

Richard J. Codey
Acting Governor

Jack Lettiere
Board Chairman

George D. Warrington
Executive Director

N TRANSIT
One Penn Plaza East
Newark, New Jersey 07105-2246
973-491-7000

August 1, 2005

Dear Governor Codey:

Pursuant to Chapter 150, Laws of 1979, I herein transmit the minutes of actions taken at the open session of the regularly scheduled meetings of the New Jersey Transit Corporation, NJ Transit Rail Operations, Inc., NJ Transit Bus Operations, Inc., and NJ Transit Mercer, Inc. Board of Directors held on Wednesday, July 27, 2005.

Sincerely,



Gwen A. Watson
Board Secretary

Enclosures

Honorable Richard J. Codey
Acting Governor, State of New Jersey
State House
Trenton, NJ 08625

(NJT BOARD – 07/27/05)

Minutes of the actions taken at the Open Session of the regularly scheduled Board of Directors' meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. held at NJ TRANSIT Headquarters, One Penn Plaza East, Newark, New Jersey on Wednesday, July 27, 2005.

Present:

Jack Lettiere, Chairman
Myron P. Shevell, Vice Chairman
Keith Barrack, Governor's Representative
Flora Castillo
Kenneth E. Pringle
Robert Smartt

George D. Warrington, Executive Director
Lynn Bowersox, Assistant Executive Director, Corporate Commun. & External Affairs
James Gigantino, Acting Vice President & General Manager, Bus Operations
William Duggan, Vice President & General Manager, Rail Operations
Kenneth Worton, Deputy Attorney General
Frank Hopper, Assistant Executive Director, Procurement & Support Services
James Redeker, Assistant Executive Director, Policy, Technology & Customer Services
Richard Sarles, Assistant Executive Director, Capital Planning and Programs
H. Charles Wedel, Chief Financial Officer & Controller
Alma Scott-Buczak, Assistant Executive Director, Human Resources
Gwen A. Watson, Board Secretary
Robert Guarnieri, Auditor General

Chairman Jack Lettiere convened the Open Session at 9:25 am in accordance with the Open Public Meetings Act and asked for a motion to enter Executive Session to discuss contract negotiations and litigation matters. A motion was made by Myron P. Shevell, seconded by Kenneth E. Pringle and unanimously adopted.

Chairman Jack Lettiere reconvened the Open Session at 10:00 am and asked for a motion to adopt the minutes of the June 8, 2005 meeting. A motion was made by Kenneth E. Pringle, seconded by Myron P. Shevell and unanimously adopted.

Executive Director George Warrington highlighted the following from his monthly business report.

Executive Director Warrington said that NJ TRANSIT Police began to randomly inspect baggage in bus terminals and rail stations across the system. He said customers have responded positively and have communicated their support of this program and welcomed additional police officers patrolling bus, rail and light rail stations.

Executive Director Warrington said that all of this would not have been possible without the hard work of Chief Joe Bober and his team who worked quickly to put a plan in

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place to ensure that inspections were done right. Chief Bober and his officers have been working around the clock since the attacks in London on July 7, 2005. Executive Director Warrington said he deeply appreciates the Chief's efforts.

Executive Director Warrington also thanked Governors Codey and Pataki for their quick action executing orders giving NJ TRANSIT Police, New Jersey State Police and New York City Police Officers reciprocal authority to patrol the trains into and out of New York to secure the stations and support facilities.

In addition, Executive Director Warrington thanked Attorney General Peter Harvey, New Jersey State Police Superintendent Colonel Rick Fuentes, Office of Counter Terrorism Director Sid Casperson, New York City Police Commissioner Ray Kelly, and all of the law enforcement agencies who responded so quickly to assist NJ TRANSIT.

Executive Director Warrington said he appreciates Governor Codey's and Chairman Lettiere's leadership in support of the Fiscal Year 2006 operating and capital budgets. Executive Director Warrington said the operating budget accomplishes several important objectives. While running 100 more trains on an average weekday, over 400 more bus trips, and three light rail systems, serving an unprecedented level of customers, which is expected to grow by nearly three percent this fiscal year to more than 800,000 customer trips a day the budget maintains the same level of State support NJ TRANSIT received in Fiscal Year 2005 and again this year freezes the level of capital to operating transfer at last year's level. Executive Director Warrington said NJ TRANSIT has continued to tighten its belt with another \$12.6 million in business efficiencies, in addition to the \$50 million in efficiencies achieved since Fiscal Year 2003. He said excluding extraordinary surges in fuel prices and security costs, and with continuing increases in service frequency, NJ TRANSIT has contained expense growth to 2.9 percent.

Executive Director Warrington said the companion capital program invests more than \$400 million in state-of-good-repair projects, basic safety and reliability investments, including track, bridge, and signal improvements on the railroad, the replacement of almost 300 accessible buses a mid-life overhaul of Nova B transit buses rail station improvements at Newark Broad Street, Woodbridge, Trenton and Metropark and a new passenger communication public address system. Executive Director Warrington said with an eye toward the future, the capital program would advance THE Tunnel project.

Executive Director Warrington said NJ TRANSIT is going to improve access to the system and enhance services for customers through investments such as parking at Edison and Route 23/Wayne park & ride and the White House siding improvement on the Raritan Valley Line, as just a couple of examples. He said there are a number of projects that will help improve access to the system for all customers, including continuing the ADA key stations program with the installation of high-level platforms at Newark Broad Street and Red Bank stations, and also by outfitting Access Link vehicles with new locator devices which allow NJ TRANSIT to give customers real-time information about when the driver will arrive to pick them up. Executive Director

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Warrington said the capital program also includes the purchase of next generation buses and rail cars that customers will begin to see next year.

Executive Director Warrington said he is seeking Board approval to purchase nearly 300 new transit and suburban style buses that will replace 16-year old Metro B buses with better, more reliable equipment. He said the new buses would be equipped with wheelchair lifts and a kneeling feature to make them more accessible to all customers. The buses also incorporate new generation engines and the latest clean air filters to reduce diesel emissions. Executive Director Warrington said that beginning next year, these buses will be used on local routes serving Jersey City, Newark, Paterson, Hackensack, Elizabeth and Camden, as well as commuter service to New York City and Philadelphia.

Executive Director Warrington said that in 2002, NJ TRANSIT awarded the original contract to Bombardier for the purchase of 100 new bi-level rail cars. He was pleased to report that after extensive customer and employee input into the design of the new cars, NJ TRANSIT is on schedule for production and expects to take delivery of the prototype car for testing and display in September.

Executive Director Warrington said the first production cars will arrive on the property next spring and summer and after thorough testing on the railroad, NJ TRANSIT is looking forward to placing them in revenue service later in the year. He said the bi-level railcars would provide additional passenger carrying capacity particularly during the peak period. He said they would also be used to retire 70 obsolete low-level Comet I cars. He is also seeking approval to exercise an option with Bombardier for the purchase of 131 new bi-level railcars taking advantage of the favorable and very competitive price that was built into the original agreement of \$1.57 million per car.

The additional railcars will enable NJ TRANSIT to replace more than 100 aging (30-year-old) Comet I high-door cars. He said Comet I's operate on the Main/Bergen, Boonton, Raritan Valley and North Jersey Coast Lines. This option, coupled with production already underway, will substantially aid in accommodating forecasted market growth over the next decade. He said the bi-level railcar fleet is part of the Access to the Region's Core program which is the most critical passenger rail project of a generation for this region.

Executive Director Warrington gave a presentation regarding the Trans-Hudson Express Tunnel (THE Tunnel) (Access to the Region's Core) (Exhibit A).

Executive Director Warrington said the first railroad tunnel built to connect Manhattan with New Jersey was constructed between 1907 and 1910 by the Pennsylvania Railroad. He said although it had only two tracks, it was the engineering marvel of its time. It was designed for carrying passengers long-distance. Today, the tunnel is unable to meet the demands that nearly 100 years of population and economic growth have placed on it. The railroad's access to Manhattan is not a luxury; it is essential to the economic vitality of the region. The tunnel will retain current jobs and encourage

new employers to move here and it will help maintain the quality-of-life and will reduce congestion on highways and bridges. He said it is up to this generation to make the investments that keep public transit working. The light at the end of the tunnel is, ironically, another tunnel, the new Trans-Hudson-Express Tunnel (THE Tunnel).

Executive Director Warrington said the New Jersey-New York area is the most urbanized region in the nation. Every day hundreds of thousands of commuters cross the Hudson to work in one state or the other. NJ TRANSIT is carrying many of those people on a railroad infrastructure that has reached capacity.

Executive Director Warrington said that NJ TRANSIT Rail is bringing approximately 41,000 people in and out of Manhattan every morning during the peak. Between 2010 and 2012, the bi-level railcars, coupled with several capacity improvements at Penn Station, New York, will enable NJ TRANSIT to handle up to 54,000 people.

Executive Director Warrington said by 2015, when NJ TRANSIT combines those improvements with THE Tunnel, capacity will have been effectively provided for a future forecasted demand of 86,000 people per day during morning rush. Executive Director Warrington said NJ TRANSIT must keep up with the increases expected in regional population and job growth, or the lines of people waiting for trains will swell while the number of trains will not.

Executive Director Warrington said the alignment for THE Tunnel was not considered in a vacuum. He said that is the fear most people have when major public projects are undertaken; that they are planned by people who don't live in the real world.

Executive Director Warrington said NJ TRANSIT has spent a lot of time working with stakeholders to identify an alignment that effectively meets the demands while minimizing impact. He said the response and support has been very positive from many leaders on both sides of the Hudson, Governors Codey & Pataki, as well as our Congressional delegation, many state legislators and municipal leaders, New York City Council Speaker Gifford Miller and New York City Public Advocate Betsy Gotbaum, as well as Deputy Mayor Dan Doctoroff.

Executive Director Warrington said that NJ TRANSIT also appreciates the support from New Jersey State AFL-CIO President Charles Wowkanek; Laborers International Union of North America Vice President and Eastern Regional Manager President Ray Pocino; and the New York City Central Labor Council, as well as New York State Building Trades President Edward Malloy.

Executive Director Warrington said THE Tunnel has also been endorsed by many in the business community, including: New York State Building Congress President Richard Anderson, The New York City Partnership, Association for a Better New York, and the 34th Street Partnership.

Executive Director Warrington said that after months of work, NJ TRANSIT is asking the Board to approve the locally preferred alternative (LPA) or alignment for THE Tunnel project, which is a required step in the federal scoping and funding process. He said one of the most important features of the selected LPA is its ability to connect with existing services.

Executive Director Warrington said a rail loop would link the LPA with the Main-Bergen and Pascack Valley Lines. This will make THE Tunnel accessible to new markets in New Jersey and New York by providing a one-seat ride to Bergen, Passaic, Rockland and Orange county residents.

Executive Director Warrington said a second feature is the signal and infrastructure improvements that will be undertaken on the Northeast Corridor, one of the nation's busiest railroad lines. He said the LPA features THE Tunnel, the centerpiece of the project, which will effectively allow NJ TRANSIT to double the number of NJ TRANSIT trains going into Manhattan. He said on the Manhattan side of the river, the LPA includes a new station under 34th Street.

Executive Director Warrington said in New Jersey there will be a new yard facility with connecting tracks located in the Meadowlands. He said THE Tunnel is central to the success of so many other projects now in development. It will provide capacity and connections that will not only improve existing services but also make a wide array of new ones possible. For example, in eastern Bergen County, where projections show increases in both residential and commercial development, passenger rail service is being planned on the Northern Branch. When connected to THE Tunnel, riders will have a direct connection to Manhattan.

In western New Jersey, the Lackawanna Cutoff would bring an entirely new section of the State within easy reach of Manhattan. The Raritan Valley Direct service to New York has long been sought by NJ TRANSIT and the Raritan Valley Rail Coalition and will become possible as new equipment comes online and connections to THE Tunnel are established. The West Trenton extension would provide a direct connection to an even larger market.

Executive Director Warrington said the Passaic-Bergen line service would extend from Hawthorne to Hackensack with a connection to THE Tunnel for a one-seat ride to Manhattan.

Executive Director Warrington said the advantages of this specific alignment are many. THE tunnel affords NJ TRANSIT the flexibility of alternative access in and out of Manhattan should the existing tunnel be taken out of service. The track connections between the existing Penn Station in New York and the new station under 34th Street will enable trains to shift from one facility to another, a redundant feature which has become a hallmark in security and service planning.

Executive Director Warrington said the passenger connections between these stations, as well as those that link to City subways and PATH trains, will centralize travel options, and provide new points of entry and exit to the system.

Executive Director Warrington said the LPA is equally as effective in what it does not do, which is impact communities and the environment. Because of its design, NJ TRANSIT has been able to keep the number of impacted properties down. In Manhattan, the station is below street level minimizing the impact on surrounding neighborhoods.

Executive Director Warrington said drilling is deeper under the Hudson River than originally planned so that the river's floor is not disrupted. He said looking east from 8th Avenue, the new station at 34th Street is entirely below street level. It would be linked by mezzanines and concourses and riders will have easy access to additional transportation services, in particular to the existing Penn Station. It would be designed and engineered to provide riders with efficient connections to the Broadway and 6th, 7th and 8th Avenue subway lines and PATH trains. The spaces not dedicated to the operation of the railroad will create prime locations for commercial businesses.

Executive Director Warrington spoke about some of the benefits of this project that will be seen in pocketbooks and cash registers throughout the region. He said an independent analysis of the economic impact conducted by the Economic Research Associates indicates that almost 4,000 construction and construction-related jobs will be created each year and more than \$220 million each year for the New York and New Jersey economies. He said the economic benefits of this project continue long beyond the construction phase and the Economics Research Associates concluded that within the first ten years of THE Tunnel operations that 16,000 new permanent, non-construction related jobs will have been created in New Jersey generating \$4.3 billion in gross regional product.

Executive Director Warrington said that in New York City, 24,000 new permanent, non-construction related jobs will be created and \$5 billion in gross regional product. Projections show these jobs and these opportunities continuing to grow and they will be the direct result of the competitive environment that the THE Tunnel will help create for business.

Executive Director Warrington said the schedule for implementation is ambitious, but it can be nothing less for a project of this magnitude. A preliminary identification of possible properties for acquisition is underway as is an environmental review. Executive Director Warrington said that early this fall, NJ TRANSIT will release the Draft Environmental Impact Statement for public comment followed by the start of Preliminary Engineering. Executive Director Warrington said that next year, NJ TRANSIT will publish the Final Environmental Impact Statement and 12 months later will begin construction on the early improvements in Penn Station.

Executive Director Warrington said a Major Investment Study (MIS), which was completed by the Metropolitan Transit Authority (MTA) and the Port Authority of New York and New Jersey three years ago projected a rough order of magnitude estimate of between \$4 billion to \$5 billion for the project. He said a substantial amount of work has been done since then to refine the scope, including developing use of specific tunneling methods to reduce impact on surrounding communities, implementation of new security measures necessary in a post 9/11 world, plans for a new station, and a full rail operational analysis that included the need for expanded storage yard capabilities.

Executive Director Warrington said that in 2005 dollars, after inflation since the MIS was completed with a much more advanced and inclusive scope, the project cost estimate is about \$6 billion. The cost estimate will continue to be refined as the engineering advances and project details become more sharply focused.

Executive Director Warrington said THE Tunnel is at the center of NJ TRANSIT's core responsibility to anticipate and build for the extraordinary demand for railroad service that New Jersey and its economy will need for the next generation. Without this project, there would be traffic chaos in the region when you consider the forecasted job, housing and population growth in northern New Jersey and midtown Manhattan of more than 1 million plus people over the next 20 years. Factoring in the job growth potential in midtown Manhattan of 200,000 more jobs, there will be paralyzing gridlock or access denied to those jobs, effectively choking the economy.

Executive Director Warrington said there really is no choice. THE Tunnel is an economic and mobility necessity for this region. He said commuters today are doing what the trains do every day, which is funneling through an inadequate portal to Manhattan. They queue and wait patiently for their turn. The crowd would move faster to work or home if there were more ways in and out.

Executive Director Warrington said that going forward, NJ TRANSIT's ability to relieve congestion, meet increased market demand, and continue to serve as an economic engine for this State and region depends on achieving all of the benefits of the Access to the Region's Core program.

Executive Director Warrington said that this complex and vital project has benefited from and will continue to require extraordinary cooperation at the local and State level on both sides of the Hudson River. Executive Director Warrington said he is very pleased with the support NJ TRANSIT received in both New York and New Jersey.

Executive Director Warrington recognized Frank Hopper, Assistant Executive Director, Procurement and Support Services, who is retiring next month after 17 years of terrific service to NJ TRANSIT. Executive Director Warrington said he remembers interviewing Mr. Hopper 17 years ago for the position and personally negotiating the final details. He said during those negotiations, it was clear that the right person was selected to lead procurement. Executive Director Warrington said Mr. Hopper's dedication and skills will be missed and expressed best wishes to Mr. Hopper and his family.

Executive Director Warrington also congratulated Vince Soleo who will be the new Assistant Executive Director, Procurement and Support Services. He said Mr. Soleo has 25 years of experience and wished him good luck in his new position.

There was no Advisory Committee report to the Board.

There were five public comments on agenda items.

Joseph M. Clift, resident of Manhattan and a transportation professional, commented on the Board item: Trans-Hudson Express Tunnel (Access to the Region's Core (ARC)): Adoption of the Locally Preferred Alternative. He said he recently attended a meeting of ARC's Regional Citizen's Liaison Committee and the subject of the meeting was the selection of the locally preferred alternative. Mr. Clift said he became concerned as he listened to the questions asked by the attendees and the inability of the consultants running the meeting to answer them. Mr. Clift said the locally preferred alternative fails to meet one of ARC's two goals: to provide easy, walking access for NJ TRANSIT rail commuters to the majority of midtown Manhattan jobs, which are on the East side. He also said no one was able to explain how any of the options that provided access to the East Side and directly into Penn Station failed to be selected. Mr. Clift urged the Board of Directors to delay a decision on this item until all questions can be addressed.

George Haikalis, Chairman of the Regional Rail Working Group, commented on the Board item: Trans-Hudson Express Tunnel (Access to the Region's Core (ARC)): Adoption of the Locally Preferred Alternative. Mr. Haikalis said transit advocates support plans to increase capacity. However, NJ TRANSIT's plan is seriously flawed because it is costly and inconvenient for rail passengers. Mr. Haikalis said the proposed plan for a deep cavern under Macy's provides a significant risk to passenger safety. Mr. Haikalis said there is an alternative option that is consistent with ARC and that is to go from Penn Station to Grand Central. Mr. Haikalis urged the Board of Directors to postpone the decision on the locally preferred alternative and to study the alternative option.

Albert L. Papp, Jr., on behalf of the New Jersey Association of Railroad Passengers, commented on the Board item: Trans-Hudson Express Tunnel (Access to the Region's Core (ARC)): Adoption of the Locally Preferred Alternative. Mr. Papp said he has been involved with the ARC project for the last decade and continues to advocate for rail capacity. Mr. Papp said the New Jersey Association of Railroad Passengers continues to support the link from Penn Station to Grand Central. Mr. Papp said if the locally preferred alternative is adopted, there is no longer direct access to midtown and the Board is being asked to approve an expansion of the status quo. Mr. Papp said that the New Jersey Association of Railroad Passengers supports the additional tunnel, but he said they cannot approve or endorse a subterranean station. Mr. Papp said rail transit planning needs to be done on a regional basis and suggested that further studies are needed for this project.

David Peter Alan, on behalf of the Lackawanna Coalition, commented on the Board item: Trans-Hudson Express Tunnel (Access to the Region's Core (ARC)): Adoption of the Locally Preferred Alternative. Mr. Alan expressed support for the proposed new tunnel to midtown Manhattan. He said there is no doubt that an additional rail tunnel is needed. Mr. Alan said there are powerful interests to make the proposed deep station under 34th Street and Sixth Avenue the locally preferred alternative and he said from a rider's standpoint it is not the best solution. Mr. Alan said that dumping tens of thousands of rail riders eight to ten stories below Macy's basement is not the answer and it will not help them to reach their offices if they work on the East Side. He said it would add several extra minutes to their commute just to get out of the cavern, even if they work on the West Side. Mr. Alan said the proposed Manhattan end of the tunnel would be located a long distance from the existing Penn Station which would make train changes more difficult. He said it would be costly to build at the proposed depth and that very depth can also pose significant security problems. Mr. Alan said there are alternatives that make far more transit sense and urged the Board of Directors to study the alternatives.

Peter Palmer, Chairman, Raritan Valley Rail Coalition, commented on the Board item: Trans-Hudson Express Tunnel (Access to the Region's Core (ARC)): Adoption of the Locally Preferred Alternative. Mr. Palmer said due to the region's growth, expanded rail transportation and access to THE Tunnel is a necessity. Mr. Palmer said this project is an excellent plan and he said it is important to move forward on this project now. Mr. Palmer said he supports the Board item: Trans-Hudson Express Tunnel (Access to the Region's Core (ARC)): Adoption of the Locally Preferred Alternative.

Jeffrey Zupan, on behalf of the Regional Plan Association, commented on the board item: Trans-Hudson Express Tunnel (Access to the Region's Core (ARC)): Adoption of the Locally Preferred Alternative. Mr. Zupan said he is happy to support the locally preferred alternative for the ARC tunnel as proposed by staff. He said that the Regional Plan Association has been a consistent and early supporter of a new passenger tunnel to accommodate the recent and projected growth of travel across the Hudson. Mr. Zupan said the idea of connecting the tunnel into Grand Central Terminal was unworkable from an operating and institutional standpoint and would not be able to handle the full complement of 20 or more peak hour trains. Mr. Zupan said that there have been suggestions that NJ TRANSIT pursue the Grand Central option and he said that idea should be firmly and unequivocally rejected for several reasons. Mr. Zupan said that concept would mean significantly fewer peak trains and less added capacity than the locally preferred option, defeating one prime purpose of the new tunnel. Mr. Zupan said the locally preferred option also keeps very much alive the idea of reaching the East Side of midtown, where the largest concentration of jobs are, a goal equally worthy for the project. Mr. Zupan said the Regional Plan Association looks forward to working with NJ TRANSIT to continue the work to advance the idea of connecting ARC with the East Side, Rockefeller Center and the far West Side so that the entire region benefits from this important investment. Mr. Zupan said the next step is to find money for the tunnel. He said the impending bankruptcy of the New Jersey Transportation Trust Fund makes it clear that the State's transportation system is in dire fiscal straits.

Mr. Zupan suggested that everyone work together to convert the locally preferred alternative into the universally accepted and funded and under-construction alternative.

Executive Director Warrington presented the following Action Items for approval:

0507-49: TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE): ADOPTION OF THE LOCALLY PREFERRED ALTERNATIVE

Authorization was requested to officially designate the route of a proposed Trans-Hudson Express Tunnel under the Hudson River which will double the train capacity between New Jersey and New York. It will also provide a one-seat ride into midtown Manhattan for thousands more of customers. Two new single track tunnels under the New Jersey Palisades and Hudson River would be built, as well as a new multi-level station under 34th Street in New York. A new loop track would connect the Main Bergen County and Pascack Valley Lines with the Northeast Corridor providing direct access for these riders. Also planned are new pedestrian concourses, extended platforms at Penn Station New York. This five-mile project, from Secaucus to New York, will ensure that NJ TRANSIT keeps pace with projected ridership growth in the coming decades. Authorization was requested to approve the Locally Preferred Alternative, or alignment, for the Access to the Region's Core Major Investment Study. NJ TRANSIT looked at 137 alternatives in all before recommending the \$5.8 billion proposal. Upon approval, NJ TRANSIT will submit the plan to the North Jersey Transportation Planning Authority for this approval which will allow inclusion in its Long Range Regional Transportation Plan, making it eligible for federal funding.

Over the next several weeks, the Draft Environmental Impact Statement will be submitted to the Federal Transit Administration and public hearings on this project would be conducted in the fall of 2005. He said the locally preferred alternative was carefully considered. Executive Director Warrington said a lot of time was spent working with stakeholders to identify an alignment that effectively meets the demands while minimizing impact. He said positive response and support was received from many leaders on both sides of the Hudson as well as business communities as detailed in his earlier presentation.

Myron P. Shevell moved the resolution, Keith Barrack seconded it and it was unanimously adopted.

0507-50: TRANS-HUDSON EXPRESS TUNNEL – LEGAL SERVICES FOR ENVIRONMENTAL AND LAND USE REVIEW AND REAL ESTATE ACQUISITION: ACTION TO RESCIND PREVIOUS BOARD RESOLUTION NO. 0506-43

The ARC project requires a number of very complex legal issues related to property acquisition land use and environmental processes. Last month, the Board authorized the firm of Paul Hastings Janofsky & Walker in New York as Special Counsel, designated by the Attorney General, to support land use and environmental review for the tunnel project. Authorization was requested to rescind that item and instead authorize Kramer, Levin, Naftalis & Frankel, also of New York, to perform those legal services. The former firm's land use and environmental practice has been acquired by the latter firm of Kramer Levin. The Kramer Levin firm will accept all terms and conditions of the original designation.

In addition, because of the specialized legal counsel needed for property acquisition on each side of the river as well as the cost and complexity in acquiring those interests, approval was sought to contract with Kramer Levin Naftalis & Frankel as Special Counsel to support land use, environmental review, and real estate activities on the New York side at a cost not to exceed \$800,000.

On the New Jersey side, approval was sought to compensate the law firm of DeCotiis, Fitzpatrick, Cole and Wisler as Special Counsel in accordance with the New Jersey Attorney General's designation to support property and real estate actions and other necessary legal matters for THE Tunnel project at a cost not to exceed \$300,000.

Myron P. Shevell moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0507-51: FISCAL YEAR 2006 OPERATING BUDGET

Adoption of the Fiscal Year 2006 operating budget and authorization to continue to expend funds to meet obligations until the adoption of a Fiscal Year 2007 budget was requested. This budget includes expenditures of \$1.413 billion offset by \$687.6 million of passenger revenue and other system generated revenues, \$278.7 million in State operating assistance and \$446.7 million from other State and Federal reimbursements. The budget, together with administrative efficiencies, allows NJ TRANSIT to provide more trains, buses and light rail service to a record number of customers. This budget funds recent service growth including the addition of more than 80 weekday trains, 100 weekend trains and service increases on nearly 50 bus routes as well as the planned extension of the Hudson Bergen Light Rail to Tonnelles Avenue by the end of 2005. The

budget, for a second year in a row, freezes transfers from capital funding to operating expenses at last year's level. NJ TRANSIT has identified cost savings and business efficiencies of \$12.6 million by reducing overtime and renegotiating vendor contracts, excluding extraordinary increases for diesel fuel and security and continuing increases in service frequency. The Fiscal Year 2006 budget growth has been held to 2.9 percent. Approval was requested to adopt the Fiscal Year 2006 Operating Budget.

Flora Castillo moved the resolution, Kenneth E. Pringle seconded it and it was unanimously adopted.

0507-52: FISCAL YEAR 2006 CAPITAL PROGRAM

Adoption of the Fiscal Year 2006 capital program in the amount of \$1.147 billion to target projects that will restore and maintain the existing rail, bus and light rail systems. It continues funding state-of-good repair, expands the capacity of the existing system by purchasing 131 additional bi-level rail cars, 289 new buses and 2300 new parking spaces, funds \$26 million to advance the critical Access to the Region's Core tunnel and extension of the Hudson Bergen Light Rail, contains \$177 million for rail infrastructure and equipment purchases, and includes \$88 million for rail station improvements which include Newark Broad Street, Trenton and Metropark Stations. Of this \$1.14 billion program, \$733 million is dedicated to fixed expenses including debt service, capital to operating transfer and mandated services. Approval was requested to adopt the Fiscal Year 2006 Capital Program and to secure necessary funding and execute required agreements.

Keith Barrack moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0507-53: MULTI-LEVEL PUSH-PULL RAIL CARS: PURCHASE OF OPTION CARS

Arrival of the first multi-level rail car in New Jersey is scheduled for next month. The original order was for 100 cars, with options for up to 276 additional cars and spare parts. The base order is on budget and on schedule. Approval was requested to purchase an additional 131 rail cars from the manufacturer, Bombardier Transportation. These option cars will be identical to the base order of rail cars, and will be fully capable of operating on all of the rail lines. These option cars will enable us to retire our oldest obsolete equipment and meet forecasted demand over the next decade. Approval is requested to purchase 131 additional multi-level rail cars and spare parts at a cost not to exceed \$214,981,400 plus five percent for contingencies.

Flora Castillo moved the resolution, Kenneth E. Pringle seconded it and it was unanimously adopted.

0507-54: CERTIFICATES OF PARTICIPATION: LEASE FINANCING OF 131 MULTI-LEVEL RAIL CARS AND SELECTION OF SENIOR MANAGER/UNDERWRITER

Authorization to adopt the Resolution attached hereto authorizing the issuance of Subordinated Certificates of Participation (COPs), Series 2005A in the amount of \$285 million to finance the purchase of the Equipment and further authorizes the Chairman, the Executive Director, the Chief Financial Officer and Treasurer, the Secretary or their designees to take all actions necessary to consummate the sale of the COPs including negotiation and execution of all documents, repayment of principal and interest due under the COPs and the payment of all costs related to the issuance of the COPs including underwriting, trustee, legal, rating agency, insurance, credit enhancement and printing expenses.

Kenneth E. Pringle moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

(ITEM #0507-54 WAS PREVIOUSLY FORWARDED TO THE GOVERNOR ON JULY 27, 2005.)

0507-55: PURCHASE OF 289 SUBURBAN AND TRANSIT BUSES

Authorization was requested to contract with Millennium Transit Services to purchase 289 transit and suburban buses to replace 289 buses that have exceeded their 12-year useful life. These new buses will be equipped with wheelchair lifts and a kneeling feature and will comply with the Americans with Disabilities Act (ADA) mandates. The total cost will not exceed \$96,717,875 plus five percent for contingencies.

Myron P. Shevell recused himself from voting on this item. Flora Castillo moved the resolution, Keith Barrack seconded it and it was adopted.

0507-56: AMENDMENT TO HOBOKEN FERRY TERMINAL MEMORANDUM OF UNDERSTANDING

In 2002, NJ TRANSIT's Board of Directors and the Port Authority of New York and New Jersey's Board of Directors executed a Memorandum of Understanding (MOU) outlining terms under which the Port Authority would fund the rehabilitation of the Ferry Building at Hoboken Terminal and by which NJ TRANSIT would agree to a long-term lease of the rehabilitated space. After completion of structural repairs on the north side of the ferry terminal, authorization was requested to amend the

original MOU and to obligate the Port Authority to commit \$20 million to NJ TRANSIT within the next few months so that contracts can be awarded for the next phase of rehabilitation of the building. The amended MOU acknowledges that the Port Authority will contribute \$60 million of the \$94 million project cost.

Kenneth E. Pringle moved the resolution, Myron P. Shevell seconded it and it was unanimously adopted.

0507-57: **ADVANCED SPEED ENFORCEMENT SYSTEM: ENGINEERING AND CONSTRUCTION ASSISTANCE SERVICES**

The Advanced Speed Enforcement System (ASES) is a combination of Continuous Cab Signaling and Positive Train Stop technologies designed to automatically control train speed if the engineer fails to comply with speed limits. In order to make this system compatible with NJ TRANSIT's existing infrastructure and rolling stock, the train based speed enforcement technology requires development and adaptation, which includes design reviews, monitoring of on-board equipment installation, lab simulation, as well as field testing of the components. Therefore, to improve the safety and reliability of rail services, authorization is requested to amend the existing task order contract with Gannett Fleming, Inc. of South Plainfield, the consultant who has provided engineering support for the project since January 2004 and has experience with on-board equipment installation practices, state-of-the-art microprocessor advanced systems, and new technology development programs, thereby making them well suited to support this project. The requested contract amendment is \$1,675,000 plus five percent for contingencies for a total contract cost not to exceed \$2,281,956.

Kenneth E. Pringle moved the resolution, Robert Smartt seconded it and it was unanimously adopted.

0507-58: **WOODBIDGE STATION: PLATFORM REPLACEMENT
CONSTRUCTION CONTRACT AWARD**

Woodbridge Station on the North Jersey Coast Line serves approximately 1,600 passengers every weekday. Annual inspections have revealed that age and weather have contributed to a deterioration of the platform thereby necessitating replacement. The proposed construction work will be divided into three phases and will include construction of a new 800-foot long, center-island high level boarding platform and associated structures, waiting shelters, canopies and restrooms at street-level which are compliant with the Americans with Disabilities Act (ADA). Authorization was requested to contract with George Harms Construction

Co. for the Woodbridge Station platform replacement construction. The cost will not exceed \$14,661,725, plus five percent for contingencies.

Kenneth E. Pringle moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0507-59: ADDITIONAL AUTHORIZATION FOR TRANSIT SERVICE PLANNING AND CAPITAL PROJECT ANALYSIS CONSULTING SERVICES

By using data collected from customer surveys and focus groups, NJ TRANSIT develops the schedules and service plans to better service its customers. Utilizing on-call customer satisfaction and new product research consultants provides an economical and responsive means of capturing customer feedback. Over the next two years, several projects are planned in the areas of customer satisfaction research, new product testing and origin and destination studies. Authorization was requested for a two-year period to support four existing professional services contracts with Technometrica Market Intelligence, ORC Macro, Resource Systems Group Incorporated and TNS Intersearch to provide transit service planning and capital project analysis consulting services. The contracts will not exceed \$600,000 per task for an additional \$1,200,000 for a total authorization of \$2,050,000.

Keith Barrack moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0507-60: COMPUTER HARDWARE MAINTENANCE SERVICES

NJ TRANSIT's computing requirements are met by using a variety of equipment from multiple manufacturers. To maintain this equipment in a state-of-good-repair, a computer hardware maintenance agreement is required to provide both preventative and repair services. Authorization was requested for a one-year contract with two one-year options with Volt Delta Resources, Inc. at a cost not to exceed \$1,079,966, plus five percent for contingencies.

Flora Castillo moved the resolution, Robert Smartt seconded it and it was unanimously adopted.

0507-61: PASCACK VALLEY LINE SIGNAL RENEWAL PROJECT – CONDUIT INSTALLATION: CONSTRUCTION CONTRACT AWARD

As a result of transportation demand forecasts and customer requests, the Pascack Valley Line has been targeted for bi-directional and off-peak rail service. The proposed projects include installation of passing sidings, signal upgrades and parking capacity improvements. The installation of

conduit at 51 grade crossings is part of the signal renewal project being installed on the existing single track Pascack Valley Line that will accommodate bi-directional rail service. The proposed authorization will include general construction work to install the conduit under the road crossings. Authorization was requested to contract with J. Fletcher Creamer & Son, Inc. at a cost not to exceed \$1,678,802, plus five percent for contingencies to install the conduit at 51 grade crossings on the Pascack Valley Line.

Kenneth E. Pringle moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0507-62: PURCHASE OF NEW PRODUCTION WIRE TRAIN FOR CAPITAL CONSTRUCTION

NJ TRANSIT owns and maintains over 95 route miles of electrified railroad in the State of New Jersey. In order to upgrade the overhead wire system, specialized equipment is required to replace the existing equipment that is over 50 years old and can no longer be refurbished. A new production wire train with state-of-the-art technology will reduce cost and increase productivity. Authorization was requested to contract with Geismar, Modern Track Machinery, Inc. to supply a modern production wire train. The cost of the wire train for capital construction will not exceed \$3,354,520, plus five percent for contingencies.

Robert Smartt moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0507-63: UNDERGRADE RAILROAD BRIDGES: ENGINEERING SERVICES TO PERFORM IN-DEPTH INSPECTIONS, EVALUATIONS AND RATINGS

Maintaining bridge infrastructure in a state-of-good-repair is a key component to service reliability and ensuring the safety of passengers and the general public. NJ TRANSIT maintains 612 rail-carrying undergrade bridges systemwide that require bridge inspections, which are the basis for the capital bridge repair and painting program. Authorization was requested for the approval of contracts that will provide in-depth structural inspections, evaluations, and load-ratings for 141 undergrade railroad bridges. These inspections are a necessary step in the maintenance program and will allow NJ TRANSIT to achieve maximum return on its investments. Approval was sought to contract with Dewberry, URS Corporation and Edwards and Kelcey to perform the inspection tasks at a

cost not to exceed \$533,238, \$689,380 and \$580,012, respectively, for a total cost of \$1,802,630, plus five percent for contingencies.

Flora Castillo moved the resolution, Keith Barrack seconded it and it was unanimously adopted.

0507-64: MAINTENANCE OF WAY BASE AT WEST END SUBSTATION

The current Maintenance of Way facilities used to house equipment, material and employees that maintain the Morristown, Main and Bergen Lines between Hoboken Terminal and the Hackensack River were built in the early 1930's and are beyond repair. As part of the state-of-good-repair program, the 75-year-old substation and Maintenance of Way facility will be replaced in Jersey City near the Bergen Tunnel. Phase 1 of the project, which included the construction of the new substation is just about completed and expected to be operational in 60 days. The second phase, the maintenance of way base, will provide 2500 square feet of shop space, equipment storage, offices and a sign-up location for 25 to 30 electricians and track and signal field personnel that maintain the systems. Authorization was requested to contract with Joseph Hamilton Construction Company for the construction of the West End Crew Quarters at a cost not to exceed \$1,799,000, plus five percent for contingencies.

Myron P. Shevell moved the resolution, Keith Barrack seconded it and it was unanimously adopted.

0507-65: NEWARK CITY SUBWAY ACCESSIBILITY: ELEVATOR CONSTRUCTION

The Newark City Subway mezzanine level provides the only connection between the main building of Newark Penn Station and the subway platforms. Under a proposed contract, NJ TRANSIT will construct an elevator connecting the main concourse level of Newark Penn Station with the Newark City Subway mezzanine level. Authorization was requested to contract with DMR Construction Services, Inc. to allow for the completion of the accessibility construction on Newark City Subway in Newark Penn Station, thereby meeting NJ TRANSIT's compliance obligations in accordance with the voluntary compliance agreement with the Federal Transit Administration, at a cost not to exceed \$2,317,005, plus five percent for contingencies.

Flora Castillo moved the resolution, Robert Smartt seconded it and it was unanimously adopted.

0507-66: SOUTHERN NEW JERSEY RAIL GROUP VS. NJ TRANSIT:
COMPENSATION OF SPECIAL COUNSEL

In November 2002, the State Attorney General designated Sills Cummis Epstein & Gross as Special Counsel to NJ TRANSIT in defending the lawsuit filed by Southern New Jersey Rail Group, the Design-Build-Operate-Maintain (DBOM) contractor for the River LINE light rail project. Additional authorization was requested to compensate the law firm for comprehensive litigation support services for an additional cost of \$3,000,000. This amendment will bring the contract total to \$13,590,000 for continuing legal services in this matter.

Myron P. Shevell moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

Executive Director Warrington presented the following Consent Items for approval:

0507-67: AMENDMENT OF BOARD ITEM 0410-59: FRENCH CROSS-BORDER
LEASE: DIESEL LOCOMOTIVES

Authorization to amend the October 14, 2004 Board Item No. 0410-59 and enter into negotiations with SG for a 20-year French cross-border lease on all of the Alstom diesel locomotives and authorizes the Chairman, Executive Director, the Chief Financial Officer and Treasurer, the Secretary or their designees to take all actions necessary to close the lease, including the payment of all legal and other fees as well as up to \$250,000 to indemnify other parties should the transaction fail to close.

0507-68: LAND LEASE AMENDMENT FROM THE CITY OF HACKENSACK
(FOR THE HACKENSACK BUS TERMINAL)

Authorize the Chairman or Executive Director to enter into all necessary agreements and take all necessary actions with regard to NJ TRANSIT leasing from the City of Hackensack for a term of 25 years, Block 204A, Lot 28, 16,974 square feet of land encompassing a bus terminal and bus lanes in the City of Hackensack, Bergen County, in consideration of NJ TRANSIT's use of the property as a bus terminal and NJ TRANSIT's renovation of the same. The annual cost of the lease is \$1.

0507-69: LEASE TO THE TOWNSHIP OF READINGTON (EASTBOUND TRAIN
STATION BUILDING AND PARKING LOT)

Authorize the Chairman or Executive Director to enter into all necessary agreements and take all necessary actions with regard to NJ TRANSIT leasing to the Township of Readington for a term of 25 years, 1.540 acres of land encompassing a commuter parking lot and the eastbound

White House train station building in Readington Township, Hunterdon County, on NJ TRANSIT's Raritan Valley Line at milepost 44.3, in consideration of the Township's use of the property as a library and utilization and maintenance of the property according to the terms of the lease agreement. The lease is cancelable upon six months' notice should the railroad property be needed for railroad or other public transportation purposes.

0507-70: AMENDMENT TO BOARD ITEM 0210-117: SETTLEMENT OF CONDEMNATION LAWSUIT REGARDING PROPERTY ACQUISITION FOR NEWARK CITY SUBWAY EXTENSION

Authorization to amend the October 9, 2002 Board item which authorized \$435,000, for the acquisition of Lots 1.02 and 1.03 in Block 138, Newark, Essex County, New Jersey. The Board Item will be amended for an additional amount of \$306,000, totaling \$741,000 to acquire the property. This will allow for the acquisition of the property from First Bellemead Urban Renewal Corporation for \$741,000 in accordance with a Consent Order to be entered in the Superior Court of New Jersey as a result of a condemnation lawsuit settlement reached in this matter on June 8, 2005. The settlement amount of \$741,000 is inclusive of interest.

0507-71: EASEMENTS FOR REPLACEMENT OF CONRAIL BRIDGE IN SOUTH AMBOY

Authorize the Chairman or Executive Director to take all necessary actions to convey property interests from NJ TRANSIT to Conrail and the City of South Amboy and accept conveyance of property interests from Conrail, the City of South Amboy, Reliant Energy and others to NJ TRANSIT, and to enter into such agreements respecting temporary access during construction as may be reasonably required to enable the replacement of a Conrail bridge and track within the boundaries of existing Conrail easements.

(ITEM #0507-71 WAS PREVIOUSLY FORWARDED TO THE GOVERNOR ON JULY 27, 2005)

0507-72: DOVER STATION: TERMINATION OF EXISTING LEASE AGREEMENT WITH THE TOWN OF DOVER AND NEW LEASE TO DOVER LIQUOR LICENSE LLC

Authorization to enter into a lease with Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, for the lease of the Dover Station Building for the operation of a restaurant establishment for ten years with a five-year renewal option with rent starting at \$30,346 a year with an annual CPI

adjustment and in year six at \$42,000 a year with annual CPI adjustments thereafter. The lease is for 10 years with a five-year option. Authorization is also requested for NJ TRANSIT to enter into an agreement with the Town of Dover to lease to NJ TRANSIT the use of not less than 42 parking spaces to provide parking to serve customers of NJ TRANSIT's commercial tenant for as long as the station is in commercial use.

0507-73: REGULATION: RE-ADOPTION OF REGULATION N.J.A.C. 16:77 USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY

Authorization to take all actions necessary to adopt and promulgate the regulations N.J.A.C. 16:77 et seq. Use or Occupancy of NJ TRANSIT-owned Property, consistent with this Board item and exhibits.

0507-74: REGULATION: RE-ADOPTION OF REGULATION N.J.A.C. 16:82 EXAMINATION AND DUPLICATION OF NJ TRANSIT RECORDS

Authorization to take all actions necessary to adopt and promulgate the regulations N.J.A.C. 16:82 et seq. Examination and Duplication of NJ TRANSIT Records, consistent with this Board item and exhibits.

The Consent Calendar was moved in its entirety by Kenneth E. Pringle, seconded by Flora Castillo and unanimously adopted.

There were two public comments on non-agenda items.

Daniel O'Connell on behalf of the United Transportation Union said NJ TRANSIT needs a dedicated source of funding and the Transportation Trust Fund needs to be renewed now. Mr. O'Connell thanked Governor Codey for his quick action and concern for transportation safety as a result of the London terrorist bombings.

David Peter Alan on behalf of the Lackawanna Coalition said the Transportation Trust Fund would run out of money in less than a year jeopardizing the capital program. He said the Lackawanna Coalition, the New Jersey Association of Railroad Passengers and other advocates have spoken out on this vital issue, but it has been a lonely battle. Mr. Alan said the NJ TRANSIT Board of Directors and management have been silent on this issue. Mr. Alan said NJ TRANSIT management has privately assured him of their concern on this issue, but he said that is no substitute for taking a public stand.

Mr. Alan said when organizations, including the Lackawanna Coalition, represent the riding public's interests, those organizations are rebuffed by NJ TRANSIT. He said this happened over the off-peak rail fare this past spring and it happened over the Manhattan end of the proposed tunnel at this Board meeting. Mr. Alan said policies are suggested by management and rubber-stamped by the Board of Directors. Mr. Alan

said it is a disappointment for the rider advocates in the State and it makes it more difficult to be effective and defend the interests of the riding public.

Mr. Alan said there is another way and there is an example to follow. He said David Laney, Chairman of Amtrak and George Chilson, President of National Association of Railroad Passengers, joined elected officials in Montana on a highly successful rail tour to rally public support to save the Empire Builder. The tour was a collaboration between governance and advocacy in support of a common goal.

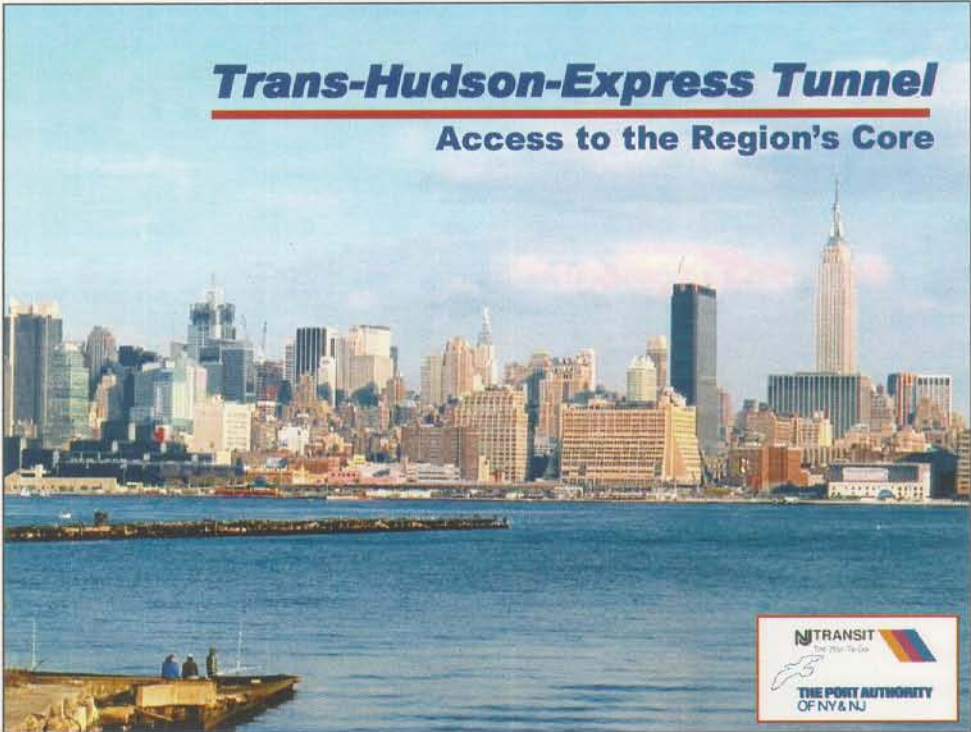
Mr. Alan said this can happen in New Jersey and he pledged to personally continue to defend the interests of the riding public. Mr. Alan urged the NJ TRANSIT Board of Directors and management to speak out for better transit.

Chairman Lettiere said there is movement for transportation funding on the Federal level. Chairman Lettiere congratulated the delegation for working tirelessly on this effort. He said on the State level, work continues to renew the Transportation Trust Fund.

Chairman Lettiere congratulated Frank Hopper and wished him well in retirement and thanked Chief Joseph Bober and his staff for the extraordinary job they are doing in patrolling the bus, rail and light rail stations.

Since there were no further comments or business, the Chairman called for adjournment and a motion to adjourn was made by Myron P. Shevell, seconded by Kenneth E. Pringle and unanimously adopted.

The meeting was adjourned at approximately 11:45 am.

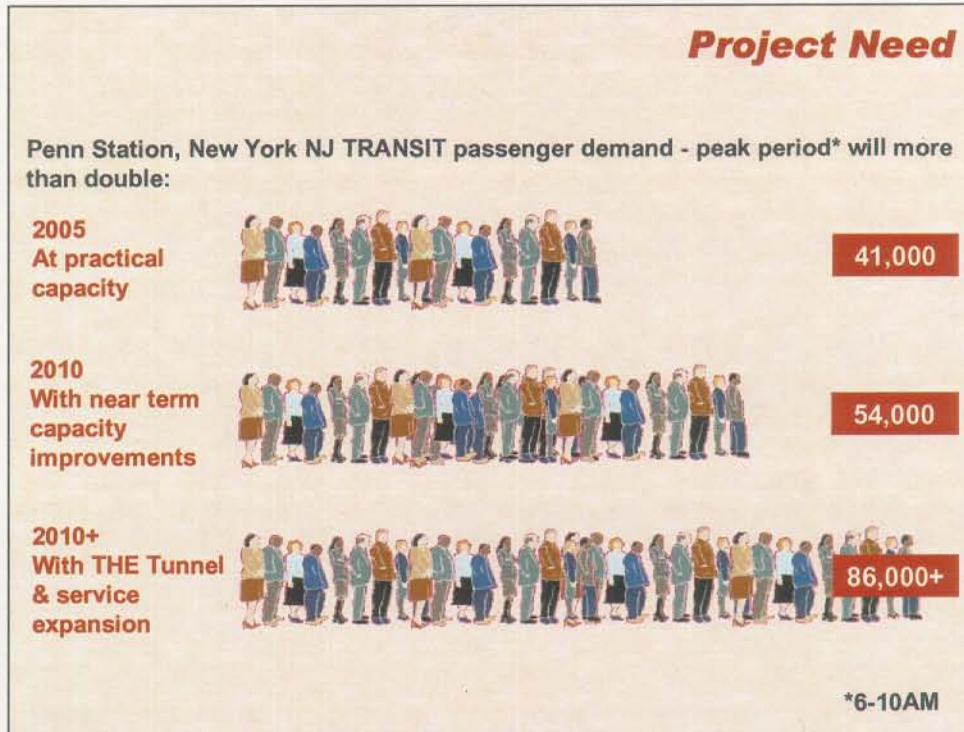




You're looking at the first railroad tunnel built to connect Manhattan with New Jersey, constructed between 1907 and 1910 by the Pennsylvania Railroad. Although it has only two tracks, it was the engineering marvel of its time. It was designed for a few trains a day carrying long-distance passengers.

Today, the tunnel is unable to meet the demands that more than 100 years of population and economic growth have placed on it. Efficient, reliable and affordable public transportation to Manhattan is not a luxury, it is essential to the economical vitality of our region. It will retain the jobs we have now and encourage new employers to move here; it will help maintain our quality-of-life; and, it will reduce congestion on highways and bridges.

It is up to this generation to make the investments that keep public transit working. This light at the end of the tunnel is ironically enough, another tunnel – the new Trans-Hudson-Express Tunnel.



The New Jersey-New York area is the most urbanized region in the nation. Every day hundreds of thousands of commuters cross the Hudson to work in one state or the other. We're carrying many of those people on a railroad infrastructure that has reached capacity.

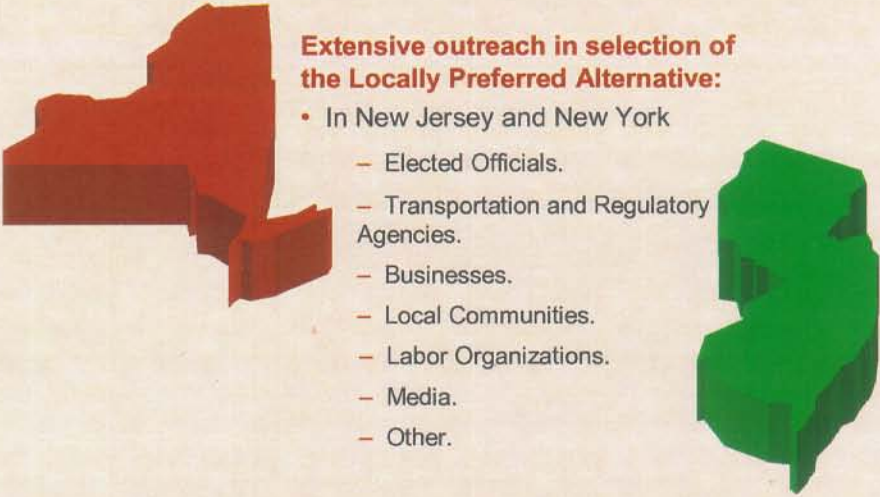
Right now, NJ TRANSIT Rail is bringing approximately 41,000 people in and out of Manhattan every morning during the peak hours of service.

Between 2010 and 2012, the bi-level rail cars coupled with several capacity improvements at Penn Station, New York, will be able to handle up to 54,000 people.

But, by 2015, when we combine those improvements with the new Trans-Hudson-Express Tunnel, we will have effectively provided capacity for a forecasted demand of 86,000 people per day during morning rush hours.

We must keep up with the increases expected in regional population and job growth or the lines of people waiting for trains will swell while the number of trains will not.

Outreach and Support



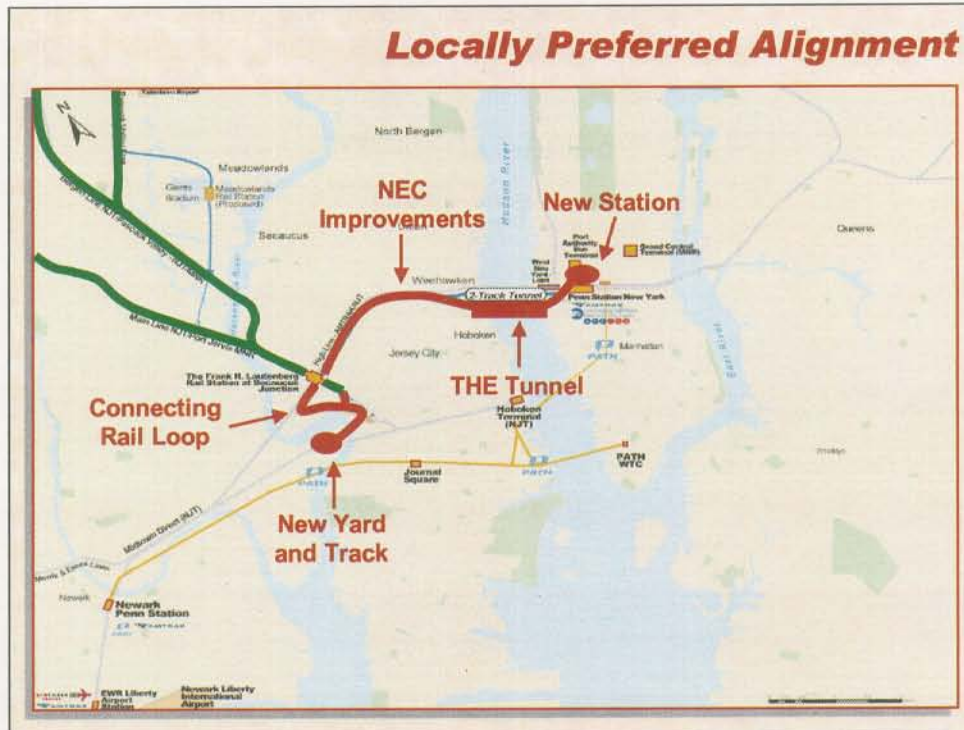
Extensive outreach in selection of the Locally Preferred Alternative:

- In New Jersey and New York
 - Elected Officials.
 - Transportation and Regulatory Agencies.
 - Businesses.
 - Local Communities.
 - Labor Organizations.
 - Media.
 - Other.

The alignment for the Trans-Hudson-Express Tunnel was not considered in a vacuum. That's the fear most people have when major public projects are undertaken; that they are planned by people who don't live in the real world. We've spent a lot of time working with stakeholders to identify an alignment that effectively meets the demands while minimizing impact.

The response and support has been, I will tell you, very positive from many leaders on both sides of the Hudson:

- **Governors Codey & Pataki, as well as our congressional delegation, and many state legislators and municipal leaders.**
- **New York City Council Speaker Gifford Miller and New York City Public Advocate Betsy Goldbaum, as well as Deputy Mayor Dan Doctoroff.**
- **We've also appreciated the support from NJ State AFL-CIO President Charles Wowchanech; Laborers International Union of North America Vice President and Eastern Regional Manager President Ray Pocino; and the New York City Central Labor Council, as well as New York State Building Trades President Edward Malloy.**
- **We've also been endorsed by many in the business community, and a few examples include: New York State Building Congress President Richard Anderson, The New York City Partnership, Association for a Better New York, and the 34th Street Partnership.**



(NOTE – RAIL LINES WILL BUILD AS REFERENCED)

And today, after months of work, we are asking the Board to endorse the locally preferred alignment, which is a required step in the federal scoping and funding process. One of the most important features of the Locally Preferred Alignment -- or LPA--is its ability to connect with existing services. For instance a rail loop – in red – will link what you will see as the LPA with the Main-Bergen and Pascack Valley Lines – in green. This will make the new Tunnel accessible to new markets in New Jersey and New York by providing a one-seat ride to Bergen, Passaic, Rockland and Orange county residents.

A second feature is the signal and infrastructure improvements that will be undertaken on the Northeast Corridor – in red – one of the nation's busiest railroad lines.

The LPA features the Trans-Hudson-Express Tunnel, the centerpiece of the project, which will effectively allow us to double the number of NJ TRANSIT trains going into Manhattan. And, on the Manhattan side of the river, a new station at 34th Street.

Finally, in New Jersey there will be a new yard facility with connecting track located in the Meadowlands.

THE Tunnel Supports Improvements

NJ Rail Improvements:

- Northern Branch.
- Lackawanna Cutoff.
- Raritan Valley Direct Service and West Trenton extension.
- Passaic-Bergen
- Monmouth-Ocean-Middlesex.



(NOTE: RAIL LINES WILL BUILD AS REFERENCED)

The new Trans-Hudson-Tunnel is central to the success of so many other projects now in development. It will provide the capacity and connections that will not only improve existing services but make a wide array of new ones possible.

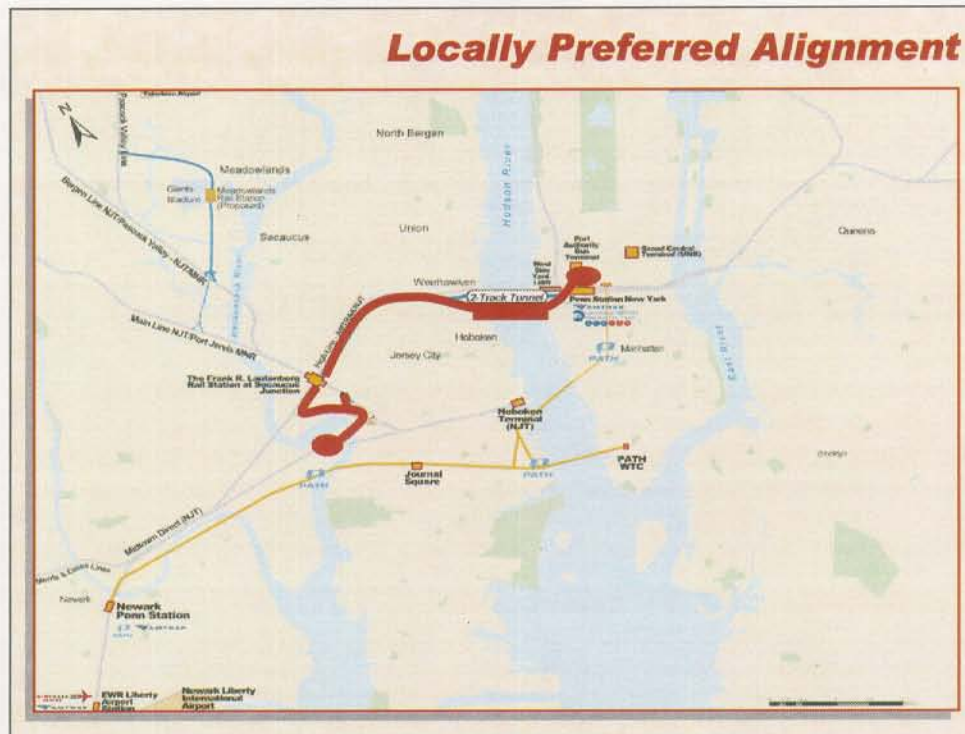
For example, in eastern Bergen County where projections show increases in both residential and commercial development, passenger rail service is being planned on the Northern Branch. When connected to the new Tunnel, riders there will have a direct connection to Manhattan.

In western New Jersey, the Lackawanna Cutoff will bring an entirely new section of the state within easy reach of Manhattan.

Raritan Valley Direct service to New York – long sought by NJ TRANSIT – will become possible as new equipment comes online and connections to the Tunnel are established. And, the West Trenton extension will provide a direct connection to an even larger market of riders.

Passaic-Bergen line service will expand from Hawthorne to Hackensack with a connection to the Tunnel for a one-seat ride to Manhattan.

And, Monmouth-Ocean-Middlesex service has the significant potential to reduce traffic on the Rt. 9 and Parkway corridors.



The advantages of this specific alignment are many:

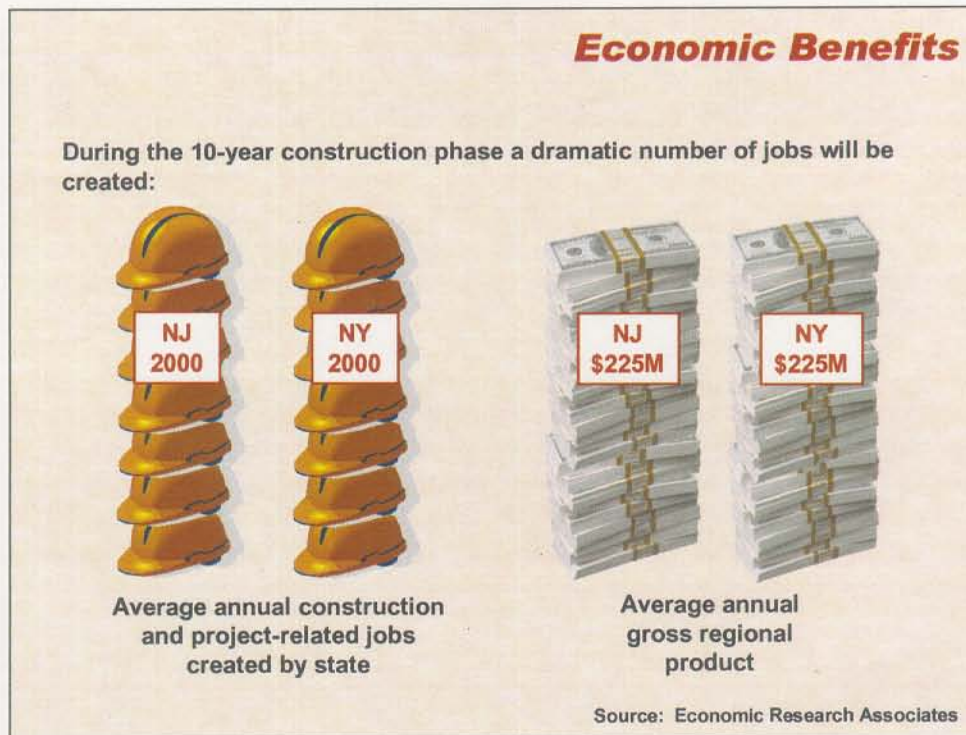
- The new tunnel affords us the flexibility of alternative access in and out of Manhattan should the existing tunnel be taken out of service.
- The track connections between the existing Penn Station in New York and the new station under 34th Street will enable trains to shift from one facility to another –a redundant feature which has become a hallmark in security and service planning.
- The passenger connections between these stations as well as those that link to City subways and PATH trains will centralize travel options, and provide new points of entry and exit to the system.
- The LPA is equally as effective in what it does not do, which is impact communities. Because of its design, we been able to keep the number of impacted properties down. In Manhattan, in particular, the station is below street level minimizing the impact on surrounding neighborhoods.
- And we are drilling 15 feet deeper under the Hudson River than originally planned so that we do not disrupt the river's floor.

New 34th Street Station



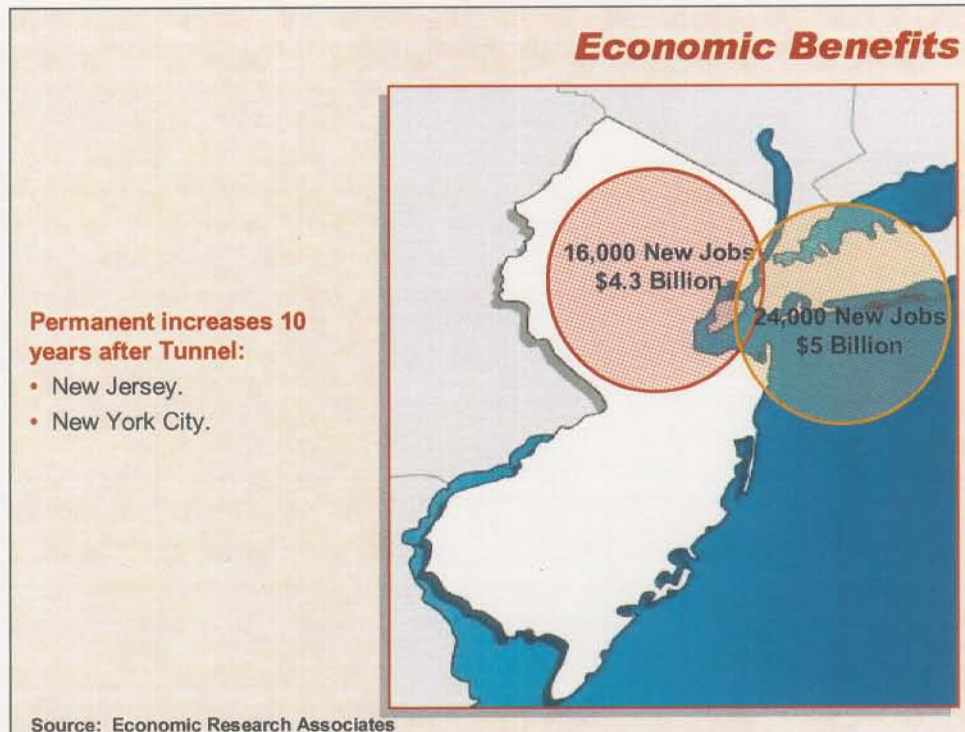
Looking east from 8th Avenue, the new station at 34th Street is entirely below street level. Linked by mezzanines and concourses, riders will have easy access to additional transportation services, in particular to the existing Penn Station. It will be designed and engineered to provide riders with efficient connections to the 6th, 7th, 8th and Broadway subway lines and PATH trains.

And, the spaces not dedicated to the operation of the railroad, will create prime locations for commercial businesses.



Let me take a moment to speak about some of the benefits of this project that will be seen in pocketbooks and cash registers throughout the region. An independent analysis of the economic impact conducted by the Economic Research Associates indicated that:

- Almost 4000 construction and construction-related jobs will be created each year.
- And more than \$220 million each year for the New York and New Jersey economies.



The economic benefits of this project continue long beyond the construction phase. The Economic Research Associates concluded that within the first ten years of Tunnel operations:

- 16,000 new permanent, non-construction related jobs will have been created in New Jersey – generating \$4.3 billion in gross regional product.
- In New York City, 24,000 new permanent, non-construction related jobs created and \$5 billion in gross regional product.

Projections show these jobs and these opportunities continuing to grow. They will be the direct result of the fertile environment the Tunnel will help create for business. By improving access to Manhattan, the Tunnel makes our region more economically viable and more competitive.


Milestones

- 1** Property acquisition identification.
- 2** Environmental review.
- 3** Draft Environmental Impact Statement release.
- 4** Preliminary Engineering.
- 5** Final Environmental Impact Statement release.
- 6** Penn Station, NY, early improvements.

The schedule for implementation is ambitious but it can be nothing less for a project of this magnitude. The near-term milestones include:

- A preliminary identification of possible properties for acquisition is underway as is environmental review.
- Early this Fall we will be releasing the Draft Environmental Impact Statement for public comment followed by preliminary engineering.
- And, well before this time next year, we will publish the Final EIS.
- And 12 months later, we will begin construction on the early improvements at Penn Station, New York.

Project Cost



THE Tunnel Budget:

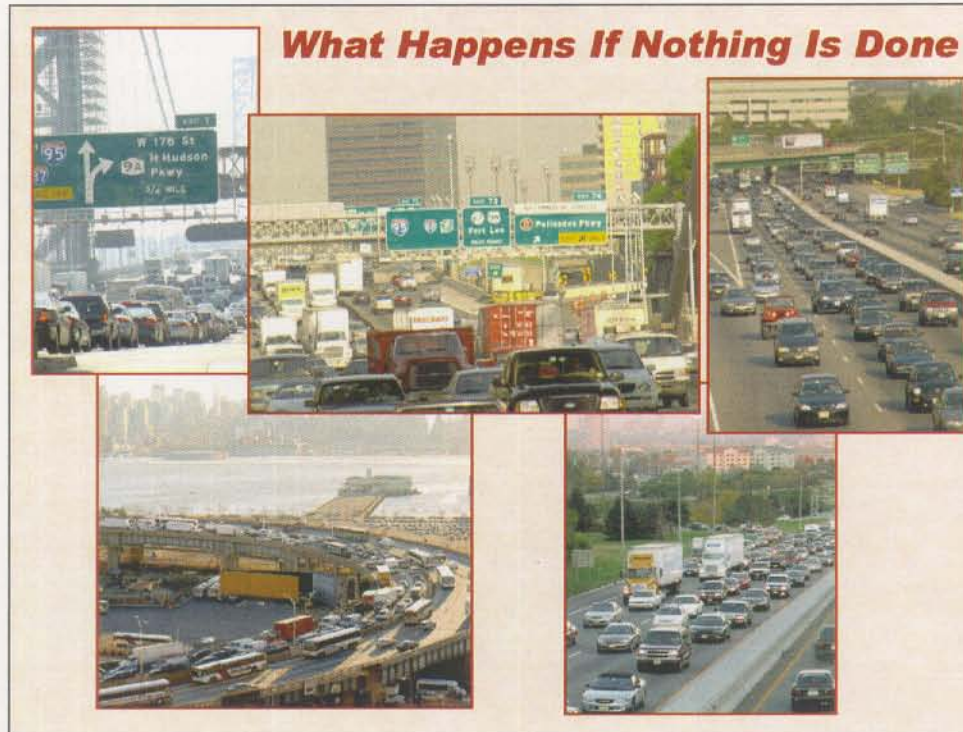
- \$6 Billion project cost.
- Federal funding.
- Port Authority of New York and New Jersey Funding.
- New Jersey State funding.

THE PORT AUTHORITY OF NY & NJ

A Major Investment Study, which was conducted by the MTA and Port Authority a decade ago, projected a rough order of magnitude estimate between \$4B to \$5B for the project.

A substantial amount of work has been done since then to refine the scope, including: developing use of specific tunneling methods to reduce impact on surrounding communities; the implementation of new security measures necessary in a post 9/11 world; plans for a new station; and, a full rail operational analysis that included the need for expanded storage yard capabilities.

In 2005 dollars -- after ten years of inflation -- with a much more advanced and inclusive scope, the project scope is just under \$6B. Ultimately, the cost estimate will continue to be refined as the engineering advances and project details become more sharply focused.



The Tunnel is at the center of our core responsibility at NJ TRANSIT to anticipate and build for the extraordinary demand for railroad service that New Jersey and its economy will need for the next generation.

I have to tell you that without this project, we are staring at traffic management chaos in the region when you consider the forecasted job, housing, and population growth in Northern New Jersey and mid-town Manhattan of more than 1 million plus people over the next 20 years.

When you factor in the job growth potential in Midtown Manhattan of 200,000 more jobs, we're either going to be staring at paralyzing gridlock or denying access to those jobs – effectively choking back our economy.

management chaos in the region when you consider the forecasted job, housing, and population growth in Northern New Jersey and mid-town Manhattan of more than 1 million plus people over the next 20 years.

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(NOTE: MOVIE)

These commuters are doing what our trains do every day, funneling through an inadequate portal to Manhattan. They queue and wait patiently for their turn. Just as this crowd would move faster to work or home if there were more ways in and out; so will the trains of tomorrow better travel to and from Manhattan with a new Tunnel.

Going forward our ability to relieve congestion, meet increased market demand and continue to serve as an economic engine for this state and region, depend on achieving all of the benefits of the ARC Program.

NEW JERSEY TRANSIT CORPORATION
NJ TRANSIT BUS OPERATIONS, INC.
NJ TRANSIT RAIL OPERATIONS, INC.
NJ TRANSIT MERCER, INC.
REGULARLY SCHEDULED BOARD OF DIRECTORS MEETING

JULY 27, 2005

MINUTES

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- ▶ EXECUTIVE SESSION AUTHORIZATION
- ▶ APPROVAL OF MINUTES OF PREVIOUS MEETINGS
- ▶ EXECUTIVE DIRECTOR'S MONTHLY REPORT
- ▶ ADVISORY COMMITTEE REPORTS
- ▶ PUBLIC COMMENTS ON AGENDA ITEMS

ACTION ITEMS

0507-49: TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE): ADOPTION OF THE LOCALLY PREFERRED ALTERNATIVE

36450

Adoption of the Locally Preferred Alternative set forth in Exhibit A, and authorization to submit THE Tunnel Locally Preferred Alternative to the North Jersey Transportation Planning Authority Board of Trustees for designation and inclusion in the North Jersey Transportation Planning Authority Long Range Regional Transportation Plan.

0507-50: TRANS-HUDSON EXPRESS TUNNEL – LEGAL SERVICES FOR ENVIRONMENTAL AND LAND USE REVIEW AND REAL ESTATE ACQUISITION: ACTION TO RESCIND PREVIOUS BOARD RESOLUTION NO. 0506-43

36473

Authorization to rescind the Resolution No. 0506-43 authorizing staff to compensate the law firm of Paul, Hastings, Janofsky, & Walker LLP of New York, NY as Special Counsel in accordance with the New Jersey Attorney General's designation to support the land use and environmental review processes for THE Tunnel project since the land use and environmental portion of Paul, Hastings, Janofsky, & Walker LLP has been acquired by the firm of Kramer, Levin, Naftalis & Frankel.

Also, authorization to compensate the law firm of Kramer, Levin, Naftalis & Frankel LLP of New York, NY as Special Counsel in accordance with the New Jersey Attorney General's designation to support land use, environmental review, and real estate activities for THE Tunnel project in New York City at a cost not to exceed \$800,000.

NEW JERSEY TRANSIT CORPORATION
 NJ TRANSIT BUS OPERATIONS INC.
 NJ TRANSIT RAIL OPERATIONS INC.
 NJ TRANSIT MERCER INC.
 REGULARLY SCHEDULED BOARD OF DIRECTORS MEETING
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Also, authorization to compensate the law firm of DeCotiis, Fitzpatrick, Cole & Wisler, LLP of Teaneck, NJ as Special Counsel in accordance with the New Jersey Attorney General's designation to support real estate activities and other legal matters for THE Tunnel project in New Jersey at a cost not to exceed \$300,000.

0507-51: FISCAL YEAR 2006 OPERATING BUDGET

36477

Adoption of the proposed FY 2006 operating budget as detailed in the item and on the attached exhibits.

0507-52: FISCAL YEAR 2006 CAPITAL PROGRAM

36485

Adoption of the proposed Fiscal Year 2006 (FY06) Capital Program totaling \$1.147 billion and authorization to seek and secure necessary funding and execute agreements, as required, to accept such funding.

0507-53: MULTI-LEVEL PUSH-PULL RAIL CARS: PURCHASE OF OPTION CARS

36501

Authorization to exercise the first three options of contract (No. 01-097) with Bombardier Transportation of Montreal, Canada for the purchase of 131 additional multi-level push-pull rail cars, and for spare parts at a cost not to exceed \$214,981,400, plus five percent for contingencies, for a total contract authorization of \$458,145,951.

0507-54: CERTIFICATES OF PARTICIPATION: LEASE FINANCING OF 131 MULTI-LEVEL RAIL CARS AND SELECTION OF SENIOR MANAGER/UNDERWRITER
(This item was previously forwarded to the Governor on July 27, 2005)

36504

Adoption of the attached Resolution which authorizes the issuance of COPs in an amount not to exceed \$285,000,000 to finance the purchase of 131 multi-level rail cars all-in interest cost not to exceed 5.5 percent and authorizes the Chairman, the Executive Director, the Chief Financial Officer and Treasurer, the Secretary or their designees to take all actions necessary to consummate the sale of the COPs, including negotiation and execution of all documents, repayment of principal and interest due under the COPs and the payment of all costs related to the issuance of the COPs including underwriting, trustee, legal, rating agency, insurance, credit enhancement and printing expenses.

0507-55: PURCHASE OF 289 SUBURBAN AND TRANSIT BUSES

36513

Authorization to contract with Millennium Transit Services of Roswell, NM for the purchase of 289 transit and suburban buses at a cost not to exceed \$96,717,875, plus five percent for contingencies.

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0507-56: AMENDMENT TO HOBOKEN FERRY TERMINAL MEMORANDUM OF UNDERSTANDING

36516

Authorize the Chairman or Executive Director to take all necessary actions to amend the 2002 Memorandum of Understanding between NJ TRANSIT and the Port Authority pertaining to NJ TRANSIT's plan to lease to the Port Authority part of the first level of NJ TRANSIT's Ferry Building for ferry operations and to obligate the Port Authority to commit \$20 million to NJ TRANSIT prior to November 1, 2005, thus enabling NJ TRANSIT to award contracts for the next phase of rehabilitation of the building.

0507-57: ADVANCED SPEED ENFORCEMENT SYSTEM: ENGINEERING AND CONSTRUCTION ASSISTANCE SERVICES

36519

Authorization to amend the existing task order from Task Order Contract (No. 03-052) with Gannett Fleming, Inc. of South Plainfield, NJ for continued professional services for the Advanced Speed Enforcement System project in the amount of \$1,675,000, plus five percent for contingencies, for a total contract authorization of \$2,281,956. These services generally include contract management, technical support, and specialized signal and communication support through December 2006. This task will not be subject to the task, annual or aggregate contract limits.

0507-58: WOODBRIDGE STATION PLATFORM: REPLACEMENT: CONSTRUCTION CONTRACT AWARD

36522

Authorization to contract (No. 05-085) with George Harms Construction Co. of Farmingdale, NJ for the construction of a new platform, canopies, shelters, restrooms and associated improvements at Woodbridge Station on the North Jersey Coast Line at a cost not to exceed \$14,661,725, plus five percent for contingencies.

0507-59: ADDITIONAL AUTHORIZATION FOR TRANSIT SERVICE PLANNING AND CAPITAL PROJECT ANALYSIS CONSULTING SERVICES

36525

Authorization for a two-year period to support four existing professional services contracts with Technometrica Market Intelligence, Oradell, NJ (03-117A), ORC Macro, New York, NY (03-117B), Resource Systems Group Incorporated, White River Junction, VT (03-117C), and TNS Intersearch, Horsham, PA (03-117D) for on call consulting services at a cost not to exceed \$600,000 per task for an amount not to exceed \$1,200,000, subject to availability of funds. This will bring the total authorization to \$2,050,000 over three years.

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|----------|---|-------|
| 0507-60: | COMPUTER HARDWARE MAINTENANCE SERVICES | 36528 |
| | <p>Authorization to enter into a one-year contract (No. 05-103) with two one-year options to renew with Volt Delta Resources, Inc. of Wallington, NJ for computer hardware services at a cost not to exceed \$1,079,966, plus five percent for contingencies.</p> | |
| 0507-61: | PASCACK VALLEY LINE SIGNAL RENEWAL PROJECT – CONDUIT INSTALLATION: CONSTRUCTION CONTRACT AWARD | 36531 |
| | <p>Authorization to contract (No. 05-058X) with J. Fletcher Creamer & Son, Inc. of Hackensack, NJ for installation of conduit at 51 grade crossings on the Pascack Valley Line at a cost not to exceed \$1,678,802, plus five percent for contingencies.</p> | |
| 0507-62: | PURCHASE OF NEW PRODUCTION WIRE TRAIN FOR CAPITAL CONSTRUCTION | 36534 |
| | <p>Authorization to contract (No. 05-628) with Geismar, Modern Track Machinery, Inc. of Elgin, IL to supply a modern production wire train for capital construction, at a cost not to exceed \$3,354,520, plus five percent for contingencies</p> | |
| 0507-63: | UNDERGRADE RAILROAD BRIDGES: ENGINEERING SERVICES TO PERFORM IN-DEPTH INSPECTIONS, EVALUATIONS AND RATINGS | 36537 |
| | <p>Authorization to contract with Dewberry of Bloomfield, New Jersey (No. 04-110D); URS Corporation of Newark, New Jersey (No. 04-110E); and Edwards and Kelcey of Morristown, New Jersey (No. 04-110F), to perform in-depth structural inspections, evaluations, and load ratings of 141 undergrade bridges, at costs not to exceed \$533,238, \$689,380 and \$480,012 respectively, for a total cost of \$1,802,630, plus five percent for contingencies, subject to the availability of funds.</p> | |
| 0507-64: | MAINTENANCE OF WAY BASE AT WEST END SUBSTATION | 36540 |
| | <p>Authorization to contract with Joseph Hamilton Construction Company of North Arlington, NJ, for the construction of West End Crew Quarters at a cost not to exceed \$1,799,000, plus five percent for contingencies.</p> | |
| 0507-65: | NEWARK CITY SUBWAY ACCESSIBILITY: ELEVATOR CONSTRUCTION | 36543 |
| | <p>Authorization to contract (No. 05-087) with DMR Construction Services, Inc. of River Edge, NJ for the construction of an elevator connecting the main concourse level at Newark Penn Station with the Newark City Subway</p> | |

mezzanine level at a cost not to exceed \$2,317,005, plus five percent for contingencies.

0507-66: SOUTHERN NEW JERSEY RAIL GROUP VS. NJ TRANSIT:
 COMPENSATION OF SPECIAL COUNSEL

36546

Authorization to compensate the law firm of Sills Cummis Epstein & Gross as Special Counsel to NJ TRANSIT in accordance with the Attorney General's designation for comprehensive litigation support services up to an additional \$3,000,000 for a total contract authorization of \$13,590,000 for continuing legal services.

CONSENT CALENDAR

0507-67: AMENDMENT OF BOARD ITEM 0410-59: FRENCH CROSS-BORDER
 LEASE: DIESEL LOCOMOTIVES

36550

Authorization to amend the October 14, 2004 Board Item No. 0410-59 and enter into negotiations with SG for a 20-year French cross-border lease on all of the Alstom diesel locomotives and authorizes the Chairman, Executive Director, the Chief Financial Officer and Treasurer, the Secretary or their designees to take all actions necessary to close the lease, including the payment of all legal and other fees as well as up to \$250,000 to indemnify other parties should the transaction fail to close.

0507-68: LAND LEASE AMENDMENT FROM THE CITY OF HACKENSACK (FOR
 THE HACKENSACK BUS TERMINAL)

36552

Authorize the Chairman or Executive Director to enter into all necessary agreements and take all necessary actions with regard to NJ TRANSIT leasing from the City of Hackensack for a term of 25 years, Block 204A, Lot 28, 16,974 square feet of land encompassing a bus terminal and bus lanes in the City of Hackensack, Bergen County, in consideration of NJ TRANSIT's use of the property as a bus terminal and NJ TRANSIT's renovation of the same. The annual cost of the lease is \$1.

0507-69: LEASE TO THE TOWNSHIP OF READINGTON (EASTBOUND TRAIN
 STATION BUILDING AND PARKING LOT)

36555

Authorize the Chairman or Executive Director to enter into all necessary agreements and take all necessary actions with regard to NJ TRANSIT leasing to the Township of Readington for a term of 25 years, 1.540 acres of land encompassing a commuter parking lot and the eastbound White House train station building in Readington Township, Hunterdon County, on NJ TRANSIT's Raritan Valley Line at milepost 44.3, in consideration of the Township's use of the property as a library and utilization and maintenance of the property according to the terms of the lease agreement. The lease is

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cancelable upon six months' notice should the railroad property be needed for railroad or other public transportation purposes.

- 0507-70: AMENDMENT TO BOARD ITEM 0210-117: SETTLEMENT OF CONDEMNATION LAWSUIT REGARDING PROPERTY ACQUISITION FOR NEWARK CITY SUBWAY EXTENSION

36558

Authorization to amend the October 9, 2002 Board item which authorized \$435,000, for the acquisition of Lots 1.02 and 1.03 in Block 138, Newark, Essex County, New Jersey. The Board Item will be amended for an additional amount of \$306,000, totaling \$741,000 to acquire the property. This will allow for the acquisition of the property from First Bellemead Urban Renewal Corporation for \$741,000 in accordance with a Consent Order to be entered in the Superior Court of New Jersey as a result of a condemnation lawsuit settlement reached in this matter on June 8, 2005. The settlement amount of \$741,000 is inclusive of interest.

- 0507-71: EASEMENTS FOR REPLACEMENT OF CONRAIL BRIDGE IN SOUTH AMBOY
 (This item was previously forwarded to the Governor on July 27, 2005)

36561

Authorize the Chairman or Executive Director to take all necessary actions to convey property interests from NJ TRANSIT to Conrail and the City of South Amboy and accept conveyance of property interests from Conrail, the City of South Amboy, Reliant Energy and others to NJ TRANSIT, and to enter into such agreements respecting temporary access during construction as may be reasonably required to enable the replacement of a Conrail bridge and track within the boundaries of existing Conrail easements.

- 0507-72: DOVER STATION: TERMINATION OF EXISTING LEASE AGREEMENT WITH THE TOWN OF DOVER AND NEW LEASE TO DOVER LIQUOR LICENSE LLC

36564

Authorization to enter into a lease with Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, for the lease of the Dover Station Building for the operation of a restaurant establishment for ten years with a five-year renewal option with rent starting at \$30,346 a year with an annual CPI adjustment and in year six at \$42,000 a year with annual CPI adjustments thereafter. The lease is for 10 years with a five-year option. Authorization is also requested for NJ TRANSIT to enter into an agreement with the Town of Dover to lease to NJ TRANSIT the use of not less than 42 parking spaces to provide parking to serve customers of NJ TRANSIT's commercial tenant for as long as the station is in commercial use.

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0507-73: REGULATION: RE-ADOPTION OF REGULATION N.J.A.C. 16:77 USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY

36569

Authorization to take all actions necessary to adopt and promulgate the regulations N.J.A.C. 16:77 et seq. Use or Occupancy of NJ TRANSIT-owned Property, consistent with this Board item and exhibits.

0507-74: REGULATION: RE-ADOPTION OF REGULATION N.J.A.C. 16:82 EXAMINATION AND DUPLICATION OF NJ TRANSIT RECORDS

36600

Authorization to take all actions necessary to adopt and promulgate the regulations N.J.A.C. 16:82 et seq. Examination and Duplication of NJ TRANSIT Records, consistent with this Board item and exhibits.

► PUBLIC COMMENTS ON NON-AGENDA ITEMS

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 litigation matters and contract negotiations; 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.

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. and NJ TRANSIT Mercer, 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 June 8, 2005 Board meeting of the New Jersey Transit Corporation, NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Rail Operations, Inc. and NJ TRANSIT Mercer, Inc. were forwarded to the Governor on June 10, 2005;

NOW, THEREFORE, BE IT RESOLVED that the minutes of actions taken at the June 8, 2005 New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. Board of Directors' meetings are hereby approved.

NJT BOARD – 7/27/05
 Richard J. Codey
 Acting Governor

Jack Lettiere
 Board Chairman

George D. Warrington
 Executive Director

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



TO: BOARD OF DIRECTORS
FROM: GEORGE D. WARRINGTON
DATE: JULY 27, 2005
SUBJECT: EXECUTIVE DIRECTOR'S REPORT – JULY 2005

Today, the Board will consider approval of the Locally Preferred Alternative (LPA) of the Access to the Region's Core project, moving us into the next phase of the federal process. I consider this project, which enjoys broad support on both sides of the Hudson River, to be the most important commuter rail project for New Jersey, in a generation.

The LPA consists of two new state-of-the-art single-track tunnels under the Hudson River, a new station under 34th Street in Manhattan, track connections from the Main, Bergen County, Pascack Valley and Port Jervis lines, as well as additional train storage capacity.

The need for this project is clear. NJ TRANSIT currently carries approximately 41,000 customers into Midtown during the morning peak period, and we are nearing maximum capacity. The peak period demand is expected to grow to 86,000 over the next decade. We have already exhausted—or are in the process of implementing—every near-term capacity enhancement available to us, including installation of a high-density signal system along the Northeast Corridor, new bi-level rail cars that will enable us to carry more passengers on existing trains, and platform extensions at the current Penn Station. However, one fact is clear: we are out of options.

The cornerstone of ARC—the Trans-Hudson Express Tunnel—will double rail capacity between New Jersey and New York. It is the clear solution to a real problem, and the benefits will be measured in jobs, personal income and mobility on both sides of the River.

As the project moves out of the planning phases and toward the public comment period, we will continue working—as we have—with community groups and elected officials in both states to ensure that everyone's voice is heard. We have an obligation to our generation and those that will follow to do this—and to do it right.

I would like to acknowledge the efforts of the NJ TRANSIT Police Department in the wake of the recent tragic attacks in London. This week, NJ TRANSIT Police began to randomly inspect baggage in our bus terminals and rail stations across the system. Our customers have responded positively and have communicated their support of this program, as well as the additional police officers patrolling our bus, rail and light rail stations. None of this would have been possible without the hard work of Chief Joseph Bober and his team, who worked quickly to put a plan in place to ensure that these inspections were done efficiently and fairly. In fact, NJ TRANSIT Police officers have been working around the clock since the attacks in London on July 7th. I would also like to thank Governors Codey and Pataki for their quick action executing orders giving NJT police, NJ state police, and NYC police officers reciprocal authority to patrol our trains into and out of New York to secure our stations and support facilities. In addition, I want to thank Attorney General Peter Harvey, NJ State Police Superintendent Colonel Rick Fuentes, Office of Counter Terrorism Director Sid Casperson, New York City Police Commissioner Ray Kelly, and all of the law enforcement agencies who responded so quickly to assist us.

Finally, after 17 years at NJ TRANSIT, Frank Hopper, AED of Procurement and Support Services, is retiring next month. I want to publicly thank Frank – who I personally hired – for his dedication, and wish him the best of luck.

EXECUTIVE DIRECTOR'S MONTHLY REPORT JULY 2005

- 1. HIGHLIGHTS**
- 2. CUSTOMER AND COMMUNITY INITIATIVES**
- 3. EMPLOYEE RECOGNITION**
- 4. DBE/MBE PROGRAM**
- 5. PERFORMANCE MEASURES**

HIGHLIGHTS

Board considers major equipment purchases to accommodate growing ridership

The Board of Directors today will consider actions to increase seating capacity throughout the system with major purchases of new rail and bus equipment. With ridership levels at an high and expected to grow further, the Board will consider authorizing the purchase of 131 additional bi-level rail cars and nearly 289 new buses.

If approved, NJ TRANSIT will exercise an option negotiated in a 2002 contract with Bombardier Transportation for the purchase of 131 additional bi-level rail cars, bringing the total order to 231 cars. The new order, which will cost \$214 million, will maximize the prior investment in developing state-of-the-art rail cars, which have been specifically designed to operate through current and future Hudson River tunnels. NJ TRANSIT is expected to take delivery of the first bi-level car from the original 2002 purchase at the end of the summer.

Prior to entering service, the new rail cars will be tested at NJ TRANSIT's Meadows Maintenance Complex in Kearny and at the Transportation Test Center in Pueblo, Colorado. Bi-level cars will appear first on New York-bound trains, where capacity is already constrained, to provide additional seats for customers. The cars are expected to enter revenue service early next year.

The bi-level cars were designed with customers in mind. NJ TRANSIT invited customers and employees to participate in focus groups to provide extensive input on features that will enhance their daily commute. The result is a rail car designed by customers for customers.

The bi-level cars will be equipped with 142 seats, 21 percent more than the single-level Comet V coaches. There will also be more spacious 2-by-2 seating, a feature customers said they prefer rather than the standard three-seat coaches. The cars also will provide passengers with the latest in amenities including push button doors, automated destination signs, automated station stop announcements and state-of-the-art heating and air conditioning systems.

New Buses To Replace Oldest in Fleet

Also today, the Board will consider the purchase of 289 new suburban and transit buses to replace the aging fleet of Flexible Metro B buses, the oldest model in the system. Bus manufacturer Millennium Transit Services of Roswell, N.M., was awarded the \$94 million contract. Two prototypes are expected to be delivered by the fall with shipments beginning thereafter.

Built in 1989, the Flexible Metro B buses have become obsolete and are not accessible to customers with disabilities. The new buses will be equipped with wheelchair lifts and a kneeling feature, making the vehicles fully ADA compliant.

In addition, the buses will incorporate technologies that will reduce exhaust emissions in accordance with the Clean Air Act amendment, and will have diesel particulate filters that will significantly reduce particulate matter (PM) emissions. The new buses will reduce NJ TRANSIT's average PM emissions for the entire fleet by nearly seven percent.

Suburban buses will have overhead parcel racks with individual diffuser for the ac that customers can control air. Individual reading lights, high back fabric covered seats. Suburban buses will have rear doors that allow for quicker discharges at bus terminals. Seats 42 people. More legroom increased for every seat.

These buses will begin entering revenue service next summer on local routes serving Jersey City, Newark, Paterson, Hackensack, Elizabeth and Camden, as well as commuter service to New York City and Philadelphia.

NJ TRANSIT, municipal officials team up to improve traffic in Bergen County

NJ TRANSIT and elected officials from several municipalities along the Pascack Valley Line reached an agreement earlier this month that will improve the quality of life in Bergen County by reducing traffic congestion near several train stations.

NJ TRANSIT has agreed to change the locations where its trains stop at stations along the line to improve traffic flow at certain rail crossings. Several municipalities along the Pascack Valley Line had asked NJ TRANSIT to make these adjustments to alleviate traffic congestion. Responding to their concerns, NJ TRANSIT and created a task force that studied the issue and proposed solutions to municipal officials.

In addition, municipalities along the Pascack Valley Line and NJ TRANSIT announced that they reached consensus regarding four passing tracks that will be built along the alignment, a move that will provide bi-directional and off-peak passenger rail service on the line for the first time. Passing tracks, also known as sidings, are locations on a single-track railroad where trains running in opposite directions can pass each other on a short stretch of double track.

Metro-North Rail Road will contribute \$7.2 million to the passing track project that will benefit its customers in Rockland County, NY, with more service on the line. The majority of funding will come from federal and New Jersey state sources.

The passing track project will also accommodate rail service to the Meadowlands via a rail spur that will connect to the Pascack Valley Line. Rail service to the Meadowlands, as well as bi-directional, off-peak and weekend service, is expected to begin in late 2007.

On a typical weekday, the Pascack Valley Line provides 5,100 passenger trips – or 1.2 million trips annually. Currently, NJ TRANSIT provides 10 inbound morning trains from Spring Valley to Hoboken and 13 outbound evening trains from Hoboken to Spring Valley.

This past winter, the NJ TRANSIT Board of Directors approved the construction of four passing tracks along the Pascack Valley Line to provide enhanced rail service. The tracks will be installed in Rutherford, Hasbrouck Heights, Hackensack and Nanuet.

NJ TRANSIT celebrates 10,000 trips at Secaucus Junction

The Frank R. Lautenberg Rail Station at Secaucus Junction reached the milestone of 10,000 passenger trips per weekday, making it one of NJ TRANSIT's busiest rail stations in the state.

Since opening for seven-day service in December 2003, Secaucus Junction has given the region greater accessibility by connecting 10 of the state's 11 commuter rail lines.

The station has opened access to jobs in downtown Newark (60,000), Newark Liberty International Airport (25,000) and Midtown Manhattan for more than 400,000 households in towns with train stations in Bergen, Passaic, Hudson counties and suburban New York. The hub also has created one-seat rail access to 40,000 to 50,000 jobs in the Meadowlands for more than 1 million households.

The transit hub, which saves transferring customers an average of 10 to 15 minute per trip on their way to and from New York City, attained 8,500 daily trips in December 2004 as projected.

CUSTOMER AND COMMUNITY INITIATIVES

NJ TRANSIT responds to London Bombings with heightened security

While NJ TRANSIT has been on a heightened security alert since 9/11, NJ TRANSIT implemented a number of additional security measures in light of the recent mass transit bombings in London on July 8.

NJ TRANSIT Police patrols on the system have doubled, and are being supported with 60 New Jersey State Police troopers. The number of bomb-detecting K-9 units on the system has tripled, thanks to support from State and local law enforcement agencies. Customers will see stepped up patrols at rail, bus and light rail stations statewide, as well as officers riding on trains, buses and light rail vehicles. In addition, State Police are providing helicopter support for critical infrastructure patrols of tracks, bridges, and facilities.

The Corporation has also distributed "Heightened Alert Security Notices" to all employees as well as customer notices urging vigilance and promoting the police hotline number.

NJ TRANSIT Police Department continues to operate on a heightened state of alert, as it has since the September 11 attacks and the Madrid train bombings. Since 2001, NJ TRANSIT Police have:

- Increased by more than 75 percent the number of uniformed and plainclothes police officers on patrol.
- Deployed additional NJ TRANSIT K-9 bomb detection teams, in addition to teams provided by the New Jersey State Police.
- Established vehicular inspection checkpoints and barricades at major terminals and stations.
- Increased the use of electronic surveillance and detection systems.

NJ TRANSIT continues to remind customers to report to the NJ TRANSIT Police Department any unattended packages or suspicious activity by calling 1-888-TIPS-NJT. All calls are investigated, and all information is confidential.

NJ TRANSIT preps for PGA Championship

With less than a month to go before what is widely regarded as New Jersey's biggest sporting event of the year—the 87th PGA Championship at Baltusrol—NJ TRANSIT is putting the finishing touches on enhanced rail schedules and staffing plans that will provide tens of thousands of golf fans with a seamless travel experience. More than 200,000 spectators are

expected to attend during the seven-day event, which will take place August 8-14 at Baltusrol Golf Club in Springfield, NJ.

The PGA Championship is returning to New Jersey this year after a 63-year absence, and there is no question that the best way to get there is by train. With no public parking available on or near the event site, visitors are encouraged to take NJ TRANSIT rail service to Summit Station, where PGA-sponsored shuttle service to Baltusrol will be available. NJ TRANSIT will add extra trains during PGA week to accommodate expected ridership increases, and additional rail management, customer service and police personnel will be on hand to assist customers at Summit Station, as well as all major terminals.

PGA visitors are advised to:

- **Plan ahead.** NJ TRANSIT advises all PGA visitors to become familiar with NJ TRANSIT schedules prior to starting their trip. NJ TRANSIT will provide comprehensive travel information for PGA visitors online at www.njtransit.com.
- **Leave the car at home.** Parking on the NJ TRANSIT system is limited. It is strongly recommended that PGA guests be dropped off at a NJ TRANSIT station.
- **Buy a PGA Rail Pass.** PGA visitors are encouraged to purchase a PGA Rail Pass, which provides roundtrip travel to Summit Station from any point-of-origin on the NJ TRANSIT system—train, bus or light rail. Customers can purchase their PGA Rail Pass online at www.pga2005.com, through July 25, 2005.
 - A four-day PGA Commemorative Rail Pass (\$20) is valid during each of the four rounds of the Championship on August 11-14, 2005.
 - A three-day rail pass (\$15) is valid during each of the three practice rounds August 8-10, 2005.

'Bayonne Flyer' service runs with all two-car trains

"Bayonne Flyer" customers on the Hudson-Bergen Light Rail got a better chance of finding a seat in June as NJ TRANSIT introduced all two-car service on the popular express trains.

On weekdays, the Bayonne Flyers offer limited-stop, rush-hour service between 22nd Street Station in Bayonne and either Pavonia-Newport or Hoboken Terminal. The trains provide a convenient 16-minute trip from 22nd Street to Exchange Place, where customers can connect to the PATH system or ferry service to Manhattan.

Previously, six of the 18 weekday Bayonne Flyer trips were operated with two-car trains. Now, all 18 trips are operating with two cars, doubling capacity on 12 of 18 trips.

On July 1, all Bayonne Flyers began to stop at Essex Street Station, which has become an important destination for commuters and visitors to the Jersey City waterfront. Other Bayonne Flyer stops include 22nd Street, 34th Street, 45th Street, Liberty State Park Park-Ride, Exchange Place, Harborside Financial Center, Pavonia-Newport and Hoboken Terminal.

From January to March 2005, weekday HBLR ridership increased to 21,350 weekday trips, an increase of 37 percent (approximately 6,000 trips) over the same period last year. Ridership on the Lincoln Harbor extension, which opened last September, accounts for 2,250 of the trips.

American Indian eagle artwork unveiled at Palmyra

Burlington County Freeholders and NJ TRANSIT unveiled the first of 15 six-foot decorated eagle sculptures in June at the Palmyra River LINE station, as part of *The Eagles Have Landed* project to promote the arts and tourism in the riverfront communities. The eagle was decorated to symbolize the Rankokus Reservation of Westhampton, whose symbol is the White Eagle Spirit.

The eagle was a collaboration by three artists, Roland Gruszewski, Hollis Citron and Abbie Gray, who covered the fiberglass mold in colorful ceramic tiles, with a gold beak and talons, and river rocks on the base to look like the natural river's edge.

EMPLOYEE RECOGNITION

NJ TRANSIT employees bid farewell after outstanding careers

Eleven NJ TRANSIT employees retired in May with careers ranging from 10 to 37 years of service.

1. Bruce C. Seibel (Dumont) Fairview Garage Stock Clerk – 32 years
2. Patrick J. Murray (Magnolia) Atlantic City Bus Terminal Starter – 31 years
3. Frank A. Pintozzi, III (Williamstown) Washington Township Superintendent – 31 years
4. Dominick W. Vecchi (North Bergen) City Subway General Foreman – 31 years
5. Theodore L. Hixon (Roselle) Hilton Garage Bus Operator – 25 years
6. Barry D. Hayberg (Toms River) Oradell Garage Bus Operator – 22 years
7. Rosario Scordato (Hamilton) Hamilton Garage Cleaner – 22 years
8. Taylor West (Jersey City) Greenville Garage Bus Operator – 21 years
9. Mattie M. Drakeford (Paterson) Market Street Garage Cleaner – 18 years
10. Victor M. Perez (Teaneck) Fairview Garage Bus Operator – 18 years
11. Ralph Leone (Toms River) Howell Garage Bus Operator – 10 years

NJ TRANSIT Police arrest man for making telephone threats

NJ TRANSIT police arrested a Brooklyn man July 14 for making telephone threats against the transit system.

Daniel Bodnar, 47, of Brooklyn, NY, was arrested by NJ TRANSIT detectives in Newark and charged with making terroristic threats, among other charges. Bail was set at \$100,000.

Bodner is alleged to have placed several threatening telephone calls to NJ TRANSIT Police and Long Branch Police on July 7 and 8 from his cellular telephone. The calls prompted extensive police searches of trains and stations on the North Jersey Coast Line.

NJ TRANSIT Detectives Sgt. Iandoli, L. Hudson and T. Brooks were credited with making the arrest.

DBE/MBE PROGRAM

NJ TRANSIT – Office of Business Diversity SBE/DBE/WBE Participation**Federally Funded Contracts**

\$25,400,223 in federal funds was awarded during October thru June of FY 05*. Disadvantaged Business Enterprises (DBEs) were awarded \$4,287,306 or 16.9 percent, which includes both race conscious and race neutral awards.

State Funded Contracts

\$65,472,843 in state-funded contract dollars was awarded during July through June FY 05**. Of the total, Small Business Enterprises (SBEs) received \$13,137,033 or 20 percent. Category 1 SBEs received \$6,239,491 or 9.5 percent. Category 2 SBEs received \$1,800,113 or 2.7 percent. Category 3 SBEs received \$113,354 or 0.2 percent. Category 4 SBEs received \$3,303,558 or 5 percent. Category 5 SBEs received \$1,680,517 or 2.6 percent***.

Federal & State Contracts Total

For this reporting period, \$90,873,066 in federal and state contract dollars was awarded by NJ TRANSIT. Of that total, \$17,424,339 or 19.2 percent of federal and state contract dollars was won by DBEs and SBEs.

Hudson-Bergen Light Rail Transit System Project

Of \$1,433,024,411 in contract dollars awarded for the Hudson-Bergen Light Rail transit system project****, \$180,729,496 or 12.6 percent has been received by DBEs. Of the \$180,729,496, 6 percent or \$86,823,647 has been won by Women Business Enterprises (WBEs) who are classified as DBEs.

*Fiscal year beginning October 1, 2004

**Fiscal year beginning July 1, 2004

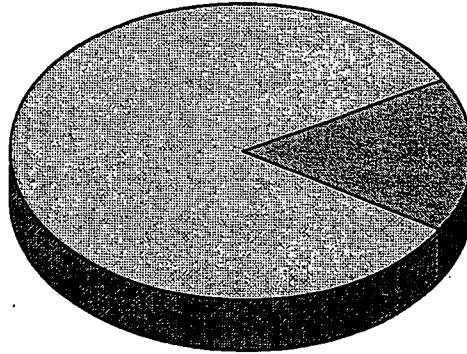
***Cat 1-Less than \$500,000 gross revenues, Cat 2-Less than \$5 million, Cat 3-Less than \$12 million, Cat 4 (construction)-Less than \$1 million, Cat 5 (construction)-Less than \$17,420,000

****This YTD figure reflects federal dollars expended on an annual basis; including change orders, for the period from December, 1996 through April 2005

DBE PARTICIPATION

FEDERAL CONTRACTS FEDERAL FYTD (THRU JUNE 2005)

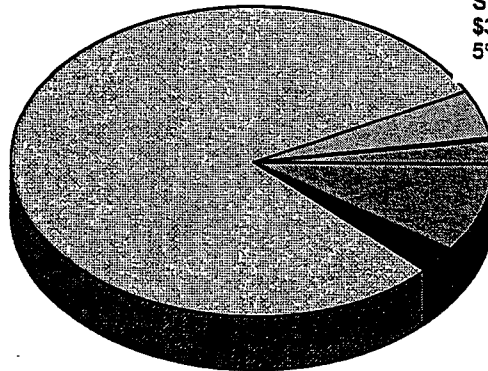
NON-DBE
FEDERAL
\$21,112,917
83.1%



DBE RACE
NEUTRAL &
RACE
CONSCIOUS
\$4,287,306
16.9%

SBE PARTICIPATION STATE CONTRACTS STATE FYTD (THRU JUNE 2005)

NON-SBE STATE
\$52,335,810
80%



SBE-4
\$3,303,558
5%

SBE-3
\$113,354
0.2%

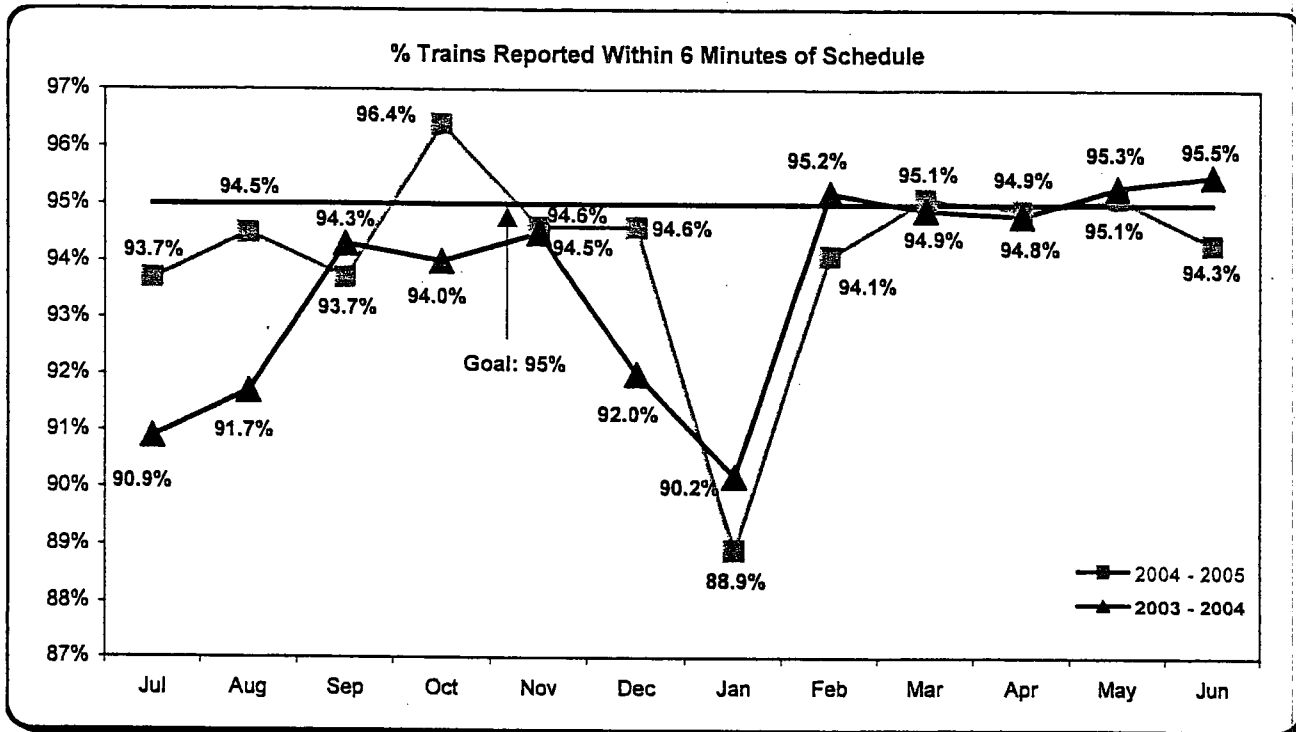
SBE-5
\$1,680,517
2.6%

SBE-1
\$6,239,491
9.5%

SBE-2
\$1,800,113
2.7%

PERFORMANCE MEASURES

NJ TRANSIT ON TIME PERFORMANCE RAIL JULY 2003 - JUNE 2005



	2004	2005	# Change
June Comparison	95.5%	94.3%	-1.2%

	2003 - 2004	2004 - 2005	# Change
12-Month Average July - June	93.6%	94.2%	0.6%

Analysis:

Systemwide, Rail On Time Performance for July 2005 was 94.3%. Of the 18,830 trains that were scheduled to operate, 17,759 were on time, while 1,071 trains (or 5.7%) were delayed. Key causes of delay included:

The fatality of a trespasser, who was struck by an Amtrak train at Princeton Junction, on June 3rd;

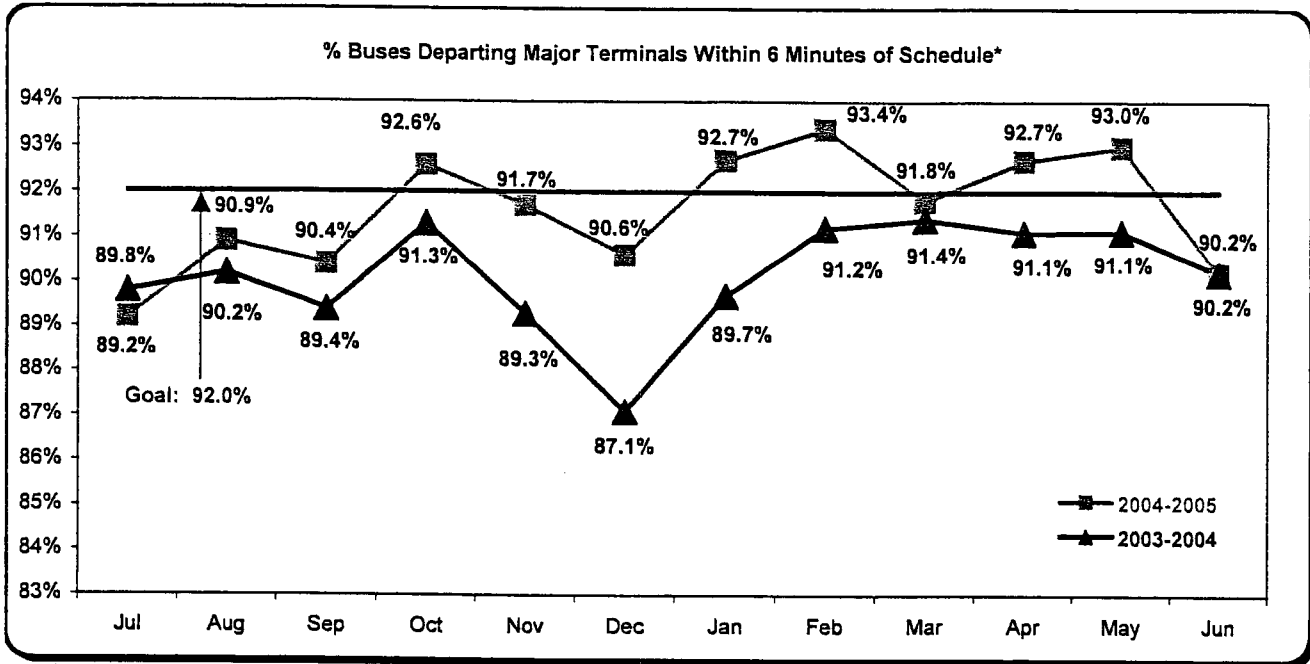
A mechanical problem at the Portal Bridge on June 6th;

Amtrak signal failure in the tunnels between New Jersey and New York during the morning rush hour on June 10th; and

Storm damage to overhead wires at Roseville Avenue on the M&E on June 22nd.

The 12-month average for Rail On Time Performance systemwide for July 2004 - June 2005 was 94.2%, 0.6 of a percentage point above the average for the previous 12-month period.

NJ TRANSIT ON TIME PERFORMANCE BUS JULY 2003 - JUNE 2005



	2004	2005	# Change
June Comparison	90.2%	90.2%	0.0%

	2003-2004	2004-2005	# Change
12-Month Average July - June	90.2%	91.6%	1.4%

Analysis:

Bus On Time Performance for June 2005 was 90.2%. Of the 32,136 monitored departures, 3,148 (or 9.8%) experienced delays. Significant sources of delay included:

Closure of the center tube of the Lincoln Tunnel on June 3rd and June 20th;

Heavy rain and gridlock conditions on Route 495 on June 22nd;

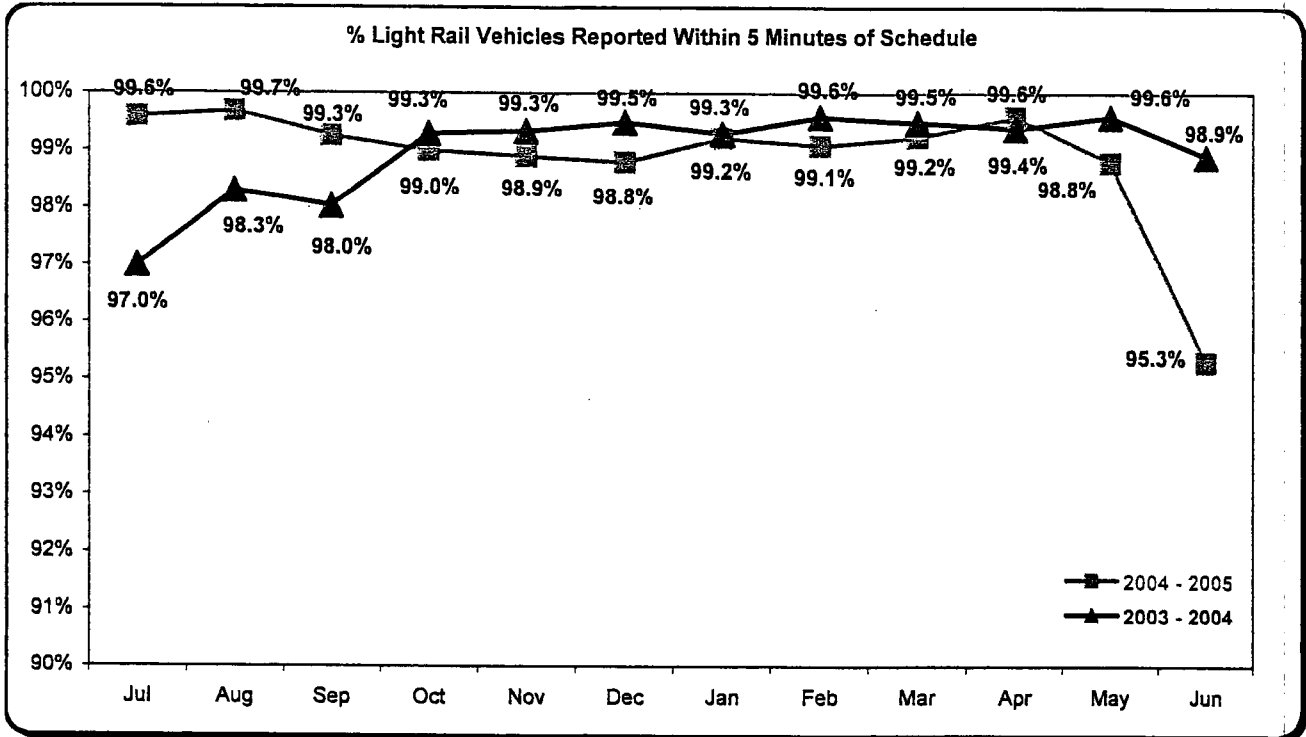
Heavy traffic to the shore areas throughout the month; and

Generally heavy traffic during the a.m. and p.m. rush hours near the Walter Rand Transportation Center.

The 12-month average for Bus On Time Performance for July 2004 - June 2005 was 91.6%, 1.4 percentage points above the average for the previous 12-month period.

*Note: Includes the Walter Rand Transportation Center, Atlantic City, and other major terminals.

NJ TRANSIT ON TIME PERFORMANCE HUDSON-BERGEN LIGHT RAIL JULY 2003 - JUNE 2005



	2004	2005	# Change
June Comparison	98.9%	95.3%	-3.6%

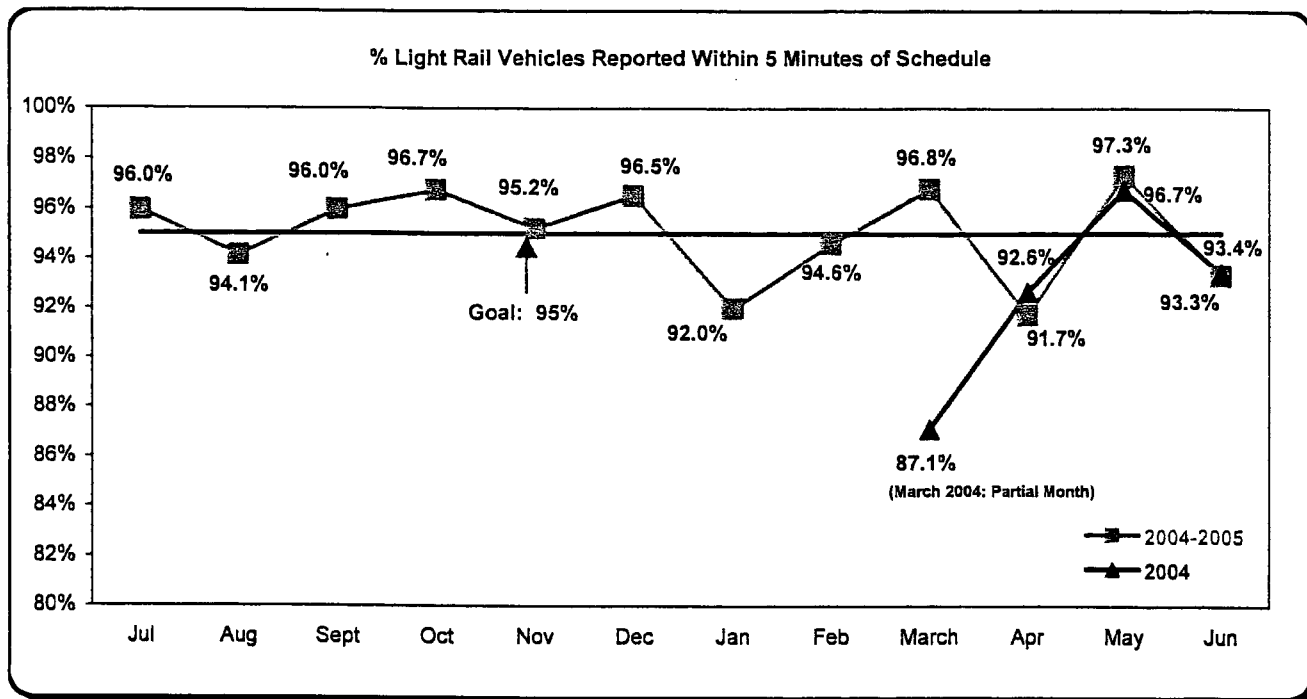
	2003 - 2004	2004 - 2005	# Change
12-Month Average July - June	99.0%	98.9%	-0.1%

Analysis:

Hudson-Bergen Light Rail (HBLR) On Time Performance for June 2005 was 95.3%, -3.6% percentage points below the rate of June 2004. Of the 15,522 scheduled trips for the month, 733 (or 4.7%) were delayed. The primary cause of delay was scheduled maintenance on June 4th, 5th and 11th.

The 12-month average for HBLR On Time Performance for July 2004 - June 2005 was 98.9%, slightly below the average for the previous 12-month period.

NJ TRANSIT ON TIME PERFORMANCE River LINE MARCH 2004 - JUNE 2005



	2004	2005	# Change
June Comparison	93.4%	93.3%	-0.1%

	2004	2004 - 2005	# Change
12-Month Average July - June	N/A	95.0%	N/A

Analysis:

River LINE On Time Performance for June 2005 was 93.3%, just below the June 2004 level of 93.4%. Of the 2,926 trips scheduled for the month, 196 (6.7%) were delayed. Major causes of delay included:

- Heavy passenger volume on June 4th;
- Weather-related problems with track circuits on June 6th;
- An equipment malfunction on June 9th; and
- Heavy concert traffic in Camden on June 17th.

The 12-month average for River LINE On Time Performance for July 2004 - June 2005 was 95.0%, meeting the established goal for performance.

ACTION ITEMS

ITEM 0507-49: TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE): ADOPTION OF THE LOCALLY PREFERRED ALTERNATIVE

BENEFITS

The Locally Preferred Alternative (LPA) for the Trans-Hudson Express Tunnel (THE Tunnel) will formally designate the configuration of tracks, stations, and rail yard improvements that will be advanced as a single program for expanded commuter rail capacity to Midtown Manhattan. The LPA was developed through meetings with THE Tunnel Technical Advisory Committee (TAC) and Regional Citizens' Liaison Committee (RCLC) as well as numerous public outreach sessions. Once adopted, the North Jersey Transportation Planning Authority (NJTPA) is expected to evaluate and approve the project for inclusion in the NJTPA Long Range Regional Transportation Plan, a required step to make the project eligible for federal funding.

THE Tunnel project will double commuter rail capacity to New York City by construction of two new tunnels under the Hudson River; a new station in New York City; and rail yards, signal, and track improvements in New Jersey and New York. The project will open new opportunities for direct rail service from the existing commuter rail system to Midtown Manhattan and build upon recent transit investments in New Jersey, including Secaucus Junction, MidTOWN DIRECT, and Montclair Connection. The project will further provide capacity to support rail expansion projects in development.

PURPOSE

The designation of the Trans-Hudson Express Tunnel Locally Preferred Alternative follows a federally prescribed planning process that began with the Access to the Region's Core Major Investment Study (MIS) and Draft Environmental Impact Statement (DEIS). These documents evaluated various alternatives to gain additional trans-Hudson River transit capacity and the potential costs, benefits, physical and operational feasibility, public acceptance, and environmental impacts of the project.

This authorization will formally designate the Locally Preferred Alternative for submission to the North Jersey Transportation Authority (NJTPA), the federally designated Metropolitan Planning Organization in northern New Jersey. The project must be included in the NJTPA Long Range Regional Transportation Plan to make it eligible for federal funding.

The Locally Preferred Alternative generally includes construction of new pedestrian concourses, extension of platforms, and expansion of train storage capacity at Penn Station New York, a new passenger rail station under 34th Street, two new single-track tunnels under the Hudson River, new rail yards in New Jersey, track and signal improvements on the Northeast Corridor and other lines, and a new loop track connecting the Main, Bergen County, and Pascack Valley Lines with the Northeast

Corridor. A complete description of the Locally Preferred Alternative is attached as Exhibit A.

ACTION

Staff seeks Board adoption of the Locally Preferred Alternative set forth in Exhibit A, and authorization to submit THE Tunnel Locally Preferred Alternative to the North Jersey Transportation Planning Authority Board of Trustees for designation and inclusion in the North Jersey Transportation Planning Authority Long Range Regional Transportation Plan.

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

FISCAL IMPACTS

Requested Authorization:	Board adoption of the Access to the Region's Core Locally Preferred Alternative
Total Project Cost:	N/A
Projected Date of Completion:	N/A
Anticipated Source of Funds:	N/A
DBE Goal:	N/A
Related/Future Authorizations:	N/A
Impacts on Subsequent Operating Budgets:	N/A

RESOLUTION

WHEREAS, additional commuter rail capacity between New Jersey and New York City will support existing and projected demand for rail service and stimulate the regional economy; and

WHEREAS, the Trans-Hudson Express Tunnel locally preferred alternative formally designates the configuration of tracks, stations, and rail yard improvements that will be advanced as a comprehensive project for expanded commuter rail capacity to Midtown Manhattan; and

WHEREAS, the Locally Preferred Alternative must be formally adopted and included in the Metropolitan Planning Organization's financially constrained Long Range Regional Transportation Plan to make the project eligible for federal funding;

NOW, THEREFORE, BE IT RESOLVED that the NJ TRANSIT Board of Directors adopts Trans-Hudson Express Tunnel (THE Tunnel) Locally Preferred Alternative set forth in Exhibit A; and

BE IT FURTHER RESOLVED that the Executive Director is authorized to submit THE Tunnel Locally Preferred Alternative to the North Jersey Transportation Planning Authority Board of Trustees for designation and inclusion in the North Jersey Transportation Planning Authority's Long Range Regional Transportation Plan.

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE



IN PARTNERSHIP WITH THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

July 2005

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

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TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

1. INTRODUCTION

Only rarely does a major transportation investment fundamentally improve travel, enhance regional and national mobility, strengthen the regional and national economy, and create transportation system redundancy and improved passenger safety. The Trans-Hudson Express Tunnel (THE Tunnel), the solution proposed by the Access to the Region's Core (ARC) study, does just this. It will double train and passenger handling capacity into Midtown Manhattan to serve projected future growth in trans-Hudson rail travel. It will facilitate significant additional benefits within New Jersey as well, as this added capacity will permit NJ TRANSIT to continue its planned expansion of commuter rail services west of the Hudson River. Critically, with this additional capacity and new track connections, one-seat ride service can be greatly expanded. These one-seat ride opportunities will encourage people traveling to Midtown Manhattan via private auto to take transit instead.

The ARC Locally Preferred Alternative (LPA), which is called THE Tunnel, is a proposed 5-mile commuter rail project between Secaucus and New York City centered on the Northeast Corridor. It includes:

- Platform, concourse and track improvements to existing Penn Station New York (PSNY);
- Two new single-track tunnels beneath the New Jersey Palisades and the Hudson River, serving both a new station underneath 34th Street between 6th and 8th Avenues and the PSNY complex;
- Improvements to rail infrastructure in New Jersey to provide expanded one-seat-ride opportunities to Midtown Manhattan from the Bergen County, Main and Pascack Valley Lines and the Raritan Valley Line; and,
- Supporting investments such as track improvements, rail yards, signal systems and facilities.

The LPA was developed through an extensive evaluation of alternatives that began in 1995, when the ARC Major Investment Study (ARC MIS) was initiated, and continued through the early stages of the ARC Draft Environmental Impact Statement (ARC DEIS) beginning in 2003. The evaluation process considered costs, benefits, operational feasibility, public acceptance, and potential environmental impacts of a number of alternatives, including a No Build Alternatives and a TSM Baseline Alternative.¹ The evaluation and selection of the LPA included broad participation of the public, elected officials, transportation and environmental agencies, community, business and labor groups, and hundreds of other interested parties in both New York and New Jersey.

The LPA, if implemented, will double commuter rail capacity between New Jersey and New York City, and will take full advantage of recent rail system improvements in New Jersey, including Secaucus Junction, Midtown Direct, and Montclair Connection. It will also provide the necessary capacity to support other rail expansion projects that are currently being planned by NJ TRANSIT. This expansion of train and passenger capacity will be targeted to keep pace with the projected growth in trans-Hudson rail ridership through 2025.

Mobility Improvements – Following the disruptions to Port Authority Trans-Hudson (PATH) service on 9/11/01, PSNY reached practical capacity at 42,500 NJ TRANSIT passengers and more than 100,000 total passengers for all railroads [Long Island Rail Road (LIRR), NJ TRANSIT, and Amtrak] during the

¹During the MIS Build Alternative Screening, in accordance with FTA requirements, two alternatives were developed in addition to Build Alternatives: a No-Build Alternative, which included those improvements that were already programmed and budgeted; and a Transportation System Management (TSM) alternative, which consisted of a number of lower-cost actions aimed at achieving project goals through better management of the existing transit network.

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

morning peak period. In 1994, 88 total trains arrived and departed during the morning peak period. By 2004 this number had more than doubled to 186 trains. Passenger demand is forecasted to double again over the next 20 years, with NJ TRANSIT passenger levels expected to exceed 86,000 during the peak period. As the most heavily utilized passenger rail station in the country, PSNY already suffers from significant circulation problems; the ARC improvements are needed to accommodate the circulation pressures associated with projected ridership growth.

Rail Capacity - Today, the existing two single-track tunnels under the Hudson River are operated at their maximum capacity. 23 trains travel eastward in the peak hour; this equates to one train traveling east every 2-½ minutes along the Northeast Corridor between Newark and PSNY at the peak of the peak. This number was reached after NJ TRANSIT invested in an improved signal system that permitted the addition of 3 trains per hour over the previous limit of 20 trains per hour.

In addition to tunnel capacity limits, there are limits to the number and lengths of trains that can utilize PSNY. NJ TRANSIT is limited in the platforms it is permitted to use, as the station is shared with Amtrak (the station owner) and LIRR (the largest single user of capacity). 60% of NJ TRANSIT's trains utilize Platforms 1 & 2, Tracks 1-4. These stub-end tracks and shorter platforms limit train length and operations. Therefore, to accommodate additional projected future rail riders, it is necessary to expand existing tunnel and platform capacity.

Reliability - To accommodate recent ridership increases, NJ TRANSIT has increased the volume of trains to the absolute limit that can be accommodated on the Northeast Corridor and PSNY rail system. Because of this volume relative to capacity, disruptions to train service have a cascading and substantial impact. A single train stoppage can easily delay many subsequent trains. It is essential to add rail capacity to provide additional system flexibility that will mitigate the impact of individual train disruptions on subsequent train movements.

Economic Impacts - The LPA would contribute to the future economic health of the New Jersey/New York metropolitan area. An independent economic impact study, conducted by Economic Research Associates, concluded that the LPA would create 44,000 new jobs in the region during its first ten years of operation, with approximately 16,000 in New Jersey and 28,000 in New York. These are new jobs that would only be created in the region as a result of the critical improvements to regional rail system capacity and connectivity provided by the LPA. ERA identified jobs to be created by sub-region.

Table 1-1: New Jobs by New Jersey Sub-region

New Jersey Sub-region	Jobs created
Bergen, Essex, Hudson, Passaic	7,450
Morris, Sussex, Hunterdon, Warren	2,150
Middlesex, Somerset, Union	4,400
Monmouth, Ocean	1,800

Source: Economic Research Associates

Associated with these permanent increases is an additional \$4.3 billion in Gross Regional Product (GRP) and \$2 billion in Real Personal Income (RPI) in New Jersey, and an additional \$5.7 billion in GRP and \$1.4 billion in RPI in New York. The combined additional tax generation for New Jersey and New York is projected at \$47 million just after THE Tunnel opens. This amount is projected to increase to \$480 million within 10 years of completion of the project.

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

The Northeast Corridor into PSNY is a significant choke point in the regional rail system, and new capacity will encourage new economic growth. Current capacity constraints limit the region's ability to absorb a major influx of new jobs.² Without addressing these constraints, future regional economic growth will be stifled.

Regional Land Use and Mass Transportation - The land use patterns in the project area are among the most transit-supportive in the nation, with virtually unmatched residential and employment densities. The New Jersey/New York region's development has historically been predicated on transit service. Given these intensive land use patterns, only the LPA provides the transit gains and multi-modal options that are needed to address regional mobility and economic growth. The LPA will encourage such trends to continue in New York City, especially the planned development in west Midtown, and in the communities west of the Hudson River that have rail stations. The LPA supports the efforts of the New Jersey Office of Smart Growth by reinforcing and enhancing transit alternatives in the already densely developed urban area of northern New Jersey. The LPA also complements NJ TRANSIT's Transit Friendly Communities program, and the New Jersey Department of Transportation's Transit Villages program. These programs encourage and support transit oriented development around existing and proposed rail stations and major bus stops.

Security and Redundancy – Communities in northern New Jersey, and in Rockland and Orange Counties in New York, are connected to New York City by two single-track rail tunnels that are almost a century old. These tunnels are currently undergoing life safety improvements that restrict Amtrak and NJ TRANSIT to a single track from approximately 9 PM on Friday until about 4-5 AM on Monday. NJ TRANSIT is forced to restrict weekend service in a manner that negatively impacts rail ridership. While the life safety improvements will continue, other major maintenance to these facilities will also be necessary; however, no alternative capacity exists to sustain rail services.

History dictates that the New Jersey/New York region be concerned about security. The Northeast Corridor, Hudson River rail tunnels, and PSNY complex are fragile; there is no backup system to provide alternate capacity if a major component of the current system is disabled as the result of a manmade or natural incident. The LPA will provide alternative capacity, sufficient redundancy and flexibility to address such a contingency.

Public Involvement – Public involvement has been central to the development of the LPA in order to better inform people about the need for the project, to reach a broad consensus on the best alternative, and to build the support needed to build THE Tunnel. It is anticipated that the active public involvement program will continue throughout the life of the project.

2. PROJECT BACKGROUND – ARC MIS & ARC DEIS

The ARC LPA results from over ten years of planning, starting with the ARC MIS in the 1990s, and continuing through the ARC DEIS since 2003.

² Scanlon, Rosemary and Edward S. Seeley, Jr. *At Capacity: The Need for More Rail Access to the Manhattan CBD*. November 2004. Rudin Center for Transportation Policy and Management. *The Case for a New Hudson River Passenger Rail Tunnel into Manhattan*. December 2003. Regional Plan Association.

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

2.1 The ARC Major Investment Study

The ARC MIS, which was conducted jointly by NJ TRANSIT, the Metropolitan Transportation Authority (MTA), and the Port Authority of New York and New Jersey (PANYNJ), was performed in accordance with Federal Transit Administration (FTA) guidelines. The effort began in January 1995 with three broad goals:

1. To enhance the economic viability and productivity of the New Jersey/New York region;
2. To improve the quality of life in the region; and
3. To invest and use transportation resources productively, efficiently, and effectively.

During the ARC MIS, 137 alternatives were identified and screened; results are reported in the 2003 MIS Summary Report. The alternatives represented a wide range of strategies, including bus, light rail, subway, PATH, commuter rail, ferry, new technologies, and auto. The analysis led to the finding that expanding commuter rail capacity and connectivity offers the best approach for meeting projected future passenger demand, because it will build upon NJ TRANSIT's existing commuter rail network. This rail network includes services throughout northern New Jersey, and Orange and Rockland counties in New York State. Providing expanded one-seat ride opportunities was identified as critical for attracting more trans-Hudson travelers to rail and away from automobiles, which has important positive air quality and quality of life consequences. The ARC MIS determined that the PSNY area, with its multimodal transit connectivity, feasible potential for network expansion, west Midtown Manhattan location, and history of serving west-of-Hudson commuters, is the best place to provide for additional passenger growth.

The MIS report contained a recommendation for a new commuter rail connection between New Jersey and New York City, and two study options for such a connection, Alternative P and Alternative S. Alternative P was a new stub-end station very deep beneath existing PSNY. Alternative S was a new rail tunnel beneath 31st Street and the East River to the train storage facilities at Sunnyside Yard in Queens. Alternative S did not include a new station facility, but increased capacity in the existing station PSNY by allowing a run-through service to Sunnyside Yard. However, there were concerns about building a much longer tunnel to Sunnyside Yard, and there are limitations to capacity expansion at Sunnyside Yard. Neither Alternative P nor S permitted a full track connection to the existing tracks and platforms at PSNY. Under either Alternative P or S, it would not be possible to build such a connection due to the alignment and depth below grade of the new tunnels proposed in each Alternative. Following the events of 9/11/01, this type of connection, which would create system redundancy and flexibility, became increasingly critical. In addition, as discussed above, such a connection would enhance capacity at PSNY and bolster system reliability.

2.2 The ARC Draft Environmental Impact Statement

Alternatives P and S were presented to the public during the scoping process that initiated the ARC DEIS process. Three additional alternatives were identified during that process, including: a new East Side station in Midtown Manhattan, a new stub end station under 34th Street between 6th and 8th Avenues, and a new commuter rail loop into the core of Midtown Manhattan. These new alternatives were then further evaluated and screened along with Alternatives P and S. More details about the DEIS screening process are presented below.

The ARC DEIS Study Area - The DEIS primary project study area is approximately 17 route miles, stretching from Newark, NJ to Queens, NY, and includes Newark Liberty International Airport Station, Newark Penn Station, Newark Broad Street Station, Secaucus Junction, Hoboken Terminal, PSNY and Sunnyside Yard. The study area comprises three main segments: Newark Liberty International Airport

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

Station to Secaucus Junction (8 miles); Secaucus Junction to PSNY (5 miles); and PSNY to Sunnyside Yard (4 miles).

The ARC DEIS Public Involvement Process - The DEIS includes an extensive and ongoing public involvement program. There is a Technical Advisory Committee (TAC) for agency coordination and a Regional Citizens' Liaison Committee (RCLC) for ongoing coordination with members of the public from throughout the region. Additionally, there have been scores of meetings in New Jersey and New York with elected officials, business groups, federal, state and local agencies, and local communities. NJ TRANSIT maintains a log of these meetings; between the beginning of 2004 and May 2005, NJ TRANSIT has conducted over 120 outreach sessions, including roughly 33 public sessions. There are also regularly published newsletters, a toll-free study information line, and the project Web site (<http://www.accesstotheregionscore.com>).

The ARC DEIS Alternatives Screening - The objective of the DEIS screening was to reduce the number of alternatives and concepts to be evaluated in the DEIS and to complete the eventual selection of a Locally Preferred Alternative. The DEIS screening process included an examination of other issues, including potential station locations, tunnel locations, and west-of-Hudson improvements including a rail loop and rail yards. Each of the options considered in the DEIS screening are described below.

- *Elements Common to All of the Alternatives* – All of the alternatives included the following common elements west of New York City:
 - Two new single-track tunnels under the New Jersey Palisades and the Hudson River;
 - Construction of a loop connecting track at Secaucus from the Bergen/Main/Pascack Valley lines onto the Northeast Corridor providing a direct link to PSNY for Bergen/Main/Pascack Valley passengers;³
 - Track improvements on the Northeast Corridor between Secaucus and PSNY to expand track capacity to the new tunnels;
 - Storage yards and track improvements on the former Boonton Line right-of-way in Secaucus and Jersey City, and in Kearny on property adjacent to NJ TRANSIT's Morris and Essex Line; and
 - A set of improvements to enhance capacity at PSNY for rail equipment and passengers.
- *Alternative P1 (Penn Station New York)*
 - A new lower-level 8-track stub-end station directly beneath the existing PSNY tracks; and
 - New passenger circulation corridors, designed to link the new tracks and platforms with existing passenger concourses and streets surrounding PSNY.
- *Alternative S1 (Sunnyside)* - Unlike Alternative P1, Alternative S1 would not include a station.
 - Reconfiguration of Tracks 1-5 and extension of Platforms 1 and 2 in PSNY; and
 - A new two-track tunnel breaking out of Tracks 1-5 at the east end of PSNY, continuing under 31st Street in Manhattan and under the East River to expanded storage facilities in Sunnyside Yard.

³ A key focus of the DEIS analysis was expanded one-seat ride opportunities for rail users both in New Jersey and New York, including, but not limited to, Bergen/Main/Pascack Valley Line users. The DEIS analysis projected that, during the morning peak period, the full-build project will provide almost 29,000 trips into New York for users of lines without current one-seat ride capabilities.

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

- **Alternative S2 (Sunnyside with East Side Station)** - This alternative would include a new station in the Kips Bay area in southeastern Midtown Manhattan, along the existing and proposed tunnels of Alternative S.
 - A new station located between Park Avenue South on the west, 33rd Street on the north, Second Avenue on the east, and 31st Street on the south.
 - Three or four major station entrances and connections to the existing Lexington Avenue subway and eventually to the proposed Second Avenue subway.

- **Alternative P2 (34th Street Station)**
 - Two new single-track tunnels under the New Jersey Palisades and the Hudson River serving both PSNY and a new station underneath 34th Street between 6th and 8th Avenues;
 - A new multi-level station underneath 34th Street between 6th and 8th Avenues that provides passenger access to existing PSNY and transit services including LIRR, PATH, and New York City Transit (NYCT) Broadway, Sixth, Seventh, and Eighth Avenue subway lines.

- **The Midtown Loop**
 - New tunnel alignment, without track connection to existing PSNY, north to 50th Street, west to 9th Avenue and south to 34th Street;
 - Three additional stations and potential passenger connections to the NYCT Lexington Avenue Line and proposed Second Avenue subway.

The criteria for the screening of Alternatives P1, S1, S2, P2 and the Midtown Loop were developed through a series of NJ TRANSIT senior manager meetings and input received at TAC and RCLC meetings held in June 2004. The screening criteria are shown in the following table.

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

Table 2-1: New York Station Concept-level Screen Criteria

Criterion	Description
Capital Cost	Affordable capital cost
Constructibility	Engineering and construction requirements are feasible
New Passenger and Train Capacity at PSNY	Provides maximum peak capacity between new and existing station (20 or more tph)
Timeframe	Constructible within required timeframe (by 2015)
Resiliency/Redundancy	Provides redundancy which allows for a more secure rail system
Flexibility in NJ TRANSIT and Amtrak Operations	Provides flexibility in operations for NJ TRANSIT and Amtrak by providing ability to shift between new and existing infrastructure
One-seat Ride Opportunities	Accommodates a 'one-seat ride' for existing commuter rail network into PSNY
Expansion Opportunities	Provides expansion opportunities to the east and north
Minimize Environmental Impacts	Minimizes impacts to the environment
Minimize Short Term and Long Term Disruption to PSNY	Minimizes construction related and long term disruption to existing PSNY
Minimizes Property Impacts	Minimizes property impacts and required easements in NYC
Passenger Accessibility and Convenience	Minimize passenger movements (travel time) by improving accessibility and convenience
Crew Accessibility and Convenience	Minimize crew movements (travel time) by improving accessibility and convenience
Phased Implementation	Opportunities for phased implementation to bring near term capacity increases to PSNY
Rail Connectivity to Existing PSNY	Provides rail connections between new infrastructure and existing PSNY on the New York side

Appendix 1⁴ shows how Alternatives P1, P2 and S1 rated against the screen criteria.

Alternative P1 scored lower than Alternative P2. The stub-end station design beneath PSNY would limit flexibility in movement for both trains and people. Critically, the depth of the station would prevent track connections between the new tunnels and the existing station. Station depth also presented concerns about constructibility, risks during construction and passenger access through existing PSNY. The concerns presented by the depth of the station were sufficient to significantly lower Alternative P1's score.

Alternative S1 also scored lower than Alternative P2. It did not meet the station capacity and resiliency/redundancy requirements. The conversion of Tracks 1-5 to through-running would allow for the addition of only 17 trains per hour. S1 is the most expensive and provides the least additional capacity. Because this alternative would use existing station tracks and platforms, it would not provide improved passenger facilities or the redundancy achieved by the other alternatives.

Alternative S2 was examined and discarded early in the screening process. The Midtown Loop was also considered, but was not included in the screening because it would make the project too expensive. (The

⁴ Appendix 1, the Station Concept-level Screen Scoring Summary, has been updated with information developed during the DEIS process, and thus varies slightly from previously released scoring results.

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

34th Street Station proposed in the LPA will be designed to allow future extensions of tracks as subsequently deemed appropriate.)

A few attendees at public outreach meetings advocated taking steps to provide a LIRR/NJ TRANSIT run-through train service as a means of increasing train handling capacity. This proposal would involve addressing operational and institutional issues and making capital investments. After consultation between NJ TRANSIT, the MTA and LIRR, it was concluded that operating a run-through service would not address many fundamental train capacity issues. It is expected that discussions will continue, focusing on the utility of operating a run-through train service, even if it is initially only to manage train staging and storage issues. It should be noted that there are significant equipment compatibility issues (e.g., electrification system differences⁵) that would need to be resolved, and that would require capital investment, should this type of service be implemented.

Alternative P2 received the highest overall score of the alternatives evaluated. P2 is the only alternative that met all of the priority requirements.

3. THE ARC LOCALLY PREFERRED ALTERNATIVE

A single alternative, Alternative P2, was selected as the Locally Preferred Alternative and recommended for advancement through the DEIS. Alternative P2 performed better than the other alternatives in four important criteria:

- Ability to provide track connections from the new Hudson River tunnels to both existing PSNY and to the new 34th Street Station;
- Ability to fully accommodate projected future train capacity needs;
- Ability to address security and redundancy issues previously mentioned, based on 34th Street Station location; and
- Ability to provide superior pedestrian connections to subway lines in the PSNY area, as well as PSNY.

The ARC LPA includes the following elements:

- Capacity enhancements at PSNY, including passenger concourse extensions, platform lengthening and improved pedestrian connections (see *Figure 1*). These improvements will improve passenger circulation within PSNY to alleviate significant crowding that currently exists and that will increase over the next several years. They include:
 - E-Yard Expansion: The westward extension of E-Yard to Dyer Avenue will provide additional train storage capacity adjacent to PSNY platform tracks.
 - West End Concourse Extension: Located just west of Eighth Avenue, the West End Concourse ends at Platform 8. The southward extension of the Concourse to cross Platforms 7 through 3 is proposed as part of the Moynihan Station project and will improve passenger circulation. Potential further extension to cross Platforms 2 and 1 will be provided by the ARC project.
 - Central Corridor Extension: Extending the Central Corridor, which currently ends at Platform 6, to provide passenger access to Platforms 5 through 1 will enhance passenger distribution and operational flexibility.
 - Extension of Platforms 1 and 2: Extension of these platforms will allow for the full operation of 11- to 12-car trains on Tracks 1 through 4.

⁵ LIRR uses electrified third rail to power trains while NJ TRANSIT uses overhead electrified wires.
THE Tunnel (ARC) LPA - Final Report

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

- Two new single-track tunnels under the New Jersey Palisades and Hudson River, located immediately south of the existing North River rail tunnels to PSNY, with track connections to the new 34th Street Station and to PSNY (see *Figure 2*). Supported by the other elements of the LPA, these tunnels meet the demonstrated need for additional trans-Hudson capacity.
- Rail storage facilities in Kearny on property adjacent to NJ TRANSIT's Morris and Essex Line, as depicted in *Figure 2*, and along the former Boonton Line right-of-way in Secaucus and Jersey City. This capacity is needed to accommodate the additional trains that will be in operation as the result of track and tunnel improvements described in the LPA.
- Track improvements in New Jersey, as depicted in *Figure 2*, including additional tracks at Secaucus Junction and along the Northeast Corridor east of Secaucus Junction. These improvements will support expanded rail operations between New Jersey and New York.
- A new loop track connecting the Northeast Corridor with the Main/Bergen and Pascack Valley Lines (see *Figure 2*). The loop connection will provide users of these lines with a one-seat ride into New York.
- A new multi-level station under 34th Street in Manhattan, with connections to the Broadway, Sixth, Seventh, and Eighth Avenue NYCT subways, and PATH (see *Figures 3 and 4*). The station will connect with PSNY and the proposed Moynihan Station via underground passageways; it will be located a short city block, or about a five-minute walk, from PSNY. The facility will be located in two caverns with a two-track over two-track configuration in each cavern. This design was chosen to minimize impacts on existing buildings along 34th Street. The station will include tail tracks running east under 34th Street to about 5th Avenue to increase train handling capacity. In the future, it may be possible to extend these tracks, based on future planning studies.

4. ARC PROJECT COSTS & FINANCING PLAN

4.1 ARC Financing Overview

The ARC financial plan is being developed under a statewide consensus that the ARC project is the most important transit capital priority in New Jersey. A capital cost estimate of approximately \$6 billion has been developed for the project. As the North Jersey Transportation Planning Authority (NJTPA), the federally designated MPO for the 13 counties in northern New Jersey, has stated in its Long-Range Plan, implementation of ARC should take precedence over other proposals for rail system expansion in New Jersey. Additionally, it is expected that the Port Authority of New York and New Jersey (PANYNJ) will be a major funding partner in the project. Federal funding is anticipated to provide about one-half of total project funding. Finally, the ARC financial plan anticipates renewal of New Jersey's Transportation Trust Fund (TTF), as discussed in the *State Transportation Funding Overview* section below. Given these parameters, it is believed that funding for ARC can allow for project implementation beginning in 2007, and completion by 2015.

4.2 State Transportation Funding Overview and ARC

The NJTPA anticipates that state funding for transportation will increase by 85% over the next 25 years. (Such funding has increased by 108% since 1988; the increase between 1988 and 1991 was made possible by a 2.5-cent increase in the state motor fuels tax and a 4.5-cent increase in the portion of the tax dedicated to the TTF.) Included in this projection is an increase of 33% in state funding over the next 10 years (from \$1.07 billion to \$1.42 billion per year).

TRANS-HUDSON EXPRESS TUNNEL (ACCESS TO THE REGION'S CORE) LOCALLY PREFERRED ALTERNATIVE

In November 2003, the Governor's Blue Ribbon Commission, appointed to address transportation financing issues, released its report to the Governor and the New Jersey Legislature. Based on anticipated needs over the next ten years, the Commission recommended a minimum 12.5-cent increase in the motor fuels tax; this would yield approximately \$1.6 billion per year in investments in transportation. In addition, it is anticipated that future TTF increases will be supplemented by other non-federal sources of transportation funding, including PANYNJ project-specific contributions, voter-approved Bridge Bond Acts, transit lease agreements, and other sources. TTF renewal remains difficult to predict, in terms of precise timing and funding levels. Between funding made available by PANYNJ and by the State of New Jersey, it is anticipated that the needed local funding commitments will be made.

4.3 Project Funding

As stated above, federal funds are anticipated to meet about one-half of the project costs. Local matching funds have been identified to support various aspects of the ARC project. NJ TRANSIT and PANYNJ will make total commitments of \$450 million for the purchase of bi-level passenger rail cars. (\$250 million has been officially committed, while \$200 in funding is in the process of being allocated.) The bi-level rail cars, which will provide over 20% more passenger capacity per car than NJ TRANSIT's existing fleet of single-level coaches, are a critical component of the expansion of trans-Hudson passenger rail capacity, and will allow for full utilization of the ARC LPA rail infrastructure.

An additional local commitment has already been made. Recognizing the importance of the project, in September 2004 the PANYNJ Board of Commissioners authorized the allocation of \$10 million for two ARC improvements at PSNY: (1) engineering and design of an extension of the West End Concourse underneath the west side of Eighth Avenue from Platform 3 to Platform 1, connecting to the proposed Moynihan Station, and (2) engineering and design of an extension of PSNY's Central Corridor from Platform 6 to Platform 1.

Appendix 1: Station Concept-level Screen Scoring Summary

Screening Criteria	Criteria Description	Criteria Scoring 1-5 (5 is best; 1 is worst)					
		P1-Lower Level PSNY		P2 - 34th Street Station		S1 - Sunnyside Yard	
		Value	Score	Value	Score	Value	Score
Capital Cost	Affordable capital cost	\$2.1-2.25 Billion (does not include tunnel, real estate or rolling stock)	5	\$2.7-\$2.9 Billion (does not include tunnel, real estate or rolling stock)	5	\$3.4 - \$3.8 Billion (does not include tunnel, real estate or rolling stock)	5
Constructibility	Engineering and construction requirements are feasible	Significant construction risk associated with tunneling under existing PSNY.	2	Construction risk associated with tunneling under 34th Street is moderate.	5	M & P of rail operations during U & M ladder track reconstruction, underpinning of Seventh and Sixth Ave. Subway Tunnels.	3
New Passenger and Train Capacity at PSNY	Provides maximum peak capacity between new and existing station (20 or more tph)	19-20 TPH	4	21 TPH (new) + 4 TPH (existing) with opportunity to expand capacity with added investment	5	Additional 17 TPH to existing platforms	1
Timeframe	Constructible within required timeframe (by 2015)	Yes	5	Yes	5	Yes	5
Resiliency/Redundancy	Provides redundancy which allows for a more secure rail system	Passenger access via existing station only	3	Provides track and passenger connections from new and existing stations.	5	New tunnel provides access to existing station only.	1

NJ BOARD - 7/27/05

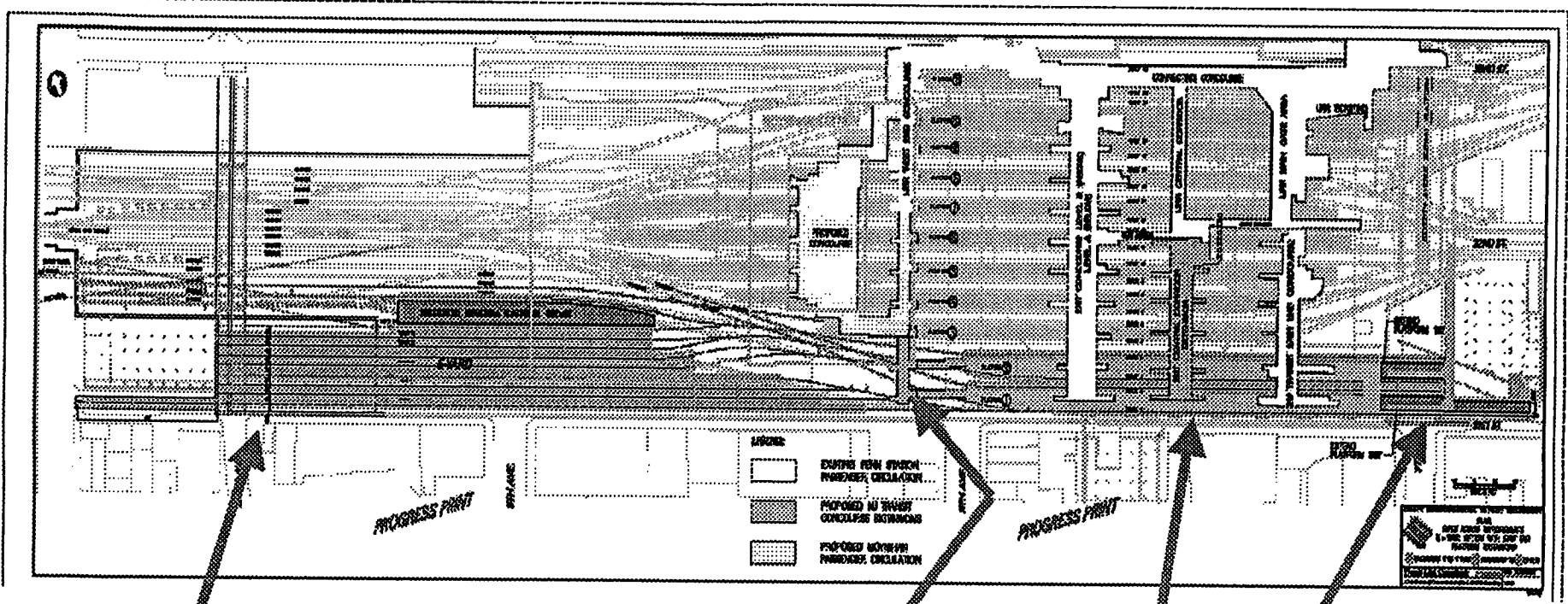
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Flexibility in TRANSIT and Amtrak operations	Provides flexibility in operations for NJ TRANSIT and Amtrak by providing ability to shift between new and existing infrastructure	Flexibility on New Jersey side only	2	Full flexibility on New York side by providing access from new tunnel to tracks 1-16.	5	Revenue to non-revenue through operations via a new tunnel under 31st St. to Sunnyside Yard in Queens, providing flexibility for both NJT and Amtrak.	3
One-seat Ride opportunities	Accommodates a 'one-seat ride' for existing commuter rail network into PSNY	Yes	5	Yes	5	Yes	5
Expansion opportunities	Provides expansion opportunities to the east and north	Yes, requires tunneling under buildings	3	Yes, tunneling would continue under 34th Street right-of-way	5	Yes	5
Minimize environmental impacts	Minimizes impacts to the environment	None now evident	5	Some surface and noise disruption during construction between 6th and 9th Avenues, traffic/pedestrian flow maintenance and protection required. Similar construction impacts expected between 28th St. and 12th Ave. northwest to 31st St. and 10th Ave. for connection to existing PSNY.	3	Cut & Cover construction under 31st Street at Seventh Ave., resulting in construction noise. Sensitive receptor buildings along 31st St. Noise & vibrations along 31st St. from Seventh Ave. to East River.	3

Minimize Short Term and Long Term Disruption to PSNY	Minimizes construction related and long term disruption to existing PSNY	Some impact to passenger concourses at south and north ends of existing A/B levels	3	Impacts to existing Empire Line during construction of tracks to existing station.	3	Requires east and west platform extensions, Amtrak diagonal platform relocation, new ladder track, reconfiguration of U & M ladders.	2
Minimizes Property Impacts	Minimizes property impacts and required easements in NYC	Minor property acquisition required. Easements only. Tunnel construction shaft required at 12th Avenue area may require acquisition of parcel above or adjacent to tunnel.	5	Some property acquisition required. Tunnel beneath 30 properties and adjacent to additional 60 properties requiring easements. Tunnel construction access shaft required east of 12th Ave. at 28th St., may require acquisition of parcel above or adjacent to tunnel. Vent shafts for tunnel and station will require some property acquisition.	5	Properties east of Second Ave. in Manhattan: NYU Hospital Dormitory, Tisch Pavilion, NYU Hospital, Hospital Annex.	3
Passenger Accessibility and Convenience	Minimize passenger movements (travel time) by improving accessibility and convenience	Yes	5	Yes	5	Yes	5
Crew Accessibility and Convenience	Minimize crew movements (travel time) by improving accessibility and convenience	Yes, convenient access below existing station	4	Yes, however crew is required to navigate through new passageways with customers	3	Yes	5

phased implementation	Opportunities for phased implementation to bring near term capacity increases to PSNY	Yes, difficult but not impossible	3	Yes	5	Yes	5
Rail connectivity to existing PSNY	Provides rail connections between new infrastructure and existing PSNY on the New York side	Concerns with constructibility and risk	2	Yes	5	Yes	5
TOTAL (Max score=75)			56		69		56
RANK			2nd		1st		2nd

Figure 1: Capacity Enhancements at PSNY



Create Train Staging Area in south end of Station

Extend West End Concourse and Connect to Moynihan Station

Extend Platforms 1 & 2

Extend LIRR Central Concourse

Figure 2: Project Overview

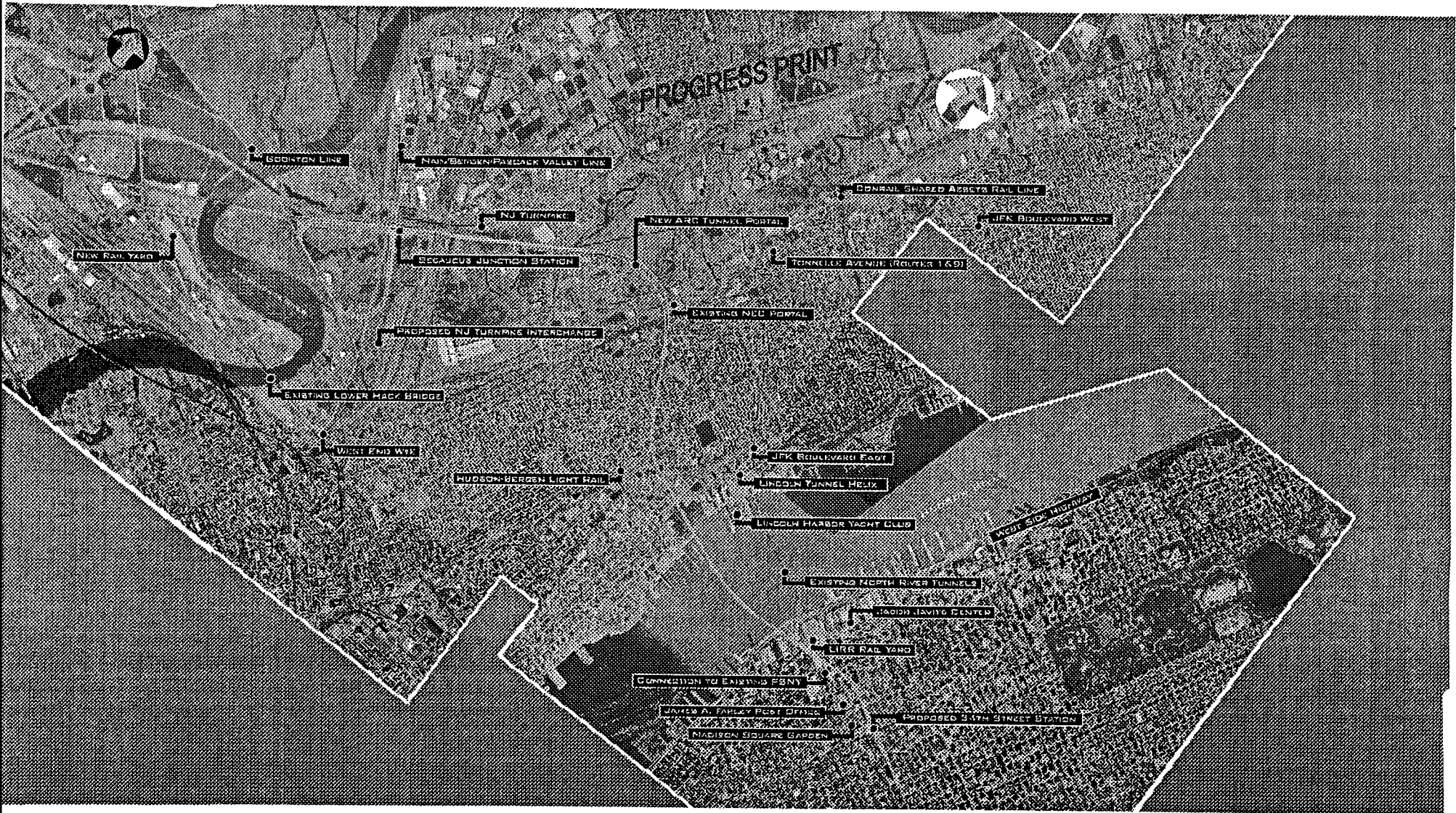


Figure 3: 34th Street Station Plan

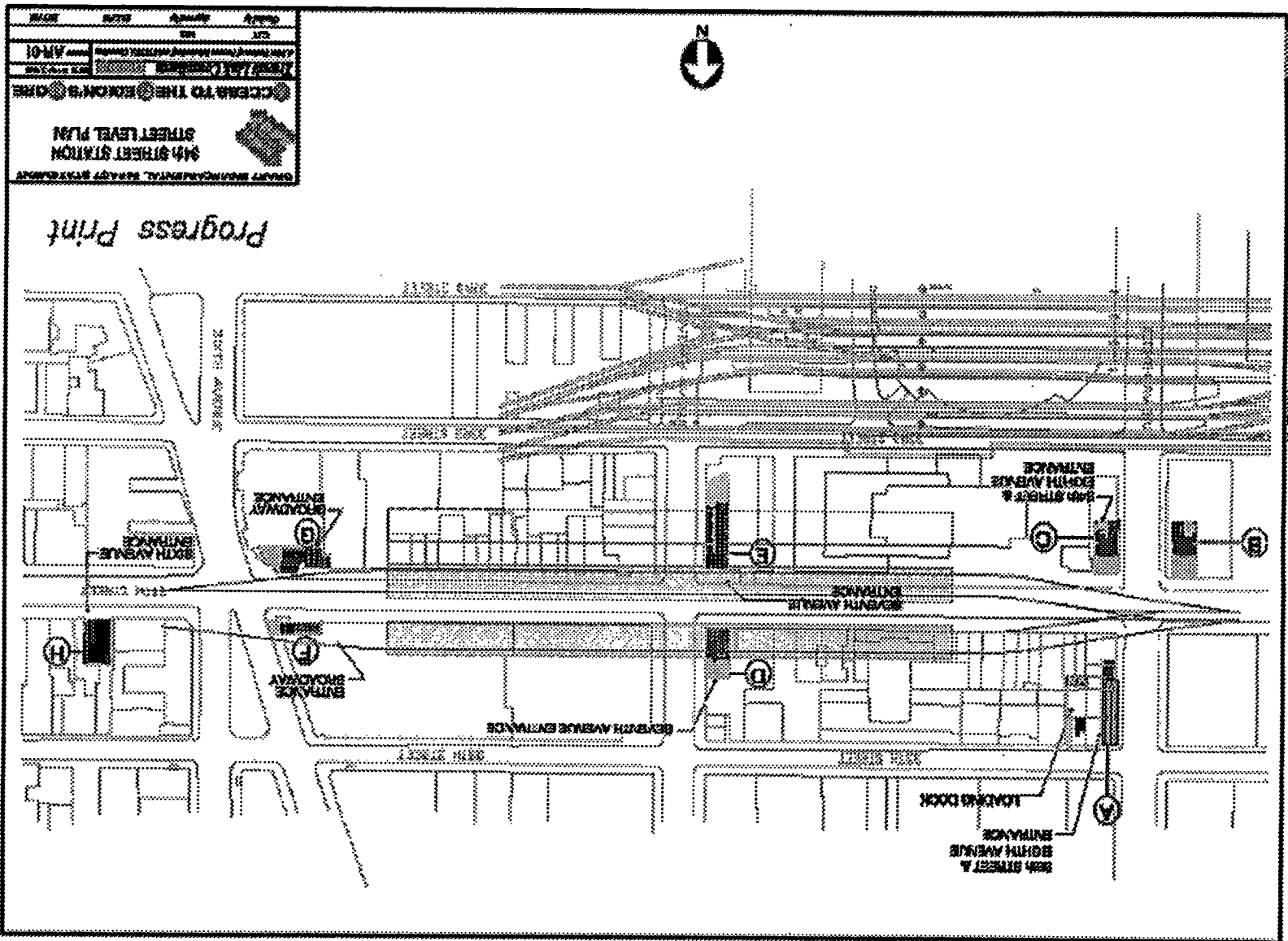
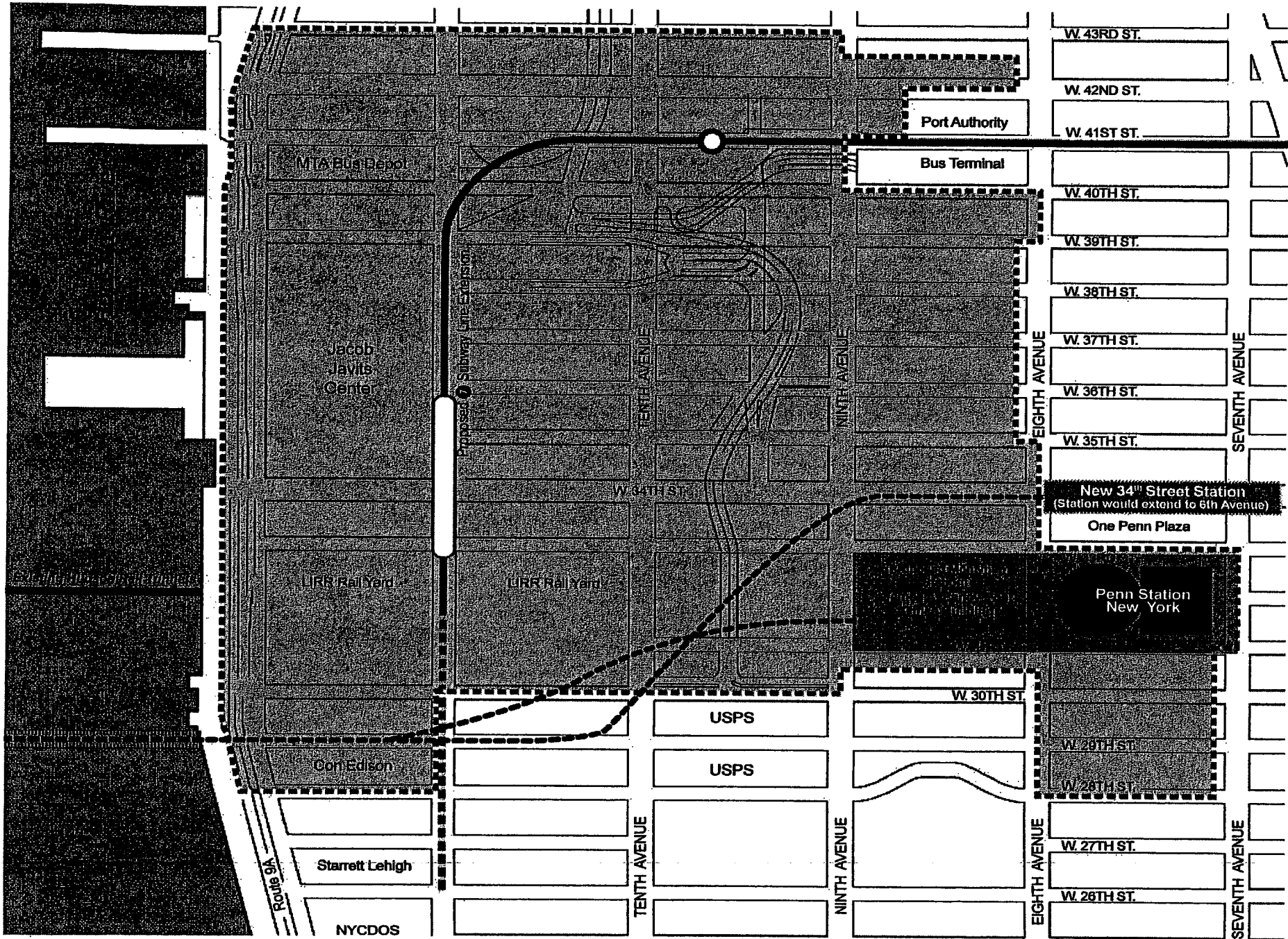


Figure 4: 34th Street Station Location



ITEM 0507-50: TRANS-HUDSON EXPRESS TUNNEL – LEGAL SERVICES FOR ENVIRONMENTAL AND LAND USE REVIEW AND REAL ESTATE ACQUISITION: ACTION TO RESCIND PREVIOUS BOARD RESOLUTION NO. 0506-43

BENEFITS

The Trans-Hudson Express (THE Tunnel) project will double commuter rail capacity to New York City by construction of a new tunnel under the Hudson River, a new station in New York City and rail yard, signal, and track improvements in New Jersey and New York.

This Board action will rescind the previous Board Item (No. 0506-43) authorizing staff to compensate the law firm of Paul, Hastings, Janofsky, & Walker LLP of New York, NY as Special Counsel in accordance with the New Jersey Attorney General's designation to support the land use and environmental review processes for THE Tunnel project and further authorize staff to compensate Kramer, Levin, Naftalis & Frankel of New York, NY as Special Counsel in accordance with the New Jersey Attorney General's designation to support land use, environmental review, and real estate activities for THE Tunnel project in New York City.

Legal services are also required to support the acquisition of property rights in New Jersey for construction of THE Tunnel project. The Attorney General has designated the firm of DeCotiis, Fitzpatrick, Cole & Wisler, LLP of Teaneck, NJ to provide legal counsel in New Jersey for this work.

PURPOSE

NJ TRANSIT requires specialized legal counsel to review, evaluate, and acquire property interests in New Jersey and New York City. It is expected that the project will require acquisition of hundreds of properties by fee or by easement in both States.

The project is composed of a number of infrastructure elements that require a range of property interests with a range of cost and complexity in the acquisition of those interests. The requested legal support will assist staff in completing the property acquisition process.

ACTION

Staff seeks authorization to rescind the Resolution No. 0506-43 authorizing staff to compensate the law firm of Paul, Hastings, Janofsky, & Walker LLP of New York, NY as Special Counsel in accordance with the New Jersey Attorney General's designation to support the land use and environmental review processes for THE Tunnel project since the land use and environmental portion of Paul, Hastings, Janofsky, & Walker LLP has been acquired by the firm of Kramer, Levin, Naftalis & Frankel.

Staff also seeks authorization to compensate the law firm of Kramer, Levin, Naftalis & Frankel LLP of New York, NY as Special Counsel in accordance with the New Jersey Attorney General's designation to support land use, environmental review, and real

estate activities for THE Tunnel project in New York City at a cost not to exceed \$800,000.

Staff also seeks authorization to compensate the law firm of DeCotiis, Fitzpatrick, Cole & Wisler, LLP of Teaneck, NJ as Special Counsel in accordance with the New Jersey Attorney General's designation to support real estate activities and other legal matters for THE Tunnel project in New Jersey at a cost not to exceed \$300,000.

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

FISCAL IMPACTS

Requested Authorization:	\$1,100,000
Total Project Cost:	N/A
Projected Completion Date:	N/A
Anticipated Source of Funds:	PANYNJ
DBE Goal:	N/A
Related/Future Authorizations:	The need for legal services will continue through all phases of the project and require periodic authorizations
Impacts on Subsequent Operating Budgets:	TBD

RESOLUTION

WHEREAS, NJ TRANSIT seeks to expand the capacity and reliability of commuter rail service to midtown Manhattan by construction of THE Tunnel project which includes a new tunnel under the Hudson River and new station, rail yards, signal and track improvements in New York and New Jersey; and

WHEREAS, Board Item 0506-43 previously authorized staff to compensate Paul, Hastings, Janofsky & Walker LLP for legal services in support of the land use and environmental review processes for the project; and

WHEREAS, the law firm of Kramer Levin Naftalis & Frankel LLP of New York, NY acquired the land use and environmental portion of Paul, Hastings, Janofsky, & Walker LLP; and

WHEREAS, the project will require the acquisition of a wide range of property rights including fee acquisitions, temporary and permanent easements, and subsurface easements; and

WHEREAS, the law firm of Kramer Levin Naftalis & Frankel LLP has been selected as special counsel by the New Jersey Attorney General to represent NJ TRANSIT in these matters in New York City; and

WHEREAS, the law firm of DeCotiis, Fitzpatrick, Cole & Wisler, LLP of Teaneck, NJ has been selected as special counsel by the New Jersey Attorney General to represent NJ TRANSIT in these matters in New Jersey;

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 0506-43 is rescinded and thus renders said resolution null and void; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is hereby authorized to compensate the law firm of Kramer Levin Naftalis & Frankel LLP of New York, NY as Special Counsel in accordance with the New Jersey Attorney General's designation to support the land use, environmental review, and real estate activities for THE

Tunnel project in New York City at a cost not to exceed \$800,000; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is hereby authorized to compensate the law firm of DeCotiis, Fitzpatrick, Cole & Wisler, LLP of Teaneck, NJ as Special Counsel in accordance with the New Jersey Attorney General's designation to support real estate activities and other necessary legal matters for THE Tunnel project in New Jersey at a cost not to exceed \$300,000.

ITEM 0507-51: FISCAL YEAR 2006 OPERATING BUDGET**BENEFITS**

Staff seeks the Board's adoption of the FY 2006 operating budget and authorization to continue to expend funds to meet obligations until the adoption of a FY 2007 budget. The budget includes expenditures of \$1.413 billion offset by \$687.6 million of passenger revenue and other system generated revenues, \$278.7 million in State operating assistance and \$446.7 million from other State and Federal reimbursements. Approval of this budget is necessary to direct resources to support the continued operation of NJ TRANSIT Bus, Rail and Light Rail services.

The proposed FY 2006 Operating Budget continues the agency's focus on operating as efficiently as possible. The recommended budget provides continued funding for core services as well as recent and planned service initiatives and growth. After adjusting for the impact of new services and extraordinary increases for fuel and security service costs, overall expenditure growth is contained to less than 3 percent. The proposed budget includes no increase in State operating assistance and freezes capital program transfers to the operating budget at last year's level.

The proposed FY 2006 budget supports the operation of new and recently implemented service increases. Over the last several years, NJ TRANSIT has increased annual rail car miles and bus vehicle miles by approximately 15 million and 3 million, respectively. This includes the addition of more than 80 weekday trains, 100 weekend trains and service increases on nearly 50 bus routes.

Other recent service initiatives include the opening of the Secaucus Junction Rail Station, the implementation of River LINE Light Rail service and the expansion of Hudson Bergen Light Rail service including the planned extension to Tonnel Avenue in North Bergen scheduled to open in FY 2006.

This budget funds new service initiatives (\$22.4 million) and extraordinary increases above inflation including diesel fuel and security costs (\$18.3 million) partially offset by revenue growth from continuing ridership increases and other non-farebox revenues (\$18.6 million). NJ TRANSIT has identified cost savings and business efficiencies of \$12.6 million through the abolishment of management positions, a freeze on top management salaries and other management efficiencies, reductions in overtime costs, savings from the renegotiation of third-party service contracts and increased revenue from innovative new advertising contracts and other commercial revenues.

PURPOSE

As required under Article II, Section 4(C) of the agency's By-Laws, staff is requesting that the Board of Directors adopt a final budget for NJ TRANSIT as detailed on the attached exhibits. This budget includes appropriations for public transportation contained in the State Budget adopted by the New Jersey legislature. With the approval of this item, the Board acknowledges and accepts its responsibility to set fares, administer a single unified NJ TRANSIT budget and manage Federal Transit Administration assistance.

Approval of this item will also allow the execution of numerous agreements necessary to advance and continue NJ TRANSIT's Private Carrier Capital Improvement Program, timetable distribution, debit and credit card processing and settlement services and marketing programs. It will also allow NJ TRANSIT to provide local share and other in-kind services or act as a pass-through

agency for Federal or State capital or operating funds.

In addition to seeking approval of the FY 2006 operating budget, staff is requesting authorization to continue to expend funds to meet NJ TRANSIT's obligations until the adoption of a FY 2007 budget. NJ TRANSIT is required by its By-Laws to adopt a final budget at its annual meeting in June if the State of New Jersey has completed the process of appropriating funds for public transportation purposes or at the first meeting subsequent to action by the State. Since the State budget process is often not completed before NJ TRANSIT's annual meeting in June, staff may not be able to make final recommendations to the Board on the FY 2007 budget prior to the start of the fiscal year. Therefore, authorization to expend funds to carry on NJ TRANSIT's day-to-day business is necessary.

ACTION

Staff recommends the Board's adoption of the proposed FY 2006 operating budget as detailed in the item and on the attached exhibits.

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

FISCAL IMPACTS

Requested Authorization:	\$1.413 billion
Total Project Cost:	N/A
Projected Date of Completion:	June 30, 2006
Anticipated Source of Funds:	Passenger and other revenues State operating assistance Other State and Federal reimbursements
DBE Goals:	N/A
Related/Future Authorizations:	N/A

FISCAL YEAR 2006 OPERATING BUDGET

RESOLUTION

WHEREAS, Article II, Section 4(C) of the By-Laws requires the Board of Directors to adopt a final budget for NJ TRANSIT after the State of New Jersey has completed the process of appropriating funds for public transportation purposes; and

WHEREAS, the New Jersey legislature has enacted a Fiscal Year 2006 State Budget which includes appropriations for public transportation purposes; and

WHEREAS, staff has recommended a proposed Fiscal Year 2006 operating budget for NJ TRANSIT as detailed in the item and Exhibits A, B and C attached hereto; and

WHEREAS, the proposed FY 2006 budget recognizes State operating assistance of \$278.7 million; and

WHEREAS, it is also necessary for NJ TRANSIT to enter into numerous agreements in order to advance and continue its Private Carrier Capital Improvement Program, timetable distribution, debit and credit card processing and settlement services and marketing programs as described in the item attached hereto; and

WHEREAS, if the State's FY 2007 Budget is not finalized prior to the June 2006 NJ TRANSIT Board meeting, the Board may defer adoption of the annual budget until the next special or regular Board meeting subsequent to the final actions by the State; and

WHEREAS, if the Board is unable to approve a FY 2007 budget prior to July 2006, it will be necessary to expend funds after July 1, 2006, prior to the final adoption of the FY 2007 budget;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors acknowledges and accepts its responsibility to set fares, administer a single unified NJ TRANSIT operating budget, and that the Board recognizes its responsibility to accept and manage State and Federal Transit Administration assistance; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is hereby authorized to continue or enter into any agreements and expend funds in order to continue NJ TRANSIT's Private Carrier Capital Improvement and Bus Rehabilitation Programs, timetable distribution, debit and credit card processing and settlement services and marketing programs as described in the item attached hereto subject to the availability of funds; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to provide local share and other in-kind services or act as a pass-through agency for Federal or State capital or operating funds subject to the availability of funds; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to expend, in the normal course of business, the funds necessary to meet NJ TRANSIT's obligations, essentially in accordance with this FY 2006 operating budget item, resolution and attachments and until the adoption and approval of the Fiscal Year 2007 operating budget.

EXHIBIT A**FISCAL YEAR 2006
OPERATING BUDGET
REVENUES****Overview**

NJ TRANSIT revenues are budgeted at \$1.413 billion, an increase of \$70.8 million compared to the FY 2005 Budget. Specific assumptions are described below:

Ridership/Passenger Revenue

The FY 2006 Budget includes passenger revenue of \$623.1 million, an increase of \$64.2 million over the FY 2005 Budget. This includes \$48 million from the average 11.5 percent fare increase approved by the Board in April 2005. Prior to factoring in the fare increase, the proposed budget reflected growth of \$16.2 million, or 2.9 percent over FY 2005 budgeted levels, attributable to continuing favorable ridership trends. This assumption is consistent with FY 2005 trends that indicate actual year over year growth of 3.5 percent over the first 10 months of the fiscal year.

Other Revenue

Other revenues are budgeted at \$64.5 million, an increase of \$7.1 million over the FY 2005 Budget. The proposed budget includes growth of \$3.2 million from an anticipated leveraged lease transaction, \$2.8 million from projected increases in advertising revenues and \$1.1 million from across-the-board growth of approximately 2 percent on other commercial revenues.

State Operating Assistance

Consistent with the State Budget proposed by the Governor and adopted by the Legislature, State operating assistance is budgeted at \$278.7 million in FY 2006, no change from the FY 2005 budgeted level.

Other State and Federal Reimbursements

Other State and Federal reimbursements are budgeted at \$446.7 million, a decrease of \$0.5 million compared to the FY 2005 Budget. This includes capital funding that is transferred to support eligible operating costs (maintenance, vehicle parts, new service initiatives and facility leases) as well as support for county pass-through programs and reimbursable project costs. For the second consecutive year, the proposed budget freezes the level of capital program funds that are transferred to cover operating costs at \$356 million. This important step begins to reverse a decade-long trend of increased reliance on the State Transportation Trust Fund and Federal capital grants to support operating needs.

EXHIBIT B**FISCAL YEAR 2006
OPERATING BUDGET
EXPENSES****Overview**

NJ TRANSIT expenses are budgeted at \$1.413 billion, an increase of \$70.8 million over the FY 2005 Budget. Excluding increases related to new services and extraordinary cost increases for fuel and security services costs, the budget increase is less than 3 percent. Specific assumptions are described below:

Labor and Fringes

Labor and fringes are budgeted at \$856.1 million, an increase of \$32.3 million, or 3.9 percent, over the FY 2005 Budget. The proposed budget includes average increases in labor costs for existing agreement and non-agreement employees of 3 percent and 2 percent, respectively. Fringe benefits are budgeted to increase by 4 percent attributable both to the increase in labor costs and an increase in fringe rates. Additional increases in labor and fringe costs (primarily attributable to service growth) are essentially offset by savings from the abolishment of management positions, reductions in overtime costs and a freeze on top management salaries.

Fuel, Power, Materials and Supplies

Fuel, power, materials and supplies costs are budgeted at \$190.1 million, an increase of \$20.8 million, or 12.3 percent, over the FY 2005 Budget. This includes growth of \$15.3 million due to increases in diesel fuel prices. The FY 2006 Budget assumes an average price per gallon for diesel fuel of \$1.44 (slightly below current market prices), or \$.46 higher than FY 2005 budgeted prices. Excluding the extraordinary increase in diesel fuel prices, the budget for these accounts is approximately 3 percent higher than the FY 2005 Budget reflective of increases in electric propulsion and vehicle parts costs and the impact of increases in Bus/Rail service levels.

Purchased Transportation

Purchased transportation expenses are budgeted at \$155.1 million, an increase of \$17.0 million, or 12.3 percent, over the FY 2005 Budget. This includes funding for Hudson-Bergen and River LINE Light Rails, Contract Bus and Access Link service contracts, Senior Citizen, Disabled and Student Reduced Fare Programs, the Private Carrier Bus Card Program, Amtrak ticket cross-honoring costs and reimbursable county pass-through programs. The budgeted increase includes the impact of annualizing the extension of Hudson-Bergen Light Rail (HBLR) service that occurred in FY 2005 as well as the additional extension to Tonnelle Avenue in North Bergen planned for FY 2006. Additionally, a portion of the FY 2006 Budget increase is due to non-recurring FY 2005 savings from the HBLR Global Settlement (that included adjustments to prior year payments) and the impact of higher fuel costs on the agency's purchased transportation service contracts.

EXHIBIT B (Continued)

Other Expenses

All other expenses are budgeted at \$211.7 million, an increase of \$0.7 million, or 0.3 percent, over the FY 2005 Budget. This includes funding for outside services, utilities, claims and insurance, tolls and trackage fees and other miscellaneous costs. These expenses are growing at a rate well below inflation due to the implementation of various cost savings initiatives including reductions in third-party service contract costs, reduced use of outside consultants, reductions in travel and training and other savings.

EXHIBIT C

NEW JERSEY TRANSIT CONSOLIDATED OPERATIONS
FY 2006 Proposed Operating Budget
(\$ in millions)

REVENUES

Passenger Revenue	\$623.1
Other Revenue	<u>64.5</u>

TOTAL REVENUE	\$687.6
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OPERATING ASSISTANCE

State Operating Assistance	\$278.7
Capital Transfers	356.0
Other Reimbursements	<u>90.7</u>

TOTAL OPERATING ASSISTANCE	\$725.4
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<u>TOTAL REVENUE & OPERATING ASSISTANCE</u>	<u>\$1,413.0</u>
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EXPENSES

Labor and Fringes	\$856.1
Services	89.7
Fuel & Power	82.0
Materials & Supplies	108.1
Utilities	29.4
Claims & Insurance	25.3
Purchased Transportation	155.1
Tolls & Trackage Fees	42.5
Other	<u>24.8</u>

<u>TOTAL EXPENSES</u>	<u>\$1,413.0</u>
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ITEM 0507-52: FISCAL YEAR 2006 CAPITAL PROGRAM**BENEFITS**

NJ TRANSIT's \$1.147 billion FY06 Capital Program targets projects that will restore and maintain the existing rail, bus, and light rail systems. The program reaffirms and strengthens NJ Transit's commitment to providing safe and reliable transit service for 764,000 daily customers.

The FY06 capital program is consistent with NJ TRANSIT's Capital Investment Strategy submitted to the state legislature in March 2005. The program continues investment in the state's transit infrastructure to maintain and to improve the overall state-of-good-repair of the system. The FY06 Capital Program also includes projects that expand capacity of the existing system. The Capital Program continues to fund the advancement of the Trans-Hudson Express Tunnel project, which will double commuter rail capacity to midtown Manhattan. The FY06 program provides over \$20 million for this important initiative. The FY06 Capital Program also advances other service expansions that work with and complement prior investments, such as an extension of the Hudson Bergen Light Rail.

Anticipated resources of \$1.147 billion are estimated to be available from federal, state and other sources in FY06. A summary of the FY06 Sources of Funds is presented in **Attachment 1**.

Attachments 2 and 3 summarize funds and percent of the total program by category. About two-thirds of the FY06 Capital Program – \$733 million – is dedicated to fixed expenses, including Operating Offset, Debt Service and Pass-throughs of earmarked funds. In FY06,

- \$356 million will be spent to pay for Capital to Operating Offset transfer, including \$270 million in critical operating maintenance funds for both rail and bus;
- \$311 million will be spent on debt service related to the acquisition of buses, trains, locomotives and the construction of light rail projects for Debt Service; and
- \$66 million will be spent using funds mandated for a specific use including the federal rural transit program, the federal JARC program and other earmarks secured by the New Jersey Congressional Delegation.

Over one third of the program – or \$414 million – funds the basic capital program improvements needed to maintain and improve a transit system. In FY06,

- \$177 million will be invested in rail infrastructure improvement needs including \$60 million to fund track, bridge, electric traction and signal improvements on the railroad, \$3 million to fund engineering for the replacement of 230 Arrow III rail

cars, \$3 million for the engineering of 148 Comet III/IV overhauls to maintain fleet reliability, \$7.35 million for White House siding improvements on the Raritan Valley Line, \$48.82 million for yard improvements to accommodate future multilevel rail cars, and \$38.5 million to fund state-of-good repair needs on the Northeast Corridor;

- \$28 million will be invested in bus and light rail infrastructure improvements including \$7 million for Mid-Life Overhaul of Nova B transit buses, \$6.92 million for Bus Passenger Facility Improvements, \$5.04 million for Bus Infrastructure Improvements, and \$2.5 million for the Hudson-Bergen Light Rail – Weehawken Pedestrian Overpass;
- \$79 million will be invested in system-wide improvements, including \$13.4 million for technology upgrades that both improve efficiency and reduces annual operating costs and \$15 million to improve our passenger communication system;
- \$88 million will be invested in rail station improvements at Newark Broad Street Station, Ridgewood Station, Trenton Station and Metropark Station among others; and
- \$15.59 million will be provided for park & ride expansion including expansion and parking at Edison Station and Route 23 Wayne Park and Ride.
- \$26M for targeted new starts including \$20M for ARC local share (\$10M provided by PANYNJ). The program also includes \$5M TTF for Passaic-Bergen County DMU and \$1M for HBLRT 8th Street Extension.

PURPOSE

The annual capital program is formulated to guide NJ TRANSIT's capital investment plans for the coming year. The authority embodied in the Board's approval of this Capital Program permits staff to take the necessary steps to secure funds from various sources and initiate individual capital projects (subject to subsequent contract authorization as required by the NJ TRANSIT By-Laws.) The program is submitted to various Metropolitan Planning Organizations (MPOs) throughout the State whose approvals are required as a prerequisite to Federal grant awards, and the State Legislature as part of that body's annual appropriation process and is consistent with the Capital Investment Strategy submitted to the Legislature.

ACTION

Staff seeks the Board's adoption of the proposed Fiscal Year 2006 (FY06) Capital Program totaling \$1.147 billion and authorization to seek and secure necessary funding and execute agreements, as required, to accept such funding.

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

FISCAL IMPACTS

Requested Authorization:	Adoption of FY06 Capital Program - \$1.147 billion
Anticipated Source of Funds:	Federal transit and highway funds; Transportation Trust Funds; Port Authority of New York and New Jersey funds; other capital sources
DBE Goal:	Included in individual contracts
Related/Future Authorizations:	N/A
Impacts on Subsequent Operating Budgets:	N/A

RESOLUTION

WHEREAS, each year NJ TRANSIT's Board of Directors adopts a Capital Program for the upcoming year to enable staff to take the actions necessary to seek and secure capital funding which advances established priorities; and

WHEREAS, the FY06 Capital Program will address the needs of existing transit riders by emphasizing "back to basic" priorities that ensure system reliability and safety through state of good repair investments, address pressing system capacity demands, and invest in planned system expansion; and

WHEREAS, in FY06, the Capital Program will be consistent with the Annual Capital Investment Strategy submitted to the State Legislature; and

WHEREAS, the FY06 Capital Program is submitted to various Metropolitan Planning Organizations throughout the state whose approvals are required as a prerequisite to Federal grant awards; and

WHEREAS, the FY06 Capital Program is submitted to the State Legislature for consideration as part of its annual budget appropriation process;

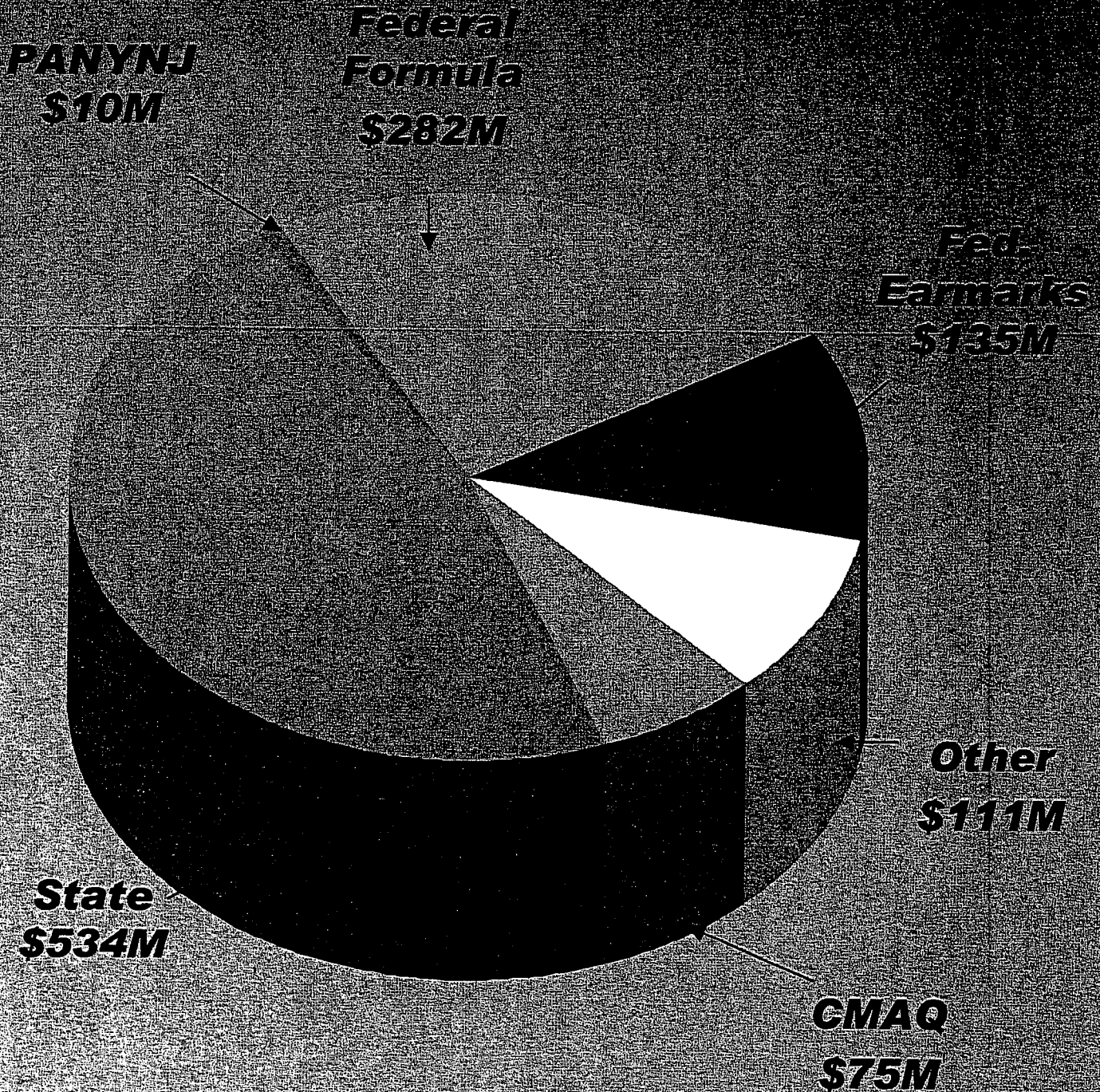
NOW, THEREFORE, BE IT RESOLVED that the NJ TRANSIT Board of Directors adopts the Fiscal Year 2006 Capital Program in the amount of \$1.147 billion, as described; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to take whatever actions are necessary to seek and secure the funds envisioned by this program; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to transfer funding sources and amounts among programmed projects as circumstances require; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to make application, execute contracts and to take whatever other actions are necessary to seek and secure unanticipated funds, consistent with the basic intent of this program, which may become available subsequent to its adoption.

ATTACHED EXHIBIT
NUMBER
FY06 CAPITAL PROJECTS
Sources of Funds
\$1.147 Billion



**ATTACHMENT 2
NJ TRANSIT FY06 CAPITAL PROGRAM
SUMMARY**

(\$ in millions)

CATEGORY	AMOUNT	PERCENT
OPERATING / MAINTENANCE	\$356.439	31.1%
DEBT SERVICE	\$311.069	27.1%
PASS-THROUGH	\$66.272	5.8%
RAIL INFRASTRUCTURE IMPROVEMENTS	\$177.296	15.5%
RAIL STATION IMPROVEMENTS	\$87.609	7.6%
PARK & RIDE IMPROVEMENTS	\$15.594	1.4%
BUS/LIGHT RAIL IMPROVEMENTS	\$28.236	2.5%
SYSTEMWIDE IMPROVEMENTS	\$78.697	6.86%
SYSTEM EXPANSION	\$26.000	2.3%
TOTAL	\$1,147.212	100%

Attachment 3 NJ TRANSIT FY06 CAPITAL PROGRAM (\$ in Millions)

-----FEDERAL FUNDING-----

	URBAN 5307	FIXED GUIDEWAY 5309	RURAL/ DISABLED	EARMARK	FFGA	CMAQ	STP- TE	STATE	COPS	METRO-N	OTHER	TOTAL	Percentage of Total Program
Operating Offset													
RAIL													
NEC Services Agreement	0.000	0.000	0.000	0.000	0.000	0.000	0.000	27.500	0.000	0.000	0.000	27.500	
Operating/Maintenance	0.000	91.130	0.000	0.000	0.000	0.000	0.000	57.170	0.000	0.000	0.000	148.300	
RAIL SUBTOTAL	0.000	91.130	0.000	0.000	0.000	0.000	0.000	84.670	0.000	0.000	0.000	175.800	15.3%
: = = = = =													
BUS/LRT													
Operating/Maintenance	58.260	0.000	0.000	0.000	0.000	0.000	0.000	63.800	0.000	0.000	0.000	122.060	
BUS/LRT SUBTOTAL	58.260	0.000	0.000	0.000	0.000	0.000	0.000	63.800	0.000	0.000	0.000	122.060	10.6%
: = = = = =													
NEW INITIATIVES													
Operating Assistance Start-Up New Transit Services	0.000	0.000	0.000	0.000	0.000	48.810	0.000	0.000	0.000	0.000	0.000	48.810	
NEW INITIATIVES SUBTOTAL	0.000	0.000	0.000	0.000	0.000	48.810	0.000	0.000	0.000	0.000	0.000	48.810	4.3%
: = = = = =													
SYSTEMWIDE													
Building Leases	0.000	0.000	0.000	0.000	0.000	0.000	0.000	9.769	0.000	0.000	0.000	9.769	
SYSTEMWIDE SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	9.769	0.000	0.000	0.000	9.769	0.9%
: = = = = =													
Operating Offset TOTAL	58.260	91.130	0.000	0.000	0.000	48.810	0.000	158.239	0.000	0.000	0.000	356.439	31.1%

Attachment 3 NJ TRANSIT FY06 CAPITAL PROGRAM (\$ in Millions)

----- FEDERAL FUNDING -----

	<u>URBAN</u> <u>5307</u>	<u>FIXED</u> <u>GUIDEWAY</u> <u>5309</u>	<u>RURAL/</u> <u>DISABLED</u>	<u>EARMARK</u>	<u>FFGA</u>	<u>CMAQ</u>	<u>STP-</u> <u>TE</u>	<u>STATE</u>	<u>COPS</u>	<u>METRO-N</u>	<u>OTHER</u>	<u>TOTAL</u>	<u>Percentage</u> <u>of Total</u> <u>Program</u>
ebt Service													
=====													
<u>AIL</u>													
ling Stock-Rail	12.509	0.000	0.000	0.000	0.000	0.000	0.000	3.400	10.000	0.000	0.000	25.909	
AIL SUBTOTAL	12.509	0.000	0.000	0.000	0.000	0.000	0.000	3.400	10.000	0.000	0.000	25.909	2.3%
=====													
<u>US/LRT</u>													
ark City Subway	0.000	0.000	0.000	0.000	0.000	0.000	0.000	5.510	0.000	0.000	0.000	5.510	
ling Stock-Bus	13.329	0.000	0.000	0.000	0.000	0.000	0.000	4.280	79.450	0.000	0.000	97.059	
US/LRT SUBTOTAL	13.329	0.000	0.000	0.000	0.000	0.000	0.000	9.790	79.450	0.000	0.000	102.569	8.9%
=====													
<u>EW INITIATIVES</u>													
ison/Bergen LRT MOS I	0.000	0.000	0.000	0.000	0.000	0.000	0.000	10.000	0.000	0.000	0.000	10.000	
ison/Bergen LRT MOS II	4.235	0.000	0.000	0.000	100.000	0.000	0.000	19.400	0.000	0.000	0.000	123.635	
RL LRT MOS I	0.956	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.956	
ar Line LRT	0.000	0.000	0.000	0.000	0.000	0.000	0.000	48.000	0.000	0.000	0.000	48.000	
EW INITIATIVES SUBTOTAL	5.191	0.000	0.000	0.000	100.000	0.000	0.000	77.400	0.000	0.000	0.000	182.591	15.9%
=====													
ebt Service TOTAL	31.029	0.000	0.000	0.000	100.000	0.000	0.000	90.590	89.450	0.000	0.000	311.069	27.1%

Attachment 3 NJ TRANSIT FY06 CAPITAL PROGRAM (\$ in Millions)

36494

----- FEDERAL FUNDING -----

	<u>FIXED</u>		<u>RURAL/</u>	<u>EARMARK</u>	<u>FFGA</u>	<u>CMAQ</u>	<u>STP- TE</u>	<u>STATE</u>	<u>COPS</u>	<u>METRO-N</u>	<u>OTHER</u>	<u>TOTAL</u>	<u>Percentag of Total Program</u>
	<u>URBAN 5307</u>	<u>GUIDEWAY 5309</u>											
Pass-through													
RAIL													
Edison Parking Expansion	0.000	0.000	0.000	0.972	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.972
Garfield Station	0.000	0.000	0.000	1.944	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.944
New Howard Boulevard/Route 80 Rail Station	0.000	0.000	0.000	6.317	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	6.317
Newark Penn Station	0.000	0.000	0.000	4.859	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	4.859
South Amboy Rail Station Reconstruction	0.000	0.000	0.000	1.215	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.215
Trenton Train Station	0.000	0.000	0.000	1.944	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.944
RAIL SUBTOTAL	0.000	0.000	0.000	17.249	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	17.249 1.5%
! = = = = =													
BUS/LRT													
Cumberland County Bus Program	0.940	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.940
East Windsor Community Shuttle	0.100	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.100
Non-Regular Rte./Special Services	0.000	0.000	7.510	0.364	0.000	0.000	0.000	0.760	0.000	0.000	4.170	12.804	12.804
BUS/LRT SUBTOTAL	1.040	0.000	7.510	0.364	0.000	0.000	0.000	0.760	0.000	0.000	4.170	13.844	1.2%
! = = = = =													
NEW INITIATIVES													
Access to Region's Core	0.000	0.000	0.000	1.190	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.190
Lackawanna Cutoff	0.000	0.000	0.000	4.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	4.000
Northern Branch DMU	0.000	0.000	0.000	1.100	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.100
Passaic/Bergen County DMU	0.000	0.000	0.000	6.400	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	6.400
Phillipsburg Extension	0.000	0.000	0.000	0.397	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.397
Transit Rail Initiatives	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	12.300	12.300	12.300
NEW INITIATIVES SUBTOTAL	0.000	0.000	0.000	13.087	0.000	0.000	0.000	0.000	0.000	0.000	12.300	25.387	2.2%
! = = = = =													
SYSTEMWIDE													
Job Access and Reverse Commute Program	0.000	0.000	0.000	4.000	0.000	0.000	0.000	0.000	0.000	0.000	4.000	8.000	8.000
Transit Enhancements	1.791	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.791	1.791
SYSTEMWIDE SUBTOTAL	1.791	0.000	0.000	4.000	0.000	0.000	0.000	0.000	0.000	0.000	4.000	9.791	0.9%
! = = = = =													
Pass-through TOTAL	2.831	0.000	7.510	34.701	0.000	0.000	0.000	0.760	0.000	0.000	20.470	66.272	5.8%

Attachment 3 NJ TRANSIT FY06 CAPITAL PROGRAM (\$ in Millions)

36495

-----FEDERAL FUNDING-----

	<u>FIXED</u>		<u>RURAL/</u>	<u>EARMARK</u>	<u>FFGA</u>	<u>CMAQ</u>	<u>STP- TE</u>	<u>STATE</u>	<u>COPS</u>	<u>METRO-N</u>	<u>OTHER</u>	<u>TOTAL</u>	<u>Percentage of Total Program</u>
	<u>URBAN 5307</u>	<u>GUIDEWAY 5309</u>											
Rail Infrastructure Improvements													
<u>ALL</u>													
Low III Replacement	0.000	0.000	0.000	0.000	0.000	0.000	0.000	3.000	0.000	0.000	0.000	3.000	
Automatic Train Control/Positive Train Stop	7.850	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	7.850	
Signals	0.000	0.000	0.000	0.000	0.000	0.000	0.000	19.598	0.000	0.000	0.000	19.598	
Signal Overhauls	3.000	0.000	0.000	0.000	0.000	0.000	0.000	5.700	0.000	0.000	0.000	8.700	
ADA Mandates	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.100	0.000	0.000	0.000	0.100	
Windows Maintenance Complex Expansion	0.000	0.000	0.000	0.000	0.000	0.000	0.000	4.930	0.000	0.000	0.000	4.930	
Port North Joint Benefits	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.000	0.500	
Wilmington Yard Expansion - Phase 2	0.000	0.000	0.000	0.000	0.000	0.000	0.000	48.815	0.000	0.000	0.000	48.815	
NYC Joint Benefit Program	0.000	0.000	0.000	0.000	0.000	0.000	0.000	38.500	0.000	0.000	0.000	38.500	
Work Penn Station Substation	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.500	0.000	0.000	0.000	2.500	
Overhead Cat Struct Painting	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.402	0.000	0.000	0.000	2.402	
High Voltage Switcher Locomotive	5.650	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	5.650	
NYC Emergency Backup Facility	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.000	0.000	0.000	0.500	
Signals&Communication/Electric Traction	0.000	0.000	0.000	0.000	0.000	0.000	0.000	7.181	0.000	0.000	0.000	7.181	
Track	13.042	1.850	0.000	0.000	0.000	0.000	0.000	1.108	0.000	0.000	0.000	16.000	
Warehouse Passing Siding-RVL	6.439	0.000	0.000	0.000	0.000	0.000	0.000	0.911	0.000	0.000	0.000	7.350	
Buildings/Facilities	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.200	0.000	0.000	0.000	1.200	
RAIL SUBTOTAL	35.981	1.850	0.000	0.000	0.000	0.000	0.000	136.445	0.000	0.500	0.000	174.776	15.2%
=====													
SYSTEMWIDE													
Emergency Response Rail	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.000	0.000	0.000	0.000	1.000	
Non-Revenue Rolling Stock	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.520	0.000	0.000	0.000	1.520	
SYSTEMWIDE SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.520	0.000	0.000	0.000	2.520	0.2%
=====													
Rail Infrastructure Improvements TOTAL	35.981	1.850	0.000	0.000	0.000	0.000	0.000	138.965	0.000	0.500	0.000	177.296	15.5%

Attachment 3 NJ TRANSIT FY06 CAPITAL PROGRAM (\$ in Millions)

36496

-----FEDERAL FUNDING-----

	<u>FIXED</u>			<u>EARMARK</u>	<u>FFGA</u>	<u>CMAQ</u>	<u>STP- TE</u>	<u>STATE</u>	<u>COPS</u>	<u>METRO-N</u>	<u>OTHER</u>	<u>TOTAL</u>	<u>Percentage of Total Program</u>
	<u>URBAN 5307</u>	<u>GUIDEWAY 5309</u>	<u>RURAL/ DISABLED</u>										
Rail Station Improvements													
<u>RAIL</u>													
Madison Station ADA Improvements	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.830	0.000	0.000	0.000	0.830	
Metropark Platform Replacement	0.000	0.000	0.000	0.000	0.000	0.000	0.000	9.930	0.000	0.000	0.000	9.930	
Morristown Station Roof Replacement	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.659	0.000	0.000	0.000	0.659	
Newark Broad Street Station ADA Improvements	0.000	0.000	0.000	0.000	0.000	26.190	0.000	0.000	0.000	0.000	0.000	26.190	
Newark Penn Station	0.000	0.000	0.000	0.000	0.000	0.000	1.000	1.500	0.000	0.000	0.000	2.500	
Ridgewood Train Station Accessibility Improvements	11.500	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	11.500	
South Amboy Rail Station Reconstruction	7.500	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	7.500	
South Brunswick Station	0.000	0.000	0.000	0.000	0.000	0.000	0.000	3.000	0.000	0.000	0.000	3.000	
Stars Program	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000	
Station/Facilities Inspections/Repairs	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000	
Trenton Train Station	17.500	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	17.500	
Woodbridge Platform Replacement	0.000	0.000	0.000	0.000	0.000	0.000	0.000	4.000	0.000	0.000	0.000	4.000	
<u>RAIL SUBTOTAL</u>	36.500	0.000	0.000	0.000	0.000	26.190	1.000	23.919	0.000	0.000	0.000	87.609	7.6%
=====													
Rail Station Improvements TOTAL	36.500	0.000	0.000	0.000	0.000	26.190	1.000	23.919	0.000	0.000	0.000	87.609	7.6%

Attachment 3 NJ TRANSIT FY06 CAPITAL PROGRAM (\$ in Millions)

36497

----- FEDERAL FUNDING -----

	<u>FIXED</u>						<u>STP-</u>					<u>Percentage</u>
	<u>URBAN</u>	<u>GUIDEWAY</u>	<u>RURAL/</u>	<u>EARMARK</u>	<u>FFGA</u>	<u>CMAQ</u>	<u>TE</u>	<u>STATE</u>	<u>COPS</u>	<u>METRO-N</u>	<u>OTHER</u>	<u>of Total</u>
	<u>5307</u>	<u>5309</u>	<u>DISABLED</u>									<u>Program</u>

ark & Ride Improvements

<u>IL</u>												
son Parking Expansion	0.000	0.000	0.000	0.000	0.000	0.000	0.000	4.974	0.000	0.000	0.000	4.974
<u>AIL SUBTOTAL</u>	0.000	0.000	0.000	0.000	0.000	0.000	0.000	4.974	0.000	0.000	0.000	4.974 <u>0.4%</u>
=====												
<u>IS/LRT</u>												
23 Wayne Park and Ride	0.000	0.000	0.000	0.000	0.000	0.000	0.000	10.620	0.000	0.000	0.000	10.620
<u>US/LRT SUBTOTAL</u>	0.000	0.000	0.000	0.000	0.000	0.000	0.000	10.620	0.000	0.000	0.000	10.620 <u>0.9%</u>
=====												
ark & Ride Improvements TOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	15.594	0.000	0.000	0.000	15.594 <u>1.4%</u>

Attachment 3 NJ TRANSIT FY06 CAPITAL PROGRAM (\$ in Millions)

36498

----- FEDERAL FUNDING -----

	<u>URBAN</u> <u>5307</u>	<u>FIXED</u> <u>GUIDEWAY</u>	<u>RURAL/</u> <u>DISABLED</u>	<u> earmark</u>	<u>FFGA</u>	<u>CMAQ</u>	<u>STP-</u> <u>TE</u>	<u>STATE</u>	<u>COPS</u>	<u>METRO-N</u>	<u>OTHER</u>	<u>TOTAL</u>	<u>Percentage</u> <u>of Total</u> <u>Program</u>
Bus/Light Rail Improvements													
BUS/LRT													
ADA Access Link Vehicles	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000	
Bus Facilities Midlife Rehabilitation	0.000	0.000	0.000	0.000	0.000	0.000	0.000	4.000	0.000	0.000	0.000	4.000	
Bus Operations Support Equipment	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.000	0.000	0.000	0.500	
Bus Passenger Facilities	0.000	0.000	0.000	0.000	0.000	0.000	0.000	6.170	0.000	0.000	0.000	6.170	
Emergency Response Bus Facilities	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000	
Newark City Subway	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.000	0.000	0.000	0.500	
Non-Regular Rte./Special Services	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.250	0.000	0.000	0.000	1.250	
Passenger Facilities	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.750	0.000	0.000	0.000	0.750	
Support Facilities/Equipment	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.540	0.000	0.000	0.000	0.540	
Transit Bus Midlife Overhaul	7.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	7.000	
Weehawken Pedestrian Overpass	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.500	0.000	0.000	0.000	2.500	
BUS/LRT SUBTOTAL	7.000	0.000	0.000	0.000	0.000	0.000	0.000	20.210	0.000	0.000	0.000	27.210	2.4%
NEW INITIATIVES													
Hudson/Bergen LRT MOS I	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.026	0.000	0.000	0.000	1.026	
NEW INITIATIVES SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.026	0.000	0.000	0.000	1.026	0.1%
Bus/Light Rail Improvements TOTAL	7.000	0.000	0.000	0.000	0.000	0.000	0.000	21.236	0.000	0.000	0.000	28.236	2.5%

Attachment 3 NJ TRANSIT FY06 CAPITAL PROGRAM (\$ in Millions)

36499

-----FEDERAL FUNDING-----

	URBAN 5307	FIXED GUIDEWAY 5309	RURAL/ DISABLED	EARMARK	FFGA	CMAQ	STP- TE	STATE	COPS	METRO-N	OTHER	TOTAL	Percentage of Total Program
Systemwide Improvements													
<u>UL</u>													
Rolling Stock Engineering Assistance	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.200	0.000	0.000	0.000	2.200	
UL SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.200	0.000	0.000	0.000	2.200	0.2%
=====													
<u>IS/LRT</u>													
Community & Local Shuttles	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.140	0.000	0.000	0.000	0.140	
Pool Sponsorship Program	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.000	0.000	0.000	0.500	
IS/LRT SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.640	0.000	0.000	0.000	0.640	0.1%
=====													
<u>SYSTEMWIDE</u>													
Capital Program Implementation	0.000	0.000	0.000	0.000	0.000	0.000	0.000	18.000	0.000	0.000	0.000	18.000	
Trains Support	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000	
Emergency Response Capital Planning & Programs	0.000	0.000	0.000	0.000	0.000	0.000	0.000	6.852	0.000	0.000	0.000	6.852	
Emergency Response Headquarters	0.000	0.000	0.000	0.000	0.000	0.000	0.000	9.900	0.000	0.000	0.000	9.900	
Environmental Compliance	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.500	0.000	0.000	0.000	1.500	
1-Regular Rte./Special Services	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.550	0.000	0.000	0.000	0.550	
1-Revenue Rolling Stock	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.265	0.000	0.000	0.000	0.265	
Photocopy Equipment Lease	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.750	0.000	0.000	0.000	0.750	
Physical Plant	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.250	0.000	0.000	0.000	1.250	
Security Improvements	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000	
Study & Development	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.890	0.000	0.000	0.000	2.890	
Travel Records	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.250	0.000	0.000	0.000	0.250	
SYSTEMWIDE SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	46.207	0.000	0.000	0.000	46.207	4.0%
=====													
<u>TECHNOLOGY/CUSTOMER SERVICE</u>													
Access Link Computers	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000	
Public Address Upgrade/Onboard Communication	0.000	0.000	0.000	0.000	0.000	0.000	0.000	15.000	0.000	0.000	0.000	15.000	
Smart Card Systemwide Implementation Study	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.500	0.000	0.000	0.000	1.500	
Technology Improvements	0.000	0.000	0.000	0.000	0.000	0.000	0.000	11.150	0.000	0.000	0.000	11.150	
TECHNOLOGY/CUSTOMER SERVICE SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	29.650	0.000	0.000	0.000	29.650	2.6%
=====													
Systemwide Improvements TOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	78.697	0.000	0.000	0.000	78.697	6.9%

ITEM 0507-53: MULTI-LEVEL PUSH-PULL RAIL CARS: PURCHASE OF OPTION CARS

BENEFITS

The purchase of 131 additional multi-level rail cars and spare parts will serve NJ TRANSIT's growing rail markets without requiring an immediate lengthening of station platforms. The exercising of these options will maintain continuity in the manufacturing of the vehicles, which are already in production.

The cars purchased by this option will be identical to the base order of cars now in the early stages of production. They will be fully capable of operating on all NJ TRANSIT lines and will be compatible with NJ TRANSIT's fleet of new and existing single-level push-pull cars, and locomotives as well as all of NJ TRANSIT's stations, rail maintenance facilities and other infrastructure.

The new multi-level rail cars will be primarily deployed on lines where platform lengths prohibit operation of longer trains. The trains that are most likely to receive the multi-level equipment are those serving New York City, where ridership is highest and many trains are near the maximum length that can be accommodated at Penn Station New York.

PURPOSE

The original contract was structured for a base order of 100 cars with options for additional cars and for spare parts. These cars will allow for additional service on several rail lines, and accommodate more customers per train.

This contract was previously awarded by a competitive procurement process based on the selection of the most responsive proposal submitted by Bombardier Transportation, in response to a Request for Proposal.

ACTION (Capital Program Justification: Capacity)

Staff seeks authorization to exercise the first three options of contract (No. 01-097) with Bombardier Transportation of Montreal, Canada for the purchase of 131 additional multi-level push-pull rail cars, and for spare parts at a cost not to exceed \$214,981,400, plus five percent for contingencies, for a total contract authorization of \$458,145,951.

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

FISCAL IMPACTS

Requested Authorization: \$214,981,400 + 5% contingency

Total Project Cost:	\$568,988,000
	Purchase of 100 base cars - \$243,164,551
	Purchase of 131 option cars - \$206,481,400
	Spare parts - \$ 8,500,000

	Design Consultant	- \$ 19,014,864
Projected Date of Completion:	Delivery the final option car - April 2008	
Anticipated Source of Funds:	TTF	
DBE Goal:	None – Vehicle Manufacturers work directly with the FTA	
Related/Future Authorizations:	None	
Impacts on Subsequent Operating Budgets:	\$8,500,000 Annually after end of warranty period in 2010	

RESOLUTION

WHEREAS, NJ TRANSIT's rail rolling stock plan has identified a need to procure additional multi-level rail cars to meet growing rail ridership; and

WHEREAS, the design of the multi-level rail cars provide for additional seating capacity over existing single-level cars to meet increased ridership demands without requiring the lengthening of station platforms; and

WHEREAS, NJ TRANSIT seeks to exercise the first three options of Contract No. 01-097 to purchase 131 multi-level push-pull rail cars, and for spare parts; and

WHEREAS, the exercising of these options for multi-level rail cars will maintain continuity in the manufacturing of the first 100 base vehicles;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to exercise the option with Bombardier Transportation of Montreal, Canada for the purchase of 131 additional multi-level cars and spare parts, at a cost not to exceed \$214,981,400, plus five percent for contingencies, for a total contract authorization of \$458,145,951, subject to the availability of funds.

ITEM 0507-54: CERTIFICATES OF PARTICIPATION: LEASE FINANCING OF 131 MULTI-LEVEL RAIL CARS AND SELECTION OF SENIOR MANAGER/UNDERWRITER

(This item was previously forwarded to the Governor on July 27, 2005)

BENEFITS

Approval of this Item and the attached Resolution will facilitate the lease financing of 131 Bombardier Multi-Level railcars plus spare parts through the issuance of Subordinated Certificates of Participation ('COPs'). The financing will allow NJ TRANSIT to have the funds available to exercise the contract option with Bombardier in September 2005 ensuring the timely delivery of the option cars after the completion of the base order. To accomplish this, NJ TRANSIT will issue up to \$285,000,000 of Subordinated Certificates of Participation Series 2005A.

PURPOSE

With no capital funds available for the option cars, lease financing will enable NJ TRANSIT to benefit from the advantageous pricing for the option cars. The 131 option cars are priced at approximately \$1,580,000 per unit compared to the \$2,430,000 per unit for the base order.

This financing will mirror NJ TRANSIT's other '5307' financings for cruiser and transit buses and for rail rolling stock.

Lehman Brothers, Inc. has been recommended as senior manager/underwriter for the COPs. The law firm of Wilentz, Goldman and Spitzer will act as special counsel.

The costs of underwriting the COPs issues will be paid for from the proceeds of the financing and are estimated to be \$6,300,000 including approximately \$4,300,000 for bond insurance, \$1,300,000 for underwriter's discount and costs of issuance of \$0.7 million which includes legal, rating agency and printing fees.

Principal and interest payments on the COPs will be made from future Federal 5307 grants.

ACTION (Capital Program Justification: New System Expansion)

Staff is requesting that the Board adopt the attached Resolution which authorizes the issuance of COPs in an amount not to exceed \$285,000,000 to finance the purchase of 131 multi-level rail cars all-in interest cost not to exceed 5.5 percent and authorizes the Chairman, the Executive Director, the Chief Financial Officer and Treasurer, the Secretary or their designees to take all actions necessary to consummate the sale of the COPs, including negotiation and execution of all documents, repayment of principal and interest due under the COPs and the payment of all costs related to the issuance of

the COPs including underwriting, trustee, legal, rating agency, insurance, credit enhancement and printing expenses.

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

FISCAL IMPACTS

Requested Authorization:	Issuance of up to \$285,000,000 of COPs
Total Project Costs:	Acquisition cost of approximately \$215,000,000 including spare parts
Projected Date of Completion:	Final lease payments in FY
Anticipated Source of Funds:	FTA
DBE Goals:	None

RESOLUTION

WHEREAS, pursuant to N.J.S.A. 27:25-1 et seq., the New Jersey Transit Corporation ('NJ TRANSIT') is authorized to purchase, lease as lessee, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, from any public or private entity; and

WHEREAS, NJ TRANSIT has leased as lessee, certain real and personal property, or interest therein, pursuant to a Master Lease Agreement dated as of March 15, 1999, as supplemented and amended; and

WHEREAS, NJ TRANSIT has determined that it is in its best interest to finance the acquisition of 131 Multi-Level Rail cars and spare parts (the "Equipment") to accommodate increased ridership; and

WHEREAS, the financing of the Equipment will require the issuance of up to \$285,000,000 of COPs at an all-in interest cost not to exceed 5.5 percent; and

WHEREAS, Lehman Brothers, Inc. has been recommended to act as managing underwriter for the financing; and

WHEREAS, the repayment of principal and interest of the COPs will be made from future Federal Transit Administration grants;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the Resolution attached hereto authorizing the issuance of Subordinated Certificates of Participation, Series 2005A to finance the purchase of the Equipment and further authorizes the Chairman, the Executive Director, the Chief Financial Officer and Treasurer, the Secretary or their designees to take all actions necessary to consummate the sale of the COPs including negotiation and execution of all documents, repayment of principal and interest due under the COPs and the payment of all costs related to the issuance of the COPs including underwriting, trustee, legal, rating agency, insurance, credit enhancement, and printing expenses.

RESOLUTION AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A SEVENTH SUPPLEMENT TO MASTER LEASE AND RELATED INSTRUMENTS IN CONNECTION WITH THE LEASING OF CERTAIN EQUIPMENT BY NEW JERSEY TRANSIT CORPORATION; APPROVING THE ISSUANCE AND SALE OF SUBORDINATED CERTIFICATES OF PARTICIPATION, SERIES 2005A, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$285,000,000; AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF AN ASSIGNMENT OF THE MANUFACTURER'S CONTRACT, AN ACKNOWLEDGEMENT TO THE SEVENTH SUPPLEMENTAL TRUST AGREEMENT, A PURCHASE CONTRACT AND A CONTINUING DISCLOSURE AGREEMENT, AND ALL RELATED INSTRUMENTS ANNEXED THERETO; APPROVING THE FORM OF A PRELIMINARY OFFICIAL STATEMENT, AUTHORIZING THE DISTRIBUTION THEREOF AND FURTHER AUTHORIZING THE EXECUTION AND DISTRIBUTION OF A FINAL OFFICIAL STATEMENT IN CONNECTION WITH THE ISSUANCE AND SALE OF SUCH CERTIFICATES OF PARTICIPATION; AND DETERMINING VARIOUS OTHER RELATED MATTERS IN CONNECTION THEREWITH.

ADOPTED: JULY 27, 2005

WHEREAS, the New Jersey Transit Corporation (the "Corporation") has entered into a Master Equipment Lease Purchase Agreement, dated as of March 15, 1999, as heretofore amended and supplemented (the "Master Lease Agreement"), between the Corporation, as lessee, and The Apris Group, LTD., as lessor (the "Lessor"), pursuant to which the Corporation has acquired and leased equipment for its use in connection with its transportation programs (the "Equipment"), the lease payments of which are to be made from the receipt of funds from the Federal Transit Administration pursuant to 49 U.S.C. Section 5307 (or any successor provisions thereto); and

WHEREAS, the Corporation has previously determined that entering into the Master Lease Agreement will provide a means for the Corporation to provide the Equipment for its transportation needs at a reasonable cost; and

WHEREAS, the Lessor has provided for the payment of the cost of acquiring the Equipment by (a) establishing a trust and assigning to The Bank of New York, as successor-in-interest to the U.S. Trust Company of New Jersey, as the trustee of said trust (the "Trustee"), all of Lessor's right, title and interest in and to the Master Lease Agreement pursuant to a Trust Agreement, dated as of March 15, 1999, as heretofore amended and supplemented (the "Master Trust Agreement"), between the Lessor and the Trustee, and (b) directing the Trustee to issue and deliver several series of Certificates of Participation (the "Certificates") which are payable

from the Basic Lease Payments (as defined in the Master Lease Agreement) to be received from the Corporation pursuant to the Master Lease Agreement; and

WHEREAS, the Corporation has previously entered into contracts to acquire certain Equipment (the "Prior Equipment") and has previously assigned its rights under each such contract to the Lessor pursuant to an Assignment of the Manufacturer's Contract; and

WHEREAS, the Lessor has leased the Prior Equipment to the Corporation pursuant to the Master Lease Agreement and the Lessor has financed the cost of acquisition of the Prior Equipment through the issuance of the Series 1999 Certificates, the Series 2000A Certificates, the Series 2000B Certificates and the Series 2002B Subordinated Certificates under and pursuant to the Master Trust Agreement; and

WHEREAS, the Corporation now desires to acquire 131 multi-level railcars, plus spare parts (the "2005A Equipment") pursuant to Contract No. 01-097, dated March 7, 2003, between the Corporation and Bombardier Transit Corporation, as amended and supplemented (the "Bombardier Contract"); and

WHEREAS, the Corporation intends to assign certain of its rights under the Bombardier Contract to the Lessor pursuant to an Assignment of the Manufacturer's Contract (the "Assignment"); and

WHEREAS, the Lessor intends to lease the 2005A Equipment to the Corporation pursuant to the Master Lease Agreement, as supplemented by a Seventh Supplement to Master Equipment Lease Purchase Agreement (the "Seventh Supplement to Master Lease", and together with the Master Lease Agreement, the "Lease Agreement"); and

WHEREAS, in order to finance the cost of the acquisition of the 2005A Equipment, the Lessor intends to assign all of its rights under the Lease Agreement to the Trustee and to direct the Trustee to issue and deliver one or more new series of Certificates to be known as "Subordinated Certificates of Participation, Series 2005A" (the "2005A Certificates") under and pursuant to the Master Trust Agreement, as supplemented by a Seventh Supplemental Trust Agreement (the "Seventh Supplemental Trust Agreement", and together with the Master Trust Agreement, the "Trust Agreement").

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF NEW JERSEY TRANSIT CORPORATION, as follows:

SECTION 1. To accomplish its purposes and objectives, the Corporation hereby determines that the 2005A Equipment shall be leased from the Lessor pursuant to the Lease Agreement and, in connection therewith, the Corporation shall enter into the Seventh Supplement to Master Lease. In order to finance the cost of the acquisition of the 2005A Equipment, the Corporation hereby approves the issuance and sale of the 2005A Certificates; provided, however, that the 2005A Certificates shall be issued in the aggregate principal amount of not exceeding \$285,000,000, shall bear interest at a true interest cost not exceeding five and one-half percent (5.50%) per annum and shall have a final maturity date of no later than June 30,

2022. The 2005A Certificates shall be issued as Subordinated Certificates under the Trust Agreement, shall be issued in one or more series, in such form, shall be dated, shall bear interest at such rates of interest, shall be payable as to principal, interest and premium, if any, shall be subject to redemption prior to maturity and shall have such other details and provisions as are prescribed by the Trust Agreement.

SECTION 2. The 2005A Certificates shall not in any way be a debt or liability of the State of New Jersey or any political subdivision or agency thereof, whether legal, moral or otherwise.

SECTION 3. The Assignment and all instruments attached as exhibits thereto or referenced therein, substantially in the form presented at this meeting, are hereby approved. The Chairman, Executive Director or the Chief Financial Officer/Treasurer or any other officer of the Corporation who shall be appointed by the Executive Director (the "Authorized Representatives") to have the power to execute agreements pursuant to this Resolution and any resolutions adopted hereunder are hereby authorized to execute and deliver the Assignment and all instruments attached as exhibits thereto or referenced therein with any changes, insertions and omissions as may be approved by the Authorized Representatives, with the advice of the Attorney General of the State of New Jersey (the "Attorney General") and Wilentz, Goldman & Spitzer, P.A. ("Special Counsel"), including such changes as may be required by a rating agency and/or insurers or credit enhancement provider, and any Secretary or Assistant Secretary of the Corporation or any other officer of the Corporation who shall have power to do so under the By-laws of the Corporation and any resolutions adopted thereunder is hereby authorized to affix the seal of the Corporation on the Assignment and all instruments attached as exhibits thereto or referenced therein and attest the same. The execution of the Assignment shall be conclusive evidence of any approval required by this Section.

SECTION 4. The Seventh Supplement to Master Lease and all instruments attached as exhibits thereto or referenced therein, substantially in the form presented at this meeting, are hereby approved. The Authorized Representatives are hereby authorized to execute, acknowledge and deliver the Seventh Supplement to Master Lease and all instruments attached as exhibits thereto or referenced therein with any changes, insertions and omissions as may be approved by the Authorized Representatives, with the advice of the Attorney General and Special Counsel, including such changes as may be required by a rating agency and/or insurers or credit enhancement provider, and any Secretary or Assistant Secretary of the Corporation or any other officer of the Corporation who shall have power to do so under the By-laws of the Corporation and any resolutions adopted thereunder is hereby authorized to affix the seal of the Corporation on the Seventh Supplement to Master Lease and all instruments attached as exhibits thereto or referenced therein and attest the same. The execution of the Seventh Supplement to Master Lease shall be conclusive evidence of any approval required by this Section.

SECTION 5. The Seventh Supplemental Trust Agreement and all instruments attached as exhibits thereto or referenced therein, substantially in the form presented at this meeting, are hereby approved. The Authorized Representatives are hereby authorized to approve and execute an acknowledgement of the Seventh Supplemental Trust Agreement and all instruments attached as exhibits thereto or referenced therein with any changes, insertions and

omissions as may be approved by the Authorized Representatives, with the advice of the Attorney General and Special Counsel, including such changes as may be required by a rating agency and/or insurers or credit enhancement provider. The execution of the acknowledgment of the Seventh Supplemental Trust Agreement shall be conclusive evidence of any approval required by this Section.

SECTION 6. Upon recommendation of the Treasurer of the State of New Jersey (the "State Treasurer") based upon the New Jersey Department of the Treasury's competitive RFP/RFQ process and in accordance with New Jersey Executive Order No. 26 ("Executive Order 26"), the Corporation hereby appoints Lehman Brothers, Inc., as the senior manager and representative of the underwriters (the "Underwriters") of the 2005A Certificates. Upon recommendation of the State Treasurer in accordance with Executive Order 26, the Authorized Representatives are hereby authorized to select and appoint additional co-senior managing and co-managing Underwriters of the 2005A Certificates, with such selection and appointment being evidenced by the execution of the Purchase Contract (as defined below) for the 2005A Certificates. The Corporation hereby approves the sale of the 2005A Certificates to the Underwriters pursuant to a Purchase Contract (the "Purchase Contract") between the Underwriters, the Corporation, the Trustee and the Lessor. The Purchase Contract and all instruments attached as exhibits thereto or referenced therein, substantially in the form presented at this meeting, are hereby approved. The Authorized Representatives are hereby authorized to accept, execute and deliver the Purchase Contract to the Underwriters and any documents in connection with the Purchase Contract and all instruments attached as exhibits thereto or referenced therein with any changes, insertions and omissions as may be approved by the Authorized Representatives, with the advice of the Attorney General and Special Counsel, including such changes as may be required by a rating agency and/or insurers or credit enhancement provider, and the Secretary or Assistant Secretary of the Corporation or any other officer of the Corporation who shall have power to do so under the By-laws of the Corporation and any resolutions adopted thereunder are hereby authorized to affix the seal of the Corporation on the Purchase Contract and any of such documents and attest the same; provided, that the amount of the compensation to be paid to the Underwriters for the 2005A Certificates does not exceed \$6.50 per \$1,000.00 of the 2005A Certificates. The execution of the Purchase Contract shall be conclusive evidence of any approval required by this Section. In accordance with Executive Order No. 26, the Corporation has determined that the 2005A Certificates will be sold in accordance with the Purchase Contract pursuant to a "negotiated sale" and that such negotiated sale is permissible as a result of the complex financing structure and volatile interest rate conditions. The Authorized Representatives are hereby directed to file a copy of this Resolution with the State Treasurer within five (5) days after the adoption of this Resolution.

SECTION 7. The Continuing Disclosure Agreement to be entered into between the Corporation and the Trustee, as Dissemination Agent, in order to enable the Underwriters to comply with Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the "Rule") in connection with the sale of the 2005A Certificates to the public, and all instruments attached as exhibits thereto or referenced therein, substantially in the form presented at this meeting, are hereby approved. The Authorized Representatives are hereby authorized to execute and deliver the Continuing Disclosure Agreement and any documents in connection with the Continuing Disclosure Agreement and all

instruments attached as exhibits thereto or referenced therein with any changes, insertions and omissions as may be approved by the Authorized Representatives, with the advice of the Attorney General and Special Counsel, and the Secretary or Assistant Secretary of the Corporation or any other officer of the Corporation who shall have power to do so under the By-laws of the Corporation and any resolutions adopted thereunder are hereby authorized to affix the seal of the Corporation on the Continuing Disclosure Agreement and any of such documents and attest the same. The execution of the Continuing Disclosure Agreement shall be conclusive evidence of any approval required by this Section.

SECTION 8. The Preliminary Official Statement relating to the 2005A Certificates and all instruments attached as exhibits thereto or referenced therein, substantially in the form presented at this meeting, are hereby approved. The Authorized Representatives are hereby authorized to take whatever actions are required in order that the Preliminary Official Statement and all instruments attached as exhibits thereto or referenced therein shall be distributed, with any changes, insertions and omissions as may be approved by the Authorized Representatives, with the advice of the Attorney General and Special Counsel, including such changes as may be required by a rating agency and/or insurers or credit enhancement provider. An Authorized Representative is hereby authorized, with the advice of the Attorney General and Special Counsel, to deem the Preliminary Official Statement final within the meaning of the Rule, and to provide written evidence relating thereto in a form acceptable to the Attorney General and Special Counsel. The distribution of the Preliminary Official Statement as approved above by the Authorized Representatives is hereby authorized.

SECTION 9. The Authorized Representatives are hereby designated to be the authorized representatives of the Corporation charged by this Resolution with the responsibility for causing the 2005A Certificates to be issued and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Lease Agreement, the Trust Agreement and the issuance of the 2005A Certificates and effectuating future actions and consents as may be required under or contemplated by such documents, including, without limitation: (i) the determination of the final maturities, maturity dates, interest rates and other details of the 2005A Certificates not in conflict with this Resolution; (ii) to execute and provide for the distribution of a final Official Statement relating to the 2005A Certificates substantially in the form of the Preliminary Official Statement with such insertions, revisions and omissions as may be authorized by the Authorized Representatives, with the advice of the Attorney General and Special Counsel, to cause the final Official Statement to be delivered to the Underwriters and to authorize the use of information relating to the Corporation in the final Official Statement in connection with the offering and sale of the 2005A Certificates; and (iii) to determine and provide for the application of proceeds for the 2005A Certificates and the payment of costs of the 2005A Equipment (as defined in the Lease Agreement).

SECTION 10. Any Authorized Representative is hereby authorized to make application to qualified insurers or credit enhancement providers for commitments to insure all or a portion of the 2005A Certificates and to determine all matters in connection therewith, in consultation with the Attorney General and Special Counsel.

SECTION 11. This Resolution shall constitute the official declaration of the Corporation for the purpose of Section 1.150-2 of the U.S. Treasury Regulations of the Corporation's intention to reimburse the expenditures approved herein from the proceeds of the 2005A Certificates.

SECTION 12. In case any one or more of the provisions of this Resolution shall be held to be illegal or invalid for any reason, such illegality or invalidity shall not affect any other provision of this Resolution and this Resolution shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

SECTION 13. This Resolution shall take effect as set forth in the New Jersey Public Transportation Act of 1979, as amended.

ITEM 0507-55: PURCHASE OF 289 SUBURBAN AND TRANSIT BUSES

BENEFITS

The proposed purchase of 289 transit and suburban-style buses will replace aging Flexible Metro B buses and improve service reliability and reduce operating costs. The new buses will be equipped with wheelchair lifts and a kneeling feature and will be compliant with Americans with Disabilities Act (ADA) mandates. The new buses will also incorporate technologies to reduce exhaust emissions as prescribed by the Clean Air Act Amendment. The new buses will have Diesel Particulate Filters to reduce particulate matter (PM) emissions.

PURPOSE

Authorization of this contract will allow for the purchase of 289 new suburban and transit style buses for use by NJ TRANSIT Bus Operations and Private Carriers. This purchase will replace 289 suburban and transit buses that have exceeded their 12-year useful economic life and are eligible for replacement under Federal Transit Administration guidelines.

There are two different configurations of buses in the proposed purchase - 221 suburban-style buses seating 42 customers and 68 transit style buses seating 42 customers. All buses will be 102 inches wide by 40 feet long. The operating life of the new buses is expected to be 12 years or 500,000 miles.

ACTION

Staff seeks authorization to contract with Millennium Transit Services of Roswell, NM for the purchase of 289 transit and suburban buses at a cost not to exceed \$96,717,875, plus five percent for contingencies.

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

FISCAL IMPACTS

Requested Authorization:	\$96,717,875 + 5% contingency
Total Project Cost:	\$144,557,000
Projected Date of Completion:	July 2007
Anticipated Source of Funds:	2004 State COPs

DBE Goal:

DBE goal is 10%

Related/Future Authorizations:

The contract provides an option for the purchase of up to 25 additional buses

**Impacts on Subsequent
Operating Budgets:**

Reduction of operating expenses and greater fuel economy will have a significant operating budget savings

RESOLUTION

WHEREAS, this procurement will replace 289 buses manufactured in 1989 that are overage and eligible for replacement; and

WHEREAS, following the completion of a competitive procurement process, Millennium Transit Services of Roswell, NM was determined to be the most responsive proposer;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to contract with Millennium Transit Services of Roswell, NM for the purchase of 289 transit and suburban buses at a cost not to exceed \$96,717,875, plus five percent for contingencies, subject to the availability of funds and approval of subsequent budgets.

ITEM 0507-56: AMENDMENT TO HOBOKEN FERRY TERMINAL MEMORANDUM OF UNDERSTANDING**BENEFITS**

Approval of this item will advance plans by NJ TRANSIT and the Port Authority of New York and New Jersey (Port Authority) to preserve, rehabilitate and return to revenue ferry service those portions of the Ferry Building at Hoboken Terminal required for such service. Rehabilitation of the Ferry Building will improve the safety, reliability and convenience of ferry service for NJ TRANSIT's rail, bus and light-rail customers, relieve congestion on PATH trains, and provide alternative trans-Hudson routes for passengers of NJ TRANSIT and PATH during emergency situations. Rehabilitation of this historic facility will enable adaptive re-use of the building for economic development.

PURPOSE

In 2002, NJ TRANSIT and the Port Authority of New York and New Jersey executed a memorandum of understanding setting forth general terms and conditions by which the Port Authority would fund rehabilitation of NJ TRANSIT's Ferry Building at Hoboken Terminal and by which NJ TRANSIT would long-term lease rehabilitated space on the first floor of the building to the Port Authority for ferry operations.

Execution of an amended Memorandum of Understanding ("Amended MOU") will obligate the Port Authority to commit \$20 million to NJ TRANSIT prior to November 1, 2005, for NJ TRANSIT's award of contracts for the second phase of rehabilitation of the Ferry Building. Approval of the amended MOU will enable NJ TRANSIT to proceed on second-phase rehabilitation of the building's infrastructure simultaneous with NJ TRANSIT and the Port Authority reaching agreement on the size and boundaries of a lease area in the Ferry Building. The lease area must meet the Port Authority's operational needs and accommodate NJ TRANSIT's needs for vertical access to the second floor of the building, thereby enabling potential adaptive reuse of the vacant second-floor and ancillary space. The third phase of rehabilitating the Ferry Building will consist of finishing the leased first-floor space for the Port Authority's ferry operations.

The Amended MOU will acknowledge that the Port Authority will contribute \$60 million of the \$94 million project cost. The Amended MOU calls for the Port Authority to retain all revenues, including revenue from ferry operations, retail, advertising and any other revenue generated from the demised premises, so that the Port Authority can recover its \$60 million investment. After the Port Authority recovers its \$60 million investment, Port Authority and NJ TRANSIT will share net revenues from the demised premises 75%-25%, respectively. The Amended MOU requires NJ TRANSIT's lease to the Port Authority to commence upon completion of construction and extend to June 30, 2069.

ACTION

Authorize the Chairman or Executive Director to take all necessary actions to amend the 2002 Memorandum of Understanding between NJ TRANSIT and the Port Authority pertaining to NJ TRANSIT's plan to lease to the Port Authority part of the first level of NJ TRANSIT's Ferry Building for ferry operations and to obligate the Port Authority to commit \$20 million to NJ TRANSIT prior to November 1, 2005, thus enabling NJ TRANSIT to award contracts for the next phase of rehabilitation of the building.

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

FISCAL IMPACTS

Requested Authorization	Amended MOU pertaining to funding of rehabilitation of Ferry Building, including a Port Authority commitment of \$20 million to NJ TRANSIT and eventual lease of portion of building to the Port Authority
Total Project Cost:	\$94 million
Projected Date of Completion:	Rehabilitation completed – 2007; Port Authority lease through 6/30/69
Anticipated Source of Funds:	FHWA, FTA, PA, TTF
SBE Goal:	Varies
Related/Future Authorizations:	Cost of construction, construction management, construction assistance
Impacts on Subsequent Operating Budgets	After Port Authority recovers its \$60 million contribution, PORT AUTHORITY and NJ TRANSIT will share all net revenue from the demised premises 75%-25%, respectively

RESOLUTION

WHEREAS, NJ TRANSIT and the Port Authority have a mutual interest in providing intermodal transportation options and recognize the importance of continuing and improving the ferry transportation at Hoboken Terminal, and

WHEREAS, NJ TRANSIT and the Port Authority desire to meet the needs and goals of NJ TRANSIT and the Port Authority by preserving, rehabilitating and restoring portions of the Ferry Building at Hoboken Terminal required for operating ferry service from that building; and

WHEREAS, NJ TRANSIT and the Port Authority desire to execute a long-term lease of portions of the first level of the Ferry Building to fulfill the parties' purposes as providers of safe, reliable, convenient and cost-effective transit service; and

WHEREAS, the Port Authority's Board of Commissioners on February 28, 2002, and NJ TRANSIT's Board of Directors on May 15, 2002, authorized a Memorandum of Understanding ("MOU") that the parties signed on November 19, 2002, and that set forth general terms of funding by the Port Authority for rehabilitation and a lease agreement between NJ TRANSIT and the Port Authority; and,

WHEREAS, NJ TRANSIT and the Port Authority wish to advance lease negotiations by amending the MOU with specific business terms that benefit both parties' interests in promoting transportation and economic development;

NOW, THEREFORE, BE IT RESOLVED, that the Chairman or Executive Director is authorized to take all necessary actions to amend the Memorandum of Understanding that NJ TRANSIT and the Port Authority executed in 2002 pertaining to NJ TRANSIT's plan to lease to the Port Authority a portion of the first level of NJ TRANSIT's historic Ferry Building for ferry operations and to obligate the Port Authority to commit \$20 million to NJ TRANSIT prior to November 1, 2005, thus enabling NJ TRANSIT to award contracts for the next phase of rehabilitation of the building.

**ITEM 0507-57: ADVANCED SPEED ENFORCEMENT SYSTEM: ENGINEERING
AND CONSTRUCTION ASSISTANCE SERVICES**

BENEFITS

The Advanced Speed Enforcement System (ASES) is a combination of Continuous Cab Signaling and Positive Train Stop (PTS) technologies designed to automatically control the train speed if the engineer fails to comply with speed limits.

Gannett Fleming, Inc. has provided engineering support for the project under an existing task order contract since January 2004. Their continued support of the project will ensure project continuity and resolution of outstanding issues. Gannett Fleming, Inc. has experience with on-board equipment installation practices, state-of-the-art microprocessor advanced systems, and new technology development programs that make them well suited to support this project.

PURPOSE

The consultant firm of Gannett Fleming, Inc. was previously selected through an existing Task Order Consultant contract to provide consultant services for engineering and construction assistance for the ASES project. NJ TRANSIT requires continued engineering support and construction assistance from Gannett Fleming to further advance development of ASES. The proposed work includes design reviews, monitoring of on-board equipment installations, lab simulation and field testing of system components, facility inspections, software development, project schedule management, and meeting support.

This contract amendment will also authorize the development of an ASES user interface, including a speed display unit and the Federal Railroad Administration event recorder. The consultant will provide a full time person to assist NJ TRANSIT's project manager with document control, engineering review and analysis, and field activities.

Authorization to award this task order will not be subject to the task, annual or aggregate contract limits.

ACTION (Capital Program Justification: System Safety)

Staff seeks authorization to amend the existing task order from Task Order Contract (No. 03-052) with Gannett Fleming, Inc. of South Plainfield, NJ for continued professional services for the Advanced Speed Enforcement System project in the amount of \$1,675,000, plus five percent for contingencies, for a total contract authorization of \$2,281,956. These services generally include contract management, technical support, and specialized signal and communication support through December 2006. This task will not be subject to the task, annual or aggregate contract limits.

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

FISCAL IMPACTS

Requested Authorization:	\$1,675,000 + 5% contingency (Amendment) \$2,281,956 (Total Contract)
Total Project Cost:	\$125,000,000
Projected Date of Completion:	December 2012
Anticipated Source of Funds:	Transportation Trust Fund
DBE Goal:	N/A
Related/Future Authorization:	Annual authorizations will be requested until the project is complete
Impact on Subsequent Operating Budgets:	None

RESOLUTION

WHEREAS, NJ TRANSIT seeks to improve the safety and reliability of its rail services through implementation of the Advanced Speed Enforcement System, also known as ASES; and

WHEREAS, the train based speed enforcement technology requires development and adaptation to make it compatible with existing infrastructure and rolling stock; and

WHEREAS, Gannett Fleming, Inc. has provided engineering support for the ASES project since January 2004 and has developed unique project knowledge to address the ongoing and anticipated technological challenges with the project; and

WHEREAS, NJ TRANSIT will require continuous services of Gannett Fleming, Inc. as the engineering and construction assistance consultant through December 2006;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to amend the existing task order from Task Order Contract (No. 03-052) with Gannett Fleming, Inc. of South Plainfield, NJ for continued professional services for the ASES project in the amount for \$1,675,000, plus five percent for contingencies, for a total contract authorization of \$2,281,956, subject to the availability of funds. This task will not be subject to the task, annual or aggregate contract limits.

**ITEM 0507-58: WOODBRIDGE STATION: PLATFORM REPLACEMENT
CONSTRUCTION CONTRACT AWARD**

BENEFITS

The project will replace the existing high-level platform at Woodbridge Station on the North Jersey Coast Line, to provide about 1,600 daily passengers with barrier-free access to rail service, new platform level shelters, lighting, public address systems, and restrooms at street-level compliant with the Americans with Disabilities Act.

PURPOSE

Authorization of this contract will permit the demolition and reconstruction of the existing platform, associated structures, the station building, ticket office and waiting room at platform level, and both stairs to street level. This project will bring the facility into a state of good repair and eliminate the ongoing need to implement interim repairs.

The station was constructed in the 1930s and annual inspections have revealed that age, water and salt infiltration have deteriorated the platform to a condition where replacement is required.

The construction work will be divided into three phases. The station will remain in service throughout the project. During the third phase, the elevator will be taken out of service and substitute shuttle service to another accessible station will be provided for customers with disabilities.

ACTION (Justification: State-of-Good Repair)

Staff seeks authorization to contract (No. 05-085) with George Harms Construction Co. of Farmingdale, NJ for the construction of a new platform, canopies, shelters, restrooms and associated improvements at Woodbridge Station on the North Jersey Coast Line at a cost not to exceed \$14,661,725, plus five percent for contingencies.

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

FISCAL IMPACTS

Requested Authorization:	\$14,661,725 + 5% contingency (Construction)
Total Project Cost:	\$23,406,000
Projected Date of Completion:	Fall 2007

Anticipated Source of Funds: Transportation Trust Fund

SBE Goal: 20%

Related/Future Authorizations: None

Impacts on Subsequent Operating Budgets: Implementation of this project will eliminate ongoing interim platform repair costs, which have exceeded a total of \$100,000

RESOLUTION

WHEREAS, NJ TRANSIT seeks to maintain its transportation facilities in a state of good repair for customer safety, comfort, and convenience; and

WHEREAS, Woodbridge Station on the North Jersey Coast Line serves approximately 1,600 passengers every weekday and annual facility inspections have revealed that age and weather have contributed to a deterioration of platform conditions; and

WHEREAS, the proposed platform replacement at Woodbridge Station includes construction of a new boarding platform and associated structures, waiting shelters, canopies, and restrooms; and

WHEREAS, upon completion of a competitive procurement process, George Harms Construction Co. was determined to be the most responsive and responsible bidder;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to contract with George Harms Construction Co. of Farmingdale, NJ for the construction of a new platform, canopies, shelters, restrooms and associated improvements at Woodbridge Station on the North Jersey Coast Line, at a cost not to exceed \$14,661,725, plus five percent for contingencies, subject to the availability of funds.

ITEM 0507-59: ADDITIONAL AUTHORIZATION FOR TRANSIT SERVICE PLANNING AND CAPITAL PROJECT ANALYSIS CONSULTING SERVICES

BENEFITS

NJ TRANSIT utilizes direct data from customer surveys as well as focus group results to develop schedules and service plans, project and monitor ridership, evaluate the impact of new investments, and to ensure that we drive essential system improvements based on customer needs and expectations. In addition, collecting information about customers' travel patterns and needs enables NJ TRANSIT to plan effectively to attract more riders. Maintaining up-to-date origin and destination data is a requirement for receiving federal funding for projects. On-call customer satisfaction and new product research consultants provide an economical and responsive means of capturing customer feedback.

In November 2003, the Board authorized \$850,000 over a three-year period for on-call consultant contracts with Technometrica Market Intelligence, ORC Macro, Resource Systems Group Incorporated, and TNS Intersearch. To date, this authorization has been used for a survey of Hudson-Bergen Light Rail customers, and a Commuter Rail Origin and Destination Survey. Each study provides information to improve service and increase efficiency in service planning and delivery. Although only one year of the three-year contract period for the consultants has passed, \$605,784 of the \$850,000 has been used.

Over the next two years, several projects are planned. They include:

- Focus groups to design light rail and bus timetables
- Focus groups with bus customers about on-board communication
- Customer requirements for the design of real-time dynamic signs and public address systems
- Evaluation of the impact of the extension of the Hudson-Bergen Light Rail Line to Tonnelle Avenue
- Evaluation of the impact of the extension of the Newark City Subway to Broad Street
- Conduct of first study in over two decades of bus and subway riders in Newark to rationalize service in response to economic and residential development and to the extension of the Newark City Subway

PURPOSE

Additional authorization for four market research firms for on-call consulting services. Services will be requested as needed, for planned work efforts and emerging needs.

ACTION (Justification: Improved Customer Service)

Staff seeks additional authorization for a two-year period to support four existing professional services contracts with Technometrica Market Intelligence, Oradell, NJ (03-

117A), ORC Macro, New York, NY (03-117B), Resource Systems Group Incorporated, White River Junction, VT (03-117C), and TNS Intersearch, Horsham, PA (03-117D) for on call consulting services at a cost not to exceed \$600,000 per task for an amount not to exceed \$1,200,000, subject to availability of funds. This will bring the total authorization to \$2,050,000 over three years.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:	\$1,200,000 (Total increase for a two-year period) \$2,050,000 (Total authorization)
Total Project Cost:	\$2,050,000 (Total for three years, including previous authorization)
Projected Date of Completion:	April 2007
Anticipated Source of Funds:	Operating and/or Capital Budget
DBE Goal:	20%
Related/Future Authorizations:	N/A
Impact on Subsequent Operating Budgets:	It is anticipated that approximately \$600,000 per year in operating funds will be used for ongoing research

RESOLUTION

WHEREAS, NJ TRANSIT has an ongoing need for consulting services in the areas of customer satisfaction research, new product testing, origin and destination studies; and

WHEREAS, consultant engagements will provide valuable information to ensure that NJ TRANSIT is focused on the issues that drive customer satisfaction; and

WHEREAS, on November 12, 2003, the Board authorized the Executive Director to enter into four on-call consulting contracts for market research; and

WHEREAS, the existing authorization for market research on-call consultants is nearly exhausted;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to expend up to \$600,000 per task for an additional \$1,200,000 for a total authorization of \$2,050,000 subject to the availability of funds with Technometrica Market Intelligence, Oradell, NJ (03-117A), ORC Macro, New York, NY (03-117B), Resource Systems Group Incorporated, White River Junction, VT (03-117C), and TNS Intersearch, Horsham, PA (03-117D).

ITEM 0507-60: COMPUTER HARDWARE MAINTENANCE SERVICES

BENEFITS

In support of NJ TRANSIT's objective to maintain a state-of-good-repair, staff is recommending a computer hardware maintenance agreement to maintain high availability of NJ TRANSIT's computer hardware.

PURPOSE

NJ TRANSIT utilizes and supports a variety of computing equipment within its Newark and Maplewood data centers and at over 70 other sites throughout the organization to provide software services. This equipment includes large mainframe computers, mid-range computers, personal computers, terminals, printers, disk storage devices, tape backup storage systems and controller units.

Computer hardware maintenance will provide both preventative services and repair services for the equipment specified. Services will be performed primarily at the Newark H/Q and Maplewood GOB facilities; but also includes other NJ TRANSIT sites, which utilize the equipment specified. Maintenance on a limited amount of equipment will be available on a 24/7 basis since some critical computer services are offered on a twenty-four hour seven/day per week basis. All other equipment will be maintained Monday through Friday, 11 hours per day.

NJ TRANSIT's computing requirements are met using a variety of equipment from multiple manufactures including IBM, HP, Storage Tech (STK) and Dell Computers. Over the past three years, NJ TRANSIT's computer related equipment has been maintained by NPA Computers, Inc. This vendor was selected through a competitive procurement process and maintained all of our mainframe; distributed server and PC networked computer equipment. Prior to 2003, NJ TRANSIT had hardware maintenance contracts with Contemporary Computer Services, Inc. (CCSI), U.S. Computer Maintenance, Sorbus and Digital Equipment Corporation to maintain the specified equipment.

ACTION (Justification: State-of-Good Repair)

Staff seeks authorization to enter into a one-year contract (No. 05-103) with two one-year options to renew with Volt Delta Resources, Inc. of Wallington, NJ for computer hardware services at a cost not to exceed \$1,079,966, plus five percent for contingencies.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization: \$1,079,966 + 5% contingency

Projected Date of Completion: July 31, 2008

Anticipated Source of Funding: FY06-07-08 Operating Budgets

DBE Goal: 15% Goal

Future/Related Authorization: N/A

Impacts on Subsequent Operating Budgets: FY06: \$357,235.20
FY07: \$375,378.20
FY08: \$347,353.20
Plus 5% for contingencies

RESOLUTION

WHEREAS, NJ TRANSIT utilizes a variety of hardware to deliver computer services on a 24 hour/seven day per week basis; and

WHEREAS, NJ TRANSIT uses computers, terminals, printers and other associated equipment throughout the state of New Jersey; and

WHEREAS, this equipment periodically requires preventative service and repair; and

WHEREAS, following the completion of a competitive procurement process, Volt Delta Resources, Inc. was determined to be the highest ranked proposer;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to enter into a one-year contract with two one-year options to renew with Volt Delta Resources, Inc. of Wallington, NJ for computer hardware services at a cost not to exceed \$1,079,966, plus five percent for contingencies, subject to the availability of funds and the approval of subsequent operating budgets.

DBE Goal: 15%

Related/Future Authorizations: None

**Impacts on Subsequent
Operating Budgets:** None

RESOLUTION

WHEREAS, transportation forecasts and customer requests indicate a need to provide mid-day, bi-directional rail service on the single-track Pascack Valley Line; and

WHEREAS, the proposed installation of conduit at 51 grade crossings is part of the signal renewal project on the Pascack Valley Line that will accommodate bi-directional rail service; and

WHEREAS, upon completion of a competitive procurement process, J. Fletcher Creamer & Son, Inc. was determined to be the most responsive and responsible bidder;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to contract with J. Fletcher Creamer & Son, Inc. of Hackensack, NJ for installation of conduit at 51 grade crossings on the Pascack Valley Line at a cost not to exceed \$1,678,802, plus five percent for contingencies, subject to the availability of funds.

ITEM 0507-62: PURCHASE OF NEW PRODUCTION WIRE TRAIN FOR CAPITAL CONSTRUCTION

BENEFITS

This new production wire train, which is based on European techniques of overhead wire installation and removal, will facilitate capital construction of new electrifications and capital renovations of the existing 95 miles of electrified railroad owned and maintained by NJ TRANSIT.

PURPOSE

This action procures a modern self-propelled production wire train consisting of two cars, one reel car and one platform car coupled together to operate as one unit. The equipment is specifically designed and built to install and remove the overhead wire system. This work is currently conducted utilizing the Newark or Hoboken Wire Trains. The existing equipment is over 50 years old. It has outlived its expected life span and can no longer be refurbished. This new state-of-the-art technology will reduce cost and increase productivity.

ACTION (Justification: Business Efficiencies)

Staff seeks authorization to contract (No. 05-628) with Geismar, Modern Track Machinery, Inc. of Elgin, IL to supply a modern production wire train for capital construction, at a cost not to exceed \$3,354,520, plus five percent for contingencies.

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

FISCAL IMPACTS

Requested Authorization:	\$3,354,520 + 5% contingency
Total Project Cost:	\$3,522,250
Anticipated Contract Start:	August 2005
Projected Date of Completion:	February 2006
Anticipated Source of Funds:	Transportation Trust Fund

DBE Goal: 0%

Related/Future Authorization: None

RESOLUTION

WHEREAS, NJ TRANSIT owns and maintains over 95 route miles of electrified railroad in the state of New Jersey; and

WHEREAS, the upgrade and new construction of the overhead wire system requires specialized equipment; and

WHEREAS, the existing wire train equipment is over 50 years old, has outlived its expected life span, and cannot be refurbished; and

WHEREAS, upon completion of a competitive procurement process Geismar, Modern Track Machinery, Inc. was determined to be the most responsive and responsible bidder;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to contract with Geismar, Modern Track Machinery, Inc. of Elgin, IL to supply a new production wire train at a cost not to exceed \$3,354,520, plus five percent for contingencies, subject to the availability of funds.

ITEM 0507-63: UNDERGRADE RAILROAD BRIDGES: ENGINEERING SERVICES TO PERFORM IN-DEPTH INSPECTIONS, EVALUATIONS AND RATINGS

BENEFITS

Inspections, evaluations, and ratings of NJ TRANSIT's undergrade railroad bridges provide crucial information to the Capital Bridge Repair and Painting Programs. Maintaining bridge infrastructure in a state-of-good repair is a key component to service reliability and ensuring the safety of passengers and the general public. NJ TRANSIT is responsible for maintaining 612 rail-carrying (undergrade) bridges.

PURPOSE

NJ TRANSIT is responsible for maintaining a safe and reliable bridge infrastructure throughout its system. Bridges are inspected on an annual basis by in-house staff; however, in-depth structural inspections and load-ratings are critical elements of the infrastructure maintenance program. The results of the inspections provide NJ TRANSIT with the basis for developing a repair and replacement program. These contracts will provide in-depth structural inspections, evaluations, and load-ratings for 141 undergrade railroad bridges. Detail inspections of this sort allow for periodic condition assessment, monitoring degrees of deterioration, optimization of maintenance effort, and prioritization for capital improvements. These inspections are a necessary step in the maintenance program and will allow NJ TRANSIT to achieve maximum return on its investments.

ACTION (Capital Program Justification: State of Good Repair)

Staff seeks authorization to contract with Dewberry of Bloomfield, New Jersey (No. 04-110D); URS Corporation of Newark, New Jersey (No. 04-110E); and Edwards and Kelcey of Morristown, New Jersey (No. 04-110F), to perform in-depth structural inspections, evaluations, and load ratings of 141 undergrade bridges, at costs not to exceed \$533,238, \$689,380 and \$480,012 respectively, for a total cost of \$1,802,630, plus five percent for contingencies, subject to the availability of funds.

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

FISCAL IMPACTS

Requested Authorization:	\$1,802,630 + 5% contingency (Total)
	\$ 533,238 (Contract No. 04-110D)
	\$ 689,389 (Contract No. 04-110E)
	\$ 580,012 (Contract No. 04-110F)

Total Project Cost:	(Continuing Project)
Projected Date of Completion:	October 2006
Anticipated Source of Funds:	Transportation Trust Fund
DBE Goal:	30%
Related/Future Authorizations:	None

RESOLUTION

WHEREAS, NJ TRANSIT is responsible for maintaining 612 rail-carrying (undergrade) bridges; and

WHEREAS, the evaluation of all undergrade bridges is required to ensure service reliability and train operations safety; and

WHEREAS, the bridge inspections are the basis for capital bridge repair and painting programs; and

WHEREAS, following the completion of a competitive procurement process, Dewberry, URS, and Edwards and Kelcey were determined to be the highest ranked responsible proposers;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to contract with Dewberry of Bloomfield, NJ, URS Corporation of Newark, NJ and Edwards and Kelcey of Morristown, NJ to perform in-depth structural inspections, evaluations, and load ratings of 141 undergrade bridges, at costs not to exceed \$533,238; \$689,380 and \$580,012, respectively, for a total cost of \$1,802,630, plus five percent for contingencies, subject to the availability of funds.

ITEM 0507-64: MAINTENANCE OF WAY BASE AT WEST END SUBSTATION

BENEFITS

Construction of this new facility will replace two structures that have reached a point of non-repair, and will provide an improved work environment for our signal, electric traction and track crews responsible for the maintenance of our substations, track and signal systems between Hoboken Terminal and the Hackensack River on the Morristown, Main and Bergen County Lines.

PURPOSE

As part of NJ TRANSIT's state of good repair program, a 75-year old substation and Maintenance of Way facility will be replaced in Jersey City near the Bergen Tunnel. The old structures are beyond repair and new structures are needed to house the equipment and systems that supply electric power to Hoboken Terminal and yard, Lower Hack Drawbridge, the Bergen Tunnel lights and ventilation system, switch heaters for West End interlocking as well as signal power generating facilities at Grove Street and West End.

The first phase of the project - construction of the new substation – is substantially complete and is expected to be operational in 60 days. The second phase, the adjacent maintenance of way base, will provide 2500 square feet of shop space, equipment storage, offices and a sign-up location for 25 – 30 electricians, track, and signal field personnel that maintain systems between Hoboken Terminal and the Hackensack river on the Morristown, Main and Bergen County lines.

ACTION (Capital Program Justification: State of Good Repair)

Staff seeks authorization to contract with Joseph Hamilton Construction Company of North Arlington, NJ, for the construction of West End Crew Quarters at a cost not to exceed \$1,799,000, plus five percent for contingencies.

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

FISCAL IMPACT

Requested Authorization:	\$1,799,000+ 5% contingency
Total Project Cost:	\$7,335,000 (Estimate)
Anticipated Source of Funds:	FY06 – 0.835 M

SBE Goal:	25%
Related/Future Authorization:	None
Impact on Subsequent Operating Budget:	None

RESOLUTION

WHEREAS, a Maintenance of Way Base is required to house equipment, material and employees necessary to maintain the Morristown, Main and Bergen lines between the Hoboken Terminal and the Hackensack River, and

WHEREAS, the current facility was built in the early 1930s and is beyond repair; and

WHEREAS, the location will provide easy access to the recently built West End Substation; and

WHEREAS, following the completion of a competitive procurement process, Joseph Hamilton Construction Company was determined to be the lowest responsive and responsible bidder;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to contract with Joseph Hamilton Construction Company of North Arlington, NJ, to perform the construction of the West End Crew Quarters at a cost of not to exceed \$1,799,000, plus five percent for contingencies, subject to the availability of funds.

ITEM 0507-65: NEWARK CITY SUBWAY ACCESSIBILITY: ELEVATOR CONSTRUCTION

BENEFITS

The project will construct an elevator connecting the main concourse level of Newark Penn Station with the Newark City Subway (NCS) mezzanine level. This is the final component of NJ TRANSIT's accessibility project for the subway at Newark Penn Station.

PURPOSE

Previous and ongoing construction at Newark Penn Station is reconstructing the Newark City Subway boarding platforms to provide level boarding for the light rail vehicles, elevators from the platforms to the mezzanine level and other enhancements to provide full accessibility in the station.

Authorization of this contract will allow for the completion of the accessibility construction on the Subway in Newark Penn Station, and meet NJ TRANSIT's compliance obligations in accordance with the voluntary compliance agreement with the Federal Transit Administration.

ACTION (Justification: Mandated Program)

Staff seeks authorization to contract (No. 05-087) with DMR Construction Services, Inc. of River Edge, NJ for the construction of an elevator connecting the main concourse level at Newark Penn Station with the Newark City Subway mezzanine level at a cost not to exceed \$2,317,005, plus five percent for contingencies.

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

FISCAL IMPACTS

Requested Authorization:	\$2,317,005 + 5% contingency
Total Project Cost:	\$2,827,000
Projected Date of Completion:	June 2006
Anticipated Source of Funds:	Transportation Trust Fund
SBE Goal:	20%

Related/Future Authorizations:

None anticipated at this time

**Impacts on Subsequent
Operating Budgets:**

An additional \$800 annually to maintain the elevator under existing contract for elevator maintenance at Newark Penn Station

RESOLUTION

WHEREAS, NJ TRANSIT is committed to providing barrier-free access for customers with disabilities;

WHEREAS, NJ TRANSIT will construct an elevator connecting the main concourse level of Newark Penn Station with the Newark City Subway mezzanine level; and

WHEREAS, this elevator will complete the accessibility improvements to the Subway at Newark Penn Station;

WHEREAS, upon completion of a competitive procurement process, it was determined that DMR Construction Services, Inc. was the most responsive and responsible bidder;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to contract with DMR Construction Services, Inc. of River, Edge, NJ for the construction of an elevator connecting the main concourse level at Newark Penn Station with the Newark City Subway mezzanine level at a cost not to exceed \$2,317,005, plus five percent for contingencies.

**ITEM 0507-66: SOUTHERN NEW JERSEY RAIL GROUP VS. NJ TRANSIT:
COMPENSATION OF SPECIAL COUNSEL**

BENEFITS

Sills Cummis Epstein & Gross (Sills Cummis) is an established firm providing comprehensive legal services. The designation of Sills Cummis as Special Counsel provides NJ TRANSIT with additional resources and expertise in the defense of ongoing construction litigation.

The additional requested authorization will allow Sills Cummis to continue to provide legal services and retain technical experts to evaluate Southern New Jersey Rail Group's claims. A Special Master has been appointed to manage the discovery process and oversee preparation of the case for trial.

PURPOSE

In November 2002, the State Attorney General designated Sills Cummis as Special Counsel to NJ TRANSIT in defending the lawsuit filed by Southern New Jersey Rail Group (Rail Group), the Design-Build-Operate-Maintain (DBOM) contractor for the River LINE light rail project.

Sills Cummis has been providing litigation services to NJ TRANSIT since December 2002 under Board authorization. As of June 2005, Sills Cummis has invoiced approximately \$9,800,000 of which 63 percent was expended for legal fees, 23 percent for technical experts to evaluate Rail Group's claims, and 14 percent for document control related services. Staff anticipates the need for periodic Board authorization before the litigation is resolved.

ACTION

Staff seeks additional authorization to compensate the law firm of Sills Cummis Epstein & Gross as Special Counsel to NJ TRANSIT in accordance with the Attorney General's designation for comprehensive litigation support services up to an additional \$3,000,000 for a total contract authorization of \$13,590,000 for continuing legal services.

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

FISCAL IMPACTS

Requested Authorization: Increased Authorization \$ 3,000,000

Total Project Cost: N/A

Projected Date of Completion:	N/A
Anticipated Source of Funds:	Transportation Trust Fund
DBE Goal:	N/A
Related/Future Authorizations:	Increase in contract authorization for Sills Cummis, dependent on litigation schedule
Impact on Subsequent Operating Budgets:	N/A

RESOLUTION

WHEREAS, the State Attorney General has previously designated Sills Cummis Epstein & Gross as Special Counsel to represent NJ TRANSIT in the lawsuit filed by the Design-Build-Operate-Maintain (DBOM) contractor for the River LINE (Southern New Jersey Light Rail) project; and

WHEREAS, ongoing independent verification of the claims is necessary to prepare the case for trial and consistent with the designation of a Special Master for the case;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is hereby authorized to compensate Sills Cummis Epstein & Gross as Special Counsel in accordance with the Attorney General's designation for comprehensive litigation support services including the retention of experts, up to an additional \$3,000,000 for continuing legal services. This authorization will bring the total contract authorization to \$13,590,000, subject to the availability of funds.

CONSENT CALENDAR

ITEM 0507-67: AMENDMENT TO BOARD ITEM 0410-59: FRENCH CROSS-BORDER LEASE: DIESEL LOCOMOTIVES

BENEFITS

NJ TRANSIT wishes to extend its leveraged lease program by entering into a French cross-border lease with Societe Generale (SG) for approximately \$150 million of Alstom diesel locomotives estimated to generate an upfront benefit of up to \$5 million.

PURPOSE

In October 2004, the Board approved a 15-year French cross-border lease with SG for \$120 million of state funded Alstom diesel locomotives. SG has offered NJ TRANSIT a 20-year lease term with an increased benefit of more than \$500,000. Staff believes that there is minimal incremental risk in the longer term. In addition, SG is willing to include the six federally funded units in the lease if NJ TRANSIT is successful in securing Federal Transit Administration approval for the lease.

ACTION (Justification: Business Efficiencies)

Staff seeks authorization to amend the October 14, 2004 Board Item No. 0410-59 and enter into negotiations with SG for a 20-year French cross-border lease on all of the Alstom diesel locomotives and authorizes the Chairman, Executive Director, the Chief Financial Officer and Treasurer, the Secretary or their designees to take all actions necessary to close the lease, including the payment of all legal and other fees as well as up to \$250,000 to indemnify other parties should the transaction fail to close.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:	Amend Board Item No. 0410-59 for French cross-border lease on approximately \$150 million of Alstom diesels with Societe Generale
Projected Completion:	Fall 2005
DBE Goal:	N/A

RESOLUTION

WHEREAS, NJ TRANSIT is purchasing 33 Alstom diesels locomotives at a cost of approximately \$150 million; and

WHEREAS, the Board has previously approved a 15-year French cross-border lease for the \$120 million of this equipment being acquired with non-federal funds; and

WHEREAS, SG has expressed an interest in extending the lease term to 20 years at improved economics and leasing the federally funded units if Federal Transit Administration approval is obtained;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby authorizes staff to enter into negotiations with SG for a 20 year French cross-border lease on all of the Alstom diesel locomotives and authorizes the Chairman, Executive Director, the Chief Financial Officer and Treasurer, the Secretary or their designees to take all actions necessary to close the lease, including the payment of all legal and other fees as well as up to \$250,000 to indemnify other parties should the transaction fail to close.

**ITEM 0507-68: LAND LEASE AMENDMENT FROM THE CITY OF HACKENSACK
(FOR THE HACKENSACK BUS TERMINAL)**

BENEFITS

Approval of this item will authorize the amending of an existing lease for a term of 25 years for the "Hackensack Bus Terminal parcel", from the City of Hackensack. The lease extension will enable NJ TRANSIT to continue to utilize the site as a bus terminal and maintain its transportation use. NJ TRANSIT's lease will benefit the community by facilitating the continued use of the building as a bus terminal serving the local population for an additional 25 years.

The lease amendment will provide actual economic benefits to NJ TRANSIT by maintaining bus farebox revenues. Non-farebox revenues will increase with a new lease for the ticket agent and the installation of an automated teller machine (ATM). The rent paid to the City is \$1.00 annually. NJ TRANSIT will be required to maintain the property and provide the appropriate insurance.

PURPOSE

The purpose of this item is to authorize NJ TRANSIT to enter into a 25 year lease amendment with the City of Hackensack for Block 204A, Lot 28, that encompasses the Hackensack Bus Terminal and bus lanes. NJ TRANSIT plans to renovate the terminal and requires a 25 year term to do so.

ACTION (Justification: Business Efficiencies)

Authorize the Chairman or Executive Director to enter into all necessary agreements and take all necessary actions with regard to NJ TRANSIT leasing from the City of Hackensack for a term of 25 years, Block 204A, Lot 28, 16,974 square feet of land encompassing a bus terminal and bus lanes in the City of Hackensack, Bergen County, in consideration of NJ TRANSIT's use of the property as a bus terminal and NJ TRANSIT's renovation of the same. The annual cost of the lease is \$1.

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

FISCAL IMPACTS

Requested Authorization:

Authorization to enter into all necessary agreements and take all necessary actions with regard to NJ TRANSIT leasing from the City of Hackensack for 25 years, in consideration of NJ TRANSIT's renovation and continued maintenance of the bus terminal parcel, containing approximately 16,974 square feet of land at 125 River Street, Block 204A, Lot 28, in the City of Hackensack, for use only as a bus terminal and for transportation uses

Total Project Cost:

N/A

Projected Date of Completion:

N/A

Anticipated Source of Funds:

N/A

SBE Goal:

N/A

Related/Future Authorizations:

N/A

**Impacts on Subsequent
Operating Budgets**

N/A

RESOLUTION

WHEREAS, NJ TRANSIT leases the land on which the Hackensack Bus Terminal is located in the City of Hackensack, Bergen County; and

WHEREAS, this bus terminal is in need of a total renovation to allow the facility to maintain its use as a bus facility; and

WHEREAS, NJ TRANSIT seeks to amend the existing lease with a 25-year extension to allow for renovation of the site; and

WHEREAS, the City of Hackensack has passed a resolution authorizing the Mayor and City Clerk to execute an Agreement with NJ TRANSIT that continues the existing transportation uses, including the plans to renovate the facility for use as a bus transportation facility in the City of Hackensack; and

WHEREAS, leasing this parcel of land will benefit NJ TRANSIT in the form of increased efficiencies within the bus terminal, reduced maintenance costs due to the renovation and increased non-farebox revenues due to a new lease for the ticket agent and the installation of an automated teller machine;

NOW, THEREFORE, BE IT RESOLVED the Chairman or Executive Director is authorized to enter into all necessary agreements and take all necessary actions with regard to NJ TRANSIT leasing from the City of Hackensack for 25 years, and in consideration of NJ TRANSIT's renovation and continued maintenance of the bus terminal parcel, containing approximately 16,974 square feet of land at 125 River Street in the City of Hackensack, Block 204A, Lot 28, for use solely as a bus terminal and for transportation uses. The annual cost of the lease is \$1.

ITEM 0507-69: LEASE TO THE TOWNSHIP OF READINGTON (EASTBOUND TRAIN STATION BUILDING AND PARKING LOT)

BENEFITS

Approval of this item will authorize the renewal of a 25-year lease of the "White House Station Parcel", for \$1 annual rent, to the Township of Readington for its continued use of the station building as its branch of the Hunterdon County Library System. The lease of the White House Station Parcel to the Township will provide economic benefits to NJ TRANSIT by reducing the maintenance costs associated with the building and the parking lot used by NJ TRANSIT customers, and associated insurance costs. This lease will benefit the community by facilitating the continued use of the building as a library. The property will continue to provide 75 commuter parking spaces for NJ TRANSIT riders. In the event the Township institutes fee parking, the lease provides for NJ TRANSIT to capture net parking revenues.

PURPOSE

The purpose of this item is to authorize the lease of 1.540 acres that encompasses the eastbound White House Station and a 75-space commuter parking lot at milepost 44.3 on the Raritan Valley Line to Readington Township. Readington Township will utilize the station building as a branch of the Hunterdon County Library System. The lease may be terminated on six months notice if NJ TRANSIT decides that the parcel is needed for railroad or other public transportation purposes.

ACTION (Justification: Business Efficiencies)

Authorize the Chairman or Executive Director to enter into all necessary agreements and take all necessary actions with regard to NJ TRANSIT leasing to the Township of Readington for a term of 25 years, 1.540 acres of land encompassing a commuter parking lot and the eastbound White House train station building in Readington Township, Hunterdon County, on NJ TRANSIT's Raritan Valley Line at milepost 44.3, in consideration of the Township's use of the property as a library and utilization and maintenance of the property according to the terms of the lease agreement. The lease is cancelable upon six months' notice should the railroad property be needed for railroad or other public transportation purposes.

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

FISCAL IMPACTS

Requested Authorization:

Authorization to enter into all necessary agreements and take all necessary actions

with regard to the Township of Readington leasing the 1.540 acres "White House Station Parcel" for 25 years, in consideration of the Township's use and maintenance of the building and commuter parking lot and subject to NJ TRANSIT's right to terminate the lease upon six months' notice should the railroad property be needed for railroad or other public transportation purposes

Total Project Cost:	N/A
Projected Date of Completion:	N/A
Anticipated Source of Funds:	N/A
DBE Goal:	N/A
Related/Future Authorizations:	N/A
Impacts on Subsequent Operating Budgets	N/A

RESOLUTION

WHEREAS, the Township of Readington seeks to renew the 25-year lease on the Raritan Valley Line property; and

WHEREAS, NJ TRANSIT has endorsed the existing uses including use as a library and use for railroad transportation for this parcel in Readington Township; and

WHEREAS, leasing this station parcel will benefit NJ TRANSIT in the form of reduced maintenance and risk management responsibilities and related costs; and

WHEREAS, NJ TRANSIT in the future may wish to use all or a portion of the White House Station Parcel for transportation purposes;

NOW, THEREFORE, BE IT RESOLVED the Chairman or Executive Director is authorized to enter into all necessary agreements and take all necessary actions with regard to the Township of Readington leasing the 1.540 acre "White House Station Parcel" for 25 years, in consideration of the Township's use and maintenance of the building and commuter parking lot subject to NJ TRANSIT's right to terminate the lease upon six months' notice should the railroad property be needed for railroad or other public transportation purposes.

ITEM 0507-70: AMENDMENT TO BOARD ITEM 0210-117: SETTLEMENT OF CONDEMNATION LAWSUIT REGARDING PROPERTY ACQUISITION FOR THE NEWARK CITY SUBWAY EXTENSION

BENEFITS

The acquisition of property from First Bellemead Urban Renewal Corporation known as Lots 1.02 and 1.03 in Block 138, City of Newark, Essex County, New Jersey and known as Parcels 3A, 3B, E3C, and E3D as part of the alignment for the Newark City Subway Extension project. The acquisition of this property is necessary as part of the Newark City Subway Extension which will connect Newark Penn Station to Broad Street Station.

PURPOSE

Amend the previous Board item dated October 9, 2002 to finalize settlement of the condemnation court action in order to acquire property from First Bellemead Urban Renewal Corporation for the Newark City Subway Extension.

ACTION (Justification: Business Efficiencies)

Staff seeks authorization to amend the October 9, 2002 Board item which authorized \$435,000, for the acquisition of Lots 1.02 and 1.03 in Block 138, Newark, Essex County, New Jersey. The Board Item will be amended for an additional amount of \$306,000, totaling \$741,000 to acquire the property. This will allow for the acquisition of the property from First Bellemead Urban Renewal Corporation for \$741,000 in accordance with a Consent Order to be entered in the Superior Court of New Jersey as a result of a condemnation lawsuit settlement reached in this matter on June 8, 2005. The settlement amount of \$741,000 is inclusive of interest.

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

FISCAL IMPACTS

Requested Authorization:	\$741,000 purchase price and 3% closing costs
Total Project Cost:	N/A
Projected Date of Completion:	June 2006
Anticipated Source of Funds:	FTA
DBE Goal:	N/A

Related/Future Authorization: N/A

**Impacts on Subsequent
Operating Budgets:** None

RESOLUTION

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

WHEREAS NJ TRANSIT October 9, 2002 Board item authorized the acquisition of property from First Bellemead Urban Renewal Corporation known as Lots 1.02 and 1.03 in Block 138, City of Newark, Essex County, New Jersey for \$435,000; and

WHEREAS, a settlement reached in the Superior Court of New Jersey in a condemnation lawsuit on June 8, 2005 requires NJ TRANSIT to pay an additional \$306,000 for a total of \$741,000 for the acquisition of the property;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is hereby authorized to pay an additional amount of \$306,000 for acquisition of property from First Bellemead Urban Renewal Corporation known as Lots 1.02 and 1.03 in Block 138, City of Newark, Essex County, New Jersey in accordance with the settlement reached on June 8, 2005 in the Superior Court of New Jersey condemnation court case for a total of \$741,000 inclusive of interest, subject to the availability of funds.

(NJT BOARD – 07/27/05)

ITEM 0507-71: EASEMENTS FOR REPLACEMENT OF CONRAIL BRIDGE IN SOUTH AMBOY

(This item was previously forwarded to the Governor on July 27, 2005)

BENEFITS

Approval of this item will enable the City of South Amboy to replace an existing bridge that carries an access road and the Consolidated Rail Corporation ("Conrail") across NJ TRANSIT's North Jersey Coast Line and Main Street in South Amboy with a new bridge that will advance several objectives. The new bridge will carry a new access road from Main Street (to be called Radford's Ferry Road) across NJ TRANSIT's tracks, thereby providing good access to an intermodal transportation center for rail and ferry customers to be built within a half-mile of NJ TRANSIT's South Amboy station. Conrail will gain a modern bridge to replace the existing bridge that sometimes exfoliates spalling concrete onto NJ TRANSIT's tracks below. South Amboy will benefit from increased access to redevelopment areas in the vicinity. NJ TRANSIT expects to gain additional customers from the availability of improved intermodal transportation options and by increased residential and commercial activity in nearby redevelopment areas.

PURPOSE

In an effort to improve intermodal transportation enhancements in South Amboy and to stimulate transit-friendly smart-growth development near the municipality's Raritan Bay waterfront, the City of South Amboy has embarked on a plan to implement the South Amboy Regional Intermodal Transportation Center project in an area to the north and east of Main Street, approximately one-half mile north of the South Amboy station. The City will build the center on a parking lot that Conrail and Reliant Energy New Jersey Holdings LLC currently lease to SeaStreak America, Inc. SeaStreak operates ferries between South Amboy and Lower Manhattan.

With support from the New Jersey Department of Transportation, Federal government and NJ TRANSIT, the City's intermodal center will include rail and bus transit plazas, a ferry terminal, bulkheads, breakwaters, arterial and site-access road improvements, and pedestrian access.

Construction of the project will require demolition and replacement of an existing bridge that carries not only vehicles to and from a sand and gravel business east of the bridge but also a single-track Conrail freight line over NJ TRANSIT's North Jersey Coast Line at Milepost 0.98. Reconstruction will provide a bridge that meets modern standards.

Replacing the bridge, providing access to properties affected by the outage of the bridge during reconstruction, and relocating the freight line will require a complex set of land exchanges and grants of temporary and permanent easements among NJ TRANSIT, Conrail, the City and Reliant Energy. NJ TRANSIT will provide easements to the City and the other parties, will allow Conrail to replace its current bridge and relocate nearby tracks within the bounds of existing easements to Conrail, and will allow the use of its station parking lot for public access to the ferry during construction of the project. As consideration for the easements, NJ TRANSIT will receive access to other facilities, e.g., an electrical substation, that were made inaccessible by the relocation of roads and Conrail's freight trackage. NJ TRANSIT also will allow the City to relocate an NJ TRANSIT utility pole from NJ TRANSIT property to private property by means of an easement that the City will obtain and convey to NJ TRANSIT.

The purpose of this Board item is to authorize staff to execute all easements, agreements and other documents that will enable NJ TRANSIT to convey and accept any and all property interests and take all actions necessary to facilitate the project.

ACTION

Authorize the Chairman or Executive Director to take all necessary actions to convey property interests from NJ TRANSIT to Conrail and the City of South Amboy and accept conveyance of property interests from Conrail, the City of South Amboy, Reliant Energy and others to NJ TRANSIT, and to enter into such agreements respecting temporary access during construction as may be reasonably required to enable the replacement of a Conrail bridge and track within the boundaries of existing Conrail easements.

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

FISCAL IMPACTS

Requested Authorization

Authorize the Chairman or Executive Director to take all necessary actions to convey and accept property interests related to the South Amboy Regional Intermodal Transportation Center project, including replacement of an existing vehicle and freight bridge and relocation of Conrail's tracks

Total Project Cost:

None

Projected Date of Completion:

End of 2006

Anticipated Source of Funds:

N/A

SBE Goal:

N/A (responsibility of others)

Related/Future Authorizations:

None anticipated

Impact on Subsequent Operating Budgets:

None anticipated

RESOLUTION

WHEREAS, NJ TRANSIT, the New Jersey Department of Transportation and the City of South Amboy have a mutual interest in providing intermodal transportation options and recognize the importance of providing such options to advance economic development within South Amboy; and

WHEREAS, the City of South Amboy seeks to construct an intermodal transportation center that facilitates intermodal connections for rail, bus, and ferry passengers; and

WHEREAS, construction of an intermodal transportation center requires the replacement of a bridge that carries a road and Conrail's freight tracks over NJ TRANSIT's North Jersey Coast Line and relocation of Conrail freight tracks; and

WHEREAS, the New Jersey Department of Transportation and the Federal government are providing financial support for infrastructure improvements required to create the South Amboy Regional Intermodal Transportation Center; and

WHEREAS, construction of the intermodal transportation center requires various exchanges of property rights among NJ TRANSIT, the City of South Amboy and the Consolidated Rail Corporation, Reliant Energy New Jersey Holdings LLC; and others;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to execute all documents and to take all actions necessary to convey property interests, to accept conveyance of property interests and other rights, and to enter into such agreements respecting temporary access during construction as reasonably may be required to facilitate construction of the South Amboy Regional Intermodal Transportation Center project, including the replacement of a Conrail bridge and track within the boundaries of existing Conrail easements.

ITEM 0507-72: DOVER STATION: TERMINATION OF EXISTING LEASE AGREEMENT WITH TOWN OF DOVER AND NEW LEASE TO DOVER LIQUOR LICENSE LLC

BENEFITS

The termination of the Lease Agreement with the Town of Dover originally dated August 24, 1984, which had a 14 year option which was exercised in 2000, will allow NJ TRANSIT to lease the Dover Station Building to Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, for the sum of \$30,346 a year for five years with annual CPI adjustments and in year six at \$42,000 a year with annual CPI adjustments thereafter. Lease is for 10 years with a five-year option and will provide in excess of \$500,000 in non-farebox revenue. The lease between NJ TRANSIT and Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, will remove the premises from the protracted litigation which has impeded the Town of Dover from subleasing the premises, will bring the rent to the market rate in five years, and repair the station building for use as an attractive restaurant for NJ TRANSIT customers and area residents. The Town will lease to NJ TRANSIT not less than 42 parking spaces to provide parking to serve customers of the commercial tenant for as long as the Station is in commercial use. Any costs of the parking lease to be borne by tenant.

PURPOSE

NJ TRANSIT and the Town of Dover have agreed to terminate the Lease agreement for the Dover Station building so that NJ TRANSIT can lease the premises directly to Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy. This authorization allows NJ TRANSIT to enter into a lease with Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, 212 Claremont Avenue, Montclair, NJ for the operation of a restaurant establishment located in the Dover Train Station Building situated at Block 1214, Lot 16, Town of Dover, County of Morris, NJ. The Dover Station is on the Morristown Line. The lease period is for ten years with one five-year renewal option. NJ TRANSIT's direct lease with Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, settles protracted litigation between the Town of Dover and the current subtenant through the corresponding execution of releases by all parties. This also provides authorization for NJ TRANSIT to enter into an agreement with the Town of Dover to lease not less than 42 parking spaces to provide parking to serve customers of the commercial tenant for as long as the station is in commercial use.

ACTION

Staff seeks authorization to enter into a lease with Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, for the lease of the Dover Station Building for the operation of a restaurant establishment for ten years with a five-year renewal option with rent starting at \$30,346 a year with an annual CPI adjustment and in year six at \$42,000 a year with annual CPI adjustments thereafter. The lease is for 10 years with a five-year option. Authorization is also requested for NJ TRANSIT to enter into an agreement with the Town of Dover to lease to NJ TRANSIT the use of not less than 42 parking spaces to provide parking to serve customers of NJ TRANSIT's commercial tenant for as long as the station is in commercial use.

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

FISCAL IMPACTS

Requested Authorization:

Terminate the existing lease to the Town of Dover and Lease the Dover Station Building to Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, for the sum of \$30,346 a year for five years with annual CPI adjustments and in Year Six at \$42,000 a year with annual CPI adjustments thereafter. Lease is for 10 years with a five-year option and will provide in excess of \$500,000 in non-farebox revenue. . Lease from the Town of Dover not less than 42 parking spaces to provide parking to serve customers of NJ TRANSIT's commercial tenant for as long as the station is in commercial use. Any costs of the parking lease to be borne by tenant

Total Project Cost:

None

Projected Date of Completion:

September 1, 2005

Anticipated Source of Funds:

None

DBE Goal:

N/A

Related/Future Authorizations: None

**Impacts on Subsequent
Operating Budgets:**

Revenue of \$30,346 a year for five years with annual CPI adjustments and in Year Six at \$42,000 a year with annual CPI adjustments thereafter. Lease is for 10 years with a five-year option and will provide in excess of \$500,000 in non-farebox revenue

RESOLUTION

WHEREAS, NJ TRANSIT and the Town of Dover entered into a lease dated August 24, 1984, for 15 years for the Dover Station Building on the Morristown/Boonton Line; and

WHEREAS, in accordance with the terms of the lease, the Town exercised the fourteen year option extending the lease to 2014; and

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

WHEREAS, NJ TRANSIT owns the Dover Station Building; and

WHEREAS, NJ TRANSIT, the Town of Dover and current sublessee have mutually agreed to terminate the August 24, 1984 Lease Agreement and Sublease of the station which the Town entered into; and

WHEREAS, NJ TRANSIT has determined that NJ TRANSIT's direct lease with Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, provides the settlement to litigation and re-open the station for commercial use and the generation of non-farebox revenue;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to take all actions necessary to enter into a 10 year lease with a five year renewal option lease with Dover Liquor License LLC, a New Jersey limited liability company, with the lease personally guaranteed by John MacEvoy, 212 Claremont Avenue, Montclair, NJ for the sum of \$30,346 a year for five years with annual CPI adjustments and in year six at \$42,000 a year with annual CPI adjustments thereafter through year 10 with a five-year renewal option for the operation of a restaurant establishment located in the Dover Train Station Building situated at Block 1214, Lot 16, Town of Dover, County of Morris, NJ. Authorization is also granted to allow for NJ TRANSIT to enter into an agreement with the Town of Dover,

to lease at no cost to NJ TRANSIT, not less than 42 parking spaces to provide parking to serve customers of the commercial tenant for as long as the station is in commercial use. Any costs of the parking lease to be borne by tenant.

**ITEM 0507-73: REGULATION: RE-ADOPTION OF REGULATION N.J.A.C. 16:77
USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY**

BENEFITS

NJ TRANSIT as an instrumentality of the State government is responsible to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the programs by which NJ TRANSIT proposes to fulfill its responsibility is through the issuance of permits for certain fees to use its railroad right-of-way for various types of occupations. Permits are license agreements for the use and occupancy of railroad property by a utility, municipality or private entity.

The provisions of Executive Order No. 66 (1978) require that NJ TRANSIT review its regulations (Exhibit A) periodically (every five years) to determine their continuing usefulness. These regulations were reviewed by staff and were found to be necessary, reasonable, adequate, efficient and responsive to the purpose for which it was originally promulgated and is proposing to readopt and amend the regulations.

The proposed amendments primarily relate to what NJ TRANSIT believes are reasonable increases in the permit fees which have not been increased since 2000. NJ TRANSIT recommends an estimated general increase of 20 percent to be applied to the existing fee schedule.

The proposed amended regulations were published in the New Jersey Register on February 7, 2005 (Exhibit B). The public comment period expired on April 8, 2005 and one comment was received from PSE&G. Exhibit C contains a list of each of the proposed amendments. PSE&G commented that the proposed increase of 20 percent is unreasonable and excessive. Although the Consumer Price Index increase from May 2000 to May 2004 is mentioned as a benchmark, it is only one factor that was utilized to determine the permit fees for the period 2005-2010. No one Index can encompass the many varied areas that could be taken into consideration when determining a rate increase. The Consumer Price Index does not account for the increase in land value or the decrease in available space for future facility occupations or an adjustment of costs for insurance, security or other precautionary measures to protect the facilities. NJ TRANSIT's response was the permit fees have not increased since 2000.

These amended regulations will allow the issuance of permits for the occupancy of railroad property by a utility, municipality, or private entity. Staff recommends that the Board authorize the re-adoption of the regulations "Use or Occupancy of NJ TRANSIT-owned Property" with amendments.

PURPOSE

In accordance with the provisions of Executive Order No. 66 (1978), NJ TRANSIT proposes to adopt, with amendments, N.J.A.C. 16:77, "Use or Occupancy of NJ TRANSIT-owned Property".

ACTION

Staff seeks authorization to take all actions necessary to adopt and promulgate the regulations N.J.A.C. 16:77 et seq. Use or Occupancy of NJ TRANSIT-owned Property, consistent with this Board item and exhibits.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:	Re-adoption of regulation "Use or Occupancy of NJ TRANSIT-owned Property" with amendments.
Total Project Cost:	N/A
Projected Date of Completion:	November 11, 2005
Anticipated Source of Funds:	N/A
DBE Goal:	No goods or services to be procured.
Related/Future Authorizations:	N/A
Impacts on Subsequent Operating Budgets:	TBD

RESOLUTION

WHEREAS, staff seeks authorization to take all actions necessary to re-adopt the regulations N.J.A.C. 16:77 et seq. Use or Occupancy of NJ TRANSIT-owned Property with amendments; and

WHEREAS, the regulations were reviewed by staff and were found to be necessary, reasonable, adequate, efficient and responsive to the purpose for which it was originally promulgated and as a result, staff is proposing amendments to the regulations; and

WHEREAS, the provisions of Executive Order No. 66 (1978) require NJ TRANSIT review its regulations (Exhibit A) periodically (every five years) to determine their continuing usefulness; and

WHEREAS, the regulations were published in the New Jersey Register on February 7, 2005 (Exhibit B) and the comment period expired on April 8, 2005 and one comment was received; and

WHEREAS, Exhibit C contains a list of each of the proposed amendments;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director or his designee is authorized to take all actions necessary to re-adopt the regulations N.J.A.C. 16:77 et seq., Use or Occupancy of NJ TRANSIT-owned Property with amendments consistent with this Board item and exhibits, put the regulations in the appropriate format and to take all other actions necessary to effectuate the final adoption and promulgation of the Use or Occupancy of NJ TRANSIT-owned Property regulations with amendments.

TRANSIT PROPERTY USE AND OCCUPANCY

CHAPTER 77

USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY

Authority

N.J.S.A. 27:25-5(e), (h) and (k), and 27:25-7(b).

Source and Effective Date

R.2000 d.208, effective May 15, 2000.
See: 32 N.J.R. 389(a), 32 N.J.R. 1781(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 77, Use or Occupancy of NJ Transit-Owned Property, expires on November 11, 2005.
See: 37 N.J.R. 389(a).

Chapter Historical Note

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was adopted as R.1984 d.625, effective January 21, 1985. See: 16 N.J.R. 2415(b), 17 N.J.R. 205(a).

Pursuant to Executive Order No. 66(1978), Chapter 77, Use of Occupancy of NJ Transit-Owned Property, was readopted as R.1995 d.111, effective January 27, 1995. See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a). Pursuant to Executive Order No. 66(1978), Chapter 77 expired on January 27, 2000.

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was adopted as new rules by R.2000 d.208, effective May 15, 2000. See: Source and Effective Date.

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SUBCHAPTER 1. PERMITS AND CONDITIONS

16:77-1.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings:

“Cable” means consisting of more than two conductors insulated from each other, with or without a protective covering, either self supporting or having a common support.

“Coaxial television cable” means a transmission line cable having an inner conductor surrounded by insulation and an outer sheath serving as the second conductor.

“Communication wires” means wires used for telegraph, telephone, fire alarm, police, and signal circuits for public or private communication of signal service, which operate at a voltage not exceeding 400 volts to ground or 750 volts between any two points of the circuit and the transmitted power of which does not exceed 150 watts.

“Composite coaxial cable” means a cable made up of one or more transmission lines in which one conductor is centered inside a metallic tube that serves as the second conductor. Other standard insulated conductors may be included in the same overall sheath.

“Individual service” means a service to a single individual dwelling.

“Involved jurisdiction” means the New Jersey Transit Corporation (NJ TRANSIT), its authorized representative(s), and the NJ TRANSIT’s authorized railroad operator, where appropriate.

“Lightfiber, fiberoptic and glassfiber cable” means any cable using light as a transmitter and receiver and a glass or plastic fiber as the transmission medium.

“Longitudinal occupation” means any occupation of NJ TRANSIT-owned property other than a direct crossing over or under railroad tracks and right-of-way as defined under (N.J.A.C. 16:77-1.7.

“Messenger wires” means any support wire which carries no current, signal or communication transmission and has a specific purpose to assist in installing, servicing and replacing overhead occupancies. Messenger wires shall be considered as part of the wires or cables supported and no charge shall be assessed therefor.

“Municipality” means a local governing body such as a borough, township, city or village.

“NJ TRANSIT-owned property” means railroad property in the State of New Jersey, New York and Pennsylvania owned and/or operated by NJ TRANSIT regardless of the operating agent or active status of the railroad.

“Permit” means the written permission for the use or occupancy of NJ TRANSIT-owned property including short term uses. Uses or occupancies of NJ TRANSIT-owned property shall include:

1. Transverse or longitudinal crossings on, over, or under NJ TRANSIT-owned property:
 - i. Aerial or underground wires and cables (communications and power);
 - ii. Poles, towers, guys and anchors;

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iii. Pipes and sewers;

iv. Uses for overhead or underground conveyors, pipe bridges, pedestrian tunnels, or any other facility which NJ TRANSIT shall determine as requiring a permit.

2. Uses or occupancies for short term activities, of less than one year duration.

"Permittee" means the owner of a facility which is to be constructed installed or maintained on NJ TRANSIT-owned property, or a user of said property for a fixed short term.

"Power wires" means all wires used for transmitting a supply of electrical energy except those defined as "communication wires" above.

"Transverse occupation" means that part of any overhead under-grade line which crosses a track or tracks or any TRANSIT-owned right-of-way.

"Wire" means a solid or stranded single conductor, either bare or insulated.

Amended by R.1989 d.133, effective March 6, 1989.

See: 21 N.J.R. 13(c), 21 N.J.R. 638(b).

Added "Municipality".

Amended by R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

"Messenger wire" defined further.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

16:77-1.2 Permit applications

a) No person, company, corporation, business, governmental agency or other entity may use or occupy NJ TRANSIT-owned property without obtaining a permit from NJ TRANSIT. All requests for permits shall be submitted in writing and addressed to:

NJ TRANSIT
Real Estate Division
Manager, Property Management—Permits
One Penn Plaza East
Newark, New Jersey 07105-2246

(b) Once an application has been received, the applicant shall be responsible to NJ TRANSIT for application fees, regardless of permit completion.

(c) Once an application has been entered into the review process, the applicant shall be responsible to the involved jurisdiction for the applicable review fees, regardless of permit completion.

(d) No refund shall be made after an application for a permit has been submitted.

(e) Upon the applicant's request and proper NJ TRANSIT approval, NJ TRANSIT will notify the applicant of its decision regarding the issuance of a permit. If NJ TRANSIT approves the application after being reviewed by the involved jurisdiction, a permit will be sent to the applicant for completion. It shall be the applicant's responsibility to complete the permit and return it to NJ TRANSIT with the designated fee(s). No permit shall be issued unless the designated fee(s), for use and occupancy of NJ TRANSIT-owned property, have been collected, as provided in > N.J.A.C. 16:77-1.6. In addition to the above, the applicant shall reimburse the party operating over the affected property for costs related to their review of the applicant's plans and specifications, if applicable.

(f) If at any time the permittee seeks to modify its use or occupancy of the NJ TRANSIT-owned property, the permittee shall be required to apply for a new permit according to the provisions of this section.

(g) Upon expiration of a permit, NJ TRANSIT may issue a new permit without requiring the permittee to submit a new application. A new fee will be assessed in accordance with the fee schedule rates in effect at that time.

Amended by R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Stylistic changes.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

16:77-1.3 Permit conditions

(a) The permittee shall provide the indemnification and insurance required by NJ TRANSIT.

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16:77-1.3

1. The permittee shall indemnify, keep and save harmless NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, and other railroad(s) operating on the affected property, their successors, assigns, agents, employees, servants, and officials, and each and every one of them, against all claims, just or unjust, made against NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, and other Operating Railroad(s), or the permittee, or their successors, assigns, agents, employees, servants or officials on account of injuries, deaths, losses of any kind whatsoever, damages, suits, liabilities, judgments, claims for infringement of patent, trademark or copyright, costs and expenses which may in anywise accrue against NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, or the other operating railroad(s), their successors, assigns, agents, employees, servants, and officials, in consequence of the granting of a permit or which may in anywise result therefrom, and whether or not it shall be alleged or determined that the cause thereof was the negligence, acts, or omissions of NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, or the other operating railroad(s), or permittee, their successors, assigns, agents, employees, servants and officials, or of other persons, and the permittee shall appear, defend and pay, as its own expense, all costs, including counsel fees, arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, or the operating railroad(s), their successors, assigns, agents, employees, servants and officials, in any such action, the permittee shall, at its own expense, satisfy and discharge the same.
 - (b) The permittee shall properly safeguard all work performed under the conditions of the permit. If considered necessary by the involved jurisdiction, the permittee will be required to employ additional safety devices including uniformed traffic directors.
 - (c) Upon approval of a permit, the permittee shall give notice in writing to the involved jurisdiction, at least seven days prior to the use, work, or occupancy of NJ TRANSIT-owned property.
 - (d) Construction work materials and workmanship shall conform to NJ TRANSIT specifications.
 - (e) Work or occupancy shall not begin until a formal notice in writing is issued to the permittee by NJ TRANSIT.
 - (f) All uses, work or occupancy within NJ TRANSIT-owned property shall be subject to the review by the involved jurisdiction affecting the safety and operations of the trains. The safety and continuity of railroad operation shall be of the first importance and shall be at all times protected, and safeguarded, and the permittee, and the permittee's contractor and/or subcontractors shall perform and arrange all use, work, and occupancy accordingly. All use and work shall be performed carefully and shall be regulated so as to avoid interruption and interference of train movements and damage to the tracks and all other facilities and appurtenances.
 - (g) Upon vacation of the site, the permittee shall restore the affected area to the satisfaction of NJ TRANSIT and/or involved jurisdiction.
 - (h) NJ TRANSIT assumes no obligations whatsoever in connection with the use, work, and/or occupancy by the permittee and is not obligated to make any repairs to the property or furnish people, equipment or materials in connection with use, work and/or occupancy by the permittee. The use, work, and/or occupancy provided for by the permit shall be performed at no cost to the involved jurisdiction.
 - (i) The permittee shall reimburse the involved jurisdiction for all costs incurred by the involved jurisdiction as a result of the permit project which shall include, but not be limited to, inspectors, watchmen, operators, flagmen, and other personnel.
 - (j) The permittee shall have the responsibility during the term of the permit to maintain its facility in a safe and proper manner, to the satisfaction of the involved jurisdiction. If repair or maintenance of the permittee's facility is required, the permittee must notify NJ TRANSIT in writing and request permission to initiate, repair, or maintain such facility. The permittee may not begin such work without prior written approval from NJ TRANSIT.
 1. In the event of an emergency, the permittee shall take immediate action upon notification of the operating agency and secondly, NJ TRANSIT.
 - (k) If it is deemed necessary by NJ TRANSIT, the permittee shall be required to submit a certified check in an amount sufficient to guarantee that, should the permittee fail to restore the disturbed area in a safe and proper manner, there will be enough money to pay for the cost of any work performed by the involved jurisdiction in consequence of that failure. This guarantee shall not operate to waive the permittee's complete responsibility with regard to restoring the affected area. When NJ TRANSIT deems it necessary to demand a certified check pursuant to this subsection, NJ TRANSIT will return to the permittee any unused portion of the check upon the completion of the approved corrective measures. The check will be reduced by costs incurred by NJ TRANSIT including, but not limited to, administrative fees, personnel, equipment and damages.
 - (l) When applications require movement or relocation of facilities by NJ TRANSIT, NJ TRANSIT and/or the appropriate involved jurisdiction shall prepare an estimate of cost. Using this estimate, NJ TRANSIT shall request as a condition in granting the permit, a written agreement by the permittee, stating that the permittee shall assume all expenses involved in the movement or relocation of facilities and any expenses for additional facilities necessitated by the move.

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) Upon the termination of the permit, the permittee, at the review and approval by NJ TRANSIT, shall remove all permit related facilities and shall restore the affected area to the satisfaction of NJ TRANSIT. The permittee is responsible for all costs incurred for restoring the affected area.

The involved jurisdiction reserves the right to impose special conditions in appropriate cases, as required.

The fees set forth within this chapter for transverse and longitudinal occupations are minimums. NJ TRANSIT reserves the right to negotiate higher fees for any occupation in order to accommodate circumstances and conditions specific to individual applications.

Amended by R.1990 d.143, effective March 5, 1990.
1 N.J.R. 3259(b), 22 N.J.R. 837(d).
Clarification and insurance requirements clarified.
Amended by R.1995 d.111, effective February 21, 1995.
6 N.J.R. 4972(a), 27 N.J.R. 750(a).

-1.4 Administrative fees

Administrative fees will be charged as follows:

1. Wire and cable crossings and longitudinal occupations over or under NJ TRANSIT-owned property:
 - i. All transverse crossings not exceeding 300 volts to one individual service \$165.00
 - ii. All other transverse crossings \$340.00
 - iii. All longitudinal occupations and any other agreement not already identified in this section, regardless of voltage \$690.00
2. Pipe and sewer crossings, and longitudinal occupations over or under NJ TRANSIT-owned property:
 - i. Pipe not exceeding three inches inside diameter to one individual service ... \$165.00
 - ii. All other transverse crossings \$340.00
 - iii. Any longitudinal or transverse occupation, regardless of the size of the facility, requiring more than one field excursion by NJ TRANSIT personnel shall be charged an additional \$100.00 for every outing beyond the single outing allotted each application.
3. All surface drainage not contained within a pipe and occupying NJ TRANSIT property \$675.00
4. Any application for any type of permit by a municipality \$165.00
5. Additional fees:
 - i. All occupations requiring engineering reviews will be assessed an additional fee as compensation to NJ TRANSIT Rail Operations.
 - ii. In addition, when railroad personnel or services are utilized by the permittee, reimbursement to NJ TRANSIT Rail Operations or other involved jurisdictions will be made within 30 days of receipt of billing.

Amended by R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

16:77-1.5 Permit fees: general conditions

(a) Long term use or occupancy permit fees are subject to the following conditions:

1. The permit fee equals the annual occupancy rate multiplied by the estimated duration of occupancy in years, not to exceed 20 years and no less than one year unless otherwise described within this schedule.

2. The minimum annual permit fee under any application shall be \$165.00.

3. Should the facility be terminated at any time less than the estimated years of occupancy, the fees collected are not subject to a refund.

4. NJ TRANSIT reserves the right to consider additional fees for crossings in excess of 200 feet. When increased preparation costs are incurred, the increases will be passed on to the permittee.

5. Any occupation of NJ TRANSIT property other than transverse track crossings will be charged as a longitudinal crossing based on the lineal foot of the occupation.

6. Fees are based on a minimum right-of-way width of 30 feet with the annual rate applicable up to a 200 foot width. For all crossings in excess of 200 linear feet, a per foot charge will be assessed, for each foot in excess of 200 linear feet. The per foot rate will be established through the use of the applicable 30 foot rate. Any facility crossing exceeding 400 linear feet will be assessed an annual fee as described above for the first 400 linear feet. The remainder (that which is in excess of the first 400 linear feet) will be calculated as if it were a longitudinal facility. Example: the annual fee for a 620 linear foot transverse occupancy, would be calculated using the following formula:

$$\begin{aligned} \text{First 200 LF: } & \dots \dots \dots x = \text{base rate} \\ \text{Second 200 LF: } & \dots \dots \dots y = (\text{Base crossing fee} \times 30) \\ & \text{Multiplied by 200} \\ \text{Remaining LF: } & \dots \dots \dots z = \text{longitudinal fee} \times 4 \end{aligned}$$

Add all components (x + y + z) to establish the annual fee.

7. All fees for occupancies encased as a group or otherwise bundled or joined together will be calculated as if they were individual occupations.

8. Should the facility be modified during the term of the permit, during the processing of a new permit, or there is a supplement to an existing permit, the associated increase in fees will be charged. If a new permit is approved, an amount proportionate to the time remaining on the superseded permit will be credited toward the new fee.

led by R.1989 d.133, effective March 6, 1989.
N.J.R. 13(e), 21 N.J.R. 638(b).
and new (a)5 and recodified (a)5 to (a)6.

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9. In the event the facility goes beyond its paid estimated life, a new fee will be assessed in accordance with the fee schedule rates in effect at that time.

10. Drainage discharge onto NJ TRANSIT property shall be calculated as if it were contained in a circular pipe and the fees shall be in accordance with the transverse occupation fee schedule, under pipes and sewers.

(b) An annual occupancy fee for attachments will be charged as follows when higher rates are not fixed:

1. Attachments of aerial wires and cables to poles or other structures of NJ TRANSIT-owned facilities used in wire line construction:
 - i. Up to and including 32,500 volts for each attachment to NJ TRANSIT-owned cross-arms or brackets \$9.00
 - ii. Up to and including 32,500 volts for each attachment to (licensee's) permittee's cross-arms or brackets when those brackets are attached to a NJ TRANSIT-owned facility..... \$7.00
 - iii. Wires over 32,500 volts attached to the NJ TRANSIT-owned cross-arms or brackets \$16.00 per attachment
 - iv. Wires over 32,500 volts and attached to (licensee's) permittee's cross-arms or brackets when those brackets are attached to NJ TRANSIT-owned facilities \$14.00 per attachment
2. Attachments of aerial wires and cables to buildings or other structures:
 - i. Each wire or cable attached to railroad owned bridges or structures, including railroad or highway bridges \$16.00 per attachment
3. Attachments of cable terminals to poles, buildings, or structures, including highway bridges and railroad bridges owned by NJ TRANSIT:
 - i. Each cable terminal, loading coil, transformer, or like device is subject to special consideration in each case, but not less than \$60.00.
4. Pipelines carried along NJ TRANSIT-owned property on bridges or other supports are subject to special consideration in each case if permitted by current New Jersey Department of Transportation specifications.
5. Charges for attachments of pipes to bridges, buildings, or structures of the NJ TRANSIT-owned property are subject to special consideration in each case.

(c) An annual occupancy fee for guy wire crossings and overhanging cross-arms and power wires and cables of transmission lines outside of NJ TRANSIT-owned right-of-way will be calculated as follows:

1. Each guy wire crossing NJ TRANSIT-owned property but not anchored thereon \$9.00
2. Cross-arms overhanging NJ TRANSIT-owned property from poles located out-

side thereof, one or more cross-arms on any pole \$7.00

3. Power wires and cables overhanging NJ TRANSIT-owned property from poles located outside thereof shall be calculated at the rates specified in N.J.A.C. 16:77-1.6(b) and (c) "Permit fees: transverse occupations" and on a pro-rated basis, depending upon the number of overhanging wires, excluding the neutral, ground static or lighting wires.

(d) Occupation charges for overhead or underground conveyors, pipe bridges, pedestrian tunnels, or any other facilities not covered by this section will be subject to special consideration.

(e) The minimum permit fee under any agreement where a miscellaneous use of occupancy is involved, not previously defined, shall be \$165.00. The applicant may be subject to possible charges which may result from expenses incurred by NJ TRANSIT's subsidiaries or involved jurisdictions. (NOTE: Permit fees for miscellaneous use or occupancy of NJ TRANSIT-owned property will be determined and charged on an individual basis because of the various types of requests.)

(f) All permits will be charged a fee in accordance with this section; however, at no time shall any fee for an existing occupancy be less than the fee established by the previous owner(s) unless there has been a significant reduction in the occupancy. The discount in the fee shall be calculated as a ratio between the old occupancy and fee to the new configuration and fee. Any increase in occupancy shall warrant an increase in the existing fee.

(g) Short-term use or occupancy fees are subject to the following conditions:

1. The permit fee equals the annual occupancy rate pro-rated for the estimated duration of occupancy.
2. The minimum permit fee under any application shall be \$165.00.
3. Should the facility be terminated at any time less than the estimated period of occupancy, the fees collected are not subject to a refund.
4. At no time shall a short-term use and/or occupancy fee be less than the estimated annual fee for the same use covered under the long-term fee schedule.
5. Should the facility be modified during the term of the permit, a new permit and fee will be required. If a new permit is approved, an amount proportionate to the time remaining on the superseded permit will be credited toward the new fee.
6. In the event the facility goes beyond its paid estimated life, a new fee will be assessed in accordance with the fee schedule rates in effect at that time.

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NJ TRANSIT may negotiate lower permit fees when stated to do so by any municipal applicant acting on its behalf.

led by R.1989 d.133, effective March 6, 1989.
N.J.R. 13(c), 21 N.J.R. 638(b).
led (h).
led by R.1990 d.143, effective March 5, 1990.
N.J.R. 3259(b), 22 N.J.R. 837(d).
increased; fee discounts permitted under certain circumstances.
led by R.1995 d.111, effective February 21, 1995.
N.J.R. 4972(a), 27 N.J.R. 750(a).

-1.6 Permit fees; transverse occupation

All fees in this section are based on a minimum right-of-way width of 30 feet, with a fee applicable up to a 200 foot width. For all crossings in excess of 200 feet, an amount in the annual fee will be assessed and calculated accordance with the example contained within this schedule N.J.A.C. 16:77-1.5(a)6.

Aerial and underground wire (power and communication) crossings not exceeding 200 feet in length will be assessed an annual occupancy fee as follows:

1. Power:
 - i. All crossings up to but not exceeding 6,900 volts \$165.00
 - ii. Over 6,900 volts but not exceeding 32,500 volts \$304.00
 - iii. Over 32,500 volts but not exceeding 50,000 volts \$506.00
 - iv. Over 50,000 volts but not exceeding 345,000 volts \$675.00
 - v. Over 345,000 volts but not exceeding 500,000 volts \$1,015.00
 - vi. Over 500,000 volts \$1,350.00
 - vii. Ducts or pipes carrying conductors NO CHARGE
 - viii. Manholes (each) \$86.00

(NOTE: Attachments of wires, cables, etc. to bridges, piers, poles or structures of railroad are subject to special consideration in each case. Crossings of right-of-way by the type cable consisting of one or more high voltage cables encased in a steel pipe, under inert oil pressure and further encased in a larger steel pipe and the space between the pipes filled with compacted or thermal sand shall be subject to special consideration and each case will be assessed individually.)

2. Communication:
 - i. Telephone and other communication cables (not including composite coaxial cables or fiberoptic cables):
 - (1) Cable containing not more than 500 pairs \$165.00
 - (2) Cable containing 501 to 1100 pairs \$293.00
 - (3) Cable containing 1101 to 1800 pairs \$425.00
 - (4) Cable containing over 1800 pairs... \$678.00
 - ii. Composite coaxial cables and coaxial television cables containing not more than 4 conductors \$247.00

- iii. All cables containing over four conductors shall be at a rate of \$35.00 for each additional conductor.
3. Fiberoptics:
 - i. Fiberoptic cable crossings used for long distance telephone and data transmission and for retail distribution to more than 500 households and/or retail businesses \$1,725
 - ii. Fiberoptic cable crossings used for retail distribution to 500 or less than 500 households and/or retail businesses... \$920.00

(c) Poles, towers, guys, and anchors and spare ducts or pipes will be charged an annual fee as follows:

1. Single wooden pole (per pole) \$40.00
2. All other supporting structures other than the auxiliary facilities and appurtenances listed in (c)3, 4, 5, 6, 7, below \$80.00
3. Each brace, stub pole, or anchor \$40.00
4. Each guy anchored on or crossing NJ TRANSIT-owned property \$8.00
5. All towers, if not included in a longitudinal occupation shall be assessed per tower leg at \$52.00
6. Each span guy wire crossing \$40.00
7. Spare or unoccupied ducts or pipes, each (when the duct shall be occupied in the future by a cable, the annual fee for the facility occupying the duct shall govern and the \$40.00 charge cease) \$40.00

8. Guys, stubs, anchors, and push or pull braces required by specification for the support of a crossing pole on NJ TRANSIT-owned right-of-way and at the request of NJ TRANSIT shall be considered as part of the crossing pole and no charge will be made therefor.

(NOTE: The above charges in (c)1-8 are in addition to the wire and cable occupation charges provided in (b)1-3 above.)

(d) Annual permit occupancy fees for pipes and sewer crossings not exceeding 200 feet in length will be calculated as follows:

1. Circular lines carrying no pressure:
 - i. Pipes up to and including 12 inches ID \$165.00
 - ii. Pipes over 12 inches and not exceeding 24 inches ID \$230.00
 - iii. Pipes over 24 inches and not exceeding 60 inches ID will be charged at a rate of \$5.00 per inch of ID over the first 24 inches. This rate is in addition to a minimum fee of \$247.00
 - iv. Pipes over 60 inches ID will be charged at a rate of \$3.15 per inch of ID over the first 60 inches. This rate is in addition to a minimum fee of \$506.00

2. Circular lines under pressure and carrying non-flammable, non-explosive, or non-combustible supporting materials, except coal and water slurry:

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- i. Pipes up to and including 12 inches ID \$200.00
- ii. Pipes over 12 inches but not exceeding 24 inches ID \$253.00
- iii. Pipes over 24 inches ID and not exceeding 60 inches ID will be charged at a rate of \$9.00 per inch of ID over the first 24 inches. This rate is in addition to a minimum fee of \$253.00
- iv. Pipes over 60 inches ID will be charged at a rate of \$7.00 per inch of ID over the first 60 inches. This rate is in addition to a minimum fee of \$540.00

3. Circular lines under pressure and carrying flammable, explosive, or combustible supporting materials, except coal and water slurry:

- i. Pipes not exceeding three inches inside nominal diameter—minimum charge for any one crossing \$247.00
- ii. Pipes over three inches inside nominal diameter and not exceeding 12 inches inside diameter—minimum charge for any one crossing \$340.00
- iii. Pipes over 12 inches inside diameter and not exceeding 24 inches inside diameter shall be charged at a rate of \$16.00 per inch of ID over the first 12 inches. This rate is in addition to a minimum charge for any one crossing of \$340.00
- iv. Pipes exceeding 24 inches in inside diameter shall be charged at a rate of \$15.00 per inch of ID over the first 24 inches. This is in addition to a minimum charge for any one crossing of \$540.00

4. Charges for non-circular pipes shall be determined by the diameter of a circular pipe having an equivalent cross-sectional area.

5. Charges for pipe tunnels or other special underground construction shall be subject to special consideration.

6. Pipe lines carried over NJ TRANSIT-owned property or other support structures are subject to special consideration in each case if permitted by NJ TRANSIT current specifications.

7. Manholes (each) \$80.00

8. Charges for attachments of pipes to bridges, buildings, or structures of the NJ TRANSIT-owned property are subject to special consideration in each case.

9. Where pipe or pipes are encased in a protective pipe of larger diameter, no charge shall be made for the protective encasement.

16:77-1.7 Permit fee: longitudinal occupations

(a) Recognizing the many variables and intangibles involved in each longitudinal occupation of NJ TRANSIT-owned property, each application shall be considered on its own merits, with minimum permit fee per year of occupancy being applied as set below.

(b) For occupations less than one mile in length, the charge shall be a proportionate amount of the rates calculated to the nearest dollar but no fee for any wire cable, duct, or pipe occupation shall be less than the charge for one-quarter mile of such occupation.

(c) The following charges cover the complete transmission line occupation and additional charges are not to be made unless there are attachments to NJ TRANSIT-owned facilities. For the purpose of determining voltage, guy wires, messengers and grounded conductors shall be considered as zero voltage. All other conductors shall be rated at voltage to other conductors, whichever is higher.

1. Aerial wires:

- i. Transmission line, highest voltage not exceeding 6,900 volts \$1,685 per circuit per mile.
- ii. Transmission line over 6,900 volts up to but not including 32,500 volts \$3,036 per circuit per mile.
- iii. Transmission line 32,500 volts, up to and including 50,000 \$4,220 per circuit mile.

iv. Transmission line, 50,000 volts and over. The fee will be based on a negotiated rate.

2. Aerial and underground cables:

i. All longitudinal fiberoptic facility occupancy fees will be arrived at through negotiations.

ii. Telephone communication cables (not including composite coaxial cables):

- (1) Cable containing not more than 1,100 pairs \$1,685 per cable per mile.
- (2) Cable containing 1,101 to 1,800 pairs \$3,036 per cable per mile.

(3) Cable containing over 1,800 pairs: The fee will be negotiated at a rate not less than \$3,036 per cable per mile.

(4) For underground communication cables the minimum charge is \$3,375 per cable per mile.

- iii. Composite coaxial cable and coaxial television cables subject to negotiation but not less than \$4,105 per cable per mile

Amended by R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

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iv. Underground power cables:

- (1) When a cable is buried in an open trench and covered with soil: \$2,432 per circuit per mile
- (2) When a cable is buried in an open trench and surrounded with from six to 12 inches of thermal sand: \$4,220 per circuit per mile.
- (3) When a cable is encased in a steel pipe under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted sand: \$4,220 per mile or \$9.00 per inch of nominal diameter of the largest pipe per 100 feet of occupation or fraction thereof, whichever is greater.

v. Spare or unoccupied ducts or pipes, each per mile \$506.00

vi. Manholes, splicing chambers or pull boxes, each when these structures are necessary for longitudinal occupation No Charge

vii. An additional charge shall be made for use of NJ TRANSIT-owned property duct lines based on the negotiated value of the facility.

NOTE: Charges shown under (c)2v, vi and vii above are in addition to the charges shown under (c)2ii to iv inclusive.)

All manholes necessary for periodic inspection, cleaning and maintenance will be covered under the longitudinal occupancy fee. On transverse occupations all manholes will be charged in excess of the transverse facilities occupancy fee.

All structures other than manholes will be charged through their own individual negotiations. Examples of such structures are meter chambers, siphon chambers, manholes, pump stations, well sites, towers, etc.

An annual occupancy fee for pipes and sewers will be determined as follows:

Circular lines carrying no pressure: \$4.00 per inch of inside nominal diameter or fraction thereof per 100 feet of occupation or fraction thereof.

Circular lines under pressure and carrying non-flammable, non-explosive, and non-combustible supporting materials, except coal and water slurry: \$4.50 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

3. Circular lines under pressure and carrying flammable, explosive, and combustible supporting materials, and coal and water slurry: \$9.00 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

4. Charges of non-circular pipes shall be determined by the diameter of a circular pipe having an equivalent cross-sectional area.

5. Charges for pipe tunnels or other special underground construction shall be subject to special consideration.

Amended by R.1990 d.143, effective March 5, 1990.
See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased.
Amended by R.1995 d.111, effective February 21, 1995.
See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

16:77-1.8 Other provisions

(a) For those applicants having over 200 occupancy permits with NJ TRANSIT, the Corporation reserves the right to negotiate permanent occupancy permits for any occupancy having an annual fee of \$300.00 or less at the time of application. The permittee shall pay to NJ TRANSIT a lump sum which will be equivalent to 16 times the annual rate which will satisfy the annual fee for the life of the facility occupation so long as it remains unchanged. No refunds will be given for any facility which is terminated, cancelled, removed, or abandoned. Permittees who qualify for this option, request such option and are accepted by NJ TRANSIT, will receive a single "blanket agreement" with an attachment containing a list of the affected occupancies covered under individual permits. Acceptance of any request for a blanket agreement and lump sum payment will be at the sole discretion of NJ TRANSIT which shall not be unreasonably exercised. The existence of this option does not obligate NJ TRANSIT to enter into a blanket agreement with any permittee.

(b) Any facility which is altered in such a manner so as to increase the annual fee beyond the original \$300.00 limit will result in that permit being extracted from the blanket agreement and a new annual fee will be calculated, based on the existing fee schedule, and assessed annually thereafter. Monetary credit will be allocated to the new facility fee based on the unused portion of the initial 16 year period. No credit will be given for any facility requiring reassessment which has exceeded the initial 16 years of occupancy.

New Rule R.1990 d.143, effective March 5, 1990.
See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).
Repeal and New Rule, R.1995 d.111, effective February 21, 1995.
See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).
Formerly "Automatic annual fee increases".

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limited and, when they exist, result in very slim retail margins. This rule allows residential customers to combine the loads of numerous accounts under the supervision of the local government entity and thereby have the opportunity to realize economies of scale and be more likely to obtain multiple competitive and cost-saving offers.

Economic Impact

The rules require that an energy supplier chosen for the program by the government or municipality charge the same or less than the amount customers would pay if they remained on utility service. Therefore, the rules will provide an economic advantage for residential customers who do not choose to opt out of the program and for non-residential customers who choose to opt in to the program. However, the exact degree of economic effect is still unclear because, due to recent market conditions and the competitive manner in which electric utilities procure their supplies, no municipality or county has yet passed an ordinance or resolution authorizing a government aggregation program. The Board believes the costs saved through the economic efficiencies obtained by these programs and the competition for supplying energy services to such a program will be larger than the costs necessary to set up these programs. Therefore, the Board believes the government aggregation programs will have a positive economic impact for the customers in the programs. Additionally, TPSs that successfully bid on these programs will receive a positive economic benefit through short-term profit margins and long-term name recognition.

Federal Standards Statement

Executive Order No. 27(1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, readopt or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The rules proposed for readoption with amendment are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis for this proposed readoption with amendments.

Jobs Impact

The Board does not anticipate the loss of any jobs in any sector of the State's economy as a result of the rules proposed for readoption with amendment. To the extent that LDCs must provide information to the municipalities and counties, the readopted rules may generate new jobs for the collection and dissemination of data.

Agriculture Industry Impact

The Board does not anticipate that the rules proposed for readoption with amendment will have an impact on the agriculture industry in New Jersey. As a non-residential customer, a farmer in New Jersey will be eligible to participate in an energy aggregation program if their local government establishes one.

Regulatory Flexibility Analysis

A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. The rules proposed for readoption with amendment will govern municipalities, counties and TPSs. Some of the TPSs who bid to supply energy or are selected to supply energy under an aggregation program may qualify as small businesses. In the event that a small business TPS is selected, that TPS will have to comply with the same rules as a larger TPS. This will include keeping records of the customers in the program and complying with all terms of the contract during formation and execution of the program. However, it is not anticipated that any TPS would find it necessary to engage any professional services to comply with these rules. Furthermore, since participation in the program is voluntary on the part of the TPS, a TPS that objects to complying with these rules can refrain from bidding to supply an energy aggregation program.

Smart Growth Impact

The Board anticipates that the rules proposed for readoption with amendment will have no impact on either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations." N.J.S.A. 52:12A-199a. Smart growth is based on the concepts of focusing new growth

into redevelopment of older urban and suburban areas, protecting existing open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing." These rules apply uniformly Statewide and the Board does not expect that they will affect the location of future development. Therefore, the rules proposed for readoption with amendment will not impact smart growth or the State Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:4-6.

Full text of the proposed amendment follows (deletion indicated with brackets [thus]):

14:4-6.8 Advertising for bids, contract award

(a) A lead agency that is establishing an energy aggregation program shall issue an advertisement for the receipt of bids from TPSs interested in supplying services to the program. Such an advertisement for bids shall [include bid specifications and shall, at a minimum,] meet the requirements of this section and other applicable law.

(b)-(h) (No change.)

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(a)

NEW JERSEY TRANSIT CORPORATION
Use or Occupancy of NJ TRANSIT-Owned Property
Proposed Readoption with Amendments: N.J.A.C.
16:77

Authorized By: New Jersey Transit Corporation (NJ TRANSIT), George D. Warrington, Executive Director.

Authority: N.J.S.A. 27:25-5(e), (h) and (k) and 27:25-7(b).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-48.

Submit comments by April 8, 2005 to:

Joyce J. Zuczek

New Jersey Transit Corporation (NJ TRANSIT)

One Penn Plaza East

Newark, NJ 07105-2246

The agency proposal follows:

Summary

The New Jersey Transit Corporation (hereinafter "NJ TRANSIT") was established by the New Jersey Public Transportation Act of 1979 (N.J.S.A. 27:25-1 et seq.) as an instrumentality of the State government responsible to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the programs by which NJ TRANSIT proposed to fulfill this responsibility is through the issuance for permits for certain fees to use its railroad right-of-way for various types of occupations. Permits are license agreements for the use and occupancy of railroad property by a utility, municipality or private entity. In accordance with the sunset provisions of N.J.S.A. 52:14B-5.1c, N.J.A.C. 16:77, Use or Occupancy of NJ TRANSIT-Owned Property, will expire on November 11, 2005. NJ TRANSIT proposes to readopt with amendments to N.J.A.C. 16:77.

N.J.A.C. 16:77 establishes guidelines, procedures and fees pursuant to which NJ TRANSIT will operate its use or occupancy program. They have been in effect in essentially their present form since 1985. The proposed amendments primarily relate to what NJ TRANSIT believes are reasonable increases in the administrative and permit fees, which have not been increased since 2000. As of May 2004, the cost of living has increased 12.68 percent since May 2000 which is an average annual increase of three percent. Based in part on this projection, NJ TRANSIT recommends an estimated general increase of 20 percent to be applied to the existing schedule.

A review of each of the subchapters of N.J.A.C. 16:77 follows:

N.J.A.C. 16:77-1.1, Definitions, contains the definitions of words and terms used in the rules so that the meanings designated by NJ TRANSIT may be commonly understood by the public.

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NJ.A.C. 16:77-1.2, Permit applications, contains the procedure for the application of permits.

NJ.A.C. 16:77-1.3, Permit conditions, contains the permit conditions.

NJ.A.C. 16:77-1.4, Administrative fee, contains the description of the administrative fees.

NJ.A.C. 16:77-1.5, Permit fees: general conditions, contains the description of the permit fees: general conditions.

NJ.A.C. 16:77-1.6, Permit fees: transverse occupation, contains the description of the permit fees: transverse occupations.

NJ.A.C. 16:77-1.7, Permit fees: longitudinal occupations, contains the description of the permit fees: longitudinal occupations.

NJ.A.C. 16:77-1.8, Other provisions, authorizes permanent occupancy permits for low-value occupations for those applicants with a large number of occupancy permits.

A review of each of the proposed amendments follows:

At NJ.A.C. 16:77-1.1, Definitions, the following amendments will be made:

In the definition of "cable," the words "means consisting" have been placed with the word "consists" to clarify the sentence.

In the definition of "communication wires," the word "a" has been replaced with the word "or" to correct a typographical error.

In the definition of "individual service," the word "dwelling" has been replaced with the word "building" to clarify the sentence.

In the definition of "involved jurisdiction," the words "and the" have been deleted for clarity and the words "and any railroad operating on NJ TRANSIT owned property" have been added as another aspect of the definition.

In the definition of "longitudinal occupation," the words "any occupation NJ TRANSIT-owned property other than a direct crossing over or under road tracks and right-of-way as defined under NJ.A.C. 16:77-1.7" have been replaced with the words "any occupation of NJ TRANSIT-owned property other than a transverse occupation as defined herein."

In the definition of "NJ TRANSIT-owned property," "State" is pluralized.

In the definition of "permit," the words "for the use" have been replaced with the word "to use" and the words "occupancy of" have been replaced with the word "occupy." The words "including short term uses" have been deleted and the words "but not limited to" have been added after "shall include." In paragraph 1iv of this definition, the words "which" and "shall" have been deleted. An "s" has been added to the word "determine" to read "determines" and the words "is required" have been added after "a permit." Changes were made to clarify the definition.

In the definition of "permittee," the phrase "fixed short term" has been changed to "fixed term."

All of the above amendments have been made to clarify the definitions.

At NJ.A.C. 16:77-1.2, Permit applications, the following amendments will be made:

Subsection (b), the words "an application" have been replaced with the words "a request for permit." The sentence "The application fee will be \$100 for each permit" has been added. NJ TRANSIT is proposing an application fee in order to collect a portion of NJ TRANSIT's review and administrative costs whether or not the permit is executed.

Subsection (c), the words "an application has" have been deleted and replaced with the words "stamped drawings have" to clarify the sentence.

Subsection (d), the words "of any fees" have been added after "refund" to clarify the sentence.

Subsection (e), the words "Upon the applicant's request and proper NJ TRANSIT approval" have been deleted. The words "the designated fee(s)" have been replaced with the words "all designated fee(s)." The words "for use of occupancy of NJ TRANSIT-owned property, have been collected, as defined in NJ.A.C. 16:77-1.6. In addition to the above, the applicant shall advise the party operating over the affected property for costs related to review of the applicant's plans and specifications, if applicable." have been deleted after "unless all designated fee(s)" and the words "have been added to the involved jurisdiction" have been added as replacement. All changes made to this section are for clarity.

Subsection (g), the word "occupancy" has been added to clarify the application fee that will be assessed.

NJ.A.C. 16:77-1.3, Permit conditions, the following amendments will be made:

Subsection (a), the word "coverage" has been added after "insurance" to clarify the sentence.

In paragraph (a)1, the word "defend" has been added after "[t]he permittee shall indemnify." The word "contractors" has been added to those who shall indemnify, defend, keep and save harmless. The word "or" has been replaced with the word "and" between "servants" and

"officials" for clarity. The words "the indemnified parties" has been added to replace "NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, and other operating Railroad(s), or the permittee, or their successors, assigns, agents, employees, servants or officials" for simplicity throughout this section.

The following language is being added as paragraph (a)2: "The railroad operations at or near the facilities involve some risk, and the permittee, as part of the consideration for a permit and with full knowledge and appreciation of such risk, shall release and waive any right to ask for or demand any special, direct, incidental, indirect, punitive, reliance or consequential damages, whether foreseeable or not, for or on account of any loss or injury to any property of the permittee and its employees, including property in the care, custody, and control of permittee, and to the facilities and contents thereof that are over, under, upon, or in the property of NJ TRANSIT, including loss of, or interference with, service or use thereof, or loss of profits or revenue, cost of capital, cost of replacement services, claims of customers or third parties, whether or not it shall be alleged or determined that the cause thereof was breach of contract, breach of warranty, negligent acts or omissions of the indemnified parties or the permittee, their successors, assigns, contractors, agents, employees, servants and officials or of other persons."

The above paragraph has been added to clarify that NJ TRANSIT will not be liable for these types of claims.

In subsection (c), "seven days" has been replaced with "14 days" as the time frame for permittee written notice to the involved jurisdiction prior to use, with or occupancy of NJ TRANSIT-owned property, to insure that there is sufficient time to schedule safety training, flagmen, etc.

In subsection (e), "formal notice in writing" has been changed to "formal written notice to proceed" to clarify the sentence.

In subsection (f), a comma has been removed to be grammatically correct.

Subsection (g) is amended to provide that permittee restoration of an affected area shall also occur upon completion of installation.

In subsection (i), the word "actual" has been added before "costs" to clarify the sentence. Also, the following language has been added: "All costs will be billed at the then current billing rates which are subject to revision. The permittee shall remit payment to NJ TRANSIT within 30 days after receipt of an invoice. The permittee shall pay NJ TRANSIT a late charge of three percent of the total unpaid invoice amount for every month any invoice is owed and outstanding until the invoice is paid in full." These words have been added to provide that NJ TRANSIT may charge late fees for outstanding invoices.

In subsection (j), the phrase "initiate, repair or maintain such facility" has been replaced with "perform the repair or to maintain such facility."

In paragraph (j)1, the word "corrective" has been added before "action" and the words "involved jurisdiction" replace "operating agency and secondly, NJ TRANSIT" to clarify the sentence.

In subsection (k), the terms "check" and "certified check" have been replaced with the word "deposit" throughout the paragraph for clarity. In the third sentence, the words "unused portion of the check" have been replaced with "unused funds" for clarity.

In subsection (l), the word "applications" has been changed to "occupations" for clarity. In addition, the following language has been added: "Upon the written request of NJ TRANSIT, the permittee shall promptly change the location of its facilities, or any of them, at the sole expense of the permittee and within 30 days after such request is made, so as to enable NJ TRANSIT to make any alterations or improvements upon its property and any changes in or additions to its facilities that it may deem necessary or advisable at any time, and nothing shall in any way be so construed as to limit NJ TRANSIT in the full and free use and occupation of the full width of its right-of-way and property at the location." The language was added to provide that a permittee shall be required to relocate its occupancy within 30 days after NJ TRANSIT's request.

In subsection (n), the words "at its sole discretion" have been added concerning the involved jurisdiction, in its reserved right to impose special conditions in appropriate cases, for clarity.

At NJ.A.C. 16:77-1.4, Administrative fees, the following new subsection (a) has been added for clarity: "The charges in this section are intended to cover the cost of processing of papers and other incidental expenses incurred by NJ TRANSIT, and are in addition to the application fee and the occupation fees in (b) below." Current subsection (a) is recodified as (b).

In paragraph (b)1, the wire and cable crossings and longitudinal occupation fees are increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In paragraph (b)2, the word "and" has been deleted between "pipe" and "sewer crossings" for clarity. The words "surface drainage" have been added

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to clarify that NJ TRANSIT may charge fees for drainage that is not within a pipe.

In subparagraphs (b)2i and ii, the pipe not exceeding three inches and all other traverse crossing fees increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

The following language has been added as subparagraph (b)2iii: "All longitudinal occupations and any other agreement not already identified in this section, regardless of pipe contents \$828.00." This language was added to be consistent with N.J.A.C. 16:77-1.4(b)1iii. The fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

Subparagraph (b)2iv has been deleted from this paragraph and relocated as subparagraph (b)5ii: "Any longitudinal or transverse occupation, regardless of the size of the facility, requiring more than one field excursion by NJ TRANSIT personnel shall be charged an additional \$120.00 for every outing beyond the single outing allotted each application." The fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In paragraph (b)3, the fee for all surface drainage not contained within a pipe and occupying NJ TRANSIT property is increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In paragraph (b)4, the words "or county" have been added to provide that the fee applies as well to county permit applications. The fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

At N.J.A.C. 16:77-1.5, Permit fees; general conditions, in subsection (a), the words "Long term" have been replaced with "Use" referencing permit fees, for clarity.

In paragraph (a)2, the minimum annual permit fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In paragraph (a)3, the word "permit" has been added to clarify which fees are collected.

Paragraph (a)6 is amended to read as follows:

"Fees are based on a minimum right-of-way width of 30 feet with the annual rate applicable up to a 200 foot width. For all crossings in excess of 200 linear feet, and no more than 700 linear feet, the facility will be calculated as a longitudinal occupation. Any facility crossing exceeding 700 linear feet, NJ TRANSIT reserves the right to negotiate.

The formula for any transverse occupation over 200 feet has been modified as follows:

First 200 LF: x = base rate
 200 LF to 700 LF: y = longitudinal fee divided by 4
 Over 700 LF: z = NJ TRANSIT reserves the right to negotiate permit fees.

Add all components (x + y) to establish the annual fee."

NJ TRANSIT is proposing this change to simplify the calculations of fees under this section.

Paragraph (a)10, "Drainage discharge onto NJ TRANSIT property shall be calculated as if it were contained in a circular pipe and the fees shall be in accordance with the transverse occupation fee schedule, under pipes and sewers," has been relocated to N.J.A.C. 16:77-1.6(d)1v for consistency. Throughout N.J.A.C. 16:77-1.5(b)1i through iv, NJ TRANSIT is proposing an estimated general fee increase of 20 percent, the cost-of-living increase, for the annual occupancy fee for attachments.

In subparagraphs (b)1ii and iv, "(licensee's)" appearing before "permittee's" has been deleted.

In subparagraph (b)2i, the words "railroad owned" have been deleted and the words "NJ TRANSIT's" have been added for clarity. The per-wire or cable attachment fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subparagraph (b)3i, the attachments of cable terminals, etc., fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subparagraph (b)4, the words "Charges for attachment(s) of" have been added before "[p]ipelines" for clarity.

In paragraphs (c)1 and 2, the fees for guywire crossings and overhanging cross-arms increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (b), the minimum permit fee where a miscellaneous use of occupancy is involved, not previously defined, increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (g), concerning short-term use or occupancy fees, the minimum permit fee in paragraph (g)2 increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

At N.J.A.C. 16:77-1.6, Permit fees; transverse occupation, the annual occupancy fees for aerial and underground wire (power and communication) crossing not exceeding 200 feet in length in subsection (b) are increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (c), the annual fees for poles, towers, guys, and anchors, and spare ducts or pipes are increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (d), the annual permit occupancy fees for pipes and sewer crossings not exceeding 200 feet in length are increased 20 percent in accordance with the proposed general increase for cost-of-living increase. A new subparagraph (d)1v, "All surface drainage not contained within a pipe and occupying NJ TRANSIT property \$810.00," is proposed, relocated from N.J.A.C. 16:77-1.4(a)3. The fee is increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

At N.J.A.C. 16:77-1.7, Permit fees; longitudinal occupations, the complete transmission line occupation and additional charges in subsection (c) for aerial wires and aerial and underground cables are increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (e), the words "Fees for" and "arrived at through negotiations" have replaced the words "charged based through their own individual negotiations," for clarity.

In subsection (f), the annual occupancy fee for pipes and sewers has increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

Under N.J.A.C. 16:77-1.8, Other provisions, the applicable lump sump payment that a permittee, with over 200 occupancy permits, with whom NJ TRANSIT negotiates a permanent occupancy permit is increased from "16 times the annual rate" to "20 times the annual rate," in accordance with NJ TRANSIT's proposed 20 percent fee increase. In subsection (b), the number "16-year" and "16 years" references have been replaced with "20-year" and "20 years," respectively, in order to be consistent with the proposed amendment to subsection (a).

As NJ TRANSIT has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments will have a minimal social impact on the citizens of New Jersey as a whole but will specifically impact the permittee who presently or may in the future occupy and use NJ TRANSIT property. Those parties affected will have to pay the fees set forth in the chapter, as increased by the proposed amendments.

Economic Impact

The rules proposed for readoption with amendments to increase fees will have a positive impact on NJ TRANSIT. More revenues will be available to reduce the administrative costs to NJ TRANSIT to accommodate requests for occupancies, thereby not increasing the deficits of its bus and rail operations. In addition, the impact on the users, especially the major utility companies, is considered minimal and it is anticipated that it can be borne by the parties in the ordinary course of business.

Besides the administrative and permit fees, the costs of application and meeting the permit conditions must be borne by the applicant/permittee. These costs vary based upon the nature of the use or occupancy of NJ TRANSIT-owned property.

Federal Standards Statement

The rules proposed for readoption with amendments are not subject to any Federal standards and, therefore, a Federal standards analysis is not applicable.

Jobs Impact

The rules proposed for readoption with amendments will not result in the creation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not affect the agriculture industry.

Regulatory Flexibility Analysis

Based on review of NJ TRANSIT's current permits, very few small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., will be impacted by the rules proposed for readoption with amendments. If any are affected, the compliance requirements consist of applying for a permit under N.J.A.C. 16:77-1.2, meeting the N.J.A.C. 16:77-

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1.3 permit conditions, and payment of the appropriate administrative and permit fees. Compliance with the permit conditions will involve both capital costs and, probably, the engaging of professional services such as engineers and attorneys. The amount of such costs depends upon the nature of the project and the permittee's internal staff resources. Given the historic lack of small business applicants/permittees, NJ TRANSIT has not provided different requirements for such entities. In addition, no apparent correlation exists between the need for compliance with these rules to ensure the safe and proper use of NJ TRANSIT-owned property and the business size of an applicant/permittee.

Smart Growth Impact

It is not anticipated that the rules proposed for re-adoption with amendments will have any impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan within the meaning of Executive Order No. 4(2002).

Full text of the rules proposed for re-adoption can be found in the New Jersey Administrative Code at N.J.A.C. 16:77.

Full text of the proposed amendments follows (additions indicated in oldface thus; deletions indicated in brackets []):

UBCHAPTER 1. PERMITS AND CONDITIONS**6:77-1.1 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings:

"Cable" [means consisting] consists of more than two conductors insulated from each other, with or without a protective covering, either self-supporting or having a common support.

"Communication wires" means wires used for telegraph, telephone, fire alarm, police, and signal circuits, for public [a] or private communication of signal service, which operate at a voltage not exceeding 400 volts to ground or 750 volts between any two points of the circuit and transmitted power of which does not exceed 150 watts.

"Individual service" means a service to a single individual [dwelling] building.

"Involved jurisdiction" means the New Jersey Transit Corporation (NJ TRANSIT), its authorized representative(s), [and the] NJ TRANSIT's authorized railroad operator, and any railroad operating on NJ TRANSIT owned property, where appropriate.

"Longitudinal occupation" means any occupation of NJ TRANSIT-owned property other than a [direct crossing over or under railroad tracks and right-of-way as defined under (N.J.A.C. 16:77-1.7.)] transverse occupation as defined in this section.

"NJ TRANSIT-owned property" means railroad property in the States New Jersey, New York and Pennsylvania owned and/or operated by TRANSIT regardless of the operating agent or active status of the road.

"Permit" means the written permission [for the] to use or [occupancy] occupy NJ TRANSIT-owned property [including short term uses]. Uses or occupancies of NJ TRANSIT-owned property shall include, but shall be limited to:

.. Transverse or longitudinal crossings on, over, or under NJ TRANSIT-owned property:

. Aerial or underground wires and cables (communications and power);

1-iii (No change.)

v. Uses for overhead or underground conveyors, pipe bridges, pedestrian tunnels, or any other facility [which] NJ TRANSIT [shall] require a permit is required.

. (No change.)

"Permittee" means the owner of a facility which is to be constructed, installed or maintained on NJ TRANSIT-owned property, or a user of property for a fixed [short] term.

16:77-1.2 Permit applications

(a) (No change.)

(b) Once [an application] a request for permit has been received, the applicant shall be responsible to NJ TRANSIT for application fees, regardless of permit completion. The application fee will be \$250.00 for each permit.

(c) Once [an application has] stamped drawings have been entered into the review process, the applicant shall be responsible to the involved jurisdiction for the applicable review fees, regardless of permit completion.

(d) No refund of any fees shall be made after an application for a permit has been submitted.

(e) [Upon the applicant's request and proper NJ TRANSIT approval,] NJ TRANSIT will notify the applicant of its decision regarding the issuance of a permit. If NJ TRANSIT approves the application, after being reviewed by the involved jurisdiction, a permit will be sent to the applicant for completion. It shall be the applicant's responsibility to complete the permit and return it to NJ TRANSIT with the designated fee(s). No permit shall be issued unless [the] all designated fee(s), [for use and occupancy of NJ TRANSIT-owned property, have been collected, as provided in > N.J.A.C. 16:77-1.6. In addition to the above, the applicant shall reimburse the party operating over the affected property for costs related to their review of the applicant's plans and specifications, if applicable] have been paid to the involved jurisdiction.

(f) (No change.)

(g) Upon expiration of a permit, NJ TRANSIT may issue a new permit without requiring the permittee to submit a new application. A new occupancy fee will be assessed in accordance with the fee schedule rates in effect at the time.

16:77-1.3 Permit conditions

(a) The permittee shall provide the indemnification and insurance coverage required by NJ TRANSIT.

1. The permittee shall indemnify, defend, keep and save harmless NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, contractors, and other railroad(s) operating on the affected property, their successors, assigns, agents, employees, servants [and] or officials, and each and every one of them, (the "indemnified parties") against all claims, just or unjust, made against [NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, and other operating Railroad(s), or the permittee, or their successors, assigns, agents, employees, servants or officials] the indemnified parties on account of injuries, deaths, losses of any kind whatsoever, damages, suits, liabilities, judgments, claims for infringement of patent, trademark or copyright, cost and expenses which may in anywise accrue against [NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, or the other operating railroad(s), their successors, assigns, agents, employees, servants, and officials,] the indemnified parties in consequence of the granting of a permit or which may in anywise result therefrom, and whether or not it shall be alleged or determined that the cause thereof was the [negligence,] negligent acts[,] or omissions of [NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, or the other operating railroad(s), or permittee, their successors, assigns, agents employees, servants and officials, or of other persons,] the indemnified parties and the permittees shall appear, defend and pay, as its own expense, all costs, including counsel fees, arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against [NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, or the operating railroad(s), their successors, assigns, agents, employees, servants and officials,] the indemnified parties in any such action, the permittee shall, at its own expense, satisfy and discharge the same.

2. The railroad operations at or near the facilities involve some risk, and the permittee, as part of the consideration for a permit, and with full knowledge and appreciation of such risk, shall release and waive any right to ask for or demand any special, direct, incidental, indirect, punitive, reliance or consequential damages, whether foreseeable or not, for or on account of any loss or injury to any property of the permittee and its employees, including property in the care, custody, and control of the permittee, and to the facilities and contents thereof that are over, under, upon, or in the property of

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NJ TRANSIT, including loss of, or interference with, service or use thereof, or loss of profits or revenue, cost of capital, cost of replacement services, claims of customers or third parties, whether or not it shall be alleged or determined that the cause thereof was breach of contract, breach of warranty, negligent acts or omissions of the indemnified parties or the permittee, their successors, assigns, contractors, agents, employees, servants and officials or of other persons.

(b) (No change.)

(c) Upon approval of a permit, the permittee shall give notice in writing to the involved jurisdiction, at least [seven] 14 days prior to use, work, or occupancy of NJ TRANSIT-owned property.

(d) (No change.)

(e) Work or occupancy shall not begin until a formal written notice to proceed [in writing] is issued to the permittee by NJ TRANSIT.

(f) All uses, work or occupancy within NJ TRANSIT-owned property shall be subject to the review by the involved jurisdiction affecting the safety and operations of the trains. The safety and continuity of railroad operation shall be of the first importance and shall be at all times protected[,] and safeguarded, and the permittee, and the permittee's contractor and/or subcontractors shall perform and arrange all use, work, and occupancy accordingly. All use and work shall be performed carefully and shall be regulated so as to avoid interruption and interference of train movements and damage to the tracks and all other facilities and appurtenances.

(g) Upon completion of installation or vacation of the site, the permittee shall restore the affected area to the satisfaction of NJ TRANSIT and/or involved jurisdiction.

(h) (No change.)

(i) The permittee shall reimburse the involved jurisdiction for all actual costs incurred by the involved jurisdiction as a result of the permit project which shall include, but not be limited to, inspectors, watchmen, operators, flagmen, and other personnel. All costs will be billed at the then current billing rates which are subject to revision. The permittee shall remit payment to NJ TRANSIT within 30 days after receipt of an invoice. The permittee shall pay NJ TRANSIT a late charge of three percent of the total unpaid invoice amount for every month any invoice is owed and outstanding until the invoice is paid in full.

(j) The permittee shall have the responsibility during the term of the permit to maintain its facility in a safe and proper manner, to the satisfaction of the involved jurisdiction. If repair or maintenance of the permittee's facility is required, the permittee must notify NJ TRANSIT in writing and request permission to [initiate,] perform the repair or to maintain such facility. The permittee may not begin such work without prior written approval from NJ TRANSIT.

1. In the event of an emergency, the permittee shall take immediate corrective action upon notification of the [operating agency and secondly, NJ TRANSIT] involved jurisdiction.

(k) If it is deemed necessary by NJ TRANSIT, the permittee shall be required to submit a [certified check] deposit in an amount sufficient to guarantee that, should the permittee fail to restore the disturbed area in a safe and proper manner, there will be enough money to pay for the cost of any work performed by the involved jurisdiction in consequence of that failure. This guarantee shall not operate to waive the permittee's complete responsibility with regard to restoring the affected area. When NJ TRANSIT deems it necessary to demand a [certified check] deposit pursuant to this subsection, NJ TRANSIT will return to the permittee any unused [portion of the check] funds upon the completion of the approved corrective measures. The [check] deposit will be reduced by costs incurred by NJ TRANSIT including, but not limited to, administrative fees, personnel, equipment and damages.

(l) When [applications] occupations require movement or relocation of facilities by NJ TRANSIT, NJ TRANSIT and/or the appropriate involved jurisdiction shall prepare an estimate of cost. Using this estimate, NJ TRANSIT shall request as a condition in granting the permit, a written agreement by the permittee, stating that the permittee shall assume all expenses involved in the movement or relocation of facilities and any expenses for additional facilities necessitated by the move. Upon the written request of NJ TRANSIT, the permittee shall

promptly change the location of its facilities, or any of them, at the sole expense of the permittee and within 30 days after such request is made, so as to enable NJ TRANSIT to make any alterations or improvements upon its property and any changes in or additions to its facilities that it may deem necessary or advisable at any time, and nothing shall in any way be so construed as to limit NJ TRANSIT in the full and free use and occupation of the full width of its right-of-way and property at the location.

(m) (No change.)

(n) The involved jurisdiction reserves the right to impose special conditions in appropriate cases, as required at its sole discretion.

(o) (No change.)

16:77-1.4 Administrative fee

(a) The charges in this section are intended to cover the cost of processing of papers and other incidental expenses incurred by NJ TRANSIT, and are in addition to the application fee and the occupation fees in this chapter.

[(a)](b) Administrative fees will be charged as follows:

1. Wire and cable crossings and longitudinal occupation over or under NJ TRANSIT-owned property:

i. All transverse crossings not exceeding 300 volts to one individual service [\$165.00] \$198.00

ii. All other transverse crossings [\$340.00] \$408.00

iii. All longitudinal occupations and any other agreement not already identified in this section, regardless of voltage [\$690.00] \$828.00

2. Pipe, [and] sewer crossings, surface drainage and longitudinal occupations over or under NJ TRANSIT-owned property:

i. Pipe not exceeding three inches inside diameter to one individual service [\$165.00] \$198.00

ii. All other transverse crossings [\$340.00] \$408.00

iii. Any longitudinal or transverse occupation, regardless of the size of the facility, requiring more than one field excursion by NJ TRANSIT personnel shall be charged an additional \$100.00 for every outing beyond the single outing allotted each application.]

iii. All longitudinal occupations and any other agreement not already identified in this section, regardless of pipe contents \$828.00

3. All surface drainage not contained within a pipe and occupying NJ TRANSIT property [\$675.00] \$810.00

4. Any application for any type of permit by a municipality or county [\$165.00] \$198.00

5. Additional fees:

i.-ii. (No change.)

iii. Any longitudinal or transverse occupation, regardless of the size of the facility, requiring more than one field excursion by NJ TRANSIT personnel shall be charged an additional \$120.00 for every outing beyond the single outing allotted each application.

16:77-1.5 Permit fees; general conditions

(a) [Long term] Use or occupancy permit fees are subject to the following conditions:

1. (No change.)

2. The minimum annual permit fee under any application shall be [\$165.00] \$198.00.

3. Should the facility be terminated at any time less than the estimated years of occupancy, the permit fees collected are not subject to a refund.

4.-5. (No change.)

6. Fees are based on a minimum right-of-way width of 30 feet with the annual rate applicable up to a 200-foot width. For all crossings in excess of 200 linear feet, [a per foot charge will be assessed, for each foot in excess of 200 linear feet. The per foot rate will be established through the use of the applicable 30 foot rate. Any facility crossing exceeding 400 linear feet will be assessed an annual fee as described above for the first 400 linear feet. The remainder (that which is in excess of the first 400 linear feet) will be calculated as if it were a longitudinal facility] and no more than 700 linear feet, the facility will be calculated as a longitudinal occupation. Any facility crossing exceeding 700 linear feet, NJ TRANSIT reserves the right to negotiate. The formula for a transverse occupation over 200 feet is as follows:

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First 200 LF: x = base rate
 Second 200 LF: y = Base crossing fee *30 Multiplied by 200]
 400 LF to 700 LF: y = longitudinal fee divided by four.
 Remaining LF: z = longitudinal fee *4]
 Over 700 LF: NJ TRANSIT reserves the right to negotiate fee(s).
 Add all components (x + y [+ z]) to establish the annual fee.

7.-9. (No change.)

[10. Drainage discharge onto NJ TRANSIT property shall be calculated as if it were contained in a circular pipe and the fees shall be in accordance with the transverse occupation fee schedule, under pipes and sewers.]

(b) An annual occupancy fee for attachments will be charged as follows when higher rates are not fixed:

1. Attachments of aerial wires and cables to poles and other structures for NJ TRANSIT-owned facilities used in wire line construction:

- i. Up to and including 32,500 volts for each attachment to NJ TRANSIT-owned cross-arms or brackets [\$9.00] \$11.00
- ii. Up to and including 32,500 volts for each attachment to licensee's) permittee's cross-arms or brackets when those brackets are attached to a NJ TRANSIT-owned facility [\$7.00] \$8.00
- iii. Wires over 32,500 volts attached to the NJ TRANSIT-owned cross-arms or brackets [\$16.00] \$19.00 per attachment
- iv. Wires over 32,500 volts and attached to [(licensee's)] permittee's cross-arms or brackets when those brackets are attached to NJ TRANSIT-owned facilities [\$14.00] \$17.00 per attachment

2. Attachments of aerial wires and cables to buildings or other structures:

- i. Each wire or cable attached to [railroad owned] NJ TRANSIT's bridges or structures, including railroad or highway bridges [\$16.00] \$19.00 per attachment

3. Attachments of cable terminals to poles, buildings, or structures, including highway bridges and railroad bridges owned by NJ TRANSIT:

- i. Each cable terminal, loading coil, transformer, or like device is subject to special consideration in each case, but not less than [\$60.00] \$2.00.

4. [Pipelines] Charges for attachment(s) of pipelines carried along NJ TRANSIT-owned property on bridges or other supports are subject to special consideration in each case if permitted by current New Jersey Department of Transportation specifications.

5. (No change.)

(c) An annual occupancy fee for guy wire crossings and overhanging cross-arms and power wires and cables of transmission lines outside of NJ TRANSIT-owned right-of-way will be calculated as follows:

- 1. Each guy wire crossing NJ TRANSIT-owned property but not chored thereon [\$9.00] \$11.00
- 2. Cross-arms overhanging NJ TRANSIT-owned property from poles located outside thereof, one or more cross-arms on any pole [\$7.00] \$8.00

3. (No change.)

(d) (No change.)

(e) The minimum permit fee under any agreement where a miscellaneous use of occupancy is involved, not previously defined, shall be [\$165.00] \$198.00. The applicant may be subject to possible charges which may result from expenses incurred by NJ TRANSIT's subsidiaries in other jurisdictions. (NOTE: Permit fees for miscellaneous use or occupancy of NJ TRANSIT-owned property will be determined and charged on an individual basis because of the various types of requests.)

(f) (No change.)

(g) Short-term use or occupancy fees are subject to the following conditions:

.. (No change.)

1. The minimum permit fee under any application shall be [\$165.00] \$8.00.

..-6. (No change.)

b) (No change.)

77-1.6 Permit fees; transverse occupation

a) (No change.)

(b) Aerial and underground wire (power and communication) crossings not exceeding 200 feet in length will be charged an annual occupancy fee as follows:

- 1. Power:
 - i. All crossings up to but not exceeding 6,900 volts [\$165.00] \$198.00
 - ii. Over 6,900 volts but not exceeding 32,500 volts [\$304.00] \$365.00
 - iii. Over 32,500 volts but not exceeding 50,000 volts [\$506.00] \$607.00
 - iv. Over 50,000 but not exceeding 345,000 volts [\$675.00] \$810.00
 - v. Over 345,000 volts but not exceeding 500,000 volts [\$1,015.00] \$1,218
 - vi. Over 500,000 volts [\$1,350.00] \$1,620
 - vii. (No change.)
 - viii. Manholes (each) [\$86.00] \$103.00

(NOTE: (No change.))

2. Communication:

- i. Telephone and other communication cables (not including composite coaxial cables or fiberoptic cables);
 - (1) Cable containing not more than 500 pairs [\$165.00] \$198.00
 - (2) Cable containing 501 to 1,100 pairs [\$293.00] \$352.00
 - (3) Cable containing 1,101 to 1,800 pairs [\$425.00] \$510.00
 - (4) Cable containing over 1,800 pairs [\$678.00] \$814.00
- ii. Composite coaxial cables and coaxial television cables containing not more than [4] four conductors [\$247.00] \$296.00
- iii. All cables containing over four conductors shall be at a rate of [\$35.00] \$42.00 for each additional conductor.

3. Fiberoptics:

- i. Fiberoptic cable crossings used for long distance telephone and data transmission and for retail distribution to more than 500 households and/or retail businesses [\$1,725] \$2,070
- ii. Fiberoptic cable crossings used for retail distribution to 500 or less than 500 households and/or retail businesses [\$920.00] \$1,104

(c) Poles, towers, guys, and anchors and spare ducts or pipes will be charged an annual fee as follows:

- 1. Single wooden pole (per pole) [\$40.00] \$48.00
- 2. All other supporting structures other than the auxiliary facilities and appurtenances listed in (c)3, 4, 5, 6, 7 below [\$80.00] \$96.00
- 3. Each brace, stub, pole, or anchor [\$40.00] \$48.00
- 4. Each guy anchored on or crossing NJ TRANSIT-owned property [\$8.00] \$10.00
- 5. All towers, if not included in a longitudinal occupation shall be assessed per tower leg at [\$52.00] \$62.00
- 6. Each span guy wire crossing [\$40.00] \$48.00
- 7. Spare or unoccupied ducts or pipes, each (when the duct shall be occupied in the future by a cable, the annual fee for the facility occupying the duct shall govern and the [\$40.00] \$48.00 charge cease) [\$40.00] \$48.00

8. (No change.)

(NOTE: (No change.))

(d) Annual permit occupancy fees for pipes and sewer crossings not exceeding 200 feet in length will be calculated as follows:

1. Circular lines carrying no pressure:

- i. Pipes up to and including 12 inches ID [\$165.00] \$198.00
- ii. Pipes over 12 inches and not exceeding 24 inches ID [\$230.00] \$276.00

iii. Pipes over 24 inches and not exceeding 60 inches ID will be charged at a rate of [\$5.00] \$6.00 per inch of ID over the first 24 inches. This rate is in addition to a minimum fee of [\$247.00] \$296.00

iv. Pipes over 60 inches ID will be charged at a rate of [\$3.15] \$3.78 per inch of ID over the first 60 inches. This rate is in addition to a minimum fee of [\$506.00] \$607.00

v. All surface drainage not contained within a pipe and occupying NJ TRANSIT property \$810.00

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2. Circular lines under pressure and carrying non-flammable, non-explosive, or non-combustible supporting materials, except coal and water slurry:

- i. Pipes up to and including 12 inches ID [\$200.00] \$240.00
- ii. Pipes over 12 inches but not exceeding 24 inches ID [\$253.00] \$304.00

iii. Pipes over 24 inches ID and not exceeding 60 inches ID will be charged at a rate of [\$9.00] \$11.00 per inch of ID over the first 24 inches. This rate is in addition to the minimum fee of .. [\$253.00] \$304.00

iv. Pipes over 60 inches ID will be charged at a rate of [\$7.00] \$8.00 per inch of ID over the first 60 inches. This rate is in addition to the minimum fee of..... [\$540.00] \$648.00

3. Circular lines under pressure and carrying flammable, explosive, or combustible supporting materials, except coal and water slurry:

i. Pipes not exceeding three inches inside nominal diameter—minimum charge for any one crossing [\$247.00] \$296.00

ii. Pipes over three inches inside nominal diameter and not exceeding 12 inches inside diameter—minimum charge for any one crossing..... [\$340.00] \$408.00

iii. Pipes over 12 inches inside diameter and not exceeding 24 inches inside diameter shall be charged at a rate of [\$16.00] \$19.00 per inch of ID over the first 12 inches. This rate is in addition to a minimum charge for any one crossing of..... [\$340.00] \$408.00

iv. Pipes exceeding 24 inches in inside diameter shall be charged at a rate of [\$15.00] \$18.00 per inch of ID over the first 24 inches. This is in addition to a minimum charge for any one crossing of [\$540.00] \$648.00

4.-6. (No change.)

7. Manholes (each)..... [\$80.00] \$96.00

8.-9. (No change.)

16:77-1.7 Permit fee; longitudinal occupations

(a)-(b) (No change.)

(c) The following charges cover the complete transmission line occupation and additional charges are not to be made unless there are attachments to NJ TRANSIT-owned facilities. For the purpose of determining voltage, guy wires, messengers and grounded conductors shall be considered as zero voltage. All other conductors shall be rated at voltage to other conductors, whichever is higher.

1. Aerial wires:

i. Transmission line, highest voltage not exceeding 6,900 volts [\$1,685] \$2,022 per circuit per mile.

ii. Transmission line over 6,900 volts up to, but not including, 32,500 volts [\$3,036] \$3,643 per circuit per mile.

iii. Transmission line 32,500 volts, up to and including 50,000 [\$4,220] \$5,064 per circuit mile.

iv. (No change.)

2. Aerial and underground cables:

i. (No change.)

ii. Telephone communication cables (not including composite coaxial cables):

(1) Cable containing not more than 1,100 pairs [\$1,685] \$2,022 per cable per mile.

(2) Cable containing 1,101 to 1,800 pairs..... [\$3,036] \$3,643 per cable per mile.

(3) Cable containing over 1,800 pairs: The fee will be negotiated at a rate not less than [\$3,036] \$3,643 per cable per mile.

(4) For underground communication cables, the minimum charge is [\$3,375] \$4,050 per cable per mile.

iii. Composite coaxial cable and coaxial television cables subject to negotiation but not less than..... [\$4,105] \$4,926 per cable per mile.

iv. Underground power cables:

(1) When a cable is buried in an open trench and covered with soil: [\$2,432] \$2,918 per circuit per mile.

(2) When a cable is buried in an open trench and surrounded with from six to 12 inches of thermal sand: [\$4,220] \$5,064 per circuit per mile.

(3) When a cable is encased in a steel pipe under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted sand: [\$4,220] \$5,064 per mile or [\$9.00] \$11.00 per inch of nominal diameter of the largest pipe per 100 feet of occupation or fraction thereof, whichever is greater.

v. Spare or unoccupied ducts or pipes, each per mile..... [\$506.00] \$607.00

vi.-vii. (No change.)

(NOTE: (No change-))

(d) (No change.)

(e) [All] Fees for all structures other than manholes will be [charged based] arrived at through [their own individual] negotiations. Examples of these structures are meter chambers, siphon chambers, substations, pump stations, well sites, towers, etc.

(f) An annual occupancy fee for pipes and sewers will be charged as follows:

1. Circular lines carrying no pressure: [\$4.00] \$5.00 per inch of inside nominal diameter or fraction thereof per 100 feet of occupation or fraction thereof.

2. Circular lines under pressure and carrying non-flammable, non-explosive, and non-combustible supporting materials, except coal and water slurry: [\$4.50] \$5.00 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

3. Circular lines under pressure and carrying flammable, explosive, and combustible supporting materials, and coal and water slurry: [\$9.00] \$11.00 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

4.-5. (No change.)

16:77-1.8 Other provisions

(a) For those applicants having over 200 occupancy permits with NJ TRANSIT, the Corporation reserves the right to negotiate permanent occupancy permits for any occupancy having an annual fee of \$300.00 or less at the time of application. The permittee shall pay to NJ TRANSIT a lump sum which will be equivalent to [16] 20 times the annual rate which will satisfy the annual fee for the life of the facility occupation so long as it remains unchanged. No refunds will be given for any facility which is terminated, cancelled, removed, or abandoned. Permittees who qualify for this option, request such option and are accepted by NJ TRANSIT, will receive a single "blanket agreement" with an attachment containing a list of the affected occupancies covered under individual permits. Acceptance of any request for a blanket agreement and lump sum payment will be at the sole discretion of NJ TRANSIT which shall not be unreasonably exercised. The existence of this option does not obligate NJ TRANSIT to enter into a blanket agreement with any permittee.

(b) Any facility which is altered in such a manner so as to increase the annual fee beyond the original \$300.00 limit will result in that permit being extracted from the blanket agreement and a new annual fee will be calculated, based on the existing fee schedule, and assessed annually thereafter. Monetary credit will be allocated to the new facility fee based on the unused portion of the initial [16] 20 year period. No credit will be given for any facility requiring reassessment which has exceeded the initial [16] 20 years of occupancy.

EXHIBIT C

**REGULATIONS: ADOPTION OF REGULATIONS N.J.A.C. 16:77
USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY
PROPOSED AMENDMENTS**

A review of each of the proposed amendments follows:

At N.J.A.C. 16:77-1.1, Definitions, the following amendments will be made:

In the definition of "cable," the words "means consisting" have been replaced with the word "consists" to clarify the sentence.

In the definition of "communication wires," the word "a" has been replaced with the word "or" to correct a typographical error.

In the definition of "individual service," the word "dwelling" has been replaced with the word "building" to clarify the sentence.

In the definition of "involved jurisdiction," the words "and the" have been deleted for clarity and the words "and any railroad operating on NJ TRANSIT owned property" have been added as another aspect of the definition.

In the definition of "longitudinal occupation," the words "any occupation of NJ TRANSIT-owned property other than a direct crossing over or under railroad tracks and right-of-way as defined under N.J.A.C. 16:77-1.7" have been replaced with the words "any occupation of NJ TRANSIT-owned property other than a transverse occupation as defined herein."

In the definition of "NJ TRANSIT-owned property," "State" is pluralized.

In the definition of "permit," the words "for the use" have been replaced with the word "to use" and the words "occupancy of" have been replaced with the word "occupy." The words "including short term uses" have been deleted and the words "but not be limited to" have been added after "shall include." In subparagraph 1iv of this definition, the words "which" and "shall" have been removed. An "s" has been added to the word "determine" to read "determines" and the words "is required" have been added after "a permit." The changes were made to clarify the definition.

In the definition of "permittee," the phrase "fixed short term" has been changed to "fixed term."

All of the above amendments have been made to clarify the definitions.

At N.J.A.C. 16:77-1.2, Permit applications, the following amendments will be made:

In subsection (b), the words "an application" have been replaced with the words "a request for permit." The sentence "The application fee will be \$250.00 for each permit." has been added. NJ TRANSIT is proposing an application fee in order to collect a portion of NJ TRANSIT's review and administrative costs whether or not the permit is executed.

In subsection (c), the words "an application has" have been deleted and replaced with the words "stamped drawings have" to clarify the sentence.

In subsection (d), the words "of any fees" have been added after "refund" to clarify the sentence.

In subsection (e), the words "Upon the applicant's request and proper NJ TRANSIT approval" have been deleted. The words "the designated fee(s)" have been replaced with the words "all designated fee(s)." The words "for use and occupancy of NJ TRANSIT-owned property, have been collected, as provided in N.J.A.C. 16:77-1.6. In addition to the above, the applicant shall reimburse the party operating over the affected property for costs related to their review of the applicant's plans and specifications, if applicable." have been deleted after "unless all designated fee(s)" and the words "have been paid to the involved jurisdiction" have been added as replacement. All changes made to this section are for clarity.

In subsection (g), the word "occupancy" has been added to clarify the specific fee that will be assessed.

At N.J.A.C. 16:77-1.3, Permit conditions, the following amendments will be made:

In subsection (a), the word "coverage" has been added after "insurance" to clarify the sentence.

Under paragraph (a)1, the word "defend" has been added after "[t]he permittee shall indemnify." The word "contractors" has been added to those the permittee shall indemnify, defend, keep and save harmless. The word "and" has been replaced with the word "or" between "servants" and "officials" for clarity. The words "the indemnified parties" has been added to replace "NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, and other operating Railroad(s), or the permittee, or their successors, assigns, agents, employees, servants or officials" for simplicity throughout this section.

The following language is being added as paragraph (a)2: "The railroad operations at or near the facilities involve some risk, and the permittee, as part of the consideration for a permit and with full knowledge and appreciation of such risk, shall release and waive any right to ask for or demand any special, direct, incidental, indirect, punitive, reliance or consequential damages, whether foreseeable or not, for or on account of any loss or injury to any property of the permittee and its employees, including property in the care, custody, and control of permittee, and to the facilities and contents thereof

that are over, under, upon, or in the property of NJ TRANSIT, including loss of, or interference with, service or use thereof, or loss of profits or revenue, cost of capital, cost of replacement services, claims of customers or third parties, whether or not it shall be alleged or determined that the cause thereof was breach of contract, breach of warranty, negligent acts or omissions of the indemnified parties or the permittee, their successors, assigns, contractors, agents, employees, servants and officials or of other persons.”

The above paragraph has been added to clarify that NJ TRANSIT will not be liable for these types of claims.

In subchapter (c), “seven days” has been replaced with “14 days” as the time frame for permittee written notice to the involved jurisdiction prior to use, with or occupancy of NJ TRANSIT-owned property, to insure that there is sufficient time to schedule safety training, flagmen, etc.

In subsection (e), “formal notice in writing” has been changed to “formal written notice to proceed” to clarify the sentence.

In subsection (f), a comma has been removed to be grammatically correct.

Subsection (g) is amended to provide that permittee restoration of an affected area shall also occur upon completion of installation.

In subsection (i), the word "actual" has been added before "costs" to clarify the sentence. Also, the following language has been added: "All costs will be billed at the then current billing rates which are subject to revision. The permittee shall remit payment to NJ TRANSIT within 30 days after receipt of an invoice. The permittee shall pay NJ TRANSIT a late charge of three percent of the total unpaid invoice amount for every month any invoice is owed and outstanding until the invoice is paid in full." These words have been added to provide that NJ TRANSIT may charge late fees for outstanding invoices.

In subsection (j), the phrase "initiate, repair or maintain such facility" has been replaced with "perform the repair or to maintain such facility."

in paragraph (j)1, the word "corrective" has been added before "action" and the words "involved jurisdiction" replace "operating agency and secondly, NJ TRANSIT" to clarify the sentence.

In subsection (k), the terms "check" and "certified check" have been replaced with the word "deposit" throughout the paragraph for clarity. In the third sentence, the words "unused portion of the check" have been replaced with "unused funds" for clarity.

In subsection (l), the word "applications" has been changed to "occupations" for clarity. In addition, the following language has been added: "Upon the written request of NJ

TRANSIT, the permittee shall promptly change the location of its facilities, or any of them, at the sole expense of the permittee and within 30 days after such request is made, so as to enable NJ TRANSIT to make any alterations or improvements upon its property and any changes in or additions to its facilities that it may deem necessary or advisable at any time, and nothing shall in any way be so construed as to limit NJ TRANSIT in the full and free use and occupation of the full width of its right-of-way and property at the location." The language added to provide that a permittee shall be required to relocate its occupancy within 30 days after NJ TRANSIT's request.

In subsection (n), the words "at its sole discretion" have been added concerning the involved jurisdiction, in its reserved right to impose special conditions in appropriate cases, for clarity.

At N.J.A.C. 16:77-1.4, Administrative fees, the following new subsection (a) has been added for clarity: "The charges in this section are intended to cover the cost of processing of papers and other incidental expenses incurred by NJ TRANSIT, and are in addition to the application fee and the occupation fees in (b) below." Current subsection (a) is recodified as (b).

In paragraph (b)1, the wire and cable crossings and longitudinal occupation fees are increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In paragraph (b)2, the word "and" has been deleted between "pipe" and "sewer crossings" for clarity. The words "surface drainage" have been added to clarify that NJ TRANSIT may charge fees for drainage that is not within a pipe.

In subparagraphs (b)2i and ii, the pipe not exceeding three inches and all other traverse crossing fees increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

The following language has been added as subparagraph (b)2iii: "All longitudinal occupations and any other agreement not already identified in this section, regardless of pipe contents.....\$828.00." This language was added to be consistent with N.J.A.C. 16:77-1.4 (b)1iii. The fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

Subparagraph (b)2iv has been deleted from this paragraph and relocated as subparagraph (b)5iii: "Any longitudinal or transverse occupation, regardless of the size of the facility, requiring more than one field excursion by NJ TRANSIT personnel shall be charged an additional \$120.00 for every outing beyond the single outing allotted each application." The fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In paragraph (b)3, the fee for all surface drainage not contained within a pipe and occupying NJ TRANSIT property is increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In paragraph (b)4, the words "or county" have been added to provide that the fee applies as well to county permit applications. The fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

At N.J.A.C. 16:77-1.5, Permit fees; general conditions, in subsection (a), the words "Long term" have been replaced with "Use" referencing permit fees, for clarity.

In paragraph (a)2, the minimum annual permit fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In paragraph (a)3, the word "permit" has been added to clarify which fees are collected.

Paragraph (a)6 is amended to read as follows:

"Fees are based on a minimum right-of-way width of 30 feet with the annual rate applicable up to a 200 foot width. For all crossings in excess of 200 linear feet, and no more than 700 linear feet, the facility will be calculated as a longitudinal occupation. Any facility crossing exceeding 700 linear feet, NJ TRANSIT reserves the right to negotiate.

The formula for any transverse occupation over 200 feet has been modified as follows:

First 200 LF:.....x = base rate

200 LF to 700 LF:y = longitudinal fee divided by 4

Over 700 LF:z = NJ TRANSIT reserves the right to negotiate permit fees.

Add all components (x + y) to establish the annual fee.”

NJ TRANSIT is proposing this change to simplify the calculations of fees under this section.

Paragraph (a)10, "Drainage discharge onto NJ TRANSIT property shall be calculated as if it were contained in a circular pipe and the fees shall be in accordance with the transverse occupation fee schedule, under pipes and sewers," has been relocated to N.J.A.C. 16:77-1.6(d)1v for consistency. Throughout N.J.A.C. 16:77-1.5(b)1i through iv, NJ TRANSIT is proposing an estimated general fee increase of 20 percent, the cost-of-living increase, for the annual occupancy fee for attachments.

In subparagraphs (b)1ii and iv, "(licensee's)" appearing before "permittee's" has been deleted.

In subparagraph (b)2i, the words "railroad owned" have been deleted and the words "NJ TRANSIT's" have been added for clarity. The per-wire or cable attachment fee

increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subparagraph (b)3i, the attachments of cable terminals, etc., fee increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subparagraph (b)4, the words "Charges for attachment(s) of" have been added before "[p]ipelines" for clarity.

In paragraphs (c)1 and 2, the fees for guywire crossings and overhanging cross-arms increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (e), the minimum permit fee where a miscellaneous use of occupancy is involved, not previously defined, increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (g), concerning short-term use or occupancy fees, the minimum permit fee in paragraph (g)2 increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

At N.J.A.C. 16:77-1.6, Permit fees; transverse occupation, the annual occupancy fees for aerial and underground wire (power and communication) crossing not exceeding 200

feet in length in subsection (b) are increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (c), the annual fees for poles, towers, guys, and anchors, and spare ducts or pipes are increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (d), the annual permit occupancy fees for pipes and sewer crossings not exceeding 200 feet in length are increased 20 percent in accordance with the proposed general increase for cost-of-living increase. A new subparagraph (d)1v, "All surface drainage not contained within a pipe and occupying NJ TRANSIT property\$810.00," is proposed, relocated from N.J.A.C. 16:77-1.4 (a) 3. The fee is increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

At N.J.A.C. 16:77-1.7, Permit fees; longitudinal occupations, the complete transmission line occupation and additional charges in subsection (c) for aerial wires and aerial and underground cables are increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

In subsection (e), the words "Fees for" and "arrived at through negotiations" have replaced the words "charged based through their own individual negotiations," for clarity.

In subsection (f), the annual occupancy fee for pipes and sewers has increased 20 percent in accordance with the proposed general increase for cost-of-living increase.

Under N.J.A.C. 16:77-1.8, Other provisions, the applicable lump sump payment that a permittee, with over 200 occupancy permits, with whom NJ TRANSIT negotiates a permanent occupancy permit is increased from "16 times the annual rate" to "20 times the annual rate," in accordance with NJ TRANSIT's proposed 20 percent fee increase. In subsection (b), the number "16-year" and "16 years" references have been replaced with "20-year" and "20 years," respectively, in order to be consistent with the proposed amendment to subsection (a).

**ITEM 0507-74: REGULATION: RE-ADOPTION OF REGULATION N.J.A.C. 16:82
EXAMINATION AND DUPLICATION OF NJ TRANSIT RECORDS**

BENEFITS

NJ TRANSIT and its subsidiaries are responsible for the provision of rail and bus services in the State of New Jersey. NJ TRANSIT must make its public records available, for examination and duplication, to requesting members of the public consistent with N.J.S.A. 47:1A-2 and 27:25-20 (Exhibit A).

Staff is recommending that the Board authorize the re-adoption of the regulations "Examination and Duplication of NJ TRANSIT Records."

PURPOSE

The provisions of Executive Order No. 66 (1978) require that NJ TRANSIT review the regulations periodically (every five years) to determine their continuing usefulness. Pursuant to N.J.S.A. 52:14B-5.1c, this chapter is scheduled to expire on September 16, 2005. The regulations were published in the New Jersey Register on April 4, 2005 (Exhibit B). The comment period expired on June 3, 2005 and no comments were received. NJ TRANSIT is proposing to readopt the regulation with amendments. The proposed amendments are listed as Exhibit C.

ACTION (Justification: Business Efficiencies)

Staff seeks authorization to take all actions necessary to adopt and promulgate the regulations N.J.A.C. 16:82 et seq. Examination and Duplication of NJ TRANSIT Records, consistent with this Board item and exhibits.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:	Re-adoption of regulation <u>N.J.A.C. 16:82</u>
Total Project Cost:	N/A
Projected Date of Completion:	September 2005
Anticipated Source of Funds:	N/A
DBE Goal:	No goods or services to be procured

Related/Future Authorizations: N/A

**Impacts on Subsequent
Operating Budgets:** N/A

RESOLUTION

WHEREAS, NJ TRANSIT and its subsidiaries are responsible for the provision of rail and bus services in the State of New Jersey. NJ TRANSIT must make its public records available, for examination and duplication, to requesting members of the public consistent with N.J.S.A. 47:1A-2 and 27:25-20 (Exhibit A); and

WHEREAS, the provisions of Executive Order No. 66 (1978) require that NJ TRANSIT review the regulations periodically (every five years) to determine their continuing usefulness. Pursuant to N.J.S.A. 52:14B-5.1c, this chapter is scheduled to expire on September 16, 2005; and

WHEREAS, the regulations were published in the New Jersey Register on April 4, 2005 (Exhibit B). The comment period expired on June 3, 2005 and no comments were received. NJ TRANSIT is proposing to readopt the regulation with amendments. The proposed amendments are listed as Exhibit C;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director or his designee is hereby authorized to take all actions necessary to re-adopt and promulgate regulations N.J.A.C. 16:82 et seq., Examination and Duplication of NJ TRANSIT Records, consistent with this board item and exhibits.

EXHIBIT A

16:82-2.2

NJ TRANSIT RECORDS

CHAPTER 82

EXAMINATION AND DUPLICATION OF NJ TRANSIT RECORDS

Authority

N.J.S.A. 47:1A-2 and 27:25-20.

Source and Effective Date

R.2000 d.111, effective March 20, 2000.
See: 31 N.J.R. 4226(a), 32 N.J.R. 1039(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 82, Examination and Duplication of NJ TRANSIT Records, expires on September 16, 2005. See: 37 N.J.R. 1011(a).

Chapter Historical Note

Chapter 82, Examination and Duplication of NJ TRANSIT Records, was adopted as R.1989 d.462, effective September 5, 1989. See: 21 N.J.R. 284(b), 21 N.J.R. 2804(b). Pursuant to Executive Order No. 66(1978), Chapter 82 expired on September 5, 1994.

Chapter 82, Examination and Duplication of NJ TRANSIT Records, was adopted as new rules by R.1994 d.534, effective October 17, 1994. See: 26 N.J.R. 2871(b), 26 N.J.R. 4210(a). Pursuant to Executive Order No. 66(1978), Chapter 82 expired on October 17, 1999.

Chapter 82, Examination and Duplication of NJ Transit Records, was adopted as new rules by R.2000 d. 111, effective March 20, 2000. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

16:82-1.1 Purpose

The New Jersey Transit Corporation (NJ TRANSIT) and its subsidiaries are responsible for provision of rail and bus services in the State of New Jersey. As a State instrumentality, NJ TRANSIT must make its public records available, for examination and duplication, to requesting members of the public. This chapter governs the issuance and sale of copies

16:82-1.2 Definitions

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

"Fee" means the assessment of administrative costs plus any applicable costs of record duplication.

"NJ TRANSIT" means the New Jersey Transit Corporation or any of its subsidiaries.

"NJ TRANSIT public records" means "public records" as defined in N.J.S.A. 47:1A-2 and 27:25-20, except as excluded in N.J.A.C. 16:82-2.2 maintained by NJ TRANSIT.

SUBCHAPTER 2. REQUIREMENTS

16:82-2.1 Examination of NJ TRANSIT public records

(a) All NJ TRANSIT public records may be examined by members of the public either by appointment during the regular business hours of the Senior Director, Corporate Affairs or by demanding the right to inspect such records during the regular business hours maintained by a particular custodian of any such records. Every citizen of the State also has the right to purchase copies of these public records. The Senior Director, Corporate Affairs will determine the appropriate office where the records may be examined or obtained unless the member of the public demands that the records be made available at the exact location where the records are maintained.

(b) The right of examination of public records pursuant to N.J.S.A. 47:1A-3 may be denied in cases where the records being sought for examination pertain to any investigation by NJ TRANSIT in progress, if the inspection, copying, or publication of these records is not in the best interest of the public.

Amended by R.1994 d.534, effective October 17, 1994.
See: 26 N.J.R. 2871(b), 26 N.J.R. 4210(a).

16:82-2.2 Non-public records

(a) Certain records are not considered "NJ TRANSIT public records," and may be made available for examination and purchase only by an individual who demonstrates to the Senior Director, Corporate Affairs that the person has a legitimate beneficial interest in such a record or the protection of his or her property rights or the protection of any interest the citizen may have in any matter affecting the citizen to which said record is relevant. Such non-public records include those pertaining to:

1. Future construction projects in terms of specific

NJ TRANSIT RECORDS

16:82-2.4

(c) If the Senior Director, Corporate Affairs finds that there is no risk of damage, mutilation, or loss of such records, and that it will not be incompatible with the economic and efficient operation of NJ TRANSIT and the transaction of its public business, he or she may permit any citizen who is seeking to copy more than 100 pages of records to use his or her own photographic process, approved by the Senior Director, Corporate Affairs, upon the payment of a reasonable fee, considering the equipment and the time involved, of not less than \$10.00 or more than \$50.00 per day.

(d) When the Senior Director, Corporate Affairs makes available records that involve a significant amount of research and investigation, additional charges may be imposed to reimburse NJ TRANSIT for the cost of conducting this research and investigation. Cost will be calculated on a worker/hour basis. These charges will be in addition to the charges in (b) and (c) above.

Amended by R.1994 d.534, effective October 17, 1994.
See: 26 N.J.R. 2871(b), 26 N.J.R. 4210(a).

16:82-2.4 Procedure for copy request or record examination

A private citizen may request a copy of a NJ TRANSIT public record, or make an appointment to examine such a record, by contacting:

NJ TRANSIT
Senior Director, Corporate Affairs
One Penn Plaza East
Newark, NJ 07105
Telephone: (973) 491-7453

Amended by R.1994, d.534, effective October 17, 1994.
See: 26 N.J.R. 2871(b), 26 N.J.R. 4210(a).

EXHIBIT B

TRANSPORTATION

PROPOSALS

statement justifying the recommendation. Said statement may include the criteria considered in reaching its conclusions.]

[(b)](a) In adopting the resolution and recommendation provided for in N.J.A.C. 16:26-1.1, the governing body of a county or municipality and the Commissioner [of Transportation] shall consider factors related to the interest of safety and the expedition of traffic, such as, but not limited to, the following:

1. Accident experience;
2. Traffic patterns;
3. Traffic volumes; [and]
4. Physical characteristics of the highway[.]; and
5. Posted speed limits of the highway

16:26-1.3 Posting of regulatory signs

Upon the adoption of regulations by the Commissioner of Transportation pursuant to N.J.S.A. 39:4-14.3c prohibiting or permitting the operation of motorized bicycles on specified highways or portions thereof which are deemed unsafe or safe for the operation of motorized bicycles, the county, municipality or Department of Transportation shall cause to be erected traffic signs regulating the use of motorized bicycles. The State or political subdivision with jurisdiction over the highway shall be responsible for the erection of such signs approved by the Department of Transportation. The design and position of the signs to be posted shall be in conformance with the "Manual on Uniform Traffic Control Devices."

16:26-1.4 Enforcement of regulations

Regulations promulgated by the Commissioner of Transportation shall be effective from the time the regulatory signs provided for in N.J.A.C. 16:26-1.3 are posted by the county, municipality or the Department of Transportation.]

16:26-1.5 Operation of motorized bicycles permitted on specific highways

(a) The Commissioner has determined that the operation of motorized bicycles is permitted on the following highways or portions of highways:

[(a)]1. The [provisions of N.J.A.C. 16:26-1.1 and 1.2 having been satisfactorily complied with by the County of Ocean, motorized bicycles may be operated on the] dualized portion of County Road No. 7 (Long Beach Boulevard) in the Township of Long Beach[.]; and

[(b)]2. The [provisions of N.J.A.C. 16:26-1.1 and 1.2 having been satisfactorily complied with by Surf City Borough, motorized bicycles may be operated on the] dualized portion of Barnegat Avenue in Surf City Borough.

16:26-1.6 Operation of motorized bicycles prohibited on specific highways

(a) [The provisions of N.J.A.C. 16:26-1.1 and 1.2 having been satisfactorily complied with by the Commissioner of Transportation, the operation of motorized bicycles prohibited upon that] The Commissioner has determined that the operation of motorized bicycles is not permitted on the following highways or portions of highways:

1. That portion of State Highway 35 between the Brielle Circle and Seventeenth Avenue in the Township of Wall.

(a)

NEW JERSEY TRANSIT CORPORATION Examination and Duplication of NJ TRANSIT Records

Proposed Readoption with Amendments: N.J.A.C.
16:82

Authorized By: New Jersey Transit Corporation, George D. Warrington,
Executive Director.

Amended by N.J.S.A. 47:1A-1 et seq. and 27:25-20

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-115.

Submit comments by June 3, 2005 to:

Joyce J. Zuzak
New Jersey Transit Corporation
One Penn Plaza East
Newark, NJ 07105-2246

The agency proposal follows:

Summary

The New Jersey Transit Corporation (NJ TRANSIT) and its subsidiaries are responsible for the provision of rail, bus and light rail service in the State of New Jersey. NJ TRANSIT must make its public records available, for examination and duplication, to requesting members of the public consistent with N.J.S.A. 47:1A-1 et seq. and 27:25-20. In accordance with the sunset provisions of Executive Order No. 66(1978) and N.J.S.A. 52:14B-5.1, NJ TRANSIT proposes to readopt N.J.A.C. 16:82, Examination and Duplication of NJ TRANSIT Records.

Pursuant to N.J.S.A. 52:14B-5.1c, this chapter is scheduled to expire on September 16, 2005. The provisions of Executive Order No. 66(1978) require that NJ TRANSIT periodically review its present regulations to determine their continuing usefulness. Accordingly, NJ TRANSIT has reviewed the rules concerning Examination and Duplication of NJ TRANSIT Records, and has determined the rules to be necessary, reasonable, adequate, efficient, understandable and responsive to the purpose for which they were originally promulgated.

N.J.A.C. 16:82 contains the rules governing the examination and duplication of NJ TRANSIT records. Specifically, Subchapter 1 describes the general provisions of the program, that is, its purpose and the definitions of terms used in the chapter. Subchapter 2 describes the requirements for examination, records which are considered non-public, administrative fees, and procedure for copy request or copy examination.

The proposed readoption of N.J.A.C. 16:82 contains the following amendments:

N.J.A.C. 16:82-1.1 has been amended to clarify that, in addition to requests under N.J.S.A. 47:1A-1 et seq., the examination and duplication of records also covers subpoenas and legal demands. The text has also been updated from "issuance and sale of copies" to the "examination and duplication" to make it consistent with N.J.S.A. 47:1A-1.

N.J.A.C. 16:82-1.2 has been amended to comply with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (OPRA), by making the definition of public records consistent with OPRA.

N.J.A.C. 16:82-2.1(a) has been amended to indicate the title of the current contact person, Custodian of Records. This re-occurs throughout the chapter.

N.J.A.C. 16:82-2.1(b) has been updated to reflect the language used in N.J.S.A. 47:1A-1 et seq. Therefore, the right to examine records may be denied if there is an NJ TRANSIT investigation in progress and the release of the records is inimical to the public.

N.J.A.C. 16:82-2.2 has been amended to comply with N.J.S.A. 47:1A-1 et seq. Therefore, the language identifying non-public records has been removed and a reference to N.J.S.A. 47:1A-1 et seq. has been added. The definition of government record has been insert.

As NJ TRANSIT as provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption regard the availability of NJ TRANSIT public records for examination and duplication by members of the public upholds the rights of the public under the "Open Public Records Act" as declared in N.J.S.A. 47:1A-1 et seq.

Economic Impact

The rules proposed for readoption establish fees for providing copies of NJ TRANSIT's public records in accordance with N.J.S.A. 47:1A-5. The fees will defray administrative costs and NJ TRANSIT will not profit from the collection of such fees. The economic impact on those requesting copies will vary on a case-by-case basis.

Federal Standards Statement

The rules proposed for readoption are not subject to any Federal standards. Therefore, a Federal standards analysis is not required.

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TRANSPORTATION

Jobs Impact

NJ TRANSIT does not anticipate that the rules proposed for re-adoption will result in the creation or loss of jobs.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

The rules in this chapter specify what records may be examined and set forth the minimum cost for copies of such records. These costs may affect small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., to the extent that small businesses may request examination or copying of NJ TRANSIT records. The fees are intended to defray administrative costs as these fees do not vary with the business size of the requesting party, no lesser requirements or exceptions are provided for small businesses. Small businesses are not required to retain professional services to comply with the rules in this chapter.

Smart Growth Impact

The rules proposed for re-adoption with amendments have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:82.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

16:82-1.1 Purpose

The New Jersey Transit Corporation (NJ TRANSIT) and its subsidiaries are responsible for provision of rail, bus and light rail services in the State of New Jersey. As a State instrumentality, NJ TRANSIT must make its public records available, for examination and duplication, to requesting members of the public. This includes legal demands and subpoenas. This chapter governs the [issuance and sale of copies] examination and duplication of NJ TRANSIT public records.

16:82-1.2 Definitions

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

"NJ TRANSIT public records" means "public records" as defined in N.J.S.A. 47:1A-2]1 et seq. and 27:25-20], except as excluded in N.J.A.C. 16:82-2.2 maintained by NJ TRANSIT].

SUBCHAPTER 2. REQUIREMENTS

16:82-2.1 Examination of NJ TRANSIT public records

(a) All NJ TRANSIT public records may be examined by members of the public either by appointment during the regular business hours of the [Senior Director, Corporate Affairs] Custodian of Records or by [demanding the right] requesting to inspect such records during the regular business hours maintained by a particular custodian of any such records. Every citizen of the State also has the right to purchase copies of these public records. The [Senior Director, Corporate Affairs] Custodian of Records will determine the appropriate office where the records may be examined or obtained unless the member of the public demands that the records be made available at the exact location where the records are maintained.

(b) The right of examination of public records pursuant to N.J.S.A. 47:1A-3 may be denied in cases where the records being sought for examination pertain to any investigation by NJ TRANSIT in progress, if the inspection, copying, or publication of these records is [not in the best interest of] inimical to the public.

16:82-2.2 Non-public records

(a) Certain records are not considered "NJ TRANSIT public records[.]" [and may be made available for examination and purchase only by an individual who demonstrates to the Senior Director, Corporate

interest the citizen may have in any matter affecting the citizen to which said record is relevant. Such non-public records include those pertaining to:] These records are not available for examination in accordance with N.J.S.A. 47:1A-1 et seq. A public record is defined as any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include interagency or intra-agency advisory, consultative, or deliberative material.

1. Future construction projects in terms of specific amounts, locations or design criteria.

2. Qualifications and classifications, questionnaires and other documentation required of contractors, consultants, and appraisers. The actual qualification or classification will be made available.

3. Research and tests required in the development of materials, design and construction. At the completion of any such project, the results except for proprietary information will be made available upon request.

4. Consultants' draft and final reports, NJ TRANSIT draft and final preliminary planning and engineering studies prior to disclosure at public hearing.

5. Engineering cost estimates prior to contract execution.

6. Proprietary information developed by NJ TRANSIT or submitted by vendors and bidders/proposers.

7. Current and prior labor negotiation documents. Final labor contracts will be made available upon request.

8. All negotiation documents pertaining to real estate transactions, procurement, change order, or other contract negotiations. Final agreements and change orders will be made available upon request.

9. Preliminary accident and safety investigation reports. All accident reports required by agencies regulating NJ TRANSIT shall be made available when final and if not prohibited by the regulatory agency.

10. Personnel and pension records, except that the following can be made "public":

i. An individual's name, town of residence, title, position, salary, payroll record, length of service, employment history, date of separation from agency, and the amount and type of pension the individual is receiving.

ii. Data which disclose conformity with specific experimental, educational or medical qualifications required for agency employment or receipt of public pension, but under no circumstances will detailed medical or psychological information be released.

11. All records pertaining to Workers' Compensation, Temporary Disability, and Federal Employer Liability Act matters.

12. All records which are part of any workpapers, memoranda, or reports which are made, maintained or kept by the Office of Internal Audit in NJ TRANSIT, including audits or reports made by outside auditors. The audit or report required by N.J.S.A. 27:25-20(d) shall be made available upon request.

13. Research documents pertaining to ongoing studies for the operational areas of NJ TRANSIT prior to disclosure to the public.

14. All materials, procedures, and related documents regarding the security of employees, the public, and NJ TRANSIT property and funds. This includes, but is not limited to, documents pertaining to the collection and deposit of fare-box revenue.

15. Disadvantaged Business Enterprises and Women's Business Enterprises classification questionnaires submitted as part of Federal and State goal and set-aside programs. Any document indicating that a particular company is or is not a Disadvantaged Business Enterprise or Women's Business Enterprise will be made available.

(b) The records listed below are also not considered NJ TRANSIT public records and are not subject to the provisions of N.J.S.A. 20:3-

PROPOSALS

1. Estimates, appraisals and costs of acquiring property prior to the completion of a project.

2. For the preservation of the "attorney-client privilege," all records which are part of any case file maintained by a Deputy Attorney General or Special Counsel representing NJ TRANSIT.]

[(c)](b) (No change in text.)

[(d)](c) Portions of "non-public" records may be made available for examination or copying at the discretion of the [Senior Director, Corporate Affairs where the interests of NJ TRANSIT or its employees are not otherwise negatively affected by such disclosure] Custodian of Records.

16:E2-2.3 Administrative fees

(a)-(b) (No change.)

(c) If the [Senior Director, Corporate Affairs] Custodian of Records finds that there is no risk of damage, mutilation, or loss of such records, and that it will not be incompatible with the economic and efficient operation of NJ TRANSIT and the transaction of its public business, he or she may permit any citizen who is seeking to copy more than 100 pages of records to use his or her own photographic process, approved by the [Senior Director, Corporate Affairs] Custodian of Records, upon the payment of a reasonable fee, considering the equipment and the time involved, of not less than \$10.00 or more than \$50.00 per day.

(d) When the [Senior Director, Corporate Affairs] Custodian of Records makes available records that involve a significant amount of research and investigation, additional charges may be imposed to reimburse NJ TRANSIT for the cost of conducting this research and investigation. Cost will be calculated on a worker/hour basis. These charges will be in addition to the charges in (b) and (c) above.

16:E2-2.4 Procedure for copy request or record examination

A private citizen may request a copy of a NJ TRANSIT public record, or make an appointment to examine such a record, by contacting:

NJ TRANSIT

[Senior Director, Corporate Affairs] Custodian of Records

One Penn Plaza East

Newark, NJ 07105

Telephone: (973) 491-7453

EXHIBIT C

**REGULATION: RE-ADOPTION OF REGULATION N.J.A.C. 16:82
EXAMINATION AND DUPLICATION OF NJ TRANSIT RECORDS
PROPOSED AMENDMENTS**

A review of each of the proposed amendments follows:

The proposed re-adoption of N.J.A.C. 16:82 contains the following amendments:

N.J.A.C. 16:82-1.1 has been amended to clarify that, in addition to requests under N.J.S.A. 47:1A-1 et seq., the examination and duplication of records also covers subpoenas and legal demands. The text has also been updated from "issuance and sale of copies" to the "examination and duplication" to make it consistent with N.J.S.A. 47:1A-1.

N.J.A.C. 16:82-1.2 has been amended to comply with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (OPRA), by making the definition of public records consistent with OPRA.

N.J.A.C. 16:82-2.1(a) has been amended to indicate the title of the current contact person, Custodian of Records. This re-occurs throughout the chapter.

N.J.A.C. 16:82-2.1(b) has been updated to reflect the language used in N.J.S.A. 47:1A-1 et seq. Therefore, the right to examine records may be denied if there

is an NJ TRANSIT investigation in progress and the release of the records is inimical to the public.

N.J.A.C. 16:82-2.2 has been amended to comply with N.J.S.A. 47:1A-1 et seq. Therefore, the language identifying non-public records has been removed and a reference to N.J.S.A. 47:1A-1 et seq. has been added. The definition of government record has been insert.