



April 2023

MTA Board Action Items



MTA Board Meeting

**2 Broadway
20th Floor Board Room
New York, NY 10004**

**Wednesday, 4/26/2023
10:00 AM - 12:00 PM ET**

1. PUBLIC COMMENT PERIOD

2. APPROVAL OF MINUTES

MTA and MTA Agencies Regular Joint Committee and Board Meeting Minutes - March 29, 2023

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. PRESENTATIONS

4. COMMITTEE ON CAPITAL PROGRAM (no items)

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

6. COMMITTEE ON NYCT & BUS

NYCT & Bus Procurement Report

i. NYCTA & Bus Procurement item

Procurement Staff Summary - Page 19

7. COMMITTEE ON MTA BRIDGES & TUNNELS OPERATIONS

Action Item

i. Nassau County Bridge Authority E-ZPass Program

Nassau County Bridge Authority E-ZPass Program (Action Item) - Page 27

8. COMMITTEE ON FINANCE

Action Item

i. Capital Markets-Based Reinsurance

Capital Markets-Based Reinsurance - Page 29

MTAHQ Procurements Report

MTAHQ Procurement Report - Page 32

i. MTAHQ Competitive Procurements

MTAHQ Competitive Procurements - Page 36

Real Estate Items

i. Real Estate Agenda and Staff Summaries

Real Estate Agenda and Staff Summaries - Page 41

9. COMMITTEE ON DIVERSITY

Action Item

i. Title VI Program and Service Monitoring

Staff Summary_ Title VI Program and Service Monitoring - Page 62

2023 Title VI Program Board Certification - Page 63

10. 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 and Development Company, the MTA Bus Company and
the First Mutual Transportation Assurance Company
Regular Board Meeting
2 Broadway
New York, NY 10004
Wednesday, March 29, 2023
10:00 a.m.**

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

**Hon. Janno Lieber, Chair & CEO
Hon. Andrew Albert
Hon. Frank Borelli, Jr.
Hon. Samuel Chu*
Hon. Michael Fleischer
Hon. David Jones
Hon. Blanca Lopez
Hon. David Mack
Hon. Haeda B. Mihaltses
Hon Frankie Miranda
Hon Sherif Soliman
Hon. Isabel Midori Valdivia Espino
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 members were absent:

**Hon. Jamey Barbas
Hon. John Samuelsen
Hon Lisa Sorin**

Paige Graves, General Counsel, Lisette Camilo, Chief Administrative Officer, Kevin Willens, Chief Financial Officer, Patrick Warren, Chief Safety and Security Officer, Richard Davey, President, NYCTA, Frank Annicaro, Acting Chief Operating Officer, NYCT and Acting President, MTA Bus Company, Demetrius Crichlow, Senior Vice President, Subways, Catherine Rinaldi, President, Metro-North Railroad/LIRR Interim President, Catherine Sheridan, Interim President, TBTA, Jamie Torres-Springer, President, MTA C&D, Chris Pangilinan, Vice President, Paratransit, Hugo Pizzaro, Chief People Officer, Shanifah Rieara, Senior Advisor for Communications and Policy/Interim Chief Customer Officer, Daniel Randell, Assistant Director Government and Community Relations 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 Construction and Development 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 Construction and Development Company, and the First Mutual Transportation Assurance Company.

Chair Lieber called to order the March 2023 Board meeting.

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

Chair Lieber noted the Board Members joining the meeting remotely.

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 and the two-minute speaking limit. The Moderator reminded speakers of the warning beep when 30 seconds remain to conclude their remarks. The Moderator advised that the public comments will be recorded, published to the MTA website, and available for MTA Board Members' review.

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

Cathleen Collins, Disabled In Action
Senator Andrew Gounardes*

Assemblymember Jeffrey Dinowitz*
Tashia Lerebours, private citizen
Councilmember Keith Powers*
Assemblymember Robert Carroll*
Iris Kelly, Disabled In Action
Councilmember Lincoln Restler*
Mr. X, private citizen
Earth School Students: Rosa, Luna, Eli, and Hugo
Manhattan Borough President Mark Levine*
Tiffany Ann Taylor, Regional Plan Association (“RPA”)
William Loreti, Student, Clinton School
Felicia Park Rogers, Tri-State Campaign*
Lisa Daglian, Executive Director, PCAC
Betsy Plum, Riders Alliance
Charlton D’Souza, President, Passengers United
Maurice Wells, private citizen
Christopher Greif, private citizen
Danny Pearlstein, Riders Alliance
Sally Wolf, private citizen*
Jean Ryan, President, Disabled In Action (DIA)
Councilmember Selvena Brooks Powers*
Bruce Hain, private citizen
Jason Anthony, Amazon Labor Union
Jolyse Race, Riders Alliance

The Moderator announced that the allotted time for the public speakers’ comments session has been reached and asked the remaining registered speakers to standby as the agency transitions to a separate live recording session. Remote public speakers participating via Zoom were advised to standby and wait for further instructions from the Moderator. Public speakers in attendance were advised to assemble in conference room #4. As a reminder, the Moderator stated that recorded comments will be distributed to the MTA Board and posted to the Board meeting web page and on YouTube.

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 everyone for joining this month’s meeting and he thanked the public speakers for their comments.

Chair Lieber stated that the monthly Board meetings and the public comment sessions are frequently about things that the MTA needs to improve on, and the agency takes the public comments and concerns very seriously. The Chair stated that today the MTA also heard some things that make the transit advocacy community part of the MTA family, which is the passion for making sure that the MTA continues to provide service at current levels or even at better levels and that the MTA needs the support from Albany.

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March 29, 2023

Chair Lieber expressed, on behalf of the Board, thanks to the advocacy organizations, the elected officials and everybody who spoke today and who made it clear how important a moment it is both for the things that the MTA is already doing reasonably well and the ways that the MTA must improve, and that the MTA needs Albany's support.

Chair Lieber stated that the Board also heard a lot today about the elevators, an issue that the MTA must continue to focus on. The Chair stated that the elevators operated by the MTA are 96-98% operational based on the tracking that takes place, but there is no question that the agency must especially focus on the elevators that are operated by third-party real estate entities.

Chair Lieber stated that what has happened over the years is that, as part of zoning agreements that the City makes through its own land use process, they with good intentions get a real estate developer to put in an elevator or even a full station, like what was done at the Barclays Center, but the operation and the compliance of that station is overseen by the Buildings Department. Chair Lieber stated that it is a sore point with him personally that the real estate owners are getting benefits out of that investment as part of a deal with the City but that they are, in many cases, and based on the MTA's statistics about elevator availability and operability, shortchanging the public by failing to keep those elevators in operation.

Chair Lieber stated that he uses the Atlantic Terminal Station a great deal in Brooklyn and when he goes in and out of the Barclays Center entrance -- a brand new entrance that is less than 10 years old, he is concerned that the escalator and elevator package is out of service way too frequently and the station entrance is not well maintained. Chair Lieber stated that he was at the Barclays Center -- seen in one of the photos in his presentation -- with the mayor, and he asked the Transit staff who were located at the other end of the station to clean the debris in the station because it was a mess. Chair Lieber stated that this is an area where he must ask the staff to look both legally and otherwise at whether the MTA could take over the City's role in administering and enforcing those agreements. The Chair stated that he respects the Buildings Department, but they have a lot of work to do to make sure that all the buildings in New York City are safe, and the MTA will be highly motivated to make sure that those operators do better on elevator and escalator maintenance if the MTA can do enforcement.

Chair Lieber stated that later in the meeting there will be presentations on important topics: President Richard Davey and his team will discuss how the agency can create a first-class station environment in terms of cleanliness and maintenance, and President Jamie Torres-Springer and Shanifah Rieara, Senior Advisor for Communications and Policy/Interim Chief Customer Officer will discuss the work being done on track trespass and on the issue of safety on the trains with respect to people riding outside of trains, as discussed by one of the public speakers today.

Chair Lieber emphasized and acknowledged how significant this moment is for the MTA -- with negotiations in Albany well underway, which is an existential moment for public transit in New York, and more importantly for the riders whose lives in so many ways depend on public transit.

Chair Lieber stated that he went to Albany yesterday to talk to as many legislators as he could to emphasize the seriousness of this moment and the fact that, although the legislators have tons of issues before them in the Budget, it is essential they move quickly to approve a Budget deal that will fully address the MTA's deficits brought on by COVID and to head off service cuts, massive fare hikes, possible layoffs and other undesirable impacts.

Chair Lieber stated that for some time he has been making the case that COVID demonstrated that public transit is an essential service like police, fire, and sanitation, and it should be funded more like those essential services with less reliance on the MTA's farebox structure. Chair Lieber stated that the MTA has also asked the State to make sure that the funding solution is based on recurring revenues and does not require annual appropriation. The MTA must plan for long-term solutions to make sure it has sufficient staffing and the operation in place to avoid having to go back to Albany every year to shake the cup again soliciting funds for the MTA. Chair Lieber stated that revenue should be recurring and permanent.

Chair Lieber stated that in February Governor Hochul tabled a proposal that responds directly to some of the principles that he talked about and the appeals that the MTA made, which proposal draws from a variety of sources to cover the deficit, but the largest by far is the Payroll Mobility Tax ("PMT"), which -- as a Crain's article featuring a Regional Plan Association ("RPA") study makes clear, that only the very largest businesses are impacted. The Chair stated that, respectfully, some people have been talking about this like it would affect a mom-and-pop corner store, which is not the case. Chair Lieber stated that what is different about this proposal is that the people that will be paying 80% of the tax dollars welcome the tax, which is what the New York City Partnership expressed in their response to the Governor's PMT proposal on large businesses. Chair Lieber stated that because the big businesses understand that they want five-days-a-week service, as the MTA's friends in the advocacy community highlighted, they want frequent service even if their employees are only coming in two or three days a week, and they are willing to pay a small extra amount of money to make sure that the service is there every day.

Chair Lieber stated that the good news is that both houses of the Legislature have responded to the Governor's proposal with their own proposals, and they are all saying that they want to deal with the MTA deficit fully. Chair Lieber stated that among the messages he wants to send to Albany is please do not gamble with the economy by doing anything that would threaten the MTA's ability to maintain or even expand transit service. The MTA is playing a huge role in New York's economic revival and in the past three years the region has regained nearly all of the jobs lost during COVID, and ridership seems to trend closely parallel to job growth.

Chair Lieber stated that on Thursday March 16, the subways set a new record with 3.95 million paid rides, which beat the agency's last high in December. The same day also saw a new OMNY record -- over 2 million taps systemwide. The Chair stated that the whole month of March is trending to be the largest month yet, and with just three business days left in March, the MTA is on track to hit 150 million trips -- almost 10 million more than the previous high in October.

Chair Lieber stated that he is not claiming that he knows the exact causal relationship between job growth and ridership, but he is confident that transit customer satisfaction is playing an important role in the region's economic recovery. Subways hit a new monthly record last month, with 65% of MTA's respondents saying they were satisfied or very satisfied with service -- a 13-point bump since June 2022, which is less than a year; and overall, satisfaction with buses shot up 5 points since December to 69% and Access-A-Ride is even higher at 77%.

Chair Lieber stated that customer satisfaction with service would be placed at risk if Albany fails to fully address MTA's deficits with solutions that provide certain funding. The Chair stated that a huge factor in these positive trends has been the turnaround on subway safety led by Governor Hochul and Mayor Adams. As reported by the New York Police Department (NYPD) at the Transit Committee, the first two months of 2023 were the second safest on record since the NYPD started keeping records of transit crime in the early 90s, and it was exceeded only for a brief time by the height of the COVID pandemic when there were very few riders.

Chair Lieber stated that improvements to safety have been reflected in the stunning upsurge in rider perception that the subway system is, according to the words being used in the survey, "safe" or "very safe." Barely 40% of the MTA customers said they felt safe or very safe in November and in a couple of months—in February, it was 63%—a big turnaround in a short period of time.

Chair Lieber stated that ridership and customer satisfaction are also growing because subway service has been fantastic, and the agency will always try to move forward and positively. February On Time Performance (OTP) was two percentage points higher than in 2019 -- before the pandemic -- and OTP in March is shaping up to be higher than last year's average again. The Chair stated that the agency is headed to what it thinks will be the best quarter for the subways, maybe ever, and not to overlook other MTA operational performance. 96% of bus service was delivered on-time in February, and the Chair stated that he will never stop talking about how the agency must do better on buses, but these numbers are improvements. Chair Lieber noted that Metro-North is quietly hitting high 90% on-time performance month-after-month. Paratransit -- again making huge improvements -- last month 98% of Access-A-Ride primary carrier service and 96% of broker service was on time. Chair Lieber stated that because improvements have been made, the agency is in the process of shrinking the time it measures on-time performance in Paratransit because we know that people are entitled to a shorter window being measured, and the Chair congratulated President Richard Davey and Chris Pangilinan, who runs the Paratransit system.

Chair Lieber stated that even the LIRR, after a bumpy start to the new timetables, is measuring up. The railroad is back to OTP in the 93-95% range, not quite as high as their 2022 average, but a big step up from the first week of the Grand Central Madison service, where it is no secret that the agency struggled as that transition unfolded. Chair Lieber stated that from day one, the agency knew that there would be a learning curve with the new schedules and that adjustments would have to be made, which is exactly what President Catherine Rinaldi and the LIRR team has done -- lengthening trains, diverting some trains from Grand Central Madison to Penn Station, increasing the number of Brooklyn-bound shuttles -- close to cutting the wait

time for the Brooklyn shuttle in half. Chair Lieber stated that the adjustments made are working and there is a lot less crowding, with just 5 trains over 90% capacity last week compared to 20 in the first week and many fewer than there were pre-COVID. The Chair stated that the agencies are all getting back to the expectation of how it deals with sharing public space and the LIRR system is part of that process. The Atlantic shuttle headways are down to 7 minutes instead of 12 and there is always a Brooklyn shuttle sitting on the platform with doors open so nobody must wait outdoors, whatever the weather.

LIRR ridership is surging since the schedule change, which expanded the number of trains from 650 to 945. Before the schedule change, the railroad had only two days above 200,000 riders, and since then it has had eight days over 200,000 riders.

Chair Lieber stated that while the agency is pleased with the progress made so far since the first week it does not in any way suggest that our work is done -- the agency must continue to look at the schedules and make further adjustments. Chair Lieber acknowledged Interim President Catherine Rinaldi, Senior Vice President, LIRR Operations, Robert Free and the entire LIRR team for stepping up to make things better after a difficult first week.

Chair Lieber stated that another thing that legislators should keep in mind as they consider the transit system's fate is that the MTA's ambitious \$55 billion Capital Program is actually working. The Capital Program is being implemented and the MTA is making good on its mission to modernize the system and to expand mass transit's reach to more New Yorkers than ever before. In 2022, MTA C&D finished between \$6 and \$7 billion worth of work and awarded \$11 billion in new contracts -- now that it is ramping up after basically being on hold during COVID -- and the agency is focused on the cost of capital work for all the right reasons.

Chair Lieber stated that the capital work awarded in 2022 was 6% below estimate -- \$350 million saved versus the estimates in the procurement processes, which is a positive sign. MTA C&D is using Design-Build and other innovative procurement models like A+B contracts, bundling projects together and taking advantage of every single outage to get the most work done, and the approach is paying dividends when it comes to the Capital Plan's ADA investments. Chair Lieber stated that he was thrilled to see young people who are passionate about the fact that the agency must have a more accessible system, which has been an area where the MTA has dramatically stepped up its game. Chair Lieber stated that the agency has a long way to go but the program includes 67 ADA projects, 34 of which are currently in construction, which is as many new ADA stations as the previous three capital programs combined. The latest package of 13 stations, including eight awarded through MTA's first Public-Private Partnership, is going to stretch the agency's dollars and hopefully incentivize quality construction.

Chair Lieber stated that the current capital projects that are being procured well-below estimate and finished within budget include:

- L train – early and \$100 million under budget.
- Third Track – on time and \$100 million under budget.
- The Times Square Shuttle – on time and on budget.

Chair Lieber stated that there is a lot of conversation going on now about Penn Station and the best way to approach the project, and he is agnostic on what needs to happen with Madison Square Garden. However, the Chair stated that he wants to fix Penn Station now and the MTA has been able to get it started because the City, who owns the street above, was very cooperative -- the MTA took the LIRR concourse and made it unrecognizable. Chair Lieber stated that when people come out of the LIRR, off the platforms, they look around and they think they are lost because the concourse is so unrecognizable -- it is twice as wide, the ceilings are much higher, it has new finishes, and there is a stunning new entrance from Seventh Avenue.

Chair Lieber noted that the concourse is miles ahead of the rest of the station, and the Governor has made this a priority and will continue to make it a priority. Chair Lieber stated that he hopes that the constituents that Board Member Gerard Bringmann represents recognizes the significant changes made, and the Chair expressed his appreciation to Board Member Bringmann for acknowledging the way that the MTA police force has managed to make Penn Station feel like a much more hospitable place than it used to be.

Chair Lieber stated that all these good things are happening because the MTA tackled the big issues, not only the MTA's fiscal cliff, but also congestion pricing, subway safety, ADA accessibility, and pushing back on fare and toll evasion. Chair Lieber thanked Triborough Bridge and Tunnel Authority, and the MTAPD for what they are doing to make the agency's enforcement of toll evasion better.

Chair Lieber acknowledged the settlement of the ADA litigation and stated that he respects the public speakers who have spoken so forcefully from the podium today. It took years for the MTA to get serious about getting into a collaboration with the disability community about building ADA elevators, and the MTA did it. Chair Lieber noted that General Counsel Paige Graves will make an announcement every month, which is part of closing up the litigation.

Chair Lieber stated that we are wiring the entire MTA subway system because we used a creative partnership with Transit Wireless, who is responsible for the Wi-Fi and cell service in the MTA stations, that will allow people to continue their work or communicate on their mobile devices as they move through the MTA tunnel.

Chair Lieber noted that among the issues the agency is attacking, in his view, there is nothing more important than making the bus system work better and run much faster, and that starts with the borough-by-borough redesign of the bus network—something previous MTA leadership teams were unable or willing to undertake, and it includes creating new bus lanes and busways that are kept clear with Automated Bus Lane Enforcement (“ABLE”), as discussed by the Chairman of the City Council Transportation Committee, who expressed support of the ABLE program.

Chair Lieber stated that last week, Transit President Richard Davey, along with Frank Annicaro, Acting President, MTA Bus Company, who runs the buses and other people at Transit, held an event calling on Albany to include legislation in the final budget that would

make the ABLE program permanent and give MTA and New York City Department of Transportation (NYCDOT) the ability to enforce traffic violations in an effort to keep private cars out of bus lanes, which is one of the topics that the Chair stated he pushed with every legislator he met with in Albany.

As for the on-board bus experience, Chair Lieber stated that the agency is listening to parents and caregivers when it comes to strollers, which was a hot topic with public speakers a few months ago. Chair Lieber stated that the agency heard the public speakers' concerns and launched a pilot to allow unfolded strollers on certain bus routes. He thanked Quemuel Arroyo, Chief Accessibility Officer, Transit staff and everyone who worked on the pilot and made it work. Chair Lieber stated that the pilot is now moving into phase two, extending it to upwards of 1,000 buses on 57 routes in all five boroughs, and by the fall, the agency anticipates retrofitting all local and select buses operating out of six depots with designated stroller spaces, which Chair Lieber stated is a big win for accessibility at large. Chair Lieber stated that the agency brought together the accessibility advocacy community, the disability rights community and people who were concerned about strollers and the usefulness of the bus system for families, and are working together, and getting it done.

Chair Lieber stated that another important initiative on the agenda today is solutions to reduce track trespasses and to keep customers from dangerously riding outside of the train. This will be discussed by Shanifah Rieara, Chief Customer Officer, and C&D President Jamie Torres-Springer, which are also huge issues that need to be attacked.

Chair Lieber stated that stations need to be welcoming, and although the agency justifiably focuses on service, the experience includes all kinds of aspects at stations. Today President Richard Davey and Demetrius Crichlow of Transit will discuss their efforts to improve the station environment, the ongoing "ReNEWvations", the bathroom reopenings, the deep cleaning that is on-going and more.

Chair Lieber noted that the agency is preparing to bring station agents out of the booths, which is a huge moment for New Yorkers and the customer service experience in the system. The station agents will be staying near the fare array for the time being. But they are also going to receive training, receive cell phones, and make at least one round a day through the station—they will be the eyes and ears in the station in a way that cannot happen if a station agent remains inside a soundproof plexiglass booth, which is a huge improvement.

Chair Lieber stated that, together with the rollout of the customer service centers -- something that he has been passionate about since he became Chair -- he thinks there are a lot of good things coming underground. This is the customer service experience that is needed as the agency moves into OMNY -- helping people with MetroCards, more people with reduced fares, and more people with Fair Fares. Chair Lieber noted that customer service has become a bigger part of the MTA's role and he thanked the MTA's partners at TWU Local 100 who, with President Richard Davey and Demetrius Crichlow, figured out how to bring the station agents out of the booths, get them trained, and prepare them to optimize their customer service potential.

Chair Lieber, addressing the MTA’s legislative partners in Albany, stated that he hopes that today’s review demonstrates how the MTA is getting things done, tackling an ambitious agenda, hopefully to make the organization better serve the public, being more aggressive about change, and having some success. Chair Lieber stated that the MTA is working hard to preserve and improve the system, but the organization cannot keep doing it without the funding solutions that are on the table in Albany. Chair Lieber stated that the MTA is waiting with bated breath to see what is going to happen.

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.

3. CUSTOMER SAFETY ON THE RIGHT-OF-WAY.

Shanifah Rieara, Senior Advisor for Communications and Policy/Interim Chief Customer Officer, discussed incidents involving suicides and trespassing in the system and presented the task force’s efforts to combat these issues and improve customer safety. President Jamie Torres-Springer discussed the long-term investments being made to address safety in the system. Dr. Charles R. Marmar, M.D., Chair, NYU Langone Department of Psychiatry, discussed suicide prevention and efforts to help address the incidents.

Refer to the video recording of the meeting, produced by the MTA and maintained in MTA records, for the details of Shanifah Rieara’s, President Torres-Springer’s, and Dr. Marmar’s presentations and Board members comments and discussion.

4. UPDATE ON FASTER, CLEANER, SAFER PLAN.

NYCT President Richard Davey and Demetrius Crichlow, Senior Vice President, Subways, presented an update on the cleaning efforts on the subways and buses and improvements in customers’ and employees’ experiences.

Refer to the video recording of the meeting, produced by the MTA and maintained in MTA records, for the details of President Richard Davey’s and Demetrius Crichlow’s presentations and Board members’ comments and discussion.

5. ADA SETTLEMENT AGREEMENT ANNOUNCEMENT

General Counsel Paige Graves announced that the Metropolitan Transportation Authority (“MTA”) and the New York City Transit Authority (“NYCTA”) recently entered into a proposed settlement agreement that would resolve two class action lawsuits relating to the accessibility of the subway for those with mobility disabilities. If approved by the Court the MTA will add elevators or ramps to stations, subject to the terms and conditions of the settlement agreement, so that by 2055 at least 95% of the MTA’s inaccessible stations, as identified in the settlement agreement, will provide stair-free paths of travel. The full notice of the proposed settlement of the class action lawsuits, including information about the terms of the settlement agreement and the related court hearings, can be found on the MTA’s website.

6. 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 February 23, 2023.

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

7. COMMITTEE ON CORPORATE GOVERNANCE.

A. Action Items.

Upon motion duly made and seconded, the Board approved the following items:

1. All Agency General Contract Procurement Guidelines and All Agency Service Contract Procurement Guidelines. Resolution approving the MTA's revised All Agency General Contract Procurement Guidelines and revised All Agency Service Contract Procurement Guidelines.
2. Revisions to MTA Codes of Ethics. Approved the resolution adopting the revised MTA All Agency Code of Ethics and the MTA Board Members Code of Ethics as outlined in the staff summary.
3. Mission Statement, Measurements and Performance Indicators Report. The MTA's Mission Statement and the submission of the 2022 Mission Statement, Measurements, and Performance Indicators Report to the Independent Authorities Budget Office, as required by Section 1269-f and Section 2824-a of the NYS Public Authorities Law.
4. All Agencies Revision to Rules of Conduct Governing Firearms and Weapons. Resolution approving the permanent adoption of the revisions to the New York City Transit Authority (NYCTA), Manhattan and Bronx Operating Authority (MaBSTOA), MTA Bus Company (MTA Bus), Staten Island Rapid Transit Operating Authority (SIRTOA), Long Island Rail Road Company (LIRR) and Metro-North Railroad Company (MNR) respective rules governing the possession of firearms or other weapons in or on any facility, conveyance, terminal, station or train ("Firearm Rules").

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

8. MTA BRIDGES AND TUNNELS COMMITTEE.

Board Member Mack stated that there are no items to report for Board approval for the Bridges and Tunnels Committee.

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

A. Action Item.

1. Grand Central Madison Terminal Rules of Conduct. Upon a motion duly made and seconded, the Board approved the resolution permanently adopting the MTA Grand Central Madison Concourse Operating Company's ("GCMCOC") rules governing the conduct and safety of the public in the use of the new Grand Central Madison Terminal ("GCM Terminal").

B. LIRR Procurement Item.

1. Jamaica Central Control System Upgrade. Upon a motion duly made and seconded, the Board approved a competitively solicited contract to Railware, Inc. for the purchase and installation of rail traffic control system software, known as Dispatch X, to replace the existing software at Jamaica Central Control. The existing software system, which was installed in 2010, is beyond its useful life. The software will be purchased for a negotiated price of \$2,299,063 and will be installed over a 24-month period. Once installed, LIRR will have greater system reliability and will achieve annual savings of \$164,000, which is the current cost to maintain existing software.

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

10. NEW YORK CITY TRANSIT AND BUS COMMITTEE.

A. Procurement Item.

Upon motion duly made and seconded, the Board approved the following item:

1. Staff summary declaring competitive bidding impractical or inappropriate for the procurement of four Bus Operator Simulators for New York City Transit ("NYCT") and MTA Bus Company ("MTABC"), and that it is in the public interest to issue a competitive Request for Proposals (RFP), pursuant to the New York State Public Authorities Law, Section 1209, subdivision 9(g) for NYCT and New York State Public Authorities Law, Section 1265-a, subdivision 4(g) for MTABC.

Refer to the staff summary and documentation filed with the records of this meeting for the details on this item.

11. CAPITAL PROGRAM COMMITTEE.

A. Procurement Item:

Upon a motion duly made and seconded, the Board approved the following item:

1. Award of six publicly advertised and competitively solicited indefinite quantity contracts to three firms (two contracts will be awarded to each firm, one state-funded and one federally funded), Forte-FOS JV (Contracts C31392A & C31393A), Paul J. Scariano, Incorporated (Contracts C31392B & C31393B) and Restani Construction Corporation (Contracts C31392C & C31393C) for the design, construction and repair of structural steel, concrete, masonry, and other miscellaneous components in the five boroughs of New York City with a total estimated aggregate amount of \$300 million over a thirty-six month contract term.

Refer to the staff summary and documentation filed with the records of this meeting for the details on this item.

12. MTA COMMITTEE ON FINANCE.

A. Action Items.

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

1. 2022 Annual Procurement Report. Authorized the filing with the State of New York of the annual MTA All-Agency Procurement report for the period of January 1, 2022 – December 31, 2022, as required under Section 2879 of the NYS Public Authorities Law.
2. Board Authorization to File for and Accept Federal Grants. Approved a resolution authorizing the filing of grant applications for Federal Fiscal Year (FFY) 2023 appropriations, authorizing the Chair or any of his designees to make required certifications, and authorizing the acceptance of grants in FFY 2023.

B. Procurement Item.

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

1. Masabi, LLC – Mobile Ticketing Program for Long Island Rail Road (“LIRR”) and Metro-North Railroad (“MNR”) – No. 15590. Approval to extend a competitively negotiated miscellaneous service contract with Masabi, LLC to continue administering the Mobile Ticketing Program for LIRR and MNR for an additional three years (April

1, 2023 – March 31, 2026) in the estimated amount of \$34,290,724 (LIRR: \$17,661,648; MNR: \$16,629,076).

C. Information Item.

1. MTA Prompt Payment Annual Report 2022. The Board received the 2022 MTA Prompt Payment Annual Report that is required to be submitted to the State Comptroller, the State Director of the Budget, the Chairman of the Senate Finance Committee, and the Chairman of the Assembly Ways and Means Committee. The specifics are set forth in the staff summary and documentation filed with the meeting materials of this day.

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.

Metropolitan Transportation Authority

1. A resolution approving the 2023 Real Property Disposition Guidelines and 2023 Personal Property Disposition Guidelines, and the appointment of the MTA staff persons designated as the Personal Property Disposition Contracting Officers listed on Attachment C. Each is promulgated in accordance with Sections 2895-2897 of the NYS Public Authorities Law.

New York City Transit

2. Lease with M&H Ices of Coney Island LLC, d/b/a Rita's of Coney Island for the operation of a retail frozen ice franchise located at Stillwell Avenue Terminal Complex, Unit 16, Brooklyn, N.Y.
3. Lease with The City University of New York ("CUNY") for the temporary bus parking relocation of NYCT buses at CUNY York College, York College Site # 9 (Block 10160, Lot 1 and Block 10159, part of Lot 3), in support of construction at Jamaica Bus Depot, Jamaica, Queens, N.Y.
4. Amendment to the license agreement with Swyft Inc. for the operation of Swyft and CVS-branded vending machines at various NYCT designated station locations within the transit system.

Long Island Rail Road

5. Amendment of a lease agreement with the Village of Greenport for an expanded vehicle queuing area for ferry operations located East of 4th Street, South of Wiggins Street at the Greenport Station, Greenport, N.Y.

Metro-North Railroad

6. Lease renewal with NYIP Owner II, LLC c/o Robert Martin Company, LLC for warehouse/storage space located at 101 Executive Boulevard, Elmsford, N.Y.
7. Resolution for the authorization to acquire two temporary easements and two permanent easements, through negotiated agreement or eminent domain, located at 4, 10 & 15 Independent Way, Brewster, N.Y. 10509.

13. ADJOURNMENT.

Upon motion duly made and seconded, the Board voted to adjourn the meeting at 12:33 p.m.

Respectfully submitted,

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

Haley Stein
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
General Counsel
and Corporate Secretary
TBTA

Victoria Clement
Assistant Secretary
MTAHQ

NYCT Committee
ACTIONS and PRESENTATIONS
SUMMARY for APRIL 2023

Responsible Department	Vendor Name	Total Amount	Summary of action
NYCT	C2K Partners	\$23,700,000	Exercise Option 1 to provide consulting support for the R34211 Subway Car Contract for the purchase of 640 additional subway cars.



New York City Transit Procurements


Louis Montanti, MTA Deputy Chief Procurement Officer – Procurement Operations



PROCUREMENTS

The Procurement Agenda this month includes 1 action for a proposed estimated expenditure of \$23.7M.

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	Committee	04/24/23			
2	Board	04/26/23			

April 19, 2023			
Department			
Department Head Name			
Department Head Signature			
Internal Approvals			
	Approval		Approval
	President NYCT	X	Pres. MTABC /SVP DOB
	Deputy CFO	X	SVP Subways
X	Law	X	Diversity/Civil Rights

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

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

DISCUSSION
NYC Transit proposes to award Noncompetitive procurements in the following categories: None

NYC Transit proposes to award Competitive 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	1	\$ 23.7 M
SUBTOTAL		\$ M

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

TOTAL	1	\$ 23.7 M
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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.

APRIL 2023

LIST OF COMPETITIVE 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.)

- | | | |
|--|---------------------|--------------------------------------|
| 1. C2K Partners | \$23,664,468 | <i>Staff Summary Attached</i> |
| 7-year Base + Options | | |
| Contract# R84505 AWO 9 | | |
| Exercise Option 1 to provide consulting support for the R34211 Subway Car Contract for the purchase of 640 additional subway cars. | | |

Item Number: 1

Vendor Name (Location) C2K Partners (New York, New York)
Description: Post Award Consulting Services for the R211 Subway Car Contract
Contract Term (including Options, if any) 7 years (base) + 2 years (Option 1) + 1.5 years (Option 2)
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> 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 checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:
Requesting Department: Department of Subways, Demetrius Crichlow

Contract Number R84505	Modification # 9
Original Amount:	\$62,623,706
Prior Modifications:	\$30,430,570
Current Amount:	\$93,054,276
This Request:	\$23,664,468
% of This Request to Current Amount:	25.4%
% of Modifications (including This Request) to Original Amount:	86.4%

Discussion:

NYC Transit is seeking Board approval to exercise Option 1 of Contract R84505, Post Award Consulting Services for the R34211 Subway Car Contract, awarded to C2K Partners (“C2K”), a joint venture comprised of LTK Engineering Services of New York LLP and CH2M Hill New York, Inc. (“CH2M”), in the estimated amount of \$23,664,468, to provide consulting support for Option 1 of the R34211 Subway Car Contract for the purchase of 640 additional subway cars, approved by the Board in October 2022. The base R34211 contract is for the design, manufacturing, and delivery of 440 closed-end cars (R211A), 20 open-gangway cars (R211T) for NYC Transit’s “B” Division, and 75 cars (R211S) for Staten Island Railway.

Based on a competitive Request for Proposals (“RFP”) solicitation, and after obtaining Board approval, the original contract (R84505) was awarded to C2K on March 1, 2018, in the amount of \$62,623,706, for a term of seven years. Support services under this contract include project management, quality management, and negotiations support. C2K also supports NYC Transit with (1) industrial design, car mock-up reviews, and on-site engineering reviews; (2) Buy America and U.S. Employment Plan audits; (3) various inspection services including first article inspection, pre-shipment inspection, on-site inspection; and (4) testing services.

There have been eight previous modifications to this contract to: (1) incorporate certain discounts on travel expenses; (2) address a cost reduction; (3) adjust the overhead rate of one of the subconsultants; (4) provide additional consulting support for procurement activities for the R211 Option 1 negotiations with Kawasaki Rail Car Inc.; (5) provide other administrative functions in support of the R34211 contract; (6) provide additional engineering support to ensure adequate staffing for NYC Transit’s management of the R34211 Contract; and (7) add a new subconsultant. NYC Transit is currently processing Modification 8 to address cybersecurity requirements. The total value of the previous modifications was \$30,430,570.

The consulting services to be provided under this Option will primarily cover the inspection support and other engineering support that may be required for 640 R211A Option 1 subway cars for a term of two additional years.

C2K submitted its proposal of \$23,991,259 based on the estimated annual labor rate adjustment calculated in accordance with a price index formula set forth in the R84505 Contract, as well as the adjusted overhead rates and travel expenses. Negotiations resulted in the final price of \$23,664,468, which represents a reduction of \$326,791. Procurement and NYC Transit’s Cost Price Analysis Unit have determined the price to be fair and reasonable.

CH2M has been found to be responsible notwithstanding Significant Adverse Information (“SAI”) pursuant to the All-Agency Responsibility Guidelines and such responsibility finding was approved by the MTA Chairman and CEO in consultation with the MTA General Counsel in December 2013¹. No new SAI has been found relating to CH2M and CH2M has been found to be responsible.

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

C2K has certified pursuant to EO 16 that it is not doing business in Russia.

Impact on Funding

This modification is funded with FTA funds from the 2020–2024 Capital Program.

¹CH2M was acquired by Jacobs on December 15, 2017. No SAI has been found for Jacobs.



Bridges and Tunnels

Nassau County Bridge Authority E-ZPass Program (Action Item)



Staff Summary

Subject: Approval to take steps necessary to support the Nassau County Bridge Authority E-ZPass Program
Department: Intelligent Transportation Systems & Tolling
Department Head Name: Nichola Angel, Vice President, ITS&T
Department Head Signature <i>Nichola Angel</i>
Project Manager Name: Michael Minunni, AVP, Tolling Operations <i>Michael Minunni</i>

Date April 24, 2023
Vendor Name N/A
Contract Number N/A
Contract Manager Name N/A
Table of Contents Ref. # N/A

Board Action					
Order	To	Date	Approval	Info	Other
1	MTA B&T Committee	4/24/23			
2	Board	4/26/23			

Internal Approvals			
Order	Approval	Order	Approval
1	Allison C. de Cerreto, Chief Operating Officer	1	<i>ALCC</i>
2	Paul Friman, General Counsel	2	<i>PF</i>
3	Catherine Sheridan, Interim President	3	<i>[Signature]</i>

PURPOSE:

Nassau County Bridge Authority (NCBA) intends to implement E-ZPass at its Atlantic Beach Bridge facility, which connects Lawrence and Atlantic Beach, New York.

Accordingly, MTA Bridges and Tunnels (MTA B&T) is seeking approval to take necessary steps to support NCBA participation in the New York E-ZPass program. These steps include entering into an agreement with NCBA for back office services from NY E-ZPass.

DISCUSSION:

MTA B&T plans to support the NCBA participation in the New York E-ZPass Program, and would sponsor their affiliate (non-voting) membership in the E-ZPass Inter-Agency Group of toll entities that operate the E-ZPass electronic toll collection program. The Sponsored Affiliate Member category is appropriate for a tolling agency the size of NCBA. This sponsorship would benefit NCBA customers and MTA E-ZPass account holders who cross the Atlantic Beach Bridge, and promotes E-ZPass market share in the region.

IMPACT ON FUNDING:

Any MTA B&T costs, including but not limited to back office services and staffing, will be reimbursed by NCBA. The details of this cost reimbursement will be provided in the agreement.

RECOMMENDATION:

It is recommended that the Board authorize the MTA B&T Interim President and her designees to take the necessary steps to support the NCBA E-ZPass Program implementation.

Staff Summary

Subject Capital Markets-Based Reinsurance
Department Finance
Department Head Name Kevin Willens
Department Head Signature
Project Manager/Division Head Nora Ostrovskaya, Acting Sr. Director, Strategic Initiatives Claudia Ruben, Deputy Director, Risk Claims Mgmt

Date April 25, 2023
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance	4/25	X		
2	Board	4/26	X		

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

Purpose:

To obtain Board approval to allow First Mutual Transportation Assurance Company (“FMTAC”) to undertake a capital markets-based reinsurance program by expanding FMTAC’s current traditional capital markets-based reinsurance program to include a catastrophe (“cat”) bond-based reinsurance transaction or similar parametric based reinsurance contracts. The purpose of the transaction is to reduce FMTAC’s risk transfer rates through diversifying the reinsurer base from the traditional global reinsurance market to include capital markets. This will allow FMTAC to create additional savings by employing a strategy of maximizing tension/competition inside each market, as well as between the two markets.

Discussion and Background:

Background:

In the wake of Superstorm Sandy, FMTAC confronted reduced capacity offers from the traditional property reinsurance marketplace with higher pricing for annual renewals. Addressing the concern that MTA and its agencies might be exposed to reduced property risk coverage at higher cost, the Board authorized FMTAC to explore alternative means of obtaining reinsurance capacity through the capital markets, via insurance-linked securities (“ILS”) or cat bond transactions. This effort to obtain capital markets-based reinsurance proved successful, culminating in FMTAC’s entry into a \$200 million reinsurance agreement with MetroCat Re Ltd. (“MetroCat”), a Bermuda special purpose insurer, which fully collateralized the reinsurance policy through its issuance of cat bonds.

The reinsurance obtained from MetroCat through this inaugural ILS transaction augmented MTA’s existing reinsurance program at a critical time; the inaugural transaction now also provides a model through which FMTAC can obtain future capital markets-financed property reinsurance coverage, in conjunction with coverage that may be obtained by FMTAC through traditional property reinsurance markets. In 2017, FMTAC successfully entered into another \$125 million capital markets-based reinsurance transaction and in 2020 into \$100 million transaction that allowed MTA to lower its property insurance costs.

With the assistance and guidance of a Board-approved ILS advisor, FMTAC and MTA anticipate exploring another capital markets-based reinsurance transaction in 2023. Prior to executing any such future capital markets-based reinsurance transaction in 2023, FMTAC and MTA seek Board action granting authority to finalize such transaction in the event capital market-financed property reinsurance coverage is in the best interest of FMTAC and MTA, subject to approval by the Chief Financial Officer.

Discussion:

On January 29, 2014, the Board approved FMTAC’s use of a capital markets-based alternative, specifically ILS, to enhance

its overall reinsurance portfolio. The ability to obtain capital markets-based reinsurance has proven to be an economically successful alternative for FMTAC because it is no longer dependent solely on traditional reinsurance brokers for its reinsurance needs. The reinsurance obtained through the inaugural ILS transaction augmented MTA's existing reinsurance program at a critical time; the inaugural transaction covered storm surge risk over a three-year period and expired in July 2016. The 2017 and 2020 transactions covered storm surge and earthquake risks. The 2020 transaction will remain outstanding until May 2023.

FMTAC is now seeking authorization to enter into a fourth MetroCat transaction covering storm surge or a similarly structured reinsurance contract; the proposed transaction is expected to augment the coverage that may be gained by FMTAC through traditional property reinsurance markets and is also estimated to result in property reinsurance cost savings for the MTA.

Alternatives:

FMTAC and MTA could opt not to consider or pursue future capital markets-based insurance transactions sponsored by FMTAC. This alternative is undesirable, given FMTAC's prior experience in achieving cost effective catastrophe coverage and the additional leverage that a capital markets-based insurance transaction will provide to FMTAC's ability to structure its overall insurance portfolio on an annual basis.

Recommendation:

As part of the continuing effort to reduce FMTAC's reinsurance portfolio costs and seek competitive solutions for its reinsurance needs, it is recommended that the Board adopt the annexed resolution authorizing placement of part of FMTAC's property insurance program through a capital market based transaction.

RESOLUTION

WHEREAS, FMTAC's use of capital markets-based alternative for its reinsurance needs has enhanced its overall reinsurance portfolio by lowering the cost of its reinsurance and encouraging competition among traditional providers and capital markets-based providers; and

WHEREAS, FMTAC desires to once again explore the cost effectiveness, practicability and feasibility of incorporating capital markets-based reinsurance alternatives in FMTAC's property insurance program; and

WHEREAS, utilizing a variety of capital markets-based reinsurance options will enable FMTAC to better determine the extent to which an expansion of its capital markets-based reinsurance alternatives can yield further cost savings.

NOW THEREFORE, the Board resolves as follows:

1. In order to further allow FMTAC to seek cost effective, practical and feasible alternatives to traditional broker-based reinsurance and expand its capital markets-based reinsurance alternatives, the Chairman of FMTAC and FMTAC's authorized officers are hereby authorized, consistent with the terms of this Resolution, to execute and deliver reinsurance agreements and other necessary, desirable or appropriate agreements, contracts, documents, writings and other instruments with appropriate parties in connection with capital markets-based reinsurance transaction, and to take any other actions as may be deemed necessary, desirable or appropriate in connection therewith, provided, the Chief Financial Officer, following consultation with the Cat Bond and Risk Management team, determines entry into such alternative capital markets based reinsurance transaction is in the best interests of FMTAC and the MTA.



MTA Headquarters Procurements

Kuvershen Ayer, Chief Procurement Officer – Office of the Chief Procurement Officer

PROCUREMENTS

The Procurement Agenda this month includes 2 actions for a proposed estimated expenditure of \$88.6M.

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	Committee	04/24/23			
2	Board	04/26/23			

April 21, 2023			
Department			
Department Head Name			
Department Head Signature			
Internal Approvals			
	Approval		Approval
	CAO		
	Legal		
	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 MTA Headquarters Committee of these procurement actions.

DISCUSSION

MTA Headquarters proposes to award Noncompetitive procurements in the following categories: None

MTA Headquarters proposes to award Competitive procurements in the following categories:

<u>Procurements Requiring Majority Vote:</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule F: Personal Service Contracts		\$ 71.6 M
Schedule J: Modifications Miscellaneous Procurement Contracts		\$ 17.0 M
SUBTOTAL		\$ 88.6 M

MTA Headquarters proposes to award Ratifications in the following categories: None

TOTAL	\$ 88.6 M
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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.

APRIL 2023

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

F. Personal Service Contracts

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

1. **Michael Baker Engineering, Inc.** **\$71,630,415** ***Staff Summary Attached***
Four years plus three 12-month Options
Contract# 90000000004310
Contract award for the provision of oversight services of the MTA Capital Program as required by New York State Public Authorities Law 1263-4(b). Services to be provided by the Independent Engineering Consultant.

J. Modification to Miscellaneous Procurement Contracts

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

2. **Hewlett Packard, Inc** **\$17,000,000 (est.)** ***Staff Summary Attached***
7 Years
Contract# 15253-0100 AWO 1
Modification of the all-agency managed print services program contract to continue managing and maintaining printers and multifunction devices.

Staff Summary

Item Number: 1			
Department Office of Construction Oversight, Lewis Deara			
Internal Approvals			
Order	Approval	Order	Approval
1	Procurement		
2	Legal		
3	CFO		
4	DDCR		

SUMMARY INFORMATION	
Vendor Name Michael Baker Engineering, Inc.	Contract No. 900000000004310
Description: Independent Engineering Consultant/MTA Capital Program	
Total Amount: (not to exceed) \$71,630,415	
Contract Term (including Options, if any) May 3, 2023–May 2, 2030 (Includes three 1-year options)	
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
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 recommend that the Board approve the award of a competitively negotiated personal services contract to Michael Baker Engineering Inc. (“Michael Baker”) to provide oversight services of the MTA Capital Program for a four-year term with three 1-year options that may be renewed at the MTA’s sole discretion, for a total not-to-exceed amount of \$71,630,415.

Discussion

The MTA requires the services of a nationally recognized independent transit engineering firm such as Michael Baker to perform periodic monitoring and oversight on projects in its capital program as required by New York State Public Authorities Law 1263-4(b). Under the contract, the Independent Engineering Consultant (“IEC”) will provide the MTA Capital Program Committee (“CPC”) with high-quality and professional observations, evaluations, recommendations, and reports concerning key elements of the MTA Capital Program, such as quality of work; adherence to project/program budgets; adherence to schedules, project scopes, and functional requirements; and effective program and project management controls. The IEC scope of work will also include facilitating risk assessments; project monitoring; design review, programmatic review; and D/M/WBE support. Additional tasks may be assigned, within the scope of this assignment, as requested by the CPC.

The MTA’s Office of Construction Oversight (“Construction Oversight”) will be responsible for assigning work to Michael Baker, with input from CPC, and will be responsible for monitoring work performed and the review and approval of corresponding invoices.

A Request for Proposals (“RFP”) was publicly advertised in August 2022, and a notification advising potential proposers of the RFP’s availability was emailed to 183 engineering firms. Subsequently, 84 vendors requested the RFP. Proposals were received from two firms: DACK Consulting Solutions (“DACK”) and Michael Baker. Each proposal was evaluated based on the criteria set forth in the RFP, which included: (1) expertise and oversight experience of the staff proposed; (2) the expertise of the firm and experience in the public transportation sector; (3) understanding of the complete work scope, management approach, and quality control program; (4) reasonableness of cost and work estimates; and (5) proposer’s diversity practices.

The MTA Selection Committee (“SC”), comprised of representatives from Construction Oversight, MTA Construction and Development, and the MTA Chairman’s Office, evaluated both proposals utilizing the criteria set forth in the RFP. Based on its evaluation, the SC unanimously recommended Michael Baker as the most qualified firm to perform the required oversight services. The SC found that Michael Baker’s team has the requisite depth of experience in transit and transportation engineering, construction management, signaling and train control systems, rolling stock, risk assessment, and quality management.

Staff Summary

After negotiations, Michael Baker submitted its Best and Final Offer (“BAFO”) in the amount of \$68,219,443, which represented a reduction of \$22,631,076 (24.9 percent lower than the price in its original proposal, \$90,850,519). The reduction in pricing is attributed to (1) reduction of proposed number of personnel; (2) hourly rate adjustment; (3) profit and fee percentage reduction; and (4) MTA Audit Recommendation on overhead rate reduction. Escalation rates for the three 1-year options will be capped at 2.3 percent per year.

Based on an analysis performed by the Cost Price Unit, Michael Baker’s BAFO price of \$68,219,443 (base, \$37,053,150, and three 1-year option periods, \$31,166,293) is fair and reasonable.

The approval request includes a line item for \$3,410,972 to cover additional services that may be identified relating to alternative creative approaches or unforeseen needs that if required will be administered under the strict direction of the Project Manager under the rates established in the contract. The additional line item will bring the not-to-exceed total amount to \$71,630,415.

This contract 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 contract terms and conditions.

Michael Baker has certified that pursuant to EO 16 it is not doing business in Russia.

M/W/SDVOB Information

The Department of Diversity and Civil Rights has established 15 percent MBE, 15 percent WBE, and 6 percent SDVOB participation goals on the contract. Michael Baker has submitted an MWBE/SDVOB utilization plan that meets the MWBE/SDVOB goal requirements. Michael Baker Engineering, Inc. has not completed any MTA contracts with goals. Therefore, no assessment of its MWDBE/SDVOB is available at this time.

Impact on Funding

The total not-to-exceed price of \$71,630,415 covers the total contract period: four-year base, plus the three 1-year renewal options. This contract is funded by each agency from within its capital program. The 2020–2024 Capital Program funds the oversight agenda for projects within that program. Subsequent capital programs, subject to MTA Board and Capital Program Review Board approval, will fund the oversight work anticipated for projects within those programs.

Alternatives

None. New York State Public Authorities Law 1263-4(b) requires that a nationally recognized independent transit engineering firm be available for consultation with CPC and be involved in the oversight of the MTA Capital Program.

Recommendation

Award a competitively negotiated personal services contract to Michael Baker to perform the services of an Independent Engineering Consultant.

Schedule J: Modifications to Miscellaneous Procurement Contracts

Item Number: 2

Vendor Name (Location) Hewlett Packard, Inc. (Palo Alto, California)	
Description All-Agency Managed Print Services (MPS)	
Contract Term (including Options, if any) October 28, 2016–April 30, 2023	
Option(s) included in Total Amount? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a	
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> 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: IT Client Support, Eric Weprin	

Contract Number 15253-0100	AWO/Mod. # 5
Original Amount:	\$ 16,940,000
Prior Modifications:	\$ 0
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 16,940,000
This Request:	(Est.) \$ 17,000,000
% of This Request to Current Amount:	100.4%
% of Modifications (including This Request) to Original Amount:	100.4%

Discussion

MTA is seeking Board approval to extend the all-agency competitive miscellaneous procurement contract awarded to Hewlett Packard, Inc. (“HP”) to perform managed print services (“MPS”) in the estimated amount of \$17 million for three years (May 1, 2023–April 30, 2026).

In May 2016, the Board approved the award of the contract to HP to perform MPS and related services for a three-year period with two 1-year options to be exercised at MTA’s sole discretion. Under the contract, HP provides the following services: (1) Assessment of MTA’s current printing infrastructure, including devices, supplies, and workflows, which assists HP and the MTA team to identify opportunities for optimization and cost savings; (2) designing a customized printing solution for the MTA (based on the assessment), which includes recommending new devices, software, and workflows; (3) installation and configuration of the new printing solution, which includes setting up software, configuring devices, and staff training; (4) monitoring and management of MTA’s printing operations, which include maintaining devices, replacing supplies, and providing technical support; (5) continual reviews of the organization’s printing processes and methods for optimization, including reducing paper usage, implementing new workflows or recommending new devices; and (6) steady reporting on printing usage and costs to assist the organization in making informed decisions regarding its printing needs. The contract was extended through April 30, 2023, to allow for the continuous, uninterrupted provision of MPS and related services.

To date, HP has provided excellent quality of service and technical support to the MTA under the MPS contract. MPS allows the MTA to better manage its print infrastructure, improve cost performance, optimize document generation, and reduce its environmental footprint due to the efficiencies realized by the MPS program. This contract extension will allow HP to continue to provide MPS and manage and maintain printers and multifunction devices without interruption.

Under this contract, the MPS program has resulted in a reduction in fleet size from 13,479 to a current device count of 5,500 (59 percent). This fleet reduction yields a \$16.1 million savings to the MTA, which includes a \$12.9 million savings in toner purchases and a \$3.2 million reduction in maintenance cost, paper usage due to duplex printing, as well as energy/power consumption from the reduced number of devices used in MTA offices and facilities.

This three-year contract extension is projected to cost \$17 million, as set forth below:

Device Type	Quantity	Annual Unit Price (Blended)	Annual Price	Est. 3-Year Total Price
Leased (co-term 4/30/2026)	2,410	\$1,070	\$2,578,700	\$ 7,736,100
MTA-owned	1,716	\$685	\$1,175,460	\$ 3,526,380
Estimated New (Lease or purchase)	1,132	\$1,030	\$1,165,960	\$ 3,497,800
Licenses	1041	\$50,000/volume based	\$50,000	\$ 150,000
Professional Services	5	127,915	\$639,575	\$ 1,918,720
End-of-term buyout fee in the event that MTAHQ decides to keep leased devices (based on fair-market value)	2,388	\$71.64	\$171,000 for 2026 only	\$ 171,000
				Estimated \$17,000,000

Schedule J: Modifications to Miscellaneous Procurement Contracts

During this three-year extension, the MTA will prepare and conduct a new All-Agency miscellaneous procurement solicitation for MPS and related services for the maintenance and support of all devices under MPS and continue the fleet reduction initiative.

This contract has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including and requirements under federal, state, and local law regulations. Applicable cybersecurity requirements will be included in the contract modification.

HP has certified that pursuant to EO 16, it is not doing business in Russia.

In connection with a previous contract awarded to HP, HP was found to be responsible notwithstanding Significant Adverse Information (“SAI”) pursuant to the All-Agency Responsibility Guidelines and such responsibility finding was approved by the MTA Managing Director, in consultation with the MTA General Counsel in November 2017. No new SAI has been found relating to HP and HP has been found responsible.

Impact on Funding

Funding is provided by the MTA IT Operating Budget.

APRIL 2023
MTA REAL ESTATE ACTION ITEMS
FOR BOARD APPROVAL

ACTION ITEMS

METROPOLITAN TRANSPORTATION AUTHORITY

Acquisition of property from Extell Development Company for Phase 2 of the Second Avenue Subway Project, New York, NY

MTA NEW YORK CITY TRANSIT

License agreement with H.S. News Corp. for two retail spaces at the 59 St – Lexington Avenue Station, New York, NY

MTA LONG ISLAND RAIL ROAD

Grant of an easement to Gershow Recycling Corporation for a freight sidetrack in Medford, NY

MTA METRO-NORTH RAILROAD

Acquisition of a permanent easement and the disposition of an existing easement in support of railroad operations in Sleepy Hollow, NY

METROPOLITAN TRANSPORTATION AUTHORITY

Staff Summary

Subject ACQUISITION OF PROPERTY IN SUPPORT OF SECOND AVENUE SUBWAY – PHASE 2
Department TRANSIT ORIENTED DEVELOPMENT
Department Head Name ROBERT PALEY
Department Head Signature
Project Manager Name ROBAIR REICHENSTEIN

Date APRIL 26, 2023
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	04/24/2023	X		
2	Board	04/26/2023	X		

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

AGENCY: Metropolitan Transportation Authority (“MTA”)

COUNTERPARTY: 160 East 125th Owner LLC (“Extell Owner”), a subsidiary of Extell Development Company

LOCATION: 181 East 124th Street, New York, NY, Block 1773, Lot 20 (“Lot 20”) and 140-160 East 125th Street, New York, NY, Block 1773, Lot 27 (“Lot 27”)

ACTIVITY:

- (i) Acquisition of required property interests
- (ii) Grant of temporary construction access license and entry permit

PROPERTY INTERESTS: Fee simple interest in Lot 20 (the “Lot 20 Fee”)

 Permanent volumetric subgrade easement for a ventilation tunnel beneath Lot 27 (the “Lot 27 Easement”)

ACTION REQUESTED: Authorization to acquire the Lot 20 Fee and the Lot 27 Easement and, in connection therewith, to grant to the Lot 27 owner a temporary construction access license agreement to use a 40’ (reducing to 10’ or less on January 31, 2024) strip of Lot 20 along its common boundary with Lot 27

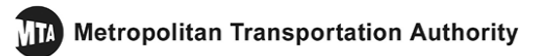
COMPENSATION: \$82,000,000 as described below

Staff Summary

FINANCE COMMITTEE MEETING

Acquisition of Property in Support of the Second Avenue Subway – Phase 2(Cont'd.)

Page 2 of 3



COMMENTS:

The MTA needs to acquire the Lot 20 Fee and the Lot 27 Easement as part of the expansion of the Second Avenue Subway – Phase 2 (“SAS Phase 2”). SAS Phase 2 will extend service on the Second Avenue /Q line from the subway line’s existing terminus at 96th Street to a new station to be constructed at 125th Street (the “New Station”) that will also provide a direct connection to the existing 4/5/6 Lexington Avenue 125th St Station, arguably the most critical improvement to public transportation for the residents of East Harlem in over 100 years. This acquisition is required for the future 125th Street Station, ancillary facilities, infrastructure to provide necessary ventilation, and construction staging. As a critical piece of property for SAS Phase 2, this acquisition is required prior to the award of federal funds for the project. Acquiring these interests via negotiated acquisition will avoid a condemnation process that would likely have been significantly more expensive. The MTA will work to maximize future potential development opportunities on any property acquired in support of SAS Phase 2.

The Lot 20 Fee is required for the New Station and for certain ancillary facilities to be located at the eastern end of the New Station (“Ancillary Facilities”) as well as for construction staging, lay down and soil excavation and extraction from the below-grade tunneling for SAS Phase 2. The Lot 27 Easement is required for the construction of an “adit tunnel” that will provide necessary ventilation between the cavern to be excavated for the New Station and the Ancillary Facilities to be constructed on Lot 20. The Lot 20 Fee and the Lot 27 Easement were included in a Determination and Findings for SAS Phase 2 pursuant to the New York’s Eminent Domain Procedure Law (“EDPL”) and referenced in the attached Staff Summary dated June 23, 2021. Failure to acquire the Lot 20 Fee and Lot 27 Easement now risks the current SAS Phase 2’s 125th Station design, NEPA environmental approvals, and federal funding, all of which would result in significant incremental project delay and expense.

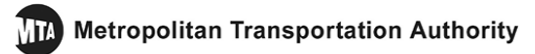
Lot 20 and Lot 27, while separately subdivided tax lots, are a single lot for zoning purposes and are subject to an existing Zoning Lot Declaration and Zoning Lot Development Agreement (the “ZLDA”) between Extell Owner and an affiliated entity. The ZLDA will be amended and restated by Extell Owner and its affiliate immediately prior to but concurrently with the acquisition of Lot 20 by the MTA, and the MTA will acquire title to Lot 20 subject to the amended and restated ZLDA. The amended and restated ZLDA will allocate to Extell Owner a disproportionate share of development rights from Lot 20 to Lot 27 to enable Extell Owner to construct a new building planned by Extell Owner for Lot 27. As a result, certain development rights that otherwise would be appurtenant to Lot 20 but in excess of those development rights that MTA will require for the construction of the planned New Station and the Ancillary Facilities on Lot 20, will not be transferred to MTA in connection with its acquisition of the Lot 20 Fee. By allowing Extell Owner to retain for its benefit as the owner of Lot 27 these excess development rights, the MTA was able to reduce the compensation that Extell Owner would have otherwise required for the Lot 20 Fee.

The Lot 20 Fee was appraised by an independent appraiser engaged by the MTA at \$45,400,000, and the Lot 27 Easement was appraised at no/negligible value. The Federal Transit Administration (“FTA”), which is expected to provide funding for SAS Phase 2, concurred with this appraised valuation. The MTA made an offer to Extell Owner based on the appraisal. This offer was subsequently rejected by Extell Owner, whose appraiser had valued Lot 20 at \$114,000,000. After extensive negotiations, the MTA and Extell Owner arrived at a proposed purchase price of \$82,000,000 (the “Negotiated Purchase Price”) for the Lot 20 Fee and zero compensation for the Lot 27 Easement. The Negotiated Purchase Price is within the projected SAS Phase 2 budget for the required Property Interests.

- The Negotiated Purchase Price, effectuated in a negotiated arrangement, is preferable to the financial costs and uncertainties that would result from a condemnation taking. MTA Legal determined that the Negotiated Purchase Price is reasonable in light of the risks associated with eminent domain litigation. On top of the usual valuation risk for the property being acquired, there is the likelihood of additional compensation that would be payable to Extell Owner under the EDPL due to the impairment and/or delay of Extell’s development project on Lot 27.
- FTA has concurred on the acquisition of the Lot 20 Fee and the Lot 27 Easement for the Negotiated Purchase Price.

Staff Summary

FINANCE COMMITTEE MEETING



Acquisition of Property in Support of the Second Avenue Subway – Phase 2(Cont'd.)

Page 3 of 3

In connection with the sale of Lot 20, the MTA will grant to Extell Owner a construction access license and entry permit to use a portion of Lot 20 along the common property line (i.e., the easterly border of Lot 20) as a construction staging and construction work area, in order to facilitate the construction of the foundation for the new building being on Lot 27 pursuant to a construction access license agreement to be entered into between the MTA and Extell Owner (“the “Construction Access License Agreement”). The construction access license is initially for a 40-foot-wide area along the easterly border of Lot 20 for a term expiring on January 31, 2024. The construction access license will then contract to an approximately ten-foot-wide strip or less for a term expiring on the anniversary of the closing of the acquisition of the required Property Interests. The owner of Lot 27 will pay the MTA the fair market value for the use of the construction access area calculated at a rate of \$36.00 per square foot. FTA has confirmed that no further approval would be required for the construction access license.

Based on the foregoing, MTA TOD requests Board authorization:

- (i) for the MTA to negotiate and enter into a purchase and sale agreement with Extell Owner for the acquisition of the Lot 20 Fee and the Lot 27 Easement on the terms and conditions set forth above and such other terms or conditions as the Chair and Chief Executive Officer of the MTA or a designee deems necessary or appropriate, and to execute and deliver any and all other necessary and appropriate transaction documents, agreements (including the Lot 27 Easement agreement), documents, writings, and other instruments, including modifications and supplements, and to take all such actions as shall be necessary or desirable consistent with the transaction documents, including without limitation, the payment of the aforesaid Negotiated Purchase Price, and customary transactional costs and expenses, necessary to consummate the acquisition of the Lot 20 Fee and the Lot 27 Easement from Extell Owner for the Negotiated Purchase Price and
- (ii) to enter into the Construction Access License Agreement, on the terms and conditions set forth above and such other terms or conditions as the Chair and Chief Executive Officer of the MTA a designee deems necessary or appropriate.

Staff Summary

Subject DETERMINATION AND FINDINGS
Department REAL ESTATE
Department Head Name JOHN N. LIEBER
Department Head Signature
Project Manager Name HELENE CINQUE/ ROBAIR REICHENSTEIN

Date JUNE 23, 2021
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	6/23//21	X		
2	Board	6/23//21	X		

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

AGENCY: Metropolitan Transportation Authority ("MTA")

PROJECT: Second Avenue Subway Project (the "Project")

ACTIVITY: Acquisition of Fee Interest and Permanent and Temporary Easements in Properties Listed on the Attached Determination and Findings for Contract 2 of Phase 2 of the Project

ACTION REQUESTED: Approval of Determination and Findings Under the New York Eminent Domain Procedure Law with respect to the acquisition of property needed to facilitate the Project

COMMENTS:

MTA requires various property interests in the east side of Manhattan, in order to complete the work in Contract 2 of Phase 2 of the Second Avenue Subway Project. Contract 2 work covers construction of the launch box for the Tunnel Boring Machine(s), bored tunnels north starting at 120th Street and Second Avenue and running to the end of the train storage tracks on 125th Street between Malcolm X Blvd. and Adam Clayton Powell Jr. Blvd. and the construction shafts used for the excavation of the mined 125th Street Station. These property interests are set forth in a chart on the attached Determination and Findings. Efforts will be made to acquire these property interests by negotiated agreements. In those instances where MTA cannot reach agreements with the affected property owners, legal proceedings must be commenced under Article 2 of the New York State Eminent Domain Procedure Law ("EDPL").

On March 30, 2021, MTA held an EDPL public hearing to describe the public uses, benefits, purposes and location of the work elements covered by Contract 2; the property interests to be acquired, and Contract 2's general impact on the environment. Notices of this public hearing were published in newspapers, as required under the EDPL. Property owners affected tenants and other interested parties were also given advance notice of the hearing by certified mail. MTA Construction & Development ("MTA C&D") personnel attended this virtual hearing.

Following a presentation by MTA's hearing officer, 3 speakers made statements about Contract 2, the Project and the proposed property acquisitions. In addition, written submissions with comments about Contract 2, the Project and the proposed property acquisitions were received by MTA prior to the end of the written submission period at the close of business on April 13, 2021 at 5:30 p.m. The following summarizes the comments received: (a) that the construction will cause an adverse impact on parking; (b) expressing concern as to the amount of just compensation that will be paid; (c) requesting that a certain development site not be taken by eminent domain;

Staff Summary

FINANCE COMMITTEE MEETING [DETERMINATION AND FINDINGS] (Cont'd.)

(d) requesting that the Q line be extended; (e) expressing concern over the taking of a minority-owned commercial property; and (f) alleging issues with respect to the hearing notice. All comments have been given careful, extensive and due consideration by MTA. Moreover, MTA, MTA C&D and project staff will continue to work with property owners, tenants and other potentially affected parties as the Project moves forward in an effort to mitigate project-related impacts as much as possible.

After due consideration of all statements made during the EDPL public hearing and comments period, MTA staff recommends Board approval of the attached Determination and Findings under the EDPL with respect to the acquisition, by eminent domain, if necessary, of the property interests described therein that are needed to facilitate the Project.

A copy of the Determination and Findings under the EDPL is attached for the Board's consideration and approval.

MTA staff hereby requests Board approval of the attached Determination and Findings. This action will authorize MTA staff and counsel to continue with the EDPL proceedings to acquire the required property interests described in the Determination and Findings by eminent domain, if necessary.

For Reference Purposes Only

Staff Summary

FINANCE COMMITTEE MEETING [DETERMINATION AND FINDINGS] (Cont'd.)

DETERMINATION AND FINDINGS PURSUANT TO ARTICLE 2 OF THE NEW YORK EMINENT DOMAIN PROCEDURE LAW

CONTRACT 2--PHASE 2 OF THE SECOND AVENUE SUBWAY PROJECT

In accordance with Section 204 of the New York Eminent Domain Procedure Law ("EDPL"), the Board of the Metropolitan Transportation Authority ("MTA") hereby approves the acquisition of property interests described below by eminent domain, if necessary, and adopts the following statutory findings:

1. EDPL Public Hearing. On March 30, 2021, MTA held a virtual EDPL public hearing to inform the public and to receive the public's comments on proposed property acquisitions for Contract 2 of Phase 2 of the Second Avenue Subway Project (the "Project"). All oral comments received at the hearing and all written comments received by the end of the written submission period following the hearing have been reviewed, made part of the record, and given due consideration.

2. Location of Property Required for Contract 2. The location and nature of the property interests required for Contract 2, and hereby approved for acquisition, are as described on the chart below.

At the March 30, 2021 public hearing and in letters and maps mailed to property owners and interested parties prior to the public hearing, MTA provided more detailed descriptions of the required property interests and estimated time frames when the property interests would be needed for Contract 2.

MTA reserves the right to acquire a lesser interest in any of the properties described below, or to refrain from acquiring any of such property interests, as dictated by the needs of the Project.

3. Public Use, Purpose and Benefits. With respect to the Project in general, the Second Avenue Subway will be a new, two-track, approximately 8.5-mile rail line with 16 new stations extending the length of Manhattan's East Side corridor, from a terminal station at 125th Street and Lexington Avenue in Harlem to Hanover Square in Lower Manhattan. The new line will make the neighborhoods of the East Side more accessible not only to those who live there, but to visitors and workers traveling from other parts of New York City as well. Not only will the Second Avenue Subway serve existing neighborhoods on the densely developed East Side of Manhattan, it will also support emerging growth in several areas, including East Harlem, the Lower East Side and Chinatown.

The Second Avenue Subway will provide for two subway services in the East Side corridor. The first will be a full-length Second Avenue route operating between 125th Street and Hanover Square with 16 new stations serving this area. The second service will operate along Second Avenue from 125th Street to 63rd Street, where it will divert west along the existing 63rd Street Line and terminate at the existing Lexington Avenue/63rd Street Station; it will then join the existing Broadway Line via an existing tunnel connection and serve existing express stations along Seventh Avenue and Broadway before crossing the Manhattan Bridge to Brooklyn. Passengers traveling to Lower Manhattan on this route could transfer for local service to destinations south of Canal Street.

As a result, passengers traveling between East Harlem and the Upper East Side will be able to reach both the eastern and western sides of Lower Manhattan. Passengers traveling to and from Brooklyn also will

Staff Summary

FINANCE COMMITTEE MEETING [DETERMINATION AND FINDINGS] (Cont'd.)

be better served by the new service to the East Side provided both through the Broadway Line service and the anticipated free transfers to be provided at several stations, including the Grand Street B/D Line and the Second Avenue F line. Subway passengers from the Bronx will benefit from free transfers at the Lexington Avenue 4/5/6 125th Street Station, among others.

The Second Avenue Subway will provide more flexibility for passengers traveling along the eastern side of Manhattan, where subway service is currently limited to one line — the severely overcrowded Lexington Avenue Line — for much of the area. The new Second Avenue service thus will provide a needed alternative to the Lexington Avenue Line in the event of shutdowns to that service due to emergencies or breakdowns. Finally, with a new connection at 125th Street, the Project will also improve regional access to the various East Side neighborhoods from the existing Metro-North Railroad.

The Second Avenue Subway is already partially open. Currently, the northern terminal for the Q train is on Second Avenue and 96th Street. The line runs south to 63rd Street where it joins the existing Broadway Line. The instant project, which is the second phase of the Second Avenue Subway, will extend the Q service further north in Manhattan to 125th Street and Lexington Avenue.

Contract 2 is the second of four Contracts in Phase 2 of the Project. Phase 2 covers construction of the subway line from East 96th Street, north along Second Avenue to East 125th Street and Lexington Avenue, which will connect to the current northern terminal of the Project on Second Avenue and 96th Street, which joins the Broadway subway line at East 63rd Street. The work elements covered by Contract 2 are critical for the completion of the Second Avenue Subway as they consist of the construction of the launch box for the Tunnel Boring Machine(s); bored tunnels north starting at 120th Street and Second Avenue and running to the end of the train storage track on 125th Street between Malcolm X Blvd. and Adam Clayton Powell Jr. Blvd. together with construction shafts used for the excavation of the mined 125th Street Station.

4. Reasons for Selecting the Location Covered by Contract 2: The property interests necessary to be acquired for Contract 2 are generally located on Second Avenue between East 119th Street and East 120th Street as well as along 125th Street as the work covered by Contract 2 consists of the construction of the launch box for the Tunnel Boring Machine(s); bored tunnels north starting at 120th Street and Second Avenue and running to the end of the train storage tracks on 125th Street between Malcolm X Blvd. and Adam Clayton Powell Jr. Blvd. together with construction shafts used for the excavation of the mined 125th Street Station. MTA will utilize properties to be acquired for this work as entrances and ancillary facilities that will be constructed in subsequent contracts. The Project's specific location and alignment within this area were determined after years of detailed planning, environmental review and public outreach. MTA and the Federal Transit Administration ("FTA") fully evaluated alternatives during that process, as set forth in detail in the Final Environmental Impact Statement for the Second Avenue Subway ("FEIS") issued in April 2004. In July 2004, FTA issued a Record of Decision for the Project, which signified that the project is eligible for continued federal funding and support. Additionally, MTA prepared a Supplemental Environmental Assessment ("SEA") for Phase 2 of the Project, for which FTA issued a Finding of No Significant Impact ("FONSI") in November 2018. Finally, FTA issued a Supplemental Environmental Assessment Re-Evaluation in August 2020. The FEIS, Record of Decision, SEA and Supplemental Environmental Assessment Re-Evaluation, and all evaluations and environmental findings presented in the FEIS, Record of Decision, SEA and Supplemental Environmental Assessment Re-Evaluation are hereby incorporated by reference.

Staff Summary

FINANCE COMMITTEE MEETING [DETERMINATION AND FINDINGS] (Cont'd.)

5. General Effect of Contract 2 on the Environment and Residents of the Locality. The environmental impacts of the Project as a whole and for Phase 2 are thoroughly covered in the FEIS, the SEA and Supplemental Environmental Assessment Re-Evaluation. The general environmental impacts under Contract 2 are summarized as follows:

Construction activities under Contract 2 will result in unavoidable increases in traffic, truck movements, dust, noise, and vibrations in the areas nearby. In the construction zone from 118th Street to 125th Street, approximately half of Second Avenue and some of the adjacent sidewalk will be closed at a time to facilitate construction. In the vicinity of the 125th Street Station, there will be two staging areas for the mining and construction of the station cavern at the southeast corners of 125th Street and Lexington Avenue, and 125th Street and Park Avenue; each occupying the full length of the Avenue between 124th and 125th Streets. There will also be an extraction shaft and staging site on 125th Street, approximately 300 feet west of Malcom X Blvd. In these areas, trucks will travel to and from the site making deliveries and removing earth and other materials. Certain construction activities could require restricting access to buildings for several hours. In most cases, safe access to buildings including street-level businesses, will be maintained throughout the construction period, although pedestrian and vehicular access will be altered or restricted by the construction of sidewalk sheds and the removal of parking and travel lanes, and the visibility of some businesses will be reduced. To help minimize potential impacts, MTA will make every reasonable effort to maintain access; control dust, noise and vibration; screen construction activities; control rodents and pests; and minimize other disruptions, where practicable.

Contract 2 will impact on transportation as it will require that up to half of the width of the Second Avenue roadway be closed at the construction work zone for the 120th Street Tunnel Boring Machine Launch Box site. A minimum of four lanes will be maintained on Second Avenue for vehicular traffic adjacent to work zones by prohibiting curbside parking, pick-ups/drop-offs and deliveries, relocating bus stops and narrowing sidewalks to a minimum of 7 feet. Construction activity for Contract 2 will also increase traffic volumes on Streets and Avenues within the project area and will generate an increase in the volume of truck traffic through the project area for soil removal from and materials deliver to the construction sites.

With respect to socio-economic impacts, businesses could be adversely affected by the disruptions associated with construction activities, such as reduced pedestrian and vehicular access, removal of parking, and reduction in the visibility of some businesses, particularly retail establishments with outdoor activities on the sidewalk, which may have to be removed when construction is occurring nearby. Though temporary, these disruptions could affect the businesses' revenue streams and could make the areas in the vicinity of construction activities less desirable locations while construction is underway. To help mitigate these impacts, MTA will promote high-quality design of sidewalk sheds, such as the addition of windows, better lighting, and good store signage around construction sites. MTA will coordinate with businesses in each phase to address access/delivery issues; and provide special loading and unloading areas on nearby side streets to locations where access will be curtailed in front of buildings during construction. In those designated side street areas, parking may be prohibited to allow more reliable deliveries and pick-ups.

There are no open space impacts resulting from Contract 2.

With respect to displacement and relocation, properties at 120th Street and Second Avenue will be acquired for an ancillary facility for the 116th Street Station, which will also be used to support the launch and operation of the tunnel boring machine(s). Another ancillary facility will be located on property at the

Staff Summary

FINANCE COMMITTEE MEETING [DETERMINATION AND FINDINGS] (Cont'd.)

southeast corner of Lexington Avenue and 125th Street, which was recently demolished in preparation of a development site and is being coordinated with the MTA for the station entrance and ancillary building. The ancillary and entrance site at Park Avenue and 125th Street is a vacant lot that will require no displacement. The displacement at the Ancillary A site on West 125th Street consists of a single commercial retail store. This business may be eligible for relocation benefits and assistance under the Uniform Relocation Assistance and Real Property Acquisition Act ("URA"). Temporary construction easements also will be needed along portions of the tunnel route. These easements will be below ground and will not require any displacements.

With respect to archeological resources, research that was done for the FEIS found that the area along Second Avenue and along 125th Street was sensitive for Native American resources at a depth of up to 23 feet below the surface. MTA will perform additional work to determine whether any archaeological resources are actually present and whether those resources are significant and eligible for the State and National Register of Historic Places. Mitigation measures such as data recovery, public interpretation, or additional analysis and curation, will be developed and implemented where future work confirms the presence of significant archaeological resources (i.e., resources that are eligible for listing on the State and National Registers) that will be adversely affected by the Project.

With respect to air quality, construction activities, including truck trips, congestion, and diversions to existing traffic, will not result in significant adverse impacts to air quality. To the maximum extent practicable, MTA's contractors will be required to follow measures to reduce construction-related impacts to air quality. These measures include dust covers for trucks, water spray misting of exposed soil areas, and using safe chemical dust suppressants to treat and control spoils at construction areas. In addition, a fence of an appropriate height will surround the construction sites to reduce wind-borne dust. To reduce emissions from construction equipment, diesel emission controls for non-road equipment will be required. These controls will require that all heavy equipment use ultra-low sulfur diesel fuel and diesel particulate filters, or other retrofit technology, in accordance with MTA policies. In addition, idling time for all diesel equipment will be limited to 3 consecutive minutes, except in certain limited circumstances.

With respect to noise and vibration, construction activities will result in some increased noise and vibration impacts. These impacts were fully evaluated in the FEIS, and measures will be taken to mitigate the noise and vibration levels. Mining operations in rock will use drilling and controlled blasting, and except for some limited locations where vertical blasting may occur, most of the noise will be contained underground and is not expected to be discernible. Vertical blasting is blasting that must be performed to create vertical access or ventilation shafts to the street. At locations where vertical blasting will occur, noise from the blasting will be discernible to nearby residences and businesses for a very short period of time (that is, for the several-second duration of the blast) but will be limited to the hours of 7am to 10pm. In general, due to the short duration of these events, average hourly noise levels will not be significantly affected by the blasts. Noise will also be generated from ground improvement and trucking activities, slurry wall construction, spoils removal at stations and from the tunnels, and other activities. To reduce noise associated with such construction, performance standards will be established by MTA and included with contract documents that must be met by all contractors during construction.

Prior to construction, ambient noise measurements will be taken at noise-sensitive locations. Once construction begins, monitoring stations will be established to provide MTA with the ability to monitor its contractors to ensure compliance with the performance standards. Contractors will also be required to develop noise monitoring and reporting protocols and to obtain certificates of equipment noise

Staff Summary

FINANCE COMMITTEE MEETING [DETERMINATION AND FINDINGS] (Cont'd.)

compliance from MTA or its designee for all construction equipment employed throughout the project. Ultimately, at the time of construction, MTA's contractors will be able to select from a range of noise abatement measures to ensure that construction noise does not exceed the performance standards.

With respect to ground borne noise and vibration, construction will result in varying degrees of ground vibration, depending on the stage of construction, the equipment and construction methods employed, and the distance from the construction to buildings and vibration-sensitive structures. Due to the close proximity of sensitive receptors, vibration levels during a large portion of the period of construction will be perceptible. MTA will implement a rigorous program of special measures to minimize potential impacts to uses (such as hospitals and other medical facilities) and structures (such as historic buildings) that are sensitive to vibration levels. Construction Protection Plans ("CPPs") will be developed for Phase 2 contracts that will include measures to protect Built and Archaeological properties prior to and during construction. The CPPs will outline the specific requirements for pre-construction surveys, vibration monitoring and thresholds, and crack and settlement monitoring to ensure that historic built properties are protected during construction.

With respect to utility relocation impacts, utility services will be maintained throughout construction, except for planned temporary outages. Outages during the day will be limited to a few hours. If utility work requires the complete closure of the roadway and shutting off utility services for several hours, it will generally occur overnight. Residents and businesses will be notified in advance of these disruptions.

With respect to contaminated materials impacts, there is a potential that during construction contaminated soil, soil gas, or groundwater could be uncovered, either in locations where research indicated a potential problem or in other unexpected locations. Preventive measures will be undertaken to protect the safety of the public, community residents, and construction workers, as well as transit workers and the larger environment where the preliminary investigation has indicated that construction has the potential to encounter contaminated materials.

In sum, all practical means to avoid or minimize environmental harm from the work covered by Contract 2 will be adopted. MTA will incorporate into design, construction, and operation all mitigation measures identified in the FEIS, SEA and Supplemental Environmental Assessment Re-Evaluation, as well as any additional measures identified during final design. These measures constitute all practicable mitigation measures and will address Contract 2-related impacts to the fullest extent practicable.

COMMENTS

At the public hearing, oral comments were received from the public, and it was stated that written comments would be accepted until the close of business on April 13, 2021.

The following summarizes the comments received: (a) that the construction will cause an adverse impact on parking; (b) expressing concern as to the amount of just compensation that will be paid; (c) requesting that a certain development site not be taken by eminent domain; (d) requesting that the Q line be extended; (e) expressing concern over the taking of a minority-owned commercial property; and (f) alleging issues with respect to the hearing notice.

All comments have been given careful, extensive and due consideration by MTA.

Staff Summary

FINANCE COMMITTEE MEETING [DETERMINATION AND FINDINGS] (Cont'd.)

DETERMINATION

Based on due consideration of the record and the foregoing findings, it is determined that the MTA should exercise its power of eminent domain to acquire the property interests set forth in the chart below in order to promote and permit the purposes of the Project to be achieved.

Copies of this Determination and Findings are available and will be forwarded without cost and upon request, by writing to:

Joseph O'Donnell, Director of Public Affairs
MTA Construction & Development
2 Broadway, D8135,
New York, N.Y.10004

ANYONE SEEKING JUDICIAL REVIEW OF THE ABOVE DETERMINATION AND FINDINGS MUST COMMENCE A LEGAL PROCEEDING IN ACCORDANCE WITH EDPL § 207 NO LATER THAN 30 DAYS AFTER MTA COMPLETES ITS TWO-DAY PUBLICATION OF THIS DOCUMENT, OR A SYNOPSIS THEREOF. UNDER EDPL § 207 AND § 208, THE EXCLUSIVE VENUE FOR SUCH PROCEEDING IS THE APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT, 27 MADISON AVENUE, NEW YORK, NEW YORK 10010.

Acquisition of fee interests and permanent and temporary easements for construction of the launch box for the Tunnel Boring Machine(s), bored tunnel, cavern mining and future station entrance and ancillary facilities.

<i>Block</i>	<i>Lot(s)</i>	<i>Type of Interest</i>	<i>Property Address</i>
1909	4	Permanent Full Taking	120 West 125th Street, NY, NY
1773	1	Permanent Full Taking	1801-1805 Park Avenue, NY, NY
	8		100-110 East 125th Street, NY, NY/ 101-109 East 124th Street, NY, NY
1773	69	Permanent Full Taking	1815 Park Avenue, NY, NY
1773	Part of Lot 20	Permanent Full Taking Temporary Easement	142-168 East 125th St/ 2051-2061 Lexington Avenue, NY, NY
1773	Part of Lot 27	Permanent Full Taking Temporary Easement	149-167 East 124th Street, NY, NY
1773	Part of Lot 27	Permanent Partial Taking & Permanent Subsurface Easement	149-167 East 124th Street, NY, NY
1784	23	Permanent Full Taking	2327 Second Avenue, NY, NY
1784	122	Permanent Full Taking	2325 Second Avenue, NY, NY
1784	24	Permanent Full Taking	2329 Second Avenue, NY, NY
1784	25	Permanent Full Taking	2331 Second Avenue, NY, NY
1784	26	Permanent Full Taking	2333 Second Avenue, NY, NY
1784	27	Permanent Full Taking	2335 Second Avenue, NY, NY
1784	28	Permanent Full Taking	2337 Second Avenue, NY, NY
1784	120	Permanent Full Taking	N/A East 119th Street, NY, NY
1784	128	Permanent Full Taking	246 East 120th Street, NY, NY

MTA NEW YORK CITY TRANSIT

Staff Summary

Subject LICENSE AGREEMENT WITH H.S. NEWS CORP. FOR TWO RETAIL SPACES AT 59 ST – LEXINGTON AVENUE STATION
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name RAY SMYTH

Date APRIL 26, 2023
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	04/24/2023	X		
2	Board	04/26/2023	X		

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

AGENCY: MTA New York City Transit (“NYCT”)
LICENSEE: H.S. News Corp.
LOCATION: 59 ST – Lexington Avenue Station, Manhattan
ACTIVITY: Operation of travel convenience retail units
ACTION REQUESTED: Authorization to enter into a license agreement
TERM: Ten (10) years, subject to at will revocation on 60 days’ notice, at no cost to NYCT
SPACE: Two units totaling approximately 230 square feet

COMPENSATION:	Period	Total Annual Compensation	Total Monthly Compensation
	License Year 1	\$72,000.00	\$6,000.00
	License Year 2	\$74,160.00	\$6,180.00
	License Year 3	\$76,384.00	\$6,365.33
	License Year 4	\$78,675.00	\$6,556.25
	License Year 5	\$81,035.00	\$6,752.91
	License Year 6	\$83,466.00	\$6,997.50
	License Year 7	\$85,970.00	\$7,164.16
	License Year 8	\$88,549.00	\$7,379.08
	License Year 9	\$91,206.00	\$7,600.50
	License Year 10	\$93,942.00	\$7,828.50

Staff Summary

FINANCE COMMITTEE MEETING

LICENSE AGREEMENT WITH H.S. NEWS CORP. FOR TWO RETAIL SPACES AT 59 ST – LEXINGTON AVENUE SUBWAY STATION (Cont'd)

COMMENTS:

Pursuant to the attached July 22, 2020 MTA Board policy modification for the licensing of real property for vacant spaces, extended June 29, 2022, MTA Real Estate advertised the two vacant retail units via a Solicitation of Interest for Available MTA Retail Units in September 2021. The first qualified proposal was received from Mr. Harkirtan Singh, the sole owner of H.S. News Corp., who also recently leased the vacant retail units at 59 St – Columbus Circle station. H.S. News Corp proposes to invest more than \$69,000.00 for the build out of the new retail locations and Mr. Singh will provide a personal guaranty of the construction, operation, and maintenance of each of the units.

After careful evaluation of H.S. News Corp's proposal and a satisfactory background investigation, it was determined that MTA Real Estate would proceed with H.S. News Corp's proposal. Mr. Singh's financials support the proposed improvements as well as his payment of compensation throughout the 10-year term. The present value of the rental stream is \$570,270. The proposed compensation falls within an acceptable competitive range, as determined by a broker's opinion of value of the rent, taking into consideration the challenging market conditions caused by the COVID-19 pandemic.

Based on the foregoing, MTA Real Estate requests authorization for NYCT to enter into a license agreement with H.S. News Corp. on the above-described terms and conditions.

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.

MTA LONG ISLAND RAIL ROAD

Staff Summary

Subject GRANT OF EASEMENT TO GERSHOW RECYCLING CORPORATION IN MEDFORD, NY
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name ROBERT GOLDBERG

Date APRIL 26, 2023
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	04/24/2023		X	
2	Board	04/26/2023		X	

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

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

GRANTEE: Gershow Recycling Corporation ("Gershow")

LOCATION: LIRR's Montauk Branch adjacent to 71 Peconic Avenue, Medford, New York

ACTIVITY: Grant of a permanent easement

EASEMENT AREA: Approximately 2,723 square feet

USE: Operation of a sidetrack

TERM: Perpetual

ACTION REQUESTED: Approval of terms

COMPENSATION: \$31,234.56

COMMENTS:

MTA Real Estate issued a Request for Proposals for the above location on February 1, 2023. One proposal was received from Gershow who owns the adjacent property at 71 Peconic Avenue, Medford, New York. Gershow operates 9 recycling facilities throughout Long Island, and in support of its operations at the Medford facility, contracts with New York and Atlantic Railway ("NYAR") for freight service. Use of the easement area will allow Gershow to make improvements to its internal rail track design to support operational flexibility of freight service by NYAR.

Gershow submitted a complete, detailed proposal demonstrating that they have the financial capability to complete the transaction along with wire confirmation of the required 10% down payment of \$3,123.45 of proposed compensation of \$31,234.56, which exceeds the fair market value as determined by an independent appraisal.

Based on the foregoing, MTA Real Estate is requesting approval to enter into an easement agreement with Gershow, based on the above-described terms and conditions.

MTA METRO-NORTH RAILROAD

Staff Summary

Subject ACQUISITION OF PERMANENT EASEMENT & DISPOSITION OF EXISTING EASEMENT IN SLEEPY HOLLOW, NEW YORK
Department REAL ESTATE
Department Head Name DAVID FLORIO
Department Head Signature
Project Manager Name NEIL MASTROPIETRO

Date APRIL 26, 2023
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref. #

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	04/24/2023	X		
2	Board	04/26/2023	X		

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

AGENCY: MTA Metro-North Railroad (“Metro-North”)
GRANTOR: Biddle Real Estate Ventures (“BREV”)
LOCATION: Section 115, Block 1 portion of Lot 1.6/3 in the Village of Sleepy Hollow, Town of Mt. Pleasant, Westchester County, New York
ACTIVITY: Acquisition of a permanent easement on Grantor’s property for Metro-North access to the Hudson Line Right-of-Way (“ROW”); and the extinguishing of existing easement on Grantor’s property
ACTION REQUESTED: Authorization to enter into a permanent easement agreement with Grantor, and the disposition of an existing easement with Grantor
COMPENSATION: Easement granted in exchange for disposal of existing, currently unused easement and reimbursement of legal and engineering costs to Grantor not to exceed \$20,000
COMMENTS:

MTA Real Estate and Metro-North are currently engaged with BREV to acquire a permanent easement in support of Metro-North’s operations along the ROW in the vicinity of the Tarrytown and Philipse Manor stations at the former General Motors site. The proposed easement area will allow Metro-North to bring vehicles, personnel, and equipment through the parking lot of a newly built mixed-use development and onto the ROW. In exchange for granting the permanent easement on their property, BREV requests that Metro-North extinguish an existing easement located on BREV’s property that is unused by Metro-North due to changes in the topography of the area over time.

An appraisal conducted by an independent third-party appraiser on behalf of MTA Real Estate determined that the value of the proposed easement is \$220,000 while the value of the existing easement is \$170,000. In addition to the disposal of the existing easement, BREV is seeking reimbursement of legal and engineering costs, estimated at approximately \$20,000.

Pursuant to Public Authorities Law Section 2897(6)(d), under certain circumstances the MTA is required to submit to several State recipients identified in the statute a written explanation of the circumstances involving the disposal of property through a negotiated transaction not less than 90 days prior to the scheduled date of that transaction. As the value of the existing easement exceeds \$100,000, such written explanation will be submitted to such recipients for this transaction.

Based on the foregoing, MTA Real Estate is requesting authorization for the acquisition of a permanent easement and disposition of an existing easement with BREV based on the above terms and conditions.

Staff Summary

Subject: 2023 Title VI Program and Service Monitoring Results
Department Diversity and Civil Rights
Department Head Name Tracey Mitchell, Interim Chief Diversity and Inclusion Officer
Department Head Signature
Project Manager/Division Head Dr. Rosalyn Green, Deputy Chief Diversity and Inclusion Officer

Date April 26, 2023
Vendor Name N/A
Contract Number N/A
Contract Manager Name N/A
Table of Contents Ref # N/A

Board Action					
Order	To	Date	Approval	Info	Other
1	Diversity Committee				
2	Board				

Internal Approvals			
Order	Approval	Order	Approval
1	Diversity & Civil Rights		
2	Legal		
3	Chief of Staff		

Purpose:

To obtain Board approval for the 2023 consolidated Title VI Program update and service monitoring results.

Discussion:

As a recipient of Federal Transit Administration (FTA) funds, certain subsidiaries and affiliates of the Metropolitan Transportation Authority (“MTA”) must comply with the requirements of FTA Circulars 4702.1B (Title VI), 4703.1 (Environmental Justice), 4704.1A (EEO), as well as related Federal Transit Laws, 49 U.S.C. § 5332.

These statutes and regulations prohibit discrimination on the basis of race, color, national origin (including limited English proficiency (LEP) access), age, sex, religion, and disability, in connection with any federally-funded program or activity of the MTA and the following affiliated and subsidiary agencies: MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Construction & Development, MTA Grand Central Madison Concourse Operating Company, MTA Bus Company, and MTA New York City Transit, including the Manhattan and Bronx Surface Transit Operating Authority and the Staten Island Rapid Transit Operating Authority, (collectively, “the MTA”).

Further, as provided under (FTA) Circular 4702.1b, the Title VI Program is a consolidated document developed for submission to the FTA that details and affirms the MTA’s commitment to complying with the requirements of Title VI and related Non-discrimination Federal Transit Laws with respect to its federally funded programs and activities.

Under the requirements of FTA Circular 4702.1b, the Title VI Program and the service monitoring results must be approved by the MTA Board of Directors before submission to the FTA.

The MTA is required to submit an updated Title VI Program to the FTA every three years. MTA’s updated Title VI program submission is due June 1, 2023.

Recommendation:

It is the recommendation that the Board approve MTA’s 2023 consolidated Title VI Program update and service monitoring results in satisfaction of the requirements of the FTA Title VI Circular, 4702.1B.

CERTIFICATION

* * *

The undersigned certifies that she is the Assistant Secretary of Metropolitan Transportation Authority (the “Authority”), a public benefit corporation of the State of New York, and that the foregoing is a true and correct copy of the resolution, relating to MTA’s Title VI Program, which was approved at a meeting of the Authority on the 26th day of **April 2023** at 2 Broadway, New York, New York, at which a quorum of the Members of the Authority in office on such date was in attendance and acting throughout.

Victoria Clement
Assistant Secretary

Dated APRIL 26, 2023
New York, New York

BOARD RESOLUTION

2023 TITLE VI Program and Service Monitoring Results

WHEREAS, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. (“Title VI”), the U. S. Department of Transportation (“DOT”) regulations, 49 CFR Part 21, and the Federal Transit Administration (“FTA”) Circular 4702.1B prohibit discrimination on the basis of race, color or national origin by recipients of federal financial assistance in administering the benefits of their programs; and

WHEREAS, Federal Transit Laws, (49 U.S.C. § 5332) further prohibit discrimination in any Federally Assisted Programs on the bases of age, sex, religion, and disability and are protected and investigated under MTA’s Title VI Program.

WHEREAS, as a recipient of federal funds, MTA is required to comply with the requirements of Title VI, the applicable DOT regulations, and the FTA Circular; and

WHEREAS, pursuant to FTA Circular 4702.1B, MTA is required to submit its Title VI Program to the MTA Board for approval; and

WHEREAS, the MTA Board has been briefed on the contents and findings of MTA’s Title VI Program; and

Whereas, the MTA Board has also been briefed on the results of the affiliated and subsidiary agencies service monitoring results,

Now, THEREFORE IT IS RESOLVED that the Board approves MTA’s consolidated Title VI Program and the service monitoring results of its affiliated and subsidiary agencies as described in the attached Staff Summary.