis. In the last quarter of 2003, MNR Procurement will review and evaluate the rates for 2004 and any substantial change(s) will be brought to the MTA Board for approval.

F. Personal Service Contracts

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

8. Urbitran Associates Inc.

\$2,268,000 (not-to-exceed)

Staff Summary Attached

153

Consultant Services for Parking Expansion, Development and Station Access

RFP Process, eleven (11) proposals received; Contract term is for two (2) years. The scope of services includes planning, environmental site assessment, parking demand, traffic analysis, investment evaluation, environmental assessment, conceptual development and design services throughout any location in the Metro-North service area. These locations include various stations along MNR's Hudson, Harlem, New Haven (NYS), Pascack Valley and Port Jervis Lines. The required services are to be provided on an on-call basis. The Selection Committee unanimously selected Urbitran Associates, Inc. to be professionally and technically competent to provide the required services. Urbitran Associates is currently providing these planning and design services for Metro-North under an existing contract and has performed very well to date. Cost was not a specific selection criterion because the on-call nature of the required services precludes project cost comparisons of the proposers. Nevertheless,

Urbitran's labor rates were evaluated and found to be consistent and favorable with the other short-listed firms. The total cost of these services is not to exceed \$2,268,000 and is included in the Metro-North Railroad Capital and Operating Budgets.

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)

9. Dependable Hydraulic, Inc. \$51,000 (not-to-exceed)

Rebuild/Replace Hydraulic Components-MNR's Track & Structures Dept.

Competitively bid three- (3) year miscellaneous service contract. Dependable Hydraulics will provide rebuilding, repairing or replacing of various hydraulic components used on MNR's Track & Structures Dept.'s maintenance equipment. The total cost of this service for up to the three (3)-year period is not to exceed \$51,000. The unit prices are fixed and guaranteed for the three (3) year term of this contract, and represent an approx. 50% decrease in the unit prices paid in the last contract. This substantial reduction is due to increased competition/vendor response and bidding. Funding is included in the MNR Operating Budget.

Approved for Submission to the Board



Peter A. Cannito, President

METROPOLITAN TRANSPORTATION AUTHORITY

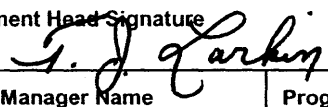
WHEREAS, in accordance with Section 1265-a and Section 1209 of the Public Authorities law and the All Agency Procurement Guidelines, the Board authorizes the award of certain non-competitive purchase and public work contracts, and the solicitation and award of request for proposals in regard to purchase 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, upon the recommendation of the Executive Director, 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.

Subject Non-Compet.Purchases&Public Work Contracts	
Department Procurement & Material Management	
Department Head Name T. J. Larkin	
Department Head Signature 	
Project Manager Name Various	Program Manager Name Various

Date December 20, 2002
Vendor Name Various
Contract Number Various
Contract Manager Name Various
Table of Contents Ref# A1-A3

Board Action					
Order	To	Date	Approval	Info	Other
1	M-N Comm. Mtg.	1-22-03	X		
2	MTA Board Mtg.	1-30-03	X		

Internal Approvals			
Order	Approval	Order	Approval
X	President		Budget
	VP Operations	X	Capital Programs
	VP Financial Admin		Engr/Const
	Controller		Project Reporting

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval
	VP Planning & Development		Government Relations		Labor Relations	X	General Counsel
	Press				Personnel		Other

Narrative

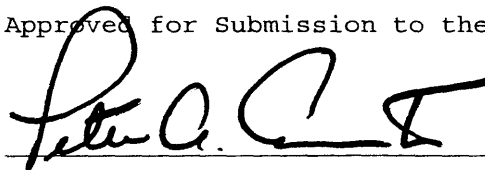
Purpose: To obtain MTA Board authorization to award non-competitive purchases/contracts.

Discussion: MTA Metro-North Railroad proposes to award three non-competitive purchase(s)/contract(s).

Budget Impact: Purchase(s) will result in obligating MNR funds in an amount not to exceed \$149,226.00 (Applied Power Systems, Inc. = \$64,000, Koni North America = \$17,120, Okonite Company = \$68,106). Funds are available in the current MNR Operating/Capital budgets for this purpose.

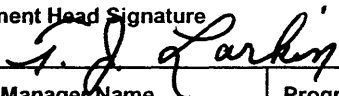
Recommendation: That the purchases/contracts be approved as proposed. (Items are included in resolution of approval at the beginning of the Procurement Section.)

Approved for Submission to the Board



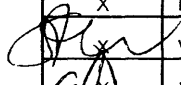
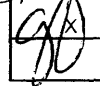
Peter A. Cannito, President

Staff Summary

Subject Asbestos, Lead, and Hazardous Material Abatement	
Department Procurement & Material Management	
Department Head Name T. J. Larkin	
Department Head Signature 	
Project Manager Name B. Valez	Program Manager Name J. Streany

Date January 7, 2003
Vendor Name Seasons Industrial Contracting Corp.
Contract Number 201080
Contract Manager Name B. Webster
Table of Contents Ref# C5

Board Action					
Order	To	Date	Approval	Info	Other
1	M-N Comm. Mtg.	1-22-03	X		
2	MTA Board Mtg.	1-30-03	X		

Internal Approvals			
Order	Approval	Order	Approval
X	President		Budget
	VP Operations	X	Capital Programs
	Executive VP		Engr/Const
	Controller		Project Reporting

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval
	VP Planning & Development		Government Relations		Labor Relations	X	General Counsel
	Press				Personnel		Other

Narrative

I. **Purpose:** To obtain MTA Board approval to award a public work contract to the firm Seasons Industrial Contracting Corp. (SIC) to perform system wide asbestos, lead, and hazardous material abatement.

II. **MBE/WBE/EEO:** The MTA Office of Civil Rights did not set goals for this contract.

III. **Background:** Metro-North Railroad's Safety Department (Safety) seeks a contractor to primarily provide the following on call services:

- (a) Abate lead from interior structures and exterior structural steel and asbestos. Abate microbial growth, and other hazardous materials.
- (b) Prepare filings, variance requests, and work plans for regulator agency review/approval.
- (c) Contain, test, and label waste for transport.

IV. **Procurement Process:** An RFP was prepared for the subject services. The RFP was advertised in the October 9, 2002 edition of the Daily Challenge and the New York Post; and the October 14, 2002 edition of the New York State Contract Reporter.

Sixteen (16) firms requested the RFP. A Selection Committee was established that consisted of representatives from Metro-North's Safety, Capital, and Procurement and Material Management Departments.

Six (6) proposals were received on November 19, 2002.

The legal name of MTA Metro-North Railroad is Metro-North Commuter Railroad Company

All the Proposals received were evaluated on the following weighted criteria:

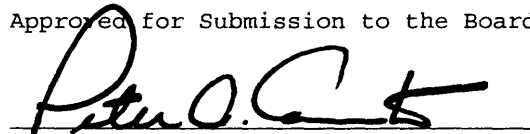
- Project Plan, detailed description of how the work will be performed and the technical proficiency to perform the work. Specifically, providing a thorough work plan for all activities of the scope of work that implements all regulatory requirements.
- Past experience on similar projects. Similar projects evaluated for scope, magnitude, and work location.
- Qualifications of key personnel. Availability and reliability of resources to complete all workscope requirements in a timely manner. Subcontractor services included, if applicable.
- Cost.

After the evaluation of the proposals, the Selection Committee unanimously determined SIC as the most qualified firm to perform the subject services. SIC demonstrated the best experience with all activities of the workscope. SIC submitted the third lowest average of unit prices. An evaluation of the firm with the lowest unit prices resulted in findings of poor administrative practices. An evaluation of the firm with the second lowest unit prices resulted in the determination of insufficient experience with performing lead abatement, which will constitute the bulk of tasks assigned to this contract. SIC' unit prices were determined fair and reasonable. SIC submitted the most well prepared work plan of the proposing firms, in conjunction with having demonstrated successfully completing all requirements of the workscope. References were checked as well as debarment and advisory lists. SIC received the highest overall score based on the weighted criteria for selection as set forth in the RFP, scoring highest in the areas of reliability and dependability to perform quality work that complies with all requirements of the regulatory agencies.

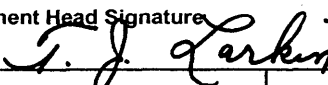
V. Budget Impact: The contract cost for the five (5) year contract period is estimated at \$15 million (5yrs x \$3million/yr). All funds are included in the Metro-North Operating and Capital Budgets.

VI. Recommendation: That the MTA Board approve the selection of the Seasons Industrial Contracting Corp. to perform lead, asbestos, and hazardous material abatement services.

Approved for Submission to the Board

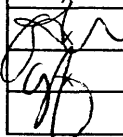
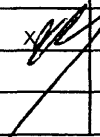



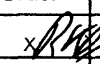
Peter A. Cannito, President

Subject Consultant Services for Parking Expansion, Development and Station Access	
Department Procurement & Material Management	
Department Head Name T. J. Larkin	
Department Head Signature 	
Project Manager Name M. Ahmed	Program Manager Name R. Fleischer

Date January 9, 2003
Vendor Name Urbitran Associates, Inc.
Contract Number 9531
Contract Manager Name R. Bautista
Table of Contents Ref# F8

Board Action					
Order	To	Date	Approval	Info	Other
1	M-N Comm. Mtg.	1-22-03	X		
2	MTA Board Mtg.	1-30-03	X		

Internal Approvals			
Order	Approval	Order	Approval
X	President		Budget
	VP Operations	X 	Capital Programs
	Executive VP		Engr/Const
	Controller		Project Reporting

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval
X 	VP Planning & Development		Government Relations		Labor Relations	X 	General Counsel
	Press				Personnel		Other

Narrative

I. Purpose: To obtain MTA Board approval to award a personal services contract to Urbitran Associates Inc. to provide on-call Consultant Services for Parking Expansion, Development and Station Access.

II. DBE/EEO: The Office of Civil Rights-MTA/Business Programs established a 5% MBE and 5% WBE goal for this contract. No final award will be made until MTA Office of Civil Rights makes a final determination of goals.

III. Discussion: Metro-North Railroad's Business Development and Facilities Department presently seeks a consultant to provide technical services for planning, environmental site assessment, parking demand, traffic analysis, investment evaluation, conceptual development and facility preliminary design services for Parking Expansion, Development and Station Access throughout the Metro-North service area. The required services are to be provided on an on-call basis for a two-year period, with the option for a two-year extension at the end of that period. These services will enable Metro-North to expedite the completion of parking and select station projects in both the existing 2000 - 2004 Capital Program as well as projects in the upcoming 2005 - 2009 Capital Program.

Thirty-two (32) firms requested a copy of the RFP and a notice of the RFP was advertised in The New York Post, The Daily Challenge, and The New York State Contract Reporter. Eleven (11) firms submitted proposals on October 28, 2002. Concurrently, a Selection Committee of five (5) members was formed consisting of Metro-North Railroad's Capital Engineering, Business Development and Facilities, and Procurement and Material Management Departments.

The criteria established for the Selection Committee to use to evaluate the proposals was listed in the RFP as follows: A. Demonstrated understanding of the Workslope requirements, including but not limited to the quality and completeness of any required submissions, B. Project plan (detailed description of how the Services will be performed), C. Confidence level, commitment of relevant resources to the project including the qualifications of key personnel and reliability to perform the Services including Subconsultant Services, D. Past experience on similar projects.

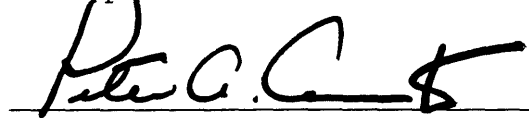
The Selection Committee reviewed the proposals and subsequently selected six (6) firms to provide oral presentations to the Committee. These firms, Baker Engineering, Clough, Harbour & Associates, Earth Tech, Sidney B. Bowne & Son, Urbitran Associates and URS Corporation met with the Selection Committee on November 21st and 26th of 2002 respectively. After an in-depth review of all the firms proposals, relevant experience and references, the Selection Committee's deliberation resulted in unanimously selecting and recommending the award of the contract to Urbitran Associates.

In addition to its excellent past performance with Metro-North, Urbitran Associates submitted a thorough, well thought out proposal reinforced by a well-planned oral presentation. The team assembled by Urbitran Associates showed an excellent overall understanding of the work scope requirements including parking, planning, preliminary design, station area development and public/private project financing. Urbitran Associates' team demonstrated extensive experience, particularly with projects similar in nature. Urbitran Associates is currently providing these planning and design services for Metro North under an existing contract and has performed very well to date. Cost was not a specific selection criterion because the on-call nature of the required services precludes project cost comparisons of the proposers. Nevertheless, Urbitran's labor rates were evaluated and found to be consistent and favorable with the other short-listed firms.

IV. Budget Impact: The cost of the required services is not to exceed \$2,268,000 for a period of twenty-four (24) months, and is included in Metro-North's Capital and Operating Budgets. An optional twenty-four (24) months of additional services have been included in this project. In the event Metro-North elects this option; funding and MTA Board approval will be sought at that time.

V. Recommendation: That the MTA Board approve the selection of Urbitran Associates, Inc. to provide Consultant Services for MNR Parking Expansion, Development and Station Access.

Approved for Submission to the Board



Peter A. Cannito, President



LIST OF PROCUREMENTS FOR BOARD APPROVAL, JANUARY 2003

MTA BRIDGES & TUNNELS

Page

F: Personal Service Contracts

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

1. **LiRo-Kassner, Inc.** \$ 450,000.00
Contract No. PSC-02-2657
2 yr. contract – Competitive RFP – 4 Proposals
Provide environmental analysis and management services on an as-needed basis.

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

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

2. **KTA Tator, Inc.** \$ 1,289,371.77 *Staff Summary Attached* 159
Contract No. PSC-96-2473
Provide additional funding and a ten month extension of time to provide continuous construction inspection services under VNM-316, Cleaning and Painting at the Verrazano-Narrows Bridge to enable the contractor to complete all remaining work, and perform turnover activities and project closeout for VNM-316.
3. **Hardesty & Hanover** \$ 72,340.00 *Staff Summary Attached* 160
Contract No. PSC-94-2391
Additional design services to: (i) replace the median barrier at the Manhattan Plaza with a moveable barrier; and (ii) eliminate the asphalt wearing course on the new deck for Project TB-09, Rehabilitation of the Triborough Bridge Harlem River Lift Span and Approach Truss Spans.

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)

4. **American Bridge/Koch Skanska, Inc.** \$ 2,437,353.00 *Staff Summary Attached* 161
(Joint Venture) not-to-exceed
Contract No. TB-64A
Perform extra work related to shifting the moveable median barrier on a daily rather than weekly basis and provide additional maintenance and protection of traffic.
5. **Anjac Enterprises, Inc.** \$ 92,117.30
Contract No. VNM-321X
During lead abatement work under Contract VNM-321X, Miscellaneous Repairs at the Verrazano-Narrows Bridge, Contract Item 2 – Cross Bracing Repairs, it was discovered that making the required connections of a cross brace member to the gusset plates was not viable due to excessive corrosion, and that there was substantial section loss in the flanges and webs in the top chords. In order to perform the contract work gusset plates have to be replaced and repairs have to be made to the damaged flange and web areas.

LIST OF PROCUREMENTS FOR BOARD APPROVAL, JANUARY 2003

Page

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. **PeopleSoft USA, Inc.** \$ 290,000.00 **Staff Summary Attached** 163
Contract No. 94-ITD-2357

Amend a non-competitive consolidated procurement entered into by NYCTA, MTA, and TBTA with People Soft USA, Inc. to furnish, deliver, install PeopleSoft software with warranty, maintenance, training, software customization and software services. Additional training and software upgrade services are required by NYCTA through the expiration of the contract on December 15, 2004.

MTA BRIDGES & TUNNELS
TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY

WHEREAS, in accordance with § 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 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, upon the recommendation of the Executive Director, the Board resolves as follows:

1. As to each purchase and public work contract set forth in annexed Schedule A, the Board declares competitive bidding to be impractical or inappropriate for the reasons specified therein and authorizes the execution of each such contract.
2. As to each request for proposals (for purchase and public work contracts) set forth in Schedule B for which authorization to solicit proposals is requested, for the reasons specified therein, the Board declares competitive bidding to be impractical or inappropriate, declares it is in the public interest to solicit competitive request for proposals and authorizes the solicitation of such proposals.
3. As to each request for proposals (for purchase and public work contracts) set forth in Schedule C for which a recommendation is made to award the contract, the Board authorizes the execution of said contract.
4. 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.

**SCHEDULE H
MODIFICATIONS TO
PERSONAL/MISCELLANEOUS SERVICE CONTRACTS**

Board Mtg. January 30, 2003

VENDOR/CONTRACTOR	ITEM/PURPOSE	CONTRACT PRICE/CONTRACT HISTORY	
		BREAKDOWN	COST/PRICE
KTA Tator, Inc.	Contract PSC-96-2473; Am 5, Construction Inspection Services for Projects GFM-380, Miscellaneous Painting at Various Authority Facilities, VNM-316, Cleaning and Painting at the Verrazano-Narrows Bridge and GFM-399, Cleaning and Painting at Authority-Wide Toll Plazas	Original Contract:	\$ 7,263,172.00
		Prior Modification:	\$ 913,269.00
		Adj Contract Amount:	\$ 8,176,441.00
		For Approval:	\$ 1,289,371.77 (15.8%)
		% of Mods to Orig. Contract:	(30.3%)
Submitted for: <u>Approval</u>	Original Contract Award Date: 8/8/97 Board Approval: <u>Yes</u> Committee Approved: <u>Yes</u> Original Contract Let By Competitive Process: <u>Yes</u> M/WBE Goals %: 10% / 5% No. Firms Solicited/Proposals Received: 14 / 4 Advertised: <u>Yes</u> Contract Award Amount: \$7,263,172.00 Length of Contract: Seventy-eight (78) months	Substantial Change <u>x</u> Time Extension <u> </u>	

REMARKS

The subject contract was awarded to KTA Tator, Inc., ("KTA") in August 1997. This contract requires KTA to perform construction inspection services in connection with multiple Authority painting contracts, including GFM-380, Miscellaneous Painting at Various Authority Facilities and VNM-316, Cleaning and Painting at the Verrazano-Narrows Bridge. In December 1999, the Board approved an amendment to this contract to include the same services for GFM-399, Cleaning and Painting at Authority-Wide Toll Plazas.

The Authority now requires additional funding and a ten-month extension of time to provide continuous construction inspection services under VNM-316 to enable the contractor to complete all remaining work, and perform turnover activities and project closeout for VNM-316.

The need for the majority of the additional services and for the time extension was caused by several factors:

- The abandonment by and subsequent default of Keystone Construction Corp. ("Keystone") as the prime contractor on Contract VNM-316 in June 2001 and the resultant shutdown of work during the 2001-02 painting season. Ultimately, the bonding company, Travelers, assumed responsibility for performance under the contract, which is now scheduled for completion in November 2003, four (4) months beyond the original completion date. During the periods of the default proceedings, extended shutdown of work, and the retention and mobilization of a subcontractor to complete the work, KTA maintained and continued its field operations, services and support to the Authority. KTA continues to provide additional inspection personnel during extended hours of work to support the contractor's accelerated work schedule to recover lost time.
- Extra work has also been added to Contract VNM-316, necessitating additional labor inspection hours.
- Supplemental environmental oversight was provided by KTA under the GFM-399 Toll Booth Painting project, due to the close proximity of uniformed personnel to the painting operations.
- Additional environmental oversight was also provided by KTA under an "as-needed" task at the Marine Parkway Bridge to satisfy Authority concerns.

KTA submitted a proposal in the amount of \$1,507,397.76 for the extra services. The user estimated a cost of \$1,152,430.05. Negotiations were held and a cost of \$1,289,371.77 was agreed to as fair and reasonable.

**SCHEDULE H
MODIFICATIONS TO
PERSONAL/MISCELLANEOUS SERVICE CONTRACTS**

Board Mtg. January 30, 2003

VENDOR/CONTRACTOR	ITEM/PURPOSE	CONTRACT PRICE/CONTRACT HISTORY	
		BREAKDOWN	COST/PRICE
Hardesty & Hanover	To amend Contract No. PSC-94-2391, Design and Design Support Services during Construction for Project TB-09, Rehabilitation of the Triborough Bridge Harlem River Lift Span and Approach Truss Spans	Original Contract:	\$ 1,390,903.00
		Prior Modification:	\$ 1,952,863.00
		Adj Contract Amount:	\$ 3,343,766.00
		For Approval:	\$ 72,340.00 (2.2%)
Submitted for: <u>Approval</u>	Original Contract Award Date: August 11, 1995	% of Mods to Orig. Contract:	(145.6%)
	Board Approval: <u>Yes</u>		
	Committee Approved: <u>Yes</u>		
	Original Contract Let By Competitive Process: <u>Yes</u>		
	M/WBE Goals: 10% / 3%		
	No. Firms Solicited/Proposals Received: 16 / 4		
	Advertised: <u>Yes</u>		
	Contract Award Amount: \$1,390,903.00	Substantial Change <u>X</u>	
	Length of Contract: Five (5) Years	Time Extension <u> </u>	

REMARKS

On August 11, 1995 the subject contract was awarded to Hardesty & Hanover to provide design and design support services during construction for project TB-09, Rehabilitation of the Triborough Bridge Harlem River Lift Span and Approach Truss Spans.

After the Consultant completed the design, the Engineer determined that the Authority would gain a significant amount of flexibility if the median barrier at the Manhattan Plaza were replaced with a moveable barrier during construction. This flexibility might be a substantial factor with the other construction to be completed over the next ten years. The design changes include relocation of roadway lighting and sign structures.

The Engineer also determined that the 1 1/2" asphalt wearing course on the new deck specified in the contract should be eliminated. This change will benefit the Authority by resulting in a more durable riding surface, reduced construction cost and reduced lane closure time. This change requires some modification to concrete barrier and joint details to accommodate the reduced deck profile.

The Consultant submitted proposals for the two above items in the amounts of \$57,169 and \$19,478; the Engineer's estimates were \$53,886 and \$17,878, respectively. When compared with the Engineer's estimates, the negotiated amounts of \$53,723 and \$18,617 (total of \$72,340) are considered fair and reasonable.

SCHEDULE I
MODIFICATIONS TO
PURCHASE AND PUBLIC WORK CONTRACTS

MTA Board Mtg. January 30, 2003

CONTRACT PRICE/CONTRACT HISTORY

<u>VENDOR/CONTRACTOR</u>	<u>ITEM/PURPOSE</u>	<u>BREAKDOWN</u>	<u>COST</u>
American Bridge / Koch Skanska, Inc., a Joint Venture	Contract No. TB-64A, Triborough Bridge Deck Replacement of Suspended Spans and Queens Viaduct	Original Contract:	\$ 143,803,781.00
		Prior Modification:	\$ 1,712,694.00
		Adj Contract Amount:	\$ 145,516,475.00
		For Approval:	\$ 2,437,353.00 (nte) (1.67%)

Submitted for: Original Contract % of Mods to Orig. Contract: (2.9%)
Approval Award Date: 12/15/00

Board Approval: No

Committee Approved: Yes

Original Contract Let By
Competitive Process: Yes

M/WBE Goals: 10% / 5%

No. Firms Solicited/Proposals
Received: 419 / 5

Advertised: Yes

Contract Award
Amount: \$143,803,781.00

Length of Contract: C.O. \$250,000 X
Thirty-Nine (39) months C.O. over 15% _____

REMARKS

Contract TB-64A was awarded to ABKS in December 2000 to replace the deck of the Triborough Bridge at the main span and the Queens Viaduct including the installation, maintenance and operation of a moveable concrete barrier system during construction.

The Contract included shifting the moveable median barrier daily for the first two (2) weeks of each construction stage and weekly for the balance of each stage (300 moves). However, Operations requested the barrier be shifted on a daily basis throughout the entire construction period to minimize the impacts on customers. This results in approximately triple the number of barrier moves anticipated over the course of the Contract (912 moves).

In addition, in order to increase safety through the Queens approach to the construction zone, the Engineer determined that the maintenance and protection of traffic (MPT) should be augmented to include a line of cones and barrels to assist customers in making the transition to the jersey barrier lane closure. In order to immediately respond to these safety concerns in the work zone safety area, on November 15, 2002 the Deputy Chief Procurement Officer authorized up to \$130,000 toward the costs of the augmented MPT through February 2003.

The Contractor submitted a proposal for this work in the amount of \$2,437,353. The Engineer's estimate is \$2,220,167. Negotiations are ongoing.

**SCHEDULE J
MODIFICATIONS TO
MISCELLANEOUS PROCUREMENT CONTRACTS**

MTA Board Mtg. January 30, 2003

CONTRACT PRICE/CONTRACT HISTORY

<u>VENDOR/CONTRACTOR</u>	<u>ITEM/PURPOSE</u>	<u>BREAKDOWN</u>	<u>COST</u>
PeopleSoft USA, Inc.	To amend Contract No. 94-ITD-2357	Original Contract:	\$ 3,300,000
		Prior Modification:	\$ -0-
		Adj Contract Amount:	\$ 290,000
		For Approval:	\$ 3,590,000 (8.8%)
Submitted for: <u>Approval</u>	Original Contract Award Date: December 16, 1994 to December 15, 2004	% of Mods to Orig. Contract:	(8.8%)
	Board Approval: November 1994		
	Committee Approved: November 1994		
	Original Contract Let By Competitive Process: No		
	M/WBE Goals: 0% / 0%		
	No. Firms Solicited/Proposals Received: 1 / 1		
	Advertised: No		
	Contract Award Amount: \$3,300,000	C.O. \$250,000 <u>X</u>	
	Length of Contract: (Ten) 10 years	C.O. over 15% _____	

REMARKS

On December 16, 1994 the subject non-competitive miscellaneous procurement contract, Contract 94-ITD-2357, was awarded to PeopleSoft, Inc. over a term of ten (10) years to furnish, deliver, install PeopleSoft software with warranty, maintenance, training, software customization and software services to support the MTA, NYCTA and TBTA in an amount not to exceed \$3,300,000. Amendments 1 through 3 changed the payment terms, assigned the contract to PeopleSoft USA, Inc., and upgraded the system to web based technology, respectively. The Technology Department is processing Amendment 4 on behalf of NYCTA to increase its funding by \$290,000 for additional training and software upgrade services required through December 15, 2004. All other terms, covenants and conditions of the original contract remain in full force and effect. The value of the prospective amendment is considered fair and reasonable.



Metropolitan Transportation Authority

State of New York

DATE: January 30, 2003
TO: Members of the Board
FROM: James S. Simpson

The Committee on MTA Planning/Real Estate has recommended that the Board approve the following items.

ACTION ITEMS

MTA NEW YORK CITY TRANSIT

1. Lease Modification Agreement with Treeline Livingston, LLC for office space at 180 Livingston Street, Brooklyn, New York.

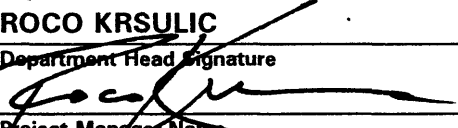
MTA LONG ISLAND RAIL ROAD

2. License Agreement with Boundary Wholesale Fence Distributors, Inc. for storage of equipment, fencing, and related materials on a portion of LIRR Main Line Branch Right-Of-Way, Jamaica, New York.
3. License Agreement with Monisha Food, Inc., for a coffee concession at the Freeport Station building, Freeport, New York.

MTA METRO-NORTH RAILROAD

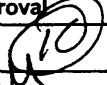

4. Lease Modification with Custard Beach LLC for the operation of a soft ice cream bar in Grand Central Terminal, Manhattan, New York.
5. Lease Amendment with Grand Central Zocalo LLC for additional storage space in Grand Central Terminal, Manhattan, New York.
6. Lease Agreement with a corporation to be formed d/b/a Biscuit Barn Bar B Que for the operation of barbeque concept in Grand Central Terminal, Manhattan, New York.

Staff Summary

Subject LEASE MODIFICATION
Department REAL ESTATE
Department Head Name ROCO KRSULIC
Department Head Signature 
Project Manager Name MIMI S. FUHRMAN

Date JANUARY 27, 2003
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Ord	To	Date	Approval	Info	Other
1	P/RE Committee	01/27/03	X		
2	Board	01/30/03	X		

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

Narrative

AGENCY: MTA New York City Transit (NYCT)

LANDLORD: Treeline Livingston, LLC

LOCATION: 180 Livingston Street, Brooklyn, New York

SPACE: Approximately 123,900 rentable square feet of office space comprised of the entire 4th, 5th, and 6th floors

ACTIVITY: Lease Modification

ACTION REQUESTED: Approval of revised terms

WORKLETTER: Landlord will provide an initial space installation valued at approximately \$61.50 per rsf as part of the rental consideration, including additional plumbing for a medical facility, less a tenant contribution of approximately \$18.50 per rsf. Ancillary items like high-density filing units, medical cabinets, and waiting area tandem seating will be paid for by NYCT tenant on a reimbursable basis.

COMMENTS:

On July 1, 2002 a lease was executed for the consolidation of two NYCT specialized facilities at 180 Livingston Street based on the terms approved by the Board in May 2002 (copy of staff summary attached).

Since a layout plan was not developed at the time of lease execution, the deal was based on the landlord providing a "plain vanilla" build out (including some above standard work) valued at approximately \$55 per rsf, as part of the rental consideration, less a \$12.00 per rsf tenant contribution to be made by NYCT. NYCT was to be responsible for any additional or above standard work items not included in the generic work letter annexed to the lease. While it was anticipated that some additional work would be required once a layout and full specifications were developed, the magnitude was not anticipated. Additional construction costs are now estimated to be approximately \$800,000, which was reviewed and approved by NYCT.

**PLANNING/REAL ESTATE COMMITTEE MEETING
LEASE MODIFICATION (Cont'd)**

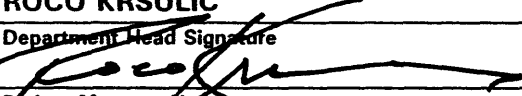
COMMENTS: (Cont'd)


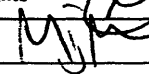
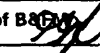
At this point plans and specifications, including landlord's work and tenant's additional work, have been completed and were bid out by the landlord, as a package, to various subcontractors. In some cases the landlord was able to get separate bids for items like millwork, and in other cases where several trades were involved, or were already working on the site (e.g. for upgrading floor loading), it was not feasible to go out for separate multiple bids. This has created a situation where many prices required negotiations with the landlord and, as a result, has been slowing up progress on the job, potentially subjecting NYCT to delay penalties.

In order to streamline the process and avoid any further delay, landlord has suggested restructuring the lease by increasing tenant's contribution to cover the cost of additional NYCT work, as a flat lump sum per rsf allocation, in lieu of on an itemized basis above the current \$12 per rsf. As incentive, the landlord is willing to reduce the total price of additional work and not include construction management costs.

The Real Estate Department recommends modifying the lease to cover the additional costs by increasing Tenant's contribution by up to \$6.50 per rsf for the above-mentioned reasons.

Staff Summary

Subject NYCT/HUMAN RESOURCES/FIELD SERVICES/TIS.					
Department REAL ESTATE					
Department Head Name ROCO KRSULIC					
Department Head Signature 					
Project Manager Name MIMI S. FUHRMAN					
Board Action					
Order	To	Date	Approval	Info	Other
1	P/RE Committee	5/28/02	X		
2	Board	6/26/02	X		

Date MAY 28, 2002			
Vendor Name			
Contract Number			
Contract Manager Name			
Table of Contents Ref #			
Internal Approvals			
Order	Approval	Order	Approval
	Executive Director	2	Civil Rights 
	Chief of Staff	1	Legal 
3	Director of BA 		

Narrative	
AGENCY:	MTA New York City Transit ("NYCT")
LANDLORD:	Treeline Livingston, LLC
LOCATION:	180 Livingston Street, Brooklyn, New York
SPACE:	Approximately 123,900 rentable square feet of space comprised of the entire 4 th , 5 th , and 6 th floors plus basement storage space (up to 20,000 sf at \$12.00-\$15.00 per sf), subject to revisions based on completion of NYCT's space program requirement by Landlord's architect.
ACTIVITY:	Lease
ACTION REQUESTED:	Approval of terms
TERM:	Ten (10) years
BASE RENT:	\$24.00 per rentable square foot year 1 - 6 \$26.00 per rentable square foot year 7 - 10
BASE RENT ESCALATION:	2% increase in base rent every other year
RENT COMMENCEMENT:	30 days after possession.
TAXES:	Tenant to pay for its proportionate share of increases in the real estate taxes for the building over a 2003 calendar year base (2 nd half tax year 2002/2003, 1 st half 2003/2004).
RENEWAL OPTION:	One (1) five (5) year term at \$27.25 per rsf plus accrued escalations.

PLANNING/REAL ESTATE COMMITTEE MEETING NYCT/Human Resources/Field Services/TIS (Cont'd)

TERMINATION OPTION: Tenant may cancel the lease, by floor, after the seventh (7th) lease year with one year's prior written notice to landlord, and the payment to landlord of a termination fee of the lesser of the unamortized portion of landlord's work (and real estate commissions) based on rsf released, or one year's rent for the portion of space to be released.

SERVICES: Landlord will provide the following services as part of the rental consideration: cleaning, rubbish removal, exterminator services HVAC, elevator service.

WORKLETTER: Landlord will provide an initial space installation valued at approximately \$ 55.00 per rsf as part of the rental consideration, including additional plumbing for a medical facility, less a \$ 12.00 per rsf tenant contribution. Tenant will be responsible for the cost of any additional or above standard work items including special security systems and/or special computer/telephone installation.

ARCHITECTURAL SERVICES: Tenant will reimburse landlord for programming through space layout plans. Landlord will have its architect develop construction drawings as part of the rental consideration.

COMMENTS:

In accordance with its approved Strategic Facilities Plan, NYCT submitted a space request for the consolidation of its Human Resources Department at a central location, and for an additional TIS Department (Technology Information Systems) user.

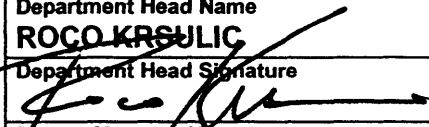
The new location must be easily accessible by public transportation for authority employees (and for potential hire candidates) to travel to the facility for the following reasons: medical examinations, job interviews, employment processing, professional training, benefits information, and employment information.

180 Livingston Street is an ideal location due to its close proximity to 130 Livingston Street, where NYCT's main training classrooms are located, and easy accessibility to 2 Broadway, which is the other location where most of the Authority departments that HR interacts with will be located after implementation of NYCT's Strategic Facilities Plan.

Rent for space at 180 Livingston Street will be partially offset by a savings of approximately \$1.4 million a year in rent for the relocation of Human Resources Offices, and a medical facility, currently located in a leasehold at 1250 Broadway. The rent for 180 Livingston Plaza is reasonable based on the market in this area, and throughout the boroughs. The landlord currently owns and operates several buildings in Brooklyn, and is capable of handling the services that NYCT will need, but which many landlords in the boroughs cannot handle. The Real Estate Execution of the lease will be subject to MTA/NYCT's completion of any required environmental reviews.


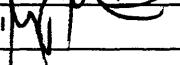
Department recommends going forward with a lease agreement for the subject location for the aforementioned reasons.

Staff Summary

Subject LICENSE AGREEMENT
Department REAL ESTATE
Department Head Name ROCO KRSULIC
Department Head Signature 
Project Manager Name STEVEN J. RUSSO

Date JANUARY 27, 2003
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	P/RE Committee	01/27/03	X		
2	Board	1/30/03			

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

Narrative

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

LICENSEE: Boundary Wholesale Fence Distributors, Inc.

LOCATION: LIRR Main Line Branch right-of-way adjacent to Licensee's property at 131-02 Jamaica Avenue, Jamaica, NY.

ACTIVITY: Access to and from Licensee's adjacent property and for the storage of fencing, equipment, and related materials.

ACTION REQUESTED: Approval of terms.

TERM: Ten (10) years.

SPACE: Approximately 35,625 square feet.

COMPENSATION:

	<u>Year</u>	<u>Annual</u>	<u>Monthly</u>	<u>Per Sq. Ft.</u>	<u>Escalation</u>
	1	\$ 58,800.00	\$ 4,900.00	\$ 1.66	—
	2	60,564.00	5,047.00	1.71	3%
	3	62,380.92	5,198.41	1.76	3%
	4	64,252.35	5,354.36	1.81	3%
	5	66,179.92	5,514.99	1.87	3%
	6	68,165.32	5,680.44	1.92	3%
	7	70,210.28	5,850.86	1.98	3%
	8	72,316.58	6,026.38	2.04	3%
	9	74,486.08	6,207.17	2.10	3%
	10	76,720.66	6,393.39	2.17	3%

COMMENTS:

Boundary Wholesale Fence Distributors, Inc. ("BWF") originally occupied this location since 1991. The term has expired and the Licensee has remained in possession on a month-to-month holdover basis. BWF currently pays \$45,000 per year or \$3,750.00 per month (\$1.27 per square foot).

As part of its ongoing efforts, the Real Estate Department reviews its portfolio of property holdings and for those properties for which the terms have expired, either directly negotiates new terms or offers publicly, depending on site-specific circumstances.

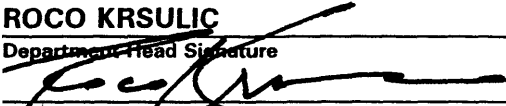
PLANNING/REAL ESTATE COMMITTEE MEETING**License Agreement with Boundary Wholesale Fence Distributors, Inc.****COMMENTS:**

In the case of the subject site, due to its proximity to the LIRR embankment and communication poles as well as its narrow proportions (25' x 1425'), this site has limited marketability and is only useful to BWF's adjoining property for supplementary access and for the storage of non-combustible and non-hazardous materials. The proposed first-year compensation of \$1.66 per square foot is derived from a market-value estimate of \$1.60 to \$1.80 per square foot and represents a 31% increase over the existing compensation. The proposed compensation is appropriate because the site has limited commercial value as a stand-alone property and the Term provides for annual escalations of 3%.

BWF will continue to maintain and repair the existing improvements it constructed as part of its original agreement, which included the grading, lighting, and fencing of the perimeter of the Licensed Location.


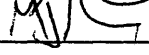
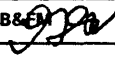
For the above stated reasons and in consideration of their satisfactory tenant history, the Real Estate Department recommends re-negotiating a new License Agreement with Boundary Wholesale Fence Distributors, Inc. based on the above terms and conditions.

Staff Summary

Subject LICENSE AGREEMENT WITH MONISHA FOOD, INC.
Department REAL ESTATE
Department Head Name ROCO KRSULIC
Department Head Signature 
Project Manager Name DANIEL CALLEY

Date MAY 28, 2002
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	P/RE Committee	5/28/02	X		
2	Board	1/30/03			

Internal Approvals			
Order	Approval	Order	Approval
	Executive Director	2	Civil Rights 
	Chief of Staff	1	Legal 
3	Director of B&E 		

Narrative

AGENCY: MTA/Long Island Rail Road ("LIRR")
 LICENSEE: Monisha Food, Inc.
 LOCATION: Freeport Station. Concession space in northwest corner of station building.
 PASSENGER COUNT: Approximately 2,500
 ACTIVITY: Coffee Concession
 ACTION REQUESTED: Approval of Terms
 TERM: Ten (10) Years
 SPACE: Approximately 90 square feet

COMPENSATION:

Year	Annual	Monthly	Per Sq. Ft.	% Increase
1	\$7,000.00	\$583.33	\$77.78	
2	\$7,210.00	\$600.83	\$80.11	3%
3	\$7,426.30	\$618.86	\$82.51	3%
4	\$7,649.09	\$637.42	\$84.99	3%
5	\$7,878.56	\$656.55	\$87.54	3%
6	\$8,114.92	\$676.24	\$90.17	3%
7	\$8,358.37	\$696.53	\$92.87	3%
8	\$8,609.12	\$717.43	\$95.66	3%
9	\$8,867.39	\$738.95	\$98.53	3%
10	\$9,133.41	\$761.12	\$101.48	3%

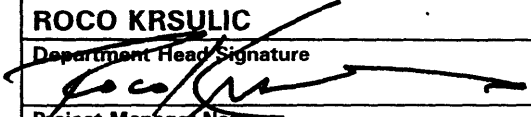
PLANNING/REAL ESTATE COMMITTEE MEETING
License Agreement With Monisha Food, Inc. (Cont'd)**COMMENTS:**

Ram Singla, d/b/a AMR Food Inc., had a license agreement with LIRR dated January 1, 1998 for the operation of a coffee concession containing approximately 150 square feet, situated adjacent to the Freeport Station building. However, while plans were being reviewed, LIRR notified MTA Real Estate that it intended to renovate Freeport Station. The renovations resulted in the concession space becoming completely inoperable, and as such, the 1998 Agreement was amended on April 13, 1999, to reflect the inability of Mr. Singla to operate his business during construction. The renovation work has since been completed. While discussing the planned marketing of concession spaces at Freeport Station, officials from the Village of Freeport (which owns the station building and the area surrounding it), recommended that the concession location originally licensed to Mr. Singla, be reserved for taxi dispatch operations in the future. Mr. Singla agreed to occupy a smaller space located at the northwest corner of the station building, containing approximately 90 square feet, as a substitute location. It was decided that terminating Mr. Singla's prior agreement and entering into a new agreement would be preferable to amending the prior agreement.

In the new License agreement, Mr. Singla will be doing business as "Monisha Food, Inc." and will be paying \$7,000 (\$77.78 per square foot) for the initial year, with 3% annual escalations, for use of the space. Real Estate was informed that the estimated rental value at the Freeport Station is \$20 to \$40 per square foot, depending on the size of the rental space. The estimated net present value (calculated at 9%) of total compensation is \$50,436.77. The estimated improvements amount to approximately \$25,000. Mr. Singla will be selling food and beverages, offering a variety of coffees and teas, soft drinks, prepackaged foods and related concession items. Mr. Singla was a MTA tenant in good standing located at Jamaica and Flatbush Avenue Stations, prior to station renovations, and operates successful coffee concessions at JFK and Logan airports.


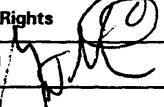
For the reasons stated above, the Real Estate Department recommends the approval of a License Agreement with Monisha Food, Inc. at the above stated terms and conditions.

Staff Summary

Subject LEASE MODIFICATION
Department REAL ESTATE
Department Head Name ROCO KRSULIC
Department Head Signature 
Project Manager Name NANCY MARSHALL

Date JANUARY 27, 2003
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	P/RE Committee	1/27/03	X		
2	Board	1/30/03	X		

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

Narrative	
AGENCY:	MTA Metro-North Railroad ("MNR")
LESSEE:	Custard Beach LLC
LOCATION:	LC-48A (Dining Concourse)
ACTIVITY:	Operation of a frozen custard bar
ACTION REQUESTED:	Approval to extend the changes in the terms of Lease granted March 22, 2001
JUSTIFICATION:	<p>In March 2001 the Real Estate Committee and full Board approved the Staff Summary for a Lease modification for Custard Beach LLC, which temporarily reduced the minimum rent by 50% for a period ending in December 2002. A copy of the Staff Summary is attached.</p> <p>GCT Development is requesting approval for an extension of the reduced minimum rent period through calendar year 2003. The area of the Dining Concourse in which Custard Beach is located has consistently under performed compared to the rest of the Dining Concourse. Custard Beach sales for calendar year 2002, are approximately \$511,000 (\$1,015 PSF). The minimum rent of \$50,000 per year, plus additional charges for food court common area maintenance and trash removal are equal to 20% of the Tenant's total sales. This is a financially burdensome ratio. In addition, a Tenant in closest proximity to Custard Beach closed last year, largely due to the lack of pedestrian traffic. With the closing of that Tenant, the very basis for originally agreeing to reduce the minimum rent has been exacerbated by an additional Tenant closure in this portion of the Dining Concourse within the past year.</p> <p>We are confident that significant positive changes are firmly in place. A long awaited boost in pedestrian traffic is expected with the completion of the new public bathrooms in July, in addition to two new Tenant openings, specifically, Eata Pita in LC-5 and the re-opening of the LC-3 space with Louisiana to Geaux, both scheduled to be open by this summer.</p>

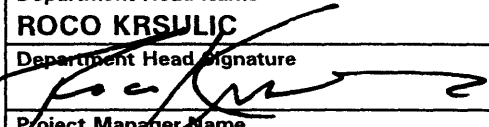
PLANNING/REAL ESTATE COMMITTEE MEETING

Lease Modification-Custard Beach (Cont'd)

(Cont'd)

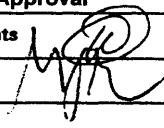
JUSTIFICATION: Custard Beach is currently working to improve the overall appearance of the premises and looking to increase sales with several initiatives, including; diversifying the menu choice, upgrading signage and displays, retraining staff, enhancing their morning menu, and engaging in ongoing marketing and promotions (including samplings). Custard Beach offers a high quality product and they are the only ice cream vendor on the Dining Concourse. We feel they have strong potential once the pedestrian traffic is there. The owners have made a substantial financial investment and are willing to make internal changes in order to be successful in this location. The tenant is current on all rental payments due. As part of the terms of this extension, we will be requiring Tenant to provide a General Release of any and all claims up to this date, as well as agreeing that in the event sales have not reached the average PSF sales for the Tenants in the Dining Concourse by year-end 2004, then Landlord will have the sole right to execute a Warrant of Eviction and have this tenant vacate in order to find a new operator. GCT Development feels confident that this is an appropriate plan of action.

Staff Summary

Subject LEASE AMENDMENT- STORAGE RIDER
Department REAL ESTATE
Department Head Name ROCO KRSULIC
Department Head Signature 
Project Manager Name NANCY MARSHALL

Date JANUARY 27, 2003
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	P/RE Committee	1/27/03	X		
2	Board	1/30/03	X		

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

Narrative

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

LESSEE: Grand Central Zocalo LLC

LOCATION: MCS-2A

ACTIVITY: Tenant Storage Space

ACTION REQUESTED: Approval of terms

TERM: Expires upon the expiration date of the governing Lease

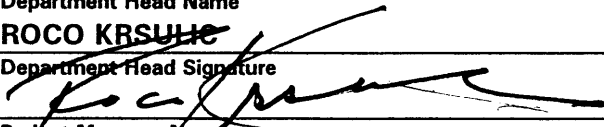
SPACE: Approximately 151 sq. ft.

COMPENSATION:	Year	Per Annum	Per Sq. Ft.
	1	\$4,530	\$30.00
	2	4,666	30.90
	3	4,805	31.82
	4	4,948	32.77
	5	5,096	33.75
	6	5,249	34.76
	7	5,406	35.80
	8	5,567	36.87

COMMENTS:



Grand Central Zocalo has been a Tenant in the Dining Concourse since 1999. Recently vacated storage space has enabled us to fulfill this tenant's request for additional storage. This Storage Rider is co-terminus with the governing Lease.

Staff Summary

Subject LEASE AGREEMENT
Department REAL ESTATE
Department Head Name ROCO KRSULIC
Department Head Signature 
Project Manager Name NANCY MARSHALL

Date JANUARY 27, 2003
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	P/RE Committee	1/27/03	X		
2	Board	1/30/03	X		

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

Narrative				
AGENCY:	MTA Metro-North Railroad ("MNR")			
LESSEE:	Corporation to be formed d/b/a Biscuit Barn Bar B Que			
LOCATION:	LC-35 (Dining Concourse)			
ACTIVITY:	For the operation of a barbeque concept			
ACTION REQUESTED:	Approval of terms			
TERM:	Ten (10) years			
SPACE:	Approximately 403 sq. ft.			
COMPENSATION:	<u>Year</u>	<u>Per Annum</u>	<u>Per Sq. Ft.</u>	<u>Breakpoint</u>
	1	\$60,450	\$150.00	\$ 800,000
	2	62,264	154.50	824,000
	3	64,133	159.14	848,720
	4	66,056	163.91	874,182
	5	68,038	168.83	900,407
	6	70,078	173.89	927,419
	7	72,181	179.11	955,242
	8	74,345	184.48	983,899
	9	76,574	190.01	1,013,416
	10	78,871	195.71	1,043,818
	Plus 8% of gross sales over breakpoint			

PLANNING/REAL ESTATE COMMITTEE MEETING

New Corporation to be formed D/B/A Biscuit Barn Bar B Que (Cont'd)

MERCHANDISING

MARKETING FUND: Marketing contribution of \$5.46 psf per year shall increase annually by 3%

SECURITY: Three (3) months rent

ADVANCE RENT: One (1) months rent

CONSTRUCTION

PERIOD: One hundred twenty (120) days

INSURANCE: Standard

COMMENTS:

Biscuit Barn Bar B Que is a new concept developed by brothers Ken and Don Sofer who together own and operate since 1991 eight popular casual Mexican eateries. All but two are in Manhattan, these include Benny's Burritos, Blockhead Burritos, Blockheads Mexico City Café and Margarita Grille. Centralized food production at their Manhattan commissary will enable Biscuit Barn to offer its customers a great meal for an average price of \$10. This deal is consistent with the GCT Revitalization Merchandising Plan and Rent Roll approved by the MTA. We are requesting Real Estate Committee and full Board approval of this Lease Agreement.

