

**Chris Christie**, Governor  
**Kim Guadagno**, Lieutenant Governor  
**Richard T. Hammer**, Acting Commissioner  
**Dennis J. Martin**, Interim Executive Director

**NJTRANSIT**  
One Penn Plaza East  
Newark, NJ 07105-2246  
973-491-7000

April 14, 2016

Dear Governor Christie:

Pursuant to Chapter 150, Laws of 1979, I herein transmit the minutes of actions taken at the open session of the re-scheduled meetings of the New Jersey Transit Corporation, NJ Transit Rail Operations, Inc., NJ Transit Bus Operations, Inc., NJ Transit Mercer, Inc., and NJ Transit Morris, Inc., Board of Directors held on Tuesday, April 12, 2016.

Sincerely,

Original Signed By

Joyce J. Zuczek  
Acting Board Secretary

Enclosures

Honorable Chris Christie  
Governor, State of New Jersey  
State House  
Trenton, NJ 08625

Minutes of the actions taken at the Open Session of the re-scheduled Board of Directors' meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc. held at NJ TRANSIT Headquarters, One Penn Plaza East, Newark, New Jersey on Tuesday, April 12, 2016.

**Present**

Richard T. Hammer, Acting Chairman  
Christopher Howard, Governor's Representative  
Anthony Longo, Treasurer's Representative  
James C. Finkle, Jr., Board Member  
Flora M. Castillo, Board Member

**Absent**

Bruce M. Meisel, Vice Chairman  
Raymond W. Greaves, Board Member (Non-Voting)

**Also Present**

Dennis J. Martin, Interim Executive Director  
Neil Yellin, Deputy Executive Director  
Michael P. Kilcoyne, Acting Vice President/General Manager, Bus Operations  
Robert M. Lavell, Vice President/General Manager, Rail Operations  
John F. Squitieri, Chief, Light Rail and Contract Services  
Christopher Trucillo, Chief of Police  
Frank Savino, Acting Auditor General  
Warren Hersh, Acting Chief Financial Officer & Treasurer  
Michael K. Slack, Chief Information Officer  
Penelope L. Bassett, Assistant Executive Director, Communications & Customer Service  
Steve H. Santoro, Assistant Executive Director, Capital Planning & Programs  
Alma Scott-Buczak, Assistant Executive Director, Succession Planning & Workforce Dev.  
Gardner C. Tabon, Chief, Office of System Safety  
Michael Gonnella, Deputy Attorney General  
Joyce J. Zuczek, Acting Board Secretary

Acting Chairman Hammer convened the Open Session at 9:24 a.m. in accordance with the Open Public Meetings Act. Thomas Hlavacek, Office of System Safety, provided a Public Safety Announcement. The Pledge of Allegiance to the Flag was conducted. Acting Board Secretary Zuczek conducted a Roll Call.

Acting Board Secretary Zuczek announced that adequate notice of the re-scheduled meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations Inc., NJ TRANSIT Bus Operations, Inc. NJ TRANSIT Mercer, Inc. and NJ TRANSIT Morris, Inc. was provided in accordance with the Open Public Meetings Act, Chapter 231, P.L. 1975, and

the meetings were occurring concurrently. Notices were mailed to newspapers of general distribution, forwarded to the Secretary of State, Trenton, New Jersey, and sent to each individual, agency and organization that requested such notice. In addition, notices of the meetings were posted in the main lobby of NJ TRANSIT's Headquarters in Newark, New Jersey. Acting Board Secretary Zuczek announced that the Board Meeting was being video recorded

Acting Chairman Hammer asked for a motion to adopt the minutes of the March 9, 2016 Board meetings. A motion was made by Board Member James C. Finkle, Jr., seconded by Board Member Flora M. Castillo and unanimously adopted.

### **Public Comments on Agenda Items and Other Matters**

There were four public comments. Acting Board Secretary Zuczek announced the public comments would be limited to five minutes in order to give everyone an opportunity to be heard.

**Curtis Springstead** spoke on behalf of the Waldwick Historical Society in Waldwick, New Jersey. He said, for the past 17 years, they raised funds and rehabilitated the interlocking tower at the north end of Waldwick Station. Mr. Springstead said it is on the National Register of Historic Places and their work has brought significant improvement in appearance and safety to the area. He said, as part of their project, NJ TRANSIT required the installation of 160 feet of fence, and approved the design. As a result of the fence, they license from NJ TRANSIT a small parcel of land.

Mr. Springstead said they need the execution of a historic preservation easement to keep going. He said because they don't have the documents signed, the Bergen County Historical Commission will not release a hold on the reimbursement of \$9,000 for work they did over three years ago. Mr. Springstead said NJ TRANSIT staff told him the Board needs to approve the easement and he has an August 2014 letter stating that all parties approved the easement in principle and were ready to move ahead. Mr. Springstead said it has not moved and asked to be put in touch with senior staff to address it.

**Orrin Getz** said he understands NJ TRANSIT selected William Crosbie as the next Executive Director, and he looks forward to working with him. Mr. Getz thanked Interim Executive Director Martin and expressed his appreciation of Interim Executive Director Martin's support of them. He said Amtrak has been damaging their locomotives and suggested NJ TRANSIT sell their surplus locomotives stored at Port Morris to make some money. Mr. Getz expressed support for Items 1604-17, 1604-19, and 1604-20.

Mr. Getz said his main issue that he keeps raising is the critical need for a dedicated source of funding for NJ TRANSIT. Mr. Getz believes the best option is a surcharge on petroleum and utilities. He said this is not a tax, New York uses this as a source of funding for the Metropolitan Transportation Authority (MTA), and it basically goes unnoticed. Mr. Getz said the MTA Chair, Tom Pendergast, goes to Albany to fight for funding and NJ TRANSIT management and the Board should go to Trenton to fight for a dedicated source of funding.

**David Peter Alan** believes the primary objective for riders is increased tunnel capacity into Penn Station. He believes it is vital to have at least one more tunnel and two if it can be built affordably. Mr. Alan does not believe NJ TRANSIT riders can wait for elected leaders to fund Gateway or for Amtrak to build it. He thinks everyone should do everything possible to make sure the new tunnel capacity comes first, even if NJ TRANSIT has to build it.

Mr. Alan does not believe the rules of public conduct item spells out any changes or any rules to which they would be subjected. He said the item is objectionable without proper notice to the public about what is proposed and called on NJ TRANSIT to have every such item include notice to them, the riding public, about what is expected and what is to be transacted at the meetings.

Mr. Alan complimented Acting Chairman Hammer for dissenting on a Board item in December and postponing the Diesel ALP45 Board item. He believes this is a change from enforced unanimity that existed for 14 years. Mr. Alan expressed concern about openness and transparency, saying NJ TRANSIT moved the Board meeting a day earlier and held a Special Board meeting with short notice. He believes the appointment of the Executive Director should have been on the regular agenda, instead of holding a special meeting.

Mr. Alan wished Interim Executive Director Martin well and said he did great things on the bus side, they were looking forward to working with him, and NJ TRANSIT needs his innovative management. He hopes Mr. Crosbie and Bob Lavell will work with the advocacy community.

Mr. Alan expressed outrage that passengers in the light rail vehicles are being recorded, said motorists are not recorded in their personal automobiles, and believes transit riders should have the same expectation of privacy and security.

**Steve White**, a resident of Spring Valley, New York, said he was representing his wife Amelia White, the Deputy Mayor. He said residents have complained about the noises and fumes from the Woodbine Train Yard for decades and they were not taken seriously until Columbia University scientists conducted a study. Mr. White said New York Assemblyperson Ellen Jaffee reached out to NJ TRANSIT and there were some changes.

Mr. White said the study has been repeated and while the train is not running all night, there are still significant noises and fumes from early in the morning until midnight. He noted Ed Day said the new tunnel may result in a one-seat ride on the Pascack Valley Line to Manhattan. Mr. White said this would be a great benefit to residents but proposed using the Piermont Line to store trains in Suffern Yard, past Spring Valley, far from residential communities comprised mostly of people of color. He believes this raises environmental justice concerns.

Mr. White also raised concerns about the single bathroom at the station being insufficient to service riders and requested renovations to provide clean, comfortable facilities that are always available.

**Advisory Committee Report**

Suzanne Mack said the Board meeting was changed to accommodate the TransAction Conference, which is a major transportation conference and many of their members attend it. She noted NJ TRANSIT has rescheduled its Board meeting before for this conference and expressed her appreciation for the meeting date change. Ms. Mack expressed interest in Orrin Getz's idea about a surcharge to generate funding.

Ms. Mack said Interim Executive Director Martin did an outstanding job and they are somewhat disappointed he was not appointed the new Executive Director, but they will support the new Executive Director. She noted Interim Executive Director Martin dealt with a major weather event and averted a rail strike. Ms. Mack said they are glad he is staying at the agency and knows he will be a big help to the new Executive Director. She thanked Interim Executive Director Martin for his hard work and noted the new Executive Director will have the challenge of balancing the budget in two months. Ms. Mack hopes the new Executive Director's experience with Amtrak will help with the switching problems.

Ms. Mack said the Advisory Committee received a ridership presentation. She noted ridership is rising since Superstorm Sandy but is flat overall. Ms. Mack said that gas is cheap so the automobile is an alternative, which affects ridership growth. The Committee also had a marketing update and they found Janet Clark's report about the work being done fascinating.

Ms. Mack thinks NJ TRANSIT needs to explain the policy behind the recordings on light rail to the public. She noted NJ TRANSIT and transit help preserve the Earth so for all the criticism and budget challenges, the service is good for the environment.

**Board Customer Service Committee Report**

Board Member Flora M. Castillo presented the report for the Customer Service Committee. The Customer Service Committee received a Customer Service update and a report on the Social Media Dashboard.

**Board Capital Planning, Policy, and Privatization Committee Report**

Board Member Flora M. Castillo presented the report for the Capital Planning, Policy and Privatization Committee. The Capital Planning, Policy and Privatization Committee discussed the Positive Train Control: Purchase of Radio Frequency Spectrum item, Wesmont Station Parking Lots Project Construction Contract Award item, and Memorandum of Understanding to Evaluate Proposed Development near Frank R. Lautenberg Station at Secaucus item.

**Board Administration Committee Report**

Board Member James C. Finkle, Jr. presented the report for the Administration Committee. The Administration Committee received a Financial Update, which included an analysis of ridership trends.

## **Executive Director's Monthly Report**

Interim Executive Director Martin said, just days after the last Board meeting, NJ TRANSIT and the Rail Union Coalition were able to reach an affordable and fair agreement, averting a strike that would have had a serious impact on travel and the economy in the entire region. He thanked the employees and rail union leadership for working diligently to resolve this at the table. The proposed resolution protects NJ TRANSIT's customers and preserves the quality of life for tens of thousands of New Jersey and New York residents who rely on NJ TRANSIT's services.

Interim Executive Director Martin also thanked those who spent countless hours over the past several months developing a contingency plan in the event a strike occurred. Planning for an event of this magnitude was one of the most significant challenges that NJ TRANSIT has ever faced, and he is proud of each business line for working side by side to deliver a plan that the overall system and region could safely operate. Thankfully, a strike was averted, but from this effort NJ TRANSIT has developed plans that can be utilized in the event of any type of large-scale rail outage.

Interim Executive Director Martin noted their mission is aligned with their rail union colleagues, in that they both aim to do what is best for NJ TRANSIT's customers and the taxpayers of New Jersey. He said they are proud to work with their rail union colleagues as one of the front lines of their agency.

Looking ahead, NJ TRANSIT is in the process of finalizing its budget for Fiscal Year 2017. As part of the overall budget process, Acting Chairman Hammer and Interim Executive Director Martin would be appearing before the Assembly Budget Committee the next day. Working with lawmakers in Trenton, their goal is to develop a financial plan that allows NJ TRANSIT to continue to safely transport as many customers as possible while keeping in mind the taxpayers of New Jersey. Their budget line directors will be working hard to maximize every dollar and target all available efficiencies.

During the past month, NJ TRANSIT has implemented a number of enhancements to the customer experience. On March 29, 2016, they opened the new bus plaza at Secaucus Junction. The facility includes 14 bus platforms, a 590-foot canopy, a bus layover area as well as new lighting, public address system and dynamic signage. The plaza offers these amenities to current customers, while also allowing for the potential of future growth in bus service at Secaucus Junction.

In the event of a disruption to service into Manhattan on bus or rail service, this enhanced bus plaza will be invaluable in maximizing the intermodal feature of Secaucus Junction. For example, if there is a problem in the Lincoln Tunnel, NJ TRANSIT can divert New York bound buses there for customers to transfer to trains. Likewise, if there is a service disruption to the rail tunnels customers can transfer to buses to continue on into New York.

One customer amenity that has been extremely popular has been the MyTix feature on the mobile app. NJ TRANSIT is pleased to be able to capitalize on its success by adding even

more functionality. Bus customers can now purchase one-way tickets for select interstate routes between New Jersey and New York. With the ability to buy tickets from the palms of their hands, NJ TRANSIT hopes customers will see shorter lines at ticket vending machines and ticket windows at the Port Authority Bus Terminal.

Just to show how popular the MyTix feature has been, since its inception in 2013 NJ TRANSIT now has 800,000 customer accounts. Staff will monitor the use and benefits of this recent update with the goal of determining where else across the system it may be expanded.

Interim Executive Director Martin noted this was his final Board meeting as the Interim Executive Director. In just the past few months, they have faced a number of challenges during what some have characterized as the most difficult period in NJ TRANSIT’s 37-year history. From an historic snowfall which shut down NJ TRANSIT’s system to the labor negotiations which thankfully did not, it has been quite a ride. Interim Executive Director Martin looks forward to continuing to work together, as well as with the new Executive Director William Crosbie, in facing whatever lies ahead. Interim Executive Director Martin said he was truly honored to have served as NJ TRANSIT’s Interim Executive Director, and thanked Acting Chairman Hammer, the Board, and the incredibly talented NJ TRANSIT team for all their support.

**Action Items**

**1604-17: ADVANCED SPEED ENFORCEMENT SYSTEM II – POSITIVE TRAIN CONTROL PURCHASE OF RADIO FREQUENCY SPECTRUM**

Interim Executive Director Martin introduced Steve Santoro, Assistant Executive Director, Capital Planning & Programs, who presented Action Item #1604-17 for approval.

Steve Santoro recommended approval of Item #1604-17, Advanced Speed Enforcement System II – Positive Train Control Purchase of Radio Frequency Spectrum. Approval was requested to take any and all actions necessary to negotiate and execute an agreement with PTC-220, LLC of Atlanta, Georgia, for the purchase of 218 MHz Radio Frequency Spectrum at a cost not to exceed \$1,000,000, subject to the availability of funds.

Board Member Flora M. Castillo moved the resolution, Board Member James C. Finkle, Jr. seconded it, and it was unanimously adopted.

**Roll Call Vote:**

|        |        |        |       |          |        |                             |
|--------|--------|--------|-------|----------|--------|-----------------------------|
| Hammer | Meisel | Howard | Longo | Castillo | Finkle | Greaves (Non-Voting Member) |
| Yes    | Absent | Yes    | Yes   | Yes      | Yes    | Absent                      |

**1604-18: WESMONT STATION PARKING LOTS PROJECT: CONSTRUCTION CONTRACT AWARD**

Interim Executive Director Martin introduced Steve Santoro, Assistant Executive Director, Capital Planning & Programs, who presented Action Item #1604-18 for approval.

Steve Santoro recommended approval of Item #1604-18, Wesmont Station Parking Lots Project: Construction Contract Award. Approval was requested to enter into NJ TRANSIT Contract No. 16-017X with the lowest responsive responsible bidder for the Wesmont Station Parking Lots Project in an amount not to exceed the budgeted amount, plus five percent for contingencies, subject to the availability of funds.

Board Member James C. Finkle, Jr. moved the resolution, Board Member Flora M. Castillo seconded it, and it was unanimously adopted.

**Roll Call Vote:**

|        |        |        |       |          |        |                             |
|--------|--------|--------|-------|----------|--------|-----------------------------|
| Hammer | Meisel | Howard | Longo | Castillo | Finkle | Greaves (Non-Voting Member) |
| Yes    | Absent | Yes    | Yes   | Yes      | Yes    | Absent                      |

**1604-19: MEMORANDUM OF UNDERSTANDING TO EVALUATE PROPOSED DEVELOPMENT NEAR FRANK R. LAUTENBERG STATION AT SECAUCUS**

Interim Executive Director Martin introduced Steve Santoro, Assistant Executive Director, Capital Planning & Programs, who presented Action Item #1604-19 for approval.

Steve Santoro recommended approval of Item #1604-19, Memorandum of Understanding to Evaluate Proposed Development near Frank R. Lautenberg Station at Secaucus. Approval was requested to take all necessary actions to finalize, execute and implement a Memorandum of Understanding with Secaucus Brownfields Redevelopment, LLC, of Midland Park, New Jersey, for the purpose of assessing the Proposed Development and proposed transportation improvements in the vicinity of the Frank R. Lautenberg Station at Secaucus Junction.

Board Member James C. Finkle, Jr. moved the resolution, Board Member Flora M. Castillo seconded it, and it was unanimously adopted.

**Roll Call Vote:**

|        |        |        |       |          |        |                             |
|--------|--------|--------|-------|----------|--------|-----------------------------|
| Hammer | Meisel | Howard | Longo | Castillo | Finkle | Greaves (Non-Voting Member) |
| Yes    | Absent | Yes    | Yes   | Yes      | Yes    | Absent                      |

**1604-20: MEMORANDUM OF UNDERSTANDING WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) AND THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY RELATED TO THE GATEWAY PROGRAM**

Interim Executive Director Martin introduced Steve Santoro, Assistant Executive Director, Capital Planning & Programs, who presented Action Item #1604-20 for approval.

Steve Santoro recommended approval of Item #1604-20, Memorandum of Understanding with the United States Department of Transportation, National Railroad Passenger Corporation (Amtrak) and the Port Authority of New York and New Jersey Related to the Gateway Program. Approval was requested to negotiate and subsequently enter into a Memorandum of Understanding with the United States Department of Transportation, the National Passenger Railroad Corporation (Amtrak), and the Port Authority of New York and New Jersey in furtherance of the Gateway Program.

Board Member James C. Finkle, Jr. moved the resolution, Board Member Christopher Howard seconded it, and it was unanimously adopted.

**Roll Call Vote:**

|        |        |        |       |          |        |                             |
|--------|--------|--------|-------|----------|--------|-----------------------------|
| Hammer | Meisel | Howard | Longo | Castillo | Finkle | Greaves (Non-Voting Member) |
| Yes    | Absent | Yes    | Yes   | Yes      | Yes    | Absent                      |

**1604-21: REGULATIONS: RULE-MAKING PROCESS PROPOSED READOPTION WITH AMENDMENTS TO N.J.A.C. 16:83 CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF NJ TRANSIT EQUIPMENT AND FACILITIES**

Interim Executive Director Martin introduced Warren Hersh, Acting Chief Financial Officer and Treasurer, who presented Action Item #1604-21 for approval.

Warren Hersh recommended approval of Item #1604-21, Regulations: Rule-Making Process Proposed Readoption with Amendments to N.J.A.C. 16:83 Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities. Approval was requested to ratify the Executive Director’s actions needed to initiate the rule-making process for the readoption of the regulations, N.J.A.C. 16:83 et seq., “Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities,” consistent with this Board item and Exhibit A.

Board Member James C. Finkle, Jr. moved the resolution, Board Member Christopher Howard seconded it, and it was unanimously adopted.

**Roll Call Vote:**

|        |        |        |       |          |        |                             |
|--------|--------|--------|-------|----------|--------|-----------------------------|
| Hammer | Meisel | Howard | Longo | Castillo | Finkle | Greaves (Non-Voting Member) |
| Yes    | Absent | Yes    | Yes   | Yes      | Yes    | Absent                      |

**Executive Session Authorization**

At approximately 10:00 a.m., Acting Chairman Hammer requested a motion to enter Executive Session to discuss personnel matters, contract and collective bargaining negotiations, the status of pending and anticipated litigation and matters falling within the attorney-client privilege.

Board Member Flora M. Castillo moved the resolution, Board Member James C. Finkle, Jr. seconded it, and it was unanimously adopted.

Acting Board Secretary Zuczek conducted a Roll Call as Board Members returned to Open Session. Acting Chairman Hammer and Board Members Howard, Longo, Castillo, and Finkle returned to open session at approximately 11:17 a.m.

**1604-23: PROPOSED LABOR AGREEMENT: NJ TRANSIT RAIL OPERATIONS, INC. AND THE INTERNATIONAL ASSOCIATION OF MACHINISTS**

Interim Executive Director Martin introduced Robert Lavell, Vice President & General manager, Rail Operations, who presented Action Item #1604-23 for approval.

Robert Lavell recommended approval of Item #1604-23, Proposed Labor Agreement: NJ TRANSIT Rail Operations, Inc. and the International Association of Machinists. Authorization was requested to approve the economic terms and other proposed conditions set forth in the Memorandum of Understanding negotiated by NJ TRANSIT Rail Operations and the International Association of Machinists and staff seeks authorization for the Executive Director, or his designee, to take all necessary steps to finalize and implement same, as discussed in executive session.

Authorization was also requested to approve the economic terms and other proposed conditions contained in each Memorandum of Understanding, once ratified by the respective remaining rail unions, and staff seeks authorization for the Executive Director, or his designee, to take all necessary steps to finalize and implement same, as discussed in executive session.

Board Member James C. Finkle, Jr. moved the resolution, Board Member Flora M. Castillo seconded it, and it was unanimously adopted.

**Roll Call Vote:**

|        |        |        |       |          |        |                             |
|--------|--------|--------|-------|----------|--------|-----------------------------|
| Hammer | Meisel | Howard | Longo | Castillo | Finkle | Greaves (Non-Voting Member) |
| Yes    | Absent | Yes    | Yes   | Yes      | Yes    | Absent                      |

**Adjournment**

Since there were no further comments or business, Acting Chairman Hammer called for adjournment and a motion to adjourn was made by Board Member James C. Finkle, Jr., seconded by Board Member Flora M. Castillo, and unanimously adopted. The meeting was adjourned at approximately 11:19 a.m.

**NEW JERSEY TRANSIT CORPORATION  
 NJ TRANSIT BUS OPERATIONS, INC.  
 NJ TRANSIT RAIL OPERATIONS, INC.  
 NJ TRANSIT MERCER, INC.  
 NJ TRANSIT MORRIS, INC.  
 RE-SCHEDULED BOARD OF DIRECTORS' MEETINGS**

APRIL 12, 2016

|                | MINUTES  | PAGE         |
|----------------|--|--------------|
| ➤              | <b>CALL TO ORDER</b>   | -            |
| ➤              | <b>SAFETY ANNOUNCEMENT</b>   | -            |
| ➤              | <b>PLEDGE OF ALLEGIANCE TO THE FLAG</b>  | -            |
| ➤              | <b>APPROVAL OF MINUTES OF PREVIOUS MEETINGS</b>  | 49038        |
| ➤              | <b>PUBLIC COMMENTS ON AGENDA ITEMS AND OTHER MATTERS</b>   | -            |
| ➤              | <b>ADVISORY COMMITTEE REPORT</b>   | -            |
| ➤              | <b>SENIOR CITIZEN AND DISABLED RESIDENT TRANSPORTATION ADVISORY COMMITTEE REPORT <u>(NEXT SCHEDULED REPORT JUNE 2016)</u></b>  | -            |
| ➤              | <b>BOARD COMMITTEE REPORTS</b>   | -            |
|                | *Customer Service Committee  |              |
|                | *Administration Committee  |              |
|                | *Capital Planning, Policy and Privatization Committee  |              |
| ➤              | <b>EXECUTIVE DIRECTOR'S MONTHLY REPORT</b>   | 49039        |
|                | <b><u>ACTION ITEMS</u></b>   |              |
| <b>1604-17</b> | <b>ADVANCED SPEED ENFORCEMENT SYSTEM II – POSITIVE TRAIN CONTROL PURCHASE OF RADIO FREQUENCY SPECTRUM</b>  | <b>49060</b> |
|                | <p>Authorization to take any and all actions necessary to negotiate and execute an agreement with PTC-220, LLC of Atlanta, Georgia, for the purchase of 218 MHz Radio Frequency Spectrum at a cost not to exceed \$1,000,000, subject to the availability of funds.</p>                  |              |
| <b>1604-18</b> | <b>WESMONT STATION PARKING LOTS PROJECT: CONSTRUCTION CONTRACT AWARD</b>   | <b>49065</b> |
|                | <p>Authorization to enter into NJ TRANSIT Contract No. 16-017X with the lowest responsive responsible bidder for the Wesmont Station Parking Lots Project in an amount not to exceed the budgeted amount, plus five percent for contingencies, subject to the availability of funds.</p> |              |

NEW JERSEY TRANSIT CORPORATION  
NJ TRANSIT BUS OPERATIONS, INC.  
NJ TRANSIT RAIL OPERATIONS, INC.  
NJ TRANSIT MERCER, INC.  
NJ TRANSIT MORRIS, INC.  
RE-SCHEDULED BOARD OF DIRECTORS' MEETINGS  
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**1604-19 MEMORANDUM OF UNDERSTANDING TO EVALUATE PROPOSED DEVELOPMENT NEAR FRANK R. LAUTENBERG STATION AT SECAUCUS 49075**

Authorization to take all necessary actions to finalize, execute and implement a Memorandum of Understanding with Secaucus Brownfields Redevelopment, LLC, of Midland Park, New Jersey, for the purpose of assessing the Proposed Development and proposed transportation improvements in the vicinity of the Frank R. Lautenberg Station at Secaucus Junction.

**1604-20 MEMORANDUM OF UNDERSTANDING WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) AND THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY RELATED TO THE GATEWAY PROGRAM 49079**

Authorization to negotiate and subsequently enter into a Memorandum of Understanding with the United States Department of Transportation, the National Passenger Railroad Corporation (Amtrak), and the Port Authority of New York and New Jersey in furtherance of the Gateway Program.

**1604-21 REGULATIONS: RULE-MAKING PROCESS PROPOSED READOPTION WITH AMENDMENTS TO N.J.A.C. 16:83 CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF NJ TRANSIT EQUIPMENT AND FACILITIES 49083**

Authorization to initiate the rule-making process for the readoption of the regulations, N.J.A.C. 16:83 et seq., "Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities," consistent with this Board item and Exhibit A.

- **EXECUTIVE SESSION AUTHORIZATION:** Discuss personnel matters, contract and collective bargaining negotiations, the status of pending and anticipated litigation and matters falling within the attorney-client privilege. Discussions undertaken at this executive session could be made public at the conclusion of these matters as appropriate. **49104**

**1604-23 PROPOSED LABOR AGREEMENT: NJ TRANSIT RAIL OPERATIONS, INC. AND THE INTERNATIONAL ASSOCIATION OF MACHINISTS 49105**

Authorization to approve the economic terms and other proposed conditions set forth in the Memorandum of Understanding negotiated by NJ TRANSIT Rail Operations and the International Association of Machinists and staff seeks authorization for the Executive Director, or his designee, to take all necessary steps to finalize and implement same, as discussed in executive session; and

NEW JERSEY TRANSIT CORPORATION  
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RE-SCHEDULED BOARD OF DIRECTORS' MEETINGS  
APRIL 12, 2016  
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Authorization to approve the economic terms and other proposed conditions contained in each Memorandum of Understanding, once ratified by the respective remaining rail unions, and staff seeks authorization for the Executive Director, or his designee, to take all necessary steps to finalize and implement same, as discussed in executive session.

➤ **ADJOURNMENT**

### **APPROVAL OF MINUTES**

**WHEREAS**, the By-Laws provide that the minutes of actions taken at meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc. Board of Directors be approved by the Board; and

**WHEREAS**, pursuant to Section 4(f) of the New Jersey Public Transportation Act of 1979, the minutes of actions taken at the March 9, 2016 Board meetings of the New Jersey Transit Corporation, NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc. were forwarded to the Governor on March 11, 2016;

**NOW, THEREFORE, BE IT RESOLVED** that the minutes of actions taken at the March 9, 2016 New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc. Board of Directors' meetings are hereby approved.

Chris Christie, Governor  
Kim Guadagno, Lieutenant Governor  
Richard T. Hammer, Acting Commissioner  
Dennis J. Martin, Interim Executive Director



One Penn Plaza East  
Newark, NJ 07105-2246  
973-491-7000

TO: BOARD OF DIRECTORS  
FROM: DENNIS J. MARTIN   
DATE: APRIL 12, 2016  
SUBJECT: EXECUTIVE DIRECTOR'S REPORT - APRIL 2016

Just days after the last Board meeting, NJ TRANSIT and the rail union coalition were able to reach an affordable and fair agreement, averting a strike that would have had a serious impact on travel and the economy in our entire region. I want to thank our employees and the rail union leadership for working diligently to resolve this at the table. The proposed resolution protects our customers and preserves the quality of life for tens of thousands of New Jersey and New York residents who rely on our services. I would also like to thank those who spent countless hours over the past several months developing a contingency plan in the event a strike occurred. Planning for an event of this magnitude was one of the most significant challenges that NJ TRANSIT has ever faced, and I am proud of each business line for working side by side to deliver a plan that the overall system and region could safely operate. Thankfully, a strike was averted, but from this effort we have developed plans that can be utilized in the event of any type of large-scale rail outage. To our rail union colleagues, we know that our mission is aligned in that we both aim to do what is best for our customers. We are proud to work with you as one of the front lines of our agency.

Looking ahead, we are in the process of finalizing our budget for Fiscal Year 2017. As part of the overall budget process, Chairman Hammer and I will appear before the Assembly budget committee tomorrow. Working with lawmakers in Trenton, our goal is to develop a financial plan that allows us to continue to safely transport as many customers as possible, while keeping in mind the taxpayers of New Jersey. Our budget line directors will be working hard to maximize every dollar and target all available efficiencies.

During the past month, we have implemented a number of enhancements to the customer experience. On March 29<sup>th</sup>, we opened the new bus plaza at Secaucus Junction. The facility includes 14 bus platforms, a 590-foot canopy, a bus layover area as well as new lighting, public address system and dynamic signage. The plaza offers these amenities to current customers while also allowing for the potential of future growth in bus service at Secaucus Junction. This enhanced bus plaza will be invaluable in maximizing the intermodal feature of Secaucus Junction in the event of a service disruption into Manhattan on bus or rail service. For example, if there is a problem in the Lincoln Tunnel, we can divert New York bound buses to this plaza for customers to transfer to trains. Likewise, if there is a service disruption in the rail tunnels, customers can transfer to buses to continue into New York.

One customer amenity that has been extremely popular has been the *MyTix* feature on the mobile app. We are pleased to be able to capitalize on its success by adding even more functionality. Bus customers can now purchase one-way tickets for select interstate routes between New Jersey and New York. With the ability to buy tickets from the palms of their hands, we hope customers see shorter lines at ticket vending machines and ticket windows at the Port Authority Bus Terminal. Just to show how popular the *MyTix* has been, since its inception in 2013 we now have 800-thousand customer accounts. We will monitor the use and benefits of this recent update with the goal of determining where else across the system it might expand to.

As you know, this is my final Board meeting in this chair. In just the past few months, we have faced a number of challenges during what some have characterized as the most difficult period in NJ TRANSIT's 37-year history. From an historic snow fall which shut down our system to the labor negotiations which thankfully did not, it has been quite a ride. I look forward to continuing to work with you, as well as our new Executive Director William Crosbie in facing whatever lies ahead. I am truly honored to have served as NJ TRANSIT's Interim Executive Director, and I thank you Mr. Chairman, the Board, and the incredibly talented NJ TRANSIT team for all the support.

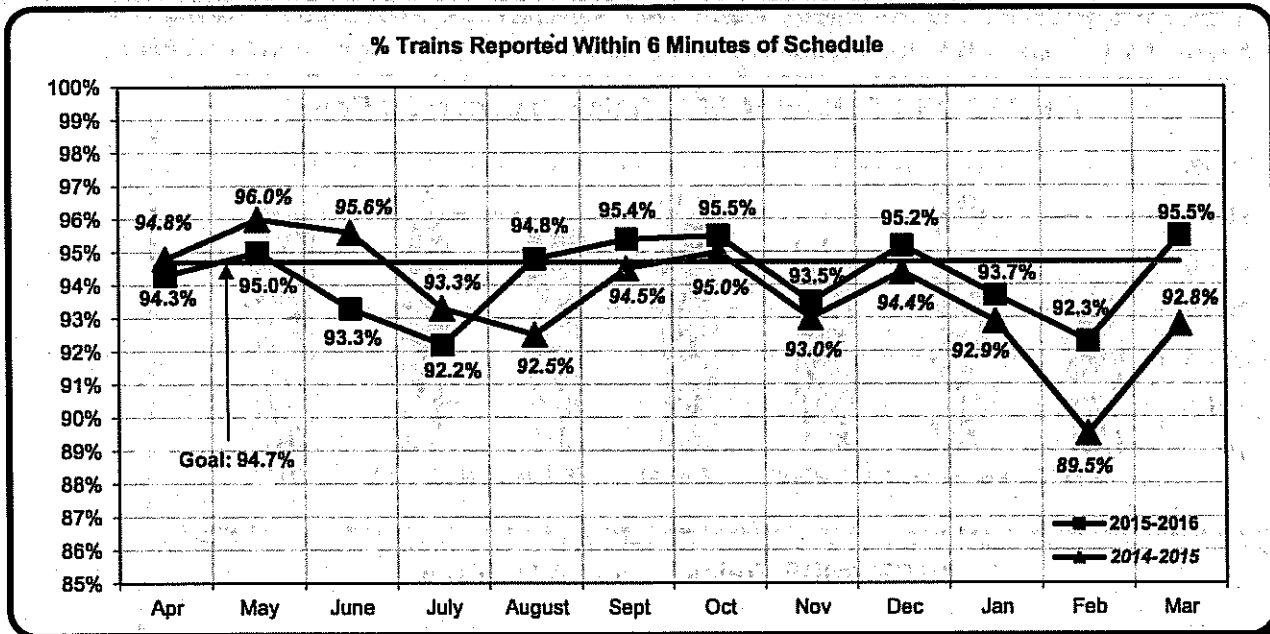
# **EXECUTIVE DIRECTOR'S MONTHLY REPORT APRIL 2016**

- 1. PERFORMANCE MEASURES**
- 2. MEAN DISTANCE BETWEEN FAILURES**
- 3. DBE/MBE PROGRAM**
- 4. EMPLOYEE RECOGNITION**

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# **PERFORMANCE MEASURES**

# NJ TRANSIT ON-TIME PERFORMANCE RAIL APRIL 2014 - MARCH 2016



|                  | 2015  | 2016  | # Change |
|------------------|-------|-------|----------|
| March Comparison | 92.8% | 95.5% | 2.7      |

|  | 2014-2015 | 2015-2016 | # Change |
|--|-----------|-----------|----------|
| 12-Month Average April 2014-March 2016 | 93.7%     | 94.2%     | 0.5      |

### Analysis:

Rail On-Time Performance was 95.5% for March 2016. Of the 19,152 trains scheduled to operate, 18,288 were on time, while 864 trains (or 4.5%) were delayed. Key causes included:

- NJT fatality and Amtrak signal failure caused 109 delays resulting in 83.7% OTP on March 1.
- NJT equipment failure, SEPTA fatality and NJT heavy travel caused 67 delays resulting in 89% OTP on March 17.
- NJT ill passenger, Amtrak High Speed Rail project, NJT equipment failure and Amtrak catenary failure caused 51 delays resulting in 91% OTP on March 31.

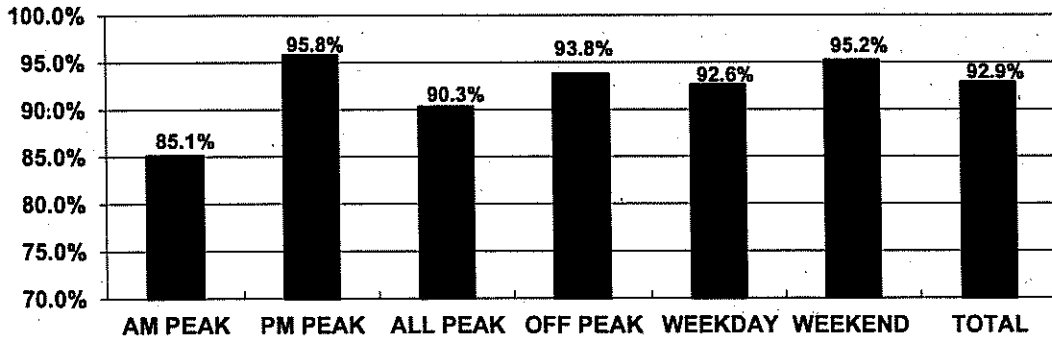
The 12-month average for Rail On-Time Performance for April 2015-March 2016 was 94.2%, which improved by 0.5%.

# ON-TIME PERFORMANCE RAIL

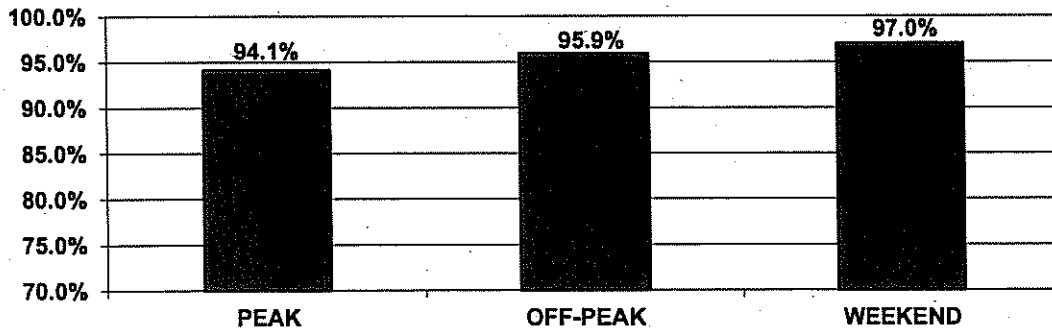
## SUMMARY BY TIME PERIOD MARCH 2016

\* NOTE: A train is reported late if it arrives at its final station stop more than 5:59 later than the advertised schedule.

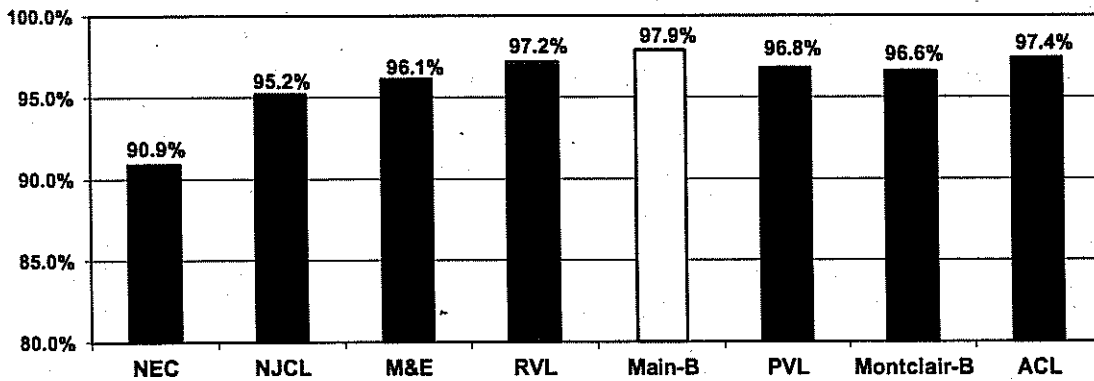
### % NEW YORK PENN STATION Trains Reported On Time \*



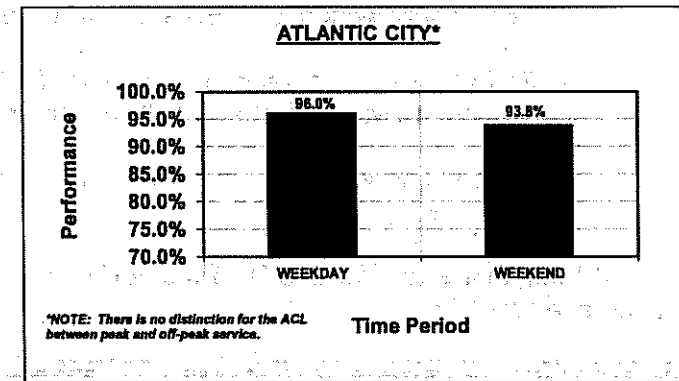
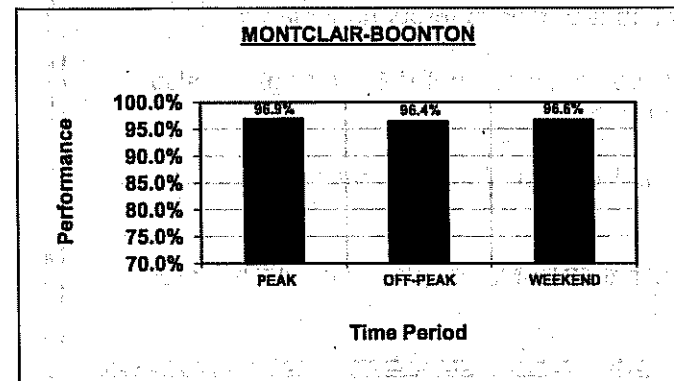
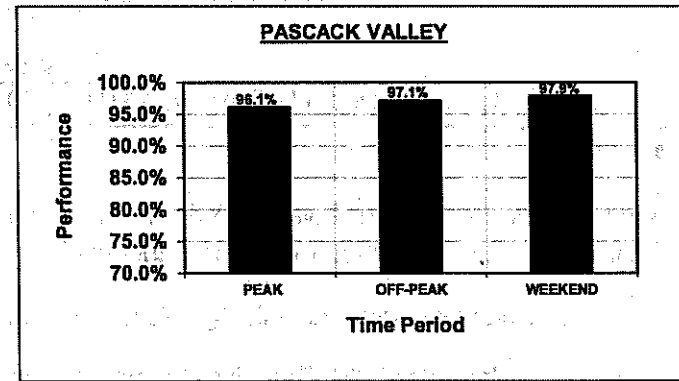
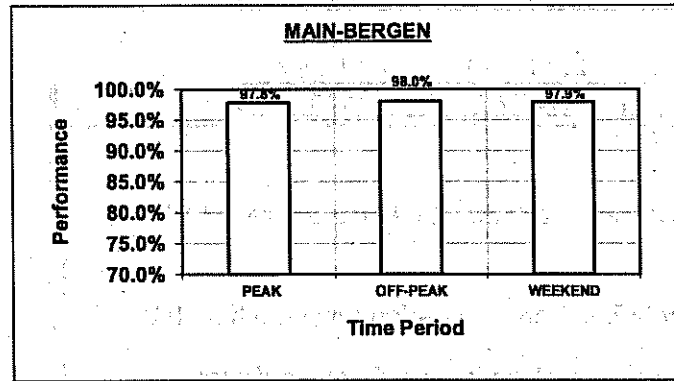
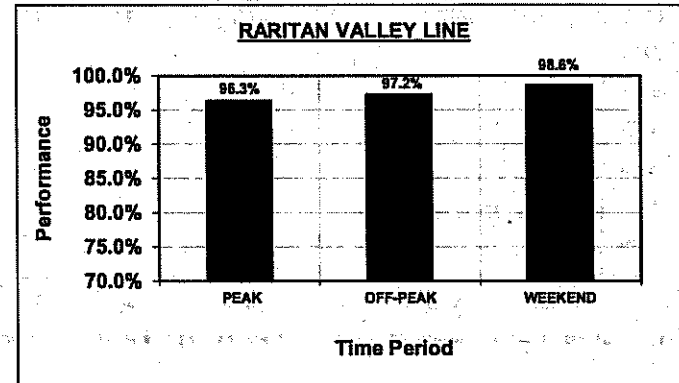
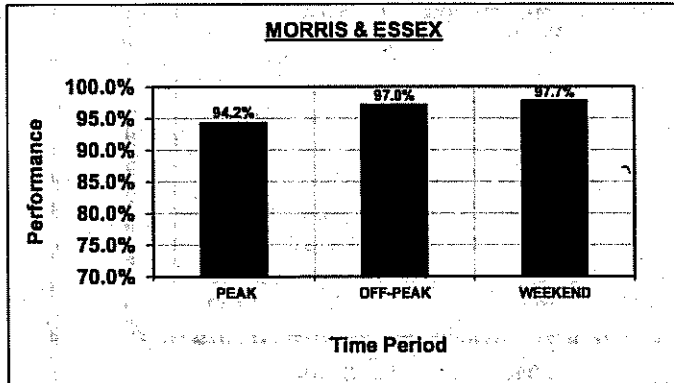
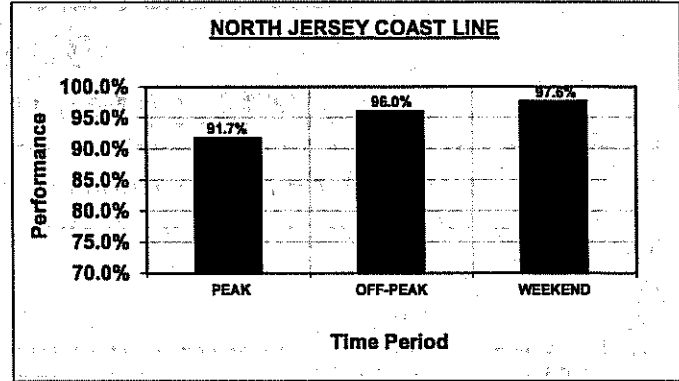
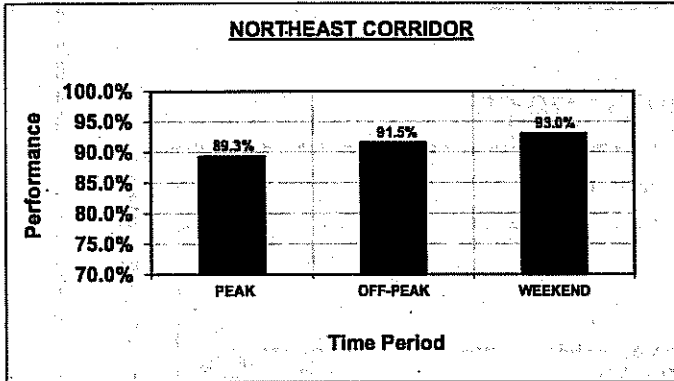
### % SYSTEMWIDE Trains Reported On Time



### % BY LINE Trains Reported On Time

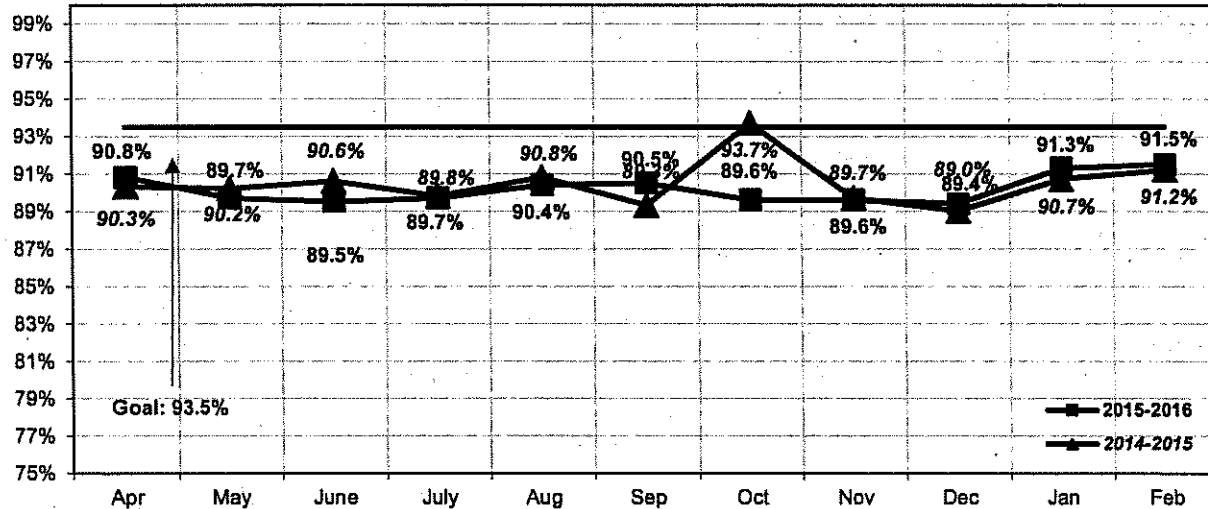


# ON-TIME PERFORMANCE BY RAIL LINE & TIME PERIOD MARCH 2016



# NJ TRANSIT ON-TIME PERFORMANCE BUS APRIL 2014 - MARCH 2016

% Buses Departing Major Terminals Within 6 Minutes of Schedule



|                  | 2015  | 2016  | % Change |
|------------------|-------|-------|----------|
| March Comparison | 90.3% | 92.8% | 2.5%     |

|                                     | 2014-2015 | 2015-2016 | % Change |
|-------------------------------------|-----------|-----------|----------|
| 12-Month March 2014 - February 2016 | 90.4%     | 90.2%     | 0.2%     |

**Analysis:**

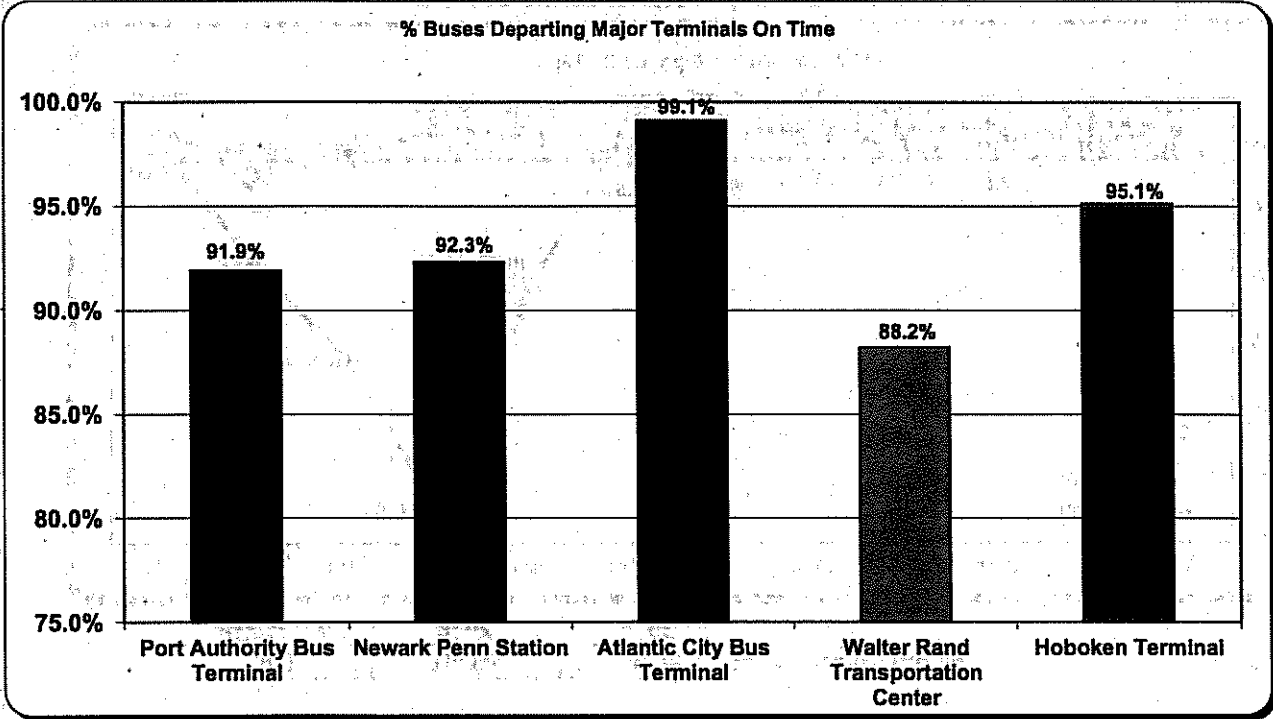
Bus On-Time Performance was 92.8% for March 2016. Of the 43,898 monitored departures, 3,155 (or 7.2%) experienced delays. Key causes included:

- Gridlock within the building affected Port Authority Bus Terminal performance on March 29.
- Philadelphia's St. Patrick's Day parade, Flower Show in Philadelphia, Camden Water Department work and PSE&G pole replacement caused delays throughout March.
- St. Patrick's Day parade, heavy traffic and increased ridership for the Easter holiday also caused delays, most significantly on March 4, 11 and 26.
- Road construction congestion impacted service at Hoboken Terminal, but performance stayed above 95%.

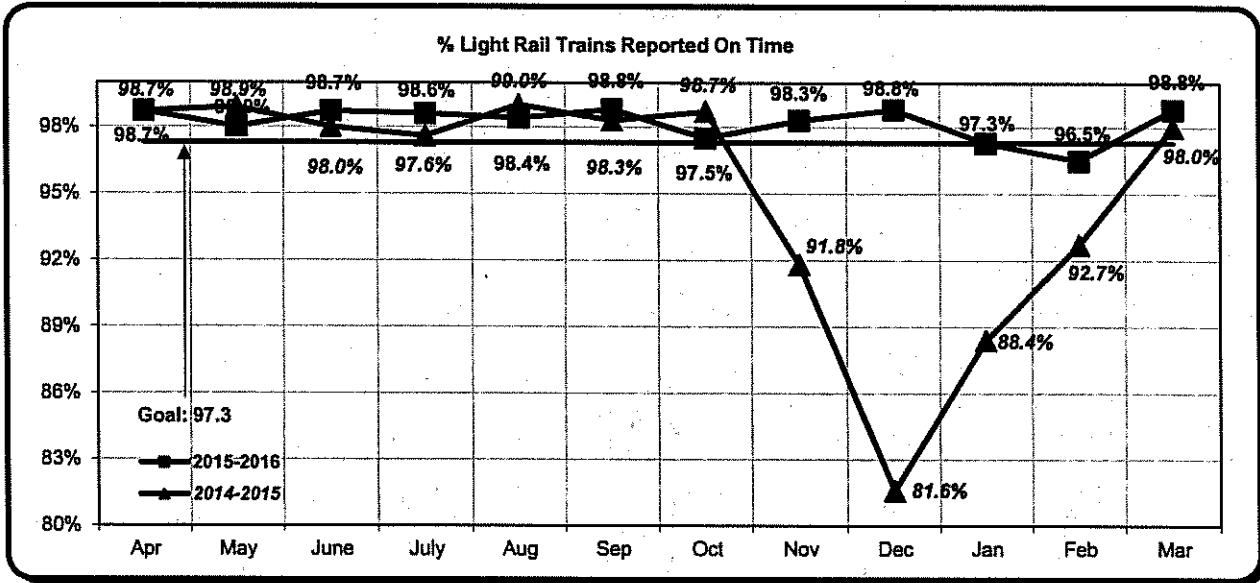
The 12-month average for Bus On-Time Performance for April 2015-March 2016 was 90.2%, which decreased by 0.2%.

# ON-TIME PERFORMANCE BUS

## SUMMARY BY TERMINAL MARCH 2016



## NJ TRANSIT ON-TIME PERFORMANCE LIGHT RAIL APRIL 2014 - MARCH 2016



|                  | 2015  | 2016  | # Change |
|------------------|-------|-------|----------|
| March Comparison | 98.0% | 98.8% | 0.8      |

|  | 2014-2015 | 2015-2016 | # Change |
|--|-----------|-----------|----------|
| 12-Month Average April 2014 - March 2016 | 95.1%     | 98.2%     | 3.1      |

**Analysis:**

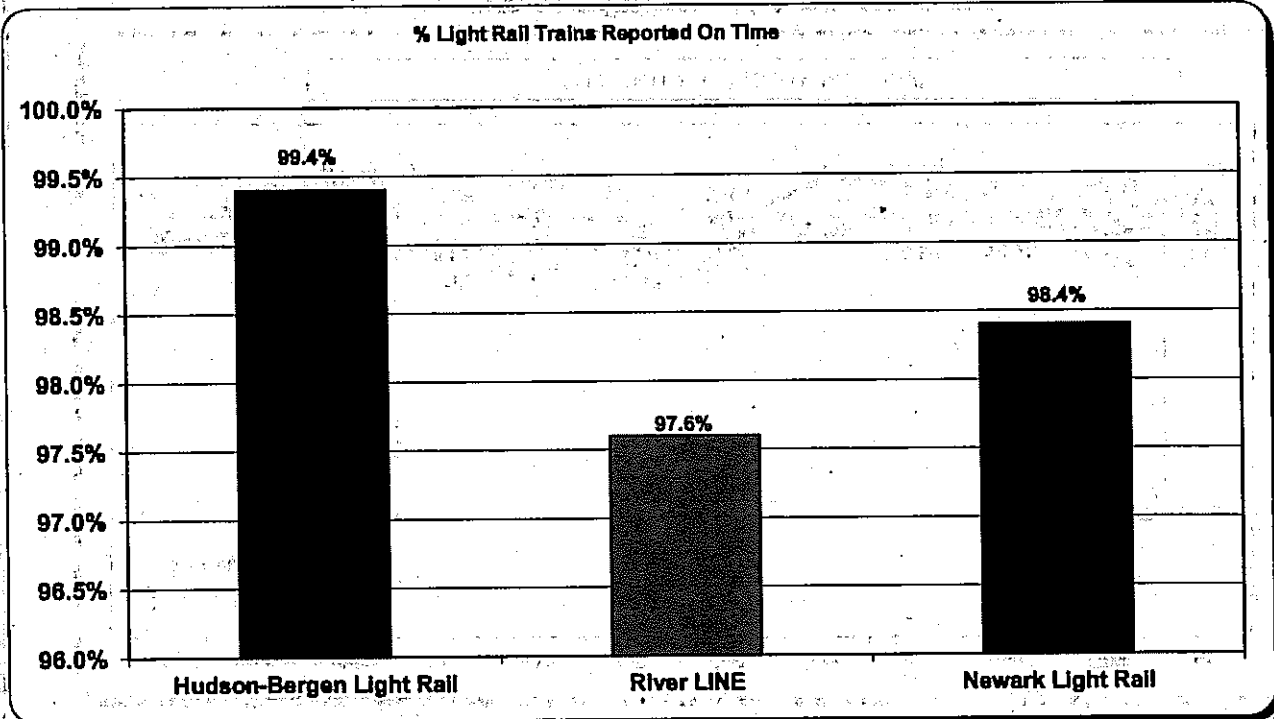
Light Rail On-Time Performance systemwide was 98.8% for the month of March 2016. Of the 27,615 monitored departures, 336 (or 1.2%) experienced delays. Key causes included:

- Police activity and separate vehicle maintenance failure delayed four Hudson-Bergen Light Rail trains on March 10.
- Equipment malfunction (brake fault) delayed 13 RiverLINE trains on March 3.
- Human error delayed 49 Newark Light Rail trains on March 4.

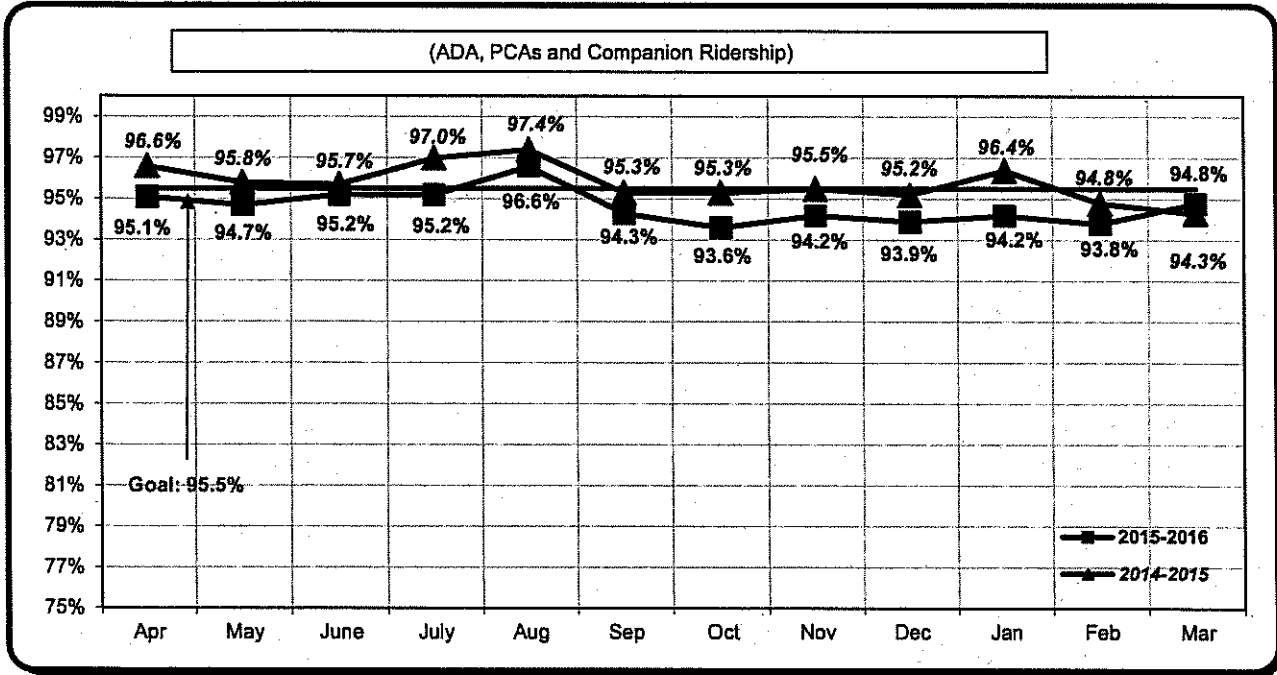
The 12-month average for Light Rail On-Time Performance for April 2015-March 2016 was 98.2%, which improved by 3.1%.

# ON-TIME PERFORMANCE LIGHT RAIL

## SUMMARY BY LINE MARCH 2016



## NJ TRANSIT ON-TIME PERFORMANCE ACCESS LINK APRIL 2014 - MARCH 2016



|                  | 2015  | 2016  | % Change |
|------------------|-------|-------|----------|
| March Comparison | 94.8% | 94.3% | -0.5     |

|                 | 2015    | 2016    | Difference |
|-----------------|---------|---------|------------|
| March Ridership | 121,301 | 127,341 | 6,040      |

|                              | 2014-2015 | 2015-2016 | % Change |
|------------------------------|-----------|-----------|----------|
| 12-Month Average March-April | 95.8%     | 94.6%     | -1.2%    |

**Analysis:**

Access Link On-Time Performance was 94.8% for March 2016. Of the 127,341 total trips, 6,634 (or 5.2%) experienced delays.

**Key causes include:**

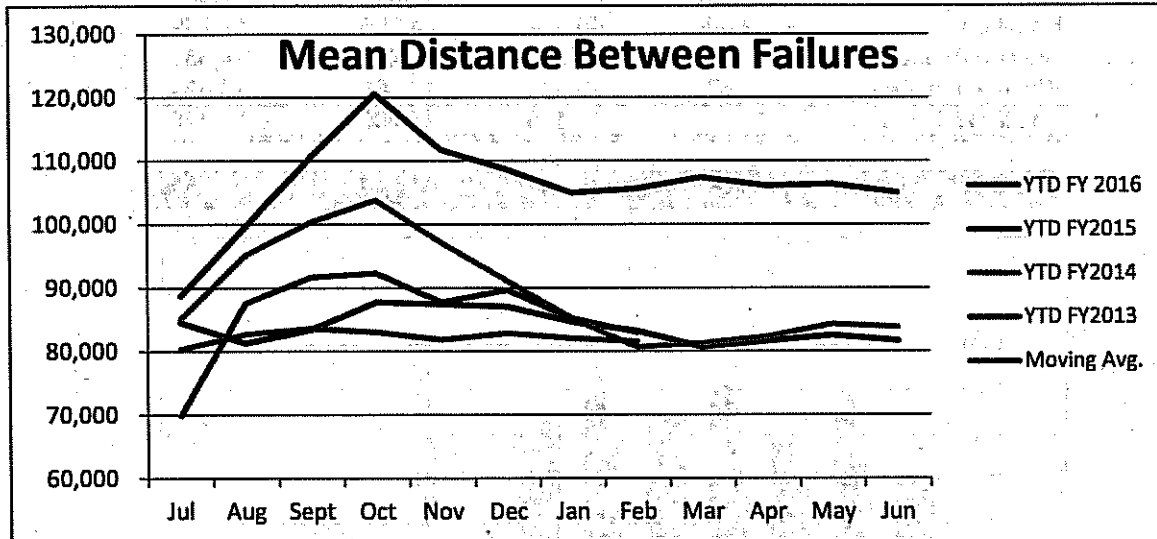
- Traffic congestion causing service delays.
- Cancellations and customer no-shows.
- Road closures due to construction.

The 12-month average for Access Link On-Time Performance for April 2015 - March 2016 was 94.6%, which decreased by 1.2%.

# **MEAN DISTANCE BETWEEN FAILURES**

**NJ Transit Rail  
Mean Distance Between Failures**

| Month | YTD FY2016 | YTD FY2015 | YTD FY2014 | YTD FY2013 | 12 Month Moving Avg. |
|-------|------------|------------|------------|------------|----------------------|
| Jul   | 69,926     | 84,508     | 85,097     | 88,735     | 80,305               |
| Aug   | 87,565     | 81,319     | 95,116     | 99,585     | 82,718               |
| Sept  | 91,669     | 83,368     | 100,341    | 110,530    | 83,609               |
| Oct   | 92,329     | 87,750     | 103,813    | 120,591    | 83,028               |
| Nov   | 87,756     | 87,434     | 97,112     | 111,758    | 81,837               |
| Dec   | 89,655     | 87,042     | 91,128     | 108,579    | 82,868               |
| Jan   | 85,167     | 84,607     | 85,161     | 104,917    | 82,008               |
| Feb   | 82,949     | 83,179     | 80,639     | 105,580    | 81,560               |
| Mar   | -          | 80,659     | 81,229     | 107,335    | -                    |
| Apr   | -          | 81,649     | 82,293     | 106,048    | -                    |
| May   | -          | 82,566     | 84,237     | 106,287    | -                    |
| Jun   | -          | 81,704     | 83,798     | 104,975    | -                    |

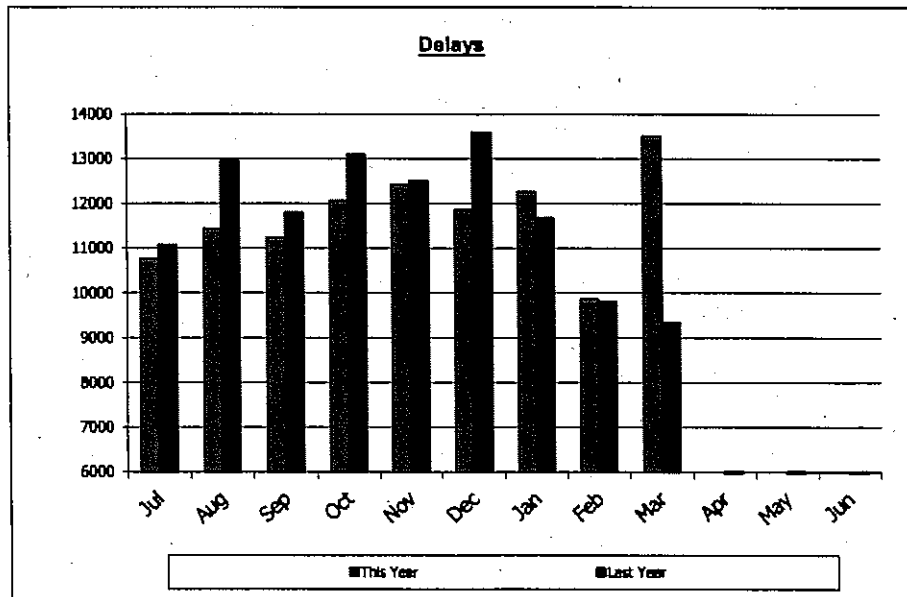


### Garage Performance Parameters

**March 2016**

| Location                 | Miles Between In-Service Delays |               |               |               |
|--------------------------|---------------------------------|---------------|---------------|---------------|
|                          | FY2016 Goal                     | This Month    | FY2016 YTD    | FY2015 YTD    |
| Fairview                 | 7,000                           | 7,772         | 6,315         | 6,388         |
| Greenville               | 9,900                           | 11,765        | 7,005         | 7,180         |
| Market Street            | 9,500                           | 8,367         | 8,268         | 9,235         |
| Meadowlands              | 11,500                          | 9,179         | 8,182         | 9,178         |
| Oradell                  | 13,500                          | 12,080        | 10,681        | 9,664         |
| Wayne                    | 12,500                          | 13,797        | 11,692        | 11,175        |
| <b>Northern Division</b> | -                               | <b>10,550</b> | <b>9,114</b>  | <b>9,214</b>  |
| Big Tree                 | 9,600                           | 9,166         | 7,905         | 9,719         |
| Hilton                   | 10,500                          | 10,844        | 11,188        | 10,890        |
| Howell                   | 16,750                          | 30,470        | 33,512        | 20,379        |
| Ironbound                | 9,800                           | 14,661        | 10,567        | 10,025        |
| Orange                   | 10,200                          | 11,179        | 8,736         | 11,596        |
| Morris                   | 10,500                          | 50,061        | 42,210        | 49,790        |
| <b>Central Division</b>  | -                               | <b>15,133</b> | <b>12,956</b> | <b>12,701</b> |
| Egg Harbor               | 15,500                          | 22,521        | 14,314        | 14,806        |
| Hamilton                 | 19,000                          | 40,074        | 24,205        | 17,759        |
| Newton Avenue            | 15,700                          | 12,582        | 14,423        | 14,530        |
| Washington Twp.          | 14,500                          | 13,578        | 13,266        | 13,634        |
| <b>Southern Division</b> | -                               | <b>17,146</b> | <b>14,699</b> | <b>14,640</b> |

**By Operation**

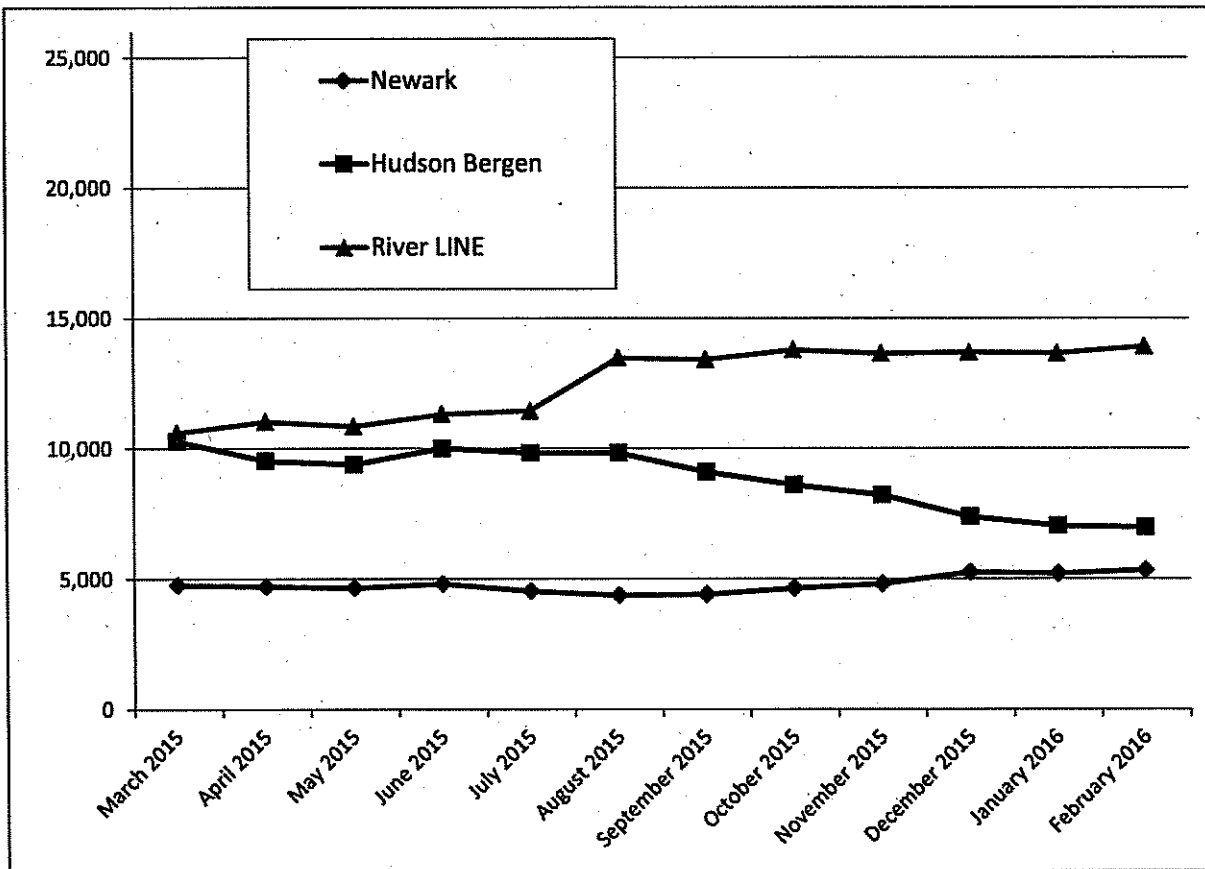


### NJ TRANSIT - LIGHT RAIL, February 2016

#### Miles Between In-Service Delays (Mechanical Failures)

| Light Rail System | February 2016<br>(Current Month) | 12 Month<br>Moving Average (Mean) |
|-------------------|----------------------------------|-----------------------------------|
| Newark Light Rail | 4,551                            | 5,326                             |
| Hudson Bergen     | 3,723                            | 6,980                             |
| River LINE        | 10,237                           | 13,921                            |

MEAN DISTANCE MILES BETWEEN IN-SERVICE DELAYS (DELAYED TRAINS)



# **DBE/SBE PROGRAM**

**NJ TRANSIT –Office of Business Development Additional DBE/SBE Participation for March 2016**

**State Funded Contracts**

During the month of March 2016, NJ TRANSIT awarded **\$0.00** in state funded contracts. Of that total, Small Business Enterprises (SBEs) received **\$0.00** or **0.00%**.

During the State Fiscal Year 2016 (July 1, 2015 through June 30, 2016) NJ TRANSIT awarded **\$291,890,482.37** in state funded contracts. Of that total, SBEs received **\$35,394,105.23** or **12.13%**.

**SBE Goal Attainment from July 1, 2015 through June 30, 2016 (FY 2015)**

|                          |                 |          |
|--------------------------|-----------------|----------|
| Category 1 SBEs received | \$3,560,746.20  | or 1.22% |
| Category 2 SBEs received | \$1,159,244.65  | or 0.40% |
| Category 3 SBEs received | \$25,644,075.21 | or 8.79% |
| Category 4 SBEs received | \$3,943,901.17  | or 1.35% |
| Category 5 SBEs received | \$1,086,138.00  | or 0.37% |
| Category 6 SBEs received | \$0.00          | or 0.00% |

**FTA Funded Contracts (updated Quarterly – next update will occur July 2016)**

During the 2<sup>nd</sup> Quarter (January 1, 2016 – March 31, 2016) of Federal Fiscal Year 2016 (October 1, 2015 through September 30, 2016), the FTA funded share of NJ TRANSIT’s federal contracts awarded was **\$11,773,000.00**. Of that total, Disadvantaged Business Enterprises (DBEs) received **\$2,106,717.00** or **17.89%**.

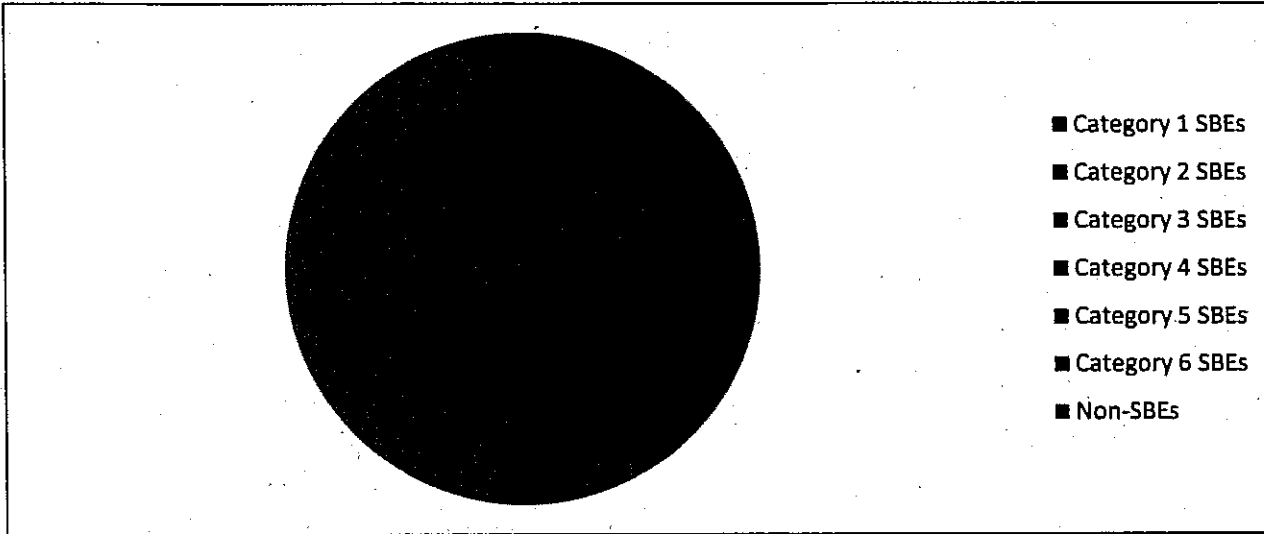
**DBE Goal Attainment from October 1, 2013 (FFY 2014) - September 30, 2016 (FFY 2016)\***

|                   |                           |
|-------------------|---------------------------|
| Contracts awarded | \$37,687,589.65           |
| DBEs received     | \$ 7,048,720.34 or 18.70% |

\*Numbers reflect federal share.

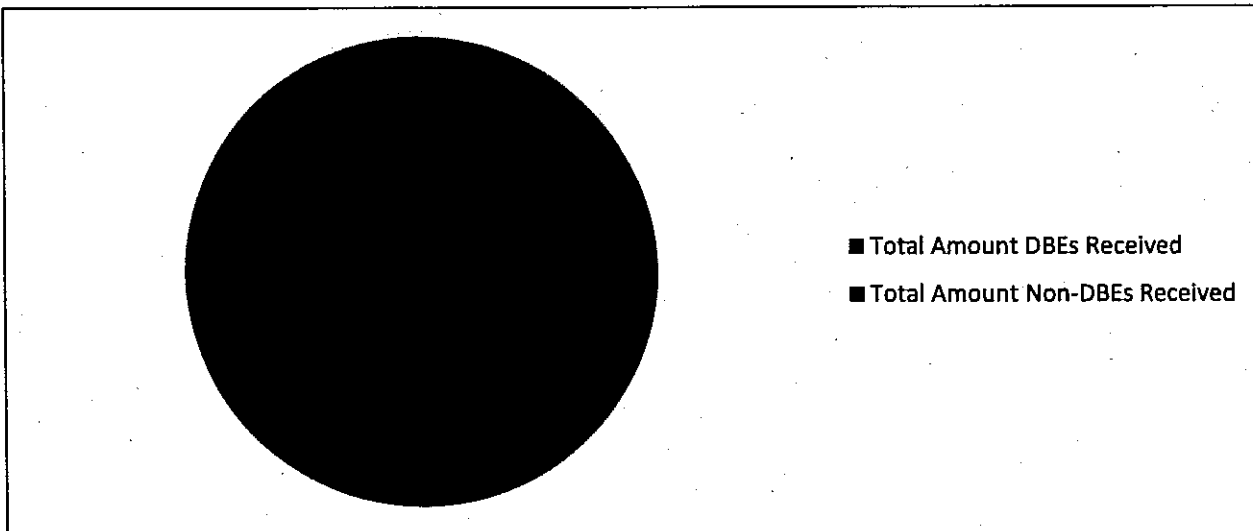
SBE PARTICIPATION  
STATE CONTRACTS  
STATE FYTD 2016

|                        |                  |        |
|------------------------|------------------|--------|
| <i>Category 1 SBEs</i> | \$3,560,746.20   | 1.22%  |
| <i>Category 2 SBEs</i> | \$1,159,244.65   | 0.40%  |
| <i>Category 3 SBEs</i> | \$25,644,075.21  | 8.79%  |
| <i>Category 4 SBEs</i> | \$3,943,901.17   | 1.35%  |
| <i>Category 5 SBEs</i> | \$1,086,138.00   | 0.37%  |
| <i>Category 6 SBEs</i> | \$0.00           | 0.00%  |
| <i>Non-SBEs</i>        | \$256,496,377.14 | 82.29% |



DBE PARTICIPATION  
FEDERAL CONTRACTS  
TRIENNIAL YEARS 2014-2016

|                                       |                        |               |
|---------------------------------------|------------------------|---------------|
| <b>Total Amount DBEs Received</b>     | <b>\$7,048,720.34</b>  | <b>18.70%</b> |
| <b>Total Amount Non-DBEs Received</b> | <b>\$30,638,869.30</b> | <b>81.30%</b> |



# **EMPLOYEE RECOGNITION**

**NJ TRANSIT employees bid farewell after outstanding careers**

Twenty-two NJ TRANSIT employees recently retired with careers ranging from 13 to 41 years of service:

1. Guerdes Desir, Operator – Market Street – 21 years
2. Eugene Federick, Operator – Big Tree – 24 years
3. George Jarosz, Maintainer A – Ferry Street – 30 years
4. Son Nguyen, Special Mechanic Welder – Newark Bus – 21 years
5. Vadius Pierre, Operator – Ironbound – 17 years
6. Eugene Trzepla, Special Mechanic Welder – CMF – 31 years
7. Lucious Wilson III, Operator – Hilton – 18 years
8. Esler Joseph, Operator – Hilton – 13 years
9. Donald Thorbourne, Starter – Port Authority Bus Terminal – 14 years
10. Natalya Kvitman, Draftsperson – Penn Plaza – 30 years
11. Peter Aiello, Manager Rail Infrastructure Maintenance – Hoboken – 27 years
12. Michael Fitzsimmons, Senior Project Engineer – Penn Plaza – 30 years
13. Thomas Fowler, Principal Project Engineer – MMC – 28 years
14. Victor Santiago, Senior Technical Specialist – GOB – 25 years
15. Donald Zalk, Manager Bus Revenue Data C&C – GOB – 31 years
16. George Martin, Forman B&B – Red Bank – 28 years
17. Thomas Miller, TVM Terminal Agent – Millburn – 25 years
18. Robert Mullaney, Machinist – MMC – 30 years
19. Ronald Degruttola, Supervisor – Red bank – 41 years
20. Charles Pishnick, Lead Laborer – Raritan Yard – 37 years
21. Douglas Davis, Locomotive Engineer – Various Locations – 27 years
22. Koshy Paniker, Manager Locomotive Shop – MMC – 30 years

# **ACTION ITEMS**

**ITEM 1604-17:       ADVANCED SPEED ENFORCEMENT SYSTEM II – POSITIVE  
TRAIN CONTROL: PURCHASE OF RADIO FREQUENCY  
SPECTRUM**

**BENEFITS**

The Rail Safety Improvement Act of 2008 (RSIA 2008), Positive Train Control Enforcement and Implementation Act of 2015 (PTCEI 2015), and subsequent Federal Railroad Administration (FRA) regulations require commuter rail systems to implement Positive Train Control (PTC), by the end of 2018. NJ TRANSIT is required to implement PTC along all its commuter rail line right-of-way and on all its rail rolling stock. This PTC system, known as the Advanced Speed Enforcement System II (ASES II), is also required to provide interoperability with Amtrak's NEC Advanced Speed Enforcement System II technology and the freight-based Interoperable Electronic Train Management System (I-ETMS). Key to the implementation of this system is the acquisition of suitable data radio frequency spectrum.

Implementation of PTC will enhance the safety of customers and employees on NJ TRANSIT rail services and permit compliance with Federal law.

**ACTION (Scorecard:   Safety & Security; Customer Experience; Corporate  
Accountability)**

Staff requests authorization to take any and all actions necessary to negotiate and execute an agreement with PTC-220, LLC of Atlanta, Georgia, for the purchase of 218 MHz Radio Frequency Spectrum at a cost not to exceed \$1,000,000, subject to the availability of funds.

**PURPOSE**

This authorization will allow the acquisition of the needed Radio Frequency (RF) Spectrum for the southern, central and western portions of NJ TRANSIT's system. This portion of the spectrum is essential for the train-to-wayside communications aspect of NJ TRANSIT's PTC system. NJ TRANSIT is currently in negotiations with Metro-North Railroad to lease the necessary Spectrum for the northern and eastern portions of the system.

**BACKGROUND**

Radio Frequency Spectrum

The rail industry as a whole has been dealing with the technical difficulties that must be overcome to provide interoperable PTC systems among the various commuter and freight entities. FRA regulations require that railroads' PTC systems be interoperable, i.e., any train operating on PTC-equipped track is able to communicate with the host railroad's PTC system. The wireless infrastructure planned for use by commuter railroads and the Class I freight railroads is based on data radios that operate in a

single-frequency band near 220 MHz because of the ability to cover larger geographic areas than higher frequency bands and the availability of spectrum. However, due to the density of railroad usage in urban areas, such as along the Northeast Corridor, there is the possibility of interference between systems.

The FRA and the Transportation Technology Center, Inc. (TTCI), a railroad testing and training facility located in Pueblo, Colorado, have been conducting radio tests among freight, commuter rail and Amtrak operators to determine how best to minimize PTC radio interference. These tests have been funded by the FRA in the interest of facilitating interoperability among PTC systems. One of their initial recommendations to minimize interference provides for the freight operators to use the upper band (220 MHz) and commuter railroads the lower band (218 MHz).

#### Acquisition of Radio Frequency Spectrum

RSIA 2008 required freight and commuter railroads to deploy interoperable PTC systems; it did not designate RF Spectrum, which is a finite resource, for PTC use nor did Congress make funds available for railroads to acquire the necessary spectrum. Accordingly, the FCC has been working with the railroads to identify available spectrum on the secondary market. In response to the complexities of acquiring RF Spectrum, in 2007 the Class I freight railroads formed a consortium, PTC-220, LLC, to acquire 220 MHz spectrum for PTC applications. The consortium has requested additional 217-222 MHz spectrum and appropriate license and rule changes as it appears that 220 MHz will be insufficient in congested areas.

PTC-220, LLC is offering RF Spectrum in the 218 MHz band in order to support interoperability between freight PTC systems and NJ TRANSIT's PTC system. This permits PTC-220, LLC to offer NJ TRANSIT the necessary bandwidth in the 218 MHz portion, while retaining the 220 MHz band for freight operations. In this manner both freight and passenger operations are provided sufficient spectral separation to help minimize potential interference between respective PTC systems.

*Figure 1: Radio Frequency Spectrum Coverage* illustrates the areas covered by the several suppliers of bandwidth. The counties in blue will be served by the RF spectrum purchased from PTC-220, LLC while the counties in orange will be served by RF spectrum leased from Metro-North Railroad. Mercer County will be served directly by Amtrak RF spectrum and Orange County (New York) by Metro-North Railroad RF spectrum.

PTC-220, LLC, has been certified to be the sole/single sources for the purchase of RF spectrum in accordance with NJ TRANSIT Procurement Regulations N.J.A.C. 16:72-1.5 and Executive Order No. 37.

#### ASES II PTC Status

The implementation of the ASES II PTC system will be achieved in phases that includes: development; prototype testing; a pilot demonstration project; system-wide installation; testing, commissioning and training; and, assistance to NJ TRANSIT with

PTC document submissions to the FRA in fulfillment of regulatory requirements and in accordance with FRA-mandated deadlines. It is anticipated that NJ TRANSIT will meet the December 2018 deadline for PTC implementation.

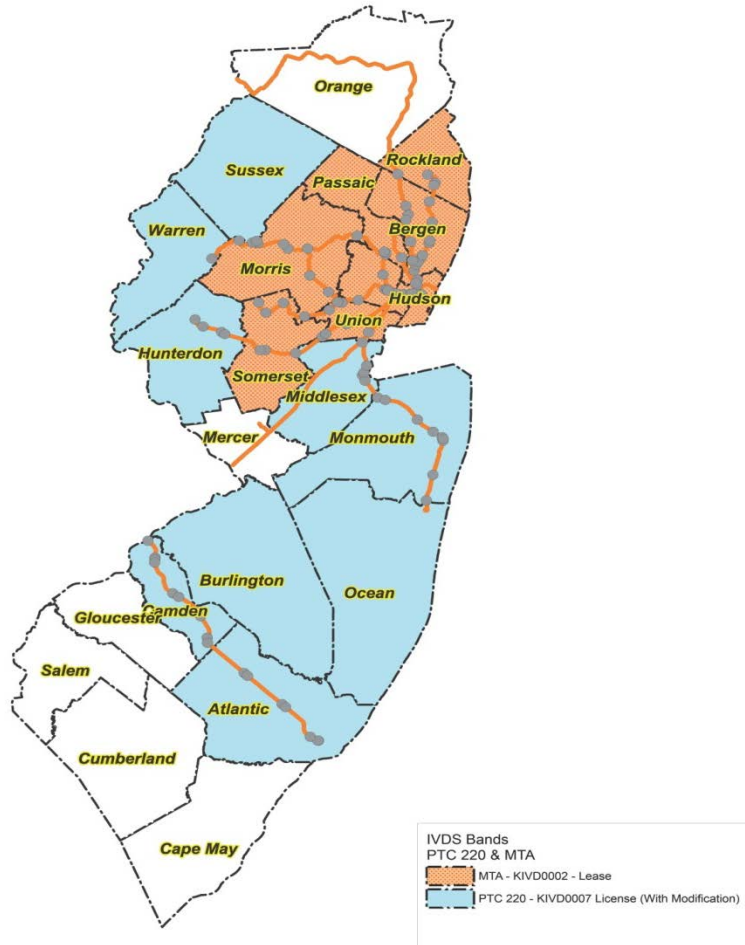


Figure 1: Radio Frequency Spectrum Coverage

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

**FISCAL IMPACTS**

|                                 |                                |
|---------------------------------|--------------------------------|
| <b>Requested Authorization:</b> | \$ 1,000,000                   |
| <b>Previous Authorizations:</b> | None for this vendor           |
| <b>Expenditures to Date:</b>    | \$ 73,665,000 (as of 01/31/16) |
| <b>Total Project Cost:</b>      | \$225,900,000                  |

**Projected Date of Completion:** December 2018

**Capital Program Amount:** \$225,900,000

**Operating Budget Amount:** \$0

**Anticipated Source of Funds:** Transportation Trust Fund

**PRINTS ID Number:** NJT00110  
NJT00111  
NJT0074  
NJT00109  
RNF00266

**DBE/SBE Goal:** NA

***NJ Build* Amount:** NA

**Related/Future Authorizations:** Additional engineering support

**Impacts on Subsequent Operating Budgets:** \$ 4,000,000 annually for full implementation

## RESOLUTION

**WHEREAS**, the Rail Safety Improvement Act of 2008 mandated the implementation of a Positive Train Control system on all NJ TRANSIT commuter rail lines by the end of December 2015; and

**WHEREAS**, Congress extended the date to implement Positive Train Control to the end of December 2018; and

**WHEREAS**, NJ TRANSIT has identified a program to implement the Advanced Speed Enforcement System II Positive Train Control system as essential to comply with this requirement; and

**WHEREAS**, acquisition of 218 MHz Radio Frequency Spectrum is essential to the implementation of NJ TRANSIT's Positive Train Control system; and

**WHEREAS**, PTC-220, LLC has 218 MHz Radio Frequency Spectrum available for purchase; and

**WHEREAS**, pursuant to N.J.A.C. 16:72 competitive procurement requirements may be waived in instances where only one source of supply is available; and

**WHEREAS**, it has been determined that PTC-220, LLC is certified to be the sole/single source for the purchase of RF Spectrum in accordance with NJ TRANSIT Procurement Regulations N.J.A.C. 16:72-1.6 and Executive Order No. 37;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to take any and all actions necessary to negotiate and execute an agreement with PTC-220, LLC of Atlanta, Georgia, for the purchase of 218 MHz Radio Frequency Spectrum at a cost not to exceed \$1,000,000, subject to the availability of funds.

**ITEM 1604-18: WESMONT STATION PARKING LOTS PROJECT: CONSTRUCTION CONTRACT AWARD**

**BENEFITS**

The principles of smart growth and transit-oriented development call for returning inactive industrial properties, known as brownfields, to productive economic use with compact mixed-use development. NJ TRANSIT has actively supported and encouraged this by sponsoring planning studies for redevelopment around transit facilities and targeting associated capital investments.

The former Curtiss-Wright industrial site in Wood-Ridge, on which NJ TRANSIT owns and operates a five-acre rail maintenance facility, offers an opportunity to transform an underutilized 78-acre industrial property into a pedestrian-friendly neighborhood with convenient access to NJ TRANSIT rail service. To that end, NJ TRANSIT, the Borough of Wood-Ridge, and the municipally-designated master developer, Wood-Ridge Development, LLC (the Developer) have worked together to develop a plan to build a new rail station on NJ TRANSIT's Bergen County Line from which to serve a new Transit-Oriented Development mixed-use community.

The construction of Wesmont Station began in May 2014 and is nearing completion. All construction activities are projected to be completed in Spring 2016. The design of the station will also accommodate commuter access from the Borough of Wallington on the west side of the railroad right-of-way.



**ACTION (Scorecard: Customer Service)**

Staff seeks approval to enter into NJ TRANSIT Contract No. 16-017X with the lowest responsive responsible bidder for the Wesmont Station Parking Lots Project in an amount not to exceed the budgeted amount, plus five percent for contingencies, subject to the availability of funds.

**PURPOSE**

This Board Item seeks the approval to enter into this construction contract for the last phase of a public/private initiative to build Wesmont Station. A parking lot will be

constructed to provide 215 spaces for commuters using the station and 28 spaces for employees working at NJ TRANSIT's Wood-Ridge Maintenance-of-Way facility. A second parking lot will be built to provide 68 parking spaces for employees and 15 spaces for NJ TRANSIT's heavy-duty railroad maintenance vehicles relocated from the existing parking facility.

## **BACKGROUND**

### History

Upon executing the original development agreement in August 2008, conceptual plans called for the station to be built within a curved section of track along the Bergen County Line. However, in July 2010, NJ TRANSIT and Wood-Ridge Development, LLC (the Parties) mutually agreed to relocate the station in a southerly direction along the Bergen County Line, several hundred feet from its original planned location, in order to site the station on straight track. The station's new location placed it in close proximity to NJ TRANSIT's existing Wood-Ridge Maintenance-of-Way facility.

In accordance with the approvals received from the Federal Transit Administration, a parking area for the exclusive use of commuters is required to be built and made part of the scope-of-work of Wesmont Station. As a consequence, NJ TRANSIT and Wood-Ridge Development, LLC agreed that this lot (Commuter Parking Lot) would be constructed within the existing parking area, currently serving the Maintenance-of-Way facility, because of its proximity to the station platform.

Furthermore, as such a build-out would displace NJ TRANSIT utility trucks, employee vehicles and other mobile equipment currently using the existing Maintenance-of-Way facility lot, the Parties mutually agreed that a second new parking area (Employee Parking Lot) would need to be constructed near the Maintenance-of-Way facility. The parcel of land selected upon which to build the employee lot is contained within property that is owned by an affiliate of the site's Developer, called Wood-Ridge Industrial, LLC.



The parcel of land selected upon which to build the employee lot is contained within property that is owned by an affiliate of the site's Developer, called Wood-Ridge Industrial, LLC.

### Development Agreement – General Financial Terms

In August 2008 NJ TRANSIT entered into an agreement with Wood-Ridge Development, LLC that defined the terms, including cost-sharing, by which the Developer would design and build a new train station and parking facility on the Bergen County Line. The Agreement also obligated the Developer, under certain conditions, to design and construct a new rail maintenance facility at a location that is adjacent to the Main Line in Clifton. Under the terms of the Agreement as originally executed,

NJ TRANSIT agreed to pay the Developer for certain elements of the station project at a cost not to exceed \$10,350,000.

Amendment No. 1 to the Agreement was executed in October 2010 and provided for the conveyance of additional Federal funding to the Developer for the project in the amount of \$637,500 that had previously been earmarked, amending the total NJ TRANSIT payment to the Developer to a not-to-exceed amount of \$10,987,500.

Amendment No. 2 to the Agreement was executed in September 2012 and provided for the following modifications to the Agreement: relocation of the station; the requirement to convey easements by Wood-Ridge Development, LLC and Wood-Ridge Industrial, LLC; responsibility for designing the parking lots by Wood-Ridge Development, LLC; responsibility for constructing the parking lots by NJ TRANSIT; the removal from the Agreement of the responsibility to build a previously planned Pedestrian Overpass; the Developer's obligation to build a Privacy Wall on NJ TRANSIT's right-of-way; extending a deadline for the Developer to decide to construct a new Maintenance-of-Way facility in Clifton; and, the Developer's assumption of all costs to design, construct and manage the Wesmont Station Project (less the \$4,325,000 in federal funding received for the project) should the Developer determine to not construct the new Clifton Maintenance-of-Way facility.

Scope of Work – Commuter and Employee Parking Lots

The Commuter Parking Lot will be built within one of the two parking areas currently serving the existing Wood-Ridge Maintenance-of-Way facility. This specific parking area, measuring approximately 450 feet long by 240 feet wide, will be reconstructed in order to provide 215 spaces for commuters using Wesmont Station. A smaller space within this lot, an area that is large enough to accommodate an additional 28 vehicles, will be sectioned off and secured for the exclusive use by NJ TRANSIT's employees working at the Maintenance-of-Way facility.



It is intended that the Commuter Parking Lot will be operated, managed and maintained by a firm under an existing parking lot management contract with NJ TRANSIT. Parking revenue equipment similar to revenue collection systems in use at other rail stations will be installed at this parking facility, eliminating the need for an attendant. Daily and/or monthly parking rates have not been established at this time.

The new Employee Parking Lot will be situated on property owned by Wood-Ridge Industrial, LLC, an affiliate of the site's principal real estate developer,

Wood-Ridge Development, LLC. Sixty-eight parking spaces will be provided in the employee lot. Additionally, 15 spaces will be specifically provided for NJ TRANSIT's heavy-duty utility vehicles and similar equipment, with electrical power stations provided at each parking stall.

NJ TRANSIT will be responsible for constructing, operating and maintaining both the Commuter and Employee parking lots at its sole cost and expense.

### Wesmont Station Platform

The Wesmont Station Project includes the construction of a fully-accessible, center-island high-level platform. The platform will initially be 285 feet in length, but can be extended to 710 feet in the future if needed to meet operational demands. Access to the platform will be via a pedestrian overpass that connects the platform to a sidewalk which provides direct walkway access to the Commuter Parking Lot. Elevators and stairs will be utilized to convey customers between the parking lot, sidewalk and the platform via the pedestrian overpass. The design incorporates building systems that are typically installed at train stations system-wide, including public address, closed-circuit television, lighting, communications, landscaping, ticket vending machines, and static and dynamic signage systems.

### Roadway and Walkway Access

Three new streets providing vehicular access to both Wesmont Station and the Commuter Parking Lot are currently being completed by several other real estate developers under their respective agreements with Wood-Ridge Development, LLC. A section of an existing street known as Highland Avenue, and which has been closed since the demise of the Curtiss-Wright complex in the 1960's, is being rebuilt by the Ingerman Development Group of Cherry Hill, complete with lighting and sidewalks. Residents living within a residential complex that was recently built by Ingerman and opened in September 2015 will be within a 10-minute walk to Wesmont Station along a sidewalk to be constructed adjacent to the Commuter Parking Lot as part of the scope of work of the NJ TRANSIT contract.



In addition to the above noted roadway work, two other new streets, to be formally designated as Johnson Drive and Wesmont Drive, are also being constructed by Ingerman and two other real estate developers providing vehicular and walkway access to Wesmont Station from Passaic Avenue, a major street in the Borough of Wood-Ridge. This specific roadway access will be along a route directly through residential complexes

that have already been built by Avalon Bay of Arlington, Virginia and Pulte Homes of Atlanta, Georgia.

Agreement Responsibilities – Parking Lots Contract

Under the current terms and conditions of the development agreement, as modified under Amendment 2 executed in September 2012, the following responsibilities are now being assumed by the Parties for the parking lots contract:

- a. Wood-Ridge Development, LLC will assume all responsibility for designing both the Commuter and Employee parking lots utilizing the services of its own engineering consultants.
- b. NJ TRANSIT will build, operate and maintain the Commuter Parking Lot on land owned by NJ TRANSIT and which is currently used by its employees at the Wood-Ridge Maintenance-of-Way Facility. NJ TRANSIT will therefore advertise, bid, award and oversee the completion of the parking lot contract.
- c. NJ TRANSIT will construct a second parking area, the Employee Parking Lot, on land owned by the aforementioned Wood-Ridge Industrial, LLC, which will be for the exclusive use of NJ TRANSIT's employees headquartered at the Wood-Ridge Maintenance-of-Way Facility.
- d. As a consequence of the need to build the Employee Parking Lot on privately owned land, Wood-Ridge Industrial, LLC will convey a permanent easement to NJ TRANSIT to allow its employees to park and store equipment and materials within this lot.

Agreement Responsibilities – Wesmont Station

Under the terms and conditions of the development agreement, NJ TRANSIT and Wood-Ridge Development, LLC agreed to apportion the costs of the Westmont Station project. Consistent with that apportionment, the Developer assumed responsibility for all costs associated with the design, permitting, management and construction of Wesmont Station. NJ TRANSIT assumed responsibility for all costs associated with the trackwork and flag protection services for the Wesmont Station project.

As a consequence of the decision to not construct the Clifton Maintenance-of-Way facility, Wood-Ridge Development, LLC is now responsible for paying all remaining costs to complete the Wesmont Station project. This includes remitting to NJ TRANSIT any costs the Agency may incur exceeding the maximum financial contribution for the station. NJ TRANSIT's activities subject to this reimbursement obligation would include all design, permitting, force account, flag protection, construction and administrative services. NJ TRANSIT however, remains responsible for all costs associated with the construction of both the Commuter and Employee parking lots.

**PROJECT ALLOCATION**  
(estimated)

| <b>Project Element</b>  | <b>NJ TRANSIT</b> | <b>Wood-Ridge Development</b> | <b>Total</b>      |
|---|-------------------|-------------------------------|-------------------|
| Station – Administration and Construction Management<br>Parking Lots – Construction | \$ 6.000M         | ---                           | \$ 6.000M         |
| Station – Design and Construction<br>Parking Lots – Design                          | ---               | \$ 9.700M                     | \$ 9.700M         |
| <b>Total Project Costs</b>  | <b>\$ 6.000M</b>  | <b>\$ 9.700M</b>              | <b>\$ 15.700M</b> |

Project Funding

A total of \$4.325 million in federal funding has been allocated to the design and construction of the station project. Of this amount, a maximum of \$2.237 million has been paid by NJ TRANSIT to Wood-Ridge Development, LLC to reimburse the Developer for the engineering and construction costs that the Developer has incurred up to June 2014. Since that time, Wood-Ridge Development, LLC has been using other sources of funding to continue the construction of Wesmont Station and the design of the parking lot.

The balance of the federal funding in the amount of \$2.088 million has been, and continues to be, used by NJ TRANSIT to pay for the Agency's administrative, flag protection, force account and other incurred costs. The parking lot contract will be paid for using federal and state funding that is allocated to the project.

**PROJECT FUNDING**

| <b>Funding Sources</b>         | <b>NJ TRANSIT</b> | <b>Wood-Ridge Development</b> | <b>Total</b>      |
|--------------------------------|-------------------|-------------------------------|-------------------|
| Federal Transit Administration | \$ 2.088M         | \$ 2.237M                     | \$ 4.325M         |
| Transportation Trust Fund      | \$ 3.912M         | ---                           | \$ 3.912M         |
| Other                          | ---               | \$ 7.463M                     | \$ 7.463M         |
| <b>Total Funding</b>           | <b>\$ 6.000M</b>  | <b>\$ 9.700M</b>              | <b>\$ 15.700M</b> |

Letters of Credit

To guarantee its ability to reimburse NJ TRANSIT, Wood-Ridge Development, LLC was required to submit irrevocable Letters of Credit covering all costs the Agency incurs on the station project. The value of the individual Letters of Credit was to be increased over time so that the cumulative value was at all times sufficient to cover NJ TRANSIT's past and anticipated future costs.

The current, cumulative value of the six Letters of Credit written to date stands at \$3.0 million. Each is in NJ TRANSIT's possession and was executed by Citibank NA (totaling \$1.2 million) and by HSBC Bank (totaling \$1.8 million). As the Developer has elected to not build the Clifton Maintenance-of-Way facility, NJ TRANSIT will be able at any time to call upon the Letters of Credit to cover all costs that may exceed its maximum financial contribution for the station, should the Developer be unable or unwilling to satisfy its reimbursement obligations to NJ TRANSIT.

Principals of Wood-Ridge Development, LLC

FBE Holding LLC – Abe Fruchthandler  
Garden State Management – Rubin Schron  
Somerset Development – Ralph Zucker  
Bruce Federman  
Joshua Safrin

Principals of Wood-Ridge Industrial, LLC

FBE Holding LLC – Abe Fruchthandler  
Garden State Management – Rubin Schron  
Lakewood Development, LLC – Garden State Management (Rubin Schron), Ralph Zucker  
Somerset Development – Ralph Zucker  
Bruce Federman  
Joshua Safrin

Procurement of Design Consultant

Pursuant to the terms of the Agreement, on November 7, 2008, NJ TRANSIT advertised Request for Proposal No. 09-030 to secure consulting engineering services to design Wesmont Station, up to the point of the selection of the consultant, in order to ensure compliance with Federal Transit Administration procurement requirements. On February 19, 2009, Jacobs Engineering Group, Inc. of Morristown was determined to be the highest-ranked proposer. A contract was then executed 11 months later in the amount of \$1,443,705 between Jacobs Engineering Group, Inc. and Wood-Ridge Development, LLC, on January 12, 2010.

Similarly, under the terms of the same Agreement, on July 12, 2012, NJ TRANSIT advertised Invitation for Bid No. 12-061X to secure the construction services of a contractor to build Wesmont Station, up to the point of award, in order to ensure compliance with Federal Transit Administration procurement requirements. Bids were opened on September 20, 2012 and the firm of Anselmi & DeCicco, Inc. of Maplewood

submitted the lowest, responsive and most qualified bid in the amount of \$8,667,950. A contract was executed between Anselmi & DeCicco, Inc. and Wood-Ridge Development, LLC approximately 13 months later, on October 29, 2013.

Procurement of Construction Contract

The NJ TRANSIT Office of Business Development assigned a Race Neutral Disadvantaged Business Enterprise (DBE) goal for this project. The Invitation for Bid for the Wesmont Parking Lots Project was advertised on BID EXPRESS, NJ TRANSIT's electronic bid system, and in *The Star-Ledger* and *The Trenton Times* on March 18, 2016. A Pre-Bid Conference was held on April 5, 2016 at the Wood-Ridge Maintenance-of-Way facility; a site visit followed the Pre-Bid Conference. Bids will be received electronically and opened on April 20, 2016 at NJ TRANSIT's Headquarters in Newark.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

**FISCAL IMPACTS**

**Requested Authorization:** Not to exceed budgeted amount + 5% contingency

**Previous Authorizations:** None for this specific contract

June 2008  
Item 0806-36  
Authorization to enter into a development agreement with Wood-Ridge Development, LLC of Lakewood for the design and construction of the Wesmont Rail Station and the proposed Clifton Maintenance-of-Way Facility

September 2010  
Item 1009-49  
Authorization to amend the agreement with Wood-Ridge Development, LLC under Amendment No. 1 to convey additional federal funding and, to extend by two years the developer's commitment to build the Clifton Maintenance-of-Way facility.

April 2012  
Item 1204-13  
Authorization to execute Amendment No. 2 to the subject Agreement which provided for multiple modifications to the terms and conditions of the original Agreement.

December 2012  
Item 1212-67  
Recognized modifications that were made by Amendment No. 2 to the development Agreement.

**Expenditures to Date:**

NJ TRANSIT expenditures \$ 3,280,000 (as of 11/30/2015)  
Developer expenditures \$ 8,390,000 (as of 11/30/2015)

**Total Project Cost:** \$ 15,700,000 (includes Wesmont Station and the Commuter and Employee parking lots)

**Projected Date of Completion:** Spring 2016

**Capital Program Amount:** \$ 15,700,000

**Operating Budget Amount:** None

**Anticipated Source of Funds:**

Developer Contribution \$ 7,463,000 + all overruns

Federal Transit Administration \$ 4,325,000

Transportation Trust Fund \$ 3,912,000 includes the estimated parking lot cost

**PRINTS ID Number:** RPF00155

**DBE/SBE Goal:** Race Neutral Goal

***NJ Build* Amount:** TBD

**Related/Future Authorizations:** None for this contract

|   |                                |                     |
|---|--------------------------------|---------------------|
| <b>Impacts on Subsequent<br/>Operating Budgets:</b> | Annual Station Maintenance     | (\$ 150,000 )       |
|   | Annual Farebox Revenue         | \$ 600,000          |
|   | Annual Parking Lot Revenue     | \$ 100,000          |
|   | Annual Parking Lot Maintenance | <u>(\$ 40,000 )</u> |
|   | Annual Net Revenue             | \$ 510,000          |

## RESOLUTION

**WHEREAS**, the Borough of Wood-Ridge has approved plans for the redevelopment of the former Curtiss-Wright industrial plant which includes a proposed train station and parking facility on NJ TRANSIT's Bergen County Line (hereafter the Wesmont Station Project); and

**WHEREAS**, NJ TRANSIT currently operates the Wood-Ridge Maintenance-of-Way facility on portions of this property; and

**WHEREAS**, in 2008 NJ TRANSIT and Wood-Ridge Development, LLC entered into an Agreement for the design and construction of the proposed Wesmont Station and parking facility; and

**WHEREAS**, the Agreement was amended in April 2012 setting forth the specific obligation to design the Commuter and Employee parking lots by Wood-Ridge Development, LLC and, the obligation to construct each lot by NJ TRANSIT; and

**WHEREAS**, the New Jersey Public Transportation Act of 1976, P.L. 1979, c. 150, authorizes NJ TRANSIT to lease, purchase and sell or dispose of, on terms which NJ TRANSIT may prescribe, real and personal property; and

**WHEREAS**, the selection of a parking area for commuters will result in the need to build a new parking area for NJ TRANSIT's employees, working at its Wood-Ridge Maintenance of Way Facility, on land owned by an affiliate of Wood-Ridge Development, LLC.

**NOW, THEREFORE, BE IT RESOLVED**, that the Chairman or Executive Director is authorized to enter into NJ TRANSIT Contract No. 16-017X with the lowest responsive responsible bidder for the Wesmont Station Parking Lots Project in an amount not to exceed the budgeted amount, plus five percent for contingencies, subject to the availability of funds.

**ITEM 1604-19: MEMORANDUM OF UNDERSTANDING TO EVALUATE PROPOSED DEVELOPMENT NEAR FRANK R. LAUTENBERG STATION AT SECAUCUS JUNCTION**

**BENEFITS**

Secaucus Brownfields Redevelopment, LLC (SBR) is proposing to redevelop the former Malanka Landfill, located in the Town of Secaucus, Hudson County, near NJ TRANSIT's Frank R. Lautenberg Station at Secaucus Junction (Lautenberg Station) and New Jersey Turnpike (NJTPK) Exit 15X, with a park-and-ride facility having a capacity of up to 3,000 vehicles and a separate parking area and drop-off for buses as well as a site for a future hotel use (Proposed Development). The Malanka Landfill has no direct access to either the NJTPK or Lautenberg Station and SBR proposes to construct a roadway that would intersect with Seaview Drive, providing a connection with the NJTPK Exit 15X Ramp, and a pedestrian accessway that would connect with Lautenberg Station. It is anticipated that the construction of the parking facility would result in additional ridership at Lautenberg Station.



Source: Secaucus Brownfields Redevelopment, LLC

In order to construct the roadway and the pedestrian accessway, SBR will request that NJ TRANSIT convey necessary property rights and air rights as well as issuance of permits for the construction, and approve a pedestrian connection to Lautenberg Station. For its part, NJ TRANSIT is interested in identifying portions of SBR property for future dedication to permit potential improvements to the rail system in this

area, including expansion of the Northeast Corridor tracks to facilitate Amtrak's Gateway project.

This Memorandum of Understanding (MOU) provides a framework to allow SBR and NJ TRANSIT to undertake a coordinated assessment of the SBR Proposed Development and potential impact on NJ TRANSIT transportation improvements. As part of this assessment, SBR and NJ TRANSIT will establish an outreach program that will enable the traveling public and other interested stakeholders to provide input and receive information regarding the Proposed Development.

**ACTION (Scorecard: Corporate Accountability, Customer Experience, Financial Performance, Safety and Security)**

Staff seeks authorization to take all necessary actions to finalize, execute and implement a Memorandum of Understanding with Secaucus Brownfields Redevelopment, LLC, of Midland Park, New Jersey, for the purpose of assessing the

Proposed Development and proposed transportation improvements in the vicinity of the Frank R. Lautenberg Station at Secaucus Junction.

**PURPOSE**

Authorization to negotiate and ultimately to enter into this Memorandum of Understanding will allow NJ TRANSIT and SBR to undertake the necessary analyses, including potential real estate appraisals, to evaluate the feasibility and impacts of the Proposed Development and the proposed transportation improvements, including the constructability of the proposed pedestrian accessway as well as identifying portions of the SBR property for future dedication for proposed transportation improvements, such as in the NEC.

Should the project be determined to be feasible, Board of Director’s approval will be requested at a future date to enter into an Agreement for any conveyance of property as well as other negotiated business terms.

**BACKGROUND**

SBR is proposing a three-phase project, known as Park 15X Allied Junction Parking, in the vicinity of the Lautenberg Station. The first phase consists of closing and capping the former Malanka Landfill, after which SBR plans to construct a 3,000-car commuter park-and-ride facility, bus drop-off, a public roadway from Seaview Drive, and a public pedestrian connection directly to the Lautenberg Station. SBR has received preliminary approval from both the New Jersey Turnpike Authority and Hudson County for the access plan, including a commitment that the County would take ownership of the roadway subject to SBR’s ability to secure funding for construction and long-term maintenance. Negotiations regarding final approval by both agencies and execution of written agreements are on-going.

Phase II of the project includes construction of a hotel, residential, and retail facilities while Phase III proposes a convention center on the site.

Principals of Secaucus Brownfields Redevelopment, LLC

Daniel Allen  
Gregory Allen

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

**FISCAL IMPACTS**

**Requested Authorization:** Authorization to enter into a Memorandum of Understanding with Secaucus Brownfields Redevelopment, LLC

**Previous Authorizations:** None

**Expenditures to Date:** None

**Total Project Cost:** \$ 50,000

**Projected Date of Completion:** TBD

**Capital Program Amount:** \$ 50,000

**Operating Budget Amount:** None

**Anticipated Source of Funds:** Transportation Trust Fund

**PRINTS ID Number:** TBD

**DBE/SBE Goal:** N/A

***NJ Build* Amount:** N/A

**Related/Future Authorization:** Agreement for property acquisition and other business terms

**Impacts on Subsequent Operating Budgets:** None

## RESOLUTION

**WHEREAS**, Secaucus Brownfields Redevelopment, LLC is proposing to construct a 3,000-space parking facility with connections to Seaview Drive and Lautenberg Station on property known as the Malanka Landfill in the Town of Secaucus, Hudson County; and

**WHEREAS**, the construction of these connections requires that Secaucus Brownfields Redevelopment, LLC obtain property rights and air rights and permits from NJ TRANSIT; and

**WHEREAS**, various transportation improvements have been proposed and contemplated within the area of Lautenberg Station, including improvements to the Northeast Corridor, which require coordination with the Proposed Development by Secaucus Brownfields Redevelopment, LLC and identification of future dedication of property for these improvements;

**NOW THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to take all necessary actions to finalize, execute and implement a Memorandum of Understanding with Secaucus Brownfields Redevelopment, LLC, of Midland Park, New Jersey, for the purpose of assessing the Proposed Development and proposed transportation improvements in the vicinity of the Frank R. Lautenberg Station at Secaucus Junction.

**ITEM 1604-20: MEMORANDUM OF UNDERSTANDING WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) AND THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY RELATED TO THE GATEWAY PROGRAM**

**BENEFITS**

The Gateway Program consists of a set of rail infrastructure projects between Newark and New York City. The currently proposed first phase of the Gateway Program includes elements that will provide resiliency and maintain a state-of-good-repair on the existing rail infrastructure. Included in the proposed first phase is the Hudson Tunnel Project, two replacement railroad approach tubes connecting New York Penn Station and New Jersey, including the completion of a concrete casing to preserve tunnel right-of-way around the future tracks on the West Side of Manhattan leading from the new tunnel to Penn Station New York, and the replacement of the Portal and Sawtooth bridges in New Jersey. The proposed second phase of the Gateway Program includes projects that will both increase capacity and provide resiliency and state-of-good-repair on the rail infrastructure between Newark and New York City. This includes expansion of Penn Station New York, Newark Penn Station, and Secaucus Junction

**ACTION (Scorecard: Customer Experience, Corporate Accountability, Financial Performance, Safety and Security)**

Staff seeks authorization to negotiate and subsequently enter into a Memorandum of Understanding with the United States Department of Transportation, the National Passenger Railroad Corporation (Amtrak), and the Port Authority of New York and New Jersey in furtherance of the Gateway Program.

**PURPOSE**

Relevant to the November 2015 announcement by New Jersey Governor Chris Christie, New York Governor Andrew Cuomo, and U.S. Senators Corey Booker and Charles Schumer, NJ TRANSIT, a primary user of the existing Hudson River tunnels, has been engaged in on-going discussions with the United States Department of Transportation (USDOT), Amtrak, and the Port Authority of New York and New Jersey (PANYNJ) with the goal of identifying the full scope of the Hudson Tunnel Project and other elements of the Gateway Program. In order to support the parties' collaboration in planning, designing, funding, and constructing the Gateway Program in a manner consistent with the announcement, staff recommends that NJ TRANSIT enter into a Memorandum of Understanding (MOU) with the USDOT, Amtrak, and the PANYNJ setting forth a framework for the parties' activities to advance the Gateway Program prior to the commencement of operations under a development corporation.

**BACKGROUND**

On November 12, 2015, Governor Christie and Governor Cuomo, joined by Senators Booker and Schumer, issued a joint press release announcing their efforts to further the purposes of the Gateway Program by establishing a development corporation, or other similar entity, to advance the Gateway Program.

Under the MOU an Executive Committee comprised of the USDOT, Amtrak, NJ TRANSIT, the New Jersey Department of Transportation (NJDOT), the PANYNJ, and others provides leadership and oversight relating to the advancement of the Gateway Program. Five Working Groups, including Environmental Review and Permitting; Governance; Construction and Preliminary Engineering; Funding and Finance; and, Rail Operations, have been created. The parties are agreeing to cooperate to facilitate the environmental review of the Hudson Tunnel Project and advance other elements of the Gateway Program.

NJ TRANSIT staff, working with Federal Railroad Administration staff, is managing the Hudson Tunnel Project environmental process including the preparation of the Draft and Final Environmental Impact Statements. AKRF, the consultant team selected through the NJ TRANSIT competitive procurement process, has been issued a Notice to Proceed. Amtrak and NJ TRANSIT are funding the Hudson Tunnel environmental work. Amtrak and the PANYNJ are funding the preliminary engineering required to inform the environmental process and will prepare project definition, capital costs, and means of construction documentation.

**FISCAL IMPACTS**

**Requested Authorizations:** Authorization to enter into a Memorandum of Understanding with the USDOT, Amtrak and the PANYNJ

**Past Authorizations:**  
October 2015 Item 1510-42 Authorization to enter into an Interagency Agreement with Amtrak to conduct the environmental analysis and documentation as required by the National Environmental Policy Act (NEPA) of 1970 in support of the Hudson Tunnel Project

February 2016 Item 1602-02 Authorization to enter into NJ TRANSIT Contract No. 16-009 with AKRF of New York, New York to provide consulting services for the Hudson Tunnel Project Environmental Analysis; the AKRF contract award is approximately \$6,900,000

**Expenditures to Date:** \$ 216,000 (as of 02/29/16)

**Total Project Cost:** \$ 4,500,000

**Capital Program Amount:** TBD

**Operating Budget Amount:** \$0

**Projected Date of Completion:** TBD

**Anticipated Source of Funds:** Transportation Trust Fund  
Amtrak  
Federal  
Port Authority of New York and New Jersey

**PRINTS ID Number:** NJT01151

**DBE/SBE Goal:** NA

***NJ Build* Amount:** NA

**Related/Future Authorizations:** TBD

**Impact on Subsequent  
Operating Budgets:** None

## RESOLUTION

**WHEREAS**, the Gateway Program, consisting of a set of rail infrastructure projects between Newark and New York City, includes elements that will improve the resiliency and maintain a state-of-good-repair on the existing rail infrastructure and will include the construction of a new Hudson Tunnel, the completion of a concrete casing to preserve tunnel right-of-way around the future tracks on the West Side of Manhattan leading from the new tunnel to Penn Station New York, and the replacement of the Portal and Sawtooth bridges in New Jersey; and

**WHEREAS**, on November 12, 2015, Governor Christie, New York Governor Cuomo, joined by Senators Booker and Schumer, issued a joint press release announcing their efforts to further the purposes of the Gateway Program by establishing a development corporation, or other similar entity, to advance the Gateway Program; and

**WHEREAS**, until creation of the development corporation, NJ TRANSIT, Amtrak, the USDOT and the PANYNJ are interested in collaborating on issues related to advancement of the Gateway Program; and

**WHEREAS**, in furtherance of that interest the parties have drafted a Memorandum of Understanding that creates a framework for the parties' activities to advance the Gateway Program prior to commencement of operations under a development corporation;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to negotiate and subsequently enter into a Memorandum of Understanding with the United States Department of Transportation, the National Passenger Railroad Corporation (Amtrak), and the Port Authority of New York and New Jersey in furtherance of the Gateway Program.

**ITEM 1604-21: REGULATIONS: RULE-MAKING PROCESS PROPOSED READOPTION WITH AMENDMENTS TO N.J.A.C. 16:83 CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF NJ TRANSIT EQUIPMENT AND FACILITIES**

**BENEFITS**

Readoption of regulations, as amended, for the conduct and safety of the public in the use of NJ TRANSIT equipment and facilities will benefit the public by providing uniform standards and information as to (a) how the public may exercise its rights, including the right of expression, on NJ TRANSIT's equipment and facilities, (b) public behavior on or at NJ TRANSIT's equipment and facilities, and (c) how the public may use certain NJ TRANSIT railroad bridges to advertise community events.

NJ TRANSIT's rail stations, light rail stations, bus terminals, vehicles, and other facilities serve the dual purpose of facilitating safe, reliable, convenient, and cost-effective transportation as well as providing a forum for members of the public to exercise their constitutional rights of expression. In 1993, NJ TRANSIT adopted regulations to achieve that balance and readopted those regulations, with amendments, in 1997, 2002 and 2009. The regulations, codified in the New Jersey Administrative Code Title 16, Chapter 83 (Exhibit A), expire on April 9, 2016.

Staff reviewed the current regulations and determined that the rules are necessary, adequate, reasonable, efficient, understandable and responsible for the purposes for which they were originally promulgated and should be readopted, with the proposed amendments. Under the proposed amended rules, the rules for Certificates of Registration and Bridge Banner Permits are now addressed separately because the applications for the Certificates and Permits are separate and independent processes. In addition, various changes were made to clarify the administrative procedures for applying for and the approval of Certificates and Permits, all of which are delineated in the attached Exhibit A.

**ACTION (Scorecard: Corporate Accountability, Customer Experience, Safety and Security, Financial Performance)**

Staff seeks authorization ratifying the Executive Director's actions needed to initiate the rule-making process for the readoption of the regulations, N.J.A.C. 16:83 et seq., "Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities," consistent with this Board item and Exhibit A.

**PURPOSE**

Authorization ratifying the Executive Director's actions to initiate the rule-making process for these amended regulations will advance efforts to reestablish and enhance guidelines and procedures which govern the conduct and safety of the public use of NJ TRANSIT equipment and facilities.

**BACKGROUND**

NJ TRANSIT was established by the New Jersey Public Transportation Act of 1979 (N.J.S.A. 27:25-1 et seq.) as the instrumentality of the State of New Jersey to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. Since 1993, NJ TRANSIT has promulgated and administered uniform, statewide standards for the conduct and safety of the public in the use of NJ TRANSIT's equipment and facilities. The rules seek to enable large numbers of people to safely and efficiently utilize the public transportation system that NJ TRANSIT provides and, simultaneously, accommodate those members of the public who wish to use NJ TRANSIT's facilities as a forum for public expression.

**FISCAL IMPACTS**

|   |   |
|---|---|
| <b>Requested Authorization:</b>                 | Ratify the Executive Director's actions needed to initiate the rule-making process for the readoption with amendments to the regulations <u>N.J.A.C.</u> 16:83. |
| <b>Past Authorizations:</b>                     | 1993, 1997, 2002 and 2009   |
| <b>Expenditures to Date:</b>                    | N/A   |
| <b>Total Project Cost:</b>                      | N/A   |
| <b>Projected Date of Completion:</b>            | N/A   |
| <b>Anticipated Source of Funds:</b>             | N/A   |
| <b>Prints ID Number:</b>                        | N/A   |
| <b>DBE/SBE Goal:</b>                            | N/A   |
| <b><i>NJ Build</i> Amount:</b>                  | N/A   |
| <b>Related/Future Authorization:</b>            | Adoption of Regulations   |
| <b>Impacts on Subsequent Operating Budgets:</b> | N/A   |

## RESOLUTION

**WHEREAS**, NJ TRANSIT was established by the New Jersey Public Transportation Act of 1979 (N.J.S.A. 27:25-1 et seq.) as the instrumentality of the State of New Jersey to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner; and

**WHEREAS**, NJ TRANSIT determined that it is necessary to establish standards for the conduct and safety of the public in the use of NJ TRANSIT equipment and facilities; and

**WHEREAS**, NJ TRANSIT determined that the issuance of regulations pertaining to the conduct and safety of the public in the use of NJ TRANSIT equipment and facilities will benefit the public by providing uniform, statewide standards and a clear means of understanding those regulations; and

**WHEREAS**, staff reviewed the current regulations and determined that the rules are necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were originally promulgated, and should be readopted with the proposed amendments; and

**WHEREAS**, these amended rules will advance the guidelines and procedures which govern the conduct and safety of the public in the use of NJ TRANSIT equipment and facilities;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman and the Board authorized ratifying the Executive Director's actions needed to initiate the rule-making process for the readoption of the regulations, N.J.A.C. 16:83 et seq., "Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities," consistent with this Board item and Exhibit A.

## DRAFT

PROPOSED READOPTION WITH AMENDMENTS:  
N.J.A.C. 16:83 CONDUCT AND SAFETY OF THE PUBLIC  
IN THE USE OF NJ TRANSIT EQUIPMENT AND FACILITIES

The agency proposal follows:

### Summary

The New Jersey Transit Corporation (NJ TRANSIT) and its subsidiaries are responsible for the provision of public mass transit services in the State of New Jersey. NJ TRANSIT owns, controls, and operates equipment (such as railcars and buses), yards, and facilities including major stations and terminals that are centers of activity through which many people pass each day.

Effective January 19, 1993, NJ TRANSIT adopted rules intended to ensure the safe and efficient passage of large numbers of people through the transit system and at the same time allow the public to use part of the facilities as a forum to exercise their constitutional rights of expression. Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 16:83 is set to expire on April 9, 2016.

A brief review of each of the subchapters of N.J.A.C. 16:83 follows:

Subchapter 1 sets forth the general provisions, including the purpose, scope, definitions, rules for commercial and non-commercial expression, and an enforcement provision. Subchapter 2 sets forth criteria for obtaining a Certificate of Registration or Bridge Banner Permit (Banner Permit) for non-commercial expression. Subchapter 3 lists the activities that are prohibited in or on NJ TRANSIT facilities and equipment.

The proposed amendments to N.J.A.C. 16:83 are as follows:

N.J.A.C. 16:83–1.1 has been amended to clarify that the procedures to obtain authorization to use certain railroad bridges apply only to advertising non-commercial community special events.

N.J.A.C. 16:83–1.2 has been amended to clarify the definition of “non-commercial community special events.”

N.J.A.C. 16:83–1.6 has been amended to provide clarification regarding enforcement measures.

N.J.A.C. 16:83-2.1(a) has been amended to allow for an alternative Certificate of Registration attachment that specifies the designated location. This subsection has been amended to clarify that completion of the application does not automatically result

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in the issuance of a certificate, and the certificate will be issued within 10 business days after receipt of the completed application. Additionally, this subsection has been amended to clarify that all applicants, regardless of whether an individual or organization, must state the number of persons to be in attendance and to remove the requirement to list the number of persons requesting the Certificate. This subsection has also been amended to add "The completed application must be received no later than 10 business days, but no earlier than 365 days, before the first date on which the Certificate is to be effective." to allow staff time to process the application. The subsection has been amended to clarify that NJ TRANSIT must receive the original application. The last sentence has been amended to provide clarification that incomplete applications will be returned to the applicant.

N.J.A.C. 16:83-2.1(b) has been amended to clarify Bridge Banner applications must be received no later than 10 business days, but no earlier than 365 days, before the first date on which the permit is to be effective. This subsection has also been amended to clarify completion of the application does not automatically result in the issuance of a banner permit and the issuance will be within 10 business days after receipt of the completed application.

N.J.A.C. 16:83-2.1(c) has been amended to clarify applications may be sent by postal mail, electronic mail or telefax.

The heading of N.J.A.C. 16:83-2.2 has been amended to delete Banner Permits, which has become a separate subsequent section, leaving this section for Certificates of Registration.

N.J.A.C. 16:83-2.2(a)(3) has been amended to clarify that regardless of the number of certificates requested, the application must state the name and title of the individual who will supervise and be responsible for the non-commercial expressive conduct.

N.J.A.C. 16:83-2.2(b) has been amended to delete the subsection regarding applications for Banner Permits and move it to a subsequent section.

N.J.A.C. 16:83-2.3 has been amended to replace the "Disposition of application; appeal of denial" section, which has been recodified as N.J.A.C. 16:83-2.6, with the "Validity of Certificates of Registration" section, which was previously combined with Banner Permits in N.J.A.C. 16:83-2.4. Subsection 2.3(a) has been amended to specify that a Certificate of Registration issued for a facility that does not close will be valid only for the times listed on the Certificate of Registration.

N.J.A.C. 16:83-2.4 has been amended to replace the "Validity of Certificate of Registration and Banner Permit" section with the "Application for Banner Permits" section that was previously codified as N.J.A.C. 16:83-2.2(b).

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N.J.A.C. 16:83-2.5 has been amended to replace the "Limitation of Certificate or Banner Permit" section, which has been recodified as N.J.A.C. 16:83-2.7, with the "Validity of Banner Permits" section that was previously codified as N.J.A.C. 16:83-2.4(e).

N.J.A.C. 16:83-2.6 has been amended to replace the "Noise" section, which has been recodified as N.J.A.C. 16:83-2.8, with the "Disposition of application; appeal of denial" section that was previously codified as N.J.A.C. 16:83-2.3.

N.J.A.C. 16:83-2.7 has been amended to replace the "Placards" section, which has been recodified as N.J.A.C. 16:83-2.9, with the "Limitation of Certificate or Banner Permit" section and add "NJ TRANSIT may revoke or suspend any Certificate or Banner Permit where it has concluded that the Certificate or Banner Permit holder has violated the requirements of the Certificate or Banner Permit, these rules, or both."

N.J.A.C. 16:83-2.8 has been amended to replace the "Tables" section, which has been recodified as N.J.A.C. 16:83-2.10, with the "Noise" section that was previously codified as N.J.A.C. 16:83-2.6.

N.J.A.C. 16:83-2.9 has been amended to replace the "Maintenance of area" section, which has been recodified as N.J.A.C. 16:83-2.11, with the "Placards" section that was previously codified as N.J.A.C. 16:83-2.7.

N.J.A.C. 16:83-2.10 has been amended to replace the "Banner installation, maintenance and removal" section, which has been recodified as N.J.A.C. 16:83-2.12, with the "Tables" section that was previously codified as N.J.A.C. 16:83-2.8.

N.J.A.C. 16:83-2.11 has been amended to replace the "Inspection of Certificate" section, which has been recodified as N.J.A.C. 16:83-2.13, with the "Maintenance of area" section that was previously codified as N.J.A.C. 16:83-2.9.

N.J.A.C. 16:83-2.12 has been amended to replace the "Liability" section, which has been recodified as N.J.A.C. 16:83-2.14, with the "Banner installation, maintenance and removal" section that was previously codified as N.J.A.C. 16:83-2.10.

N.J.A.C. 16:83-2.12(c) has been amended to remove the first sentence since NJ TRANSIT no longer charges administrative fees.

N.J.A.C. 16:83-2.13 has been added to include the "Inspection of Certificate" section that was previously codified as N.J.A.C. 16:83-2.11.

N.J.A.C. 16:83-2.14 has been added to include the "Liability" section that was previously codified as N.J.A.C. 16:83-2.12.

NJ TRANSIT has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice of proposal is excepted from the rulemaking calendar requirement.

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Social Impact

The rules proposed for re adoption with amendments allow for an orderly exercise of the public's rights of expression. The process balances the concerns of those members of the public who are interested in the facility's primary use as a means to move from place to place, and those who are interested in the use of the facility as a forum for public expression, while ensuring public safety. The amendments aim to make certificates of registration and bridge banner permits available to interested members of the public efficiently and equitably.

Activities that are incompatible with the primary purpose of the facilities and equipment of NJ TRANSIT (such as the obstruction of a passageway, vandalism of equipment, dumping of garbage, or the use of restroom for bathing or the washing of clothes) will not be allowed. The primary purpose of the facilities will be maintained by these rules, and could affect everyone who utilizes the facilities of NJ TRANSIT.

Economic Impact

The rules proposed for re adoption with amendments would have limited economic impact. Those who choose to apply for a certificate of non-commercial expression will be able to do so at no cost. There is no fee, and the forms are provided at a central location for the use of the public. Eligible organizations that wish to use NJ TRANSIT property for advertising purposes by hanging bridge banners must apply for a Bridge Banner Permit. This requirement will promote public safety and ensure that individuals who abide by these rules have reasonable access to the requested facility. Commercial transactions and their associated economic impacts are not the subject of these rules and are referenced herein only to distinguish them from the non-commercial activities that are the subject of these rules.

Federal Standards Statement

A Federal standards analysis is not required because the requirement of the rules proposed for re adoption with amendments are governed by State statute for which there is no federal analog.

Job Impact

The rules proposed for re adoption with amendments will not affect the creation or loss of jobs.

Agriculture Industry Impact

The rules proposed for re adoption with amendments have no impact on the agriculture industry.

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Regulatory Flexibility Analysis

The rules proposed for re-adoption with amendments may impose compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules in this chapter accomplish two things: they provide a means whereby the orderly non-commercial expression of the public may take place and they prohibit activities that are incompatible with the primary purpose of the NJ TRANSIT facilities and equipment. The process for applying for and obtaining a certificate of non-commercial expression is expeditious and without cost to the applicant. The process for applying for and obtaining a bridge banner permit sets forth minimum requirements to ensure the safety of the public and NJ TRANSIT's operation. Some charitable organizations may be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq; however, there is no reason to discriminate in the application of these provisions on a basis of business (that is, charitable organization) size. The prohibitions, which are also part of this chapter, are prohibitions on the behavior of individuals, not on small businesses per se.

Housing Affordability Impact Analysis

The rules proposed for re-adoption with amendments will not have any impact on housing affordability. The rules inform and instruct how members of the public can exercise their constitutional rights of expression, and the standards of behavior to be followed, in or on NJ TRANSIT facilities and equipment. As such, the rules will have no effect on housing units or on the average cost of housing.

Smart Growth Development Impact Analysis

The rules proposed for re-adoption with amendments will not have any impact on the implementation of the State Development and Redevelopment Plan. The rules inform and instruct how members of the public can exercise their constitutional rights of expression, and the standards of behavior to be followed, in or on NJ TRANSIT facilities and equipment. The rules will have no effect on affordable housing or on new construction within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the proposed amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

16:83-1.1 Purpose; scope

The New Jersey Transit Corporation and its subsidiaries (NJ TRANSIT) are responsible for the provision of public mass transit services in the State of New Jersey. NJ TRANSIT owns, controls and operates equipment (such as railcars and buses), yards and facilities. The facilities include, but are not limited to, rail and bus stations and terminals and are instrumental to NJ TRANSIT's mission to provide and safely manage

**EXHIBIT A**

mass transit services in New Jersey. NJ TRANSIT's stations and terminals are centers of activity in their respective communities through which many people pass each day. From time to time, NJ TRANSIT receives requests from members of the public for permission to exercise their constitutional rights of expression at such stations and terminals. NJ TRANSIT, through this chapter, informs and instructs the public how it can exercise its rights on or about NJ TRANSIT facilities and the procedures to be followed in exercising such rights. NJ TRANSIT also sets forth, in this chapter, the standards of behavior to be followed in or on NJ TRANSIT facilities or equipment. Finally, NJ TRANSIT sets forth, in this chapter, procedures to be followed to obtain authorization to use certain railroad bridges to advertise non-commercial community special events. It is NJ TRANSIT's objective and intent that any and all applicable provisions of the New Jersey Code of Criminal Justice (Title 2C) the motor vehicle and traffic laws of New Jersey (Title 39), as well as any other applicable statutes of this State shall continue in full force and effect. NJ TRANSIT reserves the right to reject any applications for commercial or non-commercial speech or expression at NJ TRANSIT facilities where such conduct will impair NJ TRANSIT's ability to conduct its mass transit related business or where such expression gives rise to a credible public safety concern.

## 16:83-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Block" means to hinder or interfere with free passage or usage, so as to deny free access, movement, availability or purpose of any portion of NJ TRANSIT facilities or equipment.

"Bridge banner" means a temporary sign affixed to an approved NJ TRANSIT railroad bridge displaying advertisements for non-commercial community special events.

"Bridge Banner Permit" or "Banner Permit" means the document authorized by a designated NJ TRANSIT official which authorizes the display of a bridge banner.

"Certificate of Registration" means the document authorized by a designated NJ TRANSIT official, which delineates the restrictions as to specific times, specific locations and certain conditions under which a person may carry on non-commercial, public expression at a specified NJ TRANSIT facility.

"Certificate of Registration holder" means a person who holds a valid daily Certificate of Registration.

"Disrupt" means to act to hinder, interfere, upset, impede or otherwise oppose the orderly accomplishment or pursuit of a task, duty or objective or to interrupt the proper and normal course of any independent lawful activity.

**EXHIBIT A**

“Equipment” means any NJ TRANSIT locomotive, engine, passenger car, coach, trolley, street railway car, light rail vehicle, bus, motorcoach, van, ferry, piece of equipment or emergency device or passenger conveyance. Additionally, “equipment” as used in this chapter, unless a different meaning is clearly applicable, means and includes any NJ TRANSIT “Motor Vehicle” as defined under Title 39, Motor Vehicle and Traffic Laws of New Jersey.

“Expressive area” means designated portions of specific NJ TRANSIT facilities where a Certificate of Registration holder may locate and may exercise non-commercial public expression.

“Facilities” means all stations and terminals owned or operated by NJ TRANSIT under contract, lease or other agreements or arrangements, including joint service arrangements. NJ TRANSIT facilities are open to the public only at NJ TRANSIT’s discretion and NJ TRANSIT retains all rights of ownership in its facilities. Further, the term “facilities” shall mean rights of way and related trackage and sidings, rails, catenary systems, depots, yards, tunnels, bridges, structures, storage areas, parking areas, offices, buildings, signal and communications systems and networks, dispensing machines, signal power, power plants, emergency exits, stairways, ventilation systems, signage, lighting, repair and maintenance shops and other property, and all things used, owned, leased, held or occupied by NJ TRANSIT for or incidental to the operation, rehabilitation or improvement of rail, light rail and/or bus operations in the State of New Jersey and other jurisdictions where NJ TRANSIT operates to and from.

“Non-commercial community special event” means any non-commercial event open to the public, conducted and/or sponsored by a governmental, educational, charitable, religious, or any other non-profit organization. This definition is not intended to apply, and does not apply to, activities that are conducted on a continual, ongoing basis. Non-commercial community special events are those activities conducted on a one-time, annual, monthly, or seasonal basis on specific calendar dates.

“Non-commercial expression” means the public exercise of free speech rights in or on NJ TRANSIT facilities or equipment, which concern political, social, religious or other issues to the extent that such free speech expression is protected by the United States or State Constitutions, as applicable. Non-commercial public expression includes, but is not limited to, leafleting, public speaking, solicitation of signatures and comments, and solicitation of contributions, but not sales transactions, for religious, political or charitable causes. This definition is not intended to apply, and does not apply to, talking, reading, wearing political buttons or other forms of private individualized expressions, which are permitted throughout the public areas of facilities and equipment. Any advertisement, activity or solicitation that materially proposes a commercial transaction is expressly excluded.

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“Obstruct” means to walk, run, stand, sit, lie, drive or place an object in such a manner as to block and/or hinder passage by another person or by a vehicle or to require another person or vehicle to take evasive action to avoid physical contact.

“Official” means any person or persons designated by NJ TRANSIT to have supervisory and/or operational authority and responsibility for NJ TRANSIT facilities and/or equipment, or any portion thereof.

“Person” means any natural person, individual or group of individuals, corporation, society, organization, company, association, partnership, firm, or other entity.

“Personal notice” means an oral or written communication directed to an individual or a group of individuals from an NJ TRANSIT official.

“Police officer” means any member of the NJ TRANSIT Police Department, or any other law enforcement officer who has jurisdiction in, on, or adjacent to the NJ TRANSIT equipment or facility.

“Possess” means to have or to exercise control or command over any item, device, tool, product or matter.

“Public area” means such portions of NJ TRANSIT facilities and equipment, which are routinely and normally accessible to members of the public and are adapted to provide for the convenience of persons utilizing the services of NJ TRANSIT.

“Purposely” means intentionally, deliberately or with the objective, design or plan to participate in such conduct, which is known or expected to or is likely to cause a certain or specific result.

“Restrict” means to confine or set limits or to hold within bounds and limitations. Additionally, the term “restrict” shall include the exclusion of designated persons or groups.

“Restricted area” means such portions or portion of NJ TRANSIT facilities and equipment which are separately secured, locked, fenced, posted or otherwise adapted so as to put persons on notice that unauthorized entry is not permitted. Additionally, “restricted area” shall include portions of NJ TRANSIT facilities which are the subject of notification by personal communication, public announcement or appropriate signs that such areas are temporarily not to be entered and/or remained upon.

16:83–1.3 Commercial expression

(a) A contract with NJ TRANSIT shall be required of any person seeking to engage in any public expressive conduct that materially proposes a commercial transaction (commercial expression) including, but not limited to, the sale, offer, promotion,

**EXHIBIT A**

peddling, vending, advertisement or display of goods and/or services at or on any facility or equipment or to display any commercial advertisement at or on any NJ TRANSIT facility or equipment.

(b) Information concerning contracts for commercial expression is available by contacting the following:

NJ TRANSIT  
Real Estate Department  
One Penn Plaza East  
Newark, New Jersey 07105-2246  
Telephone: (973) 491-7451 or (973) 491-8078  
Fax: (973) 491-7331

(c) Nothing in this chapter shall be construed as impairing or expanding any right which NJ TRANSIT lessees or licensees may otherwise have to regulate access to those areas under their control by virtue of their interest in the premises.

16:83–1.4 Non-commercial expression

(a) NJ TRANSIT, in this chapter, hereby sets forth limitations on the times, places and manner of non-commercial expression in or on NJ TRANSIT facilities or equipment to ensure that the orderly and safe flow of people and vehicles is not obstructed and that the normal operations of business are not unduly disrupted. These limitations are not intended to apply, nor do they apply to, talking, reading, wearing political buttons or other similar private forms of expression, all of which are permitted throughout the public areas of NJ TRANSIT facilities and equipment.

(b) NJ TRANSIT will not permit the distribution of products or services at any NJ TRANSIT facility, regardless of whether a contribution is solicited or not, if in NJ TRANSIT's sole opinion, the product or service competes with, or conflicts with, the sale of products or services by NJ TRANSIT tenants, lessees or licensees at that location.

(c) NJ TRANSIT contracts for the display of paid advertising on, within and about NJ TRANSIT facilities as a vital component of its program to generate revenues in support of its mass transit operations. From time to time, at its sole discretion, NJ TRANSIT makes available Bridge Banner Permits, which are issued to organizations for the purpose of advertising non-commercial community special events. NJ TRANSIT reserves the right to use any railroad bridge or other facility for commercial advertising and may discontinue the use of any railroad bridge or other facility for the advertisement of non-commercial community special events at any time. Banners hung without NJ TRANSIT permission will be removed.

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16:83–1.5 NJ TRANSIT disclaimer

NJ TRANSIT shall not be responsible for the views and ideas expressed by a person holding a Certificate of Registration. Through signs, public announcements and/or personal communication, NJ TRANSIT may advise the public of the presence of a person and may disclaim responsibility for, and/or sponsorship of, that person's cause.

16:83–1.6 Enforcement

If NJ TRANSIT determines that any person's conduct violates any of these rules, that person shall be subject to such sanctions as deemed appropriate including ejection from the premises, arrest, pursuant to the applicable laws.

SUBCHAPTER 2. CERTIFICATE OF REGISTRATION AND BRIDGE BANNER PERMIT FOR NON-COMMERCIAL EXPRESSION

16:83–2.1 Non-commercial speech and expression; generally

(a) To accommodate persons who desire to engage in non-commercial expression at specified NJ TRANSIT facilities, the Senior Director, Real Estate and Economic Development or his or her designee will issue, subject to terms and conditions set forth in these rules, a Certificate of Registration (Certificate) on a first-come, first-served basis, to permit conduct of noncommercial expression in a specified location (as designated on the map or rider attached to the Certificate) at a particular NJ TRANSIT facility. An application must be completed in its entirety. The application must state the number of persons expected to be in attendance. The Certificate will be issued without charge and, consistent with these rules, shall be subject to availability and limitations of space and conditions. The completed application must be received no later than 10 business days, but no earlier than 365 days, before the first date on which the Certificate is to be effective. Upon application in person, or upon receipt of the original completed application by postal mail, electronic mail, or telefax, the approved Certificate will be issued within 10 business days after receipt of the completed application. Applications that have not been completed in their entirety shall be subject to being declared as incomplete and will be returned to the applicant.

(b) The Senior Director, Real Estate & Economic Development or his or her designee may issue Bridge Banner Permits, subject to terms and conditions set forth in this chapter, including, but not limited to N.J.A.C. 16:83-1.4, on a first-come, first-served basis, to permit display of the advertisement on a specified railroad bridge. Bridge Banner applications that are completed in their entirety, including the verbatim text and graphics to be used in the advertisement, will be considered successfully completed. The completed application must be received no later than 10 business days, but no earlier than 365 days, before the first date on which the permit is to be effective. Upon application in person, or upon receipt of the original completed application by postal mail, electronic mail or telefax, the approved Banner Permit will be issued within 10 business days after receipt of the completed application.

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(c) Applications for Certificates of Registration and Banner Permits may be obtained on weekdays between 9:00 A.M. to 5:00 P.M. by contacting:

Real Estate and Economic Development  
One Penn Plaza East  
Newark, NJ 07105  
Telephone: (973) 491-7451 or (973) 491-8078  
Fax: (973) 491-7331

Applications can be sent to the requester by postal mail, electronic mail or telefax.

16:83–2.2 Application for Certificates of Registration

(a) The application for a Certificate of Registration, signed by the applicant, shall contain the following:

1. The applicant's name. At the option of the applicant, the applicant's address and/or telephone number may be listed on the application but no applicant shall be required to list either an address or telephone number on an application for a Certificate of Registration;

2. If applicable, the name of the organization which the applicant represents;

3. The name(s) and title(s) of the individual(s) who will have supervision of and responsibility for the non-commercial expressive conduct at the specified facility during the term of the Certificate; and

4. If applicable, a statement that the proposed solicitation or sale of printed matter is for a non-commercial purpose, that is, for contributions, which will be used:

i. By a religious group;

ii. By a political organization;

iii. By an organization that has received an Internal Revenue Service determination that it is tax exempt under 26 U.S.C. §501(c)(3) or a successor provision, or any organization with a similar tax exemption; or

iv. By an organization duly registered with the State of New Jersey as a charitable organization, in accordance with N.J.S.A. 45:17A–1 et seq.

16:83–2.3 Validity of Certificates of Registration

(a) Each Certificate shall be valid for the date(s) and time(s) appearing on the approved Certificate. A Certificate shall be valid for up to, but not more than, five days. A

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Certificate shall not be valid prior to 6:00 AM or after the closing time of the facility. If the facility does not close, the Certificate shall be valid only until the time appearing on the Certificate.

(b) Each Certificate shall be valid only for the person(s) designated by NJ TRANSIT on that Certificate. Certificates are not transferable.

(c) NJ TRANSIT may limit the number of valid Certificates to the maximum number of individuals established for the particular facility, as indicated on the map or rider attached to each Certificate, taking into account the public transportation purposes and staffing levels of the facility.

(d) Certificates shall be valid only at the facility or facilities specified on the Certificate.

16:83–2.4 Application for Banner Permits

(a) The application for a Banner Permit, signed by the applicant, shall contain the following:

1. The applicant's name, title, address, and telephone number and the name of the organization, which the applicant represents;

2. The name(s) and contact information of the banner-hanging organization that will have supervision of and responsibility for placement, installation and maintenance and removal of the banner during the term of the Banner Permit;

3. A statement that the proposed advertisement is for a non-commercial community special event, is open to the public, and includes specific calendar dates on which the activity will take place;

4. The verbatim text and graphics to be used in the banner; and

5. If requested by NJ TRANSIT, the Banner Permit holder shall supply a list of credible professional references who can attest to the qualifications of the banner-hanging company.

16:83–2.5 Validity of Banner Permits

A Bridge Banner Permit is valid for up to, but not more than, 14 days. The bridge banner shall be removed no later than noon following the final date appearing on the Banner Permit.

16:83–2.6 Disposition of application; appeal of denial

(a) If NJ TRANSIT denies an application for a Certificate or Banner Permit, the denial shall be in writing and state the reasons for the denial.

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(b) The applicant may appeal this denial in writing by contacting the Assistant Executive Director (AED), Communications & Customer Service, New Jersey Transit Corporation, One Penn Plaza East, Newark, NJ 07105-2246, and shall include a statement describing the nature of the appeal and what factual issues, if any, shall be in dispute. If any factual dispute is alleged, the AED, Communications and Customer Service or his or her designee shall conduct a review on the papers and render a decision, within 15 days after receipt of such appeal. The decision shall be made in writing and shall set forth the basis for the decision. Where an applicant wishes to contest this decision, the applicant may, within 30 days, request a contested case hearing and the matter shall be forwarded to the Office of Administrative Law for fact finding before an Administrative Law Judge (ALJ), pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The ALJ shall issue an initial decision, which shall be returned to the NJ TRANSIT Board of Directors for a final agency decision.

16:83–2.7 Limitation of Certificate or Banner Permit

NJ TRANSIT may cancel, temporarily defer or modify the Certificate or Banner Permit for emergent public health, welfare or safety reasons, including extraordinary weather, power failures, accidents, terrorism, disasters, strikes, riot, fire, civil disorder, service disruptions, special NJ TRANSIT -sponsored customer service events or other events, which create an unsafe condition in the relevant expressive area or which substantially interfere with the transportation related activities of the facility. NJ TRANSIT may revoke or suspend any Certificate or Banner Permit where it has concluded that the Certificate or Banner Permit holder has violated the requirements of the Certificate or Banner Permit, these rules, or both.

16:83–2.8 Noise

Certificate of Registration holders shall at no time shout, make outcries or use devices for voice and/or sound amplification or use other devices that disrupt transportation-related activities.

16:83–2.9 Placards

Only placards made of cloth, heavy paper, cardboard or similar lightweight materials shall be used by Certificate holders. Such placards shall be no larger than 48 inches by 24 inches. Placards shall be exhibited no higher than nine feet from the floor and shall not be affixed to any wall, door, window, canopy or any other interior or exterior portion of the facility. Placards shall not be affixed to a stick, pole or post made of any material.

16:83–2.10 Tables

No Certificate of Registration holder shall use a table, unless the map attached to the Certificate expressly provides for this use in the designated expressive area.

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16:83–2.11 Maintenance of area

Certificate of Registration holders shall not leave materials unattended and shall remove the same at the end of each daily session. Certificate of Registration holders shall at all times keep the area in a reasonably clean, neat, and uncluttered condition.

16:83–2.12 Banner installation, maintenance and removal

(a) All banners must be hung by a municipal organization or company properly equipped and qualified to hang banners over roadways. The banner must be hung safely from the road by the qualified party without access to the railroad right of way.

(b) The size of the banner shall not exceed 15 feet wide x 3 feet high. Banners shall be constructed of heavy-duty canvas or vinyl and must contain grommets (reinforced eyelet or ring) in each corner to facilitate hanging and must include cording or ropes to properly secure the banner. NJ TRANSIT reserves the right to review and reject, in its sole discretion, methods of attachment, construction details and materials and installation procedures prior to hanging.

(c) If access to the track is requested for any reason, and the request is granted, an NJ TRANSIT railroad protective flagman is required and the Banner Permit holder shall be liable for all associated labor and administrative costs.

(d) The Banner Permit holder is responsible for obtaining any and all necessary additional permits and approvals, as well as coordination with local, county or State bodies that may be required, including police, public works and/or other governmental representatives.

16:83–2.13 Inspection of Certificate

A Certificate of Registration holder shall have the Certificate of Registration available at all times, on his or her person, for inspection by an authorized NJ TRANSIT representative or local official.

16:83–2.14 Liability

Certificate of Registration and Banner Permit holders assume all liability for any and all damage or injury arising out of the Certificate/Permit holder's use, occupancy, non-commercial speech or expressive activity, on or about NJ TRANSIT's facilities or equipment, and, by accepting the Certificate of Registration or Banner Permit, agree to release the State of New Jersey, NJ TRANSIT, its directors and its subsidiaries, and servants, employees and agents from any and all liability or damage resulting from the Certificate/Permit holder's use or occupancy of NJ TRANSIT's facilities or equipment in connection with the Certificate of Registration or Banner Permit. NJ TRANSIT shall not

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be responsible for the security and/or safeguarding of any funds collected by a Certificate of Registration holder.

**SUBCHAPTER 3. RESTRICTIONS AND PROHIBITIONS FOR ALL NJ TRANSIT FACILITIES AND EQUIPMENT**

**16:83–3.1 Prohibited acts**

(a) Except as otherwise provided for in this chapter, the following conduct is prohibited in or on NJ TRANSIT facilities or equipment, as set forth below:

1. No person shall disrupt or obstruct passage to or from a loading area, information booth, emergency or fire exit, restroom, hallway, stair, staircase, landing, escalator, elevator, ticket machine, ticket counter, concession counter, store, bench, seat, chair, platform, door or other walkway of a facility or equipment. No person shall occupy more than one seat in or on any NJ TRANSIT facility or equipment.

2. No person shall enter or remain in any area of a NJ TRANSIT facility or equipment upon oral or written notification from an authorized NJ TRANSIT employee, public announcement, or sign that access to such area is conditional unless such person complies with the specified condition(s).

3. No person shall throw, drop, shoot, project, propel, cast or otherwise strike in, into or place upon any facility or equipment any projectile, stick, pole, stone or other foreign matter or object. No person shall carry such foreign matter or objects into NJ TRANSIT facilities or equipment if the matter or objects represent a safety hazard.

4. No person shall dump, discard, unload, eject, throw out, scrap, abandon, dispose or otherwise rid themselves of any junk, refuse, trash, rubbish, waste, garbage, rubble, debris or other litter and unused matter into or upon any NJ TRANSIT facility or equipment without the authorization of NJ TRANSIT. This prohibition does not apply to refuse incidental to normal and routine usage of the facilities and equipment.

5. No person shall climb or attempt to climb into or upon any NJ TRANSIT facility or equipment without the express authority of NJ TRANSIT.

6. No person may consume or possess any alcoholic beverage, distilled spirits, wine, beer or malt nor shall any person possess an open, unsealed container of these beverages within the confine of NJ TRANSIT facilities or equipment except in such areas and at such times as designated by NJ TRANSIT as permitting the sale and/or consumption of these beverages.

7. No person shall ride, roll, skate, or coast upon any bicycle, skates, skateboard, roller blades, scooter or other personal motive device propelled by physical exertion or mechanical means within NJ TRANSIT facilities or equipment with the exception of mobility devices utilized by persons with disabilities.

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8. No person shall ignite, light, kindle or otherwise create, burn, maintain, preserve or sustain any fire except where expressly authorized by NJ TRANSIT.

9. No person shall light, smoke, or carry any lighted tobacco or tobacco product in any area of NJ TRANSIT facilities or equipment with the exception of those portions thereof designated and specially marked by NJ TRANSIT for smoking and using tobacco products.

10. No person, without an appropriate license from NJ TRANSIT or without prior agreement with NJ TRANSIT, may offer or agree to carry baggage, parcels, or belongings of others for personal pecuniary gain.

11. No person without an appropriate license from NJ TRANSIT and other appropriate authority, shall hire, attempt to hire, flag, hawk or otherwise provide cab services for personal pecuniary gain.

12. No person shall engage in, attempt to engage in or participate in any conduct, which purposely and unlawfully disrupts, interferes with or otherwise interrupts the commercial activities and pursuits of lessees, tenants and customers operating within NJ TRANSIT facilities or equipment and which serves no legitimate purpose of the person.

13. No person shall subject other persons, patrons, employees, tenants or tenants' employees to any or all of the following unlawful conduct:

i. Engaging in, or threatening, fighting or other violent or tumultuous behavior;

ii. Creating a hazardous or physically dangerous condition;

iii. Subjecting another to striking, kicking, shoving, spitting, punching or other offensive touching, or threatening to do so; or

iv. Engaging in any course of alarming conduct or of repeatedly committed acts with the purpose to alarm or seriously annoy such other person.

14. No person shall cause damage, injury or harm by vandalizing, defacing, marking, marring, scratching, gouging, tearing, burning, moving, altering or writing upon NJ TRANSIT facilities and equipment.

15. No person shall, while in or about NJ TRANSIT facilities or equipment, create, cause, maintain or sustain any noise that disrupts the operations of the facility or equipment.

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16. No person shall solicit funds without first obtaining a Certificate of Registration in accordance with the requirements of this chapter, or shall panhandle or beg within the confines of NJ TRANSIT facilities or equipment for any reason whatsoever.

17. No person shall spit in or on any facility or equipment.

18. No person shall urinate or defecate in any public or non-public area other than in urinals or toilets expressly provided for that purpose.

19. No person shall jointly occupy with one or more individuals any single urinal, toilet booth or stall with the exception of those individuals providing assistance to persons with disabilities or to individuals needing assistance.

20. No person shall utilize public restrooms for the purpose of bathing, changing clothes, laundering clothes or personal belongings, and all washing activities shall be limited to the immediate needs of personal hygiene.

21. No person shall refuse to tender or display compensation in the form of fare, currency, ticket, token or pass for the available transportation services, nor shall any person take actions with the purpose of avoiding this obligation.

22. No person shall bring, escort, carry or otherwise accompany any animal except guide dogs or any other service animals, appropriately controlled, or other domestic animals restrained in appropriate carriers.

23. No person may engage in non-commercial expression without complying with the terms and conditions of a valid Certificate of Registration.

24. No person shall be allowed access to any NJ TRANSIT equipment, whether stationary or mobile, for the purpose of conducting any non-commercial expression.

25. No person shall erect any permanent or temporary structure in or on NJ TRANSIT facilities or equipment without the authorization of NJ TRANSIT.

26. No person shall operate any vehicle nor shall any vehicle be parked upon NJ TRANSIT facilities in such a manner as is in violation of the provisions of Title 39, Motor Vehicle and Traffic Laws of New Jersey.

**SUBCHAPTER 3. RESTRICTIONS AND PROHIBITIONS FOR ALL NJ TRANSIT FACILITIES AND EQUIPMENT**

**16:83–3.2 Access during emergency**

NJ TRANSIT may temporarily grant or restrict public access to its facilities and equipment, or to portions thereof, at its sole discretion for emergent public health, safety

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or welfare reasons without prior notice. When there is a threat to the public health, safety or welfare, NJ TRANSIT facilities and equipment, or portions thereof, may be closed by any NJ TRANSIT official who has the authority to do so upon personal communication, public announcement or conspicuous signage.

**EXECUTIVE SESSION AUTHORIZATION**

**BE IT HEREBY RESOLVED** pursuant to N.J.S.A. 10:4-12 and N.J.S.A. 10:4-13 that the Board of Directors of the New Jersey Transit Corporation hold an Executive Session to discuss personnel matters, contract and collective bargaining negotiations, the status of pending and anticipated litigation and matters falling within the attorney-client privilege; and

**BE IT FURTHER RESOLVED** that it is expected that discussions undertaken at this executive session could be made public at the conclusion of these matters as appropriate.

**ITEM 1604-23: PROPOSED LABOR AGREEMENT: NJ TRANSIT RAIL OPERATIONS, INC. AND THE INTERNATIONAL ASSOCIATION OF MACHINISTS**

**BENEFITS**

NJ TRANSIT and special counsel, in recognition of collective bargaining negotiations, recommends approval of each proposed Memorandum of Understanding.

**ACTION**

Staff seeks authorization to approve the economic terms and other proposed conditions set forth in the Memorandum of Understanding negotiated by NJ TRANSIT Rail Operations and the International Association of Machinists and staff seeks authorization for the Executive Director, or his designee, to take all necessary steps to finalize and implement same, as discussed in executive session; and

Staff seeks authorization to approve the economic terms and other proposed conditions contained in each Memorandum of Understanding, once ratified by the respective remaining rail unions, and staff seeks authorization for the Executive Director, or his designee, to take all necessary steps to finalize and implement same, as discussed in executive session.

**PURPOSE**

Settle collective bargaining agreements with NJ TRANSIT Rail unions.

**FISCAL IMPACTS**

**Requested Authorizations:**

Authorization to approve the economic terms and other proposed conditions set forth in the Memorandum of Understanding negotiated by NJ TRANSIT Rail Operations and the International Association of Machinists and staff seeks authorization for the Executive Director, or his designee, to take all necessary steps to finalize and implement same, as discussed in executive session; and

Authorization to approve the economic terms and other proposed conditions contained in each Memorandum of Understanding, once ratified by the respective remaining rail unions, and staff seeks authorization for the Executive Director, or his designee, to take all necessary

steps to finalize and implement same, as discussed in executive session.

**Projected Date of Completion:** December 31, 2019

**Anticipated Source of Funds:** Operating Budget

**DBE/SBE Goal:** NA

## RESOLUTION

**WHEREAS**, all of the represented NJ TRANSIT Rail Operations employees have negotiated labor agreements with NJ TRANSIT Rail Operations management;

**WHEREAS**, the terms and conditions of each such agreement is set forth in an individual Memorandum of Understanding for each such union; and

**WHEREAS**, a majority of employees represented by the International Association of Machinists have now ratified that Union's Memorandum of Understanding with NJ TRANSIT Rail Operations;

**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby approves economic terms and other proposed conditions set forth in the Memorandum of Understanding negotiated by NJ TRANSIT Rail Operations and the International Association of Machinists and staff seeks authorization for the Executive Director, or his designee, to take all necessary steps to finalize and implement same, as discussed in executive session; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that once ratified by the remaining NJ TRANSIT Rail unions, the Board hereby approves the economic terms and other proposed conditions contained in each Memorandum of Understanding for the respective remaining rail unions, and authorizes the Executive Director, or his designee, to take all necessary steps to finalize and implement same, as discussed in executive session.