



Metropolitan Transportation Authority

June 2022

MTA Board Action Items



MTA Board Meeting

**2 Broadway
20th Floor Board Room
New York, N.Y. 10004
Wednesday, 6/29/2022
10:00 AM - 12:00 PM ET**

1. PUBLIC COMMENT PERIOD

2. APPROVAL OF MINUTES

MTA and MTA Agencies Regular Board Meeting Joint Minutes - May 25, 2022

MTAHQ

NYCT/MaBSTOA/SIRTOA/MTA Bus Company

MTA Metro-North Railroad

MTA Long Island Rail Road

MTA Triborough Bridge and Tunnel Authority

MTA Construction & Development

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3. COMMITTEE ON CAPITAL PROGRAM

C&D Procurements

C&D Procurements - Page 15

4. COMMITTEE ON METRO-NORTH RAILROAD & LONG ISLAND RAIL ROAD (no items)

5. COMMITTEE ON NYCT & BUS

NYCT & Bus Procurements Report

Procurement Cover, Staff Summary and Resolution - Page 21

i. Non-Competitive

Non-Competitive - Page 25

ii. Competitive

Competitive - Page 28

Ratifications (no items)

6. COMMITTEE ON MTA BRIDGES & TUNNELS OPERATIONS (no items)

7. COMMITTEE ON FINANCE

Action Item

i. All Agency Procurement Guidelines

All Agency Procurement Guidelines Package - Page 30

ii. 2022 Public Work Enforcement Fund (PWEF) Assessment

2022 PWEF Assessment - Page 64

iii. Owner Controlled Insurance Program (OCIP)

Board Approval for the Utilization of Owner Controlled Insurance Program (OCIP) - Page 65

MTAHQ Procurements Report

MTAHQ Procurement Report - Page 70

i. Non-Competitive (no items)

ii. Competitive

MTAHQ Competitive Procurements - Page 73

iii. Ratifications (no items)

Real Estate Items

i. Real Estate Agenda and Staff Summaries

Real Estate Agenda and Staff Summaries - Page 79

8. FIRST MUTUAL TRANSPORTATION ASSURANCE CO (FMTAC) (no items)

**Joint Minutes of the
Metropolitan Transportation Authority,
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 Company, Metro-North Commuter Railroad Company,
MTA Construction & Development, the MTA Bus Company and
the First Mutual Transportation Assurance Company
Regular Board Meeting
2 Broadway
New York, NY 10004
Wednesday, May 25, 2022
10:00 a.m.**

The following Board Members were present (*Attended remotely):

**Hon. Janno Lieber, Chair & CEO
Hon. Andrew Albert
Hon. Jamey Barbas
Hon. Lorraine Cortés-Vázquez
Hon. Michael Fleischer
Hon. David Jones
Hon. Haeda B. Mihaltses
Hon. Robert F. Mujica*
Hon. Elizabeth Velez
Hon. Neal Zuckerman**

The following alternate non-voting members were present:

**Hon. Gerard Bringmann
Hon. Norman Brown
Hon. Randolph Glucksman
Hon. Vincent Tessitore, Jr.**

The following Board Members were absent:

**Hon. Victor Calise
Hon. John Samuelson**

Paige Graves, General Counsel, Lisette Camilo, Chief Administrative Officer, Quemuel Arroyo, Chief Accessibility Officer and Special Advisor to the Chair, Kevin Willens, Chief Financial Officer*, Patrick Warren, Chief Safety and Security Officer, Richard Davey, President, NYCTA, Craig Cipriano, Chief Operating Officer, NYCT, Frank Annicaro, Acting President, MTA Bus Company, Robert Free, Senior Vice President – Operation, LIRR, Justin Vonashek, Senior Vice President – Operations, Metro-North Railroad, Daniel DeCrescenzo, President, TBTA, Jamie Torres-Springer, President, MTA C&D, Chris Pangilinan, Vice President, Paratransit, Michele

Woods, Auditor General, Jaibala Patel, Chief, Office of the CFO, Sarah Meyer, Senior Vice President & Chief Customer Officer, Dorian Statom, Director, Bus Service Planning and Lucille Songhai, Assistant Director Government Affairs, State and Local Affairs-NYC, also attended the meeting.

The Board of the Metropolitan Transportation Authority also met as the Boards 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 Company, Metro-North Commuter Railroad Company, the MTA Capital Construction Company, the MTA Bus Company, and the First Mutual Transportation Assurance Company.

Unless otherwise indicated, these minutes reflect items on the agenda of the Board of the Metropolitan Transportation Authority, the 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 Company, Metro-North Commuter Railroad Company, the MTA Capital Construction Company, and the First Mutual Transportation Assurance Company.

Chair Lieber called to order the May 2022 Board meeting.

General Counsel Paige Graves confirmed a quorum of the Board members in attendance.

A recorded audio public safety announcement was played.

1. PUBLIC SPEAKERS' SESSION.

The MTA Moderator announced that the following public speakers will speak either live virtually or in-person.

The MTA Moderator reminded public speakers of the rules of conduct, the two-minute speaking limit and that speakers will be alerted when 30 seconds remain to conclude their remarks.

The following public speakers commented (*live virtual comments):

Cara Liebowitz, BCID
Charlton D'Souza, President, Passengers United*
Jessica Murray, Elevator Action Group*
Aleta Dupree, private citizen*
Chris Drummond, TWU, Local 100
Gian Carlo Pedulla, private citizen
Brian Burke, TWU, Local100*
Elizabeth Valdez, BCID*
Sasha Goldensohn, Elevator Action Group
Victor Dias Rodriguez, All Riders
Bruce Hain, Rail NYC Access

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Cassie Raffucci, private citizen
Jack Nierenberg, Passengers United*
Eman Rimawi Doster, NYPLI*
Miriam Fisher, Northside Center for Children Development*
Andy Pollack, Passengers United*
Jason Rabinowitz, private citizen*
Sonya Grey, TWU, Local 100
Lisa Daglian, Executive Director, PCAC
Kara Gurl, PCAC
Joe Rappaport, Executive Director, BCID
Jason Anthony, Amazon Labor Union

Refer to the video recording of the meeting produced by the MTA and maintained in MTA records for the content of speakers' statements.

2. CHAIR LIEBER'S REMARKS.

Chair Lieber thanked the public speakers, who spoke in person and live virtually, and he thanked everyone for joining the May Board meeting, both in person and remotely.

Chair Lieber acknowledged and welcomed Richard Davey, NYCT President, to his first official Board meeting.

Chair Lieber stated that this has been another incredibly difficult week for New York following the horrific shooting on the Q train, where Daniel Enriquez lost his life in a senseless and cold-blooded act of violence. Thankfully, the New York Police Department ("NYPD") has arrested the perpetrator, and Chair Lieber thanked the Police Commissioner and the NYPD for their extraordinary work of capturing the suspect. The Chair, on behalf of the MTA, the Board Members, and the public, also thanked Mayor Adams for his steadfast commitment to the safety of the subway system, and he stated that he hopes the news of the arrest brings some solace to the family of Mr. Enriquez. Chair Lieber expressed his thoughts and prayers to the entire country, and to the people in Texas, in Buffalo, and many other places in the country that are struggling with the epidemic of gun violence.

Chair Lieber stated that, as expressed by Mayor Adams, the focus needs to be on crime prevention, which is why he appreciates Mayor Adams's "Omnipresence" strategy that includes placing police officers in locations within the subway system where riders feel most vulnerable—on platforms, on trains and throughout stations with the goal of interdicting crime and stopping the bad guys before bad things happen. The Chair stated that the city cannot afford to lose New York's public space, especially the subways, because too many people rely on transit to travel to work, to school, and to travel around the city, and Chair Lieber stated that he will present maps that illustrate just how important the subways, in the wake of COVID, remain especially to working New Yorkers.

Chair Lieber stated that following an Omicron decline, riders continue to come back to the system. On May 18th the system carried 3.6 million riders on the subways—reaching this

number for the first time since March of 2020, which is more than the pre-COVID ridership of the top seven or eight systems in the United States, after New York–Washington Metro, Chicago, Boston, San Francisco, Philadelphia, Atlanta, LA, Miami, plus the Port Authority’s PATH system. Chair Lieber stated that, altogether, pre-COVID, these systems’ ridership does not match the MTA’s ridership right now—to give you a sense of the scale. Preceding the subway records, LIRR and MNR served more than 182,000 passengers and 162,000 passengers, respectively—also records. Chair Lieber stated that, overall, last week was the best week across all modes—the second week in a row that ridership reached a new high point.

Chair Lieber stated that on an average weekday only 38% of Manhattan office workers are in the office, but transit is at 60% of pre-COVID ridership. Chair Lieber stated that there are a lot of people riding the system who are not only going to sit in swivel chairs in Manhattan skyscrapers, but who are riding the system because they are going to school, doing essential work in the boroughs, and they are moving around and living their lives, which Chair Lieber stated is a hopeful sign for the recovery of MTA’s system.

Chair Lieber stated that the operations planning team at NYCT has been analyzing estimated entries by station, and the results show that some parts of the system are still lagging. Chair Lieber, showing slides of the stations, stated that the stations marked in red have less than 55% of the entries received pre-COVID. Systemwide, what is missing are trips to and from the Central Business District and within the Central Business District, some of which includes tourists. However, Chair Lieber stated that most of the decline in ridership includes office workers—the trips commuters take to work and the trips they take moving around the city going to meetings, making sales calls, and all the other normal activities that existed pre-COVID. Chair Lieber presented a slide showing the decline in ridership in the MTA’s satellite business districts in downtown Brooklyn and in Long Island City and stated that many people who worked in those areas are also not commuting as frequently as they did pre-COVID. Chair Lieber, presenting a comparison of maps that showed stations where ridership is much closer to what it was pre-COVID, stated that these areas are areas where essential workers, working-class New Yorkers, customers who, in many cases, have been riding the system throughout the pandemic because they are essential, because their work was needed to keep New York alive through the pandemic, and who have continuously relied on the system. Chair Lieber stated that in some neighborhoods, transit ridership is as high as 80% of pre-COVID levels—represented by green dots on the slide presented, which is well above the 60% blended threshold systemwide. Chair Lieber presented a slide showing high concentration of ridership on certain lines:

- On the 2-5 and 6 lines in the Central and East Bronx.
- In Central Brooklyn, some of the stations on the A and the L.
- In Ozone Park and Woodside on the J/Z and the A/C.
- In South Brooklyn on the N/R, F and the B and the Q.
- In Queens, Elmhurst/Jackson Heights/Corona area along the 7 – an area heavily populated by immigrants and working-class New Yorkers.

Chair Lieber stated that the bottom line is that mapping ridership shows that there are many communities, some with long commutes far from the Central Business District, whose ridership has remained at 70% or 80%, and sometimes 90% of pre-COVID ridership, and these communities also happen to be the less affluent areas of the city. Chair Lieber stated that the ability to continue to provide full and reliable service to these communities is a fundamental equity issue and cannot be overlooked.

Chair Lieber noted that the new format for Board meetings is intended to offer a big picture by providing presentations that focus on major and important topics. The Chair acknowledged that there is a great deal of important work and information that gets conveyed at the committee meetings on Monday, and he recapped some highlights of the Monday committee meetings:

- President Richard Davey, in his first presentation to the Transit Committee, presented his vision and aggressive plan to take on the big challenging issues at NYCT.
- Judy McClain, Chief of Operations Planning, NYCT, discussed initiatives and plans to guarantee that the Bronx Bus Redesign Program, which is being effectuated in just a month, is a success. Chair Lieber stated that, in addition to the Bronx Bus Redesign Project, other projects designed to make bus service better includes the redesign of bus service in Staten Island, which has improved travel time, and the agency is working hard on plans for the Queens bus redesign project.
- President Catherine Rinaldi on Monday discussed Grand Central service that is going to go into effect when East Side Access comes online by the end of this year, and the schedules will be released soon.
- At the Capital Committee meeting there was a discussion of how there continues to be a relentless push to finish the East Side Access project by the end of this year, as the Chair promised since 2018. There was also a discussion on how the lessons learned from mistakes made during the East Side Access project is being applied to the Third Track project to make sure that this project is below-budget and on-time.
- At the Finance Committee on Monday, Chief Financial Officer Kevin Willens described the MTA's challenging fiscal situation, and new projections being prepared and used to finalize the July Financial Plan. Chair Lieber stated that for several months he has been in Albany talking to people and making the point that transportation is an essential service, and Albany needs to begin developing strategies to close the MTA's looming budget deficit. Chair Lieber stated that, like police, fire and sanitation, transportation is an equally essential service and the MTA's indispensable system must be funded in a way that recognizes this fact. The Chair stated that the MTA Board has limited options to deal with the budget shortfalls, and if service is reduced, fares raised, or layoffs are initiated, it is the less affluent working New Yorkers who depend on MTA services most that will suffer.

Chair Lieber noted that there will be two special presentations at today's meeting: Chief Administrative Officer Lisette Camilo will provide an update on the critical work being done

to recruit and retain staff; and President Richard Davey and Dorian Statom, Director, Bus Service Planning, will describe the next bus redesign project, which is underway in Queens.

Refer to the video recording of the meeting, produced by the MTA and maintained in MTA records, for the details of Chair Lieber's remarks and Board members' comments.

3. TALENT ACQUISITION AND RETENTION PRESENTATION.

Lisette Camilo, Chief Administrative Officer, presented information on the MTA's talent acquisition and retention initiatives.

Refer to the video recording of the meeting, produced by the MTA and maintained in MTA records, for the details of Lisette Camilo's presentation and Board members' comments and discussion.

4. QUEENS BUS REDESIGN PRESENTATION.

NYCT President Richard Davey provided an overview of the Queens Bus Network Redesign Project and Dorian Statom, Director, Bus Service Planning, provided further details of the project.

Refer to the video recording of the meeting, produced by the MTA and maintained in MTA records, for President Richard Davey's introduction and Dorian Statom's presentation, and Board Members' comments and discussion.

5. APPROVAL OF MINUTES.

Upon motion duly made and seconded, the Board approved the Joint Minutes of the MTA and MTA Agencies Regular Board meeting held on April 27, 2022.

Refer to the video recording of the meeting, produced by the MTA and maintained in MTA records for the details.

6. TRIBOURGH BRIDGE AND TUNNEL COMMITTEE.

A. Procurements: No Items.

7. JOINT LONG ISLAND RAIL ROAD/METRO-NORTH RAILROAD COMMITTEE.

A. Procurement Item: No Items.

8. NEW YORK CITY TRANSIT AND BUS COMMITTEE.

A. Procurements: No Items.

9. CAPITAL PROGRAM COMMITTEE.

A. Procurements:

Upon a motion duly made and seconded, the Board:

1. Approved the award of a publicly advertised and competitively solicited contract (C34866) to L.K. Comstock & Company LLC for design-build services to upgrade the supervisory control and data acquisition system which connects to the Power Control Center and to create a new back-up electronic power control center for the amount of \$39,900,000 and a duration of 1,034 calendar days.
2. Ratified a modification (No. 78) to the Traction Power Systems Package No. 4 for the East Side Access project contract (CS084) with E-J Electric Installation Co. to energize, operate and maintain four traction power substations to support Long Island Rail Road ("LIRR") Physical Characteristics Training, for a total cost of \$5,203,200.
3. Ratified a modification (No. 95) to the Traction Power Systems Package No. 4 for the East Side Access project contract (CS084) with E-J Electric Installation Co. to replace fourteen (14) electrically operated sectionalized switches with new load break switches for a total cost of \$1,896,055, and an excusable delay of 121 days, extending the substantial completion date of the Contract to September 22, 2022.

Refer to the staff summaries and documentation filed with the records of this meeting for the details on these items.

10. MTA COMMITTEE ON FINANCE.

A. Action Item.

Upon a motion duly made and seconded the Board approved the action item listed below. The specifics are set forth in the staff summary and documentation filed with the meeting materials.

1. 2021 Annual Investment Report and MTA All Agency Investment Guidelines. Approved the MTA submission of the 2021 Annual Investment Report, pursuant to the requirements of the Public Authorities Law Section 2925, and re-approved the Board adopted MTA All Agency Investment Guidelines.

B. Procurement Items.

Upon motion duly made and seconded the Board approved the following procurement items listed below. The specifics are set forth in the staff summaries and documentation filed with the meeting materials.

1. Cambridge Systematics, Inc. – Central Server Subsystem of the Bus Customer Information System – No. 11084-0100 AWO 5. Approval to extend the service agreement for continued hosting, maintenance, and improvements to the Central Server Subsystem of the Bus Customer Information System for a period of five years.
2. Greystone & Co., Inc., d/b/a Greystone Management Solutions – Tenant Management and Accounting Services – No. 8743-0100 AWO 5. Approve the modification to the Tenant Management and Accounting Services contract to address emergency needs in connection with Phase 2 of the Second Avenue Subway project and simultaneously extend the current contract date to facilitate the re-solicitation of the required services in the fourth quarter of 2022.
3. Ernst & Young, LLP – Software Licensing and Maintenance and Support of MTA’s Governance, Risk and Compliance System – No. 90000000002532 AWO 2. Approval to extend a previous miscellaneous procurement contract with Ernst & Young, LLP for an additional three-year period for continuous software licensing, and maintenance and support of MTA’s Governance, Risk, and Compliance System.

C. Information Item.

1. 2021-2022 Station Maintenance Billing. The Board was advised of the submission of the station maintenance billings to New York City and the counties for the period of April 1, 2021 to March 31, 2022.

D. Real Estate Items.

Upon a motion duly made and seconded the Board approved the real estate items listed below. The specifics are set forth in the staff summaries and documentation filed with the meeting materials.

New York City Transit Authority

1. Extension of leases with 89th Jamaica Realty Company, LLC for the operation of a bus terminal at the Jamaica Bus Terminal located on 89th Avenue between 165th Street and Merrick Blvd, Queens, N.Y.
2. Acquisition of property interests through negotiated agreement or eminent domain in connection with Phase 2 of the Second Avenue Subway Project, New York, N.Y.
3. Amendment to a Master License Agreement with Swyft Inc. to extend the pilot program Master License Agreement on a month-to-month basis for the operation of Swyft and

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CVS-branded vending machines at various NYCT designated locations within the transit system.

Metro-North Railroad

4. Acquisition of permanent and temporary easements and execution of agreements with the City of New York for the temporary and permanent relocation of City occupants in support of the replacement of the Park Avenue Viaduct.

11. FIRST MUTUAL TRANSPORTATION ASSURANCE COMPANY (FMTAC). This meeting serves as FMTAC's annual Board meeting. Information concerning FMTAC's 2021 activities and operations are contained in the Finance Committee book and the Board book.

12. EXECUTIVE SESSION.

Upon motion duly made and seconded, the Board convened an Executive Session, pursuant to Section 105(1)(e) of the New York State Public Officers Law, to discuss a personnel matter. While in Executive Session, the Board discussed and voted affirmatively on the personnel matter.

13. PUBLIC SESSION RESUMES. Upon motion duly made and seconded, the Board voted to resume the public session.

Chair Lieber announced that upon motion duly made and seconded, the Board approved a personnel matter.

14. HEROS OF THE SUBWAY PRESENTATION.

Chair Lieber stated that it is his pleasure to honor two heroes of the subway who saved a man's life in the MTA system last week. NYPD Detective Henry Greco and Police Officer Jason Macaluso, while patrolling the Grant Street subway station on May 18th saw Suleiman Rifai fall on the tracks. With the train about to pull into the station, Detective Greco, and Police Officer Macaluso acted quickly to get Suleiman Rifai to safety. The incident was captured on video by the Officer's body camera—the video of the incident was played.

President Richard Davey stated that everyone is thankful for Suleiman Rifai's safety. President Davey stated that some say Suleiman Rifai was lucky, but Detective Greco and Police Officer Macaluso were at the right place at the right time. President Davey stated that, truth be told, with only three and a half weeks on the job, the acts of heroism seen by Detective Greco and P.O. Macaluso are happening all the time by the NYPD and Transit employees, and President Davey thanked Detective Greco and P.O. Macaluso for their actions. President Davey also thanked Chair Lieber, Mayor Adams and the NYPD for everything that they are doing to keep the employees and passengers safe.

Chair Lieber introduced and welcomed Suleiman Rifai, who had not seen Detective Greco and P.O. Macaluso since the incident and who wanted to thank the Detective and Police Officer personally for saving his life.

Suleiman Rifai thanked Detective Greco and Police Officer Macaluso for rescuing him last week and he stated that without them he would not be here today. Mr. Rifai stated that he is grateful for their presence on that day and as soon as he heard their voices, he knew he was going to be okay. Mr. Rifai stated that, from the bottom of his heart, Detective Greco, and Police Officer Macaluso will remain his friends for life.

Chair Lieber stated that it is his honor to present Detective Greco and Police Officer Macaluso with the highest honor the MTA provides to non-employees. The Chair stated that in honor of their quick thinking, courage, and selfless act of heroism on May 18, 2022, at the Grant Street Station, the MTA hereby recognizes Detective Greco's and Police Officer Macaluso's bravery and the Chair presented them with a certificate commending their heroism. Chair Lieber invited the Detective and Police Officer to say a few words.

Detective Greco and Police Officer Macaluso thanked everyone for honoring them and stated that they appreciate the recognition.

Chair Lieber invited Chief Jeffrey Maddrey, NYPD Housing Bureau, to say a few words. Chief Maddrey praised Detective Greco and Police Officer Macaluso for their heroism and for the work that they do in the Brooklyn community—working with the youth sports programs and the work they did during the COVID pandemic, saying that he admires the officers and all the work they do for the community.

15. ADJOURNMENT.

Upon motion duly made and seconded, the Board voted to adjourn the meeting at 12:24 p.m.

Respectfully submitted,

Susan Sarch
Vice President,
General Counsel and Secretary
Metro-North Railroad

Stephen N. Papandon
Acting Vice President,
General Counsel and Secretary
Long Island Rail Road Company

Mariel A. Thompson
Assistant Secretary
NYCT

David K. Cannon
Assistant Secretary
MTA C&D

Paul Friman
Acting General Counsel
and Corporate Secretary
TBTA

Victoria Clement
Assistant Secretary
MTAHQ

Contracts Department

Stephen Plochochi, Senior Vice President

**PROCUREMENT PACKAGE
June 2022**

PROCUREMENTS

The Procurement Agenda this month includes one (1) action for a proposed expenditure of \$1.2M.

Subject Request for Authorization to Award a Procurement Action					
Contract Department Stephen Plochochi, Senior Vice President					
Board Action					
Order	To	Date	Approval	Info	Other
1	Capital Program Committee	6/27/22	X		
2	Board	6/29/22	X		

Date: June 22, 2022			
Internal Approvals			
	Approval		Approval
X	Deputy Chief Development Officer, Delivery	X	President
X	Deputy Chief Development Officer, Development	X	Executive Vice President & General Counsel

Purpose

To obtain the approval of the Board to ratify a procurement action and to inform the Capital Program Committee of this procurement action.

Discussion

MTA Construction & Development proposes a Ratification in the following category:

<u>Schedules Requiring Majority Vote</u>	<u># of Actions</u>	<u>\$ Amount</u>
K. Ratification of Completed Procurement Actions	1	\$ 1,235,001
	TOTAL	\$ 1,235,001

Budget Impact

The approval of this procurement action will obligate capital funds in the amount listed. Funds are available in the capital budget for this purpose.

Recommendation

The procurement actions be approved as proposed. (The item is included in the resolution of approval at the beginning of the Procurement Section.)

MTA Construction & Development

BOARD RESOLUTION

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

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

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

NOW, the Board resolves as follows:

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

JUNE 2022
LIST OF RATIFICATIONS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

Schedule K. Ratification of Completed Procurement Actions (Involving Schedule E – J)
(Staff Summaries required for all items)

- | | | | |
|----|---|---------------------|--------------------------------------|
| 1. | T. Moriarty & Son Inc.
Contract No. B-62032.20 | \$ 1,235,001 | <u>Staff Summary Attached</u> |
|----|---|---------------------|--------------------------------------|

MTA Construction and Development requests that the Board ratify Modification No. 20 to the Contract for a redesigned flood roller gate at the MJ Quill Bus Depot.

Schedule K - Ratification of Completed Procurement Actions

Item Number: 1

Vendor Name (Location) T. Moriarty & Son Inc. (Brooklyn, NY)
Description Flood Mitigation at Three Bus Depots in the Boroughs of Manhattan, Queens & Staten Island.
Contract Term (including Options, if any) December 28, 2018 – January 5, 2021
Option(s) included in Total Amt? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> n/a
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification
Funding Source <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:
Requesting Dept./Div., Dept./Div. Head Name: Delivery/Mark Roche

Contract Number B-62032	AWO/Mod. # 20
Original Amount:	\$ 15,267,600
Prior Modifications:	\$ 1,122,860
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 16,390,460
This Request:	\$ 1,235,001
% of This Request to Current Amt.:	7.5%
% of Modifications (including This Request) to Original Amount:	15.4%

Discussion:

Contract B-62032 (the “Contract”) is for the implementation of flood mitigation measures, including flood protection walls, stop logs, flood barriers/panels, flood roller gates, replacement of manhole covers, sump pumps, and other measures at the MJ Quill Bus Depot in Manhattan, the Casey Stengel Bus Depot in Queens, and the Castleton Bus Depot in Staten Island. MTA Construction and Development (“C&D”) requests that the Board ratify Modification No. 20 to the Contract for a redesigned flood roller gate at the MJ Quill Bus Depot.

A flood roller gate deploys during a flood event to form a watertight barrier at an entryway. Flood mitigation measures designed for the M.J. Quill Bus Depot included the installation of a custom flood roller gate at its 41st Street entrance that would have reduced the width of the entrance from 18 feet to approximately 15 feet. However, upon commencement of the flood roller gate installation, NYCT Department of Buses (“DOB”) expressed concern that the precision required to maneuver buses through the narrower entrance would adversely affect Depot operation. They also noted that the frequent presence of parked vehicles or snow in the parking lane opposite the 41st Street entrance would further decrease the turning radius envelope making it even more difficult for buses to enter the Depot. For those reasons, DOB requested a redesign. C&D is investigating whether this modification is the result of a design error and if it intends to seek recovery from the designer.

The redesign required modifications to the roller gate, hoisting system and support structure, including modifications to the depot entrance and mezzanine floor slab as well as the application of paint striping on the opposite side of 41st Street for additional demarcation of a no parking/no standing zone to prevent parked vehicles from obstructing buses turning into the Depot entrance. To allow the condition to be addressed immediately so as not to further delay the completion of the Contract, C&D’s Infrastructure Business Unit Lead authorized a direction to the Contractor to proceed with the work on June 21, 2021.

The Contractor submitted a cost proposal of \$1,868,031 (\$613,865 for direct costs and \$1,254,166 for impact costs), including a time extension of 359 calendar days. Negotiations were held and the parties agreed to a lump sum price of \$1,235,001 (\$560,000 for direct costs and \$675,001 for impact costs) and a compensable time extension of 359 calendar days associated with the time needed to investigate DOB’s concerns, mock-up and test a revised flood roller gate configuration at the Depot, develop the revised design and shop drawings, and modify, install and test the revised flood roller gate. The time extension results in a revised Substantial Completion date of December 30, 2021. The agreed upon price has been determined to be fair and reasonable.



New York City Transit Procurements

Louis Montanti, MTA Deputy Chief Procurement Officer – Operations

PROCUREMENTS

The Procurement Agenda this month includes 4 actions for a proposed estimated expenditure of \$11.4M.

Subject	Request for Authorization to Award Various Procurements				
Department	MTA Procurement				
Department Head Name	Kuvershen Ayer				
Department Head Signature	<i>Kuvershen Ayer</i>				
Project Manager Name	Rose Davis				
Board Action					
Order	To	Date	Approval	Info	Other
1	Committee	6/27/22			
2	Board	6/29/22			

June 23, 2022			
Department			
Department Head Name			
Department Head Signature			
Internal Approvals			
	Approval		Approval
X	President NYCT	X	Paratransit
X	Subways		
X	CFO		
X	Law		

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 Noncompetitive procurements in the following categories:

<u>Schedules Requiring Majority Vote:</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule H: Modifications to Personal/Miscellaneous Service Contracts	3	\$ 11.4 M
SUBTOTAL	3	\$ 11.4 M

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

<u>Procurements Requiring Two-Thirds Vote:</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule B: Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)	1	\$ TBD M

NYC Transit proposes to award Ratifications in the following categories: None

SUBTOTAL	1	\$ TBD M
TOTAL	4	\$ 11.4 M

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

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

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

BOARD RESOLUTION

WHEREAS, in accordance with Sections 1265-a and 1209 of the Public Authorities Law and the All-Agency General Contract Procurement Guidelines, the Board authorizes the award of certain noncompetitive purchase and public work contracts, and the solicitation and award of requests for proposals regarding purchase and public work contracts; and

WHEREAS, in accordance with the All-Agency Service Contract Procurement Guidelines and General Contract Procurement Guidelines the Board authorizes the award of certain noncompetitive miscellaneous service and miscellaneous procurement contracts, 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 Service Contract Procurement Guidelines, the Board authorizes the award of certain service contracts and certain change orders to service contracts.

NOW, the Board resolves as follows:

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

2. As to each request for proposals (for purchase and public work contracts) set forth in Schedule B for which authorization to solicit proposals is requested, for the reasons specified therein, the Board declares competitive bidding to be impractical or inappropriate, declares it is in the public interest to solicit competitive request for proposals, and authorizes the solicitation of such proposals.

3. As to each request for proposals (for purchase and public work contracts) set forth in Schedule C for which a recommendation is made to award the contract, the Board authorizes the execution of said contract.

4. As to each action set forth in Schedule D, the Board declares competitive bidding impractical or inappropriate for the reasons specified therein and ratifies each action for which ratification is requested.

5. The Board authorizes the execution of each of the following for which Board authorization is required: (i) the miscellaneous procurement contracts set forth in Schedule E; (ii) the personal service contracts set forth in Schedule F; (iii) the miscellaneous service contracts set forth in Schedule G; (iv) the modifications to personal/miscellaneous service contracts set forth in Schedule H; (v) the contract modifications to purchase and public work contracts set forth in Schedule I; and (vi) the modifications to miscellaneous procurement contracts set forth in Schedule J.

6. The Board ratifies each action taken set forth in Schedule K for which ratification is requested.

JUNE 2022

LIST OF NONCOMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

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

(Staff Summaries required for items estimated to be greater than \$1,000,000.)

Aggregate amount \$11,444,392

- | | | |
|--|-------|-------------------------------|
| 1. Arro Inc. | \$TBD | <i>Staff Summary Attached</i> |
| 2. LimoSys LLC | \$TBD | ↓ |
| 3. Alfred Executive Transportation, d/b/a LEAP | \$TBD | ↓ |

One year

Contract #s

6%20838 AWO 12

6%22383 AWO 10

6%28552 AWO 4

Modification to three personal service contracts for E-Hail Pilot; 1-year extension of time.

Item Number: 1–3

Vendor Names (Locations) Arro, Inc., Long Island City, New York LimoSys LLC, Englewood Cliffs, New Jersey Alfred Executive Transportation d/b/a LEAP, Long Island City, New York
Description: E-Hail Pilot Extension from July 1, 2022, to June 30, 2023
Contract Term (including Options, if any) One Year
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> n/a
Procurement Type <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Noncompetitive
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification
Funding Source <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other
Requesting Department: Department of Paratransit, Chris Pangilinan

Contract Numbers: 6%20838 6%22383 6%28552	AWO/Mod #s AWO 12 AWO 10 AWO 4
Original Amount:	\$ 11,627,560
Prior Modifications:	\$ 96,991,051
Prior Budgetary Increases:	\$ 50,734,178
Current Amount:	\$ 159,352,789
This Request:	\$ 11,444,392
% of This Request (Estimated Aggregate) to Current Amount:	7.18%
% of Modifications (including This Request) to Original Amount:	1,368.9%

Discussion:

NYC Transit is seeking Board approval to modify the contracts with Arro, Inc. (“Arro”), Alfred Executive Transportation d/b/a LEAP (“LEAP”) and LimoSys, LLC (“LimoSys”) to extend the term of all three contracts from July 1, 2022, through June 30, 2023. The estimated expenditure during the extension period is \$14.6 million. There is anticipated to be approximately \$3.2 million remaining in the Master contract on June 30, 2022, and therefore \$11.4 million in additional funding is required.

Access-A-Ride (“AAR”) service is provided through two different approaches: dedicated service and non-dedicated service. Dedicated service providers are known as Primary Carriers whose only business is to transport NYC Transit AAR Customers. Non-dedicated service providers such as Broker Car Service, E-Hail, and Taxicab Reimbursement Programs perform AAR service in concert with their respective existing operations. The use of non-dedicated service provides cost and operational benefits to NYC Transit in that Paratransit does not bear the total responsibility of maintenance and operating costs, as is the case with dedicated service. Non-dedicated service providers also offer access to a larger vehicle fleet capacity to perform a high volume of trips.

In October 2017, NYC Transit began a Pilot to test and evaluate whether E-Hail providers could be utilized to electronically disseminate trips for eligible AAR Customers, including on-demand trips, to NYC Taxi and Limousine Commission (“TLC”)–licensed drivers using the E-Hail provider’s web-based application. E-Hail providers are companies that have developed web-based applications intended to match individuals in need of transportation with vehicles located within the individual’s immediate geographical area. In New York City, the drivers of these vehicles are TLC-licensed, independent contractors. The E-Hail Pilot has been well received by the 1,200 participating AAR customers and advocates alike, and approximately four million E-Hail trips have been performed since the Pilot’s inception.

The first of four E-Hail contracts was approved by the July 2017 Board and awarded to Curb Mobility (“Curb”) on October 11, 2017. On May 7, 2018, NYC Transit awarded the second E-Hail Contract to Arro. On October 27, 2018, NYC Transit further expanded the Pilot and awarded the third E-Hail Contract to LimoSys, at which time the entire E-Hail program was transitioned from traditional funding (where each respective contract had a maximum award value), to pooled funding (where the necessary funding for each contractor is drawn down from a Master Contract on an as-needed basis). The E-Hail contracts are also used for day of service recovery trips during times when a Primary or Broker AAR provider is unable to fulfill the trip it was assigned (aka “Recovery” trips). On May 4, 2021, NYC Transit made a determination of Non-Responsibility in regard to Curb and as such, Curb’s E-Hail Contract ended December 31, 2021. In anticipation of the expiration of Curb’s Contract, NYC Transit awarded the fourth E-Hail Contract to LEAP on August 18, 2021. The contracts with Arro, LimoSys, and LEAP were extended through June 30, 2022.

NYC Transit is extending the terms of all three contracts for one year, effective July 1, 2022, through June 30, 2023, to allow for a smooth transition from E-hail Phase 1 to Phase 2, as well as the transition of Recovery trips into awards resulting from a competitive procurement for this service (anticipated awards by Q1 2023).

E-Hail pricing is a fixed price per trip based on distance; pricing differs slightly between contractors. The average negotiated price per trip is \$36.61 for Arro, \$41.63 for LimoSys, and \$37.52 for LEAP. Arro, Limosys, and LEAP have all agreed to maintain their existing pricing for this extension notwithstanding operational difficulties and increased costs resulting from the lasting impacts of the pandemic.

Due to the collaborative efforts of Procurement and the Department of Diversity and Civil Rights, participation of Minority and Women-Owned Business Enterprise (“M/WBE”) in the paratransit marketplace has expanded over the past few years. As a result, M/WBE goals of 15 percent MBE and 15 percent WBE were added to this program effective March 2021 and will continue through the extension period.

The E-Hail contractors have all executed the Certification of Compliance with the MTA Cybersecurity Provisions. Any applicable cybersecurity requirements, to the extent required, have been included in the contract terms and conditions with this modification.

JUNE 2022

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Two-Thirds Vote:

B. Competitive Requests for Proposals (Solicitation of Purchase and Public Work Contracts)
(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- | | | |
|--|-------|-------------------------------|
| 4. RFP Authorizing Resolution
TBD
R34259 | \$TBD | <i>Staff Summary Attached</i> |
|--|-------|-------------------------------|

RFP Authorizing Resolution for the purchase of nine R259 10-ton crane cars.

Staff Summary

Item Number 4			
Department MTA Procurement, Kuvershen Ayer, CPO <i>Kuvershen Ayer</i>			
Internal Approvals			
Order	Approval	Order	Approval
1 X	Procurement		
2 X	Law		
3 X	CFO		
4 X	Subways		
5	President		

SUMMARY INFORMATION	
Vendor Name RFP Authorizing Resolution	Contract No. R34259
Descriptions Purchase of Nine R259 10-ton Crane Cars	
Total Amount TBD	
Contract Term (including Options, if any) TBD	
Option(s) included in Total Amt? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive	
Solicitation Type <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
Funding Source <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	

Purpose

To request that the Board declare competitive bidding impractical or inappropriate for the procurement of nine R259 10-ton crane cars for NYC Transit and that it is in the public interest to issue competitive Request for Proposals (“RFP”) pursuant to New York State Public Authorities Law, Section 1209, subdivision 9(f).

Discussion

The Public Authorities Law, Section 1209, subdivision 9(f) permits NYC Transit to use the competitive RFP process in lieu of competitive bidding to award contracts based on a formal evaluation of characteristics such as quality, delivery, and cost against stated selection criteria. NYC Transit is desirous of utilizing such a procedure with respect to the procurement of nine R259 10-ton crane cars in the approved 2020–2024 Capital Plan.

Crane cars are used to perform the lifting and placement of all track components, such as rail, ties, and other equipment and are an integral part of the NYC Transit track maintenance program. The nine new R259 crane cars will replace the existing nine R102 crane cars that are approximately 33 years old. These new crane cars are needed to support all critical track work in support of the Capital Program and maintenance throughout the subway system.

Utilizing the RFP process will allow NYC Transit to select the proposals which offer the best overall value through negotiations and evaluation based on criteria that reflect the critical needs of each agency. By utilizing the RFP process for the acquisition of crane cars, NYC Transit will be able to (1) weigh factors such as overall project price and overall quality of proposer and product including delivery; (2) negotiate specific contract terms, such as warranty and payment terms; (3) negotiate technical matters as deemed appropriate; and (4) include any other factors that NYC Transit deem relevant to its operation. Upon completion of each RFP process, NYC Transit will obtain Board approval for the actual contract award.

Alternative

Issue competitive Invitations for Bid. Not recommended given the complexity of these procurements and the advantages offered by the RFP process.

Impact on Funding

Funding for the purchase nine R259 10-ton crane cars is available under the 2020–2024 Capital Program.

Recommendation

That the Board declare competitive bidding impractical or inappropriate for the procurement of nine R259 10-ton crane cars for NYC Transit and that it is in the public interest to issue competitive RFPs pursuant to New York State Public Authorities Law, Section 1209, subdivision 9(f).

Staff Summary

Subject All Agency General Contract Procurement Guidelines and All Agency Service Contract Procurement Guidelines	Date June 29, 2022
Department MTA Office of the General Counsel	Vendor Name N/A
Department Head Name Paige A. Graves	Contract Number N/A
Department Head Signature	Contract Manager Name N/A
Project Manager Name Paige A. Graves	Table of Contents Ref # N/A

Board Action					
Order	To	Date	Approval	Info	Other
	Finance	06/27/22	x		
	Board	06/29/22	x		

Internal Approvals			
Order	Approval	Order	Approval
1	Chief Procurement Officer	4	Chief Administrative Officer
2	Chief Compliance Officer	5	Chief of Staff
3	Chief Financial Officer		

Purpose:

To obtain Board approval of the MTA’s revised All Agency General Contract Procurement Guidelines and revised All Agency Service Contract Procurement Guidelines (collectively, the “Guidelines”).

Discussion:

The Guidelines were last substantively revised in 2020 and were last approved by the Board at its March 30, 2022, meeting.

After the passage of the Governor’s 2022 budget bill, which revised certain procurement-related statutes, the MTA Procurement Department, in consultation with MTA Legal, agency counsel and agency procurement staff reviewed the Guidelines and made the changes in the attached revised Guidelines, annexed as Attachments 1 and 2. The changes are intended to increase the threshold for discretionary procurements and streamline MTA’s procurement processes. The notable substantive changes that have been proposed include the following, which flow from the changes to Public Authorities Law Sections 1209 and 1265-a made pursuant to the Governor’s budget bill:

1. Increase in threshold for discretionary procurement contracts to MWBEs, SDVOBs (service-disabled veteran-owned businesses), and small businesses from \$1 million to \$1.5 million. This change is a direct result of the 2022 statutory changes. This change will facilitate greater opportunities for discretionary contract awards to MWBEs, SDVOBs, and small businesses in larger contracts as prime contractors. This change also furthers MTA’s mandate to increase participation of MWBEs and SDVOBs in state contracts.
2. Expand the existing governmental entity contracts that MTA agencies may ride to include federal General Services Administration (GSA) contracts that were awarded through competitive bidding or competitive RFP. The rationale to ride contracts shall follow a determination of need, a consideration of the procurement method by which the contract was awarded and an analysis of alternative procurement sources. This change is a direct result of the 2022 statutory changes and will provide additional flexibility to the MTA agencies.

3. The qualified products list (QPL) was previously required to be reviewed two times per year but will now be reviewed no less than one time per year to evaluate whether to add or delete items or vendors. This change is a direct result of the 2022 statutory changes and helps streamline the QPL process.
4. Other recent statutory changes that affect MTA agencies were included in the Guidelines. One change revises advertising requirements to require the inclusion of the name(s) of the incumbent(s) for the prior contract in the advertisement in the NYSCR for work that is substantially the same as the work of a prior contract awarded in the last five years.
5. Certain changes were made to enhance the ease of use of the Guidelines and to bring the Guidelines in line with each other and are not substantive.

The revised Guidelines, once approved, will be implemented by the agencies, as required.

Recommendation:

It is recommended that the Board approve the annexed resolution and the attached revised All Agency General Contract Procurement Guidelines and revised All Agency Service Contract Procurement Guidelines.

BOARD RESOLUTION

WHEREAS, pursuant to Public Authorities Law Section 2879, the Board must approve the All Agency General Contract Procurement Guidelines and All Agency Service Contract Procurement Guidelines (collectively, the “Guidelines”) on an annual basis;

WHEREAS, the Board approved the last substantive revisions to the Guidelines in 2020 and last approved the Guidelines in March 2022; and

WHEREAS, Governor Hochul’s 2022 budget bill made certain substantive changes to the procurement rules that govern the Metropolitan Transportation Authority, its subsidiaries and affiliated agencies (collectively, the “MTA”).

NOW, THEREFORE, BE IT RESOLVED, that the BOARD acting as the Board of each agency of the MTA, adopts the attached Guidelines, which shall supersede the All Agency General Contract Procurement Guidelines and All Agency Service Contract Procurement Guidelines previously adopted by the Board in March 2022.



ALL AGENCY GENERAL CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on [June 29, 2022](#)

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

Article I - Applicability of General Contract Guidelines

These **General Contract Guidelines** apply to

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

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

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

Article II - Delegation of Authority

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

- A. To implement these General Contract Guidelines.

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

Article III - Selection of General Contractors Without Competitive Sealed Bidding

- A. A competitively bid Miscellaneous Procurement Contract may be awarded without Board approval. No Board approval shall be required for a Miscellaneous Procurement Contract ride pursuant to Article III.B.5.
- B. Except as otherwise provided in Article III.C. or Article VII., a General Contract estimated to involve the expenditure in excess of \$1 million may be awarded without competitive

bidding under the circumstances set forth below, provided that the Authorized Officer recommends such an action and the Board adopts a resolution (i) declaring competitive bidding to be impractical or inappropriate because of the existence of any of the circumstances set forth in Articles III.B.1. to 6., (ii) stating the reasons therefore, and (iii)

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

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

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

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

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

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

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

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

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

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

the SBMP procedures, the Chairman or Authority President designates members of an SBMP steering committee, which includes diversity, engineering and procurement personnel. Such SBMP steering committee is authorized to designate which eligible Public Work Contracts shall be SBMP or SBFP Public Work Contracts.

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

Article IV - Qualified Products Lists

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

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

F. Article V – Notice and Advertising

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

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

Article VI - Contractor Outreach

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

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

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

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

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

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

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

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

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

The Authority CPO or his/her designee shall determine which Purchase Contracts or Miscellaneous Procurement Contracts are appropriate for these procurements. ~~In the case of Purchase Contracts or Miscellaneous Procurement Contracts that are eligible pursuant to Section 2879(3)(b)(i) of the Public Authorities Law for award to SBCs, MWBEs or SDVOBs, the~~ The CPO may make a determination that any such Purchase Contract or Miscellaneous Procurement Contract may only be awarded to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB. The basis for such a determination must be to promote participation of MWBEs and SDVOBs in Authority contracts, as mandated by Articles 15-A and 17-B of the Executive Law, respectively, and to assist the Authorities in achieving their MWBE and SDVOB goals.

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

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

~~The value for SDVOB set aside contracts may be in excess of \$1.5 million. In these instances, notice of such procurements must also be placed in the NYSCR.~~

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

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

Article VIII - Change Orders

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

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

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

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

Article IX - Form of Board Resolution

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

Article X - Responsibilities of General Contractors

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

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

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

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

Article XII - Miscellaneous

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

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

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

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

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

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

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



ALL AGENCY SERVICE CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on [June 29, 2022](#)

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

Article I - Applicability of Service Contract Guidelines

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

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

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

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

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

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

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

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

Article II - Delegation of Authority

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

A. to implement these Service Contract Guidelines;

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

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

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

Article III - Selection of Personal and Miscellaneous Service Contractors

A. Requirements for Selection of Personal Service Contractors by RFP

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

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

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

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

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

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

B. Architectural, Engineering and Survey Services

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

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

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

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

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

Article IV – Notice and Advertising

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

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

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

Article V – MWBEs, SDVOBs, and DBEs

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

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

The Authority CPO or his/her designee shall determine which Service Contracts are appropriate for these procurements. ~~In the case of Service Contracts that are eligible pursuant to Section 2879(3)(b)(i) of the Public Authorities Law for award to SBCs, MWBEs or SDVOBs, the~~ The CPO may make a determination that any such Service Contract may only be awarded to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB. The basis for such a determination must be to promote participation of MWBEs and SDVOBs in Authority contracts, as mandated by Article 15-A and Article 17-B of the Executive Law, respectively, and to assist the Authorities in achieving their MWBE and SDVOB goals.

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

~~The value for SDVOB set aside contracts made pursuant to Article 17-B of Executive Law may be in excess of \$1 million. In these instances, require notice of such procurements must also be placed~~ in the NYSCR.

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

a showing of good faith efforts to comply with the participation goal; and

- (7) verifying that MWBEs and SDVOBs listed in a successful bid/proposal are actually participating to the extent listed in the project for which the bid/proposal was submitted.

E. The Authority will also consider, where practicable:

- (1) the severability of service requirements and other bundled service contracts;
- (2) with respect to MWBEs, the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the most recent New York State Disparity Study; and
- (3) compliance with the requirements of any federal law or regulations concerning opportunities for any DBEs, MWBEs and SDVOBs that effectuates the purposes of this Article V.

F. The Chief Diversity Officer or his/her designee is responsible for ensuring compliance with all applicable laws and regulations with regard to the utilization of DBEs on federally funded Service Contracts.

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

A. The following types of provisions shall be contained in all Personal Services Contracts, to the extent applicable due to the specifications of such Personal Service Contract:

- (1) Description of services
- (2) Compensation
- (3) Time for performance or date of completion
- (4) Liability of contractor or consultant; indemnification of Authority
- (5) Reports of contractor or consultant
- (6) Ownership of plans, drawings or other deliverables
- (7) Assignments; subcontracts
- (8) Maintenance of records, accounts
- (9) Right of Authority to inspect and/or audit books and records
- (10) Insurance requirements
- (11) Termination
- (12) Monitoring of the performance of services
- (13) Use of Authority supplies, facilities or property
- (14) Use of Authority personnel
- (15) All provisions required to be included in Authority contracts by federal, state or local laws, ordinances, codes, rules or regulations
- (16) Such modifications and additions as are appropriate in light of the specific circumstances presented

B. To the extent practicable, a verbal authorization to commence work and a letter of intent/notice to proceed shall be required, which at a minimum shall:

- (1) Describe the services to be performed;
- (2) Specify the amount of compensation to be paid pursuant to the verbal authorization and letter of intent/notice to proceed or the rates or fees which will be utilized to determine such compensation; and
- (3) Specify a date for completion or the anticipated duration of the services (except in instances where the nature of the services makes an estimate of the time required impossible or impracticable or where the contract is a retainer for the performance of services over an extended period of time on an "as-needed" basis and contains provisions allowing termination by the Authority at any time without cause).

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

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

Article VII - Responsibilities of Services Contractors

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

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

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

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

Article IX - Reporting of Service Contracts

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

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

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

Article X – Board Approval

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

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

Article XI - Change Orders

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

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

requirements of this Article XI.B., the CPO of the relevant Authority must approve multiple change orders or amendments to the same contract and for the same scope of work, if all such change orders or amendments for any rolling 12-month period would equal to or be more than \$1 million.

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

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

Article XII – Miscellaneous

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

Contract Guidelines may provide that the Service Contract includes the requirements of one or more other Authorities.

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

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

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

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

- I. If an Authority enters into a Service Contract pursuant to these Service Contract Guidelines, and such Service Contract allows all other Authorities to utilize the same Service Contract, then no further action is required. For the avoidance of doubt, the provisions of Article II.C. and Article XI shall apply to change orders to all such Service

Contracts.

- J. Nothing contained in these Service Contract Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of these Service Contract Guidelines.
- K. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements which are in conflict with or which impose greater obligations upon the Authority than these Service Contract Guidelines, then such requirements shall take precedence over those contained herein.
- L. For those Service Contracts for which the Office of the State Comptroller (“OSC”) has requested review and approval pursuant to Public Authorities Law §2879-a, if the Authority has not received OSC approval or disapproval within thirty days of submission to the OSC, the Authority may enter into such Service Contract without further waiting for such review and approval.

Staff Summary

Subject 2022 State PWEF Assessment
Department Chief Financial Officer
Department Head Name Kevin Willens
Department Head Signature
Project Manager Name David E. Keller

Date June 27, 2022
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Comm.	6/27	X		
2	Board	6/29	X		

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

Purpose: To authorize actions relating to the payment of the State assessment on the MTA and its constituent agencies for the Public Work Enforcement Fund for calendar 2022.

Discussion: Chapter 511 of the Laws of 1995, as amended, requires State agencies and authorities to pay to the State Comptroller an assessment based upon 1/10 of 1% of the value of public work (construction) contracts entered into (excluding rolling stock contracts). The assessments are deposited in the State Public Work Enforcement Fund to reimburse the State Department of Labor for its costs in enforcing the State's prevailing-wage law. The State and the MTA have entered into a simple annual estimate-and-settlement procedure agreement. Payments are made each year based upon the estimated amount of public works contracts and are adjusted to reflect the actual experience from the prior year. The 2022 payment, therefore, is based upon a 2022 estimate and an adjustment for 2021.

Based on the actual average spending rates, it is assumed that in calendar year 2022, MTA's constituent agencies are projected to let \$3.661 billion worth of construction and design-build contracts.

In 2021, the estimated 2021 assessment of \$1,482,381 was less than the actual assessment of \$4,330,461 by \$2,848,080. This underpayment, when added to the estimated 2022 assessment of \$3,661,083 requires a total payment of \$6,509,163.

Financial Implications: The 2022 MTAHQ Budget contains sufficient funds for this payment.

Recommendation: The Board should authorize staff to remit the 2022 assessment, including the adjustment for the 2021 underpayment, to the State Department of Labor.

Staff Summary

Schedule F: Personal Service Contracts

Item 1-3						SUMMARY INFORMATION	
Department, Department Head Name: Finance, Kevin Willens						Vendor Names: Alliant Insurance Services, Inc.	
Division, Division Head Name: Risk and Insurance Management						Contract Numbers: 15625-0100	
Board Reviews						Description: Owner Controlled Insurance Program	
Order	To	Date	Appro	Info	Other	Total Amount: \$186,000,000.00	
1	Finance	06/27/22	x			Contract Term (including Options, if any): Six years	
2	Board	06/29/22	x			Option(s) included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
						Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Internal Approvals						Procurement Type: <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive	
Order	Approval	Order	Approval			Solicitation Type: <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other:	
1	Procurement	4	Legal			Funding Source: <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	
2	Risk and Insurance Mgmt.	5	Chief of Staff				
3	CAO						

Purpose:

To obtain MTA Board approval to establish a not-to-exceed budget of \$186 million and execute the following items necessary to finalize the procurement of an Owner Controlled Insurance Program (OCIP) for projects covering the period of June 30, 2022-June 30, 2023, Capital Program for NYCT, LIRR, MNR and the Small Business Development Program (SBDP):

- Placement of the primary OCIP insurance policies with Chubb and the Excess Liability policies with a consortium of underwriters from London, Bermuda and domestic markets. (\$64 million)
- Authorization to place the OCIP's Builder's Risk policy with Starr and the Railroad Protective Liability policy with Balance Partners; (\$10.5 million)
- Entry by First Mutual Transportation Assurance Company (FMTAC) (MTA's captive insurance company subsidiary) into an agreement with Chubb establishing a collateral trust that secures MTA obligations to pay the self-insured portions of Workers' Compensation and General Liability claims; (\$50.1 million)
- Entry by FMTAC into a service agreement with Enhanced Status Information System (ESIS) for claims administration; (\$1.1 million)
- Establishment of deductible reimbursement polices within FMTAC for payment of the self-insured portions of Workers' Compensation, General Liability, and Builder's Risk claims; and allow FMTAC to manage the safety, claims, and administrative expenses of the OCIP program (\$52.5 million)

Staff Summary

Schedule F: Personal Service Contracts

- Provide professional services to exercise an option to administer an Alternative Dispute Resolution Program (ADR) on behalf of the MTA. (\$4.1 million)
- Execution of a Broker Incentive for Alliant Insurance Services (\$3.4 million)

Summary:

To place this insurance, MTA initiated a series of actions beginning in June 2021, including i) selection of a short list panel of brokers which was approved by the MTA Board in December 2021, ii) completed an insurance study to address the rising cost of construction insurance in the New York area to help inform broker selection, retention levels and marketing strategy for this current placement, iii). issued Mini RFP package 1 which included an incentive/disincentive and awarded the preferred broker for this OCIP program covering 110 projects at a construction value of \$3.5 billion and iv) marketed and negotiated with the insurance market to finalize the procurement of this OCIP program

The \$186 million overall cost of this OCIP program is 5.3% of construction value when compared to the 7-8% range that had been anticipated as a result of MTA's recent history and current industry trends, represents approximately \$60-95 million of lower insurance cost to the MTA. This cost reflects the noted efforts made over the past year to put in place an insurance program that provides the best value to the MTA.

Discussion:

Over the past 25 years the MTA has successfully utilized the Owner Controlled Insurance Program (OCIP) concept on its capital projects. The Owner (MTA) purchases the insurance for each contractor and subcontractor of every tier working on the projects with uniform Workers' Compensation, Commercial General Liability, Excess Liability, Railroad Protective Liability, and Builder's Risk policies, and receive a discount through the economy of scale in the overall insurance price. The contractors are required to remove their insurance soft cost from their bid.

Most recently, the (2020-2024) Bridge Program OCIP the MTA Risk and Insurance Management (RIM) was able to secure a 8.5% rate for insurance cost to construction value (CV) compared to rates of 8%-10% for insurance cost from the contractor supplied coverage. In addition, OCIP provides a major benefit to SBDP contractors who could not afford to pay for the higher insurance limits required by the MTA for Commercial General Liability Insurance and Excess Liability Insurance.

Due to the uncertainty in the capital program funding as a result of the pandemic in June of 2021, the MTA decided to conduct an RFP for a panel of brokers that would respond to specific mini-RFPs based on OCIP packages for insurance broker services; along with an insurance study to address the rising cost of construction insurance in the New York area.

In December of 2021, the Board approved the award of three competitively negotiated personal services as-needed contracts for Broker Services on specific OCIP packages for the 2020–2024 Capital Program and Related Projects for a period of eight years at a not-to-exceed cost of \$60 million. The contracts

Staff Summary

Schedule F: Personal Service Contracts

were awarded to the following firms for use on an as-needed basis without obligation to the MTA or its agencies: Alliant Insurance Services, Inc. (“Alliant”); Marsh USA Inc. (“Marsh”); and Willis Towers Watson Northeast, Inc. (“Willis”).

In March of 2022, MTA RIM commenced Mini RFP OCIP package 1, which incorporated recommendations from the insurance study. MTA Construction and Development identified 110 projects throughout the NYCT, LIRR, MNR and SBDP to be awarded within a 12-month period between June 30, 2022, and ending June 30, 2023 that will constitute Mini RFP OCIP package 1 with a projected construction value (CV) of \$3.5 billion. Each broker was required to submit a cost proposal, technical proposal and the qualifications of the team that will deliver the services.

The results of the insurance study requested that RIM include recommendations to add to its mini-RFP process in an effort to reduce insurance cost. The recommendations that were addressed during this mini-RFP process were the following:

- Negotiate for ADR a program through a negotiated Project Labor Agreement (PLA), where the MTA can negotiate a collectively bargained workers’ compensation program with the New York City Building Construction Trades Council. ADR allows for the use of Preferred Provider Organization (PPO) networks, a specialized claim dispute process, return to work programs, safety programs, and the creation of a labor-management committee. The main goals of an ADR program are to lower the MTA’s insurance costs, enhance the workers’ compensation process for injured construction workers, and improve relationships with the New York City construction unions.
- To incorporate a broker incentive/disincentive with a goal of producing the best results. The performance award would be based on the broker results in marketing the fixed insurance cost to CV; basic Workers Compensation, Commercial General Liability, and Excess Liability along with Builder Risk and Railroad Protective Liability policies. The target percentage was established with and without ADR based on current industry standards and recent broker performance
- Increase FMTAC’s participation in the insurance program by adjusting the Self-Insured Retention limits (This is covered in the insurance marketing section of the Staff Summary)

In April of 2022, Alliant was selected as the MTA’s Broker of Record for OCIP package 1 and was tasked to market that package to the insurance markets.

During the last sixty (60) days, and in accordance with the terms of the broker services contract, Alliant Insurance Services have engaged domestic and international insurance markets to acquire competitive quotations for the various lines of coverage required for the Program.

Staff Summary

Schedule F: Personal Service Contracts

Coverage will be for the entire term of the OCIP, estimated to be six (6) years, and will be non-cancelable by the insurers except for non-payment of premium or non-compliance with serious safety recommendations. The OCIP primary coverage (Workers' Compensation/General Liability) will provide MTA and the contractors with limits of \$5 million per occurrence and \$10 million in the aggregate, subject to self-insured retentions of \$750,000 on the Workers' Compensation policy and \$2.5 million on the General Liability. Excess Liability will increase primary limits to \$200 million per occurrence and \$200 million in the aggregate.

For the Mini RFP-2022 Capital Program OCIP, based on a thorough review of the scope of the projects to be included, the safety controls to be put in place, and discussions with the insurance company underwriters, MTA RIM expects the maximum aggregated premium, safety management and administrative cost to be approximately \$230 million, or 6.6% of total contract cost for covered projects. The insurance premium for the primary Workers' Compensation and General Liability coverage is based on loss experience. Chubb has capped self-insured losses at a maximum of approximately \$144 million subject to final audited payroll. Based upon actuarial analysis of prior OCIP program losses, FMTAC will write a deductible reimbursement policy that limits the maximum loss exposure of the Capital Program to approximately \$100 million, reducing the maximum cost of the program by \$44 million.

As part of the insurance proposal from Chubb, FMTAC will be required to enter into a trust agreement with the insurance company whereby the Captive will hold collateral of \$50.1 million to secure the insurance company against exposure to the self-insured layer of Workers' Compensation/General Liability claims. FMTAC will hold and invest the funds, with any interest earned being retained by the Captive. This transaction eliminates the need for a letter of credit or the posting of other security that would otherwise be required in order to place the policy. Based upon past experience and the financial strength of FMTAC, Chubb has agreed to a security requirement of less than 35% of maximum losses.

It is also recommended that the Captive be authorized to manage the OCIP's claims, safety and administrative expenses, as has been done with past OCIPs. Helmsman Management Services LLC has been selected as the claim's administrator and a loss fund of \$52.5 million will be established to pay losses and related claim costs within the self-insured retention. Safety services and administrative expenses will be funded by investment income on the funds held by the Captive over the life of the program. With a fair rate of return and minimal loss history, it is expected that FMTAC can fully fund these expenses.

Additionally, Builder's Risk coverage will be procured to protect MTA's interests in the property being constructed, and Railroad Protective Liability will be procured for the LIRR and MNR projects to protect the assets and employees of the MTA railroads and to meet our obligations to protect the railroads that operate on the right-of-way. These policies will be procured within a not to exceed cost of \$10.5 million.

The option for administration of an ADR which includes the hiring of an Injured Worker Advocate, Medical On-Site Provider, contracting with Medical Management (PPO Network) and include Broker ADR Claims Oversight and analytic reporting. \$4.1 million.

Staff Summary

Schedule F: Personal Service Contracts

D/M/WBE Information:

N/A

Impact on Funding:

The work is funded under the 2020-2024 Capital Plan. Insurance funding is currently budgeted at \$186 million.

Alternatives:

Do not utilize OCIP Coverage. The alternative to an OCIP would be to require each construction contractor to purchase insurance coverage and provide the MTA with evidence of that insurance. Costs for insurance would be included in construction contract bids. Based on MTA's prior experience, ensuring the program utilizing this method in lieu of an OCIP could cost an additional 0.4 to 3.5 percent in insurance premiums. OCIPs also provide for greater control over job site safety and assure that all contractors will have the proper insurance coverage in place for the term of the programs. Should an OCIP not be purchased, these assurances/benefits will be lost.

Perform service in-house. This alternative is neither feasible nor cost effective. The MTA does not have the staff with the specialized expertise or experience to perform the necessary services.

PROCUREMENTS

The Procurement Agenda this month includes 2 actions for a proposed estimated expenditure of \$25.2M.

Subject	Request for Authorization to Award Various Procurements				
Department	MTA Procurement				
Department Head Name	Kuvershen Ayer				
Department Head Signature					
Project Manager Name	Rose Davis				
Board Action					
Order	To	Date	Approval	Info	Other
1	Finance	06/27/22	x		
2	Board	06/29/22	x		

June 23, 2022			
Department			
Department Head Name			
Department Head Signature			
Internal Approvals			
	Approval		Approval
1	CAO		
2	Legal		
3	CFO		

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

MTAHQ proposes to award Noncompetitive procurements in the following categories: None

MTAHQ proposes to award Competitive procurements in the following categories:

Schedules Requiring Majority Vote:

Schedule I: Modifications to Purchase and Public Works Contracts	1	\$ 20.2 M
SUBTOTAL	1	\$ 20.2 M

MTAHQ proposes to award Ratifications in the following categories:

Schedules Requiring Majority Vote:

Schedule K: Ratification of Completed Procurement Actions	1	\$ 5.0 M
SUBTOTAL	1	\$ 5.0 M
TOTAL	2	\$ 25.2 M

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

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

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

BOARD RESOLUTION

WHEREAS, in accordance with Sections 1265-a and 1209 of the Public Authorities Law and the All-Agency General Contract Procurement Guidelines, the Board authorizes the award of certain noncompetitive purchase and public work contracts, and the solicitation and award of requests for proposals regarding purchase and public work contracts; and

WHEREAS, in accordance with the All-Agency Service Contract Procurement Guidelines and General Contract Procurement Guidelines the Board authorizes the award of certain noncompetitive miscellaneous service and miscellaneous procurement contracts, 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 Service Contract Procurement Guidelines, the Board authorizes the award of certain service contracts and certain change orders to service contracts.

NOW, the Board resolves as follows:

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

JUNE 2022

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

I. Modifications to Purchase and Public Work Contracts

(Staff Summaries required for items estimated to be greater than \$1,000,000.)

1. **Quality and Assurance Technology Corp.** **\$20,230,000** *Staff Summary Attached*
3 years

Contract# 105107-90000000002860 AWO 7

Modification to add funding and a three-year extension of time to the existing Dell Hardware purchase contract to furnish and deliver the Dell PCs, laptops, thin clients, and accessories on an as-need basis.

Item Number: 1

Vendor Name (Location) Quality and Assurance Technology Corp. (New York, New York)	Contract Number 900000000002860	AWO/Mod. # 7
Description All-Agency As-Needed Purchase of Dell Hardware (PCs, Laptops, Thin Clients, and Accessories)	Original Amount:	\$ 16,106,896
Contract Term (including Options, if any) October 23, 2018–July 10, 2025	Prior Modifications:	\$
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a	Prior Budgetary Increases:	\$ 1,332,698
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive	Current Amount:	\$ 17,439,594
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification	This Request:	\$ 20,230,000
Funding Source <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	% of This Request to Current Amount:	117%
Requesting Department: MTA-IT, Rafail Portnoy, Chief Technology Officer	% of Modifications (including This Request) to Original Amount:	133%

Discussion:

MTAHQ is seeking Board approval to extend the current contract with Quality and Assurance Technology Corp. (“QnA”) to furnish and deliver the Dell PCs, laptops, and related accessories to the MTA on an as-needed basis for a three-year period and add funding in the amount of \$20,230,000 to purchase additional desktop and laptop computers and related accessories during the extension period. This modification will continue to provide the same favorable price discount structure and benefit to the MTA.

In May 2016, the MTA Board approved a competitively negotiated contract to Dell Marketing L.P. (“Dell”) to provide standard hardware equipment such as PCs, laptops, and accessories for all MTA Agencies. In October 2018, MTA Department of Diversity and Civil Rights held several meetings with Dell to review the 15 percent diversity goals requirements set forth in this contract. Based on these discussions, the Dell contract was assigned to QnA, a Minority Business Enterprise (MBE This resulted in full value assignment of the contract to a Minority Business.

Under this contract, QnA (1) furnishes and delivers various Dell hardware equipment such as PCs, laptops, thin clients, monitors, and accessories for all MTA Agencies on as-needed basis; and (2) provides asset tagging, asset reporting, warehousing, and imaging services for MTA IT Asset Management group. This contract has undergone six modifications totaling \$1.3M. Modification 1 was to update equipment listing to support Windows 10ENT+Office 2016 and to add asset tagging, asset reporting, and imaging services. Modifications 2 and 3 were to exercise the first and second option years that extended the contract through July 2021. Modification 4 added funds in the amount of \$582,698 to accommodate additional purchases of laptops and thin clients for remote work during the pandemic. Modification 5 extended the contract through July 2022, and Modification 6 added funds in the amount of \$750,000 to cover expenditures through July 2022.

For this modification, the estimated funding of \$20,230,000 will cover the expected life replacement of 10,000 standard desktops (\$11,896,500); replacement of 5,000 standard laptops (\$5,694,800) that were purchased during the pandemic to support the staff working remotely; and various peripherals and accessories (\$2,638,700). During the three-year extension period, QnA will continue to provide the same discounts that were originally negotiated in 2016 with Dell, which include an average discount of 63 percent on the manufacturer’s published list price for PCs and laptops, and 50 percent on accessories. The pricing in this contract is 40 to 50 percent lower than the pricing and discounts offered under New York State and City contracts. QnA also provides warehousing and reporting services at no additional cost to the MTA. Additionally, QnA partnered with MTA-IT to efficiently ship the laptops, monitors and accessories to MTA Staff at their homes to work remotely during pandemic. Based on this, MTAHQ Procurement finds QnA’s price to be fair and reasonable.

MTA IT and Procurement departments reviewed the contract terms and pricing and have deemed them fair and reasonable. Due to recent market changes, such as increased manufacturing costs and semiconductor chip shortages, conducting a new procurement solicitation at this time would likely not yield better pricing and terms than those set forth in the current contract. During year two of the three-year extension period, a new market assessment will be conducted to ensure that the MTA achieves optimal pricing and terms for its IT hardware requirements. The contract resulting from this procurement has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, have been included in the change order.

Impact on Funding

Funding is provided by the MTA-IT Operating Budget.

JUNE 2022

LIST OF RATIFICATIONS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

K. Ratification of Completed Procurement Actions (Involving Schedule E-J)
(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- | | | | |
|----|---|------------------------|-------------------------------|
| 2. | Skae Power Solutions LLC
3 years
Contract# 90000000004072 | \$5,000,000 (estimate) | <i>Staff Summary Attached</i> |
|----|---|------------------------|-------------------------------|
- Ratification of the award of a noncompetitive personal services contract to provide engineering analysis at various MTA critical facilities throughout the New York Metro area.

Item Number: 2

Vendor Name (Location) Skae Power Solutions LLC (Palisades, New York)	Contract Numbers 900000000004072	Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Description Engineering Analysis at Various MTA Critical Facilities	Total Amount: \$5,000,000 (est.)	
Contract Terms (including Options, if any) March 10, 2022–March 9, 2025	Funding Source <input type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input checked="" type="checkbox"/> Other: MTA IT Capital Operating Budget	
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a	Requesting Department: MTA IT, David Papis	
Procurement Type <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Noncompetitive		
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Emergency		

Discussion:

MTA Headquarters (“MTAHQ”) requests that the Board ratify the award of a noncompetitive emergency personal services contract to Skae Power Solutions LLC (“Skae”) to provide engineering analysis at various MTA critical facilities throughout the New York Metro area. The period of performance is three years, and commenced on March 10, 2022, in the estimated amount of \$5 million. Due to the Emergency Declaration request made by MTA Chief Technology Office and the immediate operating need to commence services, MTA Procurement issued a Notice to Proceed on March 10, 2022, in the amount not to exceed \$500,000 while a formal contract is finalized.

On August 29, 2021, a power failure and subsequent power surge resulted in a five-hour interruption in service to the 1–6 and L train lines, as well as disruption to the MTA/NYC Transit signaling and communication systems. The shutdown was unprecedented. The outage exposed flaws in the current overall design, monitoring, and resiliency of power at the NYC Transit Rail Control Center (“RCC”), jeopardizing MTA’s operational system-wide infrastructure and the safety of the MTA’s employees and the riding public.

The MTA issued an emergency declaration on September 2021 and immediately entered into an emergency contract with Skae for Phase I of the work necessary to perform a general building power assessment and investigation of the RCC, including identifying the critical factors that contributed to the power failure and providing the necessary corrective actions. The focus of the assessment was on the notification and monitoring systems related to power management. The preliminary investigation that included a similar incident at the NYC Transit Bus Command Center revealed that there were issues in the current overall design, monitoring, and resiliency of power. Accordingly, a comprehensive analysis of all critical IT-related facilities across the MTA has been requested under Phase II.

Skae is one of the nation’s leading subject-matter experts in mission-critical infrastructure. Given its team’s current knowledge, previous work at the RCC facility, and its expertise and experience in the field of high-level security, make Skae the best suited engineering service provider to retain to perform this critical work.

During Phase II of this three-year project, Skae will identify and provide an engineering assessment of 31 potentially at-risk MTA infrastructure locations throughout the MTA including substations, signal and communication rooms, depots, and yards. The assessment will determine whether there are any vulnerabilities similar to those found at RCC. This will be achieved by determining the existing power distribution system at each location and identifying the following action items: improve the system reliability, eliminate risks, and prevent future power loss. Additional tasks that Skae will perform include: (1) development of electrical single-line diagrams; (2) review of reliability to the existing critical distribution systems; (3) single point of failure analysis for critical distribution systems; (4) review of maintenance practices and procedures at each site; (5) assessment of building management systems; and (6) provide recommendations for improving overall system monitoring, reliability, and longevity.

Skae will also assist the MTA in the implementation of corrective actions at each facility including (1) project development and planning; (2) peer review of engineering drawings; (3) trade management; (4) new critical systems; (5) testing and commissioning services; and (6) assistance with MTA training on new equipment and project turnover.

The estimated cost for a one-time critical power distribution system assessment for each of the 31 sites is \$50,140 (\$1,554,340 in total). The estimated cost to provide ongoing engineering support services for the three-year period at all locations is \$1,834,560 (subtotaling \$3,388,900). Additionally, based on the negotiated hourly rate detailed below, a contingency of \$1,611,100 is included for any unforeseen work, totaling \$5 million.

MTA Procurement reviewed the labor rates proposed by Skae and compared them to those in a recent competitively awarded construction and development request for proposals. Fourteen contracts were awarded for engineering rates, the fully loaded rate of a high-level electrical engineer averaging \$203/hour. Skae's fully loaded rate for an engineer to perform critical power distribution system assessment and perform ongoing engineering support is \$190/hour. These rates are therefore found fair and reasonable.

The contract resulting from this procurement has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. The Authority is working with the vendor to include applicable cybersecurity requirements prior to issuance of notice of award.

Impact on Funding

The contract will be funded by the MTA IT Capital Operating Budget. The requested amount will cover one-time critical power distribution system assessment at 31 MTA sites and will ensure ongoing engineering support as a result of findings from the assessments over a three-year period.

JUNE 2022
MTA REAL ESTATE
LIST OF REAL ESTATE ACTION ITEMS FOR BOARD APPROVAL

METROPOLITAN TRANSPORTATION AUTHORITY

Permanent modification to existing board policy governing the licensing of retail space in Grand Central Terminal, New York, New York

Extension of the modification to existing board policies governing the licensing of MTA agency property to permit broad direct marketing for vacant retail space

MTA METRO-NORTH RAILROAD

Extension of the license with Coffee Table for retail space on the Main Concourse in Grand Central Terminal, New York, New York

MTA NEW YORK CITY TRANSIT

Lease agreement with City Goods, LLC for the lease of retail units on the mezzanine level at 42 St – Port Authority subway station, New York, New York

MTA LONG ISLAND RAIL ROAD

Temporary construction license and a permanent easement with the City University of New York to use the LIRR's underpass between Archer Avenue and Beaver Road, Jamaica, New York

MTA BRIDGES & TUNNELS

Amendment to the license agreement with the National September 11 Memorial and Museum and the World Trade Center Foundation, Inc. for space in the Battery Parking Garage, New York, New York

Staff Summary

Subject GRAND CENTRAL TERMINAL RETAIL LICENSING PROGRAM MODIFICATION
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name KIM TREVISAN

Date JUNE 29, 2022
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	6/27//22	X		
2	Board	6/29/22	X		

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

AGENCY: Metropolitan Transportation Authority (“MTA”) and MTA Metro-North Railroad (“Metro-North”)

PURPOSE: To obtain MTA Board approval for a permanent modification to Real Estate Policies and Procedures for the Licensing of Real Property regarding the Grand Central Terminal Retail Licensing Program, as adopted on April 27, 2009 and amended July 22, 2020 and September 23, 2020

COMMENTS:

By staff summaries dated July 22, 2020 and September 23, 2020 (each attached), the MTA Board adopted amendments to the policy governing short- term retail licenses at Grand Central Terminal (“GCT Short Term Licensing Policy”) originally adopted by the Board on April 27, 2009 (attached). The amendments to the GCT Short Term Licensing Policy are set to expire in August 2022 unless further action is taken by the MTA Board.

As with other licensing and leasing procedures, MTA Real Estate put in place procedures providing governance over public offering and tenant selection protocols.

The GCT Short Term Licensing Policy, as amended, has been extremely successful. The Information Item submitted to the Finance Committee in April, 2022 reported 15 new or renewed license agreements completed in Grand Central Terminal which contributed to re-populating the retail environment in a post-Covid world. The 3-year term, along with the other modifications, has been utilized to quickly activate retail spaces until the retail market can be better evaluated in a post-Covid world and, in the longer term, will allow the MTA to react nimbly to changing retail trends, as well as demonstrate the value of GCT’s retail space generally, when marketing the retail space for longer term leases via a Request for Proposals process.

MTA Real Estate seeks authorization to permanently adopt the GCT Short Term Licensing Program as amended on the terms and conditions stated above.

Staff Summary

Subject GRAND CENTRAL TERMINAL RETAIL LICENSING PROGRAM MODIFICATION
Department REAL ESTATE
Department Head Name JOHN N. LIEBER
Department Head Signature
Project Manager Name DAVID FLORIO

Date JULY 22, 2020
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	7/22/20	X		
2	Board	7/22/20	X		

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

AGENCY: Metropolitan Transportation Authority (“MTA”) and MTA Metro-North Railroad (“Metro-North”)

PURPOSE: To obtain MTA Board approval for a modification to Real Estate Policies and Procedures for the Licensing of Real Property, as adopted on April 27, 2009

EXPIRATION: The modification will expire August 1, 2022

COMMENTS:

By staff summary dated April 27, 2009, the MTA Board approved the attached policy and accompanying resolution, authorizing MTA Real Estate to enter into short term license agreements in Grand Central Terminal for up to two years. The policy was created to address retail vacancies that were occurring in the Terminal before Requests for Proposals (RFPs) were awarded and a new tenant would take possession. The policy sought to keep retail space occupied and maintain customer amenities in order to continue to generate revenue.

With the advent of COVID-19, the overall retail market has suffered and many of our tenants, and proposed tenants with whom we were negotiating, are wavering on remaining in the Terminal as their leases and licenses expire.

MTA Real Estate recognizes these current, retail market challenges and the significant impact it has on businesses, especially the retail tenants at Grand Central Terminal. In an effort to avoid vacant or “dark” spaces during a time when responses to RFPs are unknown, MTA Real Estate requests the following:

1. Modification of the existing policy to increase the maximum term of new short-term license agreements in Grand Central Terminal to three (3) years (including authorization to enter into new short-term license agreements with existing lessees occupying space under expiring leases for up to three (3) years); and
2. Authorization to extend existing, short term, license agreements in Grand Central Terminal for up to an additional three (3) years.

MTA Real Estate seeks authorization to amend the current Grand Central Terminal Retail Licensing Program on the terms and conditions stated above.

Staff Summary

Subject GRAND CENTRAL TERMINAL RETAIL LICENSING PROGRAM MODIFICATION
Department REAL ESTATE
Department Head Name JOHN N. LIEBER
Department Head Signature
Project Manager Name DAVID FLORIO

Date SEPTEMBER 23, 2020
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	9/23/20	X		
2	Board	9/23/20	X		

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

AGENCY: Metropolitan Transportation Authority (“MTA”) and MTA Metro-North Railroad (“Metro-North”)

PURPOSE: To obtain MTA Board approval for a further modification to Real Estate Policies and Procedures for the Licensing of Real Property, as adopted on April 27, 2009 and amended July 22, 2020

EXPIRATION: The modification will expire August 1, 2022

COMMENTS:

By staff summary dated July 22, 2020 (attached), the MTA Board approved the amendment of the policy governing short-term licenses that was comprised of:

1. Modification of the existing policy to increase the maximum term of new short-term license agreements in Grand Central Terminal to three (3) years (including authorization to enter into new short-term license agreements with existing lessees occupying space under expiring leases for up to three (3) years); and
2. Authorization to extend existing, short term, license agreements in Grand Central Terminal for up to an additional three (3) years.

However, the policy amendment failed to include the temporary modification of the limitation of short term license agreements to existing tenants. In light of the impacts of Covid-19, MTA Real Estate seeks to broaden the offering of these short-term licenses beyond the current MTA tenant roster. As with other licensing and leasing policies, MTA Real Estate will put in place procedures that provide governance over public offering and tenant selection protocols.

MTA Real Estate seeks authorization to amend the current Grand Central Terminal Retail Licensing Program on the terms and conditions stated above.

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

March 28th, 2022

Agency/Project Manager	Renewal/RFP Generated	(Lessee or Licensee)	Location/Use	Term	Effective Date	Rental		Annual Increases	Price/SF
						Year	Compensation		
MTA & MNR/ David Florio	License Renewal	Leather Spa	Grand Central Terminal/ Shoe Repair	3 Years	March 3, 2022	1	\$18,000	50%	\$106
						2	\$36,000		
						3	\$60,000		
						Total	\$114,000		
MTA & MNR/ David Florio	New License	Karma & Luck	Grand Central Terminal/ Jewelry	3 Years	March 3, 2022	1	\$199,230	3%	\$290
						2	\$205,206		
						3	\$211,363		
						Total	\$615,799		
MTA & MNR/ David Florio	License Renewal	Joe's Coffee	Grand Central Terminal/ Coffee	3 Years	March 9, 2021	1	\$72,000	9%	\$363
						2	\$74,160		
						3	\$76,384		
						Total	\$222,544		
MTA & MNR/ David Florio	New License	Joe's Coffee	Grand Central Terminal/ Coffee	3 Years	March 10, 2021	1	\$65,000	10%	\$194
						2	\$71,500		
						3	\$78,650		
						Total	\$215,150		
MTA & MNR/ David Florio	License Renewal	Grand Central Optical	Grand Central Terminal/ Optical Store	3 Years	March 19, 2021	1	\$250,000	10%	\$354
						2	\$275,000		
						3	\$300,000		
						Total	\$825,000		
MTA & MNR/ David Florio	License Renewal	L'Occitance	Grand Central Terminal/ Bath & Body Products	3 Years	June 1, 2021	1	\$100,000	140%	\$117
						2	\$240,000		
						3	\$240,000		
						Total	\$580,000		
MTA & MNR/ David Florio	License Renewal	Chirping Chicken	Grand Central Terminal/ Grab & Go Chicken	3 Years	June 1, 2021	1	\$36,600	50%	\$79
						2	\$73,200		
						3	\$73,200		
						Total	\$183,000		

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

Agency/Project Manager	Renewal/RFP Generated	(Lessee or Licensee)	Location/Use	Term	Effective Date	Rental		Annual Increases	Price/SF
						Year	Compensation		
MTA & MNR/ David Florio	License Renewal	Coffee Table	Grand Central Terminal/ Cosmetics	3 Years	July 27, 2021	1	\$54,000	35%	\$385
						2	\$72,600		
						3	\$79,860		
						Total	\$206,460	10%	\$570
MTA & MNR/ David Florio	License Renewal	Doughnut Plant	Grand Central Terminal/ Doughnuts	3 Years	August 1, 2021	1	\$66,000	9%	\$333
						2	\$72,000		
						3	\$72,000		
Total	\$210,000		\$364						
MTA & MNR/ David Florio	New License	Dirty Tacos	Grand Central Terminal/ Tacos	3 Years	November 19, 2021	1	\$90,000	13%	\$74
						2	\$102,000		
						3	\$114,000		
						Total	\$306,000	12%	\$169
MTA & MNR/ David Florio	License Renewal	Vanderbilt Tennis	Grand Central Terminal/ Tennis Facility	3 Years	November 19, 2021	1	\$367,500	5%	\$43
						2	\$385,875		
						3	\$405,168		
						Total	\$1,158,543	5%	\$46
MTA & MNR/ David Florio	New License	Markey's Caviar	Grand Central Terminal/ Caviar	3 Years	November 19, 2021	1	\$0	54%	\$384
						2	\$55,000		
						3	\$85,000		
						Total	\$140,000		\$594
MTA & MNR/ David Florio	License Renewal	Li-Lac Chocolates	Grand Central Terminal/ Artisanal Chocolate Store	3 Years	August 1, 2020	1	\$46,240	60%	\$205
						2	\$46,240		
						3	\$77,835		
						Total	\$170,315		\$345
MTA & MNR/ David Florio	License Renewal	Magnolia Bakery	Grand Central Terminal/ Bakery	3 Years	October 1, 2020	1	\$271,380	N/A	\$556
						2	\$200,000		
						3	\$200,000		
						Total	\$671,380		\$410
MTA & MNR/ David Florio	New License	Murray's Cheese	Grand Central Terminal/ Gourmet Cheese	3 Years	November 1, 2020	1	\$210,000	3%	\$188
						2	\$216,300		
						3	\$222,789		
						Total	\$649,089	3%	\$199

Staff Summary

6Subject EXTENSION OF A TEMPORARY MODIFICATION TO POLICIES AND PROCEDURES FOR THE LICENSING OF REAL PROPERTY FOR VACANT SPACES
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name ARTURO ESPINOZA

Date JUNE 29, 2022
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	6/27/22	X		
2	Board	6/29/22	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Administrative Officer		
3	Chief Financial Officer		

AGENCY: All Agencies, excluding Grand Central Terminal

PURPOSE: To obtain MTA Board approval to extend a temporary modification to Real Estate Policies and Procedures for the Licensing of Real Property, as adopted November 29, 2011.

EXPIRATION: Amended expiration date is August 1, 2023.

COMMENTS:

This is to request a one-year extension of the expiration date of the attached policies and procedures modification, adopted July 22, 2020, to address a surge of vacancies in the MTA retail portfolio brought about by the decline in ridership due to the Covid-19 pandemic. Ridership levels remain depressed and continue to directly impact retail tenants who are dependent on consistent ridership to generate sales revenue.

Following adoption of the July 22, 2020 modification, Real Estate adopted procedures in pursuing and consummating deals for vacant retail spaces. They are summarized as follows: 1) identify and have an independent opinion of value of the vacant space prepared; 2) issue a solicitation document containing information on the vacant space and post the solicitation on the Real Estate website; 3) review and evaluate proposals, on a first-come, first-serve basis, for adherence to the submission criteria; and 4) perform due diligence on the proposers. Where there are multiple proposals, Real Estate may select the most responsible proposal as determined by the selection criteria.

While the established processes resulted in generating interest in the retail portfolio, MTA Real Estate has experienced limited success in completing deals given the ongoing, depressed ridership and therefore is asking for more time for implementation.

Based on the foregoing, MTA Real Estate recommends adoption of extending the expiration date of the modification to the MTA Real Estate Policies and Procedures for the Licensing of Real Property on the terms and conditions set forth above.

Staff Summary

Subject MODIFICATION TO POLICIES AND PROCEDURES FOR THE LICENSING OF REAL PROPERTY FOR VACANT SPACES
Department REAL ESTATE
Department Head Name JOHN N. LIEBER
Department Head Signature
Project Manager Name ARTURO ESPINOZA

Date JULY 22, 2020
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	7/22/20	X		
2	Board	7/22/20	X		

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

AGENCY: All Agencies

PURPOSE: To obtain MTA Board approval for a temporary modification to Real Estate Policies and Procedures for the Licensing of Real Property, as adopted November 29, 2011.

EXPIRATION: The modification will expire August 1, 2022.

COMMENTS:

The reduction of the MTA's ridership as a result of the COVID-19 pandemic has had a direct impact on retail tenants within the MTA portfolio that depend on consistent subway and commuter rail ridership to generate sales revenue. Many of the tenants in the NYCT portfolio, in particular those who were already at or near the end of their tenancies have already surrendered their spaces due to the continued uncertainty about future ridership and the retail economy in general. For NYCT the number of customer amenities has decreased from 144 primary retail locations to 117. This is in addition to the over 90 vacancies MTA Real Estate has been addressing through RFP issuance and license negotiation.

The goal of the proposed policy amendment is to address the increased vacancies in our retail portfolio and restore customer amenities and non-farebox revenue. Although New York State is slowly re-opening and ridership is expected to increase, it is contemplated that the severe disruption of the MTA's retail operations will take a long time to overcome. The MTA needs to confront the challenge of attracting new tenants under uncertain conditions.

MTA Real Estate's existing policies and procedures for awarding licenses for retail spaces were designed for conventional market conditions. Under the current, extraordinary conditions, it is believed that they will hamper a speedy retail re-occupancy plan. Offering retail license agreements through competitive requests for proposals is time-consuming. MTA Real Estate believes that directly marketing and negotiating new licenses will speed re-occupation of vacant spaces.

MTA Real Estate's Board-approved licensing policies and procedures already recognize and allow for certain defined "Circumstances" where it is appropriate to award a license without competition where a request for proposals likely would not generate enough competition or revenue to justify the time and effort, though the Board's approval is required. Those Circumstances include (1) where an earlier request for proposals was unsuccessful; (2) the market value rental is below \$5,000 a year; (3) the property is located such that only a single adjacent owner can make use of the property; (4) the property is to be licensed to municipalities for municipal purposes, or to nonprofits for beautification purposes; or (5) the license is a fiber optic or other pole, pipe or wire agreement where occupancy will be non-exclusive.

It is proposed that the Board adopt an additional, temporary Circumstance #6 to allow the award of license agreements by negotiation and without a formal public offering for vacant retail spaces. The spaces eligible would not exceed 500

Staff Summary

FINANCE COMMITTEE MEETING MODIFICATION TO POLICIES AND PROCEDURES (Cont'd.)

square feet in size, thereby limiting MTA Real Estate's latitude to smaller, travel/convenience retail in our operating environment and smaller licensed spaces in Grand Central Terminal. It is further recommended that this temporary modification expire on August 1, 2022 (the "Temporary Modification Outside Date") and apply to (a) existing vacant spaces, (b) spaces in which an existing licensee or lessee has already given notice to terminate, or any licensee or lessee that gives notice to terminate between now and Temporary Modification Outside Date.

Temporarily suspending the request for proposal requirement will save substantial time in marketing and consummating new occupancies. MTA Real Estate will still publicly advertise the inventory of vacant retail spaces on the MTA website, keep inquiries in a database, and direct its outside broker to help market the spaces. As currently practiced, MTA Real Estate will employ a governance rigor including performing due diligence, such as credit and background investigations, on all licensees, and selection of the most financially responsible proposers.

Under this proposed temporary modification, the new license term (or extension, as applicable) will not exceed ten years, including any option term (e.g., one 5-year new initial term and one 5-year option term). As with our standard license agreements, those awarded will be terminable by the MTA upon not more than 60 days' notice without compensation paid by the MTA including repayment of any unamortized tenant improvements. Offering a term agreement incentivizes the licensee to invest in improvements to the space thereby rendering the space more marketable in the long-term and providing a superior amenity to the public.

The compensation structure in the agreements may include fixed base rent or a percentage rent derived from the licensee's gross sales, or a combination of the two. An independent valuation will be obtained to assist in determining the rent in the option term for agreements with fixed rent structures. For agreements with percentage rent structures, the rent collected as a percent of gross sales during the initial term will form the basis of a fixed, Minimum Annual Guarantee ("MAG") rent for the option term. MTA Real Estate will ensure that a consistent methodology is applied in these valuations.

The terms of the negotiated transaction will be presented to the MTA Board for approval, if required.

Based on the foregoing, MTA Real Estate recommends adoption of the modification to the MTA Real Estate Policies and Procedures for the Licensing of Real Property on the terms and conditions set forth above.

Staff Summary

Subject EXTENSION OF THE LICENSE WITH COFFEE TABLE FOR RETAIL SPACE ON THE MAIN CONCOURSE IN GRAND CENTRAL TERMINAL, NEW YORK, NY
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name KIM TREVISAN

Date JUNE 29, 2022
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	6/27/22	X		
2	Board	6/29/22	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Administrative Officer		
3	Chief Financial Officer		

AGENCY: Metropolitan Transportation Authority (“MTA”) and MTA Metro-North Railroad (“Metro-North”)

LICENSEE: BTCT2, LLC d/b/a Coffee Table

LOCATION: Space MC-15 located on the Main Concourse at Grand Central Terminal (“GCT”)

ACTIVITY: Extension of license agreement term

ACTION REQUESTED: Authorization to extend the existing 3-year license agreement

TERM: Fifteen (15) months from existing license expiration of August 31,2024 through November 30, 2025

SPACE: 140 sf

COMPENSATION DURING EXTENSION TERM: Extension Period \$109,800 Monthly \$7,320

PERCENTAGE LICENSE FEE RENT: 10% of Gross Sales

COMMENTS:

The Licensee entered into a 36-month retail license agreement on July 27, 2021 for space MC-15 in the Shuttle Passage of the Main Concourse in GCT for the retail sale of coffee, beer, non-alcoholic beverages, and grab-and-go snacks and pastries. The compensation paid by the Licensee is as follows; Year 1 \$54,000, Year 2 \$72,600, and Year 3 \$76,860. The Licensee opened for business on March 29, 2022. However, full approval of its liquor license with the New York State Liquor Authority (NYSLA) is currently conditional, pending documentation that the Licensee has secured an extension of the term of the license agreement to cover the full liquor license period of three years. In order for the Licensee to receive its full liquor license for the retail sale of beer, the license agreement will need to extend beyond its current expiration date of August 31, 2024.

Based on the foregoing, MTA Real Estate requests authorization for the MTA and Metro-North to extend Coffee Table’s license agreement through November 30, 2025.

Staff Summary

Subject LEASE WITH CITY GOODS FOR THE RETAIL MEZZANINE AT 42 ST – PORT AUTHORITY SUBWAY STATION
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name RAYMOND SMYTH

Date JUNE 29, 2022
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	6/27/22	X		
2	Board	6/29/22	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Chief Administrative Officer		
3	Chief Financial Officer		

AGENCY: MTA New York City Transit (“NYCT”)
LESSEE: City Goods, LLC (“City Goods”)
LOCATION: Mezzanine of the 42 St – Port Authority subway station, Eighth Avenue Line, Manhattan (the “Retail Mezzanine”)
ACTIVITY: Development and master lease of the Retail Mezzanine
ACTION REQUESTED: Authorization to enter into a master lease agreement
TERM: Thirty (30) years plus two extension terms of ten (10) years each with an 75% fair market value reset at the beginning of each extension term
SPACE: Approximately 8,800 square feet
RENT: Base rent plus 20% of gross sales as further described below
TERMINATION FOR TRANSPORTATION PURPOSES PAYMENT: If NYCT terminates the lease within the first 15 years of the Initial Term, City Goods will receive a payment of unamortized improvement costs less any net rent abatement

COMMENTS:

MTA Real Estate issued a Request for Proposals (“RFP”) seeking a lease of all 8,800 square feet of retail space at the mezzanine level of the 42 St – Port Authority subway station in Q2 2019. Prospective respondents were required to propose on all 14 units and could directly own and operate all, some, or none of the individual retail units. In instances in which the proposer did not propose to directly own or operate any retail units, the proposer was required to sublease the retail units to food and retail operators that meet or exceed the objectives of the RFP. Utility installations and upgrades necessary to accommodate food uses are the responsibility of the proposer and utility information was provided in the RFP. MTA Real Estate defined the objectives and goals of the RFP as follows:

- Develop, implement, and manage a program of innovative food and retail concepts that have a broad range of high-quality offerings and highlights merchandise from Manhattan and the surrounding boroughs.
- Provide architectural designs that are attractive to customers, and are reflective of the local neighborhood, while accommodating traffic flow within the Retail Mezzanine.

Staff Summary

FINANCE COMMITTEE MEETING

LEASE WITH CITY GOODS FOR THE 42ND/PORT AUTHORITY STATION MEZZANINE(Cont'd.)

- Provide an optimal level of quality, value, and service to MTA subway customers, which include both visitors and locals of New York City.

Two responsive proposals were received for the lease of the entire retail program and their offers are summarized below:

Proposer Name	NPV	Initial Term
City Goods, LLC	\$6,277,994	30 years
Columbus Development Partners, LLC	\$3,660,182	25 years

- Note: Columbus Development Partners, LLC provided a pro forma for 20 years. The NPV calculation assumes a 3% year-over-year increase in years 21-25.

Under their proposal, City Goods will revamp the entire retail program with the introduction of innovative retail pods containing a standardized kit of parts which allows individual operators to switch concepts quickly to adapt to changing trends and will include traditional in-line retail units, interactive vending machines, and grab-and-go food concepts. The existing retail storefronts will be removed to enhance circulation throughout the Retail Mezzanine to create a dynamic retail environment.

In the public areas of the Retail Mezzanine there will be significant enhancements to overhead lighting and new flooring will be installed. Overall, City Goods will invest approximately \$15M in capital and aesthetic improvements in the retail program and the Retail Mezzanine. In addition to the payment of base rent (as set forth in the rent schedule below), City Goods proposes paying a percentage rent equal to 20% of (i) the gross sales of the portion of the Retail Mezzanine directly occupied by City Goods or its affiliates, plus (ii) adjusted gross revenue for the subleased or sublicensed portions of the Retail Mezzanine, which total amount after calculating (i) and (ii), is in excess of the breakpoint (as set forth below).

The proposal submitted by Columbus Development Partners also included aesthetic and utility improvements of approximately \$5M to the Retail Mezzanine with enhanced lighting and floor treatments and a similar concept mix. As with City Goods, Columbus Development offered base rent and revenue share. The proposal, however, included considerable footprint expansions into the public area of the Retail Mezzanine which would severely disrupt the path of travel for passengers, thereby interfering with transit operations.

Both proposers proposed a fixed rent structure in addition to revenue share in line with the parameters of the RFP. After leveling the present value of the rent with respect to term and revenue share, City Goods' proposal is the highest.

City Goods will receive offsets against the rent payable, summarized as follows:

- An abatement capped at \$1,000,000 for its installation of utilities (at its cost) serving the Retail Mezzanine.
- Pursuant to the RFP, a credit for its payment of the broker's commission applied against base rent as follows: 50% of the commission is applied against base rent in Lease Year 4 and 12.5% of the commission is applied against base rent in each of Lease Years 5-8.
- An alternate rent payment structure if year-over-year ridership decreases by 20% or more and such decrease is directly attributable to ridership disruptions resulting from the reconstruction of the adjacent Port Authority Bus Terminal, which has two direct entrances into the Retail Mezzanine.

The Termination for Transportation Purposes payment due the Lessee in the event NYCT terminates the lease was negotiated to an amount not to exceed \$17.5 M and amortized on a straight-line basis over a period of 15 years, after subtracting any rent concession, free rent period, construction allowance, or any other concession.

Additionally, having secured NYCT approval, City Goods will be taking over cleaning, maintenance, and extermination responsibilities in the Retail Mezzanine spanning from the fare array at Control Area N-63A at 41 Street to the fare array at Control Area N-60 at 44 Street.

While the fair market rental value estimated by an independent appraisal was higher than the rent proposed by the City Goods, MTA Real Estate has determined that the proposed transaction will yield to NYCT the fair market value, taking into account the immediate and continuing value of permanent improvements that City Goods will pay for and the fact that the Location was competitively bid with two or more motivated proposers which serves as reliable evidence of the true fair market value of the Location.

Staff Summary

FINANCE COMMITTEE MEETING

LEASE WITH CITY GOODS FOR THE 42ND/PORT AUTHORITY STATION MEZZANINE(Cont'd.)



Schedule of base rent is summarized in the table below:

Period	Annual Base Rent	Monthly Base Rent	Breakpoint
Lease Year 1	\$0.00	\$0.00	\$0.00
Lease Year 2	\$0.00	\$0.00	\$0.00
Lease Year 3	\$0.00	\$0.00	\$0.00
Lease Year 4	\$175,000.00	\$14,583.33	\$750,000.00
Lease Year 5	\$178,500.00	\$14,875.00	\$765,000.00
Lease Year 6	\$182,070.00	\$15,172.50	\$780,300.00
Lease Year 7	\$371,422.80	\$30,951.90	\$795,906.00
Lease Year 8	\$378,851.26	\$31,570.94	\$811,824.12
Lease Year 9	\$386,428.28	\$32,202.36	\$828,060.60
Lease Year 10	\$394,156.85	\$32,846.40	\$844,621.81
Lease Year 11	\$402,039.98	\$33,503.33	\$861,514.25
Lease Year 12	\$410,080.78	\$34,173.40	\$878,744.54
Lease Year 13	\$418,282.40	\$34,856.87	\$896,319.43
Lease Year 14	\$426,648.05	\$35,554.00	\$914,245.81
Lease Year 15	\$435,181.01	\$36,265.08	\$932,530.73
Lease Year 16	\$443,884.63	\$36,990.39	\$951,181.35
Lease Year 17	\$452,762.32	\$37,730.19	\$970,204.97
Lease Year 18	\$461,817.57	\$38,484.80	\$989,609.07
Lease Year 19	\$471,053.92	\$39,254.49	\$1,009,401.25
Lease Year 20	\$480,475.00	\$40,039.58	\$1,029,589.28
Lease Year 21	\$490,084.50	\$40,840.37	\$1,050,181.06
Lease Year 22	\$499,886.19	\$41,657.18	\$1,071,184.69
Lease Year 23	\$509,883.91	\$42,490.33	\$1,092,608.38
Lease Year 24	\$520,081.59	\$43,340.13	\$1,114,460.55
Lease Year 25	\$530,483.22	\$44,206.94	\$1,136,749.76
Lease Year 26	\$541,092.88	\$45,091.07	\$1,159,484.75
Lease Year 27	\$551,914.74	\$45,992.90	\$1,182,674.45
Lease Year 28	\$562,953.04	\$46,912.75	\$1,206,327.94
Lease Year 29	\$574,212.10	\$47,851.01	\$1,230,454.50
Lease Year 30	\$585,696.34	\$48,808.03	\$1,255,063.59

Staff Summary

Subject TEMPORARY CONSTRUCTION LICENSE AND PERMANENT EASEMENT AGREEMENT WITH THE CITY UNIVERSITY OF NEW YORK (OR A RELATED ENTITY) TO IMPROVE THE LIRR'S UNDERPASS BETWEEN ARCHER AVENUE AND BEAVER ROAD, JAMAICA, NY
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name SELINA STORZ

Date June 29, 2022
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	6/27/22	X		
2	Board	6/29/22	X		

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

AGENCY: MTA Long Island Rail Road ("LIRR")
GRANTEE: The City University of New York ("CUNY") or a related entity
LOCATION: A demapped street (formerly designated as 159th Street) located under the overpass between Archer Avenue and Beaver Road in Jamaica, New York, and part of Block 10098, Lot 1 and Block 10103, Lot 16, on the Tax Map of Queens County, in the State of New York (the overpass and demapped street are collectively referred to as the "Tunnel").
ACTIVITY: Construct improvements to and maintain the roadbed of the Tunnel.
ACTION REQUESTED: Approval of a grant of a temporary construction license and nonexclusive, permanent easement.
TERM: 5 years for temporary construction license and the easement is perpetual.
COMPENSATION: \$1.00

COMMENTS:

The LIRR owns the Tunnel, which measures approximately 6,300 square feet. The northerly entrance to the Tunnel is located adjacent to the York College campus and is currently being used as a pedestrian gateway by CUNY for access to and from the campus.

The Dormitory Authority of the State of New York ("DASNY") is the owner in fee of the York College campus and leases it to the City University Construction Fund ("CUCF") for use and occupancy by CUNY. CUCF has received a grant to improve the condition of the Tunnel for pedestrians and intends to install new pavers and lighting in the roadbed of the Tunnel, but CUCF has advised LIRR that CUCF will lose the grant if they do not have an agreement for the use and control of the roadbed of the Tunnel by June 30, 2022. CUCF has requested a right to construct the improvements in and to the roadbed of the Tunnel and an easement from the LIRR in the Tunnel to maintain and make repairs as necessary. The CUCF's construction of the improvements will not negatively impact the use of the Tunnel by LIRR or the LIRR right of way.

Staff Summary

FINANCE COMMITTEE MEETING

TEMPORARY CONSTRUCTION LICENSE AND PERMANENT EASEMENT AGREEMENT WITH THE CITY UNIVERSITY OF NEW YORK (Cont'd.)



Metropolitan Transportation Authority

Page 2 of 2

An appraisal of the Tunnel easement estimates the value to be \$940,000. However, as this is a public improvement project and CUNY has agreed to repair and maintenance obligations, the construction license agreement and the easement will be entered into for the nominal fee of \$1.00.

Based on the above, MTA Real Estate requests authorization to approve a temporary construction license agreement with CUCF to allow for the construction of the improvements and the grant of a nonexclusive, permanent easement to CUNY or a related entity in the roadbed of the Tunnel to allow for ongoing maintenance and repair of roadbed of the Tunnel and the other improvements.

Staff Summary

Subject NINTH AMENDMENT TO LICENSE AGREEMENT WITH THE NATIONAL SEPTEMBER 11 MEMORIAL AND MUSEUM AT THE WORLD TRADE CENTER FOUNDATION, INC. AT THE BATTERY PARKING GARAGE, NEW YORK, NY
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name NEIL MASTROPIETRO

Date June 29, 2022
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	6/27/22	X		
2	Board	6/29/22	X		

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

AGENCY: MTA Bridges and Tunnels (“B&T”)
LICENSEE: National September 11 Memorial and Museum at the World Trade Center Foundation, Inc. (“9/11 Memorial and Museum”).
LOCATION: Battery Parking Garage (“BPG”), Manhattan Block 18, Lot 100
ACTIVITY: Installation, maintenance and removal of temporary lighting project, and storage thereof
ACTION REQUESTED: Amendment of current license agreement
TERM: Three Years, July 31, 2022 to July 31, 2025
SPACE: BPG Annex roof for Tribute in Light event, and ramp corner between 6th floor and rooftop for storage. Five (5) Parking spaces for storage. One Hundred and Sixty-Four (164) Spaces for setup.
COMPENSATION: Year (1) One: \$50,040
 Year (2) Two: \$62,550
 Year (3) Three: \$75,060

COMMENTS:

Since September of 2005, B&T has annually licensed a portion of the BPG for the Tribute in Light ceremony. Under this license, the Licensee uses a portion of the roof for approximately three weeks to stage the production and uses the ramp corner between the 6th floor and rooftop to store the lights used in the display.

The current license between B&T and the Licensee expires on July 31, 2022, and the Licensee is requesting to amend the agreement and extend the term. MTA Real Estate proposed a three (3) year extension. Given current average occupancies at the BPG, revenue is not impacted by the installation. However, compensation has been increased to reflect a discount of BPG parking rates in support of this not for profit’s publicly desired display. The Licensee understands that MTA Real Estate will reevaluate the compensation called for under this proposed license from time to time.

Based on the above, MTA Real Estate requests authorization to amend the current license agreement with the 9/11 Memorial and Museum based on the terms and conditions described above.