

Jon S. Corzine  
Governor

Stephen Dilts  
Board Chairman

Richard R. Sarles  
Executive Director



April 10, 2009

Dear Governor Corzine:

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, April 8, 2009.

I certify that the open session minutes are true and correct.

Sincerely,

A handwritten signature in black ink, appearing to read "Gwen Watson", with a long, sweeping underline.

Gwen A. Watson  
Board Secretary

Enclosures

Honorable Jon S. Corzine  
Governor, State of New Jersey  
State House  
Trenton, NJ 08625

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, April 8, 2009.

**Present:**

Stephen Dilts, Chairman  
Myron P. Shevell, Vice Chairman  
James A. Carey, Jr., Governor's Representative  
Patrick O'Connor, Treasurer's Representative  
Kenneth E. Pringle  
Flora Castillo  
Susan L. Hayes

Richard R. Sarles, Executive Director  
Gwen A. Watson, Board Secretary  
H. Charles Wedel, Chief Financial Officer & Treasurer  
Lynn Bowersox, Assistant Executive Director, Communications & Customer Service  
James Gigantino, Vice President & General Manager, Bus Operations  
William Duggan, Vice President & General Manager, Rail Operations  
Steve Santoro, Assistant Executive Director, Capital Planning and Programs  
Warren A. Hersh, Auditor General  
Kenneth Worton, Deputy Attorney General

Chairman Stephen Dilts convened the Open Session at 9:31 a.m. in accordance with the Open Public Meetings Act and asked for a motion to enter Executive Session to discuss contract negotiations and attorney-client, litigation and personnel matters. A motion was made by Myron P. Shevell, seconded by Kenneth E. Pringle and unanimously adopted.

Chairman Stephen Dilts reconvened the Open Session at 9:51 a.m. and asked for a motion to adopt the minutes of the March 11, 2009 meeting. A motion was made by Susan L. Hayes and seconded by Flora Castillo and adopted.

Executive Director Richard R. Sarles highlighted the following from his monthly business report.

**Stimulus Funding**

Executive Director Sarles said federal stimulus funding will allow NJ TRANSIT to accelerate more than a dozen key capital projects statewide. Thanks to the efforts of the Congressional delegation, especially Senators Lautenberg and Menendez, NJ TRANSIT has received funding in excess of \$420 million. Also, Governor Corzine directed state agencies to accelerate capital projects as part of his state economic stimulus program and create jobs now. Last week, a notice to proceed was issued for Bloomfield Avenue bus rapid transit bus shelters, part of the statewide bus shelter program.

(NJT Board – 04/08/2009)

Today the Board will consider a contract for a nearly 500-space parking lot at Edison Station, where demand outstrips supply. There is a waiting list of 375. About 110 jobs will be created and work is scheduled to begin in June and be completed by early 2010. Parking availability is essential to build and maintain ridership. NJ TRANSIT offers more than 80,000 parking spaces system-wide and added more than 10,000 spaces since 2002, using a variety of innovative financing methods. The Edison project demonstrates an ongoing commitment to customers in this area.

### **Disadvantaged Business Enterprises**

As additional contracts are awarded and supported by federal stimulus funds in the coming weeks and months, Executive Director Sarles reiterated the commitment to ensure Disadvantaged Business Enterprise participation. Extensive Disadvantaged Business Enterprise outreach will continue and a dozen events were held in the last two months, two specifically on Mass Transit Tunnel opportunities. A Mass Transit Tunnel workshop in Maplewood was held two weeks ago and attracted more than 80 businessmen and women who learned how to participate in this important project.

Executive Director Sarles was pleased to announce and welcome the new Vice President of Diversity, Leo Sanders, who comes from the private-sector developing diversity best practices and standards.

### **Deputy CFO**

Executive Director Sarles was pleased to announce and welcome the new Deputy Chief Financial Officer Kim Vaccari. Ms. Vaccari is working side-by-side with Charlie Wedel and will provide a smooth transition when Mr. Wedel retires later this year. Ms. Vaccari has both private and public sector experience, joining us from Bank of America where she headed the transportation group of public finance department, and previously was finance director for the New York Metropolitan Transit Authority.

### **Webchat**

Executive Director Sarles announced the upcoming webchat for customers to get real-time answers to questions over the internet. He said the first one, last year, proved popular among customers. The chat will feature Vice President and General Manager of Rail Operations Bill Duggan. Mr. Duggan will be fielding questions via the internet at noon on Wednesday April 15. He will be ready to respond to whatever is on a customer's mind including customer service experience over the last several weeks, the upcoming construction season, the impact on service, and the continuation of Amtrak's tie-replacement program. To participate, click on webchat icon on NJ TRANSIT homepage, [www.njtransit.com](http://www.njtransit.com)

### **NEC Ties**

Executive Director Sarles said starting April 19, 2009, Amtrak will resume a necessary, long-term tie-replacement project on the Northeast Corridor. They will replace worn concrete ties on 22 miles of track between Newark and New Brunswick. Executive

(NJT Board – 04/08/2009)

Director Sarles said Amtrak is acting prudently and cooperatively and NJ TRANSIT will work cooperatively to minimize inconvenience to customers. Amtrak will be working on the inside express tracks only (Tracks 2 and 3) so there is no need to deploy platform bridges that slow the process of boarding and exiting. The project will not have as great an impact on schedules as last year, but trip times will be adjusted in new Northeast Corridor and North Jersey Coast Line timetables. Generally, morning peak trains will be adjusted 1-6 minutes and afternoon peak trains 1-3 minutes. The project will require taking out of service one track at a time. With NJ TRANSIT and Amtrak sharing the remaining tracks, the ability to work around operational issues may be limited.

Executive Director Sarles urged customers to check timetables for departure times. Outbound North Jersey Coast Line customers boarding in Newark Penn Station may see changes in boarding platforms. The work is expected to continue through November.

### **Safety First**

Executive Director Sarles often talks about safety, but it is important to point out the new initiatives that demonstrate that commitment. He was pleased to report that NJ TRANSIT is the first passenger railroad in the country to partner with the Federal Railroad Administration and unions (United Transportation Union, Brotherhood of Locomotive Engineers and Dispatchers) on a new safety pilot program on close calls. The program goal is to open communication channels between labor, management and federal officials to learn if there are safety related issues (particularly in rail yards) which go unreported today. This close-call pilot allows employees to confidentially report certain types of incidents to federal authorities so they can be studied to determine if corrective action is needed. He emphasized this is not a reaction to any event in New Jersey but a proactive step in a national pilot program that previously only freights participated in and NJ TRANSIT wants to take the opportunity to learn.

### **Driver Education Safety Program**

Executive Director Sarles was pleased to announce a new driver education classroom program that was delivered beginning in February to 631 public, private and charter high schools in all 21 counties. This program was piloted in eight high schools last spring to get feedback from teachers, administrators and students in Burlington City, Palmyra, Cinnaminson, Bordentown, Brimm Medical Arts (Camden), Liberty (Jersey City), Kearny and Trenton Catholic Academy. NJ TRANSIT is among the first transit agencies in the nation offering a complimentary, comprehensive safety program aimed at teen drivers for use by driver education teachers. This program supplements the content of the existing curriculum for students in grades 10-12. NJ TRANSIT provides the teachers with two class periods of interactive materials, including video. This helps young drivers learn to operate vehicles safely near railroads, at grade crossings, and how to share the road with transit buses. This program was developed through a partnership with Operation Lifesaver (international non-profit) and the New Jersey Division of Highway Traffic Safety. Executive Director Sarles congratulated and thanked Janet Clark, Barbara Lazzaro, Grace Introna and Betsy Stern for producing this important program and invited everyone to take a look at the Operation Lifesaver

classroom video which was played outside the board room after the meeting. NJ TRANSIT continues an extensive outreach program that provides age-appropriate safety messages to thousands of New Jersey students each year. (286 schools and 95,000 students in 2008).

### **Earth Day**

Executive Director Sarles said NJ TRANSIT is celebrating Earth Day on Wednesday April 22, 2009. It is a good time to remind New Jersey residents that public transportation delivers great environmental benefits. Nationwide, transit services save more than 11 million gallons of gasoline per day. In New Jersey, NJ TRANSIT customers reduce greenhouse gas emissions by a staggering 589,000 metric tons annually by taking transit instead of driving, improving the air and reducing congestion on roadways. Executive Director Sarles is committed to improving these benchmarks.

The Mass Transit Tunnel will boost contributions to the environment, by taking an additional 22,000 cars off the roads each day and eliminating the release of three plus tons of particulates and more than 66,000 tons of greenhouse gases into the air each year. NJ TRANSIT is among the first 11 transit agencies signing the American Public Transportation Association's Sustainability Commitment. Others have followed the lead. The sustainability commitment includes: promoting environmental benefits of public transportation, raising awareness of sustainability among staff and customers, sharing sustainability information with other agencies and use of alternate-fuel vehicles, from Compressed Natural Gas to hybrids to bio-diesel.

NJ TRANSIT is already reducing its reliance on fossil fuels with: 90 hybrids in non-revenue fleet, 75 Compressed Natural Gas buses and 1,145 ultra-low-sulfur diesel buses with advanced emission control technology. Executive Director Sarles was pleased to report that NJ TRANSIT is exploring the possibility of using a bio-diesel fuel blend in the diesel locomotives, a first for NJ TRANSIT. This initiative is a result of an extensive 18-month study NJ TRANSIT conducted with the New Jersey Department of Environmental Protection and a team of bio-fuel experts at Rowan University. Among other things, the study confirmed that a switch to a soy blend will not harm the locomotives in terms of performance, reliability or fuel economy. With the research conclusions in hand, and subject to the Department of Environmental Protection's final review, NJ TRANSIT could gradually ramp up from five percent bio blend to 20 percent over the next year. The diesel locomotive fleet consists of 80 GP40s and 33 PL42s which operate in non-electrified territory on the: Atlantic City, Raritan Valley, Main/Bergen County, Pascack Valley and Port Jervis Lines and some trains on the North Jersey Coast, Morris & Essex, and Montclair-Boonton lines.

### **Advisory Committee**

Suzanne Mack presented the Advisory Committee report. Ms. Mack said it is great being a member of the Advisory Committee especially when there is money available and projects to discuss. Some people have asked what the Advisory Committee does and she said the Committee meets with the bus and rail operations staff to review schedule changes line by line. The Committee had an extensive presentation on the

(NJT Board – 04/08/2009)

Portal Bridge project that led to discussion regarding the sharing of the right of way with Amtrak. She is thankful that NJ TRANSIT has money for projects that are vitally needed to support riders.

Board Member Myron P. Shevell presented the Capital Planning, Policy & Privatization Committee report to the Board. The Committee reviewed the proposed contract option for the Access to the Region's Core project's construction management firm, discussed the 475 space parking expansion at Edison Station and were updated on the agency's energy and sustainability efforts. Bus Operations' Jim Gigantino presented his Vehicle Maintenance Overview, and the Committee heard about the increased commuter tax benefits due to the President's stimulus legislation.

Board Member Flora Castillo presented the Administration Committee report to the Board. The Administration Committee discussed the Access Link contracted service for Region 5 that serves Essex, Union, Somerset, Morris and Western Hudson counties. This paratransit service is expressly for those customers who cannot use the fixed route system and is mandated by the federal government. The Committee also discussed the Computer Hardware Maintenance Services item which supports the objective to maintain a state-of-good-repair for computer hardware. Also, NJ TRANSIT's regulation "Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities" will be proposed for readoption.

There were four public comments on agenda items. Board Secretary Watson announced a three minute time limit for speakers.

William Wright commented on the item, Access to the Region's Core: Contract Amendment for Project Controls and Construction Management Services. Mr. Wright said the tunnel, known as Access to the Region's Core, is vital to future area mobility and must be built now. Access to the Region's Core answers all questions as to why it is configured as it is. Both the geology and geography of Midtown dictates the Access to the Region's Core alignment. Future growth is to the west side and that is where the Access to the Region's Core is aimed.

Mr. Wright said as to extending it to Grand Central, neither the Metropolitan Transit Authority nor the Long Island Railroad have invited NJ TRANSIT because all the train slots at Grand Central Terminal are taken. There is no room for NJ TRANSIT at Grand Central Terminal. He said Penn Station frequently sees all track slots occupied and there is no room for growth at Penn Station. There will be growth in both Amtrak and NJ TRANSIT as more service is added to existing lines and additional lines are brought into the system. Environmental, economic and social needs call for a return to rail transit as the huge subsidy to road transport has created the current transport mess.

Mr. Wright said Access to the Region's Core is "shovel ready" and answers the future needs. Using existing Penn Station for growth will always give New Jersey a small town terminal when we need a city terminus. Those who call for more studies to "get it right" will end up costing stimulus funds and transport future. Access to the Region's Core is already right given the geography, geology and growth patterns of Midtown and this project should be built without any further delay.

David Peter Alan commented on several agenda items. Mr. Alan, Vice Chairman of the Senior Citizens & Disabled Residents Transportation Advisory Committee, understands the importance of Access Link in providing mobility for the people who need it the most. Mr. Alan spoke in his personal capacity and not officially so he would not express an opinion specifically on First Transit, although he knows they provide other county sponsored services in New Jersey. Mr. Alan said that Access Link is a vital service and wants as many people as possible to know about it.

Speaking personally, Mr. Alan commented on the proposed parking lot in Edison. A parking lot provides no mobility for anyone, it is merely storage space for automobiles. The projected cost of each parking space is nearly \$10,000 (actually \$9,890). Spending that sort of money just for automobile storage in an era when transit service is being cut, offers less actual mobility to riders and makes no sense. Spending nearly \$10,000 per parking space is also the worst sort of waste of the public's dollars. Mr. Alan said he cannot see how that cost could ever be recouped through parking fees within a reasonable period of time. It would make far more sense to save New Jersey's taxpayers this expense and give the job to a private company, if there is one that believes it can make money on such a project.

Mr. Alan said speaking of wasted money, the Lackawanna Coalition objects to the spending of \$48,000,000 for "project controls and construction management services" on the proposed Access to the Region's Core project. Unless the public knows precisely the purposes to which this money would be put, this sum appears too wasteful to be reasonable. He said Nashville built and operates an entire railroad for less.

Mr. Alan agreed with his colleague George Haikalis of the Institute of Rational Urban Mobility that a single track connection from the proposed new tunnels, directly into the existing Penn Station makes a far better start. Three billion dollars for a dead end deep cavern terminal that does not connect with Amtrak or other trains on NJ TRANSIT is an outrageous waste of money, especially now when state employees face the prospect of being laid off, residents and visitors will lose public services that they now enjoy and NJ TRANSIT itself has made massive service cuts. There was a time when it appeared that money was more plentiful, but that time has passed. Everyone must spend money wisely and NJ TRANSIT is no exception. The best return on the Access to the Region's Core project will come from an asset that provides connectivity with Amtrak and all NJ TRANSIT lines which means the existing Penn Station with reasonable capacity improvements, not an isolated dead end deep cavern.

Joseph M. Clift, Member, Regional Rail Working Group, commented on the Edison Rail Station Park and Ride Expansion: Construction Contract Award. Mr. Clift said when he worked at the Long Island Railroad, the counties did a lot of the parking work and it was affordable. He said the authorization requested in this board item is a lot of money for surface parking and there are more affordable ways to make improvements. Mr. Clift said there is a need to think about how to do things more affordably.

Mr. Clift read a statement on behalf of George Haikalis, Institute for Rational Urban Mobility, Inc. (IRUM) commenting on agenda item, Access to the Region's Core:

Contract Amendment for Project Controls and Construction Management Services. The Institute for Rational Urban Mobility, Inc. is a New York City based not for profit corporation concerned with reducing traffic congestion and improving the livability of dense urban areas. This organization urges the NJ TRANSIT Board to reject the approval of the Access to the Region's Core construction management contract. This will speed, not delay completion of the much needed Access to the Region's Core Hudson River passenger rail tunnels.

A simple track connection from the new tunnels directly into existing tracks and platforms at Penn Station, Access to the Region's Core Penn Station favored by transit advocates can be completed much more quickly than NJ TRANSIT's plan for a deep cavern dead-end terminal some 175 feet below 34<sup>th</sup> Street. The deep cavern plan costs \$3 billion more than the track connection plan and adds four to five minutes of travel time per trip in each direction.

The connection plan was carefully studied in the February 2007 Draft Environmental Impact Study (DEIS). Contrary to claims by NJ TRANSIT, this connection is not disruptive as it passes through vacant industrial land in the west Midtown area and was in fact approved by the two Manhattan Community Boards directly affected. It is time for NJ TRANSIT to begin construction of the connection and give up on its costly and passenger unfriendly deep cavern station.

With Governor Corzine considering further tax hikes and state service cuts, this is not the time to begin an \$11 billion project which lacks a sensible funding plan. The Obama Administration will almost certainly have the good sense to reject NJ TRANSIT's ill-conceived plan. It would be wise for the NJ TRANSIT Board to cut its losses, reject the construction management contract and ask senior management at NJ TRANSIT to move forward with the track connection plan.

James Raleigh, Monmouth County, said the Board does not appear to be interested in public input. The Board went into executive session to ensure they had a quorum and he finds that disturbing. Mr. Raleigh commented on the agenda item, Access to the Region's Core: Contract Amendment for Project Controls and Construction Management Services. He said the anticipated source of funds is listed as Federal Transit Administration, Transportation Trust Fund, NJ Turnpike and Port Authority. He said those funds are the big unknowns about what the project will cost. Mr. Raleigh thought NJ TRANSIT was waiting for federal review for a full funding agreement and doesn't understand how a contract amendment addresses the validation of the cost estimate.

Chairman Dilts corrected Mr. Raleigh's statement regarding executive session, saying the Board entered executive session to discuss litigation, contract negotiations and personnel matters.

Executive Director Sarles presented the following Action Items for approval:

**0904-19: ACCESS TO THE REGION'S CORE: CONTRACT AMENDMENT FOR PROJECT CONTROLS AND CONSTRUCTION MANAGEMENT SERVICES**

In 2006, THE CM Consortium was selected to oversee the project controls and construction management services during preliminary design of the Access to the Region's Core project. Now that final design is underway, anticipated additional construction management services are required to provide design evaluations, constructability reviews, geotechnical and technical report reviews, risk management services, quality assurance/quality control, safety and security assessments and preparation of construction documents as the project moves to construction later this year. Authorization is requested to exercise a contract option with THE CM Consortium for the Access to the Region's Core project at a cost not to exceed \$34 million plus five percent for contingencies.

Patrick O'Connor moved the resolution, James A. Carey seconded it and it was unanimously adopted.

**0904-20: ACCESS LINK CONTRACTED SERVICE FOR REGION 5 (ESSEX, UNION, SOMERSET, MORRIS AND WESTERN HUDSON COUNTIES, NEW JERSEY)**

NJ TRANSIT provides federally-mandated Access Link service, which shadows the local bus fixed route service, throughout New Jersey for individuals with disabilities who cannot use the fixed route service. Authorization is requested to contract with First Transit Inc. to provide this paratransit service for Region 5, which includes Essex, Union, Somerset, Morris and western Hudson Counties. There are over 5000 residents certified for this service with average weekday passenger trips of 963. The contract is for a base period of three years, with four one year options at a cost not to exceed \$117,853,635 plus five percent for contingencies.

Flora Castillo moved the resolution, Patrick O'Connor seconded it and it was unanimously adopted.

**0904-21: EDISON RAIL STATION PARK-AND-RIDE EXPANSION: CONSTRUCTION CONTRACT AWARD**

Edison Rail Station on the Northeast Corridor serves 7000 weekday passenger trips and currently has 365 parking spaces. Authorization is requested to contract for an expansion project on the outbound side of the station which will provide 475 additional spaces by early next year. The project will also include reconfiguration of the existing parking lot to maximize the number of spaces, along with a plaza for customer seating

in front of the station building. Funding for this project is being provided as part of the American Recovery and Reinvestment Act of 2009 economic stimulus plan, and it is estimated that more than 100 jobs will be created through this work. Authorization is requested to contract with Petillo Incorporated at a cost not to exceed \$4,698,000 plus five percent for contingencies.

Kenneth E. Pringle moved the resolution, Susan L. Hayes seconded it and it was unanimously adopted.

Executive Director Sarles presented the following Consent Items for approval:

**0904-22: REGULATIONS: READOPTION OF N.J.A.C. 16:83 "CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF NJ TRANSIT EQUIPMENT AND FACILITIES"**

Authorization to take all actions necessary to adopt the regulations, N.J.A.C. 16:83 et seq., "Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities," consistent with this Board item and exhibits, format the regulations as appropriate, and effectuate final adoption and promulgation.

**0904-23: COMPUTER HARDWARE MAINTENANCE SERVICES**

Authorization to enter into a three year contract with Maintech Inc. a division of Volt Delta Resources, LLC, New York, New York for computer hardware services at a cost not to exceed \$966,633 which includes a five percent contingency, subject to the availability of funds.

The Consent Calendar was moved by Flora Castillo and seconded by Kenneth E. Pringle.

There were six public comments on non-agenda items.

David Peter Alan was pleased to report that the Lackawanna Coalition is celebrating its 30<sup>th</sup> anniversary this month. A celebration is planned for Monday, April 27, 2009 at the Millburn Town Hall and Mr. Alan said Board members and NJ TRANSIT management are invited to attend.

Mr. Alan was also pleased to report NJ TRANSIT's decision to continue and expand service at the Great Notch Station rather than eliminate it. He said the Coalition is prepared to work in any way they can toward service expansions and improvements rather than service cuts.

Speaking personally, Mr. Alan is deeply concerned about the apparent lack of concern for NJ TRANSIT customers. Transit information is not available on the phone after 7:00 pm except for automated rail information. A person who does not have a computer handy and is not carrying a bus schedule has no way of getting bus information in the

evening. This shows indifference to a potential rider who wants to get on a bus and go somewhere.

On a personal note, Mr. Alan said inadvertently left an item on the train that was very valuable. He reported the loss to Lost and Found, noting the train, car and seat. A quick call to the train crew would have alerted them to his item so they could have turned it in and he could have gotten it back. Instead, he was informed that this was not policy. He was later informed that calling the crew was the policy, but by then it was too late and his item was gone. Mr. Alan said a senior manager called to offer sympathy for the loss but it would have been more useful if there was call to the train crew to locate his item. He said customers do not deserve to be treated with this sort of indifference.

Mr. Alan commented on the Access to the Region's Core project. He said the Lackawanna Coalition maintains its concern that New Jersey does not have the money to pay its share of the projected cost, especially in the hard times that have recently begun. It is understandable that people plan expensive projects when it looks like there will be plenty of money available. Cincinnati planned and built a subway that was completed in 1929 and service never ran. New York planned the Second Avenue Subway in the 1920s and has not built it yet. Mr. Alan said he urged the Assembly Budget Committee and he also urges NJ TRANSIT to take notice that times have changed and that money may have once been available for grandiose projects, but it is no longer available. This is the time for the 2007 plan that provided for connecting new tunnels into the existing Penn Station, bringing all trains (including the Morris & Essex and Montclair-Boonton Lines) there and adding capacity improvements that can be secured at a reasonable cost. Now is the time for economy and wisdom, not extravagance.

Chairman Dilts said customer service is taken very seriously. Executive Director Sarles acknowledged that a mistake was made and has since instructed personnel to make every attempt to contact the crew. However, the first priority is safety and operation of the train.

Mr. Alan appreciated Chairman Dilts and Executive Director Sarles comments and said Mr. Martin will provide him with a copy of NJ TRANSIT's policy.

At this point (10:29 am), Board Member James A. Carey left the meeting.

Joseph Clift, Member of Regional Rail Working Group, thanked Chairman Dilts for agreeing to meet with members of the rail advocate community next week and looks forward to sharing their concerns and proposals regarding the Access to the Region's Core project. Mr. Clift said the New Jersey Association of Railroad Passengers, a statewide advocacy organization, Empire State in New York, the Lackawanna Coalition and the National Association of Railroad Passengers are all saying the same thing about the Access to the Region's Core project. He said the focus is the development and advancement of plans for converting the region's commuter lines into a regional rail system that maximizes mobility.

(NJT Board – 04/08/2009)

Mr. Clift said a key element of that effort is advancing an Access to the Region's Core project alternative that will affordably accomplish three original goals of this project: additional trans-Hudson train and passenger capacity, east side access via a one-seat ride and four track Northeast Corridor access across the Hudson into New York Penn Station. He said presently the project accomplishes one of these three goals, the additional trans-Hudson train and passenger capacity, at an astronomical cost of almost \$11 billion, much of which remains unfunded.

Mr. Clift shared a statement made by Arizona Senator John McCain as reported in the New York Times on April 3, 2009 regarding the next federal budget. He said it applies to the State of New Jersey and to NJ TRANSIT's approach to the Access to the Region's Core project. Mr. McCain said "We are going on as if it were business as usual", asserting that no family in America was increasing spending while the federal government was. "We can because we print money" said Mr. McCain.

Mr. Clift said the reality is that neither the state or NJ TRANSIT can print money, yet the Access to the Region's Core planning suggests otherwise. The facts are that this project has risen in total cost from just over \$8 billion to just under \$11 billion in only two years, while dropping \$1 billion to \$2 billion in key project elements. State funding requirements have doubled during the same period to as much as \$5 billion and projections of ridership growth driving the Access to the Region's Core planning are impossibly optimistic, but unchanged and the State is facing a near-term and likely long-term funding crisis.

Mr. Clift said NJ TRANSIT is moving ahead with the Access to the Region's Core project as though it is "business as usual" and it is not. He said NJ TRANSIT is ignoring their sincere alternative proposal to reduce the cost of the Access to the Region's Core project by \$3 billion, while improving the regional and local performance of the final product.

James Raleigh distributed two maps which were a simplified view of the Access to the Region's Core project in New York and New Jersey. He said it is important for this project to link with Amtrak. He said currently NJ TRANSIT plans for the new tunnels to start 150 feet below sea level and preclude connection to the existing New York Penn Station and Amtrak. He said the New York Penn Station Expansion is 2 ½ blocks north of the existing station and 175 feet below 34<sup>th</sup> Street. Mr. Raleigh's second map showed New York's shared vision for a shared future and desired growth areas. He said New York is planning for growth west of the station. Mr. Raleigh said he is looking for cooperation between NJ TRANSIT, highways, North Jersey Transportation Authority and the New York Metropolitan Planning Council.

John McDonald, Chief of Staff, Senator Cardinale's office, inquired about the status of the Hudson Bergen Light Rail extension into Tenafly.

Executive Director Sarles said the Northern Branch Draft Environmental Impact Statement was submitted to the Federal Transit Administration last year. The next step is for the Federal Transit Administration to approve release of the Draft Environmental Impact Statement so public hearings can be scheduled and a decision made. Executive

(NJT Board – 04/08/2009)

Director Sarles acknowledged that it may take some time for the Federal Transit Administration to approve the release since they are working on a number of large items such as the stimulus package, Access to the Region's Core, etc.

Board Member Susan L. Hayes thanked Mr. McDonald for attending the Board meeting and asked him to thank Senator Cardinale for all of his efforts in Bergen County.

Regarding the Northern Branch, Al Cafiero asked what the cost would be to convert light rail to Commuter rail after the tunnel was constructed to allow for a one seat ride into Manhattan.

Executive Director Sarles said he would get back to Mr. Cafiero with an answer.

Rose Heck said she was very concerned about the timing of the public hearings for Northern Branch. She said the deadline of fall 2008 for public hearings has passed and an NJ TRANSIT representative said the hearings are tentatively planned for the fall of 2009. Ms. Heck contacted the Federal Transit Administration and learned that the Draft Environmental Impact Statement was not on a priority list. She said Dennis McNerney, County Executive sent a letter to Frank Lautenberg requesting that the Northern Branch service be given priority and also requesting that the Federal Transit Administration review the Environmental Impact Statement as soon as possible.

Executive Director Sarles said County Executive McNerney has been very supportive of this project.

Since there were no further comments or business, Chairman Dilts called for adjournment and a motion to adjourn was made by Kenneth E. Pringle seconded by Patrick O'Connor and unanimously adopted. The meeting was adjourned at approximately 11:09 a.m.

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

**APRIL 8, 2009**

**MINUTES**

- **EXECUTIVE SESSION AUTHORIZATION** **40941**
- **APPROVAL OF MINUTES OF PREVIOUS MEETINGS** **40942**
- **EXECUTIVE DIRECTOR'S MONTHLY REPORT** **40943**
- **ADVISORY COMMITTEE REPORTS**
- **BOARD COMMITTEE REPORTS**
  - \*Capital Planning, Policy & Privatization Committee-Shevell
  - \*Administration Committee-Castillo
- **PUBLIC COMMENTS ON AGENDA ITEMS**

**ACTION ITEMS**

- 0904-19 ACCESS TO THE REGION'S CORE: CONTRACT AMENDMENT FOR PROJECT CONTROLS AND CONSTRUCTION MANAGEMENT SERVICES 40972**

*Authorization to exercise a contract option to (No. 06-111) with THE CM Consortium of Newark, New Jersey, a joint venture of Tishman Corporation, Parsons Corporation and Arup, for project controls and construction management services to support final design for the Access to the Region's Core project at a cost not to exceed \$34,000,000 plus five percent for contingencies, for a total contract authorization of \$48,000,000, subject to the availability of funds.*

- 0904-20 ACCESS LINK CONTRACTED SERVICE FOR REGION 5 (ESSEX, UNION, SOMERSET, MORRIS AND WESTERN HUDSON COUNTIES, NEW JERSEY) 40975**

*Authorization to contract (No. 09-046) with First Transit, Inc. of Cincinnati, Ohio, to provide ADA paratransit service in Region 5, Essex, Union, Somerset, Morris and Western Hudson Counties, for the period on or before June 15, 2009 to on or before June 14, 2016, a three-year base contract with four one-year options, at a cost not*

NEW JERSEY TRANSIT CORPORATION  
NJ TRANSIT BUS OPERATIONS, INC.  
NJ TRANSIT RAIL OPERATIONS, INC.  
NJ TRANSIT MERCER, INC.  
REGULARLY SCHEDULED BOARD OF DIRECTORS MEETING  
APRIL 8, 2009  
MINUTES  
PAGE 2

to exceed \$117,853,635, plus five percent for contingencies, subject to the availability of funds.

**0904-21 EDISON RAIL STATION PARK-AND-RIDE EXPANSION: 40978  
CONSTRUCTION CONTRACT AWARD**

Authorization to enter into a contract (No.09-066X) with Petillo, Incorporated, Flanders, New Jersey for the construction of the new parking lot, lighting and sidewalks in the Township of Edison at a cost not to exceed \$4,698,000, plus five percent for contingencies, subject to the availability of funds.

**CONSENT ITEMS**

**0904-22 REGULATIONS: READOPTION OF N.J.A.C. 16:83 "CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF NJ TRANSIT EQUIPMENT AND FACILITIES" 40982**

Authorization to take all actions necessary to adopt the regulations, N.J.A.C. 16:83 et seq., "Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities," consistent with this Board item and exhibits, format the regulations as appropriate, and effectuate final adoption and promulgation.

**0904-23 COMPUTER HARDWARE MAINTENANCE SERVICES 41001**

Authorization to enter into a three year contract with Maintech Inc. a division of Volt Delta Resources, LLC, New York, New York for computer hardware services at a cost not to exceed \$966,633 which includes a five percent contingency, subject to the availability of funds.

**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 contract negotiations and attorney-client, litigation and personnel matters; 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 March 11, 2009, Board meetings 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 March 13, 2009;

**NOW, THEREFORE, BE IT RESOLVED** that the minutes of actions taken at the March 11, 2009 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 – 04/08/2009)


Jon S. Corzine  
Governor

Stephen Dilts  
Board Chairman

Richard R. Sarles  
Executive Director

**NJ TRANSIT**  
One Penn Plaza East  
Newark, New Jersey 07105-2248  
973-481-7000



TO: BOARD OF DIRECTORS  
FROM: RICHARD R. SARLES   
DATE: APRIL 8, 2009  
SUBJECT: EXECUTIVE DIRECTOR'S REPORT – APRIL 2009

Thanks to the efforts of Senators Lautenberg and Menendez and our congressional delegation, federal stimulus funding is allowing NJ TRANSIT to accelerate more than a dozen key capital projects statewide. We expect to receive funding in excess of \$420 million—funds that are beginning to create jobs now. Last week, notice to proceed was issued for Bloomfield Avenue bus shelters, part of a statewide bus shelter program. And, we expect to bring several more projects before the Board next month.

As we award contracts accelerated under Governor Corzine's leadership and supported by federal stimulus funds, I want to reiterate NJ TRANSIT's commitment to ensuring DBE participation. We continue to conduct extensive DBE outreach, with a dozen events in the last two months—two specifically on Mass Transit Tunnel opportunities. A workshop in Maplewood two weeks ago attracted more than 80 businessmen and women who learned how to participate in this important project.

Next week, NJ TRANSIT rail customers are invited to participate in our second lunchtime web chat hosted by Bill Duggan, our vice president of rail operations. It's an opportunity for customers to get real-time answers to their questions directly from our senior management team. To participate, customers can simply log on to [njtransit.com](http://njtransit.com) Wednesday, April 15, at noon.

Later this month, Amtrak will resume a necessary, long-term tie-replacement project on the Northeast Corridor, replacing worn concrete ties on 22 miles of track between Newark and New Brunswick. This year's project is not expected to have as great an impact on operations as we experienced last year, largely because Amtrak will be working only on the inside express tracks where boarding changes are not necessary. Although the impact on schedules will not be as great, trip times will be adjusted throughout Northeast Corridor and North Jersey Coast Line timetables, so we are encouraging all customers to familiarize themselves with the new schedules, which take effect Sunday, April 19. We also remind customers that having a track out of service may exacerbate delays by limiting our ability to work around operational issues. Work is expected to continue through November.

In February, our new driver education classroom program was delivered to 631 public, private and charter high schools in all 21 counties. NJ TRANSIT is among the first transit agencies in the nation to offer a complimentary, comprehensive safety program aimed at teen drivers for use by driver education teachers. The program supplements the content of existing curriculum for students in grades 10-12, helping young drivers learn to operate vehicles safely near railroads and at grade crossings, as well as how to share the road with transit buses. Congratulations to Janet Clark, Barbara Lazzaro and Grace Introna for producing this important program, which was developed through a partnership with Operation Lifesaver and the New Jersey Division of Highway Traffic Safety.

This month, we celebrate Earth Day on April 22—a good time to remind the public of the great environmental benefits delivered by public transit. Our customers reduce greenhouse gas emissions by a staggering 589,000 metric tons annually by leaving the car at home. The Mass Transit Tunnel will boost our contributions to the environment, taking an additional 22,000 cars off the roads each day. We are also exploring the possibility of using a bio-diesel fuel blend in our diesel locomotives—a first for NJ TRANSIT. This initiative is the result of an extensive 18-month study we conducted with the NJ Department of Environmental Protection and a team of bio-fuel experts at Rowan University. The study confirmed that a switch to a soy blend will not harm the locomotives in terms of performance, reliability or fuel economy. With the research conclusions in hand, and subject to the DEP's final review, we could gradually ramp up from a five percent bio blend to 20 percent over the next year.

Finally, I am pleased to announce our new Vice President of Diversity, Leotis Sanders, who comes to us with private-sector experience in developing diversity best practices and standards. I would also like to welcome our new Deputy Chief Financial Officer Kim Vaccari, who has both private and public-sector experience and will be working side-by-side with Charlie Wedel to provide a smooth transition when Charlie retires later this year.

## **EXECUTIVE DIRECTOR'S MONTHLY REPORT APRIL 2009**

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

# HIGHLIGHTS

### **Stimulus funding aimed at northern and central New Jersey transit projects**

Funding under the American Recovery and Reinvestment Act (ARRA) is accelerating seven transit projects in northern and central New Jersey that will build system capacity, extend accessibility and ensure service reliability for decades to come.

Following approval by the North Jersey Transportation Planning Authority on Friday, March 13, NJ TRANSIT targeted a total of \$342 million in ARRA funds at northern and central New Jersey projects, enabling NJ TRANSIT to get shovels in the ground in the coming months.

These projects will complement an array of capital projects already underway throughout the region and will create and preserve jobs as well as leave significant and lasting assets to future generations.

Among the projects being accelerated with ARRA funding are:

- **Lower Hack Drawbridge** – \$30 million for phase II of this rehabilitation project. This bridge carries Morris & Essex Lines trains over the Hackensack River between Jersey City and Kearny.
- **Morristown Line Signal System** – \$25 million to accommodate bi-directional train operation on each track between Summit and Denville, which will provide more flexibility and reduce delays.
- **Newark Penn Station Plaza** – \$17.3 million project to improve pedestrian and vehicular traffic circulation along Raymond Plaza West.
- **Plauderville Station** – \$15 million for a new Plauderville Station adjacent to commuter parking and to make it fully ADA accessible to all customers.
- **Hudson-Bergen Light Rail** – \$15 million project for new interlocking near Danforth Avenue Station that allows for more local service.
- **Bus Shelters** – \$2.5 million for new shelters to support enhanced bus service throughout the state, including along Bloomfield Avenue.
- **Mass Transit Tunnel** – \$130 million to advance final design of this \$8.7 billion project featuring two new trans-Hudson commuter rail tunnels and an expanded Penn Station in New York. The first two construction contracts were advertised last month.

In addition, a portion of \$22 million in ARRA funds for track work will be used to replace track on the Montclair-Boonton Line and the Main Line for state-of-good-repair.

Nearly \$71 million is funding rail and bus major component rebuilding and equipment overhaul.

Another \$20.8 million in ARRA funding will support the purchase of minibuses for NJ TRANSIT Access Link para-transit service and rural and other transit vehicles.

The ARRA-funded projects will complement other investments that build capacity and accessibility in northern and central New Jersey, including the \$46 million South Amboy Station high-level platform project, the \$47 million Metropark Station platform reconstruction project, the \$41 million Ridgewood Station accessibility project and the \$26 million Somerville Station accessibility project.

Key NJ TRANSIT projects in southern New Jersey totaling \$82 million are also being accelerated as a result of ARRA funding.

#### **High-priority South Jersey projects proposed for stimulus funding**

Key NJ TRANSIT projects in southern New Jersey totaling \$82 million are being accelerated as a result of American Recovery and Reinvestment Act (ARRA) funding.

The funds will generate and preserve jobs in the near-term and create assets that will benefit residents for years to come, including a new intermodal transfer station linking the River LINE with the Atlantic City Rail Line, and signal upgrades on the River LINE that enable more frequent service as well as lay the groundwork for a positive train control system.

With approval of \$62 million secured from the Delaware Valley Regional Planning Commission (DVRPC) and \$19 million from the South Jersey Metropolitan Planning Organization, NJ TRANSIT expects to advance the \$40 million intermodal transit center in Pennsauken with a groundbreaking at the end of the year. NJ TRANSIT will also launch the design of the \$24 million enhanced signal system for the River LINE this summer.

Additionally, the stimulus funds will support the \$12.7 million tie-replacement program on the ACRL, which got under way last month, and will fund new bus shelters throughout the region.

The funds will also be used to purchase mini buses for new Access Link vehicles, Atlantic City jitney service vehicles, rural transportation program vehicles and vehicles for use in several

counties, including Cumberland. Funding will also support rail and bus preventive maintenance programs, including major component overhauls.

The stimulus projects will complement several other important investments NJ TRANSIT is making in transit facilities and service, including the major reconstruction and expansion of Trenton Transit Center, which is nearing completion.

Rehabilitation projects on the Big Shark Draw Bridge and Navesink River Bridge also are nearing completion, ensuring reliable North Jersey Coast Line service, and the Route 1 Bus Rapid Transit study is advancing toward completion.

The South Jersey ARRA-funded projects are among \$424 million in projects being accelerated throughout the state, including \$130 million to advance the Mass Transit tunnel project that will double commuter rail capacity between New Jersey and New York.

### **Federal stimulus law doubles savings for NJ commuters**

NJ TRANSIT customers can now nearly double their savings on annual transportation costs by participating in workplace programs that allow pre-tax wages to be set aside for transit.

The recently enacted federal stimulus bill immediately increases the amount of pre-tax wages that can be set aside for transit purchases to \$230 per month, up from the former \$120 limit.

For NJ TRANSIT customers whose monthly transit costs reach or exceed \$230, their federal and FICA taxes can be cut by about \$1,000 per year by participating in an employer-sponsored pre-tax transit purchase plan. Under the previous withholding cap, participants could save slightly more than \$500 per year.

The higher withholding limit for monthly transit costs now matches the amount that can be set aside on a pre-tax basis for parking expenses, giving public transportation users the same benefits received by those who drive to work and pay for parking.

NJ TRANSIT customers are encouraged to ask their employer about pre-tax transit benefits. Employers benefit from reduced payroll taxes.

Leading third-party administrators of pre-tax commuter benefit services include TransitCenter, Benefit Resource, WageWorks and Accor Services USA.

**First rail tunnel contracts advertised; more to follow**

The ARC Mass Transit Tunnel took an important step toward boosting the New Jersey and regional economy last month with the advertisement of the project's first contracts—including an underpass to be constructed beneath Tonnelle Avenue in North Bergen.

The Tonnelle Avenue underpass contract, which was released for bids on Friday, March 13, will be the first location to go to construction in New Jersey. The underpass will be adjacent to where the \$8.7 billion project goes underground, allowing the MTT's two new rail tracks to begin their descent under the Palisades Mountain. That contract is expected to be awarded, and construction to begin, this spring.

In addition, the project began advertising March 13 for prospective bidders for the design and construction of 21,200 feet of tunneling for the MTT in Manhattan. Prospective contractors for this tunneling segment are being asked to begin submitting their professional qualifications for review, the first step in the procurement process for that contract. Qualifications for bidders for the two other tunnel segments, under the Palisades and under the Hudson River, will be requested later this year.

The Manhattan tunnels segment is being advertised on a design-build basis. The winning contractor will construct the Manhattan segment's tunnels while simultaneously completing their final design. Design-build is a proven approach for saving time on major construction projects while also holding down costs.

The Mass Transit Tunnel is New Jersey's signature transportation project. The MTT will double commuter rail capacity between New Jersey and New York, and allow improved rail service within New Jersey, too. Some 6,000 construction and related jobs will be created and maintained through the project's completion in 2017, with another 44,000 permanent jobs generated after the tunnel is in service, thanks to the increased mobility and economic competitiveness the MTT will provide. The Mass Transit Tunnel is being constructed by NJ TRANSIT and its partner, the Port Authority of New York and New Jersey.

### **Design Build Tunnel Segments**

To ensure that interested contractors have the expertise and capacity to construct such major design-build tunnel projects, this advertisement will request that contractors who wish to bid on the Manhattan tunnel submit their qualifications for review by NJ TRANSIT and the Port Authority.

To maximize bidding competition, NJ TRANSIT is offering innovative stipends of up to \$375,000 to each firm that submits a responsive contract proposal and sealed bid. The stipends, which offset a portion of the high cost of developing a proposal for complicated construction works, have been used successfully on major projects across the nation for more than a decade.

Stipends also encourage participation by small or disadvantaged contractors, especially as subcontractors, and the competition that results from having a larger number of bidders reduces costs for the public. The stipend also enables NJ TRANSIT to retain the rights to all submissions and the agency can adapt or adopt design elements and other innovations contained within unsuccessful bids.

Contractors who meet the standards of the qualifications review process will then be invited to submit detailed proposals for designing and building the segment. NJ TRANSIT and the Port Authority will rigorously review the proposals, and then ask contractors to submit sealed bids for the work. The lowest responsive bid will then be recommended for approval by the NJ TRANSIT board. After board approval, the contract for the Manhattan segment is expected to be awarded later this year.

The contract for the design and construction of the MTT's tunnels under the Palisades and the Hudson River are expected to be advertised for qualification review later this year. Evaluation of those proposals will follow the same process

Specific estimates of the contract values cannot be given, due to the potential to influence bidding. However, the cost of the tunnel segments are each likely to be several hundred million dollars. The Tonelle Avenue underpass may cost more than \$20 million.

The existing 100-year-old commuter rail tunnel under the Hudson River has only two tracks that are pushed to their functional limits each rush hour with NJ TRANSIT and Amtrak trains. The Mass Transit Tunnel will more than double peak capacity from 23 trains per hour to 48.

In addition to two new side-by-side single-track tunnels, the project will create additional station capacity in Manhattan designed specifically for commuter rail service with wider platforms and more escalators. The new tracks will provide direct access to NYC subway lines, PATH trains and existing Penn Station services.

The project will also create one-seat (direct) commutes to New York for NJ TRANSIT customers on seven commuter rail lines – Main/Bergen County, Port Jervis, Pascack Valley, Montclair-Boonton west of Montclair State University, Morris & Essex west of Dover, Raritan Valley, and North Jersey Coast south of Long Branch, as well as future rail expansion lines.

NJ TRANSIT and the Port Authority are in talks with the Federal Transit Administration to obtain its commitment for the federal government's \$3 billion share of the MTT. Regional funding of \$5.7 billion has been committed for the MTT, including \$3 billion from the Port Authority and \$2.7 billion from New Jersey. Meanwhile, New Jersey has already obtained \$130 million in federal stimulus funds for the tunnel.

### **NJ TRANSIT approves customer upgrades at Port Authority Bus Terminal**

On March 11, the NJ TRANSIT Board of Directors approved work to upgrade customer communications at the Port Authority Bus Terminal in New York—a project that will enable NJ TRANSIT to improve bus service at the largest-volume passenger terminal in the agency's bus network.

The Board authorized a \$2.9 million contract with Daidone Electric of Newark, NJ, for construction work that includes installation of new variable message sign (VMS) monitors and public address systems; new conduit, cable and power feeds for existing and future ticket vending machines; an upgrade to the existing radio system; and installation of closed-circuit television (CCTV) cameras.

The upgrades will improve overall bus operations and provide a number of customer benefits, including:

- **Real-time travel information** through the installation of new variable message signs to show departures.

- **Faster ticketing** by providing network connections to more ticket vending machines (TVM), allowing for faster processing of credit and debit transactions, as well as installation of eight new machines.
- **Improved PA announcements** by modifying the existing PABT public address system to allow for automated announcements regarding bus departures that can be targeted to designated NJ TRANSIT passenger areas.
- **Improved operations** through the installation of new networked closed-circuit cameras at bus platforms and waiting areas, and through a wireless communications system to allow Bus Operations staff to coordinate gate information.
- **Enhanced security** through the use of CCTV and new card access systems.

In addition, an upgrade to the existing radio system will enable NJ TRANSIT bus operators to communicate more reliably with the Bus Operations Control Center.

Located in Midtown Manhattan, the Port Authority Bus Terminal is the largest-volume passenger terminal in the NJ TRANSIT bus system, serving approximately 142,800 weekday passenger trips on 5,100 NJ TRANSIT buses.

Construction is expected to begin this spring, with completion anticipated in December 2009.

# **CUSTOMER AND COMMUNITY INITIATIVES**

### **NJ TRANSIT begins reconstruction of Somerville Station**

NJ TRANSIT Executive Director Richard Sarles was joined by Somerville Mayor Brian Gallagher and other elected officials March 27 at Somerville Station on the Raritan Valley Line to break ground for major station improvements.

The project will make the station fully accessible for customers with disabilities and fulfills a NJ TRANSIT commitment to retrofit 35 key rail stations statewide with accessibility features. When construction is finished on the final two of the 35 key stations, 130 NJ TRANSIT rail and light rail stations will comply with the Americans with Disabilities Act.

The project includes two new high-level platforms that eliminate the need for stairs to board trains. The platforms will be at the same level as train doors. In addition, two service elevators will be adapted for customer use, providing access between the pedestrian tunnel, street level and platform level.

The new 710-foot-long platforms will be equipped with canopies and heated shelters, and a new climate-controlled waiting room and ticket office with public restrooms will be built on the "inbound" side of the station. Other improvements include a new pedestrian tunnel headhouse, new ramps and stairs, new electronic signage and renovations to the pedestrian tunnel, the South Bridge Street stairs and to the existing elevator shafts. Security cameras and Ticket Vending Machines will also be installed.

Somerville Station provides about 1,500 customer trips each weekday.

On March 11, Terminal Construction Co. of Wood-Ridge, NJ was awarded a \$15.3 million construction contract by the NJ TRANSIT Board of Directors. The project is expected to create 165 jobs during construction and is expected to be completed by the end of 2010.

### **NJ TRANSIT to increase service at Great Notch Station**

On March 30, NJ TRANSIT announced an increase in train service at Great Notch Station on the Montclair-Boonton Line in response to community requests.

NJ TRANSIT will expend a one-year trial period for the new service in the interest of building better ridership. NJ TRANSIT and community leaders hope to encourage 75 average weekday riders by the end of six months, and 100 over the year of the trial.

Congressman Bill Pascrell, Assemblyman Scott Rumana, and Little Falls Township Mayor Michael DeFrancisci, who had advocated for a reevaluation of service levels at Great Notch, welcomed the news.

Beginning with a timetable change, effective April 19, NJ TRANSIT will stop four additional trains at the station—two inbound trains in the morning and two outbound trains in the evening.

The added morning stops will serve the station at 5:46 a.m. and 7:19 a.m., arriving in Hoboken at 6:33 a.m. and 7:59 a.m., respectively. A third train will continue to serve the station at 8:15 a.m., arriving in Hoboken at 9:03 a.m.

In the evening, additional outbound trains will stop at the station at 4:18 p.m. and 7:41 p.m., after departing Hoboken at 3:34 p.m. and 6:51 p.m., respectively. Two other trains will continue to serve Great Notch at 5:52 p.m. and 6:23 p.m.

As a result of these changes, Great Notch Station will be served by seven trains each weekday—three inbound and four outbound.

Customers traveling to or from New York Penn Station can make connections at Montclair State University or Newark Broad Street stations.

### **New bus schedules take effect April 11**

NJ TRANSIT is adding trips to four bus routes to help meet demand and reduce wait times between trips, and is making adjustments to numerous other routes to improve reliability and convenience for customers as part of a systemwide bus timetable change that takes effect April 11, 2009.

A significant change in the No. 413 route is designed to improve on-time performance for customers in Burlington and Camden counties. The 413 will no longer operate into Philadelphia, where traffic congestion often creates significant delays for our buses navigating through the city street, in turn impacting customers in Camden and Burlington counties.

No. 413 trips will originate and end at the Walter Rand Transportation Center in Camden where connecting NJ TRANSIT bus and PATCO rail service is available for customers continuing to Philadelphia. Additionally, buses will operate within Cherry Hill Mall and the Mount Laurel

campus of Burlington County College to provide customers with more convenient service to those destinations. The route will be renamed Camden-Mt. Holly-Burlington.

Other changes include the addition of four weekday afternoon outbound trips on the No. 324 line to offset changes to the No. 194 route, where selected p.m. peak trips will bypass Wayne/Route 23 Transit Center and Mother's Park & Ride to provide improved express service to farther destinations.

An additional weekday evening trip on the No. 137 route will depart Toms River to reduce intervals between trips to New York, and a weekday afternoon trip will be added to the No. 85 route (Hoboken-Harmon Meadow-Mill Creek) to help alleviate overcrowding.

Atlantic City casino employees will benefit from a later weekday trip on the No. 508 route (Atlantic City-Richard Stockton College-Hamilton Mall) which at the request of customers will depart from Atlantic and South Carolina avenues in Atlantic City at 12:45 a.m., replacing a 12:05 a.m. departure.

Seasonal service to Six Flags Great Adventure from New York and Newark on the No. 308 route and from Freehold on the No. 307 route begins April 4, with service on days the park is open to the public. Weekend service to the theme park from Philadelphia and Camden on the No. 318 route begins April 18.

NJ TRANSIT is encouraging customers to review new timetables available onboard buses, at customer service offices at major terminals or online at [www.njtransit.com](http://www.njtransit.com).

# **EMPLOYEE RECOGNITION**

**Rail Operations recognizes employees**

In a ceremony held last month, Rail Operations honored employees who demonstrated NJ TRANSIT's mission of putting customers first. The ceremony recognized last year's "employees of the month" from Rail's Transportation, Infrastructure Engineering, and Mechanical departments. Congratulations to all recipients and thank you for going above and beyond your duties.

	<u>Mechanical</u>	<u>Infrastructure</u>	<u>Transportation</u>
<b>January</b>	Allen Chattin	Edward Sawey	Jon McLaughlin
<b>February</b>	James Morales	Manuel Heredia	Steven Padelski
<b>March</b>	Michael Nestor	James Donnelly	Robert Nisivocci
<b>April</b>	Robert LaPoint	Paul Chairamonte	David Krum
<b>May</b>	Rudolph Butler	Edward Farrell	Marcus Muniz
<b>June</b>	Rueben Myrick	Terrance McMahon	Michael Schiavoini
<b>July</b>	Steve Bernstein	Frank Turi	Kesha Hampton
<b>August</b>	Mathew Vadakkekara	Thomas Papis	Harry Mullery
<b>September</b>	Frank Erricheillo	Michael Parlacoski	Patrick Murray
<b>October</b>	Gary Sampson	Richie Zaikowski	Steven Olsen
<b>November</b>	Francis Purcell	Salvatore Carfi	Ka-Juan Williams
<b>December</b>	Linda Oliver	Julian Naranjo	Willie Ward

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

Fourteen NJ TRANSIT employees retired in March with careers ranging from 17 to 46 years of service:

1. Ann J. Nolan (Springfield) Principal Accountant, General Office Building – 46 years
2. Anthony Longobardo (North Middletown) Bus Repairmen, Orange Garage – 35 years
3. Michael C. Dannenhauer (Mickleton) Mechanic "A," Washington Township – 31 years
4. Rosalyn W. West (Irvington) Director Labor Relations, Penn Plaza – 31 years
5. Wayne E. Hughes (Clifton) Bus Operator, Market Street – 29 years
6. Jan Walden (Monmouth Junction) Assistant Executive Director, Penn Plaza – 29 years
7. Eileen Herndon (Paterson) Regional Supervisor, Meadowlands Garage – 27 years
8. Ronald L. Remillard (E. Stroudsburg, PA) Material Engineer, Port Morris Yard – 27 years
9. Clinton Stevenson, Jr. (Irvington) TIC Agent, General Office Building – 27 years

10. Richard A. Deubel (Lake Hiawatha) Chief Regional Supervisor, GOB – 26 years
11. Robert Stanzione (Elizabeth) Building Maintenance, General Office Building – 25 years
12. Gregory L. Hutton (Paterson) TIC Supervisor, General Office Building – 20 years
13. Eugene Shamis (Springfield) Bus Operator, Wayne Garage – 20 years
14. Robert Sedlock (Brick) Manager Safety & Security, Trenton – 17 years

# **DBE/MBE PROGRAM**

**NJ TRANSIT – Office of Business Diversity DBE/SBE Participation**

**Federally Funded Contracts**

\$27,341,970 in federal funds were awarded during October through March of FY 09.\* Disadvantaged Business Enterprises (DBEs) were awarded \$5,261,758 or 19.2 percent, which includes both race conscious and race neutral awards.

**State Funded Contracts**

\$90,321,254 in state-funded contract dollars were awarded during July through March FY 09. \*\* Of that total, Small Business Enterprises (SBEs) received \$19,677,690 or 21.7 percent. Category 1 SBEs received \$219,768 or 0.02 percent. Category 2 SBEs received \$5,836,016 or 6.5 percent. Category 3 SBEs received \$3,352,214 or 3.7 percent. Category 4 SBEs received \$0.00 or 0.0 percent. Category 5 SBEs received \$10,269,692 or 11.4 percent. \*\*\*

**Federal & State Contracts Total**

\$117,663,224 in federal and state contract dollars were awarded by NJ TRANSIT during this reporting period. Of that total, \$24,939,448 or 21.2 percent of federal and state contract dollars was won by DBEs and SBEs.

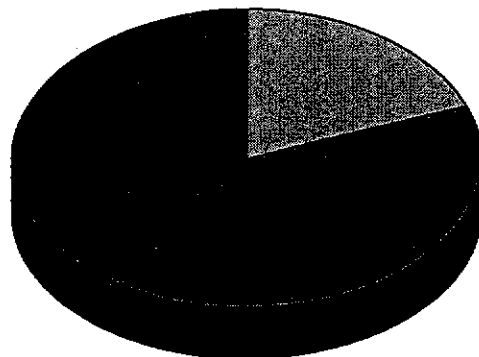
\*Fiscal year beginning October 1, 2008

\*\*Fiscal year beginning July 1, 2008

\*\*\*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

**DBE PARTICIPATION  
FEDERAL CONTRACTS  
FEDERAL FYTD (THROUGH MARCH 09)\***

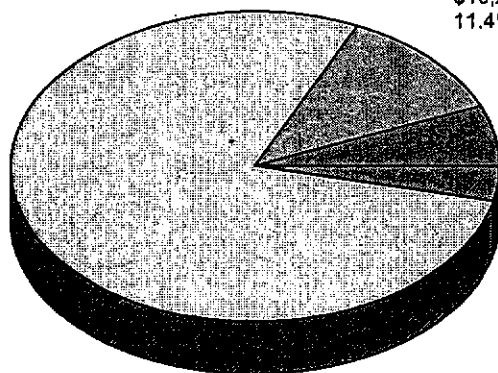
NON-DBE  
FEDERAL  
\$22,080,212  
80.8%



DBE RACE  
NEUTRAL & RACE  
CONSCIOUS  
\$5,261,758  
19.2%

**SBE PARTICIPATION  
STATE CONTRACTS  
STATE FYTD (THROUGH MARCH 09)\*\***

NON-SBE STATE  
\$70,643,564  
78.2%



SBE-5  
\$10,269,692  
11.4%

SBE-2  
\$5,836,016  
6.5%

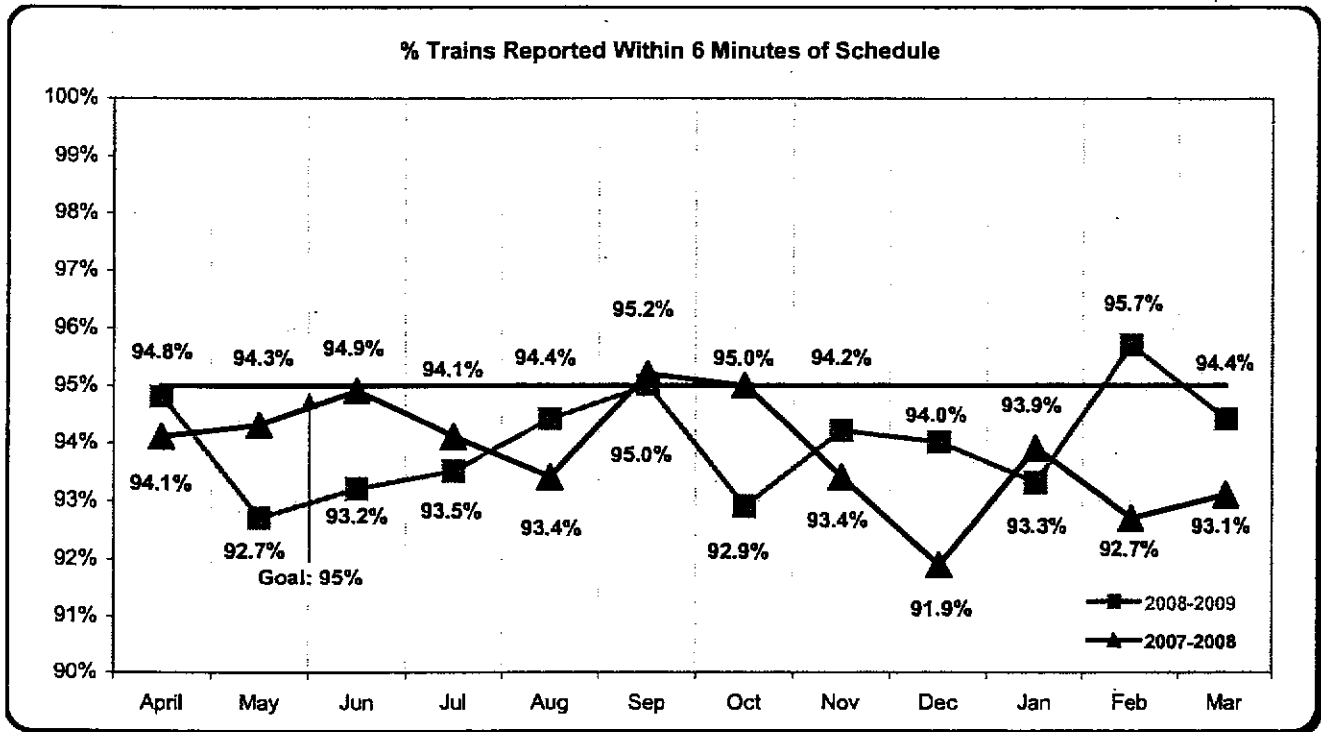
SBE-3  
\$3,352,214  
3.7%

SBE-1  
\$219,768  
0.02%

**Fiscal Year Beginning October 1, 2008\***  
**Fiscal Year Beginning July 1, 2008\*\***  
(This report covers contracts above \$29,000)

# **PERFORMANCE MEASURES**

# NJ TRANSIT ON-TIME PERFORMANCE RAIL APRIL 2007 - MARCH 2009



	2008	2009	# Change
March Comparison	93.1%	94.4%	1.3%

	2007-2008	2008-2009	# Change
12-Month Average April - March	93.8%	94.0%	0.2%

### Analysis:

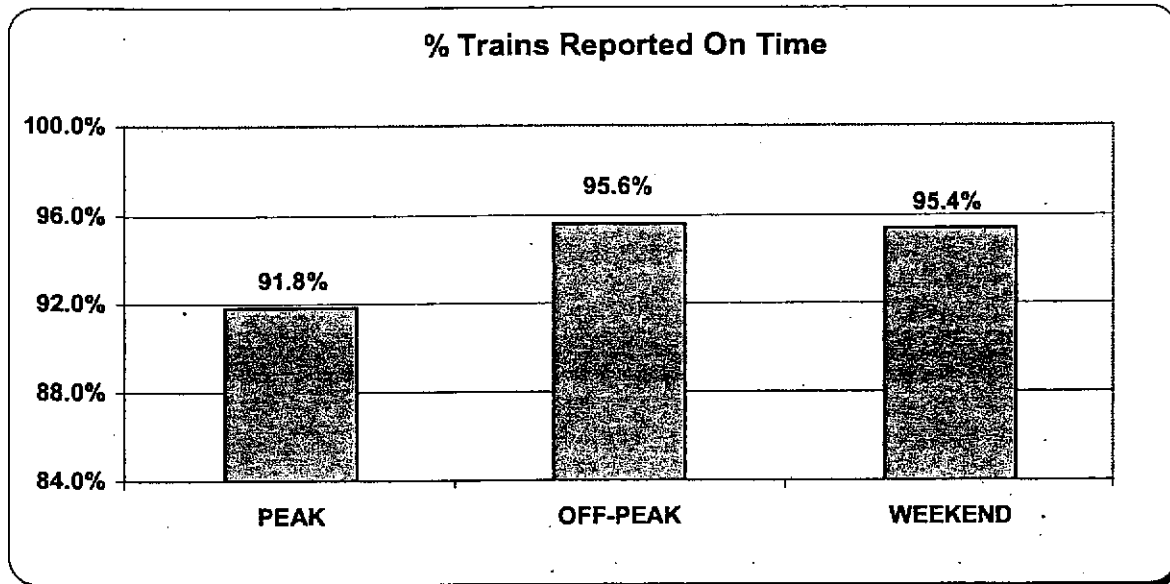
Rail On-Time Performance was 94.4% for March 2009. Of the 19,516 trains that were scheduled to operate, 18,416 were on time, while 1,100 trains (or 5.6%) were delayed. Key causes of delay included:

- A late winter storm and Amtrak switch problems on 3/2.
- NJ TRANSIT equipment failure on the Northeast Corridor on 3/3.
- Amtrak's Portal Bridge stuck in the open position on 3/4.

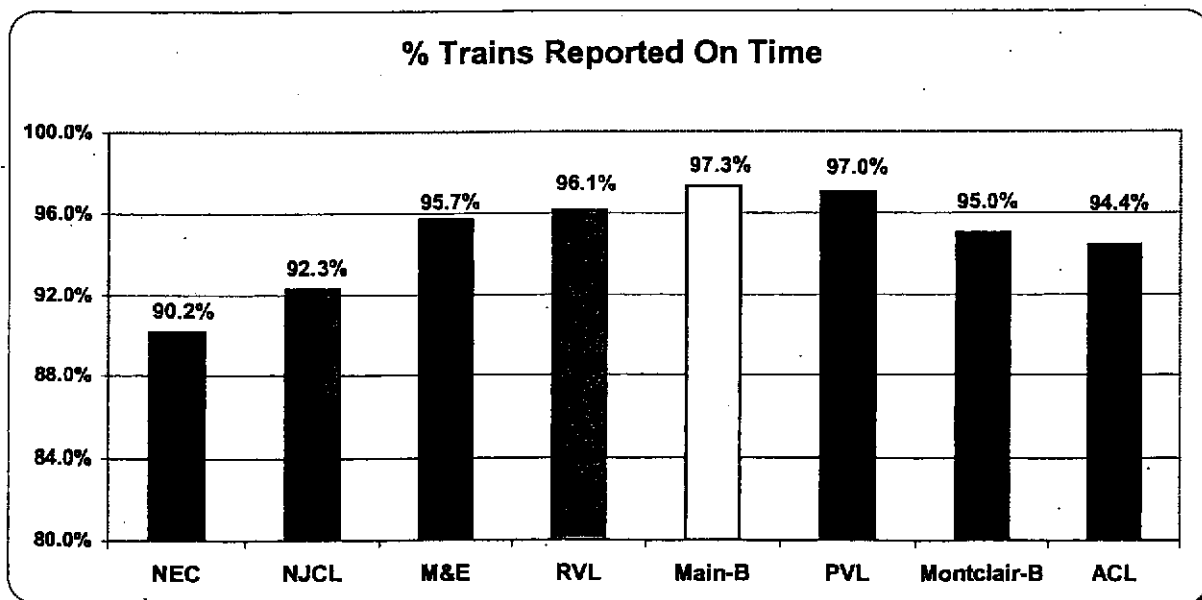
The 12-month average for Rail On-Time Performance for April 2008 - March 2009 was 94%.

# ON-TIME PERFORMANCE RAIL

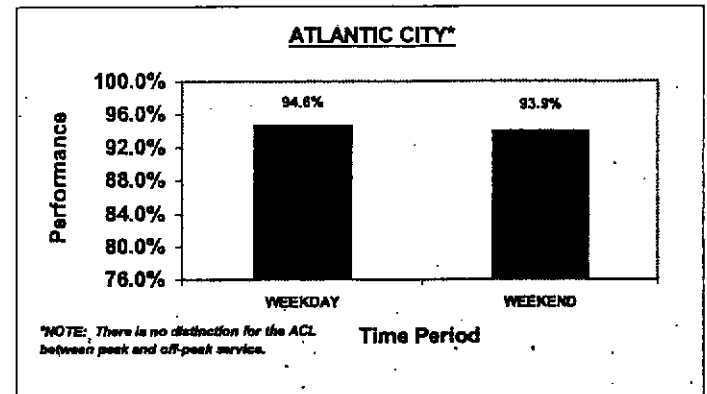
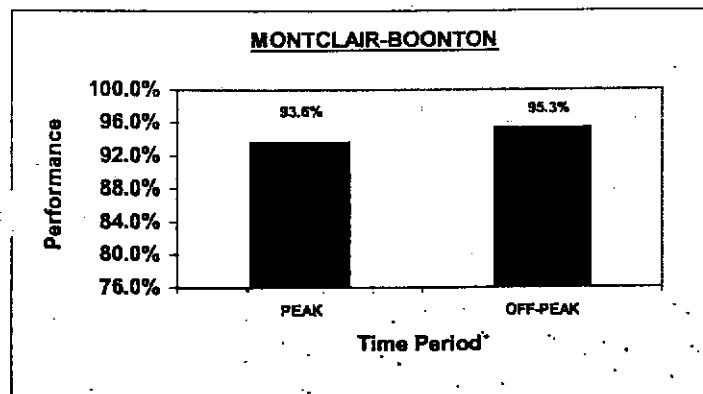
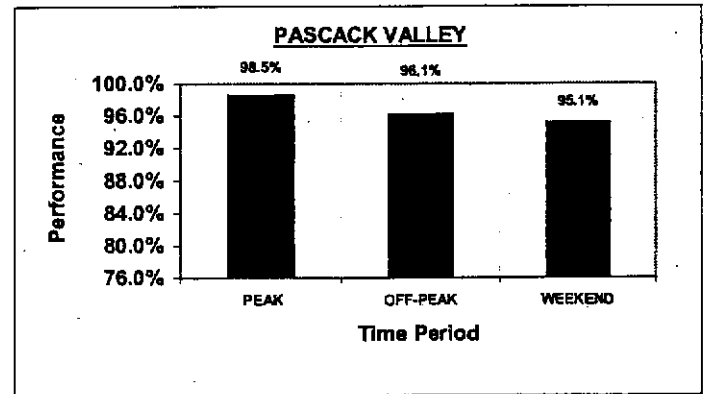
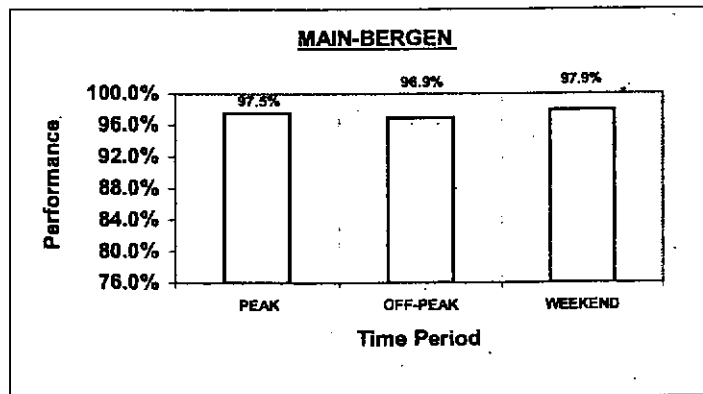
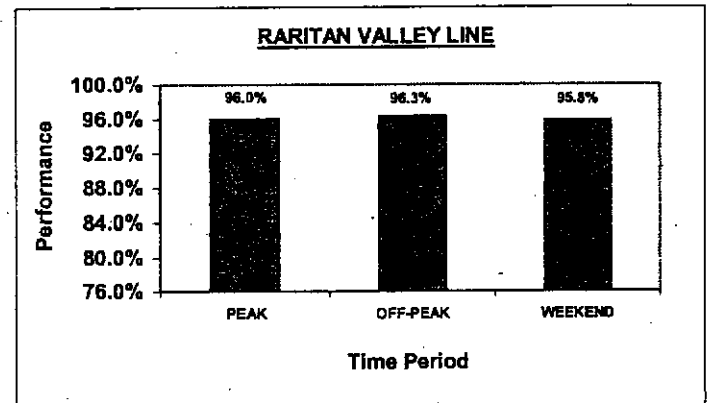
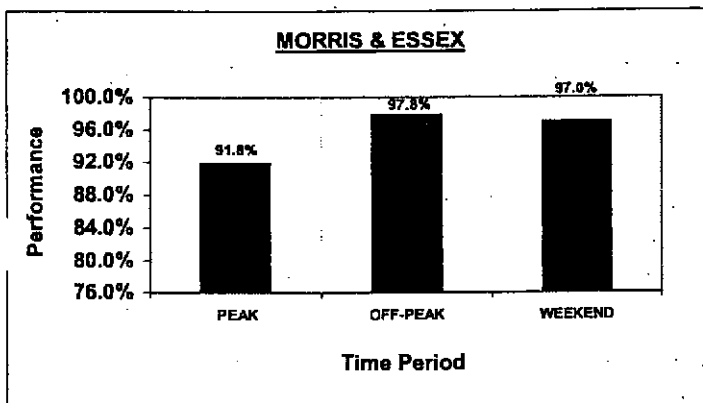
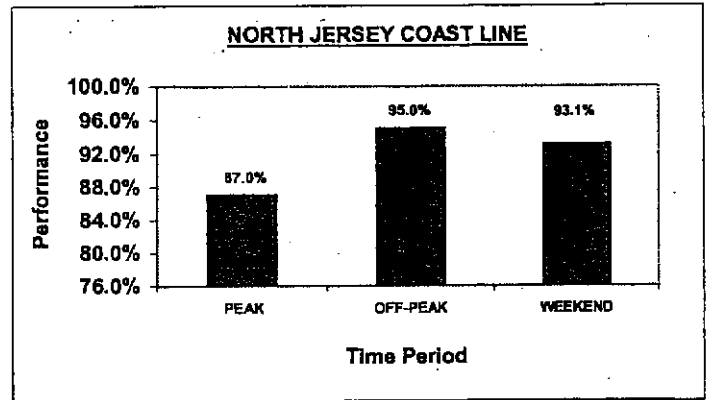
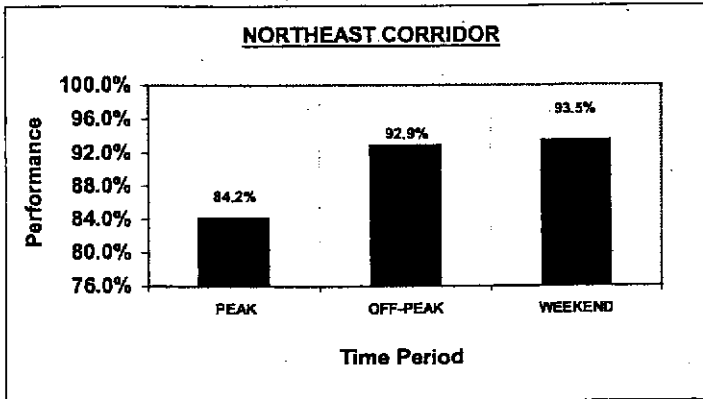
## SUMMARY BY TIME PERIOD MARCH 2009



## SUMMARY BY LINE MARCH 2009

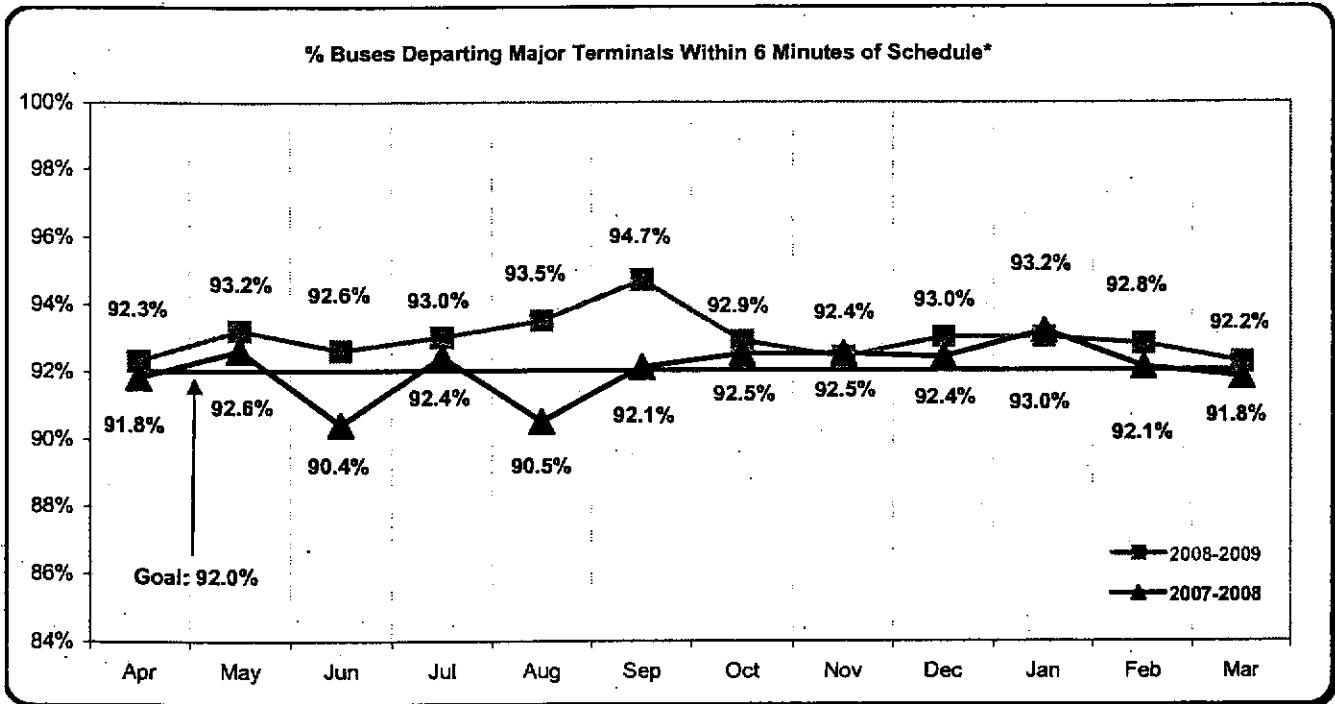


# ON-TIME PERFORMANCE BY RAIL LINE & TIME PERIOD MARCH 2009



\*NOTE: There is no distinction for the ACL between peak and off-peak services.

# NJ TRANSIT ON-TIME PERFORMANCE BUS APRIL 2007 - MARCH 2009



	2008	2009	% Change
<b>March Comparison</b>	91.8%	92.2%	0.4%
<b>12-Month Average April - March</b>	92.0%	93.0%	0.9%

**Analysis:**

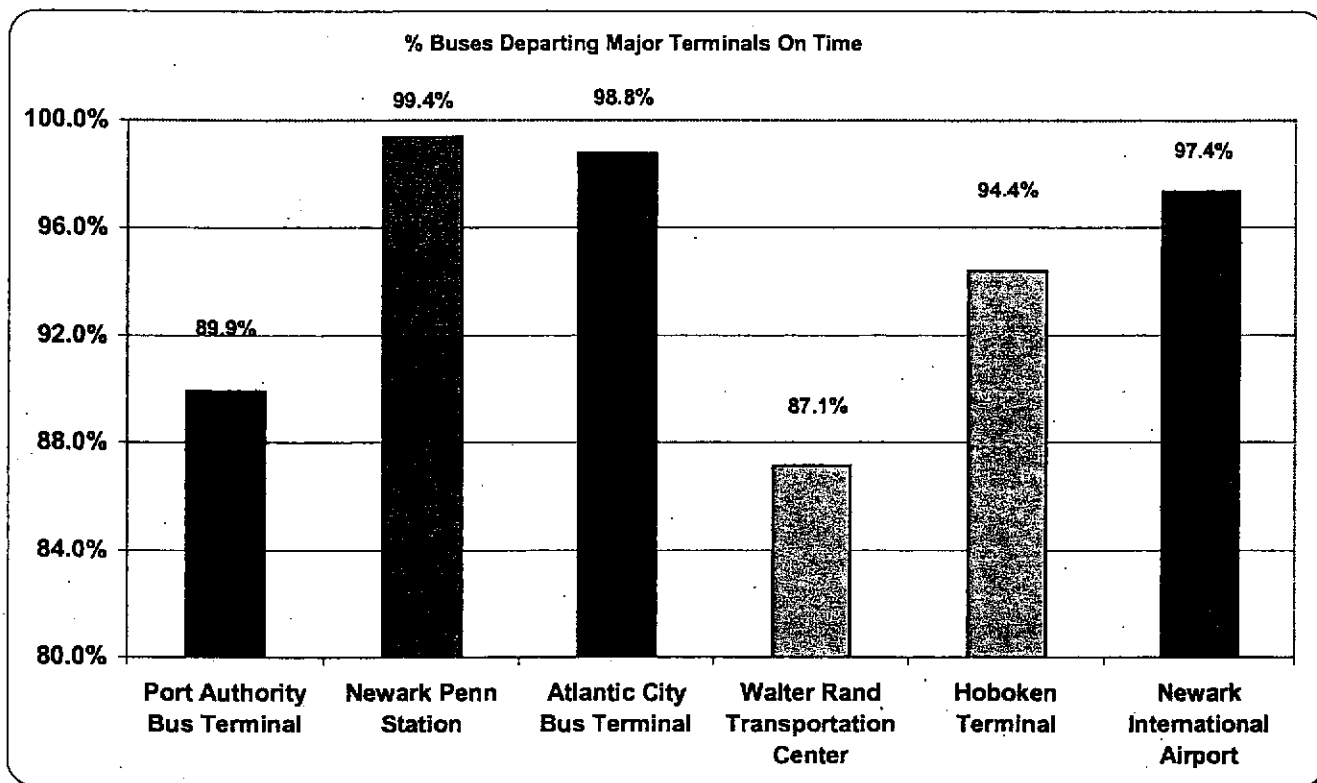
Bus On-Time Performance was 92.2% for March 2009. Of the 34,065 monitored departures, 2,645 (or 7.8%) experienced delays. Key causes of delay included:

- Port Authority buses were delayed by an accident on I-95 on 3/3.
- Weather conditions impacted Atlantic City Terminal buses on 3/1.
- Late winter storm delayed Newark Penn Station buses on 3/3.
- Walter Rand Transportation Center buses were delayed by traffic from the Philadelphia Flower Show and an accident on 3/4.

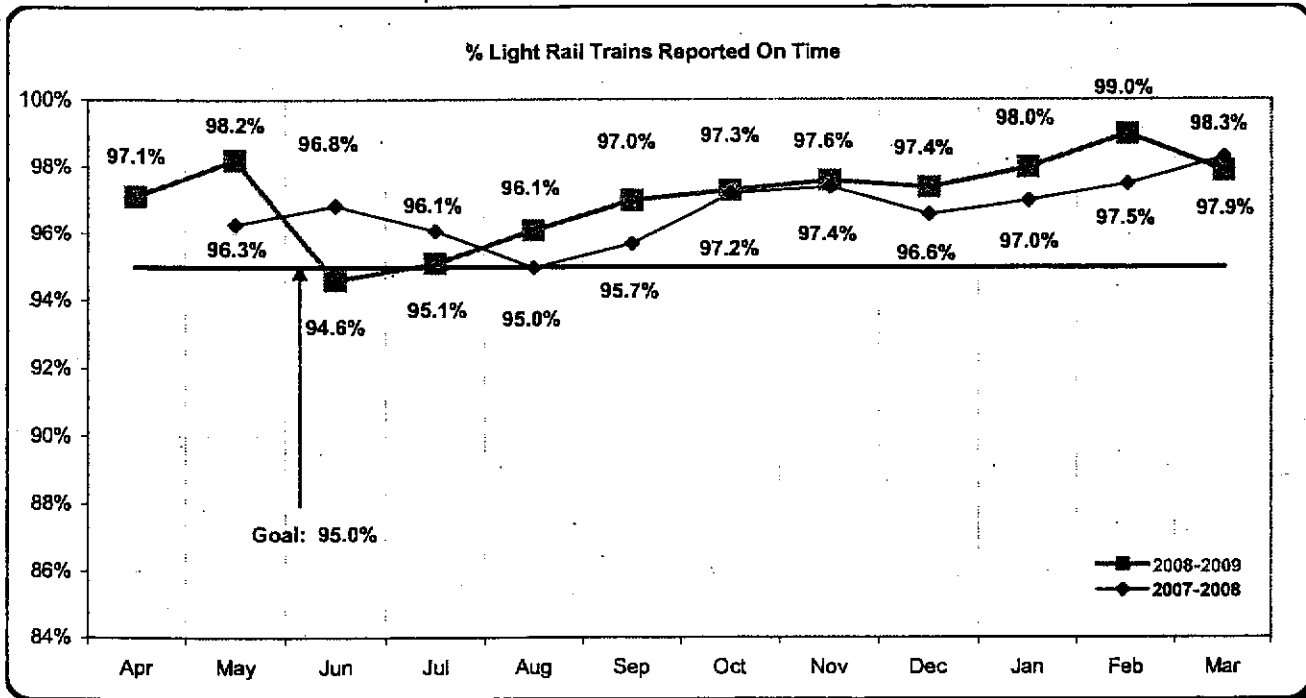
The 12-month average for Bus On-Time Performance for April 2008 - March 2009 was 93%.

# ON-TIME PERFORMANCE BUS

## SUMMARY BY TERMINAL MARCH 2009



# NJ TRANSIT ON-TIME PERFORMANCE LIGHT RAIL - SYSTEMWIDE MAY 2007- MARCH 2009



\*Note: Starting May 2007

	2008	2009	# Change
March Comparison	98.3%	97.9%	-0.4%

	2007-2008	2008-2009	# Change
12-Month Average April - March	NA	97.1%	NA

**Analysis:**

Light Rail On-Time Performance systemwide was 97.9% for the month of March 2009. Of the 30,828 scheduled trains, 655 (or 2.1%) experienced delays. Key causes of delay included:

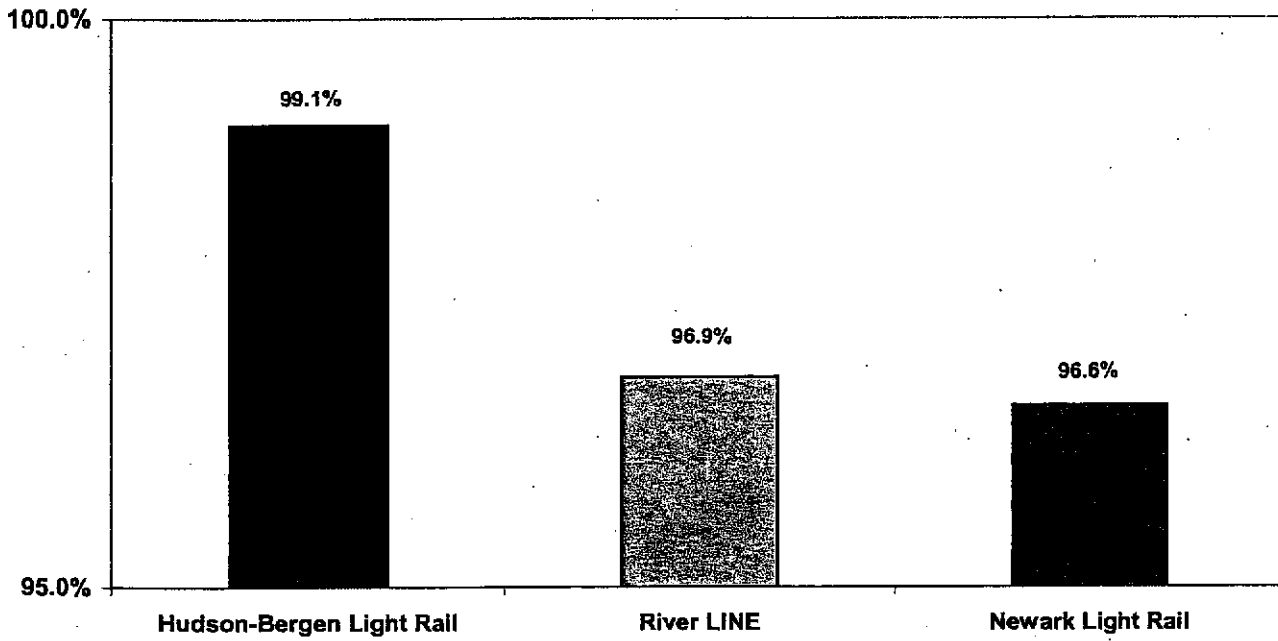
- A passenger in need of medical assistance, Fire Department activity on Baldwin Avenue and a late winter storm combined to delay HBLR trains on 3/2.
- Motor vehicles blocking tracks in Camden and Burlington on 3/3 and again in Burlington on 3/23 delayed River LINE service.
- Newark Light Rail trains were delayed on 3/27 by downed overhead wires at Davenport.

The 12-month average for Light Rail On-Time Performance for April 2008 - March 2009 was 97.1%.

# ON-TIME PERFORMANCE LIGHT RAIL

## SUMMARY BY LINE MARCH 2009

% Light Rail Trains Reported On Time



# **ACTION ITEMS**

**ITEM 0904-19: ACCESS TO THE REGION'S CORE: CONTRACT AMENDMENT FOR PROJECT CONTROLS AND CONSTRUCTION MANAGEMENT SERVICES**

**BENEFITS**

In January 2009, the Federal Transit Administration issued a Record of Decision and approved the start of final design for the Access to the Region's Core project. Final design is underway and additional construction management services are required to provide design evaluations, constructability reviews, scheduling services, validation of cost estimates, geotechnical and technical report reviews, risk management services, quality assurance/quality control, and safety and security assessments. These additional services will also provide document control and support preparation of construction documents as the project moves to construction later this year.

Construction management services have been provided by THE CM Consortium during the preliminary engineering phase to ensure project continuity and a smooth transition from design to construction.

**PURPOSE**

The construction management contract for the Access to the Region's Core project was previously awarded by a competitive procurement process to THE CM Consortium of Newark, New Jersey, a joint venture of Tishman Corporation, Parsons Corporation and Arup. The original competitive solicitation for construction management services included a contract option to provide project controls and construction management services during final design. This authorization is requested to amend the contract for this contract option.

Additional authorizations will be required as each construction contract is awarded to provide construction and materials inspection services, as well as periodic authorization for the extension of these services.

**ACTION (Justification: Core System Capacity)**

Staff seeks authorization to exercise a contract option to (No. 06-111) with THE CM Consortium of Newark, New Jersey, a joint venture of Tishman Corporation, Parsons Corporation and Arup, for project controls and construction management services to support final design for the Access to the Region's Core project at a cost not to exceed \$34,000,000 plus five percent for contingencies, for a total contract authorization of \$48,000,000, 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:** \$34,000,000 + 5% contingencies for construction management services for a total contract authorization of \$48,000,000

**Total Project Cost:** \$8.7 Billion (Year of Expenditure)

**Projected Date of Completion:** 2017

**Anticipated Source of Funds:** FTA, TTF, CMAQ, NJ Turnpike, PANYNJ

**Business Diversity Goal:** DBE - 25 %

**NJ Build:** N/A

**Related/Future Authorizations:** Additional contract amendments for the construction contracts and for continued general construction management services.

**Impacts on Subsequent Operating Budgets:** N/A

**RESOLUTION**

**WHEREAS**, the Federal Transit Administration issued a Record of Decision and approved the start of final design for the Access to the Region's Core project in January 2009; and

**WHEREAS**, the construction management contract for the Access to the Region's Core project was previously awarded by a competitive procurement process and included a contract option to provide project controls and construction management services during the final design and construction phases; and

**WHEREAS**, construction management services have been provided during the preliminary engineering phase to ensure project continuity and a smooth transition from design to construction; and

**WHEREAS**, additional construction management services are required to provide design evaluations, constructability reviews, scheduling services, validation of cost estimates, geotechnical and technical report reviews, risk management services, quality assurance/quality control, and safety and security assessments;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to exercise a contract option to (No. 06-111) with THE CM Consortium of Newark, New Jersey, a joint venture of Tishman Corporation, Parsons Corporation and Arup, for project controls and construction management services to support final design for the Access to the Region's Core project at a cost not to exceed \$34,000,000 plus five percent for contingencies, for a total contract authorization of \$48,000,000, subject to the availability of funds.

**ITEM 0904-20: ACCESS LINK CONTRACTED SERVICE FOR REGION 5 (ESSEX, UNION, SOMERSET, MORRIS AND WESTERN HUDSON COUNTIES, NEW JERSEY)**

**BENEFITS**

Federal law requires public entities operating fixed route transportation systems to provide paratransit services for individuals with disabilities. The paratransit service is expressly for those customers who cannot use the fixed route service. NJ TRANSIT provides paratransit service everywhere in the state where fixed route local bus transportation systems operated by NJ TRANSIT, or private carriers under contract to NJ TRANSIT, are operated.

NJ TRANSIT's plan for this service calls for contractors to provide service in different regions throughout the State. In Region 5, which includes Essex, Union, Somerset, Morris and Western Hudson Counties, 5,145 people are certified to use Access Link and approximately 963 average weekday passenger trips are provided.

**PURPOSE**

Authorization of this contract will ensure that NJ TRANSIT remains in compliance with its federal obligation to provide the ADA paratransit service to residents and visitors. It will ensure that those who are unable to use NJ TRANSIT's fixed route local bus service have the opportunity to become more independent and increase their community participation. The existing contract with MV Transportation, Inc. of Fairfield, California, for Access Link paratransit service in Region 5 is expiring.

**ACTION (Justification: Mandate)**

Staff seeks authorization to contract (No. 09-046) with First Transit, Inc. of Cincinnati, Ohio, to provide ADA paratransit service in Region 5, Essex, Union, Somerset, Morris and Western Hudson Counties, for the period on or before June 15, 2009 to on or before June 14, 2016, a three-year base contract with four one-year options, at a cost not to exceed \$117,853,635, plus five percent for contingencies, subject to the availability of funds.

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

**FISCAL IMPACTS**

<b>Requested Authorization:</b>	\$ 117,853,635 + 5% contingency
<b>Total Project Cost:</b>	NA
<b>Projected Date of Completion:</b>	2016
<b>Anticipated Source of Funds:</b>	Operating Budget

**Diversity Goal:** 5% SBE

***NJ Build* Amount:** None

**Related/Future Authorizations:** Purchase of Access Link Vehicles

<b>Impact on Subsequent Operating Budget:</b>	FY2010	\$ 13,609,471 + 5% contingency
	FY2011	\$ 14,014,890 + 5% contingency
	FY2012	\$ 15,484,783 + 5% contingency
	FY2013	\$ 17,069,501 + 5% contingency
	FY2014	\$ 19,020,716 + 5% contingency
	FY2015	\$ 20,566,515 + 5% contingency
	FY2016	\$ 18,087,759 + 5% contingency

**RESOLUTION**

**WHEREAS**, in July 1990, the Americans with Disabilities Act (ADA) was signed into law requiring public entities operating fixed route transportation systems to provide paratransit services for individuals with disabilities; and

**WHEREAS**, the existing contract with MV Transportation, Inc. of Fairfield, California, for Access Link paratransit service in Region 5 (Essex, Union, Somerset, Morris and Western Hudson Counties) is expiring; and

**WHEREAS**, providing uninterrupted Access Link service is an ongoing requirement of the Federal Government; and

**WHEREAS**, upon completion of a competitive procurement process, it was determined that First Transit, Inc. submitted the proposal that provides the best value and is in the best interest of NJ TRANSIT;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to contract (No. 09-046) with First Transit, Inc. of Cincinnati, Ohio, to provide ADA paratransit service in Region 5, Essex, Union, Somerset, Morris and Western Hudson Counties, for the period on or before June 15, 2009 to on or before June 14, 2016, a three-year base contract with four one-year options, at a cost not to exceed \$117,853,635, plus five percent for contingencies, subject to the availability of funds.

**ITEM 0904-21: EDISON RAIL STATION PARK-AND-RIDE EXPANSION:  
CONSTRUCTION CONTRACT AWARD**

**BENEFITS**

NJ TRANSIT is expanding parking at Edison Rail Station by adding approximately 475 spaces in a surface lot on the outbound side of the Northeast Corridor right-of-way, with vehicular access via a new separate access road from Kilmer Road. The Edison Rail Station serves approximately 7,000 weekday passenger trips and approximately 365 parking spaces are currently available on the inbound side of the right-of-way in two lots.

The Edison Rail Station Park-and-Ride Expansion project will result in increased available commuter parking in an area with known demand. There were 373 names on the waiting list for parking permits at this location in February 2009. The project will add commuter parking at a station served by trains to Newark and Penn Station New York, with good connections to Hoboken, Lower Manhattan and the Jersey City waterfront.

**PURPOSE**

Authorization of this construction contract will result in additional parking at the Edison Rail Station through construction of a new outbound parking lot as well as the reconfiguration of the existing inbound parking lot adjacent to the station building to optimize available parking spaces, improve traffic flow, and create an attractive public space south of the station building. A traffic signal will be installed on Kilmer Road at the access road to the new parking area.

**ACTION (Justification: Capacity)**

Staff seeks authorization to enter into a contract (No.09-066X) with Petillo, Incorporated, Flanders, New Jersey for the construction of the new parking lot, lighting and sidewalks in the Township of Edison at a cost not to exceed \$4,698,000, 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:** \$ 4,698,000 + 5% contingency

**Total Project Cost:** \$ 13,824,000

**Projected Date of Completion:** January 2010

**Anticipated Source of Funds:** Federal Transit Administration

**Diversity Goal:** 27% DBE

***NJ Build* Amount:** NA

**Future/Related Authorizations:** None

**Impact on Subsequent  
Operating Budgets:** TBD Revenue

**RESOLUTION**

**WHEREAS**, NJ TRANSIT seeks to continue its efforts to improve parking along the Northeast Corridor; and

**WHEREAS**, Edison Rail Station serves 7,000 weekday passenger trips and has 365 available parking spaces; and

**WHEREAS**, the new parking lot will provide customers with more convenient access to the Northeast Corridor; and

**WHEREAS**, the work required includes the construction of a new outbound parking lot as well as the reconfiguration of the existing inbound parking lot adjacent to the station building to optimize available parking spaces, improve traffic flow, and create an attractive public space south of the station building;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to enter into a contract (No. 09-066X) Petillo, Incorporated, Flanders, New Jersey bidder for the construction of the new parking lot, lighting and sidewalks in the Township of Edison at a cost not to exceed \$4,698,000 plus five percent for contingencies, subject to the availability of funds.

# CONSENT CALENDAR

**ITEM 0904-22: REGULATIONS: READOPTION OF N.J.A.C. 16:83 “CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF NJ TRANSIT EQUIPMENT AND FACILITIES”**

**BENEFITS**

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

**PURPOSE**

NJ TRANSIT's rail stations, light rail stations, bus terminals, vehicles and other facilities serve the dual purpose of facilitating safe, reliable, convenient and cost-effective transportation as well as providing a forum for members of the public to exercise their constitutional rights of expression. In 1993, NJ TRANSIT adopted regulations to achieve that balance and readopted those regulations, with amendments, in both 1997 and 2002. The regulations, codified in the New Jersey Administrative Code Title 16, Chapter 83 (Exhibit A), expire on May 2, 2009.

Staff has reviewed the current regulations and found them necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were originally promulgated. In addition, on the basis of experience during the past six years, staff proposed several amendments to improve clarity and administration.

One amendment proposes to codify the manner by which NJ TRANSIT issues permits for “bridge banners,” defined as a “temporary sign affixed to an approved NJ TRANSIT railroad bridge displaying advertisements for non-commercial community special events.” Other proposed amendments would expand “equipment” to include “light rail vehicle” and “ferry.” Other proposed amendments represent minor changes to form.

The proposed readoption language, with amendments, was published in the *New Jersey Register* on December 15, 2008 (Exhibit B). The amendments are described in a summary (Exhibit C). The comment period ended on February 13, 2009.

The sole commenter, the N.J. Department of Transportation (NJDOT), requested language explicitly requiring bridge-banner applicants to obtain a separate NJDOT permit for banners over state highways. NJDOT and NJ TRANSIT staff were able to achieve NJDOT's goal by revising NJ TRANSIT's permit form instead of the regulations.

**ACTION (Justification: Business Efficiencies)**

Staff seeks authorization to take all actions necessary to adopt the regulations, N.J.A.C. 16:83 et seq., “Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities,” consistent with this Board item and exhibits, format the regulations as appropriate, and effectuate final adoption and promulgation.

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

**FISCAL IMPACTS**

<b>Requested Authorization:</b>	Authorization to take all actions necessary to adopt the regulations, <u>N.J.A.C. 16:83 et seq.</u> , "Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities," consistent with this Board item and exhibits, format the regulations as appropriate, and effectuate final adoption and promulgation.
<b>Total Project Cost:</b>	N/A
<b>Projected Date of Completion:</b>	N/A
<b>Anticipated Source of Funds:</b>	N/A
<b>Diversity Goal:</b>	N/A – No goods or services to be procured.
<b>Related/Future Authorizations:</b>	N/A
<b><i>NJ Build</i> Amount</b>	N/A
<b>Impacts on Subsequent Operating Budgets:</b>	No fee is charged for issuance of certificates for noncommercial speech

**RESOLUTION**

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

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

**WHEREAS**, staff reviewed the current regulations (Exhibit A) and determined that the rules are necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were originally promulgated, with the exception of a few amendments; and

**WHEREAS**, the proposed readoption language, with amendments, was published in the *New Jersey Register* on December 15, 2008 (Exhibit B) and are described in a summary (Exhibit C); and

**WHEREAS**, the comment period ended on February 13, 2009; and,

**WHEREAS**, staff representing the sole party to respond, the New Jersey Department of Transportation (NJDOT), and NJ TRANSIT were able to resolve a concern by NJDOT without the need to propose a further amendment to the readoption language;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director or his designee is hereby authorized to take all actions necessary to adopt the regulations, N.J.A.C. 16:83 et seq., "Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities," consistent with this Board item and exhibits, format the regulations as appropriate, and effectuate final adoption and promulgation.

CONDUCT AND SAFETY OF THE PUBLIC

16:83-1.2

CHAPTER 83

CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF NJ TRANSIT EQUIPMENT AND FACILITIES

Authority

N.J.S.A. 27:25-5(e), (k) and (l).

Source and Effective Date

R.2003 d.427, effective November 3, 2003. See: 35 N.J.R. 1849(a), 35 N.J.R. 5144(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 83, Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities, expires on May 2, 2009. See: 40 N.J.R. 6933(a).

Chapter Historical Note

Chapter 83, Conduct and Safety of the Public in the Use of NJ Transit Equipment and Facilities, was adopted as R.1993 d.42, effective January 19, 1993. See: 24 N.J.R. 3674(a), 25 N.J.R. 323(a).

Pursuant to Executive Order No. 66(1978), Chapter 83, Conduct and Safety of the Public in the Use of NJ Transit Equipment and Facilities, was readopted as R.1998 d.55, effective December 18, 1997. See: 29 N.J.R. 4258(a), 30 N.J.R. 379(a).

Chapter 83, Conduct and Safety of the Public in the Use of NJ Transit Equipment and Facilities, expired on December 18, 2002.

Chapter 83, Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities, was adopted as R.2003 d.427, effective November 3, 2003. See: Source and effective date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 16:83-1.1 Purpose; scope
16:83-1.2 Definitions
16:83-1.3 Commercial expression
16:83-1.4 Non-commercial expression
16:83-1.5 NJ TRANSIT disclaimer
16:83-1.6 Enforcement

SUBCHAPTER 2. CERTIFICATE OF REGISTRATION FOR NON-COMMERCIAL EXPRESSION

- 16:83-2.1 Non-commercial speech and expression; generally
16:83-2.2 Application for Certificate of Registration
16:83-2.3 Disposition of application; appeal of denial
16:83-2.4 Validity of Certificate of Registration
16:83-2.5 Limitation of Certificate; access during emergency
16:83-2.6 Noise
16:83-2.7 Placards
16:83-2.8 Tables
16:83-2.9 Maintenance of area
16:83-2.10 Inspection of Certificate
16:83-2.11 Liability

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

- 16:83-3.1 Prohibited acts

APPENDIX

SUBCHAPTER 1. GENERAL PROVISIONS

16:83-1.1 Purpose; scope

The New Jersey Transit Corporation and its subsidiaries (NJ TRANSIT) are responsible for the provision of public rail and bus mass transit services in the State of New Jersey. NJ TRANSIT owns, controls and operates equipment (such as railcars and buses), yards and facilities. The facilities include, but are not limited to, rail and bus stations or terminals and are instrumental to NJ TRANSIT's mission to provide and manage mass transit services in New Jersey. NJ TRANSIT's stations and terminals are centers of activity in their respective communities through which many people pass each day. From time to time, NJ TRANSIT receives requests from members of the public for permission to exercise their constitutional rights of expressions at such stations and terminals. NJ TRANSIT, through this chapter, informs and instructs the public how it can exercise its rights on or about NJ TRANSIT facilities and the procedures to be followed in exercising such rights. NJ TRANSIT also sets forth, in this chapter, the standards of behavior to be followed at all facilities, properties and in regard to bus and train equipment of NJ TRANSIT. It is NJ TRANSIT's objective and intent that any and all applicable provisions of the New Jersey Code of Criminal Justice (Title 2C) or the motor vehicle and traffic laws of New Jersey (Title 39) as well as any other applicable statutes of this State shall continue in full force and effect of law. NJ TRANSIT reserves the right to reject any applications for non-commercial speech or expression at NJ TRANSIT facilities where such conduct will impair NJ TRANSIT from conducting its mass transit related business.

16:83-1.2 Definitions

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

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

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

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

"Commercial expression" means any public expressive conduct that materially proposes a commercial transaction including, but not limited to, the sale, offer, promotion,

16:83-1.2

## TRANSPORTATION

peddling, vending, advertisement or display of goods and/or services.

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

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

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

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

"Knowingly" means that with the knowledge or the awareness of one's conduct, or of the existing circumstances, that a certain result will occur or is likely to occur from such conduct as a result of such conduct and circumstances.

"Non-commercial expression" means the public exercise of free speech rights which concern political, social, religious or other issues to the extent that such free speech expression is protected by the United States or State Constitutions, as

applicable. Non-commercial public expression includes, but is not limited to, leafleting, public speaking and solicitation of contributions; but not sales transactions, for religious, political or charitable causes. This definition is not intended to apply, and does not apply to talking, reading, wearing political buttons or other forms of private individualized expressions which are permitted throughout the public areas of facilities and equipment. Any advertisement, activity or solicitation that materially proposes a commercial transaction is expressly excluded.

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

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

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

"Personal notice" means an oral, or spoken, communication directed to an individual or a group of individuals from an NJ TRANSIT official.

"Police officer" means any member of the NJ TRANSIT Police Department, or any NJ TRANSIT other law enforcement officer who has jurisdiction in the facility or on the equipment in which a violation of these rules shall occur.

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

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

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

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

**CONDUCT AND SAFETY OF THE PUBLIC**

16:83-2.2

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

**16:83-1.3 Commercial expression**

(a) A contract with NJ TRANSIT shall be required of any person or organization seeking to engage in commercial expression at any facility.

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

**NJ TRANSIT**

Real Estate Department  
One Penn Plaza East  
Newark, New Jersey 07105-2246

(c) Personal access to vehicles or equipment, whether stationary or mobile, for the purpose of conducting commercial expressive activities, shall be prohibited.

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

**16:83-1.4 Non-commercial expression**

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

**16:83-1.5 NJ TRANSIT disclaimer**

NJ TRANSIT shall not be responsible for the views and ideas expressed in the speech and/or conduct of non-commercial expression by a person or organization holding a certificate of registration. Through signs, public announcements and/or personal communication, NJ TRANSIT may advise the public of the presence of a person or organization and may disclaim responsibility for, and/or sponsorship of, that person or organization's cause.

**16:83-1.6 Enforcement**

If NJ TRANSIT determines that any person's conduct violates any of these rules, that person shall be subject to such sanctions as deemed appropriate including ejection

from the premises, arrest, fine and/or imprisonment pursuant to the applicable laws and/or ordinances.

**SUBCHAPTER 2. CERTIFICATE OF REGISTRATION FOR NON-COMMERCIAL EXPRESSION**

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

(a) To accommodate persons and organizations who desire to engage in non-commercial speech or expression at specified NJ TRANSIT facilities, the Assistant Executive Director (AED), Corporate Communications and External Affairs or his or her designee will issue, subject to terms and conditions set forth in these rules, Certificates of Registration ("Certificates") on a first-come, first-serve basis, to permit conduct of non-commercial speech or expression in a specified facility (as designated on the map attached to the Certificates) of a particular NJ TRANSIT facility to persons or organizations who successfully complete the required application. Applications which are completed in their entirety are declared successfully completed. If the application is being made on behalf of an organization, the application must state the number of persons requesting the Certificate and the number of persons expected to be in attendance. These Certificates will be issued without charge, when successfully completed and consistent with these rules shall be subject to availability and limitations of space and conditions. These Certificates will be issued as soon as practicable upon application in person, or by telefax, or upon receipt of the completed application by mail. Applications which have not been completed in their entirety shall be subject to being declared as unsuccessfully completed and will be returned to sender.

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

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

**16:83-2.2 Application for Certificate of Registration**

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

1. The applicant's name and telephone number;
2. If applicable, the name of the organization which the applicant represents;
3. If more than one Certificate is requested, the name(s) and title(s) of the person(s) who will have supervision of and responsibility for the speech or expressive conduct at the specified facility during the term of the Certificate; and

## 16:83-2.2

## DEPT. OF TRANSPORTATION

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

- i. By a religious group;
- ii. By a political organization;
- iii. By an organization that has received an Internal Revenue Service determination that it is tax exempt under 20 U.S.C. § 501(c)(3), (c)(4), or by (i)(5); or
- iv. By an organization duly registered with the State of New Jersey as a charitable organization, in accordance with N.J.S.A. 45:17A-1 et seq.

(b) At the option of the applicant, the applicant's address and/or telephone number may be listed on the application. No applicant shall be required to list an address or telephone number on an application for a certificate of registration for non-commercial expression.

(c) Each person listed on the Certificate must wear an identification badge, which will be issued along with the Certificate, while engaged in non-commercial expression as authorized by the Certificate.

## 16:83-2.3 Disposition of application; appeal of denial

(a) Upon receipt of the completed application, the appropriate NJ TRANSIT official or designee shall, as soon as possible, give, telefax or mail the applicant the requested number of Certificates, if available.

(b) If the applicant is denied a Certificate after completing the application, the applicant may as soon as possible appeal this denial by contacting:

Executive Director  
New Jersey Transit Corporation  
One Penn Plaza East  
Newark, NJ 07105-2246

(c) An appeal shall be made in writing and shall include a statement describing the nature of the appeal and what factual issues, if any, shall be in dispute. As soon as possible after receipt of such appeal, the Executive Director or his or her designee shall conduct a review, on the papers if any factual dispute exists, and render a decision. The decision of the Executive Director or his or her designee shall be made in writing and shall set forth the legal and/or factual basis for the decision. Where an applicant wishes to contest the decision of the Executive Director, the applicant may, within 30 days, request a contested case hearing and the matter shall be forwarded to the Office of Administrative Law for fact finding before an Administrative Law Judge (ALJ), pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The ALJ shall issue an Initial Decision which shall be returned to the NJ TRANSIT Board of Directors for a final agency decision.

## 16:83-2.4 Validity of Certificate of Registration

(a) A Certificate of Registration is valid for up to, but not more than, five days. Each certificate is valid up until closing time of the facility. If the facility does not close, the Certificate is valid up to 12:00 midnight of the date(s) appearing on the Certificate, and, if valid the following day, is valid beginning at 6:00 A.M.

(b) Each Certificate shall be valid only for the person or organization designated by NJ TRANSIT on that Certificate. Certificates shall not be transferred or assigned to another person(s) or organization(s).

(c) NJ TRANSIT may limit the number of valid continuous Certificates of Registration to the maximum number of persons established for the particular facility, taking into account NJ TRANSIT patrons and guests. The maximum number of persons shall be indicated on the map attached to each Certificate of Registration. If the number of applicants or persons covered by an application of an organization exceeds the maximum number of Certificate of Registration holders indicated on the map of the specified facility, NJ TRANSIT will distribute the maximum number of Certificates on a "first-come, first-served" basis.

(d) Certificates of Registration issued in accordance with this chapter shall be valid only at the facility or facilities specified on the Certificate. These facilities include, but are not limited to, the Newark Broad Street Station, Dover Station, Hoboken Terminal, Newark Penn Station, Summit Station, Trenton Station and Westfield Station and the Atlantic Rail Terminal and Lakewood Garage.

## 16:83-2.5 Limitation of Certificate; access during emergency

(a) NJ TRANSIT may cancel, temporarily defer or modify the Certificate for emergent public health, welfare or safety reasons including extraordinary weather, power failures, accidents, terrorism, disasters, strikes, riot, fire, civil disorder, service disruptions, special NJ TRANSIT-sponsored customer service events or other events which create a dangerous condition in the relevant expressive area or which substantially interfere with the transportation related activities of the facility.

(b) NJ TRANSIT may temporarily grant or restrict public access to its facilities and equipment, or to portions thereof, at its discretion for emergent public health, safety or welfare reasons without prior notice. When there is threat to the public health, safety or welfare, NJ TRANSIT facilities and equipment, or portions thereof, may be closed by any NJ TRANSIT official who has the authority to do so upon personal communication, public announcement or conspicuous signage.

**CONDUCT AND SAFETY OF THE PUBLIC**

16:83-3.1

**16:83-2.6 Noise**

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

**16:83-2.7 Placards**

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

**16:83-2.8 Tables**

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

**16:83-2.9 Maintenance of area**

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

**16:83-2.10 Inspection of Certificate**

A Certificate of Registration holder who is exercising non-commercial expression in an NJ TRANSIT facility shall have a valid Certificate of Registration available at all times, on his or her person, for inspection by an authorized NJ TRANSIT representative or local official.

**16:83-2.11 Liability**

Certificate of Registration holders assume all liability for any and all damage or injury arising out of the Certificate holder's non-commercial speech or expressive activity, on or about NJ TRANSIT's facilities and, by accepting the Certificate of Registration, agree to release the State of New Jersey, NJ TRANSIT, its directors and its subsidiaries, and any of their servants, employees or agents from any and all liability or damage resulting from the Certificate holder's use or occupancy of NJ TRANSIT's facilities in connection with the Certificate of Registration.

\_\_\_\_\_

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

**16:83-3.1 Prohibited acts**

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

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

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

3. No person shall throw, drop, shoot, project, propel, cast or otherwise strike in, into or place upon any facility or equipment any projectile, stick, stone or other foreign matter or object.

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

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

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

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

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

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

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

11. No person without an appropriate license from NJ TRANSIT or other appropriate authority, shall hire, at-

16:83-3.1

DEPT. OF TRANSPORTATION

tempt to hire, flag, hawk or otherwise provide cab services for personal pecuniary gain.

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

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

- i. Engaging in, or threatening, fighting or other violent or tumultuous behavior;
- ii. Creating a hazardous or physically dangerous condition by any act which serves no legitimate purpose of the actor;
- iii. Subjecting another to striking, kicking, shoving, spitting, punching or other offensive touching, or threatening to do so; or
- iv. Engaging in any course of alarming conduct or of repeatedly committed acts with the purpose to alarm or seriously annoy such other person.

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

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

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

17. No person shall spit into or upon any public or restricted area except in appropriate receptacles designed for such purpose.

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

19. No person shall jointly occupy with one or more persons any single urinal, toilet booth or stall with the exception of those persons granting assistance to disabled or incompetent persons or to small children.

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

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

22. No person shall bring, escort, carry or otherwise accompany any animal except seeing eye/hearing dogs appropriately restrained and charged, or other domestic animals restrained in appropriate carriers.

23. No person may engage in protected expression without complying with the terms and conditions of a valid Certificate of Registration or with a valid contract.

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

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

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

APPENDIX

CERTIFICATE OF REGISTRATION

Name of Organization (if applicable): \_\_\_\_\_

Purpose of Non-Commercial Public Expression: \_\_\_\_\_

Address (Optional): \_\_\_\_\_

Telephone Number (Optional): \_\_\_\_\_

Facility: \_\_\_\_\_

Date(s) of Non-Commercial Public Expression: \_\_\_\_\_

Time(s) of Non-Commercial Public Expression: \_\_\_\_\_

Authorized by: \_\_\_\_\_  
(Name and Title of NJ TRANSIT Official)

You are hereby permitted to engage in non-commercial public expression in the designated area (as shown on the map attached hereto and made a part hereof) of the NJ TRANSIT facility stated above, on the date(s) and during the time(s) set forth above, subject to the terms and conditions of N.J.A.C. 16:83, a copy of which is attached hereto and made a part hereof.

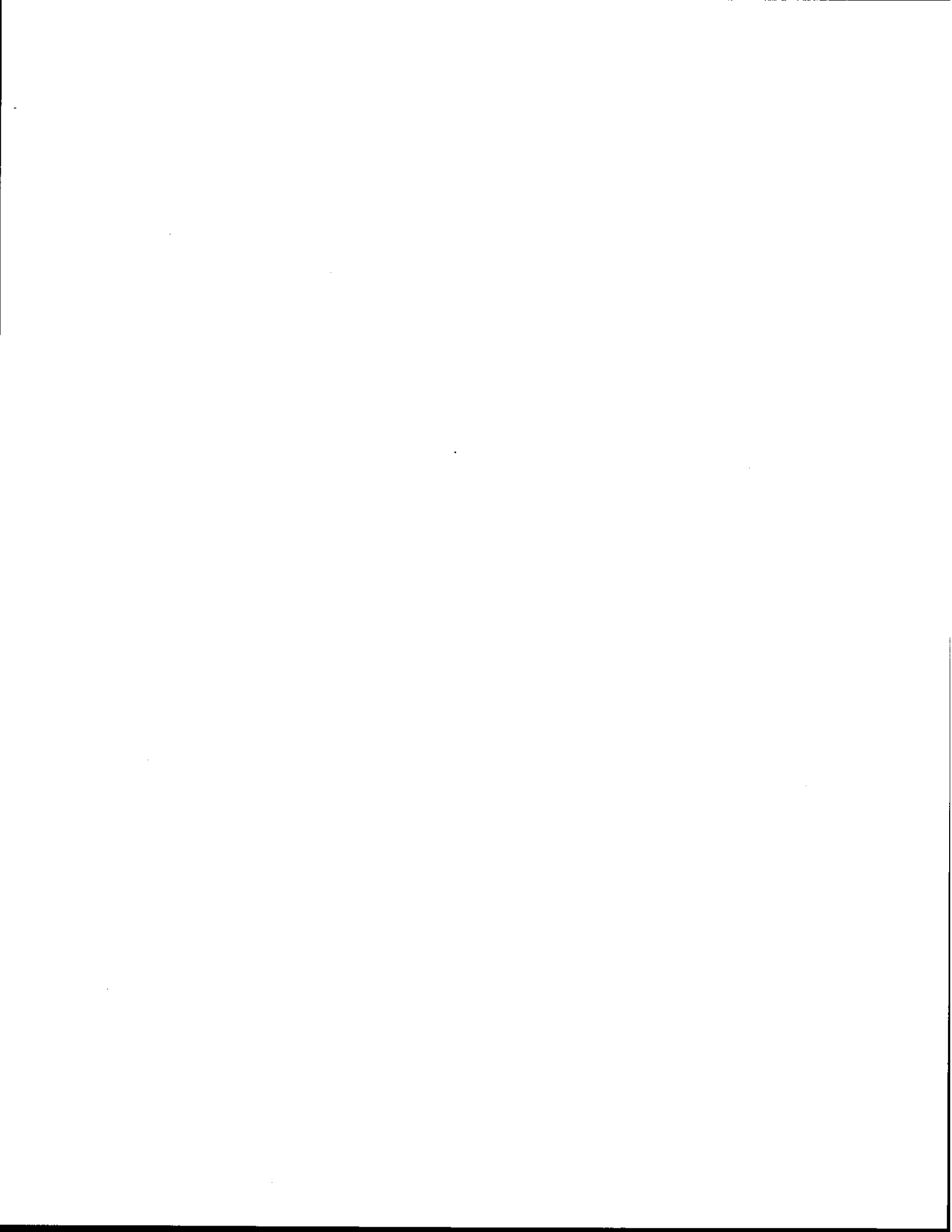
CONDUCT AND SAFETY OF THE PUBLIC

16:83-App

The undersigned agrees to comply with all of the terms  
and conditions of this Certificate of Registration.

(Signature of Certificate Holder)

\_\_\_\_\_



PROPOSALS

TRANSPORTATION

3. Order such alleged violation to cease;

4. Specify the amount of the civil administrative penalty to be imposed; and

5. Notify the alleged violator of the right to request an adjudicatory hearing pursuant to the procedures in N.J.A.C. 14:2-6.8. If no hearing is requested, the penalty set forth in the AONOCAPA will be due and owing on the 21st day following service on the alleged violator, without further notice.

(e) If no hearing is requested on an AONOCAPA pursuant to N.J.A.C. 14:2-6.8, an Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA) shall become a Final Order, and the penalty in the AONOCAPA shall become due and owing, on the 21st day following service of the Administrative Order and Notice of Civil Administrative Penalty Assessment on the violator.

(f) If a hearing is requested but the Board denies the hearing request pursuant to N.J.A.C. 14:2-6.8, an Administrative Order and Notice of Civil Administrative Penalty Assessment shall become a Final Order, and the penalty in the AONOCAPA shall become due and owing, upon service on the violator of notice of the hearing request denial.

(g) If an adjudicatory hearing is requested and conducted, an Administrative Order and Notice of Civil Administrative Penalty Assessment shall become a Final Order upon service on the violator of a Final Order in the contested case.

14:2-6.8 Adjudicatory hearings

(a) To request an adjudicatory hearing to contest an Administrative Order and Notice of Civil Administrative Penalty Assessment issued pursuant to this subchapter, the alleged violator shall submit the following information in writing to the Secretary of the Board, Attention: Adjudicatory Hearing Request/One-Call, Board of Public Utilities, Two Gateway Center, Newark, New Jersey 07102:

1. The name, address and telephone number of the alleged violator and its authorized representative;

2. The alleged violator's defenses, stated in short and plain terms, to each of the Board's preliminary findings of fact contained in the Administrative Order and Notice of Civil Administrative Penalty Assessment;

3. An admission or denial of each of the Board's preliminary findings of fact contained in the Administrative Order and Notice of Civil Administrative Penalty Assessment. If the alleged violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the alleged violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the alleged violator intends, in good faith, to deny only a part of or qualify a finding, the alleged violator shall specify so much of it as true and material and deny only the remainder. The alleged violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding denied, the alleged violator shall allege the fact or facts as the alleged violator believes it or them to be;

4. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;

5. An estimate of the time required for the hearing (in days and/or hours); and

6. A request, if necessary, for a barrier-free hearing location to accommodate physically disabled persons.

(b) If the Board does not receive the hearing request within 20 days after service on the violator of the Administrative Order and Notice of Civil Administrative Penalty Assessment being challenged, the Board shall deny the hearing request.

(c) If the alleged violator fails to include all the information required under (a) above or if upon review of the submission, the Board determines that there is no dispute of material facts, the Board may deny the hearing request.

(d) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.,

and N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

14:2-6.9 Actions in Superior Court

(a) The Board may institute an action or proceeding in the Superior Court for a violation of any provision of this chapter, the Underground Facility Protection Act, or an order adopted pursuant thereto and the court may proceed in a summary manner.

(b) The Board may bring a Superior Court action for one or more of the following remedies:

1. A temporary or permanent injunction, pursuant to N.J.S.A. 48:2-86(b);

2. A civil penalty;

3. Costs incurred by the Board as a result of any investigation, inspection, monitoring or survey that led to the Board's determination that the violation had occurred; and/or

4. The reasonable costs of preparing, pursuing and litigating the case against the violator.

(c) An affected underground facility operator may institute an action in the Superior Court for an injunction against a violator whose repeated failure to comply with the Underground Facilities Protection Act constitutes a threat to public safety.

(d) The institution of an action or proceeding in Superior Court by any party shall not limit the Board's authority to seek the administrative remedies provided for in this subchapter.

14:2-6.10 Criminal prosecution

A person that knowingly engages in certain activities in violation of this chapter may be subject to criminal prosecution in accordance with N.J.S.A. 48:2-87.

TRANSPORTATION

(a)

NEW JERSEY TRANSIT CORPORATION

Conduct and Safety of the Public in the Use of NJ TRANSIT Equipment and Facilities

Proposed Readoption with Amendments: N.J.A.C. 16:83

Proposed New Rules: N.J.A.C. 16:83-2.10 and 3.2

Proposed Repeal: N.J.A.C. 16:83 Appendix

Authorized By: New Jersey Transit Corporation, Richard R. Sarles, Executive Director.

Authority: N.J.S.A. 27:25-5(e), (k) and (l).

Calendar Reference: See Summary below for explanation of exception to calendar requirements.

Proposal Number: PRN 2008-412.

Submit comments by February 13, 2009 to:

Joyce J. Zuczek  
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 public mass transit services in the State of New Jersey. NJ TRANSIT's major stations and terminals are centers of activity through which many people pass each day. Effective January 19, 1993, NJ TRANSIT adopted rules intended to ensure the safe and efficient passage of large numbers of people through the system and at the same time allow the public access to the use of a part of the facilities as a forum to exercise their constitutional rights of expression. They have been in effect for 15 years. Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 16:83 is set to expire on May 2, 2009.

A summative review of each of the sections of N.J.A.C. 16:83 follows:

## EXHIBIT B

## TRANSPORTATION

## PROPOSALS

N.J.A.C. 16:83-1.1 contains the purpose and scope of the rules, that is, the provision of safe and efficient public mass transit service in the State of New Jersey, while taking into account the rights of expression of the public granted by the United States and New Jersey Constitutions. The rules govern general behavior in and on all of the facilities and equipment of the NJ TRANSIT Corporation.

N.J.A.C. 16:83-1.2 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.

N.J.A.C. 16:83-1.3 contains the requirements for commercial expression, which are governed by individual contracts with NJ TRANSIT.

N.J.A.C. 16:83-1.4 contains the general requirements for non-commercial expression, which is governed by the provisions of this chapter.

N.J.A.C. 16:83-1.5 contains an NJ TRANSIT disclaimer of any responsibility for the views or ideas expressed by anyone during the exercise of non-commercial expression, and notes that the corporation may post signs, issue announcements or personally express through the members of the staff, such a disclaimer.

N.J.A.C. 16:83-1.6 contains enforcement provisions for the chapter.

N.J.A.C. 16:83-2.1 contains general provisions governing the Certificate of Registration and Bridge Banner Permit (Banner Permit) for non-commercial expression.

N.J.A.C. 16:83-2.2 contains detailed application requirements for the Certificate of Registration and Bridge Banner Permit, one of which will be required for persons choosing to exercise their rights of expression in the public areas of NJ TRANSIT facilities.

N.J.A.C. 16:83-2.3 contains the NJ TRANSIT action to be taken on an application and the provisions for appeal that are available to an applicant who is denied a Certificate of Registration or Banner Permit.

N.J.A.C. 16:83-2.4 contains specifications for the validity of the Certificate of Registration and Bridge Banner Permit, including the times of day, the length of time and the number of persons for whom the certificate or permit will be valid.

N.J.A.C. 16:83-2.5 contains limitations of the Certificate of Registration and Bridge Banner Permit in the event of an emergency, at which time NJ TRANSIT may consider either a dangerous condition or the disruption of service cause to amend, defer to another time period or modify the terms.

N.J.A.C. 16:83-2.6 contains noise restrictions placed upon Certificate of Registration holders.

N.J.A.C. 16:83-2.7 contains placard location, size and material specifications.

N.J.A.C. 16:83-2.8 contains requirements placed on the use of tables as a part of the expressive activity.

N.J.A.C. 16:83-2.9 contains requirements placed on the Certificate of Registration for the maintenance of the area they use.

N.J.A.C. 16:83-2.10 sets forth the requirements for making the Certificate of Registration available for inspection.

N.J.A.C. 16:83-2.11 details the liability assumed by Certificate of Registration and Bridge Banner Permit holders.

N.J.A.C. 16:83-3.1 contains the list of activities that are prohibited in or on NJ TRANSIT facilities or equipment.

N.J.A.C. 16:83 Appendix contains a sample Certificate of Registration.

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

N.J.A.C. 16:83-1.1 has been amended to delete "rail and bus," so that the rules include the broader range of mass transit services provided by NJ TRANSIT; this is repeated throughout the rules. Grammatical changes were made to clarify that these rules apply to behavior in or on NJ TRANSIT facilities or equipment; this is repeated throughout the rules. This section has also been amended to include the amendments to the rules regarding authorization for advertising community events on railroad bridges, and applications for commercial expression at NJ TRANSIT facilities where the expression will give rise to a credible public safety concern.

N.J.A.C. 16:83-1.2 has been amended to add definitions for "bridge banner," "Bridge Banner Permit" and "non-commercial community special event."

The definition of "block" was amended to add "hinder or" before "interfere with free passage," delete "to hinder," and replace "property, real estate, facility" with "facilities," which has been amended to include these terms in its definition.

The definition of "Certificate of Registration" has been amended to delete reference to the chapter Appendix since there will no longer be an appendix.

The definition of "commercial expression" has been deleted because N.J.A.C. 16:83-1.3(a) has been amended to include wording from the definition in a manner that clarifies the agency's policy and makes the definition redundant.

The definition of "equipment" has been amended to delete "railroad" and "crane" and add "light rail vehicle" and "ferry," respectively.

The definition of "facilities" has been amended to provide clarification by eliminating unneeded references, provide grammatical clarification, add "stairways" and "light rail," and replace "real estate operated" with "property."

The definition of "knowingly" has been deleted since it is not used within the text of the rules.

The definition of "non-commercial expression" has been amended to specify the locations as "in or on NJ TRANSIT facilities or equipment," include "solicitation of signatures and comments" in the list of non-commercial expression, and make a grammatical correction.

The definition of "personal notice" has been amended to make grammatical corrections and replace "spoken" with "written" to avoid redundancy and provide clarification.

The definition of "police officer" has been amended to delete "NJ TRANSIT" to eliminate a redundancy, provide clarification regarding the applicable location and delete "in which a violation of these rules shall occur."

The definition of "public area" has been amended to delete "incidental" for clarification purposes.

The definition of "purposely" has been amended to delete "knowingly."

N.J.A.C. 16:83-1.3(a) has been amended to delete "or organization" to eliminate redundancy since organization is included in the definition of "person"; this is repeated throughout the rules. This subsection has also been amended to clarify that a contract is required to engage in commercial expression at or on any facility or equipment, or to display commercial advertisement at or on any NJ TRANSIT facility or equipment. Additionally, the definition of commercial expression has been incorporated into this subsection to provide clarification regarding what constitutes commercial expression.

N.J.A.C. 16:83-1.3(b) has been amended to provide two telephone and one fax number.

N.J.A.C. 16:83-1.3(c) has been deleted because the conditions of commercial expression are determined by contract.

N.J.A.C. 16:83-1.3(d) has been recodified as N.J.A.C. 16:83-1.3(c).

N.J.A.C. 16:83-1.4(a) has been amended to provide grammatical corrections and to include NJ TRANSIT equipment along with facilities.

N.J.A.C. 16:83-1.4(b) has been added to state that NJ TRANSIT will not permit products or services at NJ TRANSIT facilities that compete or conflict with the sales of NJ TRANSIT tenants, lessees or licensees.

N.J.A.C. 16:83-1.4(c) has been added to state that while from time to time, NJ TRANSIT, at its sole discretion, makes Bridge Banner Permits available to allow organizations to use certain railroad bridges to advertise non-commercial community special events, NJ TRANSIT reserves its right to use these railroad bridges or other facilities for commercial advertising, and may at any time discontinue the use for advertising non-commercial community special events. The added subsection also explains that unauthorized banners will be removed.

N.J.A.C. 16:83-1.5 has been amended to provide grammatical corrections and avoid redundancies.

The heading of Subchapter 2 has been amended to reflect the addition of Bridge Banner Permits.

N.J.A.C. 16:83-2.1(a) has been amended to change the NJ TRANSIT representative who will issue Certificates of Registration, which permit

## EXHIBIT B

## PROPOSALS

## TRANSPORTATION

non-commercial speech or expression, and update the forms of application submission to include electronic mail. This subsection has also been amended to include a number of grammatical corrections, delete "when successfully completed" after reference to Certificate issuance to eliminate extraneous language, and eliminate redundancies.

N.J.A.C. 16:83-2.1(b) has been added to explain the procedure for obtaining Bridge Banner Permits.

N.J.A.C. 16:83-2.1(b) has been recodified as N.J.A.C. 16:83-2.1(c) and amended to add a reference to Banner Permits, delete a redundant reference to Certificates of Registration, and add a second telephone number.

N.J.A.C. 16:83-2.2 has been amended to add Banner Permit to the section heading.

N.J.A.C. 16:83-2.2(a) has been amended to delete "and telephone," include the explanation regarding addresses and telephone numbers being optional that was previously in N.J.A.C. 16:83-2.2(b), change reference to "speech or expressive conduct" to "non-commercial expressive conduct," provide grammatical clarifications and eliminate redundancies. N.J.A.C. 16:83-2.2(a)4iii has been amended to reflect the correct internal revenue code title "26" instead of "20," add "or a successor provision, or any organization with a similar tax exemption" after "26 U.S.C. 501(c)(3)," and delete "(c)(4), or by (i)(5)."

The text that was in N.J.A.C. 16:83-2.2(b) has been deleted since N.J.A.C. 16:83-2.2(a)1 has been amended to address the optional inclusion of an address and phone number.

New N.J.A.C. 16:83-2.2(b) has been added to set forth application procedures for obtaining a Banner Permit.

N.J.A.C. 16:83-2.2(c), requiring Certificate holders to wear an identification badge, has been eliminated.

N.J.A.C. 16:83-2.3(a) has been amended to include Banner Permit and delete "requested number of" prior to Certificate.

N.J.A.C. 16:83-2.3(b) has been amended to include Banner Permit, delete "as soon as possible" and change the appeal contact person from the Executive Director to the Assistant Executive Director of Communications and Customer Service.

N.J.A.C. 16:83-2.3(c) has been amended to reflect the appeal contact person change, remove language no longer needed, and provide grammatical changes.

N.J.A.C. 16:83-2.4 has been amended to add Banner Permit to the section heading.

N.J.A.C. 16:83-2.4(a) has been amended to provide clarification regarding the Certificate times of validity.

N.J.A.C. 16:83-2.4(b) has been amended to remove redundancies.

N.J.A.C. 16:83-2.4(c) has been amended to provide clarification regarding the limit on the number of certificates that will be issued and provide grammatical corrections.

N.J.A.C. 16:83-2.4(d) has been amended to delete "issued in accordance with this chapter" and references to specific NJ TRANSIT facilities.

N.J.A.C. 16:83-2.4(e) has been added to set forth the period of validity for Bridge Banner Permits.

N.J.A.C. 16:83-2.5 has been amended to delete "access during emergency" from the section heading and add Banner Permit.

N.J.A.C. 16:83-2.5(a) has been amended to include Banner Permit and to change "dangerous condition" to "unsafe condition."

N.J.A.C. 16:83-2.5(b) has been deleted from the section and made into a new section at N.J.A.C. 16:83-3.2.

N.J.A.C. 16:83-2.6 has been amended to delete "substantially" before "disrupt transportation-related activities" and to provide grammatical corrections.

N.J.A.C. 16:83-2.7 has been amended to make "light weight" one word and to add that placards shall not be affixed to a stick, pole or post made of any material.

N.J.A.C. 16:83-2.10 has been added to set forth the requirements for banner installation, maintenance and removal.

N.J.A.C. 16:83-2.10(a) has been added to set forth the installation requirements.

N.J.A.C. 16:83-2.10(b) has been added to set forth the banner size and material specifications.

N.J.A.C. 16:83-2.10(c) has been added to explain that NJ TRANSIT may charge fees to recover costs/expenses associated with issuing Bridge Banner Permits and if track access is required, the Banner Permit holder will be liable for associated labor and administrative costs for an NJ TRANSIT railroad protective flagman.

N.J.A.C. 16:83-2.10(d) has been added to explain that the Banner Permit holder is responsible for obtaining any additional permits and/or approvals required by other entities.

The text that was previously codified at N.J.A.C. 16:83-2.10 has been recodified as N.J.A.C. 16:83-2.11, and amended to clarify that a Certificate of Registration holder shall have the Certificate available at all times for inspection and to delete unnecessary language.

The text that was previously codified at N.J.A.C. 16:83-2.11 has been recodified as N.J.A.C. 16:83-2.12, and amended to include Banner Permit and equipment references, delete "any of their" before "servants," and add language clarifying that NJ TRANSIT shall not be responsible for the security and/or safeguarding of any funds collected by a Certificate of Registration holder.

N.J.A.C. 16:83-3.1(a) has been amended to clarify that the prohibitions apply "in or on NJ TRANSIT facilities or equipment."

N.J.A.C. 16:83-3.1(a)1 has been amended to add a "store" as an additional area where the enumerated acts are prohibited and to add "no person shall occupy more than one seat in or on any NJ TRANSIT facility or equipment."

N.J.A.C. 16:83-3.1(a)3 has been amended to clarify that the paragraph's prohibited conduct includes the use of a pole and carrying foreign matter or objects representing a safety hazard into NJ TRANSIT facilities or equipment.

N.J.A.C. 16:83-3.1(a)4 has been amended to change "reject" to "eject" as a grammatical correction.

N.J.A.C. 16:83-3.1(a)7 has been amended to make "skate" plural, change "other device" to "other personal motive device" to provide clarification, to add "mobility" before "device," and change the reference to "disabled persons" to "people with disabilities."

N.J.A.C. 16:83-3.1(a)11 has been amended to require an appropriate license from both NJ TRANSIT "and" other appropriate authority, rather than "or."

N.J.A.C. 16:83-3.1(a)12 has been amended to delete "and" prior to "or equipment."

N.J.A.C. 16:83-3.1(a)13ii has been amended to delete the phrase "by any act which serves no legitimate purpose of the actor" to clarify that any act that creates a hazardous or physically dangerous condition is prohibited.

N.J.A.C. 16:83-3.1(a)15 has been amended to delete "transportation" to leave a more general reference to operations.

N.J.A.C. 16:83-3.1(a)16 has been amended to reflect a grammatical correction.

N.J.A.C. 16:83-3.1(a)17 has been amended to delete reference to spitting receptacles as an exception to the spitting prohibition, and replace the existing terminology to clarify that the prohibition applies "in or on any facility or equipment."

N.J.A.C. 16:83-3.1(a)19 has been amended to replace "persons" with "individuals" so the text states "one or more individuals," "persons granting" with "individuals providing," "disabled or incompetent persons" with "persons with disabilities," "small children" to "individuals needing assistance" to provide clarification and update terminology.

N.J.A.C. 16:83-3.1(a)20 has been amended to replace "lavatories" with "restrooms."

N.J.A.C. 16:83-3.1(a)22 has been amended to replace "seeing eye/hearing" dogs with "guide dogs or other service animals," and replace "restrained and charged" with "controlled" to update the terminology and provide clarification.

N.J.A.C. 16:83-3.1(a)23 has been amended to replace "protected" with "non-commercial" and delete "or with a valid contract" to clarify the prohibition.

N.J.A.C. 16:83-3.1(a)24 has been amended to replace "public" with "non-commercial" to clarify what type of expression is prohibited on equipment.

N.J.A.C. 16:83-3.1(a)25 has been amended to clarify that the prohibition is applicable "in or on NJ TRANSIT facilities or equipment."

## TRANSPORTATION

N.J.A.C. 16:83-3.2 has been added to include the language regarding emergency access that was previously codified at N.J.A.C. 16:83-2.5(b).

The appendix has been repealed.

As NJ TRANSIT has provided a 60-day comment period on 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 social impact of the rules regarding the certification of registration for non-commercial expression has not changed since the rules were first adopted in 1993. The rules are based on the structuring of the process of application to allow those who apply first to be served first and to allow for an orderly exercise of the public's rights of expression. The process balances the concerns of those members of the public who are interested in the facility's primary use as a means to move from place to place and those who are interested in the use of the facility as a forum for public expression. The process has been made as accessible as possible. For example, an individual or charitable group may apply by postal mail, electronic mail, telefax or in person at NJ TRANSIT Headquarters, One Penn Plaza East, Newark, New Jersey, and, if a simple form is completed, may receive a certificate granting them the opportunity to exercise non-commercial expression in a designated area of the facility. The social impact of the amendments pertaining to the placement of bridge banners advertising non-commercial community special events will benefit the public in several ways. The rules set forth an orderly process for allocating limited advertising space to organizations promoting events of interest to the community on a first-come, first-served basis. Commercial advertising on these banners is prohibited. The procedures will assist organizations in communicating to the public the time, place and nature of community special events. The social impact of that portion of the rules governing the behavior of other kinds in all the facilities has also not changed. The promulgation of these prohibitions as rules will benefit the public in several ways. All facilities will impose the same requirements on the public, making application of standards uniform throughout the State. Activities generally considered incompatible with the primary purpose of the facilities and equipment of NJ TRANSIT (such as the obstruction of a passageway, vandalism of equipment, dumping of garbage or the use of restroom or other areas for activities generally conducted in one's home or residence) will not be allowed and the primary purpose of the agency, that is, transportation, will be enhanced. These rules could affect everyone who utilizes the facilities of NJ TRANSIT, as well as the riders and taxpayers who indirectly contribute to the maintenance of the facilities.

**Economic Impact**

The economic impact of the proposed rules on the public will vary, depending upon the point of their interaction with the NJ TRANSIT system. Those who choose to apply for a certificate of non-commercial expression will be able to do so at no cost. There is no fee and the forms are provided at a central location for the use of the public. Eligible organizations that wish to use NJ TRANSIT property for advertising purposes through hanging bridge banners must apply for a Bridge Banner Permit. NJ TRANSIT will charge appropriate fees to recover the cost of administering this voluntary community service banner program. Costs relative to these prohibitions will depend upon the alternative choices made by the public. Commercial transactions, and their associated economic impacts, are not the subject of these rules and are referenced herein only to distinguish them from the non-commercial activities that are the subject of these rules.

**Federal Standards Statement**

A Federal standards analysis is not required because the requirement of the proposed rules with amendments, new rules and repeal are governed by State statute and not subject to any Federal regulations. The rules comply with any Federal constitutional provisions that might be found to apply to the non-commercial expression by any applicant.

**Jobs Impact**

The rules proposed for re-adoption with amendments, new rules and repeal will not affect the creation or loss of jobs.

**Agriculture Industry Impact**

The rules proposed for re-adoption with amendments, new rules and a repeal have no impact on the agriculture industry.

**Regulatory Flexibility Analysis**

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

**Smart Growth Impact**

The rules proposed for re-adoption with amendments, new rules and a repeal will not have any impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

**Housing Affordability Impact**

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

**Smart Growth Development Impact**

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

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:83.

Full text of the proposed amendments, new rules and repeal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

**SUBCHAPTER 1. GENERAL PROVISIONS****16:83-1.1 Purpose; scope**

The New Jersey Transit Corporation and its subsidiaries (NJ TRANSIT) are responsible for the provision of public [rail and bus] mass transit services in the State of New Jersey. NJ TRANSIT owns, controls and operates equipment (such as railcars and buses), yards and facilities. The facilities include, but are not limited to, rail and bus stations [or] and terminals and are instrumental to NJ TRANSIT's mission to provide and manage mass transit services in New Jersey. NJ TRANSIT's stations and terminals are centers of activity in their respective communities through which many people pass each day. From time to time, NJ TRANSIT receives requests from members of the public for permission to exercise their constitutional rights of expression[s] at such stations and terminals. NJ TRANSIT, through this chapter, informs and instructs the public how it can exercise its rights on or about NJ TRANSIT facilities and the

## PROPOSALS

## TRANSPORTATION

procedures to be followed in exercising such rights. NJ TRANSIT also sets forth, in this chapter, the standards of behavior to be followed [at all facilities, properties and in regard to bus and train equipment of NJ TRANSIT.] in or on NJ TRANSIT facilities or equipment. Finally, NJ TRANSIT sets forth, in this chapter, procedures to be followed to obtain authorization to use certain railroad bridges to advertise community events. It is NJ TRANSIT's objective and intent that any and all applicable provisions of the New Jersey Code of Criminal Justice (Title 2C) or the motor vehicle and traffic laws of New Jersey (Title 39), as well as any other applicable statutes of this State shall continue in full force and effect [of law]. NJ TRANSIT reserves the right to reject any applications for commercial or non-commercial speech or expression at NJ TRANSIT facilities where such conduct will impair NJ TRANSIT's [from conducting] ability to conduct its mass transit related business or where such expression gives rise to a credible public safety concern.

## 16:83-1.2 Definitions

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

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

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

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

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

["Commercial expression" means any public expressive conduct that materially proposes a commercial transaction including, but not limited to, the sale, offer, promotion, peddling, vending, advertisement or display of goods and/or services.]

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

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

["Knowingly" means that with the knowledge or the awareness of one's conduct, or of the existing circumstances, that a certain result will occur or is likely to occur from such conduct as a result of such conduct and circumstances.]

"Non-commercial expression" means the public exercise of free speech rights in or on NJ TRANSIT facilities or equipment, which

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

"Non-commercial community special event" means any event open to the public, conducted and/or sponsored by a governmental, educational, charitable or religious organization. This definition is not intended to apply, and does not apply to, events or activities that are conducted on a continual, ongoing basis. Non-commercial community special events include, but are not limited to, events conducted on a one-time, annual or seasonal basis.

"Personal notice" means an oral[,] or [spoken,] written communication directed to an individual or a group of individuals from an NJ TRANSIT official.

"Police officer" means any member of the NJ TRANSIT Police Department, or any [NJ TRANSIT] other law enforcement officer who has jurisdiction in, [the facility or] on, or adjacent to the NJ TRANSIT equipment [in which a violation of these rules shall occur] or facility.

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

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

## 16:83-1.3 Commercial expression

(a) A contract with NJ TRANSIT shall be required of any person [or organization] seeking to engage in any public expressive conduct that materially proposes a commercial transaction (commercial expression) including, but not limited to, the sale, offer, promotion, peddling, vending, advertisement or display of goods and/or services at or on any facility or equipment or to display any commercial advertisement at or on any NJ TRANSIT facility or equipment.

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

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

[(c) Personal access to vehicles or equipment, whether stationary or mobile, for the purpose of conducting commercial expressive activities, shall be prohibited.]

[(d)] (e) (No change in text.)

## 16:83-1.4 Non-commercial expression

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

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

## TRANSPORTATION

## PROPOSALS

products or services by NJ TRANSIT tenants, lessees or licensees at that location.

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

## 16:83-1.5 NJ TRANSIT disclaimer

NJ TRANSIT shall not be responsible for the views and ideas expressed [in the speech and/or conduct of non-commercial expression] by a person [or organization] holding a [certificate of registration] Certificate of Registration. Through signs, public announcements and/or personal communication, NJ TRANSIT may advise the public of the presence of a person [or organization] and may disclaim responsibility for, and/or sponsorship of, that person's [or organization's] cause.

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

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

(a) To accommodate persons [and organizations] who desire to engage in non-commercial [speech or] expression at specified NJ TRANSIT facilities, the [Assistant Executive Director (AED), Corporate Communications and External Affairs] Senior Director, Real Estate and Economic Development or his or her designee will issue, subject to terms and conditions set forth in these rules, a Certificate[s] of Registration ([“]Certificate[s]”) on a first-come, first-served basis, to permit conduct of noncommercial [speech or] expression in a specified [facility] location (as designated on the map attached to the Certificate[s]) [of] at a particular NJ TRANSIT facility [to persons or organizations who successfully complete the required application]. [Applications which are completed] In order to receive a certificate, a person must complete an application in [their] its entirety [are declared successfully completed]. If the application is being made on behalf of an organization, the application must state the number of persons requesting the Certificate and the number of persons expected to be in attendance. [These] The Certificate[s] will be issued without charge, when successfully completed] and, consistent with these rules, shall be subject to availability and limitations of space and conditions. [These] The Certificate[s] will be issued, as soon as practicable upon application in person, [or by telefax,] or upon receipt of the completed application by postal mail, electronic mail, or telefax. Applications [which] that have not been completed in their entirety shall be subject to being declared as unsuccessfully completed and will be returned to sender.

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

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

Real Estate and Economic Development  
One Penn Plaza East

Newark, NJ 07105

Telephone: (973) 491-7451 or (973) 491-8078

Fax: (973) 491-7331

## 16:83-2.2 Application for Certificate of Registration and Banner Permit

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

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

2. (No change.)

3. If more than one Certificate is requested, the name(s) and title(s) of the [person(s)] individual(s) who will have supervision of and responsibility for the [speech or] non-commercial expressive conduct at the specified facility during the term of the Certificate; and

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

i.-ii. (No change.)

iii. By an organization that has received an Internal Revenue Service determination that it is tax exempt under 26 [20] U.S.C. [§ 501(c)(3), (c)(4), or by (i)(5)] §501(c)(3) or a successor provision, or any organization with a similar tax exemption; or

iv. (No change.)

[(b) At the option of the applicant, the applicant's address and/or telephone number may be listed on the application. No applicant shall be required to list an address or telephone number on an application for a certificate of registration for non-commercial expression.

(c) Each person listed on the Certificate must wear an identification badge, which will be issued along with the Certificate, while engaged in non-commercial expression as authorized by the Certificate.]

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

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

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

3. A statement that the proposed advertisement is for a non-commercial public special event;

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

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

## 16:83-2.3 Disposition of application; appeal of denial

(a) Upon receipt of the completed application, the appropriate NJ TRANSIT official or designee shall, as soon as possible, give, telefax or mail the applicant the [requested number of] Certificate[s] or Banner Permit, if available.

(b) If the applicant is denied a Certificate or Banner Permit after completing the application, the applicant may [as soon as possible] appeal this denial by contacting:

Assistant Executive Director (AED), Communications and Customer Service  
New Jersey Transit Corporation  
One Penn Plaza East  
Newark, NJ 07105-2246

(c) An appeal shall be made in writing and shall include a statement describing the nature of the appeal and what factual issues, if any, shall be in dispute. As soon as possible after receipt of such appeal, the [Executive Director] AED, Corporate Communications and External Affairs or his or her designee shall conduct a review[,] on the papers if any factual dispute exists[,] and render a decision. The decision [of the Executive Director or his or her designee] shall be made in writing and shall set forth the [legal and/or factual] basis for the decision. Where an applicant wishes to contest [the] this decision [of the Executive Director],

## PROPOSALS

## TRANSPORTATION

the applicant may, within 30 days, request a contested case hearing and the matter shall be forwarded to the Office of Administrative Law for fact finding before an Administrative Law Judge (ALJ), pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The ALJ shall issue an Initial Decision, which shall be returned to the NJ TRANSIT Board of Directors for a final agency decision.

## 16:83-2.4 Validity of Certificate of Registration and Banner Permit

(a) Each Certificate of Registration (Certificate) shall be valid for the date(s) and time(s) appearing on the approved Certificate. A Certificate of Registration [is] shall be valid for up to, but not more than, five days. [Each certificate is valid up until] A Certificate shall not be valid prior to 6:00 A.M. or after the closing time of the facility. If the facility does not close, the Certificate [is valid up to] shall be valid only until 12:00 midnight of the date(s) appearing on the Certificate[, and, if valid the following day, is valid beginning at 6:00 A.M.]

(b) Each Certificate shall be valid only for the person [or organization] designated by NJ TRANSIT on that Certificate. Certificates shall not be transferred or assigned to another person[(s) or organization(s)].

(c) NJ TRANSIT may limit the number of valid [continuous] concurrent Certificates of Registration to the maximum number of [persons] individuals established for the particular facility, as indicated on the map attached to each Certificate of Registration, taking into account [NJ TRANSIT patrons and guests] the public transportation purposes of the facility. [The maximum number of persons shall be indicated on the map attached to each Certificate of Registration. If the number of applicants or persons covered by an application of an organization exceeds the maximum number of Certificate of Registration holders indicated on the map of the specified facility.] NJ TRANSIT will distribute [the maximum number of] Certificates of Registration on a "first-come, first-served" basis until the maximum number of individuals has been reached for the facility.

(d) Certificates of Registration [issued in accordance with this chapter] shall be valid only at the facility or facilities specified on the Certificate. [These facilities include, but are not limited to, the Newark Broad Street Station, Dover Station, Hoboken Terminal, Newark Penn Station, Summit Station, Trenton Station and Westfield Station and the Atlantic Rail Terminal and Lakewood Garage.]

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

## 16:83-2.5 Limitation of Certificate[; access during emergency] or Banner Permit

(a) NJ TRANSIT may cancel, temporarily defer or modify the Certificate or Banner Permit for emergent public health, welfare or safety reasons, including extraordinary weather, power failures, accidents, terrorism, disasters, strikes, riot, fire, civil disorder, service disruptions, special NJ TRANSIT-sponsored customer service events or other events, which create [a dangerous] an unsafe condition in the relevant expressive area or which substantially interfere with the transportation related activities of the facility.

[(b) NJ TRANSIT may temporarily grant or restrict public access to its facilities and equipment, or to portions thereof, at its discretion for emergent public health, safety or welfare reasons without prior notice. When there is threat to the public health, safety or welfare, NJ TRANSIT facilities and equipment, or portions thereof, may be closed by any NJ TRANSIT official who has the authority to do so upon personal communication, public announcement or conspicuous signage.]

## 16:83-2.6 Noise

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

## 16:83-2.7 Placards

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

portion of the facility. Placards shall not be affixed to a stick, pole or post made of any material.

## 16:83-2.10 Banner installation, maintenance and removal

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

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

(c) NJ TRANSIT may also, at its sole discretion, establish and charge appropriate fees to recover estimated direct and indirect costs of labor, equipment and administrative expenses associated with the issuance of Bridge Banner Permits. If access to the track is requested for any reason, and the request is granted, an NJ TRANSIT railroad protective flagman is required and the Banner Permit holder shall be liable for all associated labor and administrative costs.

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

## 16:83-[2.10]2.11 Inspection of Certificate

A Certificate of Registration holder [who is exercising non-commercial expression in an NJ TRANSIT facility] shall have [a valid] the Certificate of Registration available at all times, on his or her person, for inspection by an authorized NJ TRANSIT representative or local official.

## 16:83-[2.11]2.12 Liability

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

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

## 16:83-3.1 Prohibited acts

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

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

2. (No change.)

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

4. No person shall dump, discard, unload, [reject] eject, throw out, scrap, abandon, dispose or otherwise rid themselves of any junk, refuse,

TRANSPORTATION

PROPOSALS

trash, rubbish, waste, garbage, rubble, debris or other litter and unused matter into or upon any NJ TRANSIT facility or equipment without the authorization of NJ TRANSIT. This prohibition does not apply to refuse incidental to normal and routine usage of the facilities and equipment.

5.-6. (No change.)

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

8.-10. (No change.)

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

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

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

i. (No change.)

ii. Creating a hazardous or physically dangerous condition [by any act which serves no legitimate purpose of the actor];

iii.-iv. (No change.)

14. (No change.)

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

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

17. No person shall spit [into] in or [upon] on any [public or restricted area except in appropriate receptacles designed for such purpose] facility or equipment.

18. (No change.)

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

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

21. (No change.)

22. No person shall bring, escort, carry or otherwise accompany any animal except [seeing eye/hearing] guide dogs or any other service animals, appropriately [restrained and charged] controlled, or other domestic animals restrained in appropriate carriers.

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

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

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

26. (No change.)

16:83-3.2 Access during emergency

NJ TRANSIT may temporarily grant or restrict public access to its facilities and equipment, or to portions thereof, at its sole discretion for emergent public health, safety or welfare reasons without prior notice. When there is a threat to the public health, safety or welfare, NJ TRANSIT facilities and equipment, or portions thereof, may be closed by any NJ TRANSIT official who has the

authority to do so upon personal communication, public announcement or conspicuous signage.

[APPENDIX  
CERTIFICATE OF REGISTRATION

Name of Organization (if applicable): \_\_\_\_\_

Address (Optional): \_\_\_\_\_

Telephone Number (Optional): \_\_\_\_\_

Facility: \_\_\_\_\_

Date(s) of Non-Commercial Public Expression: \_\_\_\_\_

Time(s) of Non-Commercial Public Expression: \_\_\_\_\_

Purpose of Non-Commercial Public Expression: \_\_\_\_\_

You are hereby permitted to engage in non-commercial public expression in the designated area (as shown on the map attached hereto and made a part hereof) of the NJ TRANSIT facility stated above, on the date(s) and during the time(s) set forth above, subject to the terms and conditions of N.J.A.C. 16:83, a copy of which is attached hereto and made a part hereof.

Authorized by: \_\_\_\_\_  
(Name and Title of NJ TRANSIT Official)

The undersigned agrees to comply with all of the terms and conditions of this Certificate of Registration.

\_\_\_\_\_  
(Signature of Certificate Holder)

TREASURY — GENERAL

(a)

OFFICE OF THE STATE TREASURER  
Public Employee Charitable Fund-Raising Campaign  
Proposed New Rules: N.J.A.C. 17:28

Authorized By: R. David Rousseau, State Treasurer.  
Authority: N.J.S.A. 52:14-15.9c13, 52:18A-30 and 52:27B-40.  
Calendar Reference: See Summary below for explanation of exception to calendar requirement.  
Proposal Number: PRN 2008-319.

Submit comments by February 13, 2009 to:  
Kaitlyn Adams  
Office of the State Treasurer  
PO Box 002  
Trenton, New Jersey 08625-0002

The agency proposal follows:

**EXHIBIT C**

**REGULATIONS: READOPTION OF REGULATIONS: N.J.A.C. 16:83 "CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF NJ TRANSIT EQUIPMENT AND FACILITIES" – SUMMARY OF KEY CHANGES**

The rules were amended to, in part, (a) codify NJ TRANSIT's practice of issuing permits enabling non-profit organizations to hang banners on various NJ TRANSIT rail bridges to advertise non-commercial community special events, (b) clearly distinguish non-commercial speech from commercial speech, and (c) expand the definition of "equipment" to include "light rail vehicle" and "ferry." Other amendments represent minor changes to form. The proposed amendments and new rules to N.J.A.C. 16:83 are shown in Exhibit B. The most significant changes are as follows:

The definition of "equipment" has been amended to delete "railroad" and "crane" and add "light rail vehicle" and "ferry," respectively.

The definition of "non-commercial expression" has been amended to include "solicitation of signatures and comments" in the list of non-commercial expression.

N.J.A.C. 16:83-1.3(a) has been amended to clarify that a contract is required to engage in commercial expression at or on any facility or equipment, or to display commercial advertisement at or on any NJ TRANSIT facility or equipment. Additionally, the definition of commercial expression has been incorporated into this subsection to provide clarification regarding what constitutes commercial expression.

N.J.A.C. 16:83-1.4(b) has been added to state that NJ TRANSIT will not permit products or services at NJ TRANSIT facilities that compete or conflict with the sales of NJ TRANSIT tenants, lessees or licensees.

N.J.A.C. 16:83-1.4(c) has been added to state that NJ TRANSIT reserves its right to use these railroad bridges or other facilities for commercial advertising, and may at any time discontinue the use for advertising non-commercial community special events. The added subsection also explains that unauthorized banners will be removed.

N.J.A.C. 16:83-2.2(c), requiring Certificate holders to wear ID, has been eliminated.

N.J.A.C. 16:83-2.10(c) has been added to explain that NJ TRANSIT may charge fees to recover costs/expenses associated with issuing Bridge Banner Permits and if track access is required, the Banner Permit holder will be liable for associated labor and administrative costs for an NJ TRANSIT railroad protective flagman.

N.J.A.C. 16:83-2.10(d) has been added to explain that the Banner Permit holder must obtain any additional permits and/or approvals required by other entities.

N.J.A.C. 16:83-3.1(a)1 has been amended to add "no person shall occupy more than one seat in or on any NJ TRANSIT facility or equipment."

N.J.A.C. 16:83-3.1(a)3 has been amended to clarify that the paragraph's prohibited conduct includes the use of a pole and carrying foreign matter or objects representing a safety hazard into NJ TRANSIT facilities or equipment.

**ITEM 0904-23: 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**

Information Services utilizes and supports a variety of computing equipment within its Newark and Maplewood data centers and at over 50 other sites throughout the organization delivering an assortment of 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 building; but also includes all other NJ TRANSIT sites, which utilize the equipment specified. Maintenance on specified equipment will be available "around-the clock" since 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.

Information Services supports NJ TRANSIT's computing needs using equipment from multiple manufactures including IBM, HP, Sun Microsystems, Telex/Memorex and Dell Computers.

A competitive procurement process was initiated and a pre-proposal conference was held on December 22, 2008, with six firms attending. Six firms submitted proposals, which were evaluated based upon cost and other factors and the Technical Evaluation Committee has recommended that NJ TRANSIT contract with Maintech, Inc.

**ACTION (Justification: State Of Good Repair)**

Authorize a three year contract with Maintech Inc. a division of Volt Delta Resources, LLC, New York, NY for computer hardware services at a cost not to exceed \$966,633 which includes a five percent contingency, subject to the availability of funds.

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

**FISCAL IMPACTS**

**Requested Authorization:** \$966,633 (3 Years)

**Total Project Cost:** \$966,633

**Projected Date of Completion:** June 30, 2012

**Anticipated Source of Funds:** Operating

**Diversity Goal:** 10%

**Related/Future Authorization:** None

**Impacts of Subsequent**

<b>Operating Budgets:</b>	FY2011	\$318,575
	FY2012	\$343,950

**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**, a competitive procurement process was initiated and six firms submitted proposals which were evaluated based upon cost and other factors, by the Technical Evaluation Committee; and

**WHEREAS**, Maintech, Inc. was evaluated to be the most responsive proposer best capable of providing these services;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to enter into a three year contract with Maintech Inc. a division of Volt Delta Resources, LLC, New York, NY for computer hardware services at a cost not to exceed \$966,633 which includes a five percent contingency, subject to the availability of funds.