

# July 2024

## MTA Board Action Items



# **MTA Board Meeting**

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

**Wednesday, 7/31/2024  
9:00 AM - 12:00 PM ET**

## **1. PUBLIC COMMENT PERIOD**

## **2. PRESENTATIONS**

### **3. CFO PRESENTATION TO A JOINT SESSION OF THE BOARD & FINANCE COMMITTEE (Materials Distributed Separately)**

**2024 Mid-Year Forecast**

**2025 Preliminary Budget**

**July Financial Plan 2024-2028**

## **4. APPROVAL OF MINUTES**

**MTA and MTA Agencies Regular Joint Committee and Board Meeting Minutes for June 26, 2024**

*MTA and MTA Agencies Regular Joint Committee and Board Meeting Minutes for June 26, 2024 - Page 4*

## **5. COMMITTEE ON CAPITAL PROGRAM**

**C&D Procurements**

*C&D Procurements - Page 13*

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

## **7. COMMITTEE ON NYCT & BUS (no items)**

## **8. COMMITTEE ON MTA BRIDGES & TUNNELS OPERATIONS**

**Action Item**

**i. 2023 B&T Toll Violation Enforcement**

*B&T Toll Enforcement Violation Enforcement (Action Item) - Page 19*

## **9. COMMITTEE ON FINANCE**

**Action Items**

**i. Updated MTA and TBTA Bond Refunding Policy**

*Approval of the Updated MTA and TBTA Bond Refunding Policy - Page 27*

**ii. TBTA Special Obligation Resolution Authorizing Real Estate Transfer Tax Revenue Obligation**

*Approval of the TBTA Special Obligation Resolution Authorizing Real Estate Transfer Tax Revenue Obligations (TBTA Capital Lockbox Fund) and authorization of its submission to the Capital Program Review Board - Page 32*

**Procurement Items**

*MTAHQ Procurement Report - Page 125*

**i. Competitive Procurements**

*MTAHQ Competitive Procurements - Page 129*

**Real Estate Items**

**i. Real Estate Agenda and Staff Summaries**

*Real Estate Agenda and Staff Summaries - Page 140*

**10. AUDIT COMMITTEE**

**Action Items (Materials Distributed Separately)**

**i. Quarterly Financial Statements - 1st Quarter 2024**

**ii. Pension Audits**

**iii. Single Audit Report**

**iv. Management Letter Reports**

**v. Review of the MTA Inspector General's Office**

**11. FIRST MUTUAL TRANSPORTATION ASSURANCE CO (FMTAC) (no items)**

**12. EXECUTIVE SESSION**

**Joint Minutes of the  
Metropolitan Transportation Authority,  
the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating  
Authority, the Staten Island Rapid Transit Operating Authority, the Metropolitan  
Suburban Bus Authority, the Triborough Bridge and Tunnel Authority,  
the Long Island Rail Road Company, Metro-North Commuter Railroad Company,  
MTA Construction and Development Company, the MTA Bus Company and  
the First Mutual Transportation Assurance Company  
Regular Board Meeting Minutes  
Wednesday, June 26, 2024  
9:00 a.m.  
2 Broadway  
New York, NY 10004**

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

**Hon. Janno Lieber, Chair & CEO  
Hon. Andrew Albert  
Hon. Jamey Barbas  
Hon. Samuel Chu  
Hon. Michael Fleischer  
Hon. Daniel Garodnick  
Hon. David Jones  
Hon. Meera Joshi  
Hon. Blanca Lopez  
Hon. David Mack  
Hon. Haeda B. Mihaltses  
Hon. Dr. John-Ross Rizzo  
Hon. Lisa Sorin  
Hon. Isabel Midori Valdivia  
Hon. Neal Zuckerman\***

The following Board Members were absent:

**Hon. Marc Herbst  
Hon. John Samuelsen**

The following alternate non-voting members were present:

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

Paige Graves, General Counsel, Laura Wiles, Chief of Staff, John McCarthy, Chief External Relations & Policy, Juliette Michaelson, Deputy Chief External Relations & Policy, Lisette Camilo, Chief Administrative Officer, Kevin Willens, Chief Financial Officer, Carl Hamann, Acting Chief Safety Officer, Demetrius Crichlow, Interim President, NYCTA, Sr. Vice President Subways, NYCT, Frank Annicaro, Sr. Vice President, NYCT DOB /MTA Bus Company, Catherine Rinaldi, President, Metro-North Railroad, Rob Free, President, LIRR, Catherine Sheridan, President, TBTA, Jamie Torres-Springer, President, MTA C&D, Anita L. Miller, Chief Labor Relations, Quemuel Arroyo, Chief Accessibility Officer, Shanifah Rieara, Senior Advisor for Communications and Policy/Chief Customer Officer, Cate Contino, Director, Special Projects & Strategic Initiatives, also attended the meeting.

The Board of the Metropolitan Transportation Authority also met as the Boards of the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Rapid Transit Operating Authority, the Metropolitan Suburban Bus Authority, the Triborough Bridge and Tunnel Authority, the Long Island Rail Road Company, Metro-North Commuter Railroad Company, the MTA Construction and Development Company, the MTA Bus Company, and the First Mutual Transportation Assurance Company.

Unless otherwise indicated, these minutes reflect items on the agenda of the Board of the Metropolitan Transportation Authority, the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Rapid Transit Operating Authority, the Metropolitan Suburban Bus Authority, the Triborough Bridge and Tunnel Authority, the Long Island Rail Road Company, Metro-North Commuter Railroad Company, the MTA Construction and Development Company, and the First Mutual Transportation Assurance Company.

Chair Lieber called to order the June 2024 Board meeting.

A recorded audio public safety announcement was played.

## **1. PUBLIC SPEAKERS' SESSION.**

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

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

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

NYC Comptroller Brad Lander  
Assemblymember Robert Carroll, District 44  
Lisa Daglian, Executive Director, PCAC  
Jason Anthony, private citizen  
Senator Andrew Gounardes\*

Senator Jabari Brisport \*  
Assemblymember Tony Simone, District 75  
Michael Ring, private citizen  
Brooklyn Borough President Antonio Reynoso  
Senator Jessica Scarcella-Spanton\*  
Assemblymember Michael Tannousis, District 64\*  
Assemblymember Harvey Epstein, District 74  
Elizabeth Adams, Transportation Alternatives  
Katherine Garcia, private citizen\*  
Megan Wylie, Director, Building Congress\*  
Samir Lavingia, Manhattan Community Board #5  
Hassaan Qazi, Riders Alliance  
Gian Pedulla, private citizen  
Patrick Condren, BUS4NYC Coalition Inc.  
Grace Rauh, Executive Director, 5 Boro Institute  
Jon Orcutt, private citizen\*  
Tom Wright, President & CEO, Reginal Plan Association  
Rachael Fauss, Senior Policy Advisor, Reinvent Albany  
Susan Lee, President, New Yorkers Against Congestion Pricing Tax  
Joe Rappaport, Executive Director, Brooklyn Center for Independence of the Disabled (BCID)  
Andrew Rein, President, Citizens Budget Commission  
Congressmember Jerrold Nadler\*

The Moderator announced that the allotted time for the public speakers' comments session had been reached and asked the remaining registered speakers to standby as the agency transitioned to a separate live recording session. Remote public speakers participating via Zoom were advised to standby and wait for further instructions from the Moderator. The Moderator stated that recorded comments will be distributed to the MTA Board and posted to the Board meeting web page and on YouTube.

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

Chair Lieber thanked all public speakers for their comments.

General Counsel Paige Graves confirmed a quorum of the Board Members in attendance and noted the Board member joining the meeting remotely.

## **2. EXECUTIVE SESSION.**

Upon motion duly made and seconded, the Board voted to convene an Executive Session, in accordance with the Public Officers Law, Section 105(1)(e), to discuss collective bargaining matters.

Upon motion duly made and seconded, the Board voted to reconvene in public session.

### **3. PUBLIC SESSION RESUMES.**

Chair Lieber announced that in Executive Session the Board discussed labor agreements.

Upon motion duly made and seconded, the Board approved:

- 1) Collective bargaining agreement between MTA Long Island Rail Road and the National Conference of Firemen and Oilers (NCFO).
- 2) Collective bargaining agreement between MTA Metro-North Railroad and the International Brotherhood of Electrical Workers – Supervisors (IBEW-S).
- 3) Collective bargaining agreement between NYCT, MaBSTOA, SIRTOA, MTA Bus Company and MTA HQ and the United Transit Leadership Organization (UTLO).
- 4) Collective bargaining agreements covering four individual bargaining units of the Transport Workers Union, Local 100 (TWU Local 100, as follows:
  - i) MTA Bus Company and the TWU Local 100 Administrative, Professional and Technical Titles unit; and
  - ii) MaBSTOA and the TWU Local 100 Staff Analyst and Transit Management Analyst Unit, the Computer Telecommunications Unit, and the Career and Salary Unit.

### **4. CHAIR LIEBER'S REMARKS.**

Chair Lieber welcomed attendees to the June MTA Board meeting; he emphasized the importance of public engagement and the Board's fiduciary responsibilities amid these challenging times, and he noted that the Board is no stranger to managing tough issues and rising to challenges.

Chair Lieber highlighted some of the MTA's challenges, including a 55% ridership decline in 2021 due to COVID-19 and a suspended \$52 billion 2020-2024 Capital Program. Chair Lieber stated that despite these difficulties the staff worked hard to move forward funded projects started under the prior Capital Programs and to avoid layoffs and service cuts. The Chair noted that ridership is now recovering, regularly reaching 4 million on subways and breaking records on commuter railroads, and the MTA has hired 6,000 people in support of the increase in services on the subway, buses and commuter rails.

Chair Lieber discussed some of the MTA's achievements and innovations, including the implementation of various safety measures, such as the installation of additional cameras and the mental health outreach program, and innovative fare evasion strategies and financial successes, such as the Board's approval of a balanced budget with reduced spending. The Chair also noted some major projects accomplished in the last few years, like the L train tunnel project, LIRR Third Track, and preparations toward Congestion Pricing.

Chair Lieber, discussing the pause in Congestion Pricing, stated that the MTA has begun the process of focusing on critical state-of-good repair work, prioritizing essential work and

maintaining project readiness. The MTA will work with Governor Hochul and MTA's partners to explore ways to preserve and revive the projects that are being re-sequenced due to the pause and will work to keep the machinery of congestion pricing in operating order so it is ready when the temporary pause is lifted.

The Chair stressed the need for future planning, particularly the next Capital Program and the 20-Year Needs Assessment to address system conditions, climate change readiness, full transit accessibility, and visionary projects like the Second Avenue Subway Phase Two.

Chair Lieber acknowledged the Board's role in planning and expressed the importance of their support moving forward.

The Chair introduced President Jamie Torres-Springer and Deputy Chief Development Officer Tim Mulligan, to present an update on the Capital Program. The Chair noted that following the presentation the Board will consider the CBDTP resolution.

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

#### **5. IMPACT OF CONGESTION PRICING ON THE CAPITAL PROGRAM.**

President Jamie Torres-Springer provided an overview of the current Capital Program. Tim Mulligan, Deputy Chief Development Officer, discussed the impact that the delay of congestion pricing will have on the Capital Plan.

Refer to the video recording of the meeting produced by the MTA and maintained in MTA records for the details of President Jamie Torres-Springer's and Tim Mulligan's presentations, Chair Lieber's remarks and Board Members' questions and discussion.

#### **6. CENTRAL BUSINESS DISTRICT TOLLING PROGRAM (CBDTP) IMPLEMENTATION RESOLUTION.**

Allison L. C. de Cerreño, Chief Operating Officer, MTA B&T, outlined the purpose of the resolution and provided an overview of the next steps for the CBDTP.

General Counsel Paige Graves read the resolution.

Upon motion duly made and seconded, the Board approved and adopted the resolution as follows. Board member David Mack voted in opposition.

- (i) Acknowledge that the pause in the implementation of the Central Business District Tolling Program (CBDTP) announced by New York State precludes MTA staff from implementing the program in June 2024, as directed by the Board's March 2024 resolution.
- (ii) Extend the date of implementation of the CBDTP from on or about June 2024 – the date anticipated in the Board's prior resolution – until after such time as the



required final agreement has been executed by all three Project Sponsors – Triborough Bridge and Tunnel Authority (TBTA), New York State Department of Transportation, and New York City Department of Transportation – and by the Federal Highway Administration (FHWA).

- (iii) Authorize and direct the President of TBTA or her designee to take such steps as may be necessary or desirable to implement the CBDTP until after such time as the required final agreement has been executed.

Refer to the staff summary and documentation filed with the records of this meeting for the details on this item and to the video recording of the meeting produced by the MTA and maintained in MTA records for the details of the presentations, Chair Lieber’s and Board Members’ remarks and discussion.

**7. TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY COMMITTEE.**

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

**8. LONG ISLAND RAIL ROAD/METRO-NORTH RAILROAD COMMITTEE.**

A. Metro-North Procurement Item.

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

- 1) To award a three-year noncompetitive public works contract in the amount of \$8.5M to Loram Maintenance of Way, Inc. for Continuous Work Platform (CWP) services.

B. Long Island Rail Road Procurement Item.

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

- 1) To award a five-year noncompetitive public works contract to Loram Maintenance of Way, Inc. in the amount of \$44.6M for Rail Vacuum services.

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

**9. NEW YORK CITY TRANSIT AND BUS COMMITTEE.**

A. Procurement Items.

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

- 1. Waived formal competitive bidding due to the existence of a single responsible source and approve the award of a three-year miscellaneous service contract to Clever Devices

Ltd for the provision of maintenance and support services related to Digital Information Screen (“DIS”) Systems installed on buses. The base award will be in the total estimated amount of \$1,789,018. The Board authorized the MTA Senior Director, Procurement Operations, to approve the exercise of up to five 2-year option periods in the total estimated amount of \$2,735,781.

2. Waived formal competitive bidding due to the existence of a single responsible source and approved the award of a three-year miscellaneous service contract to Vianova Technologies GmbH for the provision of maintenance and support services related to Digital Information Screen (“DIS”) Systems installed on buses. The base award will be in the total estimated amount of \$4,259,298. The Board authorized the MTA Senior Director, Procurement Operations, to approve the exercise of up to five 2-year option periods in the total estimated amount of \$9,294,944.
3. Approved a modification to a contract with Turtle & Hughes, Inc. to exercise Option 1 of the Sag Corrector Service Agreement for the Department of Subways to add an additional five-year maintenance period. The estimated amount of this Option is \$3,540,000. The Board authorized the MTA Senior Director, Procurement Operations, to approve the exercise of Option 2 in the amount of \$3,840,000 for a subsequent five-year period pending the approval of funding in 2029.
4. Approved a modification to contracts with AARO Inc., Corporate Transportation Group Ltd, Fejost LLC, d/b/a Sentry Management Solutions, and Bel-Linda, d/b/a Islander Transportation, for the provision of Broker Car Service for Paratransit Access-A-Ride, to exercise Option years to add an extension period and extend the Staten Island Services

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

#### **10. MTA C&D COMMITTEE.**

Upon a motion duly made and seconded, the Board approved the Capital Program item listed below. Refer to the staff summary and Capital Program Committee minutes filed with the records of this meeting for the details on this item.

Board Member Meera Joshi reported one ratification action for Board Approval totaling \$2.9 million dollars.

#### **11. MTA COMMITTEE ON FINANCE.**

##### **A. Action Item.**

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

1. 2024 New York State Public Work Enforcement Fund (PWEF) Assessment. Authorized staff to remit the 2024 assessment payment, as adjusted for the 2023 actual assessment, to the State Department of Labor.

**B. Procurement Item.**

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

1. TDX Construction Corporation – Small Business Mentoring Program Management – No. 10200-01/AWO/Mod. # 6. Approved the extension of the miscellaneous service contract award to TDX Construction Corporation for management of the MTA Small Business Development Program (SBDP) for a period of up to six months (through March 31, 2025) and add funding in the amount of \$5 million.

**C. Real Estate Items.**

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

**Transactional Action Items**

**Metro-North Railroad**

1. Approval of a lease with E Hartsdale Food Mart, Inc., formed by Airport Mart, Inc., for the operation of a food and beverage convenience store located at 223 East Hartsdale Avenue, Hartsdale, NY.

**Long Island Rail Road**

2. Approval of a license agreement with North Ferry Co., Inc. for the operation of a ferry service providing transportation between Greenport and Shelter Island located South of Wiggins Street, adjacent to the Greenport Station, Greenport, NY.

**12. APPROVAL OF MINUTES.**

Upon motion duly made and seconded, the Board approved the Joint Minutes of the MTA and MTA Agencies Regular Board meeting held on May 22, 2024.

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

**13. ADJOURNMENT.**

Upon motion duly made and seconded, the Board voted to adjourn the meeting at 12:41 p.m.

MTA and Agencies' Regular Board Meeting Joint Minutes  
June 26, 2024

Respectfully submitted,

---

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

---

Haley Stein  
Vice President,  
General Counsel and Secretary  
Long Island Rail Road Company

---

Mariel A. Thompson  
Assistant Secretary  
NYCT

---

Evan Eisland  
General Counsel and Secretary  
MTA C&D

---

Paul L. Friman  
General Counsel  
and Corporate Secretary  
TBTA

---

Victoria Clement  
Assistant Secretary  
MTAHQ

## **Contracts Department**

**Evan Eisland, Executive Vice President and General Counsel**

### **PROCUREMENT PACKAGE July 2024**

## PROCUREMENTS

The Procurement Agenda this month includes 1 action for a proposed expenditure of \$1.9 M.

# Staff Summary

<b>Subject</b> Request Authorization for Several Procurement Actions					
<b>Contracts Department</b>					
Evan Eisland, Executive Vice President and General Counsel					
<b>Board Action</b>					
Order	To	Date	Approval	Info	Other
1	Capital Program Committee	7/29/24	X		
2	Board	7/31/24	X		

<b>Date:</b> July 23, 2024			
<b>Internal Approvals</b>			
	Approval		Approval
X	Deputy Chief Development Officer, Delivery	X	President
X	Deputy Chief Development Officer, Development	X	Executive Vice President & General Counsel

## Purpose

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

## Discussion

MTA Construction & Development proposes to award the following action:

<u>Schedules Requiring Majority Vote</u>	<u># of Actions</u>	<u>\$</u>	<u>Amount</u>
I. Modifications to Purchase and Public Work Contracts	1	\$	1,905,486
<b>SUBTOTAL</b>	1	\$	1,905,486
<b>TOTAL</b>	1	\$	1,905,486

## Budget Impact

The approval of this procurement action will obligate capital funds in the amounts listed. Funds are available in the capital program budget for these purposes.

## Recommendation

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

## **MTA Construction & Development**

### **BOARD RESOLUTION**

**WHEREAS**, in accordance with Sections 559, 2879, 1209 and 1265-a of the Public Authorities Law and the All Agency General Contract Procurement Guidelines, the Board authorizes the award of certain non-competitive purchase and public works contracts, and the solicitation and award of request for proposals in regard to purchase and public work contracts; and

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

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

NOW, the Board resolves as follows:

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



**June 2024**

**LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL**

**Procurements Requiring Majority Vote:**

**I. Modifications to Purchase and Public Work Contracts**

(Approvals/Staff Summaries required for substantial change orders and change orders that cause the original contract to equal or exceed the threshold required for Board approval.)

- |           |  |                     |                                      |
|-----------|--|---------------------|--------------------------------------|
| <b>1.</b> | <b>Tutor Perini Corporation<br/>Contract No. CS179</b> | <b>\$ 1,905,486</b> | <b><u>Staff Summary Attached</u></b> |
|-----------|--|---------------------|--------------------------------------|

MTA Construction and Development requests that the Board approve a modification to the systems installation and integration contract for the East Side Access project to replace fire standpipe valves throughout the tunnels and retest the fire suppression system.

# Staff Summary

## Schedule I: Modifications to Purchase and Public Work Contracts

Item Number: 1

<b>Vendor Name (&amp; Location)</b> Tutor Perini Corporation (Peekskill, New York)	
<b>Description</b> Systems Facilities Package No. 1	
<b>Contract Term (including Options, if any)</b> 75 months	
<b>Option(s) included in Total Amount?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a	
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
<b>Solicitation Type</b> <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
<b>Funding Source</b> <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	
<b>Requesting Dept/Div &amp; Dept/Div Head Name:</b> East Side Access, Judith Kunoff, SVP and Program Executive	

<b>Contract Number</b> CS179	<b>AWO/Modification #</b> 727
<b>Original Amount:</b>	\$ 333,588,000
<b>Prior Modifications:</b>	\$ 215,730,869
<b>Prior Budgetary Increases:</b>	\$ 0
<b>Current Amount:</b>	\$ 766,118,869
<b>This Request:</b>	\$ <b>1,905,486</b>
<b>% of This Request to Current Amount:</b>	0.2%
<b>% of Modifications (including This Request) to Original Amount:</b>	65.2%

### Discussion:

Contract CS179 is a systems installation and integration contract for the East Side Access project (the “Project”) that includes installation of the fire suppression system in the Project tunnels. MTA Construction and Development (“C&D”) requests that the Board approve a modification to replace fire standpipe valves throughout the tunnels and retest the system.

After the Contractor’s installation and configuration of the fire standpipe valves in accordance with Contract requirements, the Project’s General Engineering Consultant (“GEC”) determined that 48 of the valves were the wrong type and would need to be replaced. These valves were specified incorrectly in the Contract due to an apparent design error and MTA’s claim against the GEC for this design error was previously settled. This modification also provides for limited repairs to fix leaks in an existing section of fire standpipe valves at 63<sup>rd</sup> Street, and for pressure testing the full system after the valves were replaced and the leaks repaired.

The work of replacing the valves was initiated under a unilateral modification issued by C&D in the amount of \$700,000. The Contractor performed the work while maintaining time and material records and claimed that the cost of the work was in excess of the value of the unilateral modification. After a review of the time and material records and discussions with the Contractor regarding the need for retesting of the system after the replacement of the valves, MTA recognized the additional costs for retesting the system, revised its estimate and negotiated this Modification increasing the compensation to the Contractor for the Work.

The Contractor submitted a cost proposal in the amount of \$3,791,380 and the parties agreed to a final lump sum price of \$2,605,486. Crediting the \$700,000 that was paid pursuant to the prior unilateral modification, the value of the modification proposed for the Board’s approval is \$1,905,486, which is deemed to be fair and reasonable.

This modification includes a reservation of the parties’ rights with respect to any claims for an extension of time and impact costs that may be associated with this work, as the parties are engaged in negotiation of a settlement of all delay claims on this Contract, which will include this issue, as part of the process of closing out this Contract.



# Bridges and Tunnels

---

---

## Toll Violation Enforcement (Action Item)



# Staff Summary

Subject	Toll Violation Enforcement
Department	Law
Department Head Name	Paul L. Friman
Department Head Signature	
Project Manager Name	

Date	July 31, 2024
Vendor Name	N/A
Contract Number	N/A
Contract Manager Name	N/A
Table of Contents Ref. #	N/A

Board Action					
Order	To	Date	Approval	Info	Other
1	B&T Committee	07/29/24			
2	Board	07/31/24			

Internal Approvals			
Order	Approval	Order	Approval
3	President 		VP Procurement
	General Counsel		VP Operations
2	Chief Operating Officer 		VP Labor Relations
	VP Operations Support		VP & Chief Engineer

Internal Approval (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval
	Senior Director, Policy & Operations Analysis		Chief Security Officer		Chief Maintenance Officer	1	VP ITS & Tolling <i>N/A</i>
	Chief Information Officer		Chief Health & Safety Officer		Affirmative Action		Other

**PURPOSE:** To obtain the Board's approval of a Resolution (i) adopting the Authority's revised toll violation enforcement regulations to decrease the violation fee imposed on owners from \$100.00 to \$50.00 for toll violations at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazzano-Narrows Bridges and Hugh L. Carey and Queens Midtown Tunnels, while continuing to impose a \$50.00 violation fee for toll violations at the Henry Hudson, Cross Bay Veterans Memorial or Marine Parkway-Gil Hodges Memorial Bridges, and establishing a violation fee of \$50.00 for toll violations at the Central Business District; and (ii) authorizing the President of the Authority or her designee to take all such steps that may be necessary and desirable to establish, implement and permanently adopt, pursuant to law, the revised regulation (attached as Attachment 1).

**DISCUSSION:** On May 22, 2024, the Board was informed that the Authority was taking the requisite preliminary steps to revise the Authority's toll violation enforcement regulations. The Authority's proposed regulations would decrease the violation fee from \$100.00 to \$50.00 per violation for failure to pay tolls at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazzano-Narrows Bridges and the Hugh L. Carey and Queens Midtown Tunnels, while continuing to impose the \$50.00 fee per violation upon owners for failure to pay tolls at the Henry Hudson, Cross Bay Veterans Memorial and Marine Parkway-Gil Hodges Memorial Bridges, and establish a violation fee of \$50.00 for toll violations at the Central Business District. In addition, the proposed regulations continue to (i) make it clear that owners have an opportunity to dispute their responsibility for toll violations and have them dismissed or transferred before being subject to a \$50.00 violation fee per violation or, if persistent violators, the suspension of their vehicle registrations by New York Department of Motor Vehicles (DMV); (ii) prescribe the information required in violation notices; the process for disputing toll violations; the grounds for dismissing toll violations; the process for vehicle rental and leasing companies to transfer responsibility for tolls and violation fees to renters and lessees, as well as the required evidence; and (iii) state that owners who persistently fail to pay their tolls and violation fees or have them dismissed or transferred may have their vehicle registrations suspended by DMV.

Notice of the proposed revised regulations was published in the *New York State Register* on May 29, 2024, soliciting public comments. No comments have been received by the Authority.

The legal name of MTA Bridges and Tunnels is Triborough Bridge and Tunnel Authority.

Finally, the Board is asked to delegate to the President or her designee authority to take all necessary and desirable steps to adopt the revised Part 1021.3 of Title 21 of the New York Codes, Rules and Regulations.

**IMPACT ON FUNDING:** It is anticipated that decreasing the violation fee from \$100.00 to \$50.00 per toll violation at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazzano-Narrows Bridges and the Hugh L. Carey and Queens Midtown Tunnels will be offset by the increased amounts now potentially recoverable across all of the Authority's tolled bridge and tunnel facilities as a result of the recent legislative changes concerning payment and enforcement of the Authority's toll violation fees. It is also anticipated that establishing the same toll violation fee in the amount of \$50.00 per violation of the Authority's Central Business District Tolling Program toll regulations will strengthen toll violation enforcement procedures at the Central Business District by deterring toll evasion.

**RECOMMENDATION:** It is recommended that the Board adopt the revised toll violation enforcement regulations decreasing the violation fee from \$100.00 to \$50.00 per toll violation at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazzano-Narrows Bridges and the Hugh L. Carey and Queens Midtown Tunnels, and establishing the same toll violation fee in the amount of \$50.00 per violation of the Authority's Central Business District Tolling Program toll regulations.

The legal name of MTA Bridges and Tunnels is Triborough Bridge and Tunnel Authority.

## RESOLUTION

**WHEREAS**, the Triborough Bridge and Tunnel Authority (Authority) has been given the statutory right and duty to make rules and regulations for establishment and collection of tolls on its bridges and tunnels and in the Central Business District; and

**WHEREAS**, on May 22, 2024, the Board was informed that the Authority was taking the requisite preliminary steps to revise the Authority's toll violation enforcement regulations to decrease the violation fee from \$100.00 to \$50.00 per violation for failure to pay tolls at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazzano-Narrows Bridges and the Hugh L. Carey and Queens Midtown Tunnels, while continuing to impose the \$50.00 fee per violation upon owners for failure to pay tolls at the Henry Hudson, Cross Bay Veterans Memorial and Marine Parkway-Gil Hodges Memorial Bridges, and establish a violation fee of \$50.00 for toll violations at the Central Business District, and continue to (i) make it clear that owners have an opportunity to dispute their responsibility for toll violations and have them dismissed or transferred before being subject to a \$50.00 violation fee per violation or, if persistent violators, the suspension of their vehicle registrations by New York Department of Motor Vehicles (DMV); (ii) prescribe the information required in violation notices; the process for disputing toll violations; the grounds for dismissing toll violations; the process for vehicle rental and leasing companies to transfer responsibility for tolls and violation fees to renters and lessees, as well as the required evidence; and (iii) state that owners who persistently fail to pay their tolls and violation fees or have them dismissed or transferred may have their vehicle registrations suspended by DMV; and

**WHEREAS**, notice of the proposal for revised regulations was published in the *New York State Register* on May 29, 2024, soliciting public comments and no comments were received by the Authority;

### **NOW, THEREFORE, IT IS:**

**RESOLVED**, that the prior Part 1021.3 of Title 21 of the New York Codes, Rules and Regulations shall be and hereby is repealed and the new Toll Violation Enforcement regulations as set forth in the attachment to this resolution, shall be and hereby is adopted; and be it further,

**RESOLVED**, that the President of the Authority or her designee is hereby fully authorized and directed to take such steps as may be necessary or desirable to repeal the prior Part 1021.3 of Title 21 of the New York Codes, Rules and Regulations and establish, implement and adopt the proposed Toll Violation Enforcement regulations, annexed hereto, in the new Part 1021.3 of Title 21 of the New York Codes, Rules and Regulations, pursuant to law.

July 31, 2024  
New York, New York

# ATTACHMENT 1

Part 1021.3 Toll Violation Enforcement

### Section 1021.3 Toll violation enforcement

(a) The owner, as defined in Public Authorities Law section 2985(3) and 2985-a(2)(b), of any vehicle crossing a bridge or tunnel or using the central business district without paying the charge prescribed by the Triborough Bridge and Tunnel Authority (Authority) at the place and time and in the manner established for the collection of such charge commits a violation of toll collection regulations.

(1) Payment of charges by E-ZPass shall be made by means of a properly mounted E-ZPass tag of the proper class that is classified as valid at the time of the toll transaction. For each such violation, the owner shall be charged the full undiscounted charge for fare media other than E-ZPass. Nothing in this section shall be construed to limit the liability of an E-ZPass account holder for administrative violation fees established and imposed by the E-ZPass agreement for failure to pay charges by means of a properly mounted E-ZPass Tag of the proper class that is classified as valid at the time of the transaction.

(2) Payment of charges by fare media other than E-ZPass shall be made at the place and time and in the manner established for the collection of such charge. Nothing in this section shall be construed to limit the liability of a video account holder for administrative violation fees established and imposed by the applicable video account agreement for failure to pay the charges at the place and time and in the manner established for the collection of such charges.

(b) The owner of any vehicle which violates toll collection regulations by crossing a bridge or tunnel or using the central business district without paying the charge prescribed by the authority at the place and time and in the manner established for the collection of such charge shall be liable to the authority for an administrative fee, known as the toll violation fee. The fee shall be in the amount of \$ 50.00, for each such violation arising from crossing a bridge or tunnel or using the central business district. The toll violation fee shall be in addition to the applicable charge and any fines and penalties otherwise prescribed by law or by agreement. In the event that a notice of violation under the tolls by mail program was not sent within 90 days of the second toll bill, the toll violation fee is subject to dismissal under Public Authorities Law section 2985-a(5).

(c) A Notice of Violation shall be sent by the authority's authorized agent (authorized agent) to the individual or business alleged to be liable for the toll violation as owner and shall include:

- (1) the total amount of unpaid tolls and administrative violation fees due;
- (2) the date by which payment of the tolls and administrative violation fees is due;
- (3) the address for receipt of payment and methods of payment for the toll;
- (4) the procedure for contesting any toll and the contact information for the toll payer advocate office and customer service center;



- (5) information related to the failure to timely pay or respond to the notice of liability, in addition to the possibility that a judgment can be entered for repeat unpaid liabilities that could lead to a vehicle being towed or immobilized;
- (6) a website address or hyperlink for the owner to access time-stamped photographs or footage of each toll incurred by electronic means;
- (7) information related to the availability of the toll payer advocate to discuss payment options; and
- (8) other information required by law or by the public authority.

Each notice of violation shall identify the date, time, location, license plate number, and jurisdiction of the license plate for each unpaid toll that has been incurred.

(d) The individual or business alleged to be liable for the toll violation as owner may dispute the violation by submitting a Declaration of Dispute to the authorized agent at the time and place and in the manner established in the Notice of Violation. To be submitted, a Declaration of Dispute must include all required documents and must be otherwise in compliance with the time, place, and manner established in the Notice of Violation. Such toll violation and associated toll violation fee shall be dismissed if such individual or business provides a certification that:

(1) the individual or business was not the registered owner of the vehicle at the time of the toll transaction that forms the basis of such alleged violation and submits to the authorized agent:

- (i) a copy of the plate surrender receipt from the Department of Motor Vehicles;
- (ii) proof of sale of the vehicle;
- (iii) a copy of the report to a law enforcement agency that the plate was lost; and/or
- (iv) a copy of the report to a law enforcement agency that the vehicle was stolen; or

(2) the toll was paid by E-ZPass and the toll posted to an E-ZPass Account and submits to the authorized agent a copy of the E-ZPass statement showing the toll posting; or

(3) the toll was paid by another method acceptable to the authority at the time and submits to the authorized agent a copy of the toll receipt marked by the authority as paid; or

(4) the registered owner's vehicle was not present at the facility at the time of the violation(s) or for other good cause shown.

(e) If the owner is a vehicle rental or leasing company which seeks to perform a Transfer of Responsibility to the vehicle lessee or renter, the owner shall submit to the authorized agent at the time and place and in the manner established in the Notice of Violation a signed lease or rental agreement and certification of the name and address of the lessee or renter of the vehicle at

the time of the toll transaction that forms the basis for the violation. A Notice of Violation or toll invoice shall be sent by the authorized agent to such lessee or renter within 45 days of receipt of the signed lease or rental agreement and certification and such lessee or renter shall be deemed to be the owner of such vehicle and shall be liable for the payment of tolls and any toll violation fees.

(f) The authorized agent shall send the owner a written determination of the Declaration of Dispute under subdivision (d) of this section within 45 days of receipt of the Declaration of Dispute.

(1) The owner may request a review by the authority of the authorized agent's determination of the Declaration of Dispute by submitting a Request for Administrative Review to the authority at the place and time and in the matter established in the authorized agent's written determination of the Declaration of Dispute.

(2) The authorized agent's determination of the Declaration of Dispute under subdivision (d) of this section shall be final and binding on the owner unless overturned by the authority upon review.

(3) The authority's determination of the owner's Request for Administrative Review shall be final and binding on the owner unless overturned by a court of competent jurisdiction of the State of New York, County of New York, under article 78 of the New York Civil Practice Law and Rules or a United States Court located in New York City, under the procedures and laws applicable in that court.

(g) The individual or business alleged to be liable for each toll violation as owner shall be liable for each unpaid toll and toll violation fee unless:

(1) such unpaid toll and/or toll violation fee has been dismissed under subdivision (d) or subdivision (f) of this section;

(2) there has been a Transfer of Responsibility under subdivision (e) of this section;

(3) after payment of such toll, the toll violation fee has been dismissed or reduced under the Fee Waiver Policy adopted by the authority.

Such owners who fail to pay each toll and toll violation fee in response to a Notice of Violation may also have their vehicle registrations suspended under Vehicle and Traffic Law section 510(3)(d) and implementing regulations.

# Staff Summary

<b>Subject</b> Updated MTA and TBTA Bond Refunding Policy	<b>Date</b> July 29, 2024
<b>Department</b> Finance	<b>Vendor Name</b> N/A
<b>Department Head Name</b> Kevin Willens, Chief Financial Officer	<b>Contract Number</b>
<b>Department Head Signature</b>	<b>Contract Manager Name</b>
<b>Project Manager Name</b> Olga Chernat, Deputy Chief, Financial Services	<b>Table of Contents Ref #</b>

Board Action						Internal Approvals			
Order	To	Date	Approval	Info	Other	Order	Approval	Order	Approval
1	Finance Comm.	7/29	X			1	Legal		
2	Board	7/31	X			2	Chief of Staff		

**PURPOSE:**

The MTA Finance Department is seeking Board approval to update the Bond and Other Debt Obligations Refunding Policy adopted by the Board in December 2018 (the "2018 Policy"). This updated policy (the "Refunding Policy") (1) amends the positive net present value savings requirements for refundings of fixed rate bonds that are within 90 days of an optional call or maturity ("current refunding transactions") and (2) provides authorization with respect to refundings of fixed rate bonds which are issued with a short or medium-term maturity with the expectation of being refinanced with another series of bonds prior to their maturity and for which pledged revenues are not required to be deposited with the trustee. Staff believes that the updated Refunding Policy will provide enhanced flexibility in the pursuit of MTA's and TBTA's capital markets objectives in funding the capital program at the lowest possible cost.

The updated Refunding Policy will apply to 2024 refundings authorized by the Multiple Series Refunding Bond Supplemental Resolutions, which were approved by the Board in December 2023, to be executed after the approval of the Refunding Policy and to refundings authorized in future years until subsequent amendment, modification or repeal of the Refunding Policy.

**DISCUSSION:**

Board approval is sought for an updated MTA and TBTA Bond and Other Debt Obligations Refunding Policy, replacing the 2018 Policy.

The 2018 Policy establishes debt service savings criteria that must be met by proposed refundings of outstanding MTA and TBTA bonds. The updated Refunding Policy will maintain the same criteria for advance refundings (if allowed on a tax-exempt basis in the future), and clarify that current refunding transactions of outstanding MTA and TBTA fixed rate bonds are permitted if the refunding transaction achieves positive net present value (NPV) savings in the aggregate, while providing the latitude to structure savings patterns within a refunding transaction by permitting individual maturities of bonds to be refunded without regard to savings on an individual bond basis.

In addition, from time to time, to take advantage of market conditions, MTA issues short or medium-term fixed rate bonds. Although principal installments for these bonds are deemed, pursuant to the applicable bond resolution, to amortize over a long-term period based on substantially level debt service as estimated by MTA or TBTA as issuer, pledged revenues are not deposited with the trustee as such short or medium-term bonds are anticipated at the time of

# Staff Summary

issuance to be refinanced with future refunding bond proceeds. The updated Refunding Policy will allow refundings of such short/medium-term fixed rate bonds at the discretion of the CFO or CFO designees notwithstanding the debt service savings criteria applicable to current or advance refundings.

## **ALTERNATIVES:**

The Board could determine that the 2018 Policy remain in effect without change, requiring staff to seek approval for specific refundings that cannot be structured within the existing 2018 Policy. This alternative is not advised as the timing of the Board cycle could result in missed market opportunities.

## **RECOMMENDATION:**

The Board approves the Refunding Policy. The Refunding Policy will apply to 2024 refundings previously authorized by the Multiple Series Refunding Bond Supplemental Resolutions and which will be executed after the approval of the Refunding Policy and shall continue in effect without any further action by the Board, until the Board shall have amended, modified or repealed the Refunding Policy.

## **BOND AND OTHER DEBT OBLIGATIONS REFUNDING POLICY**

WHEREAS, The Metropolitan Transportation Authority has a large portfolio of outstanding bonds and other debt obligations; and

WHEREAS, The Metropolitan Transportation Authority desires to achieve the lowest possible interest cost for such bonds; and

WHEREAS, The Metropolitan Transportation Authority desires, from time to time, to benefit from favorable capital market conditions to undertake refundings of the outstanding bonds and other debt obligations; and

WHEREAS, The Metropolitan Transportation Authority has determined that in order to provide guidance in the issuance of refunding bonds, a refunding policy ("Refunding Policy") is desirable; and

WHEREAS, such refunding bonds must be authorized by the Board in accordance with a supplemental resolution for each of the MTA and TBTA credits; therefore

BE IT RESOLVED by the Metropolitan Transportation Authority that, except as otherwise provided by separate action of the Authority relating to a particular refunding, the Refunding Policy as set forth below shall be adopted and shall apply to all refundings of bonds or other debt obligations described therein hereafter.

**Metropolitan Transportation Authority  
and Triborough Bridge and Tunnel Authority  
Bond and Other Debt Obligations Refunding Policy**

This bond and other debt obligations refunding policy establishes conditions precedent to any issuance of fixed rate bonds for the purposes of refunding fixed rate bonds previously issued by the MTA or any of the Related Entities.

1. A current refunding is permitted if, at the time of final pricing, the refunding transaction in aggregate achieves positive net present value (NPV) savings.
2. An advance refunding that complies with applicable law is permitted if, at the time of final pricing, (a) the aggregate NPV savings is at least 3.0% of the par amount of the refunded bonds, and (b) the refunding of each bond to be called prior to its scheduled maturity achieves NPV savings (expressed as a percentage of the par amount of such refunded bond) of at least the following amount:

		Years to Call		
		0 to 2	3 to 7	8 plus
Years From Call to Maturity	0 to 5	0.5%	1.0%	2.0%
	6 to 10	1.0%	2.5%	4.0%
	11 to 15	3.0%	4.0%	5.0%
	16 plus	4.0%	5.0%	5.5%

3. The arbitrage yield of the refunding issue must be utilized in calculating NPV savings.
4. Actual escrow investments must be used in calculation of refunding savings at the time of pricing.

**Additional Criteria and Instructions**

1. In the evaluation of refunding opportunities, the State Bond Issuance Charge (BIC), unless expressly waived, shall be included as a cost of issuance in calculating NPV savings, both in the aggregate and for individual bonds.
2. If it is possible to meet the arbitrage yield in a refunding escrow with SLGS, they should be used. In the event SLGS could provide a yield higher than the arbitrage yield, as many rolling 0 percent SLGS as possible should be used to blend down the arbitrage yield. If the arbitrage yield cannot be met with SLGS or the SLGS window is not open, Treasury securities and other open market securities can be considered, consistent with the investment restrictions in the applicable bond resolution.
3. This policy does not restrict (a) the refunding of either fixed or variable rate debt with new variable rate debt, (b) the refunding of variable rate debt with new fixed rate debt, including the refunding of debt in a short-term fixed rate mode with long-term fixed rate debt, (c) the changing or conversion of interest rate modes in variable rate debt, or (d) the refunding of fixed rate bonds for which principal installments are deemed to amortize over a period of time based on substantially level debt service as estimated by the issuer of the fixed rate bonds for purposes of determining calculated debt service as required by the applicable bond resolution (Balloon Bonds). Any such refundings described in (a) through (d) of this section, may be undertaken if the Chief Financial Officer (CFO), or Deputy Chief, Financial Services or the Director of Finance, as the designee of the CFO,

determines that it is in the best interest of the MTA to do so.

4. This policy does not restrict the CFO, or Deputy Chief, Financial Services or the Director of Finance in structuring the savings pattern of any refunding, provided the above requirements are met.

# Staff Summary

<b>Subject</b> TBTA Special Obligation Resolution Authorizing Real Estate Transfer Tax Revenue Obligations (TBTA Capital Lockbox Fund) for Submission to the Capital Program Review Board	<b>Date</b> July 31, 2024
<b>Department</b> Finance	<b>Vendor Name</b>
<b>Department Head Name</b> Kevin Willens, Chief Financial Officer	<b>Contract Number</b>
<b>Department Head Signature</b>	<b>Contract Manager Name</b>
<b>Project Manager/Division Head</b> Olga Chernat, Deputy Chief, Financial Services	<b>Table of Contents Ref #</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance	7/29			
2	Board	7/31			

Internal Approvals			
Order	Approval	Order	Approval
1	Chairman		
2	Chief of Staff		
3	General Counsel		

## Purpose:

As part of the approved 2020-2024 Capital Program, legislation dedicated three new tax revenue streams (City sales tax, State sales tax and real estate transfer tax receipts) to the capital lockbox separate and in addition to congestion pricing revenues. These three revenue streams are intended to fund \$10 billion of 2020-2024 capital projects, most of which have already been committed. This proposed bond resolution will authorize TBTA to borrow approximately \$2 billion as part of this \$10 billion funding need secured by the real estate transfer tax receipts. This financing plan and funding need is not being triggered by the pause to the Central Business District Tolling Program.

To implement this financing, it is necessary to obtain Finance Committee and TBTA Board approval of the annexed resolution authorizing the submission of the draft of the proposed Special Obligation Resolution Authorizing Real Estate Transfer Tax Revenue Obligations (TBTA Capital Lockbox Fund) and Standard Resolution Provisions (collectively, the “Real Estate Transfer Tax Obligation Resolution”) to the Metropolitan Transportation Authority Capital Program Review Board (“CPRB”) for approval. Upon approval by the CPRB, a complete and final set of Real Estate Transfer Tax Obligation Resolution documents will be resubmitted to the Finance Committee and the TBTA Board for formal adoption, as required by the TBTA Act.

## Discussion and Background:

In April 2019, legislation was enacted in New York State (the “2019 Legislation”) providing additional sources of revenues to address the financial needs of the MTA, including an additional real estate transfer tax in New York City (the “City”) of 0.25% on each residential real property conveyance of at least \$3 million and on each non-residential property conveyance of at least \$2 million. The 2019 Legislation also imposed a supplemental real estate transfer tax in the City on each residential real property conveyance of at least \$2 million using a graduated tax rate schedule starting at 0.25% for conveyances of at least \$2 million but less than \$3 million and topping out at 2.9% on conveyances of \$25 million and above (such real property transfer taxes and



surcharges, including, interest and penalties attributable thereto, are referred to herein as the “MTA Transfer Tax Receipts”).

The 2019 Legislation also provided that the above described tax receipts (including the MTA Transfer Tax Receipts) be made available for deposit into the capital lockbox fund and be used, among other things, to finance the costs of any transit and commuter capital projects included within the 2020 to 2024 MTA Capital Program or any successor programs approved by the CPRB.

MTA Finance staff, working with external Bond Counsel and its Financial Advisors, have drafted the annexed Special Obligation Resolution Authorizing Real Estate Transfer Tax Revenue Obligations (TBTA Capital Lockbox Fund) and Standard Resolution Provisions, which comprise the fundamental legal documents for the establishment of a new bond credit pledging the MTA Transfer Tax Receipts.

In order to finance transit and commuter projects in an approved MTA Capital Program, TBTA is required by Section 553(20) of the Public Authorities Law to submit such documentation to the CPRB for review and approval prior to the additional formal adoption thereafter by the TBTA Board.

### **Real Estate Transfer Tax Credit Highlights:**

- Senior and subordinate lien revenue pledge of MTA Transfer Tax Receipts.
- \$150 million annual cap on debt service.
- Senior lien debt service reserve fund funded at maximum annual debt service.
- Authorizes bonds to be issued solely for approved capital program transit and commuter projects for 2020 to 2024 and subsequent programs.
- Ability to issue subordinated indebtedness in the future.
- Non-impairment covenant of the State in TBTA Act.

### **Alternatives:**

Among the financing alternatives currently available to MTA to use the TBTA capital lockbox fund moneys to finance 2020-2024 transit and commuter projects, the introduction of this new credit allows the MTA to fully leverage the MTA Transfer Tax Receipts. However, TBTA and MTA could continue to finance transit and commuter projects under other credits.

### **Recommendation:**

It is recommended that the TBTA Board delegate to Authorized Officers (as defined in the Real Estate Transfer Tax Obligation Resolution) the authority to discuss the provisions of the annexed resolution with rating agencies of their choosing, financial advisors, underwriters and others and make the suggested revisions thereto in order to achieve maximum creditworthiness for the benefit of the transit and commuter financing program. It is further recommended that the TBTA Board approve the annexed Real Estate Transfer Tax Obligation Resolution and authorize submission of the Real Estate Transfer Tax Obligation Resolution, as the same may be revised, to the CPRB for review and approval. Upon approval by the CPRB, MTA Finance staff will seek final TBTA Board adoption of the Real Estate Transfer Tax Obligation Resolution documents incorporating any requested changes from the CPRB.

**TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY**

**SPECIAL OBLIGATION RESOLUTION  
AUTHORIZING  
REAL ESTATE TRANSFER TAX REVENUE OBLIGATIONS  
(TBTA CAPITAL LOCKBOX FUND)**

Adopted \_\_\_\_\_, 2024  
as approved by the  
Metropolitan Transportation Authority  
Capital Program Review Board  
on \_\_\_\_\_, 2024

**TABLE OF CONTENTS**

	<b>Page</b>
<b>ARTICLE I STANDARD RESOLUTION PROVISIONS; DEFINITIONS</b>	
Section 101. Standard Resolution Provisions .....	1
Section 102. Definitions.....	1
<b>ARTICLE II AUTHORIZATION AND ISSUANCE OF OBLIGATIONS</b>	
Section 201. Authorization of the Obligations .....	6
Section 202. General Provisions for Issuance of Obligations.....	6
Section 203. Special Provisions for Capital Cost Obligations.....	7
Section 204. Refunding Obligations .....	8
<b>ARTICLE III FORM OF OBLIGATIONS</b>	
Section 301. Form of Obligations.....	10
<b>ARTICLE IV ADDITIONAL REDEMPTION PROVISIONS</b>	
Section 401. Redemption at Demand of the State or the City .....	11
<b>ARTICLE V MAINTENANCE AND ESTABLISHMENT OF FUNDS AND ACCOUNTS AND APPLICATION THEREOF</b>	
Section 501. The Pledge Effected by the Resolution.....	12
Section 502. Establishment of Funds and Accounts .....	12
Section 503. Obligations Proceeds Fund .....	13
Section 504. Capitalized Interest Fund .....	14
Section 505. Revenue Fund .....	14
Section 506. Senior Lien Debt Service Fund.....	15
Section 507. Senior Lien Debt Service Reserve Fund.....	16
Section 508. Subordinated Indebtedness; Subordinated Contract Obligations .....	17
Section 509. Rebate Fund .....	18
Section 510. Excess Revenues Fund.....	19
<b>ARTICLE VI PARTICULAR COVENANTS OF THE ISSUER</b>	
Section 601. Power to Issue Obligations and Effect Pledge of Obligations Trust Estate.....	20
Section 602. Creation of Liens, Issuance of Subordinated Indebtedness, Subordinated Contract Obligations and Other Debt .....	20
Section 603. Agreement of the State; Limited Waiver by Owners.....	20
<b>ARTICLE VII EVENTS OF DEFAULT AND REMEDIES</b>	
Section 701. Obligations Events of Default.....	21
Section 702. Powers of Trustee .....	21
Section 703. Priority of Payments After Default on Obligations and Parity Debt .....	22

ARTICLE VIII SUPPLEMENTAL RESOLUTIONS

Section 801. Supplemental Resolutions Effective Upon Filing with the Trustee..... 24  
Section 802. Supplemental Resolutions Effective with Consent of Owners of  
Obligations Owners ..... 28

ARTICLE IX MISCELLANEOUS; REMEDIES

Section 901. Authority to Deliver this Resolution..... 29  
Section 902. Effective Date ..... 29

**Annex A** - Standard Resolution Provisions

**Exhibit One** - Form of Obligations

**SPECIAL OBLIGATION RESOLUTION  
AUTHORIZING  
REAL ESTATE TRANSFER TAX REVENUE OBLIGATIONS  
(TBTA CAPITAL LOCKBOX FUND)**

BE IT RESOLVED by the Board of the Triborough Bridge and Tunnel Authority as follows:

**ARTICLE I**

**STANDARD RESOLUTION PROVISIONS; DEFINITIONS**

**Section 101. Standard Resolution Provisions.** Except as otherwise specifically provided herein or by Supplemental Resolution, the Standard Resolution Provisions appended hereto as **Annex A** constitute an integral part of the Resolution and have the same force and effect as if set forth in the forepart of the Resolution.

**Section 102. Definitions.** Except as the context shall otherwise require, capitalized terms used but not otherwise defined herein shall have the respective meanings set forth in the Standard Resolution Provisions. The following terms shall, for all purposes of the Resolution, have the following meanings:

**Annual Debt Service** shall mean the amount of Debt Service payable on Obligations and Parity Debt during each Debt Service Year.

**Annual Debt Service Limit** shall mean \$150,000,000.

**Annual Net Debt Service** shall mean Annual Debt Service less the amount, if any, set aside in any account within the Senior Lien Debt Service Fund or the Capitalized Interest Fund or otherwise in trust for the payment of Debt Service on Obligations or Parity Debt in the applicable Debt Service Year.

**Capital Cost Obligations** shall mean Obligations authenticated and delivered on original issuance pursuant to Section 203.

**Capital Costs** shall mean (i) the costs of the Issuer or any other Related Entity for all or any part of the TBTA Transit and Commuter Project or for any hereafter authorized project or purpose permitted by law and set forth in a Supplemental Resolution (each, an “Additional Project”), including costs of acquisition of real or personal property or any interests therein, legal, administrative, engineering, planning, design, studies, insurance, financing costs (including Costs of Issuance), including the costs of the Issuer or any other Related Entity owed for such purposes to other entities, and initial working capital required for the commencement of operation of any such program or project and any capital contributions, whether or not represented by equity or debt securities or other evidences of indebtedness, made by the Issuer or any other Related Entity to any Person participating in the TBTA Transit and Commuter Project or Additional Project for the purpose of funding any costs described in this clause (i); (ii) amounts paid into any Fund or Account upon the issuance of any Obligations; and (iii) payment when due (whether at the maturity

of principal or on the due date of interest or upon redemption or when otherwise due, including by purchase or through tender or exchange) on any indebtedness or obligation of the Issuer or any other Related Entity which was issued or incurred to finance costs that could at the time of such payment be funded directly hereunder, including Obligations, Obligation Anticipation Notes, Parity Debt, Subordinated Contract Obligations, including obligation anticipation notes issued on a subordinated basis, and Subordinated Indebtedness, any termination or other payments for financial or other hedging arrangements, or any such indebtedness or obligation issued or incurred by the Issuer or any Related Entity in connection with the TBTA Transit and Commuter Project or Additional Project.

**Capitalized Interest Fund** shall mean the Fund by that name established pursuant to Section 502.

**CPRB** shall mean the Metropolitan Transportation Authority Capital Program Review Board created pursuant to Section 1269-a of the MTA Act.

**Debt Service Year** shall mean the twelve (12) month period commencing on November 16 of each calendar year and ending on November 15 of the next succeeding calendar year except that the first Debt Service Year shall begin on the date specified in the Supplemental Resolution authorizing the first Series of Obligations to be issued hereunder.

**Excess Revenues Fund** shall mean the Fund by that name established in Section 502.

**Issuer** shall mean TBTA.

**Maximum Annual Debt Service** shall mean the greatest amount of Debt Service payable on Obligations and Parity Debt in the current or any future Debt Service Year.

**Obligations** shall mean any bonds, notes, commercial paper or other forms of indebtedness of the Issuer payable from the Senior Lien Debt Service Fund, authorized by Section 201 and delivered pursuant to Section 202 or authorized pursuant to Section A-203, *but excluding* Obligation Anticipation Notes to the extent payable from, and expected by an Authorized Officer to be paid from, the proceeds of Obligations or other Obligation Anticipation Notes.

**Obligations COI Account** shall mean the Account by that name established in the Obligations Proceeds Fund pursuant to Section 502.

**Obligations Events of Default** shall mean the events defined as such in Section 701.

**Obligations Proceeds Fund** shall mean the Fund by that name established in Section 502.

**Obligations Trust Estate** shall mean, collectively, but subject to the terms and provisions of Section 501, all right, title and interest of the Issuer in:

- (i) the proceeds of the sale of the Obligations;

(ii) the Revenue Fund, any money on deposit therein and any money received and held by the Issuer which is required to be deposited therein, including the Transfer Tax Receipts;

(iii) the Obligations Proceeds Fund, the Capitalized Interest Fund, the Senior Lien Debt Service Fund and the Senior Lien Debt Service Reserve Fund (but not the Rebate Fund or the Excess Revenues Fund) and all other Funds and Accounts and subaccounts established by Supplemental Resolution for the benefit of the Owners of the Obligations (other than funds, and any accounts and subaccounts therein, established pursuant to a Supplemental Resolution in connection with Parity Debt, Subordinated Indebtedness or Subordinated Contract Obligations; *provided, however, that* such funds, accounts and subaccounts are specifically excepted from the Obligations Trust Estate by the Supplemental Resolution authorizing such Subordinated Indebtedness or Subordinated Contract Obligations), including the investments, if any, thereof); and

(iv) all funds, moneys and securities and any and all other rights and interests in property, whether tangible or intangible, from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder for the Obligations by the Issuer, or by anyone on its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times, and to hold and apply the same subject to the terms hereof.

**Permitted Debt Service Reserve Fund Investments** means and includes any of the following, if and to the extent the same are at the time legal for the investment of the Issuer's funds:

(i) direct and general obligations of, or obligations the timely payment of principal and interest on which are unconditionally guaranteed by, the United States of America;

(ii) obligations issued or guaranteed by any of the following:

- (a) United States post office;
- (b) Federal National Mortgage Association;  
Federal Home Loan Mortgage Corporation;
- (c) Student Loan Marketing Association;
- (d) Export-Import Bank of the United States;
- (e) Federal Financing Bank;
- (f) Government National Mortgage Association;
- (g) Farmers Home Administration;
- (h) Federal Housing Administration;
- (i) Private Export Funding Corp; and
- (j) Federal Farm Credit Bank; or

any indebtedness issued or guaranteed by any instrumentality or agency of the United States; *provided, however, that* any such Permitted Debt Service Reserve Fund Investments purchased shall mature within two years of the date of such purchase.

**Rebate Fund** means the fund established under Section 509 of the Resolution.

**Rebate Requirement** has the meaning set forth in Section 509 of the Resolution.

**Refunding Obligations** shall mean all Obligations authenticated and delivered on original issuance pursuant to Section 204.

**Resolution** shall mean this Special Obligation Resolution Authorizing Real Estate Transfer Tax Revenue Obligations (TBTA Capital Lockbox Fund), as from time to time amended or supplemented by Supplemental Resolutions in accordance with the terms hereof.

**Revenue Fund** shall mean the Fund by that name established in Section 502.

**Second Lien Obligations** shall mean any bonds, notes, commercial paper or other forms of indebtedness of the Issuer which shall constitute Subordinated Indebtedness for purposes of the Standard Resolution Provisions, provided that any lien on and pledge of any portion of the Transfer Tax Receipts securing such Second Lien Obligations shall be junior and inferior to the lien on and a pledge of the Obligations Trust Estate herein created for the payment of the Obligations and Parity Debt.

**Second Lien Obligation Anticipation Notes** shall mean any such notes issued and delivered in anticipation of the issuance of a series of Second Lien Obligations, in a principal amount not exceeding the principal amount of the Second Lien Obligations of such series so authorized payable only from any or all of the following items designated by the Issuer at or prior to issuance of any such series of Second Lien Obligation Anticipation Notes: (i) the proceeds of any renewals of such Second Lien Obligation Anticipation Notes issued to repay such Second Lien Obligation Anticipation Notes, (ii) the proceeds of the sale of the series of Second Lien Obligations in anticipation of which such Second Lien Obligation Anticipation Notes are issued, (iii) amounts available to pay Subordinated Obligations, or (iv) any other money available therefor and not pledged under the Supplemental Resolution securing the issuance of Second Lien Obligations.

**Senior Lien Debt Service Fund** shall mean the Fund by that name established in Section 502.

**Senior Lien Debt Service Fund Requirement** shall mean an amount equal to the remaining Annual Net Debt Service payable through the end of the current Debt Service Year, which shall include any Annual Net Debt Service yet unpaid in the current Debt Service Year.

**Senior Lien Debt Service Reserve Fund** shall mean the Fund by that name established in Section 502.

**Senior Lien Debt Service Reserve Fund Requirement** shall mean an amount equal to Maximum Annual Debt Service.

**Standard Resolution Provisions** shall mean the Standard Resolution Provisions appended hereto as **Annex A**.



**Subordinated Obligations** shall mean any payment obligation (other than a payment obligation constituting Subordinated Contract Obligations) arising under any other contract, agreement or other obligation of the Issuer designated as “Subordinated Obligations” in a certificate of an Authorized Officer of the Issuer payable from amounts available to be transferred pursuant to clause (c) of subsection 2 of Section 505 of the Resolution and shall include, without limitation, termination or other fees, expenses, indemnification or other such obligations, and Reimbursement Obligations not constituting Parity Reimbursement Obligations. Second Lien Obligations are Subordinated Indebtedness and Subordinated Obligations for the purposes of the Resolution to the extent provided herein.

**Tax Certificate** shall mean that certain tax certificate relating to arbitrage and the provisions of Sections 141-150 of the Internal Revenue Code of 1986 or other similar document with respect to each Series of Obligations or Parity Debt and dated as of the date of issuance of such Obligations or Parity Debt.

**Tax Law** shall mean the New York Tax Law, as amended from time to time.

**TBTA Capital Lockbox Fund** shall mean fund established pursuant to Section 553-j of the New York Public Authorities Law and entitled the “Central Business District Tolling Capital Lockbox Fund,” or any successor fund or account provided by law.

**TBTA Transit and Commuter Project** shall mean any Transportation District Project that may be financed with obligations issued by the Issuer in accordance with the provisions of Section 553-j of the New York Public Authorities Law for the benefit of any transit system or commuter system.

**Transfer Tax Receipts** shall mean all amounts deposited into the TBTA Capital Lockbox Fund pursuant to subdivision (b) of Section 1421 of the Tax Law, currently consisting of the taxes, interest and penalties attributable to (i) the tax imposed under Section 1402 of the Tax Law at the rate specified in paragraph two of subdivision (a) of such Section, and (ii) the tax imposed under Section 1402-b of the Tax Law, as such Sections 1421, 1402 and 1402-b are amended from time to time.

## ARTICLE II

### AUTHORIZATION AND ISSUANCE OF OBLIGATIONS

**Section 201. Authorization of the Obligations.** (1) The Resolution hereby authorizes Obligations of the Issuer designated as “Real Estate Transfer Tax Revenue Bonds (TBTA Capital Lockbox Fund)”, which Obligations, if and when authorized by the Issuer pursuant to one or more Supplemental Resolutions, to be issued as Tax-Exempt Obligations, as Taxable Obligations, as obligations which convert on a particular date or dates from Taxable Obligations to Tax-Exempt Obligations, or as Taxable Obligations which are mandatorily exchangeable on a particular date or dates for Tax-Exempt Obligations, or otherwise as determined by Supplemental Resolution and not contrary to the Resolution as then in effect. The Obligations shall be special obligations of the Issuer payable solely from the Obligations Trust Estate pledged to the payment thereof pursuant to subsection 1 of Section 501. The aggregate principal amount of the Obligations and Parity Debt which may be executed, authenticated and delivered under the Resolution is limited as provided in Section 203 or as may from time to time be limited by law.

(2) The Obligations may, if and when authorized by the Issuer pursuant to one or more Supplemental Resolutions, be issued in one or more Series or subseries, and the designations thereof, in addition to the name “Real Estate Transfer Tax Revenue Bonds (TBTA Capital Lockbox Fund)”, shall include such further or different designations in such title for the Obligations of any particular Series or subseries as the Issuer may determine. Each Obligation shall bear upon its face the designation so determined for the Series or subseries to which it belongs.

(3) Nothing in the Resolution shall be deemed to prevent the consolidation into a single Series or subseries for purposes of issuance and sale of Obligations otherwise permitted by the Resolution to be issued at the same time in two or more separate Series or subseries. In the event that separate Series or subseries are combined for purposes of issuance and sale, they may be issued under a single Supplemental Resolution notwithstanding any other provision of the Resolution. Nothing in the Resolution (except to the extent required by Supplemental Resolution) shall be deemed to prevent the separation into separate Series or subseries for purposes of issuance and sale Obligations otherwise permitted by the Resolution to be issued in one Series or subseries.

(4) Obligations may be issued for any of the purposes set forth in Sections 203 and 204.

(5) All Obligations and Parity Debt authorized to be issued under the Resolution shall be issued as fixed interest rate Obligations and Parity Debt.

**Section 202. General Provisions for Issuance of Obligations.** Obligations may be issued pursuant to a Supplemental Resolution to provide for the payment or reimbursement of Capital Costs pursuant to Section 203 hereof or refund such Obligations pursuant to Section 204 hereof upon satisfaction of the provisions of Section A-201, except that the Opinion of Bond Counsel required by Section A-201.2(a)(iii) shall be to the effect that the Obligations are valid, binding, *special obligations* of the Issuer, enforceable in accordance with their terms and the terms

of the Resolution and entitled to the benefits of the Issuer Act and the Resolution as amended to the date of such Opinion of Bond Counsel.

**Section 203. Special Provisions for Capital Cost Obligations.** (1) The Obligations of one or more Series may at any time, or from time to time, be authenticated and delivered upon original issuance pursuant to this Section 203 to pay, or to provide for the payment of, all or part of the Capital Costs, in each case only upon receipt by the Trustee (in addition to the items required by Section 202 and subsection 2 of this Section 203) of the following:

(a) A certificate of an Authorized Officer setting forth the following for the then current and each future Debt Service Year during which the Obligations to be authenticated and delivered will remain Outstanding:

(i) the aggregate principal amount of all Obligations and Parity Debt of all Series to be Outstanding;

(ii) the amount, if any, set aside or to be set aside in any account within the Senior Lien Debt Service Fund or the Obligations Proceeds Fund or otherwise in trust for the payment of Debt Service on Obligations or Parity Debt in each Debt Service Year for which such Obligations and Parity Debt will remain Outstanding, including amounts credited or to be credited to the Capitalized Interest Fund for any Series of Obligations and Parity Debt and provisions for the application thereof;

(iii) the Annual Net Debt Service for all Obligations and Parity Debt of all Series to be Outstanding for each Debt Service Year, together with a statement that the Annual Debt Service for each Debt Service Year is not in excess of the Annual Debt Service Limit; and

(iv) the amount, if any, necessary for deposit in the Senior Lien Debt Service Reserve Fund so that the amount in the Senior Lien Debt Service Reserve Fund, shall equal the Debt Service Reserve Fund Requirement calculated immediately after the authentication and delivery of such Series of Bonds.

In the case of (i) and (ii) above, amounts attributable to the proposed Capital Cost Obligations and any proposed Refunding Obligations being treated as Capital Cost Obligations for purposes of clause (ii) of paragraph (e) of subsection 2 of Section 204 hereof shall be included, but the calculation shall exclude any Obligations or Parity Debt to be refunded with the proceeds of such Refunding Obligations.

(2) Regardless of the type of Capital Costs being financed, the Obligations of each Series delivered pursuant to subsection (1) of this Section 203 shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the items required by Section 202) of a certificate of an Authorized Officer to the effect that the Issuer then is, and upon the authentication and delivery of the Obligations of such Series shall be, in compliance with all applicable provisions of the Issuer Act relating to the issuance, sale and delivery of such Obligations.

**Section 204. Refunding Obligations.** (1) In addition to Capital Cost Obligations and refundings permitted under Section 203, one or more Series of Refunding Obligations (in an aggregate principal amount which will provide funds, together with other money available therefor, to accomplish such refunding) may be authenticated and delivered upon original issuance to refund (including by redemption, payment at maturity or in connection with exchanges or tenders) all or any portion of any Outstanding Obligations or Parity Debt.

(2) Subject to and in addition to the requirements of Section 202, the Refunding Obligations of each such Series shall be authenticated and delivered by the Trustee only upon receipt by the Trustee of the following:

(a) If the Obligations or Parity Debt to be refunded are to be redeemed, instructions to the Trustee and/or trustee for the Parity Debt, satisfactory to it, to give due notice of redemption of all the Obligations or Parity Debt to be refunded on the redemption date or dates specified in such instructions;

(b) If the Obligations or Parity Debt to be refunded are to be deemed paid within the meaning of the second sentence of subsection 2 of Section A-1101 or similar provision with respect to Parity Debt, irrevocable instructions to the Trustee and/or the trustee for the Parity Debt, satisfactory to it, to provide notice in the manner provided in the second sentence of subsection 2 of Section A-1101 or similar provision with respect to Parity Debt with respect to the payment of such Obligations or Parity Debt pursuant to such Section or provision;

(c) If the Obligations or Parity Debt to be refunded are to be deemed paid within the meaning of the second sentence of subsection 2 of Section A-1101 or similar provision with respect to Parity Debt, either (i) money and/or (ii) Defeasance Securities as shall be necessary to comply with the provisions of the second sentence of subsection 2 of Section A-1101 or defeasance securities as shall be necessary to comply with any similar provision with respect to Parity Debt, which money and Defeasance Securities (or defeasance securities) shall be held in trust and used only as provided in said subsection 2 of Section A-1101 or similar provision with respect to Parity Debt;

(d) If the proceeds of such Series of Refunding Obligations are to be utilized by the Issuer to purchase (in connection with a tender for or redemption of Obligations or Parity Debt, or otherwise) Obligations or Parity Debt to be delivered to the Trustee in satisfaction of a Sinking Fund Installment in accordance with subsection 3 of Section A-502 or similar provision with respect to Parity Debt, a certificate of an Authorized Officer specifying the matters required thereby; and

(e) Either

(i) a certificate of an Authorized Officer (A) setting forth for the then current and each future Debt Service Year (1) the Net Annual Debt Service on the Obligations and Parity Debt (*including* the Refunding Obligations then proposed to be issued *but not including* the Obligations and Parity Debt to be refunded) and (2) the Net Annual Debt Service on the Obligations and Parity Debt as calculated

immediately prior to the issuance of the Refunding Obligations (*including* the Obligations and Parity Debt to be refunded *but not including* the Refunding Obligations) and (B) stating that for the then current and each future Debt Service Year the Net Annual Debt Service set forth pursuant to (1) above is not greater than the Net Annual Debt Service set forth pursuant to (2) above; or

(ii) upon satisfaction of the requirements of Section 203 with respect to such Series of Refunding Obligations, considering for all purposes of any certificate delivered pursuant to subsection 2 of Section 203 that (A) such Series of Refunding Obligations is a Series of Capital Cost Obligations and (B) the Refunding Obligations then proposed to be issued will be Outstanding but the Obligations or Parity Debt to be refunded will no longer be Outstanding.

The proceeds, including accrued interest, of the Refunding Obligations of each such Series shall be applied simultaneously with the delivery of such Obligations in the manner provided in the Supplemental Resolution authorizing such Obligations.

## ARTICLE III

### FORM OF OBLIGATIONS

**Section 301. Form of Obligations.** Subject to the provisions of the Resolution and except as otherwise provided pursuant to a Supplemental Resolution, each Series of Obligations shall be issued as fully registered securities in substantially the form provided in **Exhibit One** appended hereto. Any Authorized Officer executing and delivering any such Obligations may make such changes in the form thereof as deemed necessary or convenient by such Authorized Officer, including changes to conform with (i) the terms of sale, (ii) the provisions of the related Supplemental Resolution, (iii) the requirements of the related Securities Depository, provider of a Credit Facility or Rating Agency, (iv) industry practice or (v) federal, State or City regulatory requirements, and the execution (whether manual or by facsimile), and delivery of, any such obligations shall be conclusive evidence of the approval of all terms thereof by such Authorized Officer.

## ARTICLE IV

### ADDITIONAL REDEMPTION PROVISIONS

**Section 401. Redemption at Demand of the State or the City.** Except as otherwise provided pursuant to a Supplemental Resolution, either the State or the City may, upon furnishing sufficient funds therefor, require the Issuer to redeem all or any portion of the Obligations as provided in the Issuer Act as in effect on the date any such Obligations were issued.

## ARTICLE V

### MAINTENANCE AND ESTABLISHMENT OF FUNDS AND ACCOUNTS AND APPLICATION THEREOF

#### **Section 501. The Pledge Effected by the Resolution.**

(1) There are hereby pledged for the payment of the principal and Redemption Price of, and interest on, and Sinking Fund Installments for, the Obligations and, on a parity basis, Parity Debt, in accordance with their terms and the provisions of the Resolution, subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution, all right, title and interest of the Issuer in the Obligations Trust Estate.

(2) The pledge created by subsection 1 of this Section 501 shall in all respects secure on a *pari passu* basis all of the Obligations and Parity Debt and, except as expressly so provided, nothing contained in the Resolution shall be deemed to confer on the Owners of any Obligations or Parity Debt any rights in the Obligations Trust Estate superior or inferior to the Owners of any other Obligations or Parity Debt.

(3) The pledge created by subsection 1 of this Section 501 shall be valid and binding from and after the date of issuance and delivery of the first Obligations, and the Obligations Trust Estate shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Issuer irrespective of whether such parties have notice thereof.

(4) Subject to the provisions of subsection 1 of this Section 501, the Obligations Trust Estate is and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created by the Resolution, and all corporate action on the part of the Issuer to that end has been duly and validly taken.

(5) Nothing contained in this Section 501 shall be construed as limiting any authority granted to the Issuer elsewhere in the Resolution to issue or incur Obligation Anticipation Notes, Subordinated Indebtedness or Subordinated Contract Obligations or shall be deemed a limitation upon the authority of the Issuer to issue any other bonds, notes or other obligations under the Issuer Act secured by any income and funds other than the Obligations Trust Estate.

#### **Section 502. Establishment of Funds and Accounts.**

(1) The following funds are hereby established:

- (a) Obligations Proceeds Fund, in which there shall be established the Obligations COI Account, which Fund and Account shall be held and administered by the Issuer;
- (b) Capitalized Interest Fund, which Fund shall be held and administered by the Trustee;



- (c) Revenue Fund, which shall be held and administered by the Trustee;
- (d) Senior Lien Debt Service Fund, which Fund shall be held and administered by the Trustee;
- (e) Senior Lien Debt Service Reserve Fund, which shall be held and administered by the Trustee;
- (f) Rebate Fund, which shall be held and administered by the Trustee, and
- (g) Excess Revenues Fund, which shall be held and administered by the Issuer.

(2) Amounts held at any time by the Issuer or the Trustee in any of the Funds or Accounts established pursuant to this Section shall be held in trust separate and apart from all other funds. Additional funds, accounts or subaccounts may be established by the Issuer in its discretion pursuant to this Section upon the delivery of a certificate to the Trustee or by Supplemental Resolution.

(3) Except as otherwise specifically provided herein or in a Supplemental Resolution, in computing the amount in any Fund, Account or Subaccount, Authorized Investments or Permitted Debt Service Reserve Fund Investments, as applicable, purchased as an investment of moneys therein shall be valued at the current book value thereof or at the redemption price thereof, if then redeemable at the option of the holder, in either event inclusive of accrued interest.

(4) Except as otherwise specifically provided herein or in a Supplemental Resolution, all investment income earned on amounts on deposit in the Funds, Accounts or Subaccounts established under the Resolution shall remain on deposit in such Funds, Accounts or Subaccounts and applied in accordance with the provisions applicable to such Funds, Accounts or Subaccounts.

**Section 503. Obligations Proceeds Fund.** (1) The Issuer shall pay into the Obligations Proceeds Fund (and any designated Account or subaccount thereof) the amounts required to be so paid by the provisions of the Resolution or any Supplemental Resolution authorizing the issuance of any Series of Obligations for the purpose of financing Capital Costs. The portion of any such amount determined by Supplemental Resolution to be used for the payment of Costs of Issuance shall be paid into and disbursed from the Obligations COI Account.

(2) Unless otherwise provided in a Supplemental Resolution or in a resolution authorizing Obligation Anticipation Notes, amounts in the Obligations Proceeds Fund shall be applied solely to pay Capital Costs, as applicable. Any amounts in the Obligations Proceeds Fund which are in excess of the amounts required to pay for such costs may at the direction of an Authorized Officer be transferred to the Rebate Fund, the Revenue Fund or the Senior Lien Debt Service Fund.

(3) Amounts in the Obligations Proceeds Fund shall be invested by the Issuer in Authorized Investments and the Issuer may, and to the extent required for payments from the Obligations Proceeds Fund shall, sell any such obligations at any time, and the proceeds of such sale, and of all payments of principal or interest received at maturity or upon redemption or otherwise of such obligations shall be deposited in the Obligations Proceeds Fund.

(4) Earnings on money and investments in the Obligations Proceeds Fund not needed for the payment of Capital Costs shall be transferred by the Issuer to the Trustee for deposit in the Rebate Fund or the Senior Lien Debt Service Fund or may be retained in the Obligations Proceeds Fund, as determined by the Issuer.

(5) Notwithstanding the above provisions of this Section but subject to any priority for Obligation Anticipation Notes, amounts in such Obligations Proceeds Fund must be applied to the payment of principal and Redemption Price of and interest on the Obligations and the payment of Parity Debt, on a parity basis, when due at any time that other money is not available therefor.

**Section 504. Capitalized Interest Fund.** (1) The Trustee shall deposit into the Capitalized Interest Fund the amounts required to be so deposited pursuant to the provisions of the Resolution or any Supplemental Resolution authorizing the issuance of any Series of Obligations or Parity Debt to pay the capitalized cost of interest on Obligations or Parity Debt of the Issuer.

(2) The Trustee shall pay from the Capitalized Interest Fund to the Paying Agent, on or before the date or dates on which interest on Obligations or Parity Debt becomes due, an amount equal to the interest due and payable on such Obligations or Parity Debt or, if there shall not be credited to the Capitalized Interest Fund monies in an amount equal to the amount of interest due and payable on such date or dates, all monies then on deposit in the Capitalized Interest Fund.

(3) Amounts in the Capitalized Interest Fund shall, at the direction of the Issuer, be invested in Authorized Investments. The Issuer may direct the Trustee to sell any such Authorized Investments at any time and the proceeds of such sale and of all payments of principal or interest received at maturity or upon redemption or otherwise of such Authorized Investments shall be deposited in the Capitalized Interest Fund. Earnings on money and investments in the Capitalized Interest Fund shall be transferred to the Rebate Fund to the extent directed in writing by an Authorized Officer and, in the absence of such a direction, shall remain on deposit in the Capitalized Interest Fund.

**Section 505. Revenue Fund.**

(1) The Issuer shall, promptly after receipt of the Transfer Tax Receipts, transfer, or cause to be transferred to the Trustee, from the TBTA Capital Lockbox Fund, the full amount of such Transfer Tax Receipts received for deposit into the Revenue Fund.

(2) Amounts in the Revenue Fund, when received by the Trustee, constituting Transfer Tax Receipts shall be promptly transferred for the following purposes and in the following order of priority:

(a) to the Senior Lien Debt Service Fund the amount, if any, required so that the amount on deposit in said Fund shall, after taking into consideration any investment earnings credited to such Fund, equal the Senior Lien Debt Service Fund Requirement;

(b) if the balance in the Senior Lien Debt Service Reserve Fund is less than the Senior Lien Debt Service Reserve Fund Requirement, to the Senior Lien Debt Service Reserve Fund the amount, if any, required so that the amount on deposit in said Fund shall equal the Senior Lien Debt Service Reserve Fund Requirement;

(c) transfer, free and clear of any lien, pledge or claim of the Resolution securing Obligations or Parity Debt, to another Person in accordance with any Supplemental Resolution or other authorizing document creating Obligation Anticipation Notes, Subordinated Indebtedness or Subordinated Contract Obligations the amount, if any, required for payment of or accrual for payment of principal of and interest on any Obligation Anticipation Notes, Subordinated Indebtedness or for payment of amounts due under any Subordinated Contract Obligation; and

(d) after the transfers made in clauses (a), (b), and (c) above, including any amounts then needed to satisfy any obligations payable from the Rebate Fund and, thereafter, any amounts then needed to satisfy any obligations payable from any rebate fund relating to any Subordinated Indebtedness or Subordinated Contract Obligations, transfer all moneys to the Issuer for deposit to the Excess Revenues Fund, which moneys shall be released from the lien of the Resolution.

(3) Amounts in the Revenue Fund shall, at the direction of the Issuer, be invested in Authorized Investments. The Issuer may direct the Trustee to sell any such Authorized Investments at any time and the proceeds of such sale and of all payments of principal or interest received at maturity or upon redemption or otherwise of such Authorized Investments shall be deposited in the Revenue Fund. Earnings on money and investments in the Revenue Fund shall be transferred to the Rebate Fund to the extent directed in writing by an Authorized Officer and, in the absence of such a direction, shall remain on deposit in the Revenue Fund.

**Section 506. Senior Lien Debt Service Fund.** (1) The Trustee shall deposit, upon receipt thereof, all amounts required to be deposited by the Trustee in the Senior Lien Debt Service Fund in accordance with the provisions of the Resolution or any Supplemental Resolution.

(2) The Trustee shall pay out of the Senior Lien Debt Service Fund to the respective Paying Agents (i) on or before each interest payment date for any of the Obligations or Parity Debt the amount required for the interest payable on such date unless such interest is paid from amounts on deposit in the Capitalized Interest Fund pursuant to subsection 2 of Section 504, (ii) on or before each principal payment date for any of the Obligations or Parity Debt the amount required for the principal amount (including the portion thereof payable in respect of a Parity Reimbursement Obligation) payable on such date, and (iii) on or before any redemption date for the Obligations or Parity Debt the amount required for the payment of the Redemption Price of and interest on the Obligations or Parity Debt then to be redeemed.

(3) If on any date the sum of the amounts on deposit in the Senior Lien Debt Service Fund exceeds the Senior Lien Debt Service Fund Requirement calculated as of such date (after making any transfers or payments required to be made on such date), unless needed to satisfy the Rebate Requirement and the Trustee is directed by an Authorized Officer of the Issuer to transfer such moneys to the Rebate Fund, the Trustee shall, upon direction of the Issuer, first apply any or all of such excess to cure or reduce any deficiency then existing in any Fund or Account under the Resolution, including the Senior Lien Debt Service Reserve Fund, and then transfer any and all of the remaining amount of such excess to the Excess Revenues Fund.

(4) In the event of the refunding (including in connection with any payment at maturity, redemption, purchase, tender or exchange) of any Obligations, the Trustee may withdraw from the Senior Lien Debt Service Fund all or any portion of the amounts accumulated therein with respect to the Debt Service on the Obligations being refunded and (a) deposit such amounts, free and clear of any lien, pledge or claim of the Resolution, with itself or an escrow agent to be held in trust solely for the purchase, exchange or payment of the principal or Redemption Price, if applicable, of and interest on the Obligations being refunded, (b) apply such amounts to pay the Costs of Issuance of the Refunding Obligations, or (c) deposit such amounts in any Fund or Account established hereunder; *provided, however, that* no such withdrawal or deposit shall be made unless (i) upon such refunding, the Obligations being refunded shall be deemed to have been paid within the meaning and with the effect provided in Section A-1101 and (ii) at the time of and giving effect to such withdrawal and refunding, there shall exist no deficiency in any Fund or Account established under the Resolution.

(5) Amounts in the Senior Lien Debt Service Fund shall, at the direction of the Issuer, be invested in Authorized Investments. The Issuer may direct the Trustee to sell any such Authorized Investments at any time and the proceeds of such sale and of all payments of principal or interest received at maturity or upon redemption or otherwise of such Authorized Investments shall be deposited in the Senior Lien Debt Service Fund. Earnings on money and investments in the Senior Lien Debt Service Fund shall be retained in the Senior Lien Debt Service Fund if the amount then on deposit in the Senior Lien Debt Service Fund is less than the Senior Lien Debt Service Requirement.

**Section 507. Senior Lien Debt Service Reserve Fund.** (1) The Trustee shall deposit, upon receipt thereof, all amounts required to be deposited in the Senior Lien Debt Service Reserve Fund pursuant to the provisions of the Resolution or any Supplemental Resolution authorizing the issuance of any Series of Obligations or Parity Debt. Moneys in the Senior Lien Debt Service Reserve Fund shall be used solely to make up deficiencies in the Senior Lien Debt Service Fund.

(2) If, on the Business Day preceding the date on which interest on or principal of Obligations or Parity Debt is due and payable, the amount in the Senior Lien Debt Service Fund is less than the amount required to be in such Fund pursuant to paragraph (2) of Section 506, the Trustee shall transfer amounts from the Senior Lien Debt Service Reserve Fund to the Senior Lien Debt Service Fund to the extent necessary to cure such deficiency.

(3) Investments in the Senior Lien Debt Service Reserve Fund shall be valued by the Issuer as provided in paragraph (3) of Section 502 following the payment of principal of and interest on Obligations and Parity Debt from the Senior Lien Debt Service Fund on November 15 of each Debt Service Year, or, if such date does not fall on a Business Day, on the first Business Day thereafter. Immediately after each such valuation by the Issuer, at the direction of the Issuer, the Trustee shall transfer any excess in the Senior Lien Debt Service Reserve Fund (or any Accounts established therein) to the Senior Lien Debt Service Fund. A failure of the Issuer to perform such valuation in accordance with this paragraph shall not be deemed an Obligations Event of Default under the Resolution.

(4) In the event of the refunding (including in connection with any payment at maturity, redemption, purchase, tender or exchange) of any Obligations, the Trustee may withdraw from the

Senior Lien Debt Service Reserve Fund all or any portion of the amounts accumulated therein with respect to the Debt Service on the Obligations being refunded and (a) deposit such amounts, free and clear of any lien, pledge or claim of the Resolution, with itself or an escrow agent to be held in trust solely for the purchase, exchange or payment of the principal or Redemption Price, if applicable, of and interest on the Obligations being refunded, (b) apply such amounts to pay the Costs of Issuance of the Refunding Obligations, or (c) deposit such amounts in any Fund or Account established hereunder; provided, however, that no such withdrawal or deposit shall be made unless (i) upon such refunding, the Obligations being refunded shall be deemed to have been paid within the meaning and with the effect provided in Section A-1101 and (ii) at the time of and giving effect to such withdrawal and refunding, the amount remaining in the Senior Lien Debt Service Reserve Fund after such withdrawal shall not be less than the Senior Lien Debt Service Reserve Fund Requirement.

(5) Amounts in the Senior Lien Debt Service Reserve Fund shall, at the direction of the Issuer, be invested in Permitted Debt Service Reserve Fund Investments. The Issuer may direct the Trustee to sell any such Investments at any time and the proceeds of such sale and of all payments of principal or interest received at maturity or upon redemption or otherwise of such Permitted Debt Service Reserve Fund Investments shall be deposited in the Senior Lien Debt Service Reserve Fund. Unless needed to satisfy the Rebate Requirement and the Trustee is directed by an Authorized Officer of the Issuer to transfer such moneys to the Rebate Fund, earnings on money and investments in the Senior Lien Debt Service Reserve Fund shall be retained in the Senior Lien Debt Service Reserve Fund if the amount then on deposit in the Senior Lien Debt Service Reserve Fund is less than the Senior Lien Debt Service Reserve Fund Requirement.

**Section 508. Subordinated Indebtedness; Subordinated Contract Obligations.**

(1) The Issuer may, at any time, or from time to time, issue Subordinated Indebtedness or incur Subordinated Contract Obligations payable out of, and which may be secured by a pledge of and lien on, such amounts as may from time to time be available for transfer pursuant to clause (c) of subsection 2 of Section 505, on the terms and conditions as shall be specified with respect to any such Subordinated Indebtedness or Subordinated Contract Obligations by Supplemental Resolution at the time of the initial issuance of Subordinated Indebtedness or incurrence of Subordinate Contract Obligations ; *provided, however, that* (a) such pledge shall be, and shall be expressed to be, subordinate in all respects to the pledge created by the Resolution as security for the Obligations and Parity Debt and (b) to the extent provided by Supplemental Resolution, any amounts so transferred shall thereafter be free and clear of any lien, pledge or claim of the Resolution. The Issuer may establish such priorities of payment and security among Subordinated Indebtedness and Subordinated Contract Obligations as it deems appropriate in the Supplemental Resolution authorizing such Subordinated Indebtedness and Subordinated Contract Obligations.

(2) The Issuer shall have the right to covenant with Persons to whom Subordinated Contract Obligations run and with the holders from time to time of Subordinated Indebtedness in order to add to the conditions, limitations and restrictions under which any additional Capital Cost Obligations or Refunding Obligations may be issued or Parity Debt incurred; *provided, however, that* the Supplemental Resolution or indenture or other agreement providing for the issuance of such Subordinated Indebtedness or the incurrence of such Subordinated Contract Obligations shall not permit the holders of such obligations to declare the same, nor to instruct such holders' trustee

to declare the same, to be immediately due and payable prior to any time that all Obligations and Parity Debt have become due and payable.

**Section 509. Rebate Fund.** (1) The Rebate Fund shall be maintained by the Trustee as a fund separate from any other fund established and maintained under the Resolution and moneys in the Rebate Fund are not part of the Obligations Trust Estate. Within the Rebate Fund, the Trustee shall maintain such accounts as shall be required by the Issuer in order to comply with the terms and requirements of the Tax Certificate. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate), for payment to the Treasury Department of the United States of America. The Issuer or the Owner of any Obligations or Parity Debt shall not have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 509 and the Tax Certificate (which is incorporated herein by reference). Amounts in the Rebate Fund are not pledged to Owners.

(2) The Trustee shall be deemed conclusively to have complied with this Section 509 and the Tax Certificate if it follows the directions of an Authorized Officer, including supplying all necessary written information in the manner provided in the Tax Certificate, and shall have no liability or responsibility for compliance (except as specifically set forth herein or in the Tax Certificate) or to enforce compliance by the Issuer with the terms of the Tax Certificate.

(3) Upon the written direction of the Issuer, the Trustee shall deposit in the Rebate Fund amounts received from the Issuer, so that the balance on deposit therein shall be equal to the Rebate Requirement. The Issuer may authorize the Trustee to transfer moneys from the Funds and Accounts hereunder in the following order of priority to the extent not needed in such Fund and Account for the purposes of such Fund or Account: earnings and other moneys in the Senior Lien Debt Service Reserve Fund in excess of the Senior Lien Debt Service Reserve Fund Requirement; earnings and other moneys in the Senior Lien Debt Service Fund in excess of the Senior Lien Debt Service Fund Requirement; earnings in the Capitalized Interest Fund in excess of the amounts necessary therein to comply with the application of the purposes for which the deposits to the Capitalized Interest Fund were made; earnings and other moneys in the Obligations Proceeds Fund; and amounts on deposit in the Senior Lien Debt Service Reserve Fund. Computations of the Rebate Requirement shall be furnished by or on behalf of the Issuer in accordance with the Tax Certificate. The Trustee shall have no obligation to calculate the Rebate Requirement or to rebate any amounts required to be rebated pursuant to this Section 509, other than from moneys held in the Funds and Accounts and subaccounts created under the Resolution as provided herein or from amounts provided to it by the Issuer.

(4) The Trustee shall invest all amounts held in the Rebate Fund as provided in written directions of the Issuer. In issuing such directions, the Issuer shall comply with the restrictions and instructions set forth in the Tax Certificate. Moneys from the Rebate Fund may only be applied as provided in this Section 509.

(5) Upon receipt of written instructions and certification of the Rebate Requirement from an Authorized Officer, the Trustee shall pay the amount of such Rebate Requirement to the Treasury Department of the United States of America, out of amounts in the Rebate Fund, as so directed. Notwithstanding any other provisions of the Resolution, the obligation to remit the

Rebate Requirement to the United States of America and to comply with all other requirements of this Section 509 and the Tax Certificate shall survive the defeasance or payment in full of the Obligations and Parity Debt.

**Section 510. Excess Revenues Fund.**

(1) Moneys in the Excess Revenues Fund are not part of the Obligations Trust Estate and shall be used by the Issuer for any lawful purpose, including for the transfer to TBTA for deposit in the TBTA Capital Lockbox Fund.

(2) Amounts in the Excess Revenues Fund shall be invested in Authorized Investments. The Issuer may sell any such Authorized Investments at any time and the proceeds of such sale and of all payments of principal or interest received at maturity or upon redemption or otherwise of such Authorized Investments shall be deposited in the Excess Revenues Fund.

## ARTICLE VI

### PARTICULAR COVENANTS OF THE ISSUER

The Issuer covenants and agrees as follows:

**Section 601. Power to Issue Obligations and Effect Pledge of Obligations Trust Estate.** The Issuer is duly authorized under all applicable laws to create and issue the Obligations, adopt the Resolution and pledge the Obligations Trust Estate in the manner and to the extent provided in the Resolution. The Obligations Trust Estate, except to the extent provided in Sections 501 and 602, is and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created by the Resolution, and all corporate action on the part of the Issuer to that end has been and will be duly and validly taken. The Obligations and the provisions of the Resolution are and will be the legally valid and binding special obligations of the Issuer enforceable in accordance with their terms and the terms of the Resolution. The Issuer shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Obligations Trust Estate and all the rights of the Owners of Obligations under the Resolution against all claims and demands of all Persons whomsoever.

**Section 602. Creation of Liens, Issuance of Subordinated Indebtedness, Subordinated Contract Obligations and Other Debt.** The Issuer shall not issue any bonds or other evidences of indebtedness, other than the Obligations and Parity Debt as provided herein, secured by a pledge of the Obligations Trust Estate, respectively, and shall not create or cause to be created any lien or charge on the Obligations Trust Estate, except to the extent provided in Section 501; *provided, however, that* the Issuer may, at any time, or from time to time, incur Subordinated Indebtedness or enter into Subordinated Contract Obligations payable out of and which may be secured by a pledge of, such amounts as may from time to time be available for the purpose of the payment thereof in accordance with clause (c) of subsection 2 of Section 505 and the limitation set forth in subsection (1) of Section 508 and such pledge shall be, and shall be expressed to be, subordinate in all respects to the pledge created by the Resolution as security for payment of the Obligations and Parity Debt; and *provided further that* nothing contained in the Resolution shall prevent the Issuer from issuing (i) bonds, notes, or other obligations or evidences of indebtedness under another and separate resolution to finance Subordinated Obligations, or (ii) other bonds, notes, or other obligations or evidences of indebtedness under another and separate resolution payable from, among other sources, money released from the lien of the Resolution pursuant to clause (c) of subsection 2 of Section 505.

**Section 603. Agreement of the State; Limited Waiver by Owners.** The Issuer does hereby incorporate herein the pledges, covenants and agreements of the State with the Owners of the Obligations and Parity Debt set forth in §§563 and 566-a of the TBTA Act as though set forth in full herein. Notwithstanding the provisions of the agreement of the State contained in subdivisions 2 and 3 of Section 563 of the TBTA Act, all Owners, by their acceptance and holding of the Obligations and Parity Debt, consent to the construction and operation by the Issuer (or to the construction by Persons other than the Issuer if the Issuer shall have assumed the operation thereof), and waive any and all rights under said subdivisions of said Section 563 with respect to such construction and operation, of any vehicular toll bridge or toll tunnel crossing the East River in the City of New York.



## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 701. Obligations Events of Default.** Each of the following events is defined as and shall constitute an “Obligations Event of Default” under the Resolution:

(1) if default shall be made in the due and punctual payment of the principal or Redemption Price of, or interest on, any Obligation or Parity Debt when and as the same shall become due and payable, whether at maturity or by call for redemption, or otherwise and such default shall continue for a period of 30 days, or

(2) if default shall be made by the Issuer in the performance or observance on its part of any other of the covenants, agreements or conditions contained in the Resolution or in the Obligations or Parity Debt, and such default shall continue for a period of 60 days after written notice thereof to the Issuer by the Trustee or to the Issuer and to the Trustee by the Owners of a majority in principal amount of the Obligations and Parity Debt Outstanding; provided, however, that if such default shall be such that it cannot be corrected within such 60 day period, it shall not constitute an Obligations Event of Default if corrective action is instituted within such period and diligently pursued until the failure is corrected.

**Section 702. Powers of Trustee.**

(1) In the event that any Obligations Event of Default specified in Section 701 shall occur and be continuing, the Trustee may, and, upon written request of the Owners of a majority in aggregate principal amount of the Obligations and Parity Debt then Outstanding, shall, in its name:

- (a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the Owners of Obligations and Parity Debt;
- (b) bring suit upon the Obligations and Parity Debt against the Issuer;
- (c) by action or suit, require the Issuer to account as if it were the trustee of an express trust for the Owners of the Obligations and Parity Debt; or
- (d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Obligations and Parity Debt;

*provided, however,* under no circumstances may the Trustee or any Owner or Owners declare the principal of all the Obligations and Parity Debt then Outstanding, and the interest accrued thereon, to be due and payable immediately.

(2) Subject to the provisions of Sections 701 and A-1001 and the foregoing provisions of this Section 702, the remedies conferred upon or reserved to the Trustee in respect of any Obligations Event of Default are not intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Resolution or now or hereafter existing at law or in equity or by

statute. No delay or omission to exercise any right or power accruing upon any Obligations Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than notice as may be expressly required herein.

(3) The Trustee shall, in addition to the foregoing power, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incidental to the general representation of Owners of Obligations and Parity Debt in the enforcement and protection of their rights.

(4) The Issuer covenants that if an Obligations Event of Default shall have happened and shall not have been remedied, the books of record and account of the Issuer and all other records relating to the Obligations Trust Estate shall at all times be subject to the inspection and use of the Trustee and of its agents and attorneys and, upon demand of the Trustee, the Issuer will account, as if it were the trustee of an express trust, for the Obligations Trust Estate for such period as shall be stated in such demand.

(5) The right of the Trustee to the appointment of a receiver as provided in Section 567 of the TBTA Act is hereby abrogated.

**Section 703. Priority of Payments After Default on Obligations and Parity Debt.**

(1) In the event that the amounts held by the Fiduciaries shall be insufficient for the payment of interest and principal or Redemption Price then due on the Obligations and for payments then due with respect to Parity Debt, such funds (excluding funds held for the payment or redemption of particular Obligations or Parity Debt which have theretofore become due at maturity or by call for redemption and funds which at the time of their deposit into any fund or account under the Resolution have been designated to be applied solely to the payment of the principal of and premium, if any, and interest on any series of Obligation Anticipation Notes) and any other money received or collected by the Fiduciaries, or the Trustee, after making provision for the payment of any expenses necessary in the opinion of the Trustee to preserve the continuity of the amounts to be received under the Resolution or otherwise to protect the interest of the Owners of the Obligations and the Parity Debt, and for the payment of the charges and expenses and liabilities incurred and advances made by the Fiduciaries in the performance of their duties under the Resolution, shall be applied as follows:

(a) Unless the principal of all of the Obligations and Parity Debt shall have become due and payable:

First: To the payment to the Persons entitled thereto of all installments of interest then due with respect to Obligations and the interest components of Parity Debt in the order of the maturity of such installments and interest components, and, if the amount available shall not be sufficient to pay in full any installments and interest components due on the same date, then to the payment thereof ratably, according to the amounts due on such installments and interest components, to the Persons entitled thereto, without any discrimination or preference, except as to the

difference in the respective rates of interest specified in such Obligations and Parity Debt; and

Second: To the payment to the Persons entitled thereto of the unpaid principal or Redemption Price of any Obligations and the principal component of Parity Debt which shall have become due, whether at maturity or by call for redemption, in the order of their due dates and, if the amount available shall not be sufficient to pay in full all the Obligations and Parity Debt due on any date, then to the payment thereof ratably, according to the amounts of principal and Redemption Price and principal component due on such date, to the Persons entitled thereto, without any discrimination or preference.

(b) If the principal of all of the Obligations and the principal component of Parity Debt shall have become due and payable, to the payment of the principal and interest then due and unpaid upon the Obligations and Parity Debt without preference or priority of principal or principal component over interest or interest component or of interest or interest component over principal or principal component, or of any installment of interest or interest component over any other installment of interest or interest component, or of any Obligation or Parity Debt over any other Obligation or Parity Debt, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Obligations and Parity Debt.

(2) The provisions of this Section 703 are in all respects subject to the provisions of Section A-602.

## ARTICLE VIII

### SUPPLEMENTAL RESOLUTIONS

**Section 801. Supplemental Resolutions Effective Upon Filing with the Trustee.** For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution may be adopted, without the consent of or notice to any Owner which, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer, or, if adopted prior to the appointment of a Trustee pursuant to Section A-701, upon its adoption, shall be fully effective in accordance with its terms:

(a) To add to the covenants and agreements of the Issuer in the Resolution, other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with the Resolution as theretofore in effect;

(b) To surrender any right, power or privilege reserved to or conferred upon the Issuer by the Resolution;

(c) To confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, the Resolution of any additional security other than that granted or pledged under the Resolution;

(d) To add to the Resolution any provisions required to preserve the exclusion from gross income for Federal income tax purposes of interest received on Tax-Exempt Obligations then Outstanding or to be issued or the exemption of interest received on any Obligations from State income taxation or the right to receive subsidies relating to Taxable Obligations then Outstanding or to be issued;

(e) To modify, amend or supplement the Resolution in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar Federal statute hereafter in effect or to permit the qualification of the Obligations for sale under the securities laws of any of the states of the United States of America, and, if the Issuer so determines, to add hereto such other terms, conditions and provisions as may be required by said Trust Indenture Act of 1939 or similar Federal statute;

(f) At any time prior to the first authentication and delivery of any Obligations under the Resolution or at any other time when no Obligations or Subordinated Obligations are Outstanding under the Resolution, to modify the provisions of the Resolution in such manner as the Issuer deems necessary or appropriate;

(g) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in the Resolution;

(h) To insert such provisions clarifying matters or questions arising under the Resolution as are necessary or desirable and are not contrary to or inconsistent with the Resolution as theretofore in effect, including, in the event the Issuer Act is amended or other legislation is enacted to so provide, the substitution of an alternate or different legal

name for the current name of the Issuer or any other Related Entity in the Resolution or the form of Obligations or Subordinated Obligations;

(i) To make any other modification or amendment of the Resolution which the Issuer shall in its sole discretion determine will not have a material adverse effect on the interests of the Owners of Outstanding Obligations and owners of Other Subordinated Obligations;

(j) To authorize Obligations of a Series and, in connection therewith, (a) specify and determine the matters and things referred to in the provisions of the Resolution authorizing issuance of Obligations, and also any other matters and things relative to such Obligations which are not contrary to or inconsistent with the Resolution as theretofore in effect, (b) set forth provisions governing the administration of any Credit Facility and provisions providing for the issuance of Reimbursement Obligations or the conversion of other Obligations to Reimbursement Obligations (and in connection with such conversion to change the interest rates, sinking fund provisions or maturity date on such Obligations) to secure or reimburse the provider of such Credit Facility, (c) in the case of either Taxable Obligations or Tax-Exempt Obligations, set forth defeasance provisions with respect thereto (including the manner of attaining such defeasance and the effect thereof), and (d) make such additional changes herein, not materially adverse to the rights of the Owners of the Obligations previously issued, as are necessary or appropriate; or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first issuance and delivery of such Obligations;

(k) To authorize the issuance of Subordinated Indebtedness, including Second Lien Obligations, Second Lien Obligation Anticipation Notes, or incur Subordinated Contract Obligations without any additional approvals or consents required by Section 553(20) of the Issuer Act or any successor provision, and in connection therewith, (a) specify and determine the matters and things referred to in the provisions of the Resolution authorizing issuance of Subordinated Indebtedness, including Second Lien Obligations, Second Lien Obligation Anticipation Notes, and Subordinated Contract Obligations, and also any other matters and things relative to such Subordinated Indebtedness, including Second Lien Obligations, Second Lien Obligation Anticipation Notes, and Subordinated Contract Obligations, including provisions relating to additional bonds tests, the pledge of and lien on additional security and/or revenues for the benefit of such Subordinated Indebtedness, including Second Lien Obligations, Second Lien Obligation Anticipation Notes, and Subordinated Contract Obligations, and (b) make such additional changes herein, not materially adverse to the rights of the Owners of Obligations and Parity Debt previously issued, as are necessary or appropriate to reflect the establishment of the trust estate for such Subordinated Indebtedness, including Second Lien Obligations, Second Lien Obligation Anticipation Notes, and Subordinated Contract Obligations and issuance or incurrence of such Subordinated Indebtedness, including Second Lien Obligations, Second Lien Obligation Anticipation Notes, and Subordinated Contract Obligations and to amend, modify or rescind any such authorization, specification or determination at any time prior to the first issuance or incurrence and delivery of such Subordinated Indebtedness, including Second Lien Obligations, Second Lien Obligation Anticipation Notes, and Subordinated Contract Obligations, which are not contrary to or inconsistent

with the Resolution as theretofore in effect so long as the Issuer determines that such Supplemental Resolution authorizing such Subordinated Indebtedness, including Second Lien Obligations, Second Lien Obligation Anticipation Notes, and Subordinated Contract Obligations does not materially adversely affect the right, security and interest of the Owners of Outstanding Obligations;

(l) To authorize Obligation Anticipation Notes in accordance with Section A-203 and, in connection therewith, specify and determine the matters and things referred to in Section A-203, and also any other matters and things relative to such Obligation Anticipation Notes, which are not contrary to or inconsistent with the Resolution as theretofore in effect;

(m) To (a) establish for any one or more Series of Obligations a debt service reserve fund which shall be permitted to be applied solely to the payment of specified Obligations, provided that (i) the specified Obligations shall have no claim or lien on nor be payable from any amounts in any other such debt service reserve fund, (ii) the specified Obligations shall be excluded from the calculation of any applicable debt service reserve fund requirement for any other Outstanding Obligations, and (iii) the amount required to be on deposit in such debt service reserve funds shall be specified in the Supplemental Resolutions authorizing the specified Obligations, but in no event shall such amount, after giving effect to any surety bond, insurance policy, letter of credit or similar obligation authorized to be deposited in any such separate debt service reserve fund pursuant to the Resolution, be in excess of the amount that would otherwise be the debt service reserve fund requirement for such specified Obligations assuming that such Obligations were the only Obligations under the Resolution; and (b) make such other amendments, changes or modifications to the Resolution as may be deemed necessary or desirable by the Issuer, to insure that such debt service reserve funds function in the manner contemplated in this subsection;

(n) To authorize Parity Debt and, in connection therewith, specify and determine (or provide procedures for an Authorized Officer to specify or determine) the matters and things referred to in subsections (4) and (6) of Section A-202, and also any other matters and things relative to such Parity Debt which are not contrary to or inconsistent with the Resolution as then in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first issuance or entering into of such Parity Debt, and at any time to rescind or limit any authorization for any such Parity Debt theretofore authorized but not issued or entered into; in connection with the authorization of Parity Reimbursement Obligations, any such Supplemental Resolution may include provisions for the availability, transferability, use or application of the Funds, Accounts and subaccounts established pursuant to Section 502 of the Resolution for the benefit of such Parity Reimbursement Obligations; and may grant to the Owners of such Parity Debt the same rights granted to Owners of Obligations in Section 802 and Article A-IX herein;

(o) To authorize Subordinated Obligations and, in connection therewith, specify and determine (or provide procedures for an Authorized Officer to specify or determine) the matters and things required or permitted by Article V of the Resolution in

connection therewith, and also any other matters and things relative to such Subordinated Obligations which are not contrary to or inconsistent with the Resolution as then in effect, or at any time to amend, rescind or limit any authorization for any such Subordinated Obligations thereto be authorized but not issued or entered into; and in connection with the authorization of Subordinated Obligations, any such Supplemental Resolution may include provisions for the availability, transferability, use or application of amounts available to pay Subordinated Obligations and any other funds, accounts or subaccounts created for the benefit of such Subordinated Obligations;

(p) To modify any of the provisions of the Resolution in any respect whatsoever, provided that (i) such modification shall be, and be expressed to be, effective only after all Obligations affected thereby and Outstanding at the date of the adoption of such Supplemental Resolution shall cease to be Outstanding and (ii) such Supplemental Resolution shall be specifically referred to in the text of all Obligations delivered on original issuance after the date of the adoption of such Supplemental Resolution and of the Obligations issued in exchange therefor or in place thereof;

(q) To modify, amend or supplement the Resolution in any manner, not already provided for in or pursuant to the Supplemental Resolution authorizing the related Series of Obligations in order to provide for a Credit Facility or other similar arrangement with respect to any Series of Obligations, under the Resolution, so long as the Issuer determines that such Supplemental Resolution does not materially adversely affect the right, security and interest of the Owners of Outstanding Obligations;

(r) To amend or modify any Supplemental Resolution authorizing Obligations of a Series to reflect the substitution of a new Credit Facility for the Credit Facility then in effect;

(s) To close the Resolution against, or provide limitations and restrictions in addition to the limitations and restrictions contained in the Resolution on, the issuance and delivery of the Obligations, or the issuance or entering into of other evidences of indebtedness;

(t) To modify, amend or supplement the Resolution, consistent with the agreement of the State set forth in Section 603 of the Resolution, to reflect or change the nature and/or manner in which the State transfers or deposits amounts to the TBTA Capital Lockbox Fund; and

(u) To modify, amend or supplement the Resolution to authorize the issuance of Obligations for any purpose for which notes, bonds or other obligations may be issued and payable from and secured by Transfer Tax Receipts deposited to the TBTA Capital Lockbox Fund as permitted by law.

In making any determination under paragraph (i) or (q) of this Section 801, the Issuer may conclusively rely upon (i) an Opinion of Counsel, (ii) opinions of other experts or professionals, or (iii) the Receipt of a Rating Confirmation in connection with the proposed modification or amendment.

**Section 802. Supplemental Resolutions Effective with Consent of Owners of Obligations Owners.** At any time or from time to time, a Supplemental Resolution may be adopted subject to consent by Owners of Obligations in accordance with and subject to the provisions of Article A-IX, which Supplemental Resolution, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Issuer and upon compliance with the provisions of said Article A-IX, shall become fully effective in accordance with its terms as provided in said Article A-IX.



## ARTICLE IX

### MISCELLANEOUS; REMEDIES

**Section 901. Authority to Deliver this Resolution.** An Authorized Officer of the Issuer is hereby authorized and directed to deliver this Resolution with such changes, insertions, and omissions as may be approved by such Authorized Officer and as may be required and approved by the CPRB or by such Authorized Officer prior to the issuance of the initial Series of Obligations authenticated and delivered hereunder; such delivery being conclusive evidence of such approvals; and provided, however, that such changes, insertions, and omissions shall be necessary to effectuate the intent of this Resolution.

**Section 902. Effective Date.** The effectiveness of the provisions of this Resolution relating to the authority of the Issuer to finance Capital Costs are subject to the receipt of the approval (or deemed approval) of the CPRB pursuant to the Issuer Act.

FORM OF OBLIGATIONS

THE BONDS SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR THE CITY OF NEW YORK AND NEITHER THE STATE NOR THE CITY SHALL BE LIABLE THEREON.

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

As provided in the Resolution referred to herein, until the termination of the system of book-entry-only transfers through DTC and notwithstanding any other provision of the Resolution to the contrary, a portion of the principal amount of this Bond may be paid or redeemed without surrender hereof to the Paying Agent. DTC or a nominee, transferee or assignee of DTC of this Bond may not rely upon the principal amount indicated hereon as the principal amount hereof outstanding and unpaid. The principal amount hereof outstanding and unpaid shall for all purposes be the amount determined in the manner provided in the Resolution.

TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY  
REAL ESTATE TRANSFER TAX REVENUE BOND,  
SERIES \_\_\_\_\_  
(TBTA CAPITAL LOCKBOX FUND)

REGISTERED  
NO.

DOLLARS  
\$

INTEREST RATE

MATURITY DATE

DATED DATE

CUSIP

Registered Owner:

Principal Sum:

TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY (herein called "TBTA"), a body corporate and politic constituting a public benefit corporation, organized and existing under and by virtue of the laws of the State of New York, acknowledges itself indebted to, and for value received hereby promises to pay to the Registered Owner stated above, or registered assigns, on the Maturity Date set forth above, but solely from the Obligations Trust Estate defined below, upon presentation and surrender of this Bond at the office or agency of TBTA designated for such payment in the Borough of Manhattan, City and State of New York; or, at the option of the

Registered Owner hereof, at any other office or agency of TBTA designated by TBTA for such payment, the Principal Sum set forth above in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and to pay to the Registered Owner hereof interest on such Principal Sum, such payment to be made by \_\_\_\_\_, as Paying Agent, from the Dated Date set forth above or such later date to which interest has been paid, at the Interest Rate per annum set forth above, payable on the \_\_\_\_ days of \_\_\_\_\_ and \_\_\_\_\_ in each year, commencing \_\_\_\_ 1, 20\_\_, until TBTA's obligation with respect to the payment of such Principal Sum shall be discharged. Interest on the Series \_\_\_\_ Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest will be paid by check mailed on the interest payment date by the Paying Agent to the Registered Owner at his address as it appears on the registration records or, at the option of any Owner of at least one million dollars (\$1,000,000) in principal amount of the Series \_\_\_\_ Bonds, by wire transfer in immediately available funds on each interest payment date to such Owner, provided such Owner has notified the Trustee (as hereinafter defined) in writing of such Owner's wire transfer address (which shall be in the continental United States) at least 15 days prior to the relevant payment date. *In the event that any payment date is not a business day, payment will be made on the next business day with the same force and effect as if made on the nominal date provided in the Resolution and no interest shall accrue during the intervening period with respect to any payment so deferred.*

This Bond is one of a duly authorized issue of obligations of TBTA designated as its "Real Estate Transfer Tax Revenue Obligations Bonds (TBTA Capital Lockbox Fund)" (herein called the "Bonds") issued under and pursuant to the Triborough Bridge and Tunnel Authority Act, Title 3 of Article 3 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of the State of New York, as amended (herein called the "TBTA Act"), and under and pursuant to a resolution of TBTA adopted on \_\_\_\_\_, 2024, entitled "Special Obligation Resolution Authorizing Real Estate Transfer Tax Revenue Obligations (TBTA Capital Lockbox Fund)", as supplemented. Said resolution, as supplemented and amended, is herein called the "Resolution". This Bond is one of a series of Bonds designated as "Real Estate Transfer Tax Revenue Bonds, Series \_\_\_\_ (TBTA Capital Lockbox Fund)" (herein called the "Series \_\_\_\_ Bonds"), issued in the aggregate principal amount of \$ \_\_\_\_ under said Resolution. All capitalized terms used but not otherwise defined have the respective meanings ascribed by the Resolution.

*Copies of the Resolution are on file at the office of TBTA and at the principal corporate trust office of \_\_\_\_\_, New York, New York as Trustee under the Resolution, or its successor as Trustee (herein called the "Trustee"), in the Borough of Manhattan, City and State of New York, and reference to the Resolution and any and all supplements thereto and modifications and amendments thereof and to the TBTA Act is hereby made for a complete description of the pledge and covenants securing the Series \_\_\_\_ Bonds, the nature, extent and manner of enforcement of and limitations with respect to, such pledge, the rights and remedies of the registered owners of the Series \_\_\_\_ Bonds with respect thereto, and the terms and conditions upon which the Bonds are issued and may be issued thereunder.*

This Bond is a direct and special obligation of TBTA, secured by a pledge, subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution, of all right, title and interest of TBTA in the "Obligations Trust Estate", being (i) the proceeds of the sale of the Bonds, (ii) the Revenue Fund, any money on deposit therein and any money received and held by TBTA which is required to be

deposited therein, including the Transfer Tax Receipts, (iii) certain Funds, Accounts and subaccounts established by the Resolution (but not the Rebate Fund or the Excess Revenues Fund) including the investments, if any, thereof, and (iv) certain funds, moneys and securities and any all other rights and interests in property, whether tangible or intangible, from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred as and for additional security for the Bonds as provided in the Resolution.

To the extent provided in the Resolution, the Bonds may be issued from time to time pursuant to Supplemental Resolutions in one or more series, in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as provided in the Resolution. The aggregate principal amount of Bonds which may be issued under the Resolution is not limited except as provided in the Resolution, and all Bonds issued and to be issued under the Resolution are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Resolution. The Bondholders, by their acceptance and holding of the Bonds, waive, to the extent provided in the Resolution, all rights under subdivisions 2 and 3 of Section 563 of the TBTA Act with respect to certain competitive connections for vehicular traffic across the East River in The City of New York.

To the extent and in the manner permitted by the terms of the Resolution, the Series \_\_\_\_\_ Bonds are subject to redemption as provided in the Certificate of Determination relating thereto. The Series \_\_\_\_\_ Bonds may be subject to conditional redemption to the extent and in the manner permitted by the terms of the Resolution and the Certificate of Determination relating thereto. Any redemption notice or other notices required by the Resolution shall be sent only to the Securities Depository Nominee, initially Cede & Co., as nominee of DTC, so long as the Series \_\_\_\_\_ Bonds are held in book-entry-only form.

The events specified in the Resolution as such shall constitute Obligations Events of Default and the Trustee and the Owners shall have the rights and remedies provided by the Resolution.

To the extent provided in the Resolution, Parity Debt, secured on a parity with the Bonds with respect to all right, title and interest of TBTA in the Obligations Trust Estate may be issued or entered into by TBTA. The aggregate principal amount of Parity Debt which may be issued or entered into under the Resolution is not limited except as provided in the Resolution.

Neither the principal of the Bonds nor the principal of Parity Debt may be declared due and payable before maturity thereof.

To the extent and in the manner permitted by the terms of the Resolution, modification or amendment of the Resolution and of the rights and obligations of TBTA and of the Owners of the Bonds may be made by a Supplemental Resolution, in certain instances without the written consent of the Owners, of the Bonds. Reference is made to the Resolution for the terms and provisions thereof relating to amendments and supplements.

The Series \_\_\_\_\_ Bonds are issued by means of a book-entry-only system, with no physical distribution of bond certificates to be made except as provided in the Resolution. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant

to rules and procedures established by the Securities Depository and its participants. TBTA and the Trustee will recognize the Securities Depository Nominee, while the Registered Owner of this Bond, as the owner of this Bond for all purposes, including payments of principal of and Redemption Price and interest on this Bond, notices and voting. In the event the Series \_\_\_\_\_ Bonds are no longer held in book-entry-only form, the Series \_\_\_\_\_ Bonds would be issuable in the form of fully registered Bonds without coupons in the denomination of \$5,000 or any integral multiple thereof.

The TBTA Act provides that neither the members of TBTA nor any person executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

It is hereby certified and recited that all conditions, acts and things required by law and the Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this Bond, exist, have happened and have been performed and that the issue of the Series \_\_\_\_\_ Bonds, together with all other indebtedness of TBTA, is within every debt and other limit prescribed by the laws of the State of New York.

This Bond shall not be entitled to any benefit under the Resolution or be valid or become obligatory for any purpose until this Bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.

**IN WITNESS WHEREOF, TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY** has caused this Bond to be signed in its name and on its behalf by the manual or facsimile signature of its Authorized Officer as of the Dated Date.

**TRIBOROUGH BRIDGE AND TUNNEL  
AUTHORITY**

BY: \_\_\_\_\_  
[Authorized Officer]

**[FORM OF CERTIFICATE OF AUTHENTICATION]**

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds described in the within-mentioned Resolution.

Date of Authentication: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
\_\_\_\_\_, as Trustee

BY: \_\_\_\_\_  
Authorized Signatory

**[Form of Assignment]**

**ASSIGNMENT**

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

---

[PLEASE INSERT SOCIAL SECURITY NUMBER OR OTHER IDENTIFYING NUMBER OF ASSIGNEE]

---

[PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS OF TRANSFEREE]

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

Date: \_\_\_\_\_

In the Presence of:

---

NOTICE: The signature must be guaranteed by an “eligible guarantor Institution” meeting the requirements of membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Trustee in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

NOTE: The signature to this assignment must correspond with the name as written on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
\_\_\_\_\_

---

**STANDARD RESOLUTION PROVISIONS**

---



**TABLE OF CONTENTS**  
**STANDARD RESOLUTION PROVISIONS**

	<u>Page</u>
<b>ARTICLE A-I DEFINITIONS AND STATUTORY AUTHORITY</b>	
Section A-101. Definitions.....	1
Section A-102. Rules of Construction .....	13
Section A-103. Authority for the Resolution .....	14
Section A-104. Resolution to Constitute Contract.....	14
<b>ARTICLE A-II GENERAL PROVISIONS FOR ISSUANCE OR INCURRENCE OF OBLIGATIONS, PARITY DEBT AND OBLIGATION ANTICIPATION NOTES</b>	
Section A-201. General Provisions for Issuance of Obligations.....	15
Section A-202. Credit Facilities; Qualified Swaps and Other Similar Arrangements; Parity Debt .....	18
Section A-203. Obligation Anticipation Notes .....	20
<b>ARTICLE A-III GENERAL TERMS AND PROVISIONS OF OBLIGATIONS</b>	
Section A-301. Medium of Payment; Form and Date.....	21
Section A-302. Legends .....	21
Section A-303. Execution and Authentication.....	21
Section A-304. Interchangeability of Obligations .....	22
Section A-305. Negotiability, Transfer and Registry.....	22
Section A-306. Transfer of Obligations .....	22
Section A-307. Regulations With Respect to Exchanges and Transfers .....	23
Section A-308. Obligations Mutilated, Destroyed, Stolen or Lost .....	23
Section A-309. Book-Entry-Only System.....	23
<b>ARTICLE A-IV REDEMPTION AND TENDER OF OBLIGATIONS</b>	
Section A-401. Privilege of Redemption and Redemption Price.....	25
Section A-402. Redemption at the Election of the Issuer; Tender to Related Entities .....	25
Section A-403. Redemption Otherwise Than at the Issuer’s Election.....	26
Section A-404. Selection of Obligations to Be Redeemed .....	26
Section A-405. Notice of Redemption .....	26
Section A-406. Payment of Redeemed Obligations.....	27
<b>ARTICLE A-V INVESTMENT OF FUNDS; SINKING FUND INSTALLMENTS; CANCELLATION AND DISPOSITION OF OBLIGATIONS</b>	
Section A-501. Investment of Funds.....	28
Section A-502. Satisfaction of Sinking Fund Installments .....	28
Section A-503. Cancellation and Disposition of Obligations .....	29

ARTICLE A-VI PARTICULAR COVENANTS OF THE ISSUER

Section A-601. Payment of Obligations and Parity Debt ..... 31  
Section A-602. Extension of Payment of Obligations ..... 31  
Section A-603. Offices for Servicing Obligations ..... 31  
Section A-604. Further Assurance ..... 31  
Section A-605. Accounts and Reports ..... 32  
Section A-606. General ..... 32

ARTICLE A-VII CONCERNING THE TRUSTEE, PAYING AGENTS AND THE REGISTRAR

Section A-701. Trustee; Appointment and Acceptance of Duties ..... 33  
Section A-702. Duties, Liabilities and Rights of the Trustee ..... 33  
Section A-703. Paying Agents and Registrars; Appointment and Acceptance of Duties..... 35  
Section A-704. Responsibilities of Fiduciaries ..... 35  
Section A-705. Evidence on Which Fiduciaries May Act ..... 35  
Section A-706. Compensation ..... 36  
Section A-707. Certain Permitted Acts ..... 36  
Section A-708. Resignation of Trustee ..... 36  
Section A-709. Removal of Trustee ..... 36  
Section A-710. Appointment of Successor Trustee ..... 37  
Section A-711. Transfer of Rights and Property to Successor Trustee..... 38  
Section A-712. Merger or Consolidation ..... 38  
Section A-713. Resignation or Removal of Paying Agent or Registrar and Appointment of Successor ..... 38  
Section A-714. Adoption of Authentication ..... 39  
Section A-715. Continuing Disclosure Agreements ..... 39

ARTICLE A-VIII SUPPLEMENTAL RESOLUTIONS

Section A-801. General Provisions ..... 40

ARTICLE A-IX AMENDMENTS

Section A-901. Mailing..... 41  
Section A-902. Powers of Amendment..... 41  
Section A-903. Consent of Owners of Obligations..... 42  
Section A-904. Modifications by Unanimous Consent..... 42  
Section A-905. Notation on Obligations..... 43

ARTICLE A-X DEFAULT AND REMEDIES

Section A-1001. Abrogation of Right to Appoint Statutory Trustee; Preservation of Statutory Rights and Remedies ..... 44

ARTICLE A-XI MISCELLANEOUS

Section A-1101. Defeasance ..... 45  
Section A-1102. Evidence of Signatures of Owners of Obligations and Ownership of Obligations..... 46

Section A-1103.	Money Held for Particular Obligations.....	47
Section A-1104.	General Regulations as to Money and Funds .....	47
Section A-1105.	Preservation and Inspection of Documents.....	48
Section A-1106.	Parties Interest Herein.....	48
Section A-1107.	No Recourse on the Obligations .....	48
Section A-1108.	Successors and Assigns.....	48
Section A-1109.	Business Days .....	48
Section A-1110.	Severability of Invalid Provisions.....	48
Section A-1111.	Exclusion of Obligations.....	49
Section A-1112.	Governing Law .....	49

## STANDARD RESOLUTION PROVISIONS

### ARTICLE A-I

#### DEFINITIONS AND STATUTORY AUTHORITY

**Section A-101. Definitions.** Capitalized terms used but not otherwise defined in this Annex A shall have the meanings set forth in the Resolution to which this Annex A is appended. The following terms shall, for all purposes herein and (except as the context may otherwise require) in the Resolution to which this Annex A is appended, have the following meanings:

**Account** or **Accounts** shall mean each account or all of the accounts established in Article V of the Resolution.

**Accreted Value** shall mean with respect to any Capital Appreciation Obligations (i) as of any Valuation Date, the amount set forth for such date in the Supplemental Resolution authorizing such Capital Appreciation Obligations and (ii) as of any date other than a Valuation Date, the sum of (a) the Accreted Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date and (2) the difference between the Accreted Values for such Valuation Dates. For purposes of this definition, the number of days having elapsed from the preceding Valuation Date and the number of days from the preceding Valuation Date to the next succeeding Valuation Date shall be calculated on the basis of a 360-day year of twelve (12) 30-day months, unless otherwise provided pursuant to a Supplemental Resolution.

**Accrued Debt Service** shall mean, as of any date of calculation, an amount equal to the sum of the amounts of accrued and unpaid Debt Service with respect to all Obligations and Parity Debt, calculating the accrued Debt Service with respect to each obligation at an amount equal to the sum of (i) as estimated by an Authorized Officer, interest on the Obligations and interest components of Parity Debt accrued and unpaid and to accrue to the end of the then current calendar month, and (ii) Principal Installments due and unpaid and that portion of the Principal Installment for such Obligations and Parity Debt next due which would have accrued (if deemed to accrue in the manner set forth in the definition of “Debt Service”) to the end of such calendar month. For purposes of calculating Senior Debt Service Fund deposits, Principal Installments shall not include amounts that an Authorized Officer has notified the Trustee are to be paid from sources other than Sales Tax Receipts, nor shall Accrued Debt Service include any amounts that, as certified by an Authorized Officer, have been set aside hereunder or otherwise in trust for the payment thereof.

**Amortized Value**, when used with respect to Authorized Investments purchased at a premium above or a discount below par, shall mean the value of such Authorized Investments computed by using an industry standard constant yield method selected by an Authorized Officer of the Issuer.

**Appreciated Value** shall mean with respect to any Deferred Income Obligations (i) as of any Valuation Date, the amount set forth for such date in the Supplemental Resolution authorizing such Deferred Income Obligations, (ii) as of any date prior to the Interest Commencement Date

other than a Valuation Date, the sum of (a) the Appreciated Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date and (2) the difference between the Appreciated Values for such Valuation Dates, and (iii) as of any date on and after the Interest Commencement Date, the Appreciated Value on the Interest Commencement Date. For purposes of this definition, the number of days having elapsed from the preceding Valuation Date and the number of days from the preceding Valuation Date to the next succeeding Valuation Date shall be calculated on the basis of a 360-day year of twelve (12) 30-day months, unless otherwise provided pursuant to a Supplemental Resolution.

**Authorized Investments** shall mean and include any of the following, to the extent the same are legal for investment of the Issuer's funds:

- (i) obligations of the State or the United States government;
- (ii) obligations the timely payment of the principal and interest on which are unconditionally guaranteed by the State or the United States government;
- (iii) certificates of deposit of banks or trust companies in the State, secured, if the Issuer shall so require, by obligations of the United States or of the State of a market value equal at all times to the amount of the deposit;
- (iv) banker's acceptances with a maturity of 90 days or less which are eligible for purchase by the federal reserve banks and whose rating at the time of purchase is in the highest Rating Category of each of the Rating Agencies that then rates such banker's acceptances;
- (v) obligations of any bank or corporation created under the laws of either the United States or any state of the United States maturing within 270 days, provided that such obligations are rated in the highest Rating Category of each of the Rating Agencies that then rates such obligations;
- (vi) notes, bonds, debentures, mortgages and other evidences of indebtedness, issued or guaranteed at the time of the investment by the United States Postal Service, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Student Loan Marketing Association, the Federal Farm Credit System, or any other United States government sponsored agency, provided that at the time of the investment such agency or its obligations are rated and the agency receives, or its obligations receive, ratings in the highest Rating Category of each of the Rating Agencies that then rates such agency or its obligations;
- (vii) (A) general obligation bonds and notes of any state other than the State, provided that such bonds and notes are rated in the highest Rating Category of each of the Rating Agencies that then rates such bonds and notes, and (B) bonds and notes of any county, town, city, village, fire district or school district of the State, provided that such bonds and notes are rated in either of the 2 highest Rating Categories of each of the Rating Agencies that then rates such bonds and notes;

- (viii) mutual funds registered with the United States Securities and Exchange Commission, whose investments are limited to obligations of the State described in clause (i) above, obligations the principal and interest of which are guaranteed by the State as described in clause (ii) above, and those securities described in clause (vii) above, and that are rated in the highest Rating Category of each of the Rating Agencies that then rates such funds;
- (ix) repurchase agreements with any dealer or bank, which agreement is secured by any one or more of the securities described in clauses (i), (ii) or (vi) above, which securities shall (A) at all times have a market value of not less than the full amount held or invested pursuant to the agreement and (B) be delivered to a Bank as defined in clause (i) or (ii) of the definition thereof, as custodian, that is independent from the dealer or bank with whom the repurchase agreement is executed; and
- (x) any other investment in which the Issuer is authorized from time to time to invest under applicable law with respect to which an Authorized Officer has, on or before the date thereof, delivered to the Trustee (A) a certificate to the Trustee designating the additional investment as an Authorized Investment and (B) Rating Confirmation.

In addition to the foregoing, in the case of any money held in reserve and sinking funds “Authorized Investments” shall include any other securities in which the trustee or trustees of any public retirement system or pension fund has the power to invest the money thereof pursuant to Article four-a of the Retirement and Social Security Law of the State, each such reserve and sinking fund being treated as a separate fund for the purposes of Article four-a of the Retirement and Social Security Law of the State.

Any investment in any of the foregoing obligations may be made in the form of an entry made on the records of the issuer of the particular obligations or of a recognized securities depository.

**Authorized Officer** shall mean (i) the Chairman and the Vice Chairman, (ii) the Executive Director, the Comptroller, the Chief Financial Officer, the Secretary and any Assistant Secretary of the Issuer, (iii) the Chief Financial Officer, the Deputy Chief, Financial Services, the Director of Finance, and the Director of Budget and Financial Management of the MTA, and (iv) any other Person authorized by the Issuer to perform the act or sign the document in question.

**Balloon Obligations** shall mean Obligations which have been identified in a Certificate of Determination as a Balloon Obligation. Such Certificate of Determination shall set forth the expected refinancing, including the expected ultimate final maturity and amortization schedule of the refinancing or refinancings of such Balloon Obligation (including successor Balloon Obligations) and the Estimated Average Interest Rate for purposes of determining Calculated Debt Service of such Balloon Obligation.

**Bank** shall mean any (i) bank or trust company organized under the laws of any state of the United States of America, (ii) national banking association, (iii) savings bank or savings and

loan association chartered or organized under the laws of any state of the United States of America, or (iv) federal branch or agency pursuant to the International Banking Act of 1978 or any successor provisions of law, or domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America.

**Business Day** shall mean any day of the year other than (i) Saturday or Sunday, (ii) any day on which Banks located in New York, New York or the city in which the Principal Office of the Trustee is located are required or authorized by law to remain closed, or (iii) any day on which the New York Stock Exchange is closed.

**Calculated Debt Service** for any period shall mean, as of any date of calculation and with respect to any Series of Obligations or any Parity Debt, the sum of Debt Service for such period determined by the Issuer based on the following adjustments:

(1) Interest on Variable Interest Rate Obligations shall be based on the Estimated Average Interest Rate applicable thereto.

(2) Interest on any Obligation or Parity Debt in respect of which the Issuer has entered into a Qualified Swap shall be based on:

(a) the fixed rate or rates of the Qualified Swap if the Issuer has entered into what is generally referred to as a “floating-to-fixed” Qualified Swap (where the Issuer pays a fixed rate and receives a floating rate); or

(b) the lower of (i) the Estimated Average Interest Rate and (ii) the effective capped rate of any Obligation or Parity Debt if the Issuer has entered into a Qualified Swap that is generally referred to as an “interest rate cap” (where the Issuer receives a payment if a variable rate exceeds a certain amount); or

(c) the Estimated Average Interest Rate of the Qualified Swap if the Issuer has entered into either what is generally referred to as a “fixed-to-floating” Qualified Swap (where the Issuer pays a variable rate and receives a fixed rate) or a “floating-to-floating” Qualified Swap (where the Issuer pays a variable rate and receives a different variable rate).

(3) With respect to Put Obligations and Balloon Obligations of a Series (i) Principal Installments shall be deemed to amortize over a 30-year period from their date of issuance based on substantially level debt service as estimated by the Issuer, and (ii) interest shall be based on the actual interest rate or the Estimated Average Interest Rate, as applicable, or for both (i) and (ii) above, as otherwise set forth in a Supplemental Resolution or Certificate of Determination with respect to the issuance of such Obligations.

(4) If the Issuer has irrevocably deposited Authorized Investments or money with the Trustee (or otherwise in trust) for the payment of any portion of Debt Service, the expected future cash flow from such Authorized Investments and money shall be deducted from Debt Service.

(5) If the Issuer has, at any time, irrevocably called for redemption one or more Series of Obligations, including pursuant to a covenant to apply any portion of the Obligations Trust Estate to redeem Obligations or Parity Debt (which particular Obligations or Parity Debt need not be specifically identified in advance, except as to interest rate and maturity), the Issuer shall take into account such redemption for purposes of determining Calculated Debt Service.

(6) With respect to Parity Reimbursement Obligations, accelerated payments of principal shall only be taken into account if, at the time of calculation, such amounts are payable due to a draw under a credit or liquidity facility.

**Capital Appreciation Obligations** shall mean any Obligations denominated as such and issued as to which interest is payable only at the maturity or prior redemption of such Obligations. Except as otherwise provided by Supplemental Resolution, for the purposes of (i) receiving payment of the Redemption Price if a Capital Appreciation Obligation is redeemed prior to maturity, (ii) computing the principal amount of Obligations held by the registered owner of a Capital Appreciation Obligation in giving to the Issuer or the Trustee any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever or (iii) computing Debt Service, the principal amount of a Capital Appreciation Obligation shall be deemed to be its Accreted Value (which in the case of clause (ii) may be the Accreted Value as of the immediately preceding Valuation Date).

**Certificate of Determination** shall mean a certificate of an Authorized Officer of the Issuer fixing terms, conditions and other details of Obligations, Parity Debt, Credit Facilities, Subordinated Indebtedness or Subordinated Contract Obligations in accordance with the delegation of power to do so under a Supplemental Resolution.

**City** shall mean The City of New York.

**Costs of Issuance** shall mean the costs of the authorization, sale and issuance of a Series of Obligations, Obligation Anticipation Notes, Subordinated Indebtedness, Parity Debt, Subordinated Contract Obligations or other obligations authorized under the Resolution, including with respect to any party to a transaction State bond issuance charges, document printing and reproduction costs, filing and recording fees, costs of credit ratings, fees and charges of the Trustee and other Fiduciaries and agents, legal fees and charges, professional consultants' fees, underwriting fees, fees and charges for execution, transportation and safekeeping of Obligations, premiums, fees and charges in order to obtain, renew, extend or terminate Credit Facilities and Qualified Swaps and other financial arrangements, costs and expenses of refunding such Obligations, Obligation Anticipation Notes, Subordinated Indebtedness, Parity Debt, Subordinated Contract Obligations or other obligations authorized under this Resolution, and other costs, charges and fees, including those of the Issuer and any other Related Entities, in connection with the foregoing.

**Counsel's Opinion or Opinion of Counsel or Opinion** shall mean an opinion signed by an attorney or firm of attorneys of recognized standing (who may be counsel to the Issuer) selected by the Issuer.



**Credit Facility** shall mean any letter of credit, standby bond purchase agreement, line of credit, policy of bond insurance, surety bond, guarantee or similar instrument, or any agreement relating to the reimbursement of any payment thereunder (or any combination of the foregoing), which is obtained by the Issuer and is issued by a financial institution, insurance provider or other Person and which provides security or liquidity in respect of any Outstanding Obligations, Parity Debt or Obligation Anticipation Notes.

**Debt Service** for any period shall mean, as of any date of calculation and with respect to any Series of Obligations or any Parity Debt outstanding, the sum of (i) interest on the Obligations of such Series and the interest components of Parity Debt accruing during such period and (ii) that portion of each Principal Installment for such Obligations and Parity Debt that would accrue during such period if such Principal Installment were deemed to accrue daily in equal amounts from the preceding Principal Installment payment date on Outstanding Obligations and Parity Debt; *provided, however, that*, unless otherwise set forth in a Supplemental Resolution, no Principal Installment shall be deemed to begin accruing until *the later of* one year prior to such Principal Installment's due date and the date of issuance or incurrence of the related Obligation or Parity Debt.

**Debt Service Payment Date** shall mean, with respect to any portion of Debt Service, the date on which the Debt Service shall be payable.

**Defeasance Security** shall mean

(a) an Authorized Investment as specified in clause (i) of the definition thereof (other than an obligation of the State), which is not redeemable at the option of the issuer thereof,

(b) an Authorized Investment as specified in clause (i) (which is an obligation of the State), (ii), (iii), (vi) or (vii) of the definition thereof, which is not redeemable at the option of the issuer thereof and which shall be rated at the time of the investment in the highest long-term Rating Category by each Rating Agency,

(c) any depositary receipt issued by a Bank as custodian with respect to any Defeasance Security which is specified in clause (a) above and held by such Bank for the account of the holder of such depositary receipt, or with respect to any specific payment of principal or interest on any such Defeasance Security which is so specified and held, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the Defeasance Security or the specific payment of principal or interest evidenced by such depositary receipt,

(d) any certificate of deposit specified in clause (iii) of the definition of Authorized Investments in Section A-101, including certificates of deposit issued by the Trustee or by a Paying Agent, secured by obligations specified in clause (a) above of a market value equal at all times to the amount of the deposit, which shall be rated at the time of the investment in the highest long-term Rating Category by each Rating Agency, or

(e) any other Authorized Investment designated in a Supplemental Resolution as a Defeasance Security for purposes of defeasing the Obligations authorized by such Supplemental Resolution, which is not redeemable at the option of the issuer thereof and which shall be rated at the time of the investment in the highest long-term Rating Category by each Rating Agency.

**Deferred Income Obligation** shall mean any Obligation (A) as to which interest accruing thereon prior to the Interest Commencement Date of such Obligation is (i) compounded on each Valuation Date for such Deferred Income Obligation and (ii) payable only at the maturity or prior redemption of such Obligations and (B) as to which interest accruing after the Interest Commencement Date is payable on the first interest payment date succeeding the Interest Commencement Date and periodically thereafter on the dates specified in or determined by Supplemental Resolution. Except as otherwise provided by Supplemental Resolution, for the purposes of (i) receiving payment of the Redemption Price if a Deferred Income Obligation is redeemed prior to maturity, (ii) computing the principal amount of Obligations held by the registered owner of a Deferred Income Obligation in giving to the Issuer or the Trustee any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever or (iii) computing Debt Service, the principal amount of a Deferred Income Obligation shall be deemed to be its Appreciated Value (which in the case of clause (ii) may be the Appreciated Value as of the immediately preceding Valuation Date).

**Estimated Average Interest Rate** shall mean, as to any Variable Interest Rate Obligations or Qualified Swap and as of any date of calculation, the average interest rate or rates anticipated to be borne by such Obligations or Qualified Swap, or by the combination of such arrangements, over the period or periods for which such rate or rates are anticipated to be in effect, all as estimated by an Authorized Officer.

**Fiduciary or Fiduciaries** shall mean the Trustee, any Registrar, any Paying Agent, any tender agent or any or all of them, as may be appropriate, or any Person appointed to act as a Fiduciary as provided in the Resolution.

**Final Judgment** shall mean any judgment or order of any court of competent jurisdiction, or of any arbitrator or panel of arbitrators, as to which all appeals have been exhausted.

**Fund or Funds** shall mean each fund or all of the funds established in or pursuant to Article V of the Resolution.

**Interest Commencement Date** shall mean, with respect to any particular Deferred Income Obligation, the date determined by Supplemental Resolution after which interest accruing on such Obligation shall be payable on the first interest payment date succeeding such Interest Commencement Date and periodically thereafter on the dates determined pursuant to such Supplemental Resolution.

**Issuer Act** shall mean the MTA Act in the event that the MTA is defined in the Resolution as the Issuer or the TBTA Act in the event that the TBTA is defined in the Resolution as the Issuer, together with any other applicable law of the State authorizing the issuance of the related

Obligations by the Issuer or expressly limiting the issuance thereof or governing the security therefor.

**LIRR** shall mean The Long Island Rail Road Company and any successor thereto.

**MaBSTOA** shall mean the Manhattan and Bronx Surface Transit Operating Authority and any successor thereto.

**MNCRC** shall mean the Metro-North Commuter Railroad Company and any successor thereto.

**MTA** shall mean the Metropolitan Transportation Authority, the corporation organized and existing under the MTA Act, and any successor thereto.

**MTA Act** shall mean the Metropolitan Transportation Authority Act, being Title 11 of Article 5 of the New York Public Authorities Law, as from time to time amended.

**MTA Bus** shall mean MTA Bus Company and any successor thereto.

**Obligation Anticipation Notes** shall mean any such notes issued and delivered pursuant to Section A-203, except to the extent (but only to the extent) that all or any portion of such notes either are not payable, or are anticipated by the Issuer not to be paid, from the proceeds of the Obligations in anticipation of which such notes are being issued.

**Opinion of Bond Counsel** shall mean an opinion signed by Nixon Peabody LLP, D. Seaton and Associates, P.A., P.C., Orrick, Herrington & Sutcliffe LLP, and Bryant Rabbino LLP, or any other attorney or firm of attorneys of nationally recognized standing in the field of law relating to the issuance of obligations by state and municipal entities, selected by the Issuer.

**Outstanding**, when used with reference to Obligations or Obligations of a Series, shall mean, as of any date, Obligations or Obligations of such Series theretofore or thereupon to be delivered under the Resolution except:

- (i) Any Obligations canceled at or prior to such date;
- (ii) Obligations the principal and Redemption Price, if any, of and interest on which have been paid in accordance with the terms thereof;
- (iii) Obligations in lieu of or in substitution for which other Obligations shall have been delivered pursuant to Article A-III or Section A-406 or Section A-905;
- (iv) Obligations deemed to have been paid as provided in subsection 2 of Section A-1101;
- (v) Put Obligations tendered or deemed tendered in accordance with the provisions of the Supplemental Resolution authorizing such Obligations on the applicable tender date, if the Purchase Price thereof and interest thereon

shall have been paid or amounts are available and set aside for such payment as provided in such Supplemental Resolution, except to the extent such tendered Put Obligations thereafter may be resold pursuant to the terms thereof and of such Supplemental Resolution; and

- (vi) For the purpose of any consent to be given or other action to be taken by or upon the direction of Owners of a specified portion of Obligations Outstanding, Obligations excluded pursuant to Section A-1111.

The principal component of any Parity Debt shall be deemed to be Outstanding in a principal amount equal to the principal amount of the obligation then owed by the Issuer thereunder in lieu of the related Obligation, regardless of the authorized amount of the principal component of such Parity Debt or the related Obligation and provided that, unless otherwise required pursuant to the related Supplemental Resolution, the principal component of such Parity Debt shall not by itself increase the Outstanding principal amount of Obligations.

**Owner**, or any similar terms, shall mean the registered owner of any Obligation as shown on the books for the registration and transfer of Obligations maintained in accordance with Section A-305.

**Parity Debt** shall mean any Parity Reimbursement Obligation, any Parity Swap Obligation or any other contract, agreement or other obligation of the Issuer designated as constituting “Parity Debt” in a certificate of an Authorized Officer delivered to the Trustee; *provided, however, that* any such Parity Reimbursement Obligation, Parity Swap Obligation, or other contract, agreement or other obligation shall not constitute Parity Debt solely to the extent of any obligations to pay termination or other fees, expenses, indemnification or other similar payments to the counterparty to such arrangement; *provided further that* Parity Reimbursement Obligations may include accelerated principal amortization provisions to the extent permitted by subsection 4 of Section A-202.

**Parity Reimbursement Obligation** has the meaning provided in subsection 4 of Section A-202.

**Parity Swap Obligation** has the meaning provided in subsection 6 of Section A-202.

**Paying Agent** shall mean any paying agent for the Obligations of any Series and its successor or successors and any other Person which may at any time be substituted in its place pursuant to the Resolution.

**Person** shall mean any individual, corporation, firm, partnership, joint venture, association, joint-stock company, trust, unincorporated association, limited liability company or other legal entity or group of entities, including any public benefit corporation, public instrumentality, quasi-governmental or governmental entity or any agency or subdivision thereof.

**Principal Installments** shall mean, as of any date of calculation and with respect to any Series of Obligations or any Parity Debt, as applicable, (a) the principal amount of Outstanding Obligations of such Series, due on the dates and in the amounts specified by Supplemental

Resolution, reduced by the principal amount of such Obligations which would be retired by reason of the payment when due and application in accordance with the Resolution of Sinking Fund Installments payable before such dates, plus the unsatisfied balance (determined as provided in Section A-502 of the Resolution) of any Sinking Fund Installments due on any certain future date for Obligations of such Series, together with such redemption premiums, if any, applicable on any such future date, and (b) with respect to any Parity Debt, the amount due thereunder on the dates and in the amounts established in accordance with Section A-202 as a principal component of such Parity Debt payable on a parity with the Obligations.

**Principal Office of the Trustee** shall mean the designated corporate trust office of the Trustee.

**Purchase Price** shall mean, with respect to any Obligation, 100% of the principal amount thereof plus accrued interest, if any, plus in the case of an Obligation subject to mandatory tender for purchase on a date when such Obligation is also subject to optional redemption at a premium, an amount equal to the premium that would be payable on such Obligation if redeemed on such date.

**Put Obligations** shall mean Obligations which by their terms may be tendered at the option of the Owner thereof, or are subject to a mandatory tender other than at the election of the Issuer or a Related Entity, for payment or purchase prior to the stated maturity or redemption date thereof.

**Qualified Swap** shall mean, to the extent from time to time permitted by law, with respect to Obligations, any financial arrangement (i) which is entered into by the Issuer with an entity that is a Qualified Swap Provider at the time the arrangement is entered into, (ii) which is a cap, floor or collar; forward rate; future rate; swap (such swap may be based on an amount equal either to the principal amount of such Obligations of the Issuer as may be designated or a notional principal amount relating to all or a portion of the principal amount of such Obligations); asset, index, price or market-linked transaction or agreement; other exchange or rate protection transaction agreement; other similar transaction (however designated); or any combination thereof; or any option with respect thereto, in each case executed by the Issuer for the purpose of moderating interest rate fluctuations, reducing debt service costs or creating either fixed interest rate Obligations or Variable Interest Rate Obligations on a synthetic basis or otherwise, and (iii) which has been designated in writing to the Trustee by an Authorized Officer as a Qualified Swap with respect to such Obligations.

**Qualified Swap Provider** shall mean an entity whose senior long term obligations, other senior unsecured long term obligations, financial program rating, counterparty rating, or claims paying ability, or whose payment obligations under an interest rate exchange agreement are guaranteed by an entity whose senior long term debt obligations, other senior unsecured long term obligations, financial program rating, counterparty rating, or claims paying ability, are rated either at least as high as (i) the third highest Rating Category of each Rating Agency then maintaining a rating for the Qualified Swap Provider or (ii) any such lower Rating Categories which each such Rating Agency indicates in writing to the Issuer and the Trustee will not, by itself, result in a reduction or withdrawal of its rating on the Outstanding Obligations subject to such Qualified Swap that is in effect prior to entering into such Qualified Swap.

**Rating Agency** shall mean each nationally recognized statistical rating organization then maintaining a rating on the Obligations at the request of the Issuer.

**Rating Category** shall mean one of the generic rating categories of any Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

**Rating Confirmation** shall mean evidence that no rating then in effect from a Rating Agency will be withdrawn or reduced solely as the result of an action to be taken hereunder; *provided, however, that* no action requiring Rating Confirmation shall be undertaken unless at least one Rating Agency at that time maintains a rating on Obligations.

**Record Date**, except as otherwise provided by Supplemental Resolution or a certificate of an Authorized Officer, shall mean the date that is fifteen (15) days immediately preceding a payment date or other date on which an action is to be taken.

**Redemption Price** shall mean, with respect to any Obligation, 100% of the principal amount thereof plus the applicable premium, if any, payable upon the redemption thereof pursuant to the Resolution.

**Registrar** shall mean any registrar for the Obligations of any Series and its successor or successors and any other Person which may at any time be substituted in its place pursuant to the Resolution.

**Reimbursement Obligation** has the meaning provided in subsection 4 of Section A-202.

**Related Entity** shall mean any of the MTA, TBTA, MaBSTOA, the Transit Authority, MNCRC, LIRR, SIRTOA, MTA Bus and any affiliate or subsidiary of any of the foregoing now or hereafter established and designated as a Related Entity by an Authorized Officer.

**Responsible Officer** shall mean any officer assigned to the corporate trust office of the Trustee, or any other officer of the Trustee customarily performing functions similar to those performed by any of such officers and who has direct responsibility for the administration of the Resolution, and also, with respect to a particular matter, any other officer, to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject.

**Securities Depository** shall mean a recognized securities depository selected by the Issuer to maintain a book-entry system in respect to all or any portion of a Series of Obligations (including, as appropriate, any nominee thereof), and shall include any substitute for or successor to the Securities Depository initially acting as Securities Depository.

**Series** shall mean all of the Obligations delivered on original issuance pursuant to a single Supplemental Resolution and denominated therein a single series, and any Obligations thereafter delivered in lieu of or in substitution therefor pursuant to Article A-III or Section A-406 or Section A-906, regardless of variations in maturity, interest rate, or other provisions.

**Sinking Fund Installment** shall mean, as of a particular date, any Sinking Fund Installment established pursuant to paragraph (m) of subsection 1 of Section A-201.

**SIRTOA** shall mean the Staten Island Rapid Transit Operating Authority and any successor thereto.

**State** shall mean the State of New York.

**Subordinated Contract Obligation** shall mean any payment obligation (other than a payment obligation constituting Parity Debt or Subordinated Indebtedness) arising under (a) any Credit Facility which has been designated as constituting a “Subordinated Contract Obligation” in a certificate of an Authorized Officer delivered to the Trustee, (b) any Qualified Swap or portion thereof which has been designated as constituting a “Subordinated Contract Obligation” in a certificate of an Authorized Officer delivered to the Trustee, and (c) any other contract, agreement or other obligation of the Issuer designated as constituting a “Subordinated Contract Obligation” in a certificate of an Authorized Officer delivered to the Trustee. Each Subordinated Contract Obligation shall be payable and secured in a manner permitted by Article V, and any lien on and pledge of any portion of the Obligations Trust Estate securing Subordinated Contract Obligations shall be junior and inferior to the lien on and pledge of the Obligations Trust Estate herein created for the payment of the Obligations and Parity Debt.

**Subordinated Indebtedness** shall mean any bond, note or other indebtedness authorized by Supplemental Resolution or other resolution of the Issuer and designated as constituting “Subordinated Indebtedness” in a certificate of an Authorized Officer delivered to the Trustee, which shall be payable and secured in a manner permitted by Article V of the Resolution, and any lien on and pledge of any portion of the Obligations Trust Estate securing Subordinated Indebtedness shall be junior and inferior to the lien on and pledge of the Obligations Trust Estate herein created for the payment of the Obligations and Parity Debt.

**Supplemental Resolution** shall mean any resolution supplemental to or amendatory of the Resolution adopted by the Issuer in accordance with the Resolution and, except as the context may otherwise require, including any related Certificate of Determination.

**TA Act** shall mean the New York City Transit Authority Act being Title 9 of Article 5 of the New York Public Authorities law, as amended from time to time.

**Taxable Obligations** shall mean any Obligations which are not Tax-Exempt Obligations.

**Tax-Exempt Obligations** shall mean any Obligations the interest on which is intended by the Issuer to be generally excluded from gross income for federal income tax purposes and which are designated as Tax-Exempt Obligations in the Supplemental Resolution authorizing such obligations.

**TBTA** shall mean the Triborough Bridge and Tunnel Authority, the corporation organized and existing under the TBTA Act, and any successor thereto.

**TBTA Act** shall mean the Triborough Bridge and Tunnel Authority Act, being Title 3 of Article 3 of the New York Public Authorities Law, as amended from time to time.

**Transit Authority** shall mean the New York City Transit Authority, the corporation organized and existing under the TA Act, and any successor thereto.

**Transportation District** shall mean the Metropolitan Commuter Transportation District created by Section 1262 of the MTA Act.

**Transportation District Project** shall mean any project, program or facility that the Issuer or any other Related Entity (in either case, by itself or with any other Person) is authorized from time to time by law to plan, design, acquire, establish, construct, effectuate, operate, maintain, renovate, improve, extend, rehabilitate or repair within, or for the benefit of, the Transportation District.

**Trustee** shall mean the trustee appointed by the Issuer pursuant to Section A-701, and its successor or successors and any other Person which may at any time be substituted in its place pursuant to the Resolution.

**Valuation Date** shall mean (i) with respect to any Capital Appreciation Obligations the date or dates set forth in the Supplemental Resolution authorizing such Obligations on which specific Accreted Values are assigned to the Capital Appreciation Obligations and (ii) with respect to any Deferred Income Obligations, the date or dates on or prior to the Interest Commencement Date set forth in the Supplemental Resolution authorizing such Obligations on which specific Appreciated Values are assigned to the Deferred Income Obligations.

**Variable Interest Rate** shall mean a variable interest rate to be borne by any Obligation. The method of computing such variable interest rate shall be specified in the Supplemental Resolution authorizing such Series of Obligations.

**Variable Interest Rate Obligations** shall mean Obligations which bear a Variable Interest Rate.

#### **Section A-102. Rules of Construction.**

1. Words of one gender shall be deemed and construed to include correlative words of any other gender. Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations.

2. Except as otherwise specified herein, all references in the Resolution (including this Annex A) to Articles, Sections, and other subdivisions are to the corresponding Articles, Sections or subdivisions of the Resolution (including this Annex A), and the words herein, hereof, hereunder and other words of similar import refer to the Resolution as a whole (including this Annex A) and not to any particular Article, Section or subdivision of the Resolution or of this Annex A. References in the Resolution to Articles or Sections with "A-" preceding the number of an Article or Section are to such Article or Section of this Annex A.

3. This Annex A constitutes an integral part of the Resolution and, except to the extent provided in the next 2 sentences, has the same force and effect as if set forth in the forepart of the Resolution. To the extent expressly provided in the Resolution (not including this Annex A), the Issuer may negate, amend or modify any provision of this Annex A. In the event of any conflict between this Annex A and the forepart of the Resolution, the forepart of the Resolution shall control.



4. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof (including any table of contents in the Resolution), shall be solely for convenience of reference and shall not limit or otherwise affect the meaning, construction or effect of the Resolution (including this Annex A) or describe the scope or intent of any provisions hereof.

5. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with applicable generally accepted accounting principles as in effect from time to time.

6. All references herein to resolutions, contracts or other agreements shall be deemed to include any amendments to such documents that are approved in accordance with the terms thereof and hereof.

7. Every “request,” “order,” “demand,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent,” or similar action hereunder by any party shall, unless the form thereof is specifically provided, be in writing signed by a duly authorized representative of such party with a duly authorized signature, which may be delivered and “signed” pursuant to facsimile or other electronic-mail transmission in accordance with applicable law and practice.

8. The word “or” is not exclusive.

9. The word “including” means including without limitation.

**Section A-103. Authority for the Resolution.** The Resolution is adopted pursuant to the Issuer Act.

**Section A-104. Resolution to Constitute Contract.** In consideration of the purchase and acceptance of any and all of the Obligations and Parity Debt authorized to be issued hereunder by those who are Owners of the Obligations and Parity Debt from time to time, the Resolution shall be deemed to be and shall constitute a contract between the Issuer and the Owners from time to time of the Obligations and Parity Debt; and the pledge made in the Resolution and the covenants and agreements therein set forth to be performed on behalf of the Issuer shall be for the equal benefit, protection and security of the Owners of any and all of the Obligations and Parity Debt, all of which, regardless of the time or times of their authentication, issuance and delivery, or maturity, shall be of equal rank without preference, priority or distinction of any of the Obligations or Parity Debt over any other Obligations or Parity Debt, except as expressly provided in or permitted by the Resolution.

## ARTICLE A-II

### GENERAL PROVISIONS FOR ISSUANCE OR INCURRENCE OF OBLIGATIONS, PARITY DEBT AND OBLIGATION ANTICIPATION NOTES

**Section A-201. General Provisions for Issuance of Obligations.** 1. Obligations may be issued pursuant to a Supplemental Resolution in such principal amount or amounts for each Series or subseries as may be specified in such Supplemental Resolution. Obligations of any Series or subseries shall be authorized by a Supplemental Resolution which shall specify, among other things, the following matters (or the manner of determining such matters):

(a) The authorized principal amount, designation and Series of such Obligations;

(b) The purpose or purposes for which such Obligations are being issued which shall be one or more of the purposes set forth in Section 201;

(c) The dates and the maturity dates of the Obligations of such Series;

(d) If the Obligations of such Series are interest bearing Obligations, the interest rates of the Obligations of such Series and the interest payment dates therefor;

(e) If Obligations of such Series are Capital Appreciation Obligations, the Valuation Dates for such Obligations and the Accreted Value on each such Valuation Date;

(f) If Obligations of such Series are Deferred Income Obligations, the Interest Commencement Date for such Obligations, the Valuation Dates prior to the Interest Commencement Date for such Obligations and the Appreciated Value on each such Valuation Date;

(g) If Obligations of such Series are Capital Appreciation Obligations or Deferred Income Obligations, the manner in which and the period during which principal and interest shall be deemed to accrue on such Obligations;

(h) If Obligations of such Series are Variable Interest Rate Obligations, the maximum interest rate, if any, or the method of calculating such maximum rate for such Obligations, and the provisions, if any, as to the calculation or change of Variable Interest Rates;

(i) If Obligations of such Series are Put Obligations, provisions regarding tender for purchase or redemption thereof and payment of the purchase or Redemption Price thereof;

(j) The denominations of and the manner of dating, numbering and lettering, the Obligations of such Series;

(k) The Paying Agents, if any, and the places of payment of the principal and Redemption Price, if any, of, and interest on, the Obligations of such Series;

(l) The Redemption Prices, if any, and the redemption terms, if any, for the Obligations of such Series, provided that Obligations of any maturity for which Sinking Fund Installments shall be established pursuant to paragraph (m) of this subsection 1 shall in any event be redeemable, or payable at maturity, by application of the Sinking Fund Installments for such Obligations on the due dates of such Sinking Fund Installments;

(m) The amount and due date of each Sinking Fund Installment, if any, for Obligations of like maturity of such Series;

(n) Provisions necessary to authorize, in compliance with all applicable law, Obligations of such Series to be issued in the form of Obligations issued and held in book-entry form on the books of the Issuer or any Fiduciary appointed for that purpose by the Issuer and, in connection therewith, make such additional changes in the Resolution, not adverse to the rights of the Owners of the Obligations, as are necessary or appropriate to accomplish or recognize such book-entry form Obligations and specify and determine the matters and things relative to the issuance of such book-entry form Obligations as are appropriate or necessary;

(o) To the extent applicable, the provisions relating to (a) any Credit Facility, Qualified Swap or other financial arrangement entered into in connection with the issuance of the Obligations of such Series and (b) the obligations payable thereunder;

(p) The amount, if any, to be deposited in the Obligations Proceeds Fund or any Account therein;

(q) If so determined by the Issuer, provisions for the application of any money available therefor to the purchase, exchange or redemption of Obligations of such Series and for the order of purchase, exchange or redemption of such Obligations;

(r) If so determined by the Issuer, provisions for the sale of the Obligations of such Series;

(s) The forms of the Obligations of such Series and of the Trustee's certificate of authentication if other than as provided in Section 301; and

(t) Such other matters, not contrary to or inconsistent with the Resolution, as the Issuer may deem advisable or necessary in connection with the authorization, issuance, sale, or delivery of such Series of Obligations.

An Authorized Officer to whom a Supplemental Resolution has delegated the power to determine any of the foregoing shall execute a Certificate of Determination evidencing such determinations or other actions taken pursuant to the delegation under such Supplemental Resolution, and such Certificate of Determination shall be conclusive evidence of the determinations or actions of such Authorized Officer as to the matters stated therein. The matters set forth in any such Certificate of Determination shall have the same effect as if set forth in the related Supplemental Resolution.

2. The Obligations may be sold in one or more Series or subseries (each of which shall contain a designation distinguishing it from other Series or subseries), and shall be delivered by the Issuer under the Resolution but only upon receipt by the Trustee of:

(a) An Opinion of Bond Counsel in customary form to the effect that (i) the Issuer has the right and power under the Issuer Act to adopt the Resolution, and the Resolution has been duly and lawfully adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer, and enforceable in accordance with its terms, and no other authorization for the Resolution is required as of the date thereof; (ii) the Resolution creates the valid pledge which it purports to create of the Obligations Trust Estate in the manner and to the extent provided in Section 501; and (iii) the Obligations are valid and binding obligations of the Issuer, enforceable in accordance with their terms and the terms of the Resolution and entitled to the benefits of the Issuer Act as amended to the date of such Opinion of Bond Counsel, and (iv) such Obligations have been duly and validly authorized and issued in accordance with law and the Resolution;

(b) A copy of the Supplemental Resolution authorizing such Obligations, certified by an Authorized Officer;

(c) A written order of the Issuer as to the delivery of the Obligations, signed by an Authorized Officer;

(d) A certificate of an Authorized Officer to the effect that, upon the delivery of the Obligations of such Series (i) no event which constitutes a default under the Resolution or any of the Obligations shall have occurred and be continuing or, if such an event is continuing, upon issuance of the Obligations such default shall be cured, and (ii) no such event would result from the authentication and delivery of the Obligations of such Series;

(e) If any Obligations are Variable Interest Rate Obligations or a Qualified Swap is being entered into that will result in a variable interest rate obligation of the Issuer, a determination by an Authorized Officer of the Estimated Average Interest Rate;

(f) If any Obligations of such Series are Put Obligations, a determination by an Authorized Officer of the method or methods to be employed to provide for the purchase or redemption of all Put Obligations of such Series if the Owners thereof elected to tender for purchase or redemption the entire aggregate Outstanding principal amount of the Put Obligations of such Series; and

(g) Such further documents and money as are required by the provisions of Article II, this Article A-II or Article A-VIII.

3. If Obligations are to be listed on a domestic or foreign stock exchange, the Authorized Officers are hereby authorized to take all such actions as they deem necessary or appropriate to comply with the listing requirements of such exchange, including the appointment of a member of such exchange as listing agent, the publication where required by such exchange of all redemption notices, the appointment of a special clearing agent and paying agent, and the execution of an undertaking letter with such exchange.

4. The Obligations shall not be a debt of the State or the City and neither the State nor the City shall be liable thereon, nor shall Obligations be payable out of any funds other than those of the Issuer as provided in the Resolution.

**Section A-202. Credit Facilities; Qualified Swaps and Other Similar Arrangements; Parity Debt.** 1. The Issuer may include such provisions in a Supplemental Resolution authorizing the issuance of a Series of Obligations secured by a Credit Facility as the Issuer deems appropriate, and no such provisions shall be deemed to constitute an amendment to the Resolution requiring action under Article A-VIII or Article A-IX, including:

(a) So long as the Credit Facility is in full force and effect and payment on the Credit Facility is not in default, then (i) the issuer of the Credit Facility shall be deemed to be the sole Owner of the Outstanding Obligations the payment of which such Credit Facility secures or (ii) in the alternative or with respect to particular matters, the approval, consent or action of the issuer of the Credit Facility shall be required in addition to the approval, consent or action of the applicable percentage of the Owners of the Outstanding Obligations, in either case when the approval, consent or action of the Owners for such Obligations is required or may be exercised under the Resolution including Section A-802 hereof and following an Obligations Event of Default hereunder; *provided, however, that* no issuer of a Credit Facility shall be deemed to be the sole Owner of Outstanding Obligations pursuant to this provision in the event that the Credit Facility or Credit Facilities securing such Obligations provide only liquidity support.

(b) In the event that the principal, Sinking Fund Installments, if any, and Redemption Price, if applicable, and interest due on any Outstanding Obligations (or Purchase Price of any Outstanding Obligations to the extent the issuer of the Credit Facility has not been reimbursed) shall be paid under the provisions of the Credit Facility, all covenants, agreements and other obligations of the Issuer to the Owners of such Obligations shall continue to exist and such issuer of the Credit Facility shall be subrogated to the rights of such Owners in accordance with the terms of such Credit Facility.

2. In addition, such Supplemental Resolution may establish such provisions as are necessary (i) to comply with the provisions of each such Credit Facility, (ii) to provide relevant information to the issuer of the Credit Facility, (iii) to provide a mechanism for paying Principal Installments and interest on Obligations secured by the Credit Facility, and (iv) to make provision for any events of default or for additional or improved security required by the issuer of a Credit Facility.

3. The Issuer may enter into such agreements with the issuer of such Credit Facility providing for, *inter alia*: (i) the payment of fees and expenses to such issuer for the issuance of such Credit Facility, (ii) the terms and conditions of such Credit Facility and the Obligations affected thereby, and (iii) the security, if any, to be provided for the issuance of such Credit Facility.

4. The Issuer may secure such Credit Facility by an agreement providing for the purchase of the Obligations secured thereby with such adjustments to the rate of interest, method of determining interest, maturity, or redemption provisions as specified by the Issuer in the

applicable Supplemental Resolution. The Issuer may also in an agreement with the issuer of such Credit Facility agree to directly reimburse such issuer for amounts paid under the terms of such Credit Facility (together with interest thereon, the “**Reimbursement Obligation**”); *provided, however, that* no amounts shall be payable by the Issuer under a Reimbursement Obligation for purposes of the Resolution, until amounts are paid under such Credit Facility by the issuer thereof. As determined by Supplemental Resolution, any such Reimbursement Obligation, which may include interest calculated at a rate higher than the interest rate on the related Obligation and accelerated principal amortization, (i) may be secured by a pledge of, and a lien on, the Obligations Trust Estate on a parity with the lien created by Section 501 of the Resolution to secure the Obligations (a “**Parity Reimbursement Obligation**”), but only to the extent that (prior to any acceleration of all Obligations, if permitted) any principal amortization requirements are *either* (A) commensurate with the amortization requirements for such related Obligations, without acceleration or (B) accelerated to no greater extent than to require repayment in equal principal installments over 5 or more years, or (ii) may constitute a Subordinated Contract Obligation, as determined by the Issuer. Parity Reimbursement Obligations shall not include any payments (other than interest calculated at a higher rate pursuant to a Credit Facility) (i) of any fees or expenses, (ii) pursuant to any indemnification provisions or (iii) pursuant to term-loan or other principal amortization requirements in reimbursement of any such advance that are more accelerated than permitted by clauses (A) and (B) of the preceding sentence, and any such payments of the items specified in clauses (i), (ii) or (iii) shall constitute Subordinated Contract Obligations.

5. Any such Credit Facility shall be for the benefit of and secure such Obligations or portion thereof as specified in any applicable Supplemental Resolution.

6. In connection with the issuance of any Obligations or at any time thereafter so long as Obligations remain Outstanding, the Issuer may, to the extent permitted pursuant to law, from time to time enter into Qualified Swaps. The Issuer’s obligation to pay any amount under *any* Qualified Swap may be secured by a pledge of, and a lien on, the Obligations Trust Estate on a parity with the lien created by Section 501 of the Resolution to secure the Obligations (a “**Parity Swap Obligation**”), or may constitute a Subordinated Contract Obligation, as determined by the Issuer. Parity Swap Obligations shall not include any payments of any termination or other fees, expenses, indemnification or other obligations to a counterparty to a Qualified Swap, which payments shall be Subordinated Contract Obligations.

7. Parity Debt shall not be a debt of the State or the City and neither the State nor the City shall be liable thereon, nor shall Parity Debt be payable out of any funds other than those of the Issuer pledged therefor pursuant to the Resolution.

8. Except to the extent that an Authorized Officer directs that such amounts be deposited in any other Fund or Account pledged to the payment of Obligations, any amounts paid to the Issuer under a Qualified Swap shall be deposited in the Senior Debt Service Fund.

9. To the extent applicable and not readily apparent with respect any Parity Debt, either the terms of such Parity Debt shall specify (or an Authorized Officer shall specify in writing) the interest and principal components of, or the scheduled payments corresponding to principal and interest under, such Parity Debt or the manner of determining the foregoing.

**Section A-203. Obligation Anticipation Notes.** Whenever the Issuer shall have, by Supplemental Resolution, authorized the issuance of a Series of Obligations, the Issuer may by resolution authorize the issuance of Obligation Anticipation Notes in anticipation of the issuance of such authorized Series of Obligations, in a principal amount not exceeding the principal amount of the Obligations of such Series so authorized. The principal of and premium, if any, and interest on such Obligation Anticipation Notes and any renewals of such Obligation Anticipation Notes shall be payable only from any or all of the following items designated by the Issuer at or prior to issuance of any such series of Obligation Anticipation Notes (i) the proceeds of any renewals of such Obligation Anticipation Notes issued to repay such Obligation Anticipation Notes, (ii) the proceeds of the sale of the Series of Obligations in anticipation of which such Obligation Anticipation Notes are issued, (iii) amounts available to pay Subordinated Indebtedness, or (iv) any other money available therefor and not pledged under the Resolution. Such proceeds and other amounts set forth in clauses (i), (ii), (iii) and (iv) may be pledged for the payment of the principal of and premium, if any, and interest on such Obligation Anticipation Notes, and any such pledge of the items set forth in clauses (i) and (ii) shall have priority over any other pledge created by the Resolution, including Section 501. In any case, such Obligation Anticipation Notes shall be retired or provision shall be made for their retirement not later than the date of authentication and delivery of the Series of Obligations in anticipation of which they are issued. The proceeds of the sale of Obligation Anticipation Notes other than renewals thereof shall be applied to the purposes for which the Obligations in anticipation of which such Obligation Anticipation Notes are authorized and shall be deposited in the appropriate Fund or Account established by the Resolution for such purposes or, if so provided in the resolution authorizing renewals of Obligation Anticipation Notes issued to pay outstanding Obligation Anticipation Notes, applied directly to such payment. Investment earnings from any amounts on deposit in any Fund or Account under the Resolution representing the proceeds of any Obligation Anticipation Notes shall be applied in the manner set forth in the resolution authorizing such Obligation Anticipation Notes.

## ARTICLE A-III

### GENERAL TERMS AND PROVISIONS OF OBLIGATIONS

Except as otherwise provided by Supplemental Resolution, the Obligations shall be subject to the terms and provisions of these Standard Resolution Provisions.

#### **Section A-301. Medium of Payment; Form and Date.**

1. The Obligations and Parity Debt shall be payable, with respect to interest, principal and Redemption Price, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts (or to the extent permitted by law, in any other coin or currency authorized pursuant to a Supplemental Resolution for related Obligations and Parity Debt).

2. Obligations shall be issued in the form of fully registered Obligations without coupons. Obligations, the certificate of authentication, if any, and the form of assignment shall be in substantially the form provided for in Exhibit One with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby or thereby or are required by law, and may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may be required to comply with any applicable laws or rules or regulations, or as may, consistent herewith, be determined by the officers executing such Obligations, as evidenced by their execution of the Obligations. Any portion of the text of any Obligation may be set forth on the reverse thereof, with an appropriate reference thereto on the face of such Obligation, or as multiple pages (with or without such a reference). Obligations may be typewritten, printed, engraved, lithographed or otherwise produced.

3. Obligations shall be dated, and shall bear or not bear interest, as provided in the Supplemental Resolution authorizing such Obligations.

**Section A-302. Legends.** Obligations may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of the Resolution as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, or otherwise, as may be determined by the Issuer.

#### **Section A-303. Execution and Authentication.**

1. The Obligations shall be executed in the name of the Issuer by the manual or facsimile signature of an Authorized Officer or in such other manner as may be required by law or specified in a Supplemental Resolution. In case any of the officers who shall have signed any of the Obligations shall cease to be such officer before the Obligations so signed shall have been actually delivered, such Obligations may, nevertheless, be delivered as herein provided, and may be issued as if the Persons who signed such Obligations had not ceased to hold such offices. Any Obligation may be signed on behalf of the Issuer by such Persons as at the actual time of the execution of such Obligation shall be duly authorized or hold the proper office in the Issuer, although at the date of the Obligations such Persons may not have been so authorized or have held such office.



2. Obligations of each Series shall bear thereon a certificate of authentication, executed manually by the Trustee. Only such Obligations as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under the Resolution and no Obligation shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Obligation executed on behalf of the Issuer shall be conclusive evidence that the Obligation so authenticated has been duly authenticated and delivered under the Resolution and that the Owner thereof is entitled to the benefits of the Resolution.

**Section A-304. Interchangeability of Obligations.** Obligations, upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the Owner or his duly authorized attorney, may, at the option of such Owner, be exchanged for an equal aggregate principal amount of Obligations of the same Series, maturity and interest rate of any other authorized denomination.

**Section A-305. Negotiability, Transfer and Registry.** All the Obligations issued under the Resolution shall be negotiable, subject to the provisions for registration and registration of transfer contained in the Resolution and in the Obligations. So long as any of the Obligations shall remain Outstanding, the Issuer shall maintain and keep, at the office of the Registrar, books for the registration and registration of transfer of Obligations; and, upon presentation thereof for such purpose at said office and under such reasonable regulations as it or the Registrar may prescribe, the Issuer shall register or cause to be registered therein, and permit to be transferred thereon, the registration of any Obligation entitled to registration or registration of transfer. So long as any of the Obligations remain Outstanding, the Issuer shall make all necessary provision to permit the exchange of Obligations at the office of the Registrar.

**Section A-306. Transfer of Obligations.**

1. The transfer of each Obligation shall be registerable only upon the books of the Issuer, which shall be kept by the Registrar, by the Owner thereof in person or by his attorney authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar executed by the Owner or his authorized attorney. Upon the registration of transfer of any such Obligation, the Issuer shall issue in the name of the transferee a new Obligation of the same aggregate principal amount, Series, maturity and interest rate as the surrendered Obligation.

2. The Issuer and each Fiduciary may deem and treat the Person in whose name any Outstanding Obligation shall be registered upon the books of the Issuer as the absolute owner of such Obligation, whether such Obligation shall be overdue or not, for the purpose of receiving payment of or on account of, the principal and Redemption Price, if any, of and interest on such Obligation and for all other purposes, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Obligation to the extent of the sum or sums so paid, and neither the Issuer nor any Fiduciary shall be affected by any notice to the contrary. The Issuer agrees to indemnify and save each Fiduciary harmless from and against any and all loss, cost, charge, expense, judgment or liability incurred by it, unless acting in bad faith or with negligence under the Resolution, in so treating such registered owner.

**Section A-307. Regulations With Respect to Exchanges and Transfers.** In all cases in which the privilege of exchanging Obligations or registering the transfer of Obligations is exercised, the Issuer shall execute and the Registrar shall deliver Obligations in accordance with the provisions of the Resolution. All Obligations surrendered in any such exchanges or registrations of transfer shall forthwith be canceled by the Registrar. For every such exchange or registration of transfer of Obligations, whether temporary or definitive, the Issuer or the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

**Section A-308. Obligations Mutilated, Destroyed, Stolen or Lost.** In case any Obligation shall become mutilated or be destroyed, stolen or lost, the Issuer shall execute, and thereupon the Trustee and Registrar shall deliver, a new Obligation of like tenor, Series, maturity, interest rate and principal amount as the Obligation so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Obligation, upon surrender and cancellation of such mutilated Obligation, or in lieu of and substitution for the Obligation destroyed, stolen or lost, upon filing with the Trustee and Registrar evidence satisfactory to the Issuer and the Trustee and Registrar that such Obligation has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Issuer and the Trustee and Registrar with indemnity satisfactory to them and complying with such other reasonable regulations as the Issuer and the Trustee and Registrar may prescribe and paying such expenses as the Issuer and Trustee and Registrar may incur. All Obligations so surrendered to the Registrar shall be canceled by it. If any such Obligation shall have matured, or if such Obligation shall have been called for redemption or a redemption date pertaining thereto shall have passed, instead of issuing a new Obligation the Issuer may cause the same to be paid without surrender thereof upon indemnity satisfactory to the Issuer and the Trustee. Any such new Obligations issued pursuant to this Section in substitution for Obligations alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Issuer, whether or not the Obligations so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits with all other Obligations issued under the Resolution, in any money or securities held by the Issuer or the Fiduciary for the benefit of the Owners of Obligations.

**Section A-309. Book-Entry-Only System.** The Issuer may employ a book-entry-only system of registration with respect to any Obligations and may utilize the procedures regarding such registration set forth in this Section A-309, as such procedures may be modified or superseded pursuant to the Supplemental Resolution authorizing such Obligations. Any provisions of the Resolution inconsistent with book-entry-only Obligations shall not be applicable to such book-entry-only Obligations.

Any Authorized Officer is hereby authorized to take all actions required for each Series of Obligations to be eligible under the rules and regulations of The Depository Trust Company (“DTC”), 55 Water Street, New York, New York, for investment and trading as uncertificated securities. DTC is hereby appointed as the initial Securities Depository for the Obligations, with Cede & Co., a nominee thereof, being the initial registered owner of the Obligations. In the event that any Securities Depository resigns or is removed, any Authorized Officer may select a substitute Securities Depository. The Issuer and any Fiduciary, and any agent of the Issuer or any Fiduciary, may treat any Securities Depository in whose name any Obligations is registered as the owner of such Obligation for all purposes under the Resolution. For so long as the Securities

Depository is the registered owner of the Obligations, procedures with respect to the transmission of notices and the transfer of ownership of, redemption of and payment of principal or Redemption Price, if any, of and interest on such Obligations so held shall be in accordance with arrangements among the Trustee, the Issuer and the Securities Depository.

So long as the Obligations are registered in the name of the Securities Depository, the Issuer and the Trustee shall have no responsibility or obligation to any Securities Depository participant, indirect participant or beneficial owner of the Obligations. Without limiting the immediately preceding sentence, the Issuer and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of any Securities Depository or any Securities Depository participant or indirect participant with respect to any beneficial ownership interest in the Obligations, (ii) the delivery to any Securities Depository participant, indirect participant, beneficial owner or any other person, other than the Securities Depository, of any notice with respect to the Obligations, including any notice of redemption or tender, or (iii) the payment to any Securities Depository participant, indirect participant, beneficial owner or any other person, other than the Securities Depository, of any amount with respect to the principal of or Redemption Price or interest on the Obligations.

The Issuer, in its sole discretion and without the consent of any other person, may terminate the services of any Securities Depository with respect to any Series of Obligations. Notice of such termination shall be given by the Issuer to the Trustee prior to or simultaneously with such termination. In the event the book-entry only system is discontinued with respect to the Obligations, principal and Redemption Price of and interest on the Obligations shall be paid as provided in the Resolution.

Consistent with DTC book-entry provisions, one or more typewritten certificates shall be prepared for each maturity of the Obligations of a Series and registered in the name of the Securities Depository. There shall be no physical distribution of bond or other certificates to beneficial owners of such Obligations. In the event that the Obligations do not qualify to be held by the Securities Depository or that either the Issuer determines to discontinue the book-entry only system or DTC determines to discontinue providing its service with respect to the Obligations and there is no successor Securities Depository, the bond or other certificates shall be delivered in the form required by the Resolution.

Unless otherwise directed by an Authorized Officer, "CUSIP" identification numbers will be imprinted on the Obligations, but such numbers shall not constitute a part of the contract evidenced by the Obligations and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the Obligations. As a convenience to the Owners of the Obligations, the Issuer and the Trustee may use such CUSIP numbers in any notices to the Owners of the Obligations, including any notices of redemption of the Obligations. Failure on the part of the Issuer or the Trustee to use such CUSIP numbers in any notice to Owners of the Obligations shall not constitute an Obligations Event of Default or any similar violation of the Issuer's contract with such Owners. The Issuer will promptly notify the Trustee of any change in the CUSIP numbers.

## ARTICLE A-IV

### REDEMPTION AND TENDER OF OBLIGATIONS

**Section A-401. Privilege of Redemption and Redemption Price.** Except as otherwise provided in the Resolution or a Supplemental Resolution, Obligations subject to redemption pursuant to a Supplemental Resolution shall be subject to redemption only in accordance with this Article A-IV.

Obligations subject to redemption prior to maturity pursuant to a Supplemental Resolution shall be redeemable, upon written notice as provided in this Article A-IV, at such times, at such Redemption Prices and upon such terms as may be specified in the Supplemental Resolution authorizing such Obligations.

**Section A-402. Redemption at the Election of the Issuer; Tender to Related Entities.** In the case of any redemption of Obligations at the election of the Issuer, the Issuer shall give written notice to the Trustee of its election so to redeem, of the redemption date, of the Series, of the principal amounts of the Obligations of each maturity and interest rate of such Series to be redeemed (which Series, maturities, interest rates and principal amounts thereof to be redeemed shall be determined by the Issuer in its sole discretion, subject to any limitations with respect thereto contained in any Supplemental Resolution). Such notice shall be given at least 45 days prior to the redemption date or such shorter period as may be provided in the Supplemental Resolution or as shall be acceptable to the Trustee. In the event notice of redemption shall have been given as in Section A-405 provided but subject to the second paragraph of Section A-405, the Issuer shall on or prior to the redemption date cause to be paid out to the appropriate Paying Agent or Paying Agents out of money available therefor an amount in cash which, in addition to other money, if any, available therefor held by such Paying Agent or Paying Agents, will be sufficient to redeem on the redemption date at the Redemption Price thereof, all of the Obligations to be redeemed.

The Issuer may, in its sole discretion, purchase or grant to any Related Entity the option to purchase, at any time and from time to time, any Obligations which are redeemable at the election of the Issuer at a purchase price equal to the redemption price therefor. To exercise any such option, the Issuer or the Related Entity shall give the Trustee a written request exercising such option within the time periods specified in the related Supplemental Resolution as though such written request were a written request of the related Issuer for redemption, and the Trustee shall thereupon give the Owners of the Obligations to be purchased notice of such purchase in the manner specified in the related Supplemental Resolution as though such purchase were a redemption. On the date fixed for purchase pursuant to any exercise of such an option, the Issuer or the Related Entity shall pay the purchase price of the Obligations then being purchased to the Trustee in immediately available funds, and the Trustee shall pay the same to the sellers of such Obligations against delivery thereof. Following such purchase, the Trustee shall cause such Obligations to be registered in the name of the Issuer or the Related Entity or its nominee and shall deliver them to the Issuer, the Related Entity or its nominee. Except to the extent otherwise directed by an Authorized Officer, no purchase of Obligations pursuant to such an option shall operate to extinguish the indebtedness of the Issuer evidenced thereby. Any such option to purchase by a Related Entity either shall be conditioned on the provision of sufficient money

therefor by the Related Entity or shall be an obligation of the Issuer in the event that the Related Entity does not provide sufficient money therefor.

**Section A-403. Redemption Otherwise Than at the Issuer's Election.** Whenever by the terms of the Resolution Obligations are required to be redeemed otherwise than at the election of the Issuer, the Trustee shall select the Obligations to be redeemed, give the notice of redemption and pay out of money available therefor the Redemption Price to the appropriate Paying Agents in accordance with the terms of this Article A-IV. The Trustee shall have no liability in making such selection.

**Section A-404. Selection of Obligations to Be Redeemed.** In the event of redemption of less than all the Outstanding Obligations of like tenor, Series, maturity and interest rate, the Trustee shall select, as directed by the Issuer (as to the timing of such selection, manner of such selection or otherwise) or otherwise in such manner as the Trustee in its discretion shall deem appropriate and fair, the numbers of the Obligations to be redeemed and portions of any thereof to be redeemed in part. Obligations of denominations equal or less than the minimum authorized denomination thereof may be redeemed only as a whole. Obligations of denominations of more than the minimum authorized denomination thereof may be redeemed either as a whole or in part (which, if redeemed in part, must assure that the portion of the Obligation which is not redeemed is an authorized denomination). For the purposes of this Section A-404, Obligations, or portions thereof, which have theretofore been selected for redemption shall not be deemed Outstanding.

**Section A-405. Notice of Redemption.** When the Trustee shall receive notice from the Issuer of its election to redeem Obligations pursuant to Section A-402, and when redemption of Obligations is required by the Resolution pursuant to Section A-403, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Obligations, which notice shall specify the Series (including CUSIP numbers), maturities and, if any maturity shall include Obligations bearing different interest rates and all Obligations of such maturity are not being redeemed, the interest rate of the Obligations to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Obligations of any like tenor, Series, maturity and interest rate are to be redeemed, the letters and numbers or other distinguishing marks of such Obligations so to be redeemed, and, in the case of Obligations to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed, and, if applicable, that such notice is conditional and the conditions that must be satisfied. Such notice shall further state that on such date there shall become due and payable upon each Obligation to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Obligations to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice shall be given not less than 20 days nor more than 45 days, or for such other period as may be specified in a Supplemental Resolution authorizing a particular Series, before the redemption date, to the Owners of any Obligations or portions of Obligations which are to be redeemed. Failure so to give any such notice to any particular Owner shall not affect the validity of the proceedings for the redemption of Obligations not owned by such Owner and failure of any Owner to receive such notice shall not affect the validity of the proposed redemption of Obligations. The Issuer may provide notices of redemption at such additional times as it may determine necessary or appropriate.

Any notice of optional redemption given pursuant to this Section may state that it is conditional upon receipt by the Trustee of money sufficient to pay the Redemption Price of such Obligations or upon the satisfaction of any other condition, or that it may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such Redemption Price if any such condition so specified is not satisfied or if any such other event occurs. Notice of such rescission shall be given by the Trustee to affected Owners of Obligations as promptly as practicable upon the failure of such condition or the occurrence of such other event.

Unless otherwise provided by Supplemental Resolution, notices of redemption shall be sent by first class mail, postage prepaid.

Notice of redemption of any Series of Obligations shall also be sent by the Trustee to such additional Persons as may be specified in the Supplemental Resolution authorizing such Series.

**Section A-406. Payment of Redeemed Obligations.** Notice having been given in the manner provided in Section A-405, the Obligations or portions thereof so called for redemption shall, subject to the second paragraph of Section A-405, become due and payable on the redemption date so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date, and, upon presentation and surrender thereof at the office specified in such notice, such Obligations, or portions thereof, shall be paid at the Redemption Price plus interest accrued and unpaid to the redemption date. If there shall be called for redemption less than all of an Obligation, the Issuer shall execute and cause to be delivered, upon the surrender of such Obligation, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Obligation so surrendered, at the option of the owner thereof, Obligations of like tenor, Series, maturity and interest rate in any of the authorized denominations. If, on the redemption date, money for the redemption of all the Obligations or portions thereof of any like tenor, Series, maturity and interest rate to be redeemed, together with interest to the redemption date, shall be held by the Paying Agents so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date interest on the Obligations or portions thereof of such Series, maturity and interest rate so called for redemption shall cease to accrue. If said money shall not be so available on the redemption date, such Obligations or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

**ARTICLE A-V**

**INVESTMENT OF FUNDS;  
SINKING FUND INSTALLMENTS;  
CANCELLATION AND DISPOSITION OF OBLIGATIONS**

**Section A-501. Investment of Funds.**

1. Subject to the provisions of Section A-1104, amounts in the Funds and Accounts established by Section 502 of the Resolution may be invested only in Authorized Investments and only when and as specifically directed in writing by an Authorized Officer.

2. The Trustee or the Issuer shall sell any Authorized Investments held in any Fund, Account or subaccount to the extent required for payments from such Fund, Account or subaccount. The proceeds of such sales, and of all payments at maturity or upon redemption of such investments, shall be held in the applicable Fund, Account or subaccount to the extent required to meet the requirements of such Fund, Account or subaccount. Except as provided by Supplemental Resolution, in computing the amount of such Funds, Accounts and subaccounts, investments shall be valued at par, or if purchased at other than par, shall be valued at Amortized Value. Accrued interest received upon the sale of any Authorized Investment to the extent such amount exceeds any accrued interest paid on the purchase of such Authorized Investment shall be treated as interest earned on such Authorized Investment for purposes of this Section.

3. Nothing in the Resolution shall prevent any Authorized Investments acquired as investments of or security for any Fund, Account or subaccount held under the Resolution from being held in book-entry form.

4. In making any investment in any Authorized Investments with money in any Fund or Account established under the Resolution, the Trustee or the Issuer may combine such money with money in any other Fund or Account held by it, but solely for purposes of making such investment in such Authorized Investments.

**Section A-502. Satisfaction of Sinking Fund Installments.**

1. Any amount accumulated in the Senior Debt Service Fund in respect of and up to the unsatisfied balance of each Sinking Fund Installment shall be applied by the Trustee to either (a) or (b) below as directed by the Issuer (together with amounts accumulated in the Senior Debt Service Fund with respect to interest on the Series of Obligations for which such Sinking Fund Installment was established) if so directed by an Authorized Officer prior to the 45th day preceding the due date of such Sinking Fund Installment as follows:

(a) to the purchase of Obligations for which such Sinking Fund Installment was established, at prices (including any brokerage and other charges) not exceeding the principal amount of such Obligations plus unpaid interest accrued to the date of purchase, such purchases to be made in such manner as the Issuer shall direct; or

(b) to the redemption of Obligations for which such Sinking Fund Installment was established, if then redeemable by their terms at the prices referred to in clause (a) of this subsection 1 of this Section A-502.

All Obligations so purchased or redeemed shall be canceled by the Trustee prior to the 45th day preceding the due date of such Sinking Fund Installment.

2. Upon the purchase or redemption of any Obligation pursuant to subsection 1 of this Section, an amount equal to the principal amount of the Obligations so purchased or redeemed shall be credited toward the next Sinking Fund Installment thereafter to become due with respect to the Obligations of such maturity and the amount of any excess of the amounts so credited over the amount of such Sinking Fund Installment shall be credited by the Trustee against future Sinking Fund Installments for such Series as specified by an Authorized Officer. Prior to the purchase or redemption of such Obligations, the Issuer shall deliver to the Paying Agent and to the Trustee a certificate of an Authorized Officer specifying (i) the principal amount, Series, maturity, interest rate and numbers of the Obligations so to be purchased or redeemed, (ii) the date and Series of the Sinking Fund Installment in satisfaction of which such Obligations are so to be purchased or redeemed, (iii) the aggregate principal amount of the Obligations so to be purchased or redeemed, and (iv) the unsatisfied balance of each such Sinking Fund Installment after giving effect to the delivery of such Obligations.

3. In satisfaction, in whole or in part, of any Sinking Fund Installment, the Issuer may deliver to the Trustee at least 45 days prior to the date of such Sinking Fund Installment, for cancellation, Obligations acquired by purchase or redemption, except Obligations acquired by purchase or redemption pursuant to the provisions of subsection 1 of this Section, of the maturity and interest rate entitled to such Sinking Fund Installment. All Obligations so delivered to the Trustee in satisfaction of a Sinking Fund Installment shall reduce the amount thereof by the amount of the aggregate principal amount of such Obligations. Concurrently with such delivery of such Obligations the Issuer shall deliver to the Paying Agent and to the Trustee a certificate of an Authorized Officer, specifying (i) the principal amount, Series, maturity, interest rate and numbers of the Obligations so delivered, (ii) the date and Series of the Sinking Fund Installment in satisfaction of which such Obligations are so delivered, (iii) the aggregate principal amount of the Obligations so delivered, and (iv) the unsatisfied balance of each such Sinking Fund Installment after giving effect to the delivery of such Obligations.

4. The Trustee shall, upon receipt of the notice and in the manner required by the Resolution, call for redemption, on the date of each Sinking Fund Installment falling due prior to maturity, such principal amount of Obligations of the Series, interest rate and maturity entitled to such Sinking Fund Installment as is required to exhaust the unsatisfied balance of such Sinking Fund Installment.

**Section A-503. Cancellation and Disposition of Obligations.** All Obligations that have been paid (whether at maturity or by acceleration, call for redemption, purchase by the Issuer and presentation for cancellation, or otherwise) or delivered to the Trustee for cancellation shall be canceled and not reissued, except as otherwise provided in a Supplemental Resolution with respect to Put Obligations. Unless otherwise directed by the Issuer, the Trustee shall treat canceled Obligations in accordance with its document retention policies. Notwithstanding any other



provision of the Resolution, the Issuer may in its sole discretion purchase any obligations of the Issuer or any Related Entity for investment purposes and any such obligations shall remain outstanding unless and until presented for cancellation.

## ARTICLE A-VI

### PARTICULAR COVENANTS OF THE ISSUER

The Issuer covenants and agrees with the Trustee and the Owners of Obligations as follows:

**Section A-601. Payment of Obligations and Parity Debt.** The Issuer shall duly and punctually pay or cause to be paid from the Obligations Trust Estate as provided in the Resolution the principal or Redemption Price, if any, of every Obligation and the interest thereon and all Parity Debt, at the dates and places, and in the manner provided in the Obligations and Parity Debt, according to the true intent and meaning thereof.

**Section A-602. Extension of Payment of Obligations.** The Issuer shall not directly or indirectly extend or assent to the extension of the maturity of any of the Obligations or the time of payments of any claims for interest by the purchase or funding of such Obligations or claims for interest or by any other arrangement and in case the maturity of any of the Obligations or the time for payment of such claims for interest shall be extended, such Obligations or claims for interest shall not be entitled, in case of any Obligations Event of Default, to the benefit of the Resolution or to any payment out of the Obligations Trust Estate, except subject to the prior payment of the principal of all Obligations Outstanding the maturity of which has not been extended and of such portion of the accrued interest on the Obligations as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the Issuer (i) to issue refunding obligations as provided in the Resolution and such issuance shall not be deemed to constitute an extension of maturity of the Obligations, (ii) to issue Put Obligations and neither such issuance nor the operation of the provisions of such Put Obligations shall be deemed to constitute an extension of maturity of the Obligations, (iii) to apply any amount in any Fund held under the Resolution for such purpose to the purchase or redemption of Obligations or (iv) to issue securities having a maturity date, including any extension of maturity contemplated at the time of issuance, of no more than 270 days from the issue date.

**Section A-603. Offices for Servicing Obligations.** Except as otherwise provided in the Resolution, the Issuer shall at all times maintain one or more offices or agencies in the City and State of New York where Obligations may be presented for payment, registration, transfer or exchange, and where notices, demands and other documents may be served upon the Issuer in respect of the Obligations or of the Resolution. The Issuer may appoint the Trustee or any other Fiduciary as its agent to maintain such office or agency for the payment, redemption, registration, transfer or exchange of Obligations and for the service upon the Issuer of such notices, demands and other documents. The Issuer may also maintain one or more offices or agencies outside of the City or State for the same purposes.

**Section A-604. Further Assurance.** To the extent permitted by law, the Issuer from time to time shall make, do, execute, adopt, acknowledge and deliver, and take all and every such further acts, deeds, conveyances, assignments, resolutions, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights and interests in the Obligations Trust Estate or assigned, or intended so to be, or which the Issuer may become bound to pledge or assign.

**Section A-605. Accounts and Reports.**

1. The Issuer shall keep proper books of record and account of its operations. Such books of account are to be audited at least annually by independent certified public accountants experienced in governmental accounting selected by the Issuer. A copy of each audit report, annual balance sheet and income and expense statement shall be filed with the Trustee and sent to any Owner filing with the Issuer a written request therefor.

2. The Issuer shall annually, within 6 months after the close of each fiscal year or at such other time required under applicable law or a subsequent contract with all or certain Owners (or, if not available by such date, when and if available), file with the Trustee, and otherwise as provided by law, a copy of an annual report for such year, accompanied by the opinion of the accountants specified in subsection 1 of this Section.

**Section A-606. General.**

1. The Issuer shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Issuer under the provisions of the Resolution and, to the extent material to the interests of Owners, the Issuer Act.

2. Upon the date of authentication and delivery of any of the Obligations, all conditions, acts and things required by law and the Resolution to exist, to have happened and to have been performed precedent to and in connection with the issuance of such Obligations (and any related Parity Debt then being incurred) shall exist, shall have happened and shall have been performed and the issuance of such Obligations (and any related Parity Debt then being incurred), together with all other indebtedness of the Issuer, shall be within every debt and other limit prescribed by the laws of the State, as applicable.

## ARTICLE A-VII

### CONCERNING THE TRUSTEE, PAYING AGENTS AND THE REGISTRAR

**Section A-701. Trustee; Appointment and Acceptance of Duties.** The Trustee shall be appointed in the Supplemental Resolution authorizing the issuance of the first Series of Obligations under the Resolution. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by the Resolution by executing and delivering to the Issuer a written acceptance thereof.

**Section A-702. Duties, Liabilities and Rights of the Trustee.**

(a) Prior to the occurrence of an Obligations Event of Default of which a Responsible Officer of the Trustee has written notice or actual knowledge, and after the curing or waiver of any Obligations Event of Default which may have occurred:

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in the Resolution, and no implied covenants or obligations shall be read into the Resolution against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of the Resolution; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee is under a duty to examine same to determine whether or not they conform to the requirements of the Resolution.

(b) In case an Obligations Event of Default of which a Responsible Officer of the Trustee has written notice or actual knowledge has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by the Resolution and use the same degree of care and skill in their exercise as a prudent Person would exercise or use in the conduct of such Person's own affairs.

(c) No provision of the Resolution shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this subsection (c) shall not be construed to limit the effect of subsection (a) of this Section A-702;

(2) the Trustee is not and shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee, unless it is proven that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee is not and shall not be liable with respect to any action taken or omitted to be taken by it in good faith (i) in accordance with the direction of the Owners of the applicable percentage of Obligations then Outstanding relating to the time, method

and place of conducting any proceeding for any remedy available to the Trustee, or (ii) which it believes to be authorized or within its rights or powers under the Resolution;

(4) no provision of the Resolution shall require the Trustee to expend or risk its own funds or otherwise incur any personal or financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, for which it has not received a satisfactory indemnity;

(5) the Trustee may rely on any document believed by it to be genuine and to have been signed or presented by the proper Person and shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

(6) the Trustee shall not be charged with knowledge of an Obligations Event of Default unless a Responsible Officer of the Trustee shall have received written notice from an Owner or the Issuer or have actual knowledge; provided that the Trustee shall be deemed to have actual knowledge of any failure to pay principal or Redemption Price of or interest on Obligations when due;

(7) the Trustee shall not be under any obligation to take any action that is discretionary hereunder;

(8) neither the Trustee nor any of its directors, officers, employees or agents shall be personally liable for any action taken, suffered or omitted by the Trustee in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon the Trustee by the Resolution;

(9) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians, or nominees and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, attorney, custodians or nominees appointed with due care by it hereunder; and

(10) the Trustee may request that the Issuer deliver a certificate of an Authorized Officer setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant hereto, which certificate may be signed by any Person authorized to sign such a certificate, including any Person specified as so authorized in any such certificate previously delivered and not superseded.

(d) Whether or not expressly so provided, every provision of the Resolution relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this Section A-702.

(e) In the event that the Trustee is also acting as Paying Agent or Registrar hereunder, the rights and protections afforded to the Trustee pursuant to this Article A-VII shall also be afforded to the Paying Agent and Registrar.

**Section A-703. Paying Agents and Registrars; Appointment and Acceptance of Duties.**

1. The Trustee is hereby appointed the Registrar and a Paying Agent with respect to the Obligations. The Issuer may at any time or from time to time appoint one or more other Paying Agents and Registrars in the manner and subject to the conditions set forth in Section A-713 for the appointment of a successor Paying Agent or Registrar. The Issuer may be appointed a Paying Agent or Registrar.

2. Each Paying Agent and Registrar other than the Trustee shall signify its acceptance of the duties and obligations imposed upon it by the Resolution by executing and delivering to the Issuer and to the Trustee a written acceptance thereof.

**Section A-704. Responsibilities of Fiduciaries.** The recitals of fact contained in the Resolution and in the Obligations shall be taken as the statements of the Issuer and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or sufficiency of the Resolution or of any Obligations issued thereunder or in respect of the security afforded by the Resolution, and no Fiduciary shall incur any liability in respect thereof. No Fiduciary shall be under any responsibility or duty with respect to the issuance of the Obligations for value or the application of the proceeds thereof or the application of any money paid to the Issuer. No Fiduciary shall be under any responsibility or duty with respect to the application of any money paid to any other Fiduciary. No Fiduciary shall be liable in connection with the performance of its duties under the Resolution, or for any losses, fees, taxes or other charges incurred upon the purchase or sale or redemption of any securities purchased for or held in any Fund under the Resolution, including any losses incurred by reason of having to sell securities prior to their maturity date, except in each case for its own willful misconduct, negligent action or negligent failure to act.

**Section A-705. Evidence on Which Fiduciaries May Act.**

1. Each Fiduciary shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document believed by it to be genuine, and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel of its selection, who may or may not be counsel to the Issuer, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, omitted to be taken or suffered by it under the Resolution in good faith and in accordance therewith.

2. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under the Resolution, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of an Authorized Officer, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of the

Resolution; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

3. Except as otherwise expressly provided in the Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Issuer to any Fiduciary shall be sufficiently executed if executed in the name of the Issuer by an Authorized Officer.

**Section A-706. Compensation.** The Issuer shall pay to each Fiduciary from time to time such compensation as shall be agreed to in writing between the Fiduciary and the Issuer for all services rendered under the Resolution (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under the Resolution. To the extent permitted by law, the Issuer further agrees to indemnify and save each Fiduciary and its officers, directors, agents, and employees harmless against any and all liabilities, losses, damages, claims or expenses which it may incur in the acceptance, exercise and performance of its powers and duties hereunder and which are not due to its willful misconduct, negligence or bad faith. The obligations of this Section A-706 shall survive the discharge of the Resolution. No obligation of the Issuer to make any payment to any Fiduciary shall have the benefit of any lien on or pledge or assignment of the Obligations Trust Estate.

A Fiduciary shall notify the Issuer promptly of any claim for which it may seek indemnity. The Issuer shall defend the claim and the Trustee shall cooperate in the defense. The Fiduciary may have separate counsel and the Issuer shall pay the reasonable fees and expenses of such counsel.

**Section A-707. Certain Permitted Acts.** Any Fiduciary may become the owner of any Obligations or any other obligations of the Issuer, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law and pursuant to the Resolution, any Fiduciary may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Obligations or the holders of any other obligations of the Issuer or to effect or aid in any reorganization growing out of the enforcement of the Obligations or any other obligations of the Issuer or the Resolution, whether or not any such committee shall represent the Owners of a majority in principal amount of the Obligations then Outstanding.

**Section A-708. Resignation of Trustee.** The Trustee may at any time resign and be discharged of the duties and obligations created by the Resolution by giving not less than 60 days' written notice to the Issuer and mailing notice thereof to the Owners of the Obligations, specifying the date when such resignation shall take effect, at least 45 days prior to the effective date, provided that such resignation shall take effect upon *the later of* (i) the day specified in such notice and (ii) the day a successor shall have been appointed by the Issuer or the Owners of Obligations as provided in Section A-710 and shall have qualified therefor.

**Section A-709. Removal of Trustee.** The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee, and signed by the Owners

of a majority in principal amount of the Obligations then Outstanding or their attorneys-in-fact duly authorized, excluding any Obligations held by or for the account of the Issuer or any Related Entity. In addition, so long as no Obligations Event of Default shall have occurred and be continuing hereunder and the Trustee is not pursuing any right or remedy available to it pursuant to the Resolution, the Trustee may be removed by the Issuer at any time for failure to provide reasonably acceptable services, failure to charge reasonably acceptable fees or any other reasonable cause, all as determined by a certificate of an Authorized Officer filed with the Trustee. Any such removal shall not be effective until a successor shall have been appointed by the Issuer or the Owners of Obligations as provided in Section A-710 and shall have qualified therefor.

### **Section A-710. Appointment of Successor Trustee.**

1. In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, a successor may be appointed by the Owners of a majority in principal amount of the Obligations then Outstanding, excluding any Obligations held by or for the account of the Issuer, by an instrument or concurrent instruments in writing signed and acknowledged by such Owners of Obligations or by their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the Issuer and the predecessor Trustee; *provided, nevertheless, that* unless a successor Trustee shall have been appointed by the Owners of Obligations as aforesaid, the Issuer by a duly executed written instrument signed by an Authorized Officer of the Issuer shall forthwith appoint a Trustee to fill such vacancy until a successor Trustee shall be appointed by the Owners of Obligations as authorized in this Section A-710. The Issuer shall mail notice of any such appointment made by it to all Owners within 20 days after such appointment. Any successor Trustee appointed by the Issuer shall, immediately and without further act, be superseded by a Trustee appointed by the Owners of Obligations.

2. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within 45 days after the Trustee shall have given to the Issuer written notice as provided in Section A-708 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, the Trustee or the Owner of any Obligation may, at the expense of the Issuer, apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

3. Any Trustee appointed under the provisions of this Section A-710 in succession to the Trustee shall be a Bank that is organized under the laws of the State, or, if organized under the laws of another state, authorized to do business in the State of New York, or is a national banking association organized under the laws of the United States of America, doing business and having a corporate trust office in The City of New York, and which at the time of selection meets all thresholds for being well capitalized or adequately capitalized under the prompt corrective action framework applicable to insured depository institutions under Section 38 of the Federal Deposit Insurance Act as in effect from time to time or all thresholds for substantially equivalent categories in any successor legislation, if there be such a Bank willing and able to accept the office on



reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Resolution.

**Section A-711. Transfer of Rights and Property to Successor Trustee.** Any successor Trustee appointed under the resolution shall execute, acknowledge and deliver to its predecessor Trustee, and also to the Issuer, an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all money, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as Trustee; but the Trustee ceasing to act shall nevertheless, on the written request of the Issuer, or of the successor Trustee, and, upon the payment of all of its charges hereunder, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee all the right, title and interest of the predecessor Trustee in and to any property held by it under the Resolution, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Issuer be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Issuer. Any successor Trustee shall promptly notify the Registrar and the Paying Agents of its appointment as Trustee.

**Section A-712. Merger or Consolidation.** Any Person into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its municipal corporate trust business, provided such Person shall be a Bank that is organized under the laws of the State, or, if organized under the laws of another state, authorized to do business in the State of New York, or is a national banking association organized under the laws of the United States of America, doing business and having a corporate trust office in The City of New York, and which at the time of selection meets all thresholds for being well capitalized or adequately capitalized under the prompt corrective action framework applicable to insured depository institutions under Section 38 of the Federal Deposit Insurance Act as in effect from time to time or all thresholds for substantially equivalent categories in any successor legislation, if there be such a Bank willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Resolution, and shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

**Section A-713. Resignation or Removal of Paying Agent or Registrar and Appointment of Successor.** 1. Any Paying Agent or Registrar may at any time resign and be discharged of the duties and obligations created by the Resolution by giving at least 60 days' written notice to the Issuer, the Trustee, and the other Paying Agents or Registrar, as the case may be. Any Paying Agent or Registrar may be removed at any time by an instrument filed with such Paying Agent or Registrar and the Trustee and signed by the Issuer. Any successor Paying Agent or Registrar shall be appointed by the Issuer, with the approval of the Trustee, and (subject to the requirements of Section A-603) shall be a Bank that is organized under the laws of the State, or, if organized under the laws of another state, authorized to do business in the State of New York, or

is a national banking association organized under the laws of the United States of America, doing business and having a corporate trust office in The City of New York, and which at the time of selection meets all thresholds for being well capitalized or adequately capitalized under the prompt corrective action framework applicable to insured depository institutions under Section 38 of the Federal Deposit Insurance Act as in effect from time to time or all thresholds for substantially equivalent categories in any successor legislation, if there be such a Bank willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Resolution.

2. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any money held by it as Paying Agent to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

3. In the event of the resignation or removal of any Registrar, such Registrar shall transfer and deliver all records, certificates and documents held by it as Registrar to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Registrar, the Trustee shall act as such Registrar.

**Section A-714. Adoption of Authentication.** In case any of the Obligations contemplated to be issued under the Resolution shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Obligations and deliver the Obligations so authenticated; and in case any of such Obligations shall not have been authenticated, any successor Trustee may authenticate such Obligations in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all such cases such certificate shall have the full force which it is anywhere in said Obligations or in the Resolution provided that the certificate of the Trustee shall have.

**Section A-715. Continuing Disclosure Agreements.** The Trustee shall be entitled to the same rights and the same degree of indemnification in its execution and performance of each continuing disclosure agreement entered into pursuant to Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 as amended, as it is under the Resolution.

## ARTICLE A-VIII

### SUPPLEMENTAL RESOLUTIONS

#### Section A-801. General Provisions.

1. The Resolution shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article VIII of the Resolution, this Article A-VIII and Article A-IX hereof. Nothing contained in Article VIII of the Resolution, this Article or in Article A-IX shall affect or limit the right or obligation of the Issuer to execute and deliver to any Fiduciary any instrument which elsewhere in the Resolution it is provided shall be delivered to said Fiduciary.

2. Any Supplemental Resolution referred to and permitted or authorized by Section 801 of the Resolution may be adopted by the Issuer without the consent of any of the Owners, but shall become effective only on the conditions, to the extent and at the time provided in said Section. The copy of every Supplemental Resolution when filed with the Trustee shall be accompanied by a Counsel's Opinion stating that such Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution, and is valid and binding upon the Issuer and enforceable in accordance with its terms; *provided, however, that* the concurrent delivery of an Opinion of Bond Counsel required by Section A-201.2(a) shall satisfy this requirement.

3. No Supplemental Resolution shall change or modify any of the rights or obligations of any Fiduciary without its written consent.

## ARTICLE A-IX

### AMENDMENTS

**Section A-901. Mailing.** Any provision in this Article for the mailing of a notice or other paper to Owners shall be fully complied with if it is mailed postage prepaid to each Owner of any affected Obligation then Outstanding at such Owner's address, if any, appearing upon the registry books of the Issuer, and (ii) to the Trustee; or, in each case, to such parties by facsimile or other means to the extent permitted by applicable law and arrangements.

**Section A-902. Powers of Amendment.** Any modification or amendment of the Resolution and of the rights and obligations of the Issuer and of the Owners, in any particular, may be made by a Supplemental Resolution, with the written consent given as provided in Section A-903, (i) of the Owners of a majority in principal amount of the Obligations Outstanding at the time such consent is given, and (ii) in case less than all of the Obligations then Outstanding are affected by the modification or amendment, of the Owners of a majority in principal amount of the Obligations so affected and Outstanding at the time such consent is given; *provided, however, that* if such modification or amendment will, by its terms, not take effect so long as particular Obligations remain Outstanding, the consent of the Owners of such Obligations shall not be required and such Obligations shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Obligations under this Section. No such modification or amendment shall (a) permit a change in the terms of redemption or maturity of the principal of any Outstanding Obligation or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Owner of such Obligation, (b) reduce the percentages or otherwise affect the classes of Obligations the consent of the Owners of which is required to waive an Obligations Event of Default or otherwise effect any such modification or amendment, (c) create a preference or priority of any Obligation or Obligations over any other Obligation or Obligations, without the consent of the Owners of all such Obligations, (d) create a lien prior to or on parity with the lien of the Resolution securing Obligations, without the consent of the Owners of all of the Obligations then Outstanding, or (e) change or modify any of the rights or obligations of any Fiduciary without its written assent thereto. For the purposes of this Section, an Obligation shall be deemed to be affected by a modification or amendment of the Resolution if the same materially and adversely affects the rights of the Owner of such Obligation. The Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment particular Obligations would be affected by any modification or amendment of the Resolution and any such determination shall be binding and conclusive on the Issuer and all Owners of Obligations. The Trustee may request and receive an opinion of counsel, including a Counsel's Opinion, as conclusive evidence as to whether particular Obligations would be so affected by any such modification or amendment of the Resolution and the Trustee shall have no duty or obligation to take any action hereunder unless and until it has received such opinion. Notwithstanding anything in this Section or the Resolution to the contrary, the consent of Owners of any Series of additional Obligations to be issued hereunder to any modification or amendment of the Resolution, which modification or amendment, as well as such consent, is disclosed in the official statement or other offering document prepared in connection with the primary offering of such Series of additional Obligations, shall be deemed given and irrevocable and no other evidence of such consent shall be required.

**Section A-903. Consent of Owners of Obligations.** The Issuer at any time may adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section A-902 to take effect when and as provided in this Section. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee) together with a request to the Owners for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Issuer to the Owners (but failure to mail such copy and request shall not affect the validity of the Supplemental Resolution when consented to as in this Section provided). Such Supplemental Resolution shall not be effective unless and until (i) there shall have been filed with the Trustee (a) the written consents of Owners of the percentages of Outstanding Obligations specified in Section A-902 and (b) a Counsel's Opinion stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Issuer in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution, and is valid and binding upon the Issuer and enforceable in accordance with its terms, and (ii) a notice shall have been mailed to Owners as hereinafter in this Section A-903 provided. Any such consent, including any consent provided pursuant to the last sentence of Section A-902, shall be irrevocable and binding upon the Owner of the Obligations giving such consent and, anything in Section A-1102 to the contrary notwithstanding, upon any subsequent Owner of such Obligations and of any Obligations issued in exchange therefor (whether or not such subsequent Owner thereof has notice thereof). At any time after the Owners of the required percentages of Obligations shall have filed their consents to the Supplemental Resolution, the Trustee shall make and file with the Issuer and the Trustee a written statement that the Owners of such required percentages of Obligations have filed such consents. Such written statement shall be conclusive that such consents have been so filed. At any time thereafter, notice, stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Issuer on a stated date, a copy of which is on file with the Trustee) has been consented to by the Owners of the required percentages of Obligations and will be effective as provided in this Section A-903, may be given to Owners of Obligations by the Issuer by mailing such notice to Owners of Obligations (but failure to mail such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section A-903 provided). The Issuer shall file with the Trustee proof of the mailing of such notice. A record, consisting of the papers required or permitted by this Section A-903 to be filed with the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Issuer, the Fiduciaries and the Owners of all Obligations at the expiration of 40 days after the filing with the Trustee of the proof of the mailing of such last-mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such 40-day period; *provided, however, that* any Fiduciary and the Issuer during such 40-day period and any such further period during which any such action or proceeding may be pending shall be entitled in their absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.

**Section A-904. Modifications by Unanimous Consent.** The terms and provisions of the Resolution and the rights and obligations of the Issuer and of the Owners of Obligations may be modified or amended in any respect upon the adoption and filing by the Issuer of a Supplemental Resolution and the consent of the Owners of all of the Obligations then Outstanding, such consent to be given as provided in Section A-903 except that no notice to Owners of Obligations shall be required; *provided, however, that* no such modification or amendment shall change or modify any

of the rights or obligations of any Fiduciary without the filing with the Trustee of the written consent thereto of such Fiduciary in addition to the consent of the Owners of Obligations.

**Section A-905. Notation on Obligations.** Obligations issued and delivered after the effective date of any action taken as in Article A-VIII or this Article provided may, and, if the Trustee so determines, shall, bear a notation by endorsement or otherwise in form approved by the Issuer and the Trustee as to such action, and in that case upon demand of the Owner of any Obligation Outstanding at such effective date and presentation of its Obligation for the purpose at the corporate trust office of the Trustee, suitable notation shall be made on such Obligation by the Trustee as to any such action. If the Issuer or the Trustee shall so determine, new Obligations so modified as in the opinion of the Trustee and the Issuer to conform to such action shall be prepared, authenticated and delivered. Upon demand of the Owner of any Obligations then Outstanding and the surrender of such Obligations, there shall be authenticated and exchanged therefor, new Obligations having the same terms, other than the noted modification, as the Obligations surrendered.

## ARTICLE A-X

### DEFAULT AND REMEDIES

**Section A-1001. Abrogation of Right to Appoint Statutory Trustee; Preservation of Statutory Rights and Remedies.** Any right of the Owners of Obligations to appoint a trustee under the Issuer Act is hereby abrogated. Subject to the foregoing sentence of this Section A-1001 and the provisions of Section 701 of the Resolution, the Owners of Obligations and the Trustee acting on behalf of the Owners of Obligations shall be entitled to all of the rights and remedies provided or permitted by law.

## ARTICLE A-XI

### MISCELLANEOUS

**Section A-1101. Defeasance.** 1. If the Issuer shall pay or cause to be paid to the Owners of all Obligations then Outstanding the principal and interest and Redemption Price, if any, to become due thereon, at the times and in the manner stipulated therein and in the Resolution, then, at the option of the Issuer, expressed in an instrument in writing signed by an Authorized Officer and delivered to the Trustee, the covenants, agreements and other obligations of the Issuer to the Owners of Obligations shall be discharged and satisfied. In such event, the Trustee shall, upon the request of the Issuer, execute and deliver to the Issuer all such instruments as may be desirable to evidence such discharge and satisfaction and the Fiduciaries shall pay over or deliver to the Issuer all money, securities and funds held by them pursuant to the Resolution which are not required for the payment or redemption of Obligations not theretofore surrendered for such payment or redemption.

2. Outstanding Obligations or any portions thereof for the payment or redemption of which money shall have been set aside and shall be held in trust by the Paying Agents shall at the respective maturity or redemption dates thereof be deemed to have been paid within the meaning and with the effect expressed in subsection 1 of this Section A-1101. Outstanding Obligations or any portions thereof shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in subsection 1 of this Section either (A) with respect to the defeasance of Taxable Obligations, Tax-Exempt Obligations or otherwise, as provided in the Supplemental Resolution authorizing their issuance or (B) if (a) in case any of said Obligations are to be redeemed on any date prior to their maturity, the Issuer shall have given to the Trustee in form satisfactory to it irrevocable instructions to mail as provided in Article A-IV notice of redemption on said date of such Obligations, (b) there shall have been irrevocably deposited with the Trustee either money in an amount which shall be sufficient, or Defeasance Securities the principal of and the interest on which when due will provide money which, together with the money, if any, deposited with the Trustee at the same time, shall be sufficient, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon, to pay when due, the principal or Redemption Price, if applicable, and interest due and to become due on such Obligations or such portions thereof on and prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event such Obligations are not by their terms maturing or are not subject to redemption within the next succeeding 60 days, the Issuer shall have given the Trustee in form satisfactory to it irrevocable instructions to mail, as soon as practicable, a notice to the Owners of such Obligations that the deposit required by (b) above has been made with the Trustee and that said Obligations are deemed to have been paid in accordance with this Section and stating such maturity or redemption date upon which money is to be available for the payment of the principal or Redemption Price, if applicable, on such Obligations. Neither Defeasance Securities nor money deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price, if applicable, and interest on said Obligations; *provided, however, that* any money on deposit with the Trustee, (i) to the extent such money will not be required at any time for such purpose, shall be paid over to the Issuer as received by the Trustee, free and clear of any trust, lien or pledge securing said Obligations or otherwise existing under the Resolution, and (ii) to the extent such



money will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts sufficient, together with any money available to the Trustee for such purpose, to pay when due the principal or Redemption Price, if applicable, and interest to become due on said Obligations on and prior to such redemption date or maturity date thereof, as the case may be. Notwithstanding any other provision hereof, the Issuer may at the time of defeasance elect to retain the right to redeem or require the tender of any obligations deemed paid pursuant to subsection 2 of Section A-1101. The Trustee shall, at the direction of the Issuer, select the Obligations or portions thereof that are deemed to have been paid in advance of the redemption of such Obligations.

3. Anything in the Resolution to the contrary notwithstanding, any money held by a Fiduciary in trust for the payment and discharge of the principal or Redemption Price of or interest on any of the Obligations which remains unclaimed for 2 years after the date when such principal, Redemption Price or interest, respectively, has become due and payable, either at stated maturity dates or by call for earlier redemption, if such money was held by the Fiduciary at such date, or for 2 years after the date of deposit of such money if deposited with the Fiduciary after the date when such principal, Redemption Price, or interest, respectively, became due and payable, shall, at the written request of the Issuer, be repaid by the Fiduciary to the Issuer, as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Owners of Obligations shall look only to the Issuer for the payment of such principal, Redemption Price, or interest, respectively. Notwithstanding the foregoing or anything in the Resolution to the contrary, any money held by a Fiduciary in trust for the payment and discharge of any Obligations which remains unclaimed after such money was to be applied to the payment of such Obligations in accordance with the Resolution may be applied in accordance with the provisions of the Abandoned Property Law of the State, being Chapter 1 of the Consolidated Laws of the State or any successor provision thereto, and upon such application, the Fiduciary shall thereupon be released and discharged with respect thereto and the Owners of Obligations shall look only to the Issuer or the Comptroller of the State for the payment of such Obligations. Before being required to make any such payment to the Issuer or to apply such money in accordance with the Abandoned Property Law of the State, the Fiduciary shall, at the expense of the Issuer, cause to be mailed to the Owners entitled to receive such money a notice that said money remains unclaimed and that, after a date named in said notice, which date shall be not less than 30 days after the date of the mailing, the balance of such money then unclaimed will be returned to the Issuer or applied in accordance with the Abandoned Property Law of the State, as the case may be.

**Section A-1102. Evidence of Signatures of Owners of Obligations and Ownership of Obligations.** 1. Any request, consent, revocation of consent or other instrument which the Resolution may require or permit to be signed and executed by the Owners of Obligations may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners of Obligations in Person or by their attorneys-in-fact appointed in writing or by such electronic or other means as may be recognized pursuant to applicable law. Proof of (i) the execution of any such instrument, or of an instrument appointing any such attorney, or (ii) the holding by any Person of the Obligations shall be sufficient for any purpose of the Resolution (except as otherwise therein expressly provided) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

(a) The fact and date of the execution by any Owner or his attorney-in-fact of such instrument may be proved by the certificate of a signature guarantor, or of any notary public or other officer authorized to take acknowledgments of deeds, that the Person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation, association or partnership such certificate or affidavit shall also constitute sufficient proof of his authority;

(b) The ownership of Obligations and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books.

2. Any request or consent by the Owner of any Obligation shall bind all future Owners of such Obligation in respect of anything done or suffered to be done by the Issuer or any Fiduciary in accordance therewith.

**Section A-1103. Money Held for Particular Obligations.** The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Obligations shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of Obligations entitled thereto.

**Section A-1104. General Regulations as to Money and Funds.** 1. Each of the Funds and Accounts established by the Resolution shall be a trust fund for the purposes thereof.

2. All amounts of the Issuer held or set aside under the Resolution shall, until paid over to the Fiduciaries or otherwise invested or applied as provided in the Resolution, be deposited by the Issuer in its name, on demand or time deposit, in such Banks as shall be selected by the Issuer. Any amounts held by any Fiduciary under the Resolution shall be deposited in such Banks as the Issuer may select. Any such deposit may be made in the commercial banking department of any Fiduciary which may honor checks on such deposit with the same force and effect as if it were not such Fiduciary, and without any duty to inquire into whether any withdrawals of such funds are in accordance with or might violate any of the provisions of the Resolution. Such deposits shall be continuously secured by the obligations of the United States of America or of the State, which obligations shall have a market value (exclusive of accrued interest) at all times at least equal to the amount of such deposits, which obligations shall be segregated in trust for the account of the Issuer, or shall be otherwise held as the Issuer and the depository may agree. Securities deposited with the Federal Reserve Bank to secure all trust accounts of a depository shall be deemed to comply with the foregoing requirement.

3. Unless otherwise specified in a Supplemental Resolution authorizing the issuance of Obligations, all money held by any Fiduciary, as such, may be deposited by such Fiduciary in its banking department on demand or, if and to the extent directed by the Issuer and acceptable to such Fiduciary, on time deposit, and all such deposits shall be continuously secured by the obligations of the United States of America or of the State which obligations shall have a market value (exclusive of accrued interest) at all times at least equal to the amount of such deposits. Securities deposited with the Federal Reserve Bank to secure all trust accounts of the Fiduciary shall be deemed to comply with the foregoing requirement. Such Fiduciary shall allow and credit

on such money such interest, if any, as it customarily allows upon similar funds of similar size and under similar conditions or as required by law.

**Section A-1105. Preservation and Inspection of Documents.** All documents received by a Fiduciary under the provisions of the Resolution shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Issuer, any other Fiduciary, and any Owners of at least 5% aggregate principal amount of Obligations and their agents and their representatives, any of whom may make copies thereof.

**Section A-1106. Parties Interest Herein.** Nothing in the Resolution expressed or implied is intended or shall be construed to confer upon, or to give to any Person, other than the Issuer, the Fiduciaries, the Owners of Obligations and the holders of Parity Debt, any right, remedy or claim under or by reason of the Resolution or any covenant, condition or stipulation thereof, and all the covenants, stipulations, promises and agreements in the Resolution contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Fiduciaries, the Owners of Obligations and the holders of Parity Debt.

**Section A-1107. No Recourse on the Obligations.** No recourse shall be had for the payment of the principal or Redemption Price of or interest on the Obligations or Parity Debt or for any claim based thereon or on the Resolution against any member, officer, or employee of the Issuer or any Person executing the Obligations.

**Section A-1108. Successors and Assigns.** Whenever in the Resolution the Issuer is named or referred to, it shall be deemed to include its successors and assigns and all the covenants and agreements in the Resolution contained by or on behalf of the Issuer shall bind and ensure to the benefit of its successors and assigns whether so expressed or not.

**Section A-1109. Business Days.** Except as otherwise provided pursuant to a Supplemental Resolution, if the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in the Resolution, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if made or done on the nominal date provided in the Resolution and no interest shall accrue during the intervening period with respect to any payment so deferred.

**Section A-1110. Severability of Invalid Provisions.** If any term or provision of this Annex A or the Resolution shall be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever, and such term and provision shall be valid and enforced to the fullest extent permitted by law.

The invalidity of any one or more phrases, sentences, clauses or Sections of the Resolution shall not affect the remaining portions of the Resolution, or any part hereof, including any part of this Annex A.

**Section A-1111. Exclusion of Obligations.** Obligations owned or held by or for the account of the Issuer or any Related Entity shall not be deemed Outstanding for the purpose of any consent to be given or other action to be taken by or upon the direction of Owners of a specified portion of Obligations Outstanding, and the Issuer or any Related Entity shall not be entitled with respect to such Obligations to give any such consent or to take, or direct the taking of, any such action. At the time of any such consent or action, the Issuer shall furnish to the Trustee a certificate of an Authorized Officer, upon which the Trustee may conclusively rely, describing all Obligations so to be excluded.

**Section A-1112. Governing Law.** The Resolution, including this Annex A, shall be governed by and interpreted in accordance with internal laws of the State, without regard to conflict of law principles thereof.



# MTA Headquarters Procurements

**Lisette Camilo**, Chief Administrative Officer/Interim Chief Procurement Officer

## PROCUREMENTS

The Procurement Agenda this month includes 7 actions for a proposed estimated expenditure of \$351.4M.

<b>Subject</b>	Request for Authorization to Award Various Procurements
<b>Department</b>	MTA Procurement
<b>Department Head Name</b>	Lisette Camilo
<b>Department Head Signature</b>	<i>Lisette Camilo</i>
<b>Project Manager Name</b>	Rose Davis

July 26, 2024			
<b>Department</b>			
<b>Department Head Name</b>			
<b>Department Head Signature</b>			
<b>Internal Approvals</b>			
	<b>Approval</b>		<b>Approval</b>
	CAO		
	Legal		
	CFO		

Board Action					
Order	To	Date	Approval	Info	Other
1	Committee	07/29/24			
2	Board	07/31/24			

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

**PURPOSE**

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

**DISCUSSION**

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

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

Procurements Requiring Majority Vote:	# of Actions	\$Amount
Schedule F: Personal Service Contracts	5	\$ 262.4 M
Schedule G: Miscellaneous Service Contracts	2	\$ 89.0 M
<b>SUBTOTAL</b>	<b>7</b>	<b>\$ 351.4 M</b>

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

<b>TOTAL</b>	<b>7</b>	<b>\$ 351.4 M</b>
--------------	----------	-------------------

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

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

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

## **BOARD RESOLUTION**

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

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

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

NOW, the Board resolves as follows:

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



# Staff Summary

<b>Item Number: 1</b>			
<b>Department, Department Head Name:</b> Deputy Chief Benefit Admin Officer Stephen Scholl			
<b>Internal Approvals</b>			
<b>Order</b>	<b>Approval</b>	<b>Order</b>	<b>Approval</b>
1	Procurement		
2	Legal		
3	DDCR		
4	CFO		

<b>SUMMARY INFORMATION</b>	
<b>Vendor Name</b> Cigna Health and Life Insurance Company	<b>Contract No.</b> 430645
<b>Description:</b> NYCTA and MaBSTOA Dental Benefits Plan	
<b>Total Amount:</b> \$57,796,000 (\$32,706,000 base + \$25,090,000 Option years)	
<b>Contract Term (including Options, if any)</b> January 1, 2025–December 31, 2029	
<b>Option(s) included in Total Amount?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
<b>Renewal?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive	
<b>Solicitation Type</b> <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
<b>Funding Source</b> <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	

## Purpose

Board approval is sought to award a competitively negotiated personal services contract to Cigna Health and Life Insurance Company (“Cigna”) to provide dental benefits services to the Metropolitan Transportation Authority (“MTA”) on behalf of NYC Transit and the Manhattan and Bronx Surface Transit Operating Authority (“MaBSTOA”) for represented active employees, retirees, and their dependents from various unions including the Subway Surface Supervisors Association (“SSSA”) and the Transit Supervisors Organization (“TSO”) of TWU Local 106. The period of performance is five years (January 1, 2025–December 31, 2029), which includes two, 1-year options. The total contract price, inclusive of options, is an amount not-to-exceed \$57,796,000. The Preferred Provider Organization (“PPO”), valued at \$46,861,000, is itemized as \$1,562,000 for administration fees to Cigna and \$45,299,000 for claims costs that are passed on to the MTA and included in the total contract value. The Dental Health Maintenance Organization (“DHMO”) is valued at \$10,935,000, based on the May 2024 enrollment. The Board is also requested to authorize the MTA Assistant Deputy Chief Procurement Officer to approve the exercise of Options 1 and 2.

## Discussion

NYC Transit and MaBSTOA currently offer two different plan design options: a PPO and a DHMO administered by Cigna for a population of approximately 11,700 active and retired employees plus their dependents for approximately 24,500 total members covered. The MTA issued a Request for Proposals (“RFP”) with the goal to select a best-in-class dental benefit service provider that would deliver optimal member experience, empower members to make optimal dental choices, and improve the overall health of the covered population. The MTA subsidizes the full cost of dental plans for employees, retirees, and their eligible dependents. Participants are responsible only for the payment of applicable deductibles, copayments, nonparticipating provider charges and the like, as well as any services not covered by the insurance program.

A two-step RFP procurement process was utilized. Step 1, the prequalification step, identified firms that met the MTA’s minimum requirements for a contract award of dental benefits in fully insured and / or self-insured plans. In Step 2, prequalified firms received the detailed RFP package. The Step 1 prequalification requirements for the plan providers included: (1) certifications and licenses required to underwrite or administer the dental plans; (2) offering of dental PPO and/or DHMO plans similar to the plans sought in this RFP (e.g., with a minimum of three employer groups, each with 20,000+ eligible employees and retirees, and overall current plan membership of over 1 million participants); and (3) maintaining a network of providers meeting the minimum access standards in the tristate area (New York, New Jersey, and Connecticut), Pennsylvania, Florida, and North and South Carolina. Five firms submitted responses: Anthem Blue Cross Blue Shield (“Anthem”), Cigna, EmblemHealth (“Emblem”), Healthplex Inc. (“Healthplex”), and Metropolitan Life Insurance Company (“MetLife”). All met the prequalification requirements of Step 1.

These five firms were then asked to submit proposals for Step 2 of the RFP. The MTA received four proposals in response to Step 2 of the RFP (Healthplex did not submit). The RFP allowed proposals for both fully insured and self-insured plan options for PPO and fully insured for DHMO. For the PPO, Anthem proposed only the self-insured PPO option, the other three, Cigna, Emblem, and MetLife, submitted proposals for both insured and self-insured options. For the DHMO, Cigna submitted two different network coverages, Cigna Dental Access Network and Cigna Dental Access Plus Network. The Cigna Dental Access Plus Network is the broader of the two networks. Emblem submitted a Dental Exclusive Provider Organization (“DEPO”) as an alternative to the DHMO that was eliminated by the Selection Committee (“SC”) based on technical evaluations.

MTA engaged Mercer Health & Benefits LLC (“Mercer”), a benefits consulting firm, to assist with the RFP process. Mercer assisted with the preparation of solicitation documents and provided financial modeling and pricing analyses, as well as other support services. The Segal Company (Eastern States), Inc., also a benefits consulting firm, was engaged to assist in the evaluation of the technical responses, network provider disruption, as well as deviation and takeover issues.

The evaluation criteria included the following, in order of priority: (1) cost to the MTA based on proposer’s submission and discount analysis; (2) proposer’s ability to replicate the requested plan designs; (3) network access and provider disruption minimization; (4) proposer’s available resources to administer the contract including portal capabilities, account team, call center and relevant experience; (5) responsiveness to the RFP and the proposer’s demonstration of a clear understanding of the objectives and constraints of the undertaking as described by the RFP documents; and (6) proposer’s diversity practices.

Pricing was requested and received on a self- and fully insured basis for the PPO plan, whereas fully insured pricing was requested for the DHMO plan. The Selection Committee (“SC”), comprised of representatives from Human Resources, Collective Bargaining-Labor Relations, and the presidents of TSO and SSSA, utilizing the evaluation criteria, ranked Cigna’s self-insured PPO, MetLife’s fully insured PPO, and Cigna’s fully insured Access Plus Network DHMO the highest.

The cost estimates were developed by Mercer. For the fully insured proposals, Mercer used the latest enrollment (May 2024) by plan and rates provided by each vendor to develop costs. For the self-insured proposal, Mercer used the latest enrollment (May 2024) by plan, historical claim experience, the vendor administration fees and expected network discounts to develop costs.

The five-year self-insured PPO cost with Cigna is projected to be \$46,861,000. By comparison, MetLife’s fully insured PPO cost proposal was \$47,784,000, or \$923,000 higher. The SC recommended Cigna for award of the PPO, given the projected lower cost. Cigna’s proposed cost for DHMO Access Network and DHMO Access Network Plus was \$10,267,000 and \$10,935,000 respectively, or a difference of \$668,000 over the five-year contract term. The SC’s evaluation resulted in recommending the DHMO Access Network Plus because of its broader network and ability to offer the best value to the MTA. Based on the foregoing, the competitively negotiated pricing is deemed fair and reasonable.

Negotiation of commercial terms and conditions have been substantially completed with the exception of a few remaining items that the parties are currently working to finalize. However, there does not appear to be any remaining terms and conditions to be negotiated that would impact Cigna’s current price.

This contract has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, shall be included in the contract terms and conditions prior to award.

In connection with the review of Cigna’s responsibility pursuant to the All-Agency Responsibility Guidelines, Cigna was found to be responsible notwithstanding significant adverse information, and such responsibility finding was approved by the Chief Administrative Officer in consultation with the MTA General Counsel on July 23, 2024.

### **M/W/DBE Information**

The MTA Department of Diversity and Civil Rights (DDCR) has established zero percent MWBE/SDVOB goals on this contract because the participant data and benefit contract provisions are considered highly sensitive and confidential in nature. Subcontracting to third parties would increase the risk and exposure of confidential information.

# Staff Summary

## **Impact on Funding**

The contract is funded by NYC Transit's operating budget.

## **Alternatives**

Do not approve award of the contract. This alternative is not recommended because these are benefits that NYC Transit must provide its employees.

## **Recommendation**

To award a competitively negotiated personal services contract to Cigna to provide PPO and DHMO benefits.

# Staff Summary

<b>Item Number: 2-3</b>			
<b>Department, Department Head Name:</b> MTA Procurement, Lisette Camilo			
<b>Internal Approvals</b>			
<b>Order</b>	<b>Approval</b>	<b>Order</b>	<b>Approval</b>
1	Procurement		
2	Real Estate		
3	Administration		
4	DDCR		
5	Legal		
6	CFO		

<b>SUMMARY INFORMATION</b>	
<b>Vendor Names</b> Greystone Management Solutions Venture NY Property Management LLC	<b>Contract Nos.</b> 23000-0100 23000-0200
<b>Description</b> Real Estate Services	
<b>Total Amounts:</b>	
<b>Greystone: \$83,689,111</b> Base: \$42,764,923 Option 1: 19,857,435 Option 2: \$21,066,753	
<b>Venture: \$2,372,030</b> Base: \$1,557,235 Option 1: \$395,359 Option 2: \$419,436	
<b>Contract Term (including Options, if any)</b> August 1, 2024–July 31, 2033	
<b>Option(s) included in Total Amount?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
<b>Renewal?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive	
<b>Solicitation Type</b> <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
<b>Funding Source</b> <input checked="" type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	

**Purpose**

To recommend the Board approve the award of two All-Agency competitively negotiated estimated quantity personal services contracts: 23000-0100 to Greystone Select Inc., d/b/a Greystone Management Solutions (“Greystone”) in the estimated amount of \$83,689,111 (\$42,764,923 for the base term, \$19,857,435 for Option 1, and \$21,066,753 for Option 2) to provide tenant management, lease administration, design and construction oversight, and transaction management; and 23000-0200 to Venture NY Property Management LLC (“Venture”) in the estimated amount of \$2,372,030 (\$1,557,235 for the base term, \$395,359 for Option 1, and \$419,436 for Option 2) to provide easement oversight and property management services for the MTA Real Estate Department for a five-year base term plus two, 2-year options (August 1, 2024–July 31, 2033). The Board is also requested to authorize the MTA Assistant Deputy Chief Procurement Officer to approve the exercise of Options 1 and 2.

**Discussion**

These All-Agency services contracts will continue to provide tenant management / lease administration services for all tenants managed throughout the MTA System (excluding Grand Central Terminal) by MTA Real Estate. Services under these contracts include: (1) tenant management (billing and collections, lease administration, insurance monitoring, Yardi Database Management) covering the MTA-wide property database, within which exist over 3,000 leases of multiple sizes and complexities; (2) design and construction services including enforcement of plan review, code compliance, and alignment of lessees’ and licensees’ plans with MTA’s Retail Design Guidelines that are part of the given lease or license; (3) property management services funded through the Capital Program, overseeing properties temporarily until control is assumed by the design/builder; (4) subway entrance easement oversight; and (5) transaction management staffing (responsible for leasing and licensing of property, as well as acquisitions for Capital Program and operating needs) to augment in-house personnel.

In order to continue the current management services, a Request for Proposals (“RFP”) was publicly advertised. Approximately 21 firms attended the Pre-Proposal Conference; proposals were received from two firms: Greystone and Venture. Procurement subsequently canvassed potential proposers to determine reasons for the lack of responsiveness to the RFP. Responses included (1) not in the prospective service provider’s area of expertise; (2) could not be competitive due to the magnitude of the scope; and (3) insufficient resources to satisfy the contract.

After evaluating the proposals received, the Selection Committee (“SC”), composed of representatives from MTA Real Estate, Long Island Rail Road Public Affairs, NYC Transit Facilities, and Metro-North Railroad, unanimously determined Greystone to be best-suited to perform the tenant management/lease administration/transaction management functions, and Venture to best perform the easement and property management functions.

Negotiations were conducted with both Greystone and Venture. As a result, Greystone’s overhead rate was reduced from 165 percent to 155.83 percent, which will remain fixed for the five-year base term and increase to 160 percent for the four option years. The profit markup was also reduced from 16.5 percent to 8 percent for all nine years. The contract pricing for Years 1 and 2 will remain fixed, while pricing for Years 3–9 will be increased by 3 percent annually. These negotiated terms reduced Greystone’s initial cost proposal of \$107,310,892 to \$83,689,111, a total savings of \$23,621,781 or 22 percent. Venture’s cost proposal of \$2,551,332 for easement and property management was negotiated down to \$2,372,030, a total savings of \$179,302 or 7 percent.

Based on the above, the cost for the renewal contracts (includes pricing for the four option years) is deemed to be fair and reasonable.

Regarding Venture: The contract has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, shall be included in the contract terms and conditions prior to award.

Regarding Greystone: The contract has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, shall be included in the contract terms and conditions prior to award.

Greystone and Venture have both certified that pursuant to EO 16, they are not doing business in Russia.

### **M/WBE and SDVOB Information**

Goals of 15 percent MBE, 15 percent WBE, and 6 percent SDVOB participation were established by the MTA Department of Diversity and Civil Rights for this contract. Greystone and Venture have identified firms to meet the contract goals.

### **Impact on Funding**

Funding is available under the MTA Real Estate Operating budget and MTA Capital Budget, as applicable, for property management requirements. Most of the operating budget components are billed to the Agencies whose tenants and real estate matters are managed on behalf of MTA Real Estate. Funding for the option years will be based on MTA Board–approved budgets for MTA Real Estate.

### **Alternatives**

None. The Real Estate Portfolio must be maintained with no interruption in services. MTA does not have the internal resources available to perform these services in-house.

### **Recommendation**

To award two competitively negotiated estimated quantity personal services contracts: 23000-0100 to Greystone and 23000-0200 to Venture for Real Estate Services.

<b>Item Number: 4-5</b>				<b>SUMMARY INFORMATION</b>	
<b>Department, Department Head Name:</b> MTA Procurement, Lisette Camilo				<b>Vendor Name</b> Spinoso Management Group, LLC Jones Lang LaSalle Incorporated (JLL)	<b>Contract Nos.</b> 22916 13112-0100
<b>Internal Approvals</b>				<b>Description</b> GCT and GCM Retail Manager	
				<b>Total Amount:</b>  <b>Spinoso: \$115,165,227 (est.)</b> (Base: \$59,943,317 + Option 1: \$26,848,499 + Option 2: \$28,373,411) <b>JLL Transition Cost: \$3,405,027</b>	
<b>Order</b>	<b>Approval</b>	<b>Order</b>	<b>Approval</b>	<b>Contract Term (including Options, if any)</b> September 1, 2024–August 31, 2029, w/two 2-year extension Options	
1	Procurement	6	CFO	<b>Option(s) included in Total Amount?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
2	Real Estate			<b>Renewal?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
3	Administration			<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive	
4	DDCR			<b>Solicitation Type</b> <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
5	Legal			<b>Funding Source</b> <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	

**Purpose**

To recommend the Board approve the award of a competitively negotiated estimated quantity personal services contract to Spinoso Management Group, LLC (“Spinoso”) to provide retail property management services for Grand Central Terminal (“GCT”) and Grand Central Madison (“GCM”) for a five-year period (September 1, 2024–August 31, 2029) with two, 2-year renewable options to be exercised at the MTA’s discretion. The nine-year estimated cost of \$115,165,227 (\$59,943,317 for the base term, \$26,848,499 for Option 1 and \$28,373,411 for Option 2) consists of \$32,349,801 for Spinoso’s management fees and salaries, and \$82,815,426 for subcontracting and pass-through costs such as facility repairs, janitorial services, security, and retail utilities. The Board is also requested to authorize the MTA Assistant Deputy Chief Procurement Officer to approve the exercise of Options 1 and 2.

The current contract with the incumbent, Jones Lang LaSalle Incorporated (“JLL”), will be extended for up to 10 weeks (through November 8, 2024) to enable the transition from JLL to Spinoso. The estimated cost for the 10-week transition is up to \$3,405,027, out of which \$1,829,631 is attributable to an ongoing Capital project for GCT ductwork. The remaining \$1,575,396 will cover JLL’s management fees, salaries, subcontracts, and pass-through costs. The subcontracts and pass-through costs will flow through JLL’s contract for the first six weeks of the transition and then flow through Spinoso’s contract for the last four weeks of the transition.

**Discussion**

Under this contract, Spinoso will provide lease administration and enforcement; tenant management, retail operations, design and construction, marketing and promotions, specialty leasing, sponsorships and event sales and management, custodial and building engineering services associated with public-facing retail amenities and public common areas, event areas, and nonpublic support spaces (tenant common areas and storage spaces) within GCT and GCM; and business and financial management, which includes planning and budgeting all aspects of retail management.

In order to continue these essential services, a Request for Proposals (“RFP”) was publicly advertised. Approximately 15 firms attended the Pre-Proposal Conference; proposals were then received from five firms: Spinoso, Coldwell Banker Richard Ellis Group Inc. (“CBRE”), JLL (the incumbent), DMA Associates/GFP Real Estate (“DMA/GFPRE”), and Iware. The firms were evaluated based on their (1) responsiveness to the RFP and demonstration of a clear understanding of the objectives and constraints of the undertaking, experience, and qualifications; (2) ability to perform the services required; (3) experience and qualifications of the key personnel assigned and their ability to appropriately staff the team; (4) diversity practices; and (5) cost proposal.

After evaluating the proposals, the Selection Committee (“SC”), composed of representatives from MTAHQ Real Estate, Metro-North Railroad Maintenance of Way, and GCT Stations Operations, recommended four of the five firms (Spinoso, CBRE, JLL, and DMA/GFPRE) be invited for oral presentations. Upon conclusion of the oral presentations, the SC determined that Spinoso and CBRE were the most technically qualified to perform this work and requested Procurement to proceed with negotiations with both Spinoso and CBRE.

As a result of negotiations, the original nine-year cost of \$34,245,700 proposed by Spinoso, which consists of management, personnel, and revenue-generating fees, was reduced to \$32,349,801, a total savings of \$1,895,899 or 6 percent. This was primarily achieved through a reduction of the management fee from 2.75 percent to 2.10 percent and a reduction in the revenue-generating fee from 10 percent to 8 percent. The proposed salaries are subject to an escalation of 2 percent per year. The BAFO received from Spinoso is 15 percent less than the BAFO received from CBRE. Based on the above, the negotiated costs are considered fair and reasonable. The SC’s evaluation resulted in recommending Spinoso because retail management is its core business, and its proposal offered the best value to the MTA.

Spinoso is a privately held company whose core business is providing property management services for enclosed malls and large-scale retail centers. Founded in 2009 and headquartered in Syracuse, New York, Spinoso currently manages, as either owner/investor (3) or third-party manager (38), 41 retail properties across the country ranging in size from 450,000–1.6 million square feet. Spinoso’s expressed vision for revenue generation resonated with the team, and their executive management intends to make GCT and GCM the crown jewels of their portfolio.

Regarding Spinoso: The contract is under evaluation to determine the appropriate scope of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements shall be included in the contract terms and conditions prior to award.

Regarding JLL: The contract has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, were included in the contract terms and conditions prior to award.

### **M/WBE/SDVOB Information**

Mandatory goals of 15 percent MBE, 15 percent WBE, and 6 percent SDVOB participation were established by the MTA Department of Diversity and Civil Rights for this contract.

### **Impact on Funding**

Funding is available under the Operating budget for GCT and GCM. Funding for the option years will be based on Board-approved operating budgets for MTA Real Estate for GCT and GCM.

### **Alternatives**

Perform the services in-house: This is not a feasible alternative as the MTA does not possess the internal resources to provide these services.

Do not approve award of the contract: This is not practical. Retail property management is required for the day-to-day operation of GCT and GCM.

**Schedule G: Miscellaneous Service Contracts**

**Item Number: 6**

<b>Vendor Name (Location)</b> Guardian Service Industries, Inc. (New York, New York)	<b>Contract Number</b> 23040-000	<b>Renewal?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Description</b> Custodial Services for Real Estate Managed Facilities	<b>Total Estimated Amount:</b> <b>\$87,031,421</b> (\$50,426,901 base + \$36,604,520 Option years)	
<b>Contract Term (including Options, if any):</b> August 1, 2024–July 31, 2029	<b>Funding Source</b> <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
<b>Option(s) included in Total Amount?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a	<b>Requesting Department:</b>  MTA Real Estate, David Florio	
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive		
<b>Solicitation Type</b> <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other: Sole-Source		

**Discussion:**

MTA Headquarters is seeking Board approval to award a competitively negotiated, miscellaneous services, estimated quantity contract to Guardian Services Industries, Inc., (“Guardian”) in the amount of \$87,031,421 for a five-year period (three-year base contract with two, 1-year options), commencing August 1, 2024, to provide custodial services for the MTA facilities below. The Board is also requested to authorize the MTA Assistant Deputy Chief Procurement Officer to approve the exercise of Options 1 and 2.

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. 2 Broadway, Manhattan</li> <li>2. 420 Lexington Avenue, Manhattan</li> <li>3. 525 North Broadway, North White Plains</li> <li>4. 144-41 94th Avenue, Queens</li> <li>5. 48 East 50th Street, Pocket Park Commons, Manhattan</li> <li>6. 33-01 Northern Blvd, Queens</li> <li>7. 33-00 Northern Blvd, Queens</li> <li>8. 14 Perlin Lane, Dutchess</li> <li>9. 24 South MacQuesten Parkway, Westchester</li> <li>10. 110 West Suffolk Avenue, Suffolk</li> </ol> | <ol style="list-style-type: none"> <li>11. 421 8th Avenue, Manhattan</li> <li>12. One Station Road, Orange County</li> <li>13. 7-11 Beekman Street, Dutchess</li> <li>14. 70 Southside Place, Westchester</li> <li>15. 331 Bay Street, Staten Island</li> <li>16. 1825 Park Avenue, Manhattan</li> <li>17. 177 Livingston Street, Brooklyn</li> <li>18. 130 Livingston Street, Brooklyn</li> <li>19. 300 Old Country Road, Nassau</li> <li>20. 33 Williams Place, Brooklyn</li> </ol> |
|--|---|

The MTA has contracted CBRE as its property manager for designated properties. CBRE is responsible for all aspects of property management including maintenance, cleaning, security, building systems operations, landscaping, and the implementation of capital projects. As stipulated in the MTA-CBRE contract, when conducting a procurement as MTA’s purchasing agent, CBRE is required to follow MTA’s procurement guidelines under the oversight of MTA Procurement.

The proposed contract is essential for maintaining custodial and janitorial services at the specified MTA facilities. It was procured in accordance with the aforementioned guidelines. Although CBRE conducted the procurement, the Selection Committee (“SC”) consisted of representatives from MTA Real Estate and NYC Transit.

A Request for Proposals (“RFP”) was publicly advertised; proposals were received from seven firms: ABM Industries Incorporated (“ABM”); Alliance Maintenance (“Alliance”); Guardian; JayHerns Cleaning Services, LLC; LV Maintenance Sanitizing and Cleaning Services; Nelson Services Systems, Inc.; and Quality Building Services (“QBS”). The proposals were evaluated based on: (1) responsiveness to the RFP; (2) experience and qualifications of supervisory and back-office personnel; (3) prior experience providing similar services; (4) cost; and (5) M/WBE status as a quantitative factor. After initial technical reviews, the SC determined proposals from Alliance, Guardian, ABM, and QBS to be the most technically qualified based on their demonstrated understanding of the scope of work, detailed staffing plans, and the quality of the proposed staff. The four firms were shortlisted and invited to oral presentations.

Following oral presentations, ABM was no longer under consideration. The SC requested MTA Procurement to negotiate with the remaining three firms, Guardian, Alliance, and QBS, and to make an award to the firm that offers the best value.



After a series of negotiations, the three proposers were instructed to submit their Best & Final Offer (“BAFO”). The SC unanimously determined that Guardian’s BAFO provided the best value to the MTA. Guardian’s BAFO, in the amount of \$87,031,421 is \$470,887 or 0.538 percent less than its initial proposal and 13.1 percent less than QBS’s BAFO in the amount of \$100,135,628. The third shortlisted firm, Alliance, was the highest in cost at \$103,714,095.

Based on the competitive negotiation, Guardian’s BAFO is deemed fair and reasonable.

Guardian is the current incumbent for custodial services at some of the locations and has provided commendable service throughout the duration of their current contract. Their performance has been particularly noteworthy during the Covid-19 pandemic, where they ensured high standards of cleanliness and safety.

The contract has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, shall be included in the contract terms and conditions prior to award.

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

**MBE/WBE Information**

The MTA Department of Diversity and Civil Rights (DDCR) established 15 percent MBE and 15 percent WBE goals based on the original CBRE Property Management Contract, to which Guardian will become a subcontractor. Guardian will be submitting an M/W/DBE utilization plan to meet the 30 percent goal. CBRE/Guardian is meeting the current M/WBE/SDVOB goal requirements and will continue to work with DDCR to achieve the goals through the duration of the contract.

**Impact on Funding**

Funding for this contract is included in the MTA Real Estate facilities operating budget. Funding for the option years will be based on Board-approved operating budgets for MTA Real Estate.

**Alternatives**

None recommended. MTA lacks available in-house personnel to perform the scope of work associated with this contract.

**Recommendation**

It is recommended that the Board approve the award of a miscellaneous services estimated quantity contract to Guardian to provide custodial services.

**Schedule G: Miscellaneous Service Contracts**

**Item Number: 7**

<b>Vendor Name (Location)</b> Initium Softworks (Lake Mary, Florida)
<b>Description</b> Document Management System and Digitization of Files
<b>Contract Term (including Options, if any):</b> 5 Years plus three 1-year Options
<b>Option(s) included in Total Amount?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive
<b>Solicitation Type</b> <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other: Sole-Source

<b>Contract Number</b> 90000000004736	<b>Renewal?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Total Estimated Amount:</b>	\$1,972,093 (estimate)
<b>Funding Source</b> <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
<b>Requesting Department:</b>  IT Product Management	

**Discussion:**

MTA Headquarters is requesting Board approval to award an All-Agency competitively negotiated miscellaneous services contract to Initium Softworks (“Initium”), formerly MTS Software Solutions, to develop and implement a Document Management System (“DMS”) for MTA’s Occupational Health Services (“OHS”) Department, in the estimated amount of \$1,972,093 for up to an eight-year period (five-year base + three, 1-year options). The Board is also requested to authorize the MTA Assistant Deputy Chief Procurement Officer to approve the exercise of the three 1-year options pending the approval of funding.

This contract will provide automation of OHS’s current manual processing of medical records as well as digitize the data capture and electronic storage of paper records. Initium will develop and implement a DMS and complete the digitization of approximately 71,000 medical charts in a two-phased approach. In Phase 1, Initium will provide the DocuWare System, encompassing all necessary implementation, configuration, project management, training, maintenance, and related services in order to capture, track, and store electronic documents efficiently. In Phase 2, Initium will convert hard-copy paper documents from approximately 71,000 medical charts into digitized files in a system involving scanning, storing, and capturing key document fields, ensuring that each digitized file is optimized for easy retrieval and seamless integration into the established DocuWare System.

Within MTA’s Department of Safety and Security, OHS performs limited medical screenings and evaluations for certain employees and candidates for employment, maintaining medical records for each screening or evaluation performed. OHS seeks to transition from existing manual records to a digitized and automated medical record system that will enable (1) employees to upload their documents directly via an online portal and/or web forms; review, approve, and categorize documents; (2) workflow applications for tracking record requests while reducing turnaround times and minimizing manual tasks; (3) consolidation of records at seven medical assessment centers operated by the MTA; and (4) expedited record retrieval. Once established, OHS seeks the conversion of approximately 71,000 medical charts (each containing varying numbers of pages) to be systematically scanned and stored capturing key data fields including document type for standard categorization and retrieval.

A Request for Proposals (“RFP”) was released on October 5, 2023, with notices to multiple potential proposers. Proposals were received from 14 vendors: 314e Corporation; Aptimized LLC; CS Transportation Consulting; FedCap Rehabilitation Services; Glitra Corporation; Hyland Software, Inc.; Integration Innovation, Inc. (“i3”); International Business Machines Corporation; Imagework Technologies Corp.; Initium; Maverick Quantum Inc. (“Maverick”); Netlink Software Group of America, Inc.; Stellar Services Inc.; and Unique Comp Inc. (“Unique”).

A Selection Committee (“SC”), comprised of representatives from MTAHQ, IT, and the OHS Office, was tasked with evaluating the proposals. The evaluation was based on a set of selection criteria established in the RFP that included vendor expertise and experience, past performance, project timeline, and costs. After evaluation of the technical proposals, the SC, based on best fit for the requirements, shortlisted the following: i3, Initium, Maverick, and Unique. Oral interviews and software demos were held with the shortlisted vendors, and following, the SC deemed Maverick and Initium the most technically capable with implementation approaches consistent with the MTA’s expectations. Based on negotiations and Best and Final Offers (“BAFOs”) from Maverick and Initium, the SC unanimously determined Initium to be the most technically qualified based on it receiving the highest scores.

**Schedule G: Miscellaneous Service Contracts**



Initium’s BAFO was the lowest of the two shortlisted proposers. Negotiations further yielded a 16 percent reduction (\$378,562) from Initium’s original proposed cost of \$2,350,656 (to \$1,972,093), which is 36 percent lower than Maverick’s BAFO of \$3,072,553. The SC deemed the pricing submitted by Initium as fair and reasonable, and provides the best value to the MTA.

Initium’s BAFO includes a one-time fee to scan up to 71,000 medical charts, each containing 50 to 500-plus pages. This work includes scanning, removing all staples/paper clips, inserting breaks to upload in appropriate batches of related documents (e.g. multiple pages of personal physician documentation to be uploaded as a combined record), and coding each upload to the assigned document types. This one-time fee is equivalent to \$0.03 per prepared, categorized, and uploaded page, which is exceptionally low compared to the industry average of \$0.25 per page. The need for future scans will be dramatically minimized as all future medical and compliance records will be uploaded to DocuWare or submitted electronically by MTA employees receiving services by OHS.

After the Initium system is implemented, the MTA anticipates the elimination of overtime and file storage costs by an estimated amount of \$1.3 million. These two costs will no longer be incurred in the future.

The eight-year estimated contract value is \$1,972,093, as set forth below:

<b>Phase 1: Document Management System</b>	<b>Implementation Cost</b>	<b>One-Time</b>	\$87,200
<b>Phase 2: Documentation Conversion</b>	Scanning 71,000 Charts	<b>One-Time</b>	\$403,296
	<b>Annual Software Subscription Cost</b>	<b>Year 1</b>	\$154,900
	↓	<b>Year 2</b>	\$162,644
	↓	<b>Year 3</b>	\$170,814
	↓	<b>Year 4</b>	\$179,432
	↓	<b>Year 5</b>	\$188,527
	<b>Option Years</b>	<b>Year 6</b>	\$198,120
		<b>Year 7</b>	\$208,241
		<b>Year 8</b>	\$218,919
	<b>Total (including Options)</b>		<b>\$1,972,093</b>

Annual software subscription fees include a 4.8 percent year-over-year increase.

Initium is a seasoned corporation with a proven track record in the field of document management systems and digitization. Since 1981, Initium has specialized in providing guidance and support for companies seeking to improve existing or develop new automation solutions for their processes. Initium has recently established similar contracts with agencies including the State of Delaware, specifically the Delaware Department of Health and Social Services and the New Jersey Schools Development Authority.

	<b>Deliverables</b>	<b>Estimated from Start Date</b>
<b>Phase 1: Document Management System</b>	Requirements Gathering (BRD)/Integrations	3 Months
↓	System Creation & Configuration/Workflows/Forms Development	4 Months
↓	End-User/Admin Training/Documentation	6 Months
↓	UAT	8 Months
↓	Go Live	10 Months
<b>Phase 2: Documentation Conversion</b>	Approximately 71,000 charts	7 Months

The contract has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, shall be included in the contract terms and conditions prior to award.

**M/W/DBE Information**

There are no DDCR goals assigned to this contract.

**Impact on Funding**

Funding is provided by the MTA IT Operating Budget.

**JULY 2024**

**MTA REAL ESTATE**

**ACTION ITEMS FOR BOARD APPROVAL**

**TRANSACTIONAL ACTION ITEMS**

Metropolitan Transportation Authority

Lease agreement with Starbucks Corporation for a retail unit in 2 Broadway, New York, NY

MTA New York City Transit

License agreement with CC Vending, Inc. for vending machines at various subway stations

License agreement with Wells Fargo Bank, N.A. for ATMs at 34 St Herald Square, 14 St - Union Square, Gun Hill Road, and Jackson Heights – Roosevelt Avenue/74th Street Stations

Amendment of the lease with Greater Jamaica Development Corp. for a relocated Jamaica Bus Terminal

MTA Metro-North Railroad

Lease agreement with Bagel Train Brewster LLC for retail space in the Brewster Station Building, Brewster, NY

Acquisition of 3876-3880 Park Avenue from 1049 Ogden Realty Co., LLC in connection with the MNR Claremont Substation project in the Bronx, NY

MTA Long Island Rail Road

License agreement with Consolidated Edison for vacant land adjacent to the LIRR freight line in Brooklyn, NY

# Staff Summary

<b>Subject</b> <b>LEASE AGREEMENT WITH STARBUCKS CORPORATION FOR A RETAIL UNIT IN 2 BROADWAY, NEW YORK, NY</b>
<b>Department</b> <b>REAL ESTATE</b>
<b>Department Head Name</b> <b>DAVID FLORIO</b>
<b>Department Head Signature</b>
<b>Project Manager Name</b> <b>JASON ORTIZ</b>

<b>Date</b> <b>JULY 31, 2024</b>
<b>Vendor Name</b>
<b>Contract Number</b>
<b>Contract Manager Name</b>
<b>Table of Contents Ref. #</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	07/29/24	X		
2	Board	07/31/24	X		

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

**AGENCY:** Metropolitan Transportation Authority (“MTA”)  
**LESSEE:** Starbucks Corporation (“Starbucks”)  
**LOCATION:** 2 Broadway, New York, NY  
**PREMISES:** Approximately 1,480 square feet of retail space fronting Broadway  
**USE:** Operation of a Starbucks coffee shop  
**ACTION REQUESTED:** Authorization to enter into a lease agreement  
**TERM:** Ten (10) years  
**RENT:** \$1,289,376.38 NPV at 6% for the 10 year term

Term	Annual Rent	PSF	Escalation
Year 1	\$168,000.00	\$113.51	
Year 2	\$168,000.00	\$113.51	0%
Year 3	\$168,000.00	\$113.51	0%
Year 4	\$168,000.00	\$113.51	0%
Year 5	\$168,000.00	\$113.51	0%
Year 6	\$184,800.00	\$124.86	10%
Year 7	\$184,800.00	\$124.86	0%
Year 8	\$184,800.00	\$124.86	0%
Year 9	\$184,800.00	\$124.86	0%
Year 10	\$184,800.00	\$124.86	0%

## FINANCE COMMITTEE MEETING

### LEASE AGREEMENT WITH STARBUCKS CORPORATION FOR A RETAIL UNIT IN 2 BROADWAY, NEW YORK, NY (Cont'd)

#### COMMENTS:

MTA Real Estate issued a Request for Proposals (“RFP”) dated October 18, 2023 for street front retail at 2 Broadway. This unit was previously occupied by Nine West until January 31, 2017, and has since been vacant having had several unsuccessful RFP’s. Starbucks, who has been the current tenant at 2 Broadway since September 1, 2003, was the sole proposer. Starbucks proposed an initial rent payment of \$113.51 psf for the relocation to the vacant unit, which is in line with their current rent payment of \$118.51 psf.

One (1) proposal was received, and the proposal is summarized below:

<b>Proposer Name</b>	<b>Present Value at 6%</b>
Starbucks	\$ 1,289,376.38

Starbucks Corporation is an American multinational chain of coffeehouses and roastery reserves headquartered in Seattle, Washington, and the world's largest coffeehouse chain. As of November 2022, the company had 36,000+ stores in 80 countries, 17,068 of which were located in the United States. Starbucks Corporation has very good credit and sufficient financial resources to successfully complete the required improvements and compensation obligations.

MTA Real Estate obtained an independent appraisal in September 2023 to determine the market rental value of the Premises and the appraised value was \$130.00 psf. While Starbucks was below this appraisal value, the overall financials and concept were the best choice for the space, there were no other proposers, and the MTA is able to maintain a valuable amenity and national brand for 2 Broadway.

Based on the foregoing, MTA Real Estate is requesting authorization to enter into a lease agreement on behalf of the MTA with Starbucks Corporation for the operation of a retail unit at MTA's 2 Broadway.

# Staff Summary

<b>Subject</b> <b>LICENSE AGREEMENT WITH CC VENDING INC. FOR VENDING USES AT VARIOUS NYCT STATIONS, NEW YORK</b>
<b>Department</b> <b>REAL ESTATE</b>
<b>Department Head Name</b> <b>DAVID FLORIO</b>
<b>Department Head Signature</b>
<b>Project Manager Name</b> <b>RAYMOND SMYTH</b>

<b>Date</b> <b>JULY 31, 2024</b>
<b>Vendor Name</b>
<b>Contract Number</b>
<b>Contract Manager Name</b>
<b>Table of Contents Ref. #</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	07/29/24	X		
2	Board	07/31/24	X		

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

**AGENCY:** MTA New York City Transit (“NYCT”)  
**LICENSEE:** CC Vending, Inc.  
**LOCATIONS:** 24 NYCT Stations – See Exhibit A attached.  
**LICENSED AREAS:** 28 Licensed Areas - See Exhibit A attached.  
**USE:** Operation and maintenance of vending machines  
**ACTION REQUESTED:** Approval to enter into a license agreement with CC Vending, Inc.  
**TERM:** Five (5) years and one five (5) year option term  
**COMPENSATION:**

License Year	Rent	Escalation
1	\$ 102,500.00	N/A
2	\$ 102,500.00	N/A
3	\$ 102,500.00	N/A
4	\$ 102,500.00	N/A
5	\$ 102,500.00	N/A

**COMMENTS:**

MTA Real Estate issued a Request for Proposals (“RFP”) on April 28, 2023, seeking qualified operators to provide services consisting of furnishing, installing, stocking, maintaining, managing, and operating vending machines at a total of thirty-five (35) locations (individually “Location,” and collectively the “Locations”) within various NYCT stations. The RFP sought proposals for a wide range of automated vending uses, including but not limited to retail merchandise, technology products, health and beauty products, and convenience items. Additionally, food and beverage vending concepts—such as fresh food, prepackaged food, and coffee— were permitted. Non-automated retail concepts, including travel convenience, coffee shops, and florists, were included as well. Proposals that contained a portion of Locations offered in the RFP were also accepted.

## FINANCE COMMITTEE MEETING LICENSE AGREEMENT WITH CC VENDING INC. FOR VENDING USES AT VARIOUS NYCT STATIONS, NEW YORK (Cont'd)

A total of four (4) proposals were received for a total of twenty-eight (28) locations at twenty-four (24) of the stations. Upon review of the proposals, MTA Real Estate requested a Best and Final Offer (“BAFO”) from three (3) of the (4) proposers; CC Vending, ESolutions and Breno Donatti. Upon review of the proposal submissions, the MTA will award twenty- four (24) Locations containing twenty-eight (28) Licensed Areas to CC Vending, Inc. in the interest of maximizing guaranteed revenue to the MTA and ultimately activating as many Locations as possible.

The financial proposal and proposed automated retail concept successfully meet the objectives outlined in the RFP. The MTA anticipates the Licensee’s commitment to providing unique high quality automated retail options that will produce an optimal level of service to commuters and passengers.

The Licensee intends to install, operate, and maintain cashless automated vending machines selling various snacks, beverages, pre-packaged food, sundry and electronic items. The products initially offered will be curated based on the Licensee’s most popular selections from similar operations in New York City and will be tested and modified based on consumer preferences. The Licensee, under terms of the agreement, has the ability to add additional vending concepts, such as Just Baked Machines which sell hot and cold prepared meals. Additionally, the Licensee will have the opportunity to add additional automated vending machines at other NYCT stations throughout the course of the Term. All current Locations and Licensed Areas were approved by NYCT, and any future Locations and Licensed Areas will also be subject to NYCT approval.

The Licensee will be converting former low-revenue newsstands into automated vending operations at some of the Locations. Existing newsstands at many of the Locations will be demolished and cleared away as necessary by NYCT and will be delivered to the Licensee in as-is condition. The Licensee will be responsible for all required and any optional improvements, including but not limited to façade design, life safety upgrades and ensuring that all fixtures and appurtenances are ADA compliant. The Licensee anticipates making an initial investment of approximately \$801,528.00 to cover the total cost of improvements across all Locations.

Throughout the term, the Licensee will be responsible for ongoing maintenance and necessary repairs to the Licensed Areas. Timely repairs will be required to keep the Licensed Areas and machines in good working condition. To meet NYCT safety requirements, vending machines will be installed with a front façade effectively inhibiting access from above and behind. Machines will be securely bolted to the ground and shielded by protective glass. Moreover, route personnel will be directed to deliver products as needed, monitor overall security, and track the performance of assets. This will be complemented by regular visits to site locations and support for day-to-day management activities, ensuring the smooth operation and maintenance of these installations. Additionally, the Licensee will be responsible for ensuring quality merchandise, complying with safety, sanitation, business practices, and regulations.

The proposed annual Minimum Annual Guaranteed (“MAG”) compensation is as listed in the table above, with a 14% revenue share on total gross sales over \$1,000,000.00. The Term of the agreement and commencement date of the MAG will be the date upon which the last machine is installed. In the interim, the Licensee will be required to pay compensation as a percentage of gross receipts on every machine activated. The proposed compensation is in line with current market rates based on the sales reports for existing vending tenancies in the MTA system. In addition, should the Licensee secure exclusive branding with other companies, there will be a 20% profit share with NYCT and a \$47,500.00 upfront signing bonus. The Net Present Value (NPV) without improvements for the proposed term calculated at a 6% discount rate for all proposals are as follows:

Proposer Name	NPV w/o Improvements @ 6%
CC Vending Inc.	\$431,767.29
ESolutions	\$143,384.40
Breno Donatti	\$13,340.26
Travel Mobile LLC	\$6,102.36



**FINANCE COMMITTEE MEETING  
LICENSE AGREEMENT WITH CC VENDING INC. FOR VENDING USES AT VARIOUS NYCT STATIONS,  
NEW YORK (Cont'd)**

Page 3 of 3

Pursuant to the RFP, The MTA reserves the right to add or take back Locations and their associated Licensed Areas at their sole discretion at any time, which may require an adjustment to the MAG. As such, any future adjustments may be presented as an Information Item to the MTA Board at a future date.

Based on the foregoing, MTA Real Estate requests authorization to enter into a license agreement on behalf of NYCT with CC Vending, Inc. under the above-described terms and conditions.

## **Exhibit A**

### **NYCT Vending RFP Station Offerings**

The MTA reserves the right to add and/or remove additional stations or locations at its sole discretion.

1. South Ferry Station
2. Wall Street Station
3. Canal St Station (Two (2) locations)
4. Prince St Station
5. Chambers St Station (7<sup>th</sup>)
6. Christopher St Station
7. Grand St Station
8. 8 Street – New York University Station (Two (2) locations)
9. 23<sup>rd</sup> St – Broadway Station
10. 23<sup>rd</sup> St – Lexington Av Station (Downtown)
11. 2<sup>nd</sup> Ave Station (F Line)
12. 5<sup>th</sup> Av Station (Two (2) locations)
13. 86<sup>th</sup> St – Broadway Station
14. 86<sup>th</sup> St – Lexington Av Station
15. 96<sup>th</sup> St – Lexington Av Station
16. 116<sup>th</sup> St and Lexington Avenue Station
17. 125<sup>th</sup> St and Lenox Avenue Station
18. Dekalb Av Station
19. Brooklyn Bridge – City Hall Station
20. Atlantic Ave – Barclays Ctr Station
21. Jamaica – 179<sup>th</sup> St Station
22. Flushing – Main St Station (Two (2) locations)
23. Woodhaven Blvd Station
24. 61 – St Woodside Station

# Staff Summary

<b>Subject</b> <b>LICENSE AGREEMENT WITH WELLS FARGO BANK, N.A. FOR ATMS AT 34 ST HERALD SQUARE, 14 ST- UNION SQUARE, GUN HILL ROAD AND JACKSON HEIGHTS – ROOSEVELT AVENUE/74TH ST STATION</b>
<b>Department</b> <b>REAL ESTATE</b>
<b>Department Head Name</b> <b>DAVID FLORIO</b>
<b>Department Head Signature</b>
<b>Project Manager Name</b> <b>RAYMOND SMYTH</b>

<b>Date</b> <b>JULY 31, 2024</b>
<b>Vendor Name</b>
<b>Contract Number</b>
<b>Contract Manager Name</b>
<b>Table of Contents Ref. #</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	07/29/24	X		
2	Board	07/31/24	X		

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

AGENCY: MTA New York City Transit (“NYCT”)  
 LICENSEE: Wells Fargo Bank, N.A. (“Wells Fargo”)  
 LOCATIONS: 14 St – Union Square Station (2 locations)  
 34 St – Herald Square Station  
 Gun Hill Road Station  
 Jackson Heights – Roosevelt Avenue/74<sup>th</sup> Street Station

LICENSED AREAS: Five (5) NYCT designated areas within the Locations

USE: Operation and maintenance of automated teller machines (“ATM” s)

ACTION REQUESTED: Approval to enter into a license agreement with Wells Fargo

TERM: Five (5) years and two (2) three-year option terms

COMPENSATION:	License Year	Rent	Escalation
	1	\$ 96,000.00	N/A
	2	\$ 96,000.00	N/A
	3	\$ 96,000.00	N/A
	4	\$ 96,000.00	N/A
	5	\$ 96,000.00	N/A

## FINANCE COMMITTEE MEETING

### LICENSE AGREEMENT BETWEEN NEW YORK CITY TRANSIT AND WELLS FARGO BANK, N.A. FOR ATMS AT 14 ST – UNION SQUARE STATION, 34 ST – HERALD SQUARE STATION, GUN HILL ROAD STATION, JACKSON HEIGHTS – ROOSEVELT AVENUE/74TH STREET STATION (Cont'd)

Page 2 of 2

#### COMMENTS:

MTA Real Estate issued a Request for Proposals (“RFP”) on April 28, 2023, seeking qualified operators to provide services consisting of furnishing, installing, stocking, maintaining, managing, and operating vending machines at a total of thirty-five (35) locations (individually “Location,” and collectively the “Locations”) within various NYCT stations. The RFP sought proposals for a wide range of automated vending uses, including but not limited to retail merchandise, technology products, health and beauty products, and convenience items. Additionally, food and beverage vending concepts such as fresh food, prepackaged food, and coffee were permitted. Non-automated retail concepts, including travel essentials, coffee shops, and florists, were included as well. Proposals that contained more than one package comprised of multiple Locations offered in the RFP were also accepted.

A total of five (5) proposals were received for four (4) of the Locations, including 14 St – Union Square Station, 34 St – Herald Square Station, Gun Hill Road Station, and Jackson Heights – Roosevelt Avenue/74th Street Station. Upon review of the proposals, MTA Real Estate requested a Best and Final Offer (“BAFO”) from four (4) of the five (5) proposers; Wells Fargo, CC Vending, ESolutions and Breno Donatti. Upon review of the proposal submissions, the MTA will award the Locations to Wells Fargo in the interest of maximizing guaranteed revenue to the MTA and ultimately activating as many Locations as possible. Their financial proposal and proposed ATM concept successfully meet the objectives outlined in the RFP and given their proven history of providing high quality operations as an MTA tenant across multiple agency portfolios, the MTA anticipates the Licensee’s commitment to producing an optimal level of service to commuters and passengers.

The Licensee intends to install, operate, and maintain five (5) ATMs at the aforementioned Locations. The Licensed Areas will be delivered to the Licensee in as-is condition, and the Licensee will be responsible for all required and any optional improvements, including but not limited to fire life safety upgrades and ensuring that all fixtures and appurtenances are ADA compliant.

Throughout the term, the Licensee will be responsible for ongoing maintenance and necessary repairs at the Licensed Areas. Timely repairs, whether routine or extensive, will be required to keep the Licensed Areas and ATMs in good working condition. To meet NYCT requirements, ATM’s will be installed with a front opening at all Locations, effectively inhibiting access from above and behind and be securely bolted to the ground for freestanding locations. Additionally, round-the-clock surveillance will be implemented to ensure their safety and security.

The proposed compensation over the course of a five (5) year term for the Locations combined is as listed in the table above. The Licensee has also requested two (2) additional three (3) year option terms, each including a ten percent (10%) rent increase upon exercise. The Net Present Value (NPV) without improvements for the proposed term is \$404,386.92, calculated at a 6% discount rate. See NPV figures for all proposals listed below:

Proposer Name	NPV w/o Improvements @ 6%
Wells Fargo	\$404,386.92
CC Vending Inc.	\$58,384.40
ESolutions	\$47,797.09
Breno Donatti	\$2,966.85
Travel Mobile LLC	\$6,102.36

Pursuant to the RFP, The MTA reserves the right to request the Licensee to add additional locations throughout the NYCT network or take back Locations at their sole discretion at any time, which may require an adjustment to the compensation. As such, any future adjustments may be presented as an Information Item to the MTA Board at a future date.

Based on the foregoing, MTA Real Estate requests authorization to enter into a license agreement on behalf of NYCT with Wells Fargo under the above-described terms and conditions.

# Staff Summary

<b>Subject</b> <b>AMENDMENT OF LEASE WITH GREATER JAMAICA DEVELOPMENT CORP FOR A RELOCATED JAMAICA BUS TERMINAL</b>
<b>Department</b> <b>REAL ESTATE</b>
<b>Department Head Name</b> <b>DAVID FLORIO</b>
<b>Department Head Signature</b>
<b>Project Manager Name</b> <b>RAYMOND SMYTH</b>

<b>Date</b> <b>JULY 31, 2024</b>
<b>Vendor Name</b>
<b>Contract Number</b>
<b>Contract Manager Name</b>
<b>Table of Contents Ref. #</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	07/29/24	X		
2	Board	07/31/24	X		

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

**AGENCY:** MTA New York City Transit (“NYCT”) and MTA Bus Company (“MTA Bus”)  
**LESSOR:** Greater Jamaica Development Corp (“GJDC”)  
**LOCATION:** Block 9800, Lot 5, Queens NY  
**PREMISES:** Approximately 84,500 SF lot  
**USE:** Bus terminal in support of NYCT and MTA Bus operations (as well as Nassau County Bus operations operated by Nassau Inter-County Express aka “NICE”)  
**ACTION REQUESTED:** Amendment of terms of Lease with JFP to allow for partial payment of broker commission  
**TERM:** Five (5) years with five (5) one-year options  
**CONSTRUCTION PERIOD RENT:** \$39,001.35 per month (six to nine months)  
**ANNUAL BASE RENT:** \$1,468,016.20 with 2.5% annual increases  
**ADDITIONAL COST:** \$200,000.00

**COMMENTS:**

Jamaica Bus Terminal (“JBT”) is currently located at the intersection of 89th Avenue and Merrick Boulevard in Queens, New York. NYCT, MTA Bus, and NICE Bus) actively conduct operations at this location. The current lease for this property expired in September 2023 and was extended through December 2024. The property was recently sold to a developer and is anticipated to become a mixed-use development. Therefore, an alternative location is required in order to ensure bus operations can continue uninterrupted.

In January 2023, the MTA Board approved a lease for an alternative site for JBT located at 90-01 168<sup>th</sup> Street (Block 9800, Lot 5) in Queens, NY. Subsequently, use of the location as an alternative site was changed. A new bus terminal is planned within the mixed use development on the present site. The lease in Greater Jamaica Development Corp will be temporary.

Throughout lease negotiations, GJDC expressed concerns about the broker commission they would be responsible for approximately \$412,000 for the initial five-year term. The commission customarily paid for by a landlord was not in GJDC pro forma. As such it did not financially plan for it.

## FINANCE COMMITTEE MEETING

### AMENDMENT OF LEASE WITH GREATER JAMAICA DEVELOPMENT CORP FOR A RELOCATED JAMAICA BUS TERMINAL (cont'd)

Page 2 of 2

While the lease is fully negotiated and finalized, GJDC is now requesting, prior to its execution of the lease, financial participation by MTA and Nassau County in the amount of \$200,000, the "Additional Cost", toward the broker commission.

MTA would advance the full \$200,000 with the expectation that, subject to agreement with Nassau County and approval by the Nassau County legislature, MTA would thereafter be reimbursed through the sublease with Nassau County up to \$100,000 of the Additional Cost by amortizing such amount through additional sublease rent over the first five years of the term of the sublease.

Any further delay in the execution of the lease will (i) increase the MTA's costs related to the operation of JBT, including a substantial escalation of rent at the current site through the end of 2024 and (ii) if such delay causes a delay in relocating from the existing location at 89<sup>th</sup> Avenue, subject MTA to potential consequential damages incurred by the current 89<sup>th</sup> Avenue landlord. In addition, the proposed contribution by the MTA (after reimbursement by Nassau County) represents less than 25% of the total broker commission despite MTA's occupancy of approximately 65% of the total bus bays at JBT. There are no available alternative locations that meet the operational requirements of NYCT and MTA Bus. Should bus operations be required to vacate the current site without and this subject Lease not be completed, bus operations would be shifted to the local streets at an estimated cost of \$500,000 per month.

In the interest of finalizing the lease with GJDC and minimizing the financial and operational impacts to the MTA, MTA Real Estate requests authorization to provide the \$200,000 payment to GJDC to reimburse a portion of the broker commission.

# Staff Summary

<b>Subject</b> <b>LEASE AGREEMENT WITH BAGEL TRAIN BREWSTER LLC. FOR RETAIL SPACE AT THE BREWSTER STATION AT 9 MAIN STREET, BREWSTER, NY</b>
<b>Department</b> <b>REAL ESTATE</b>
<b>Department Head Name</b> <b>DAVID FLORIO</b>
<b>Department Head Signature</b>
<b>Project Manager Name</b> <b>JASON ORTIZ</b>

<b>Date</b> <b>JULY 31, 2024</b>
<b>Vendor Name</b>
<b>Contract Number</b>
<b>Contract Manager Name</b>
<b>Table of Contents Ref. #</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Metro-North	07/29/24		X	
2	Finance Committee	07/29/24	X		
3	Board	07/31/24	X		

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

**AGENCY:** MTA Metro-North Railroad ("MNR")  
**LESSEE:** Bagel Train Brewster LLC ("The Bagel Train")  
**LOCATION:** Brewster Station Building, Brewster, New York ("Station")  
**PREMISES:** Station building totaling approximately 1,450 sf plus 70 SF detached kiosk  
**USE:** Operation of a full-service coffee, bagel, and sandwich shop  
**ACTION REQUESTED:** Authorization to enter into a lease agreement  
**TERM:** Ten (10) years  
**RENT:** \$172,432.74 NPV at 6% for the 10 year term, with 2% annual escalations.

Years	Annual Rent	PSF	Escalation
Year 1	\$21,600.00	\$14.21	--
Year 2	\$22,032.00	\$14.94	2%
Year 3	\$22,472.64	\$14.78	2%
Year 4	\$22,922.09	\$15.08	2%
Year 5	\$23,380.53	\$15.38	2%
Year 6	\$23,848.15	\$15.68	2%
Year 7	\$24,325.11	\$16.00	2%
Year 8	\$24,811.61	\$16.32	2%
Year 9	\$25,307.84	\$16.64	2%
Year 10	\$25,814.00	\$16.98	2%

## FINANCE COMMITTEE MEETING

### LEASE AGREEMENT WITH BAGEL TRAIN BREWSTER LLC. FOR RETAIL SPACE AT BREWSTER STATION, 9 MAIN STREET, BREWSTER, NY (Cont'd)

#### COMMENTS:

MTA Real Estate issued a Request For Proposals (“RFP”) dated June 21, 2023, covering one (1) retail station building plus a detached taxi kiosk at the Brewster Station in Brewster, NY. The Station is currently vacant and was previously occupied by the Dining Car at Brewster Station, Inc., and the kiosk was previously occupied by Express Taxi, Inc.

Three (3) proposals were received, and the proposals are summarized below:

Proposer Name	Present Value at 6%
Anna and Pierre’s Cafe	\$213,338.15
Taqueria 3 Stars	\$200,087.13
The Bagel Train	\$172,432.74

MTA Real Estate has conducted a thorough review of all proposals and held interviews with the proposers. While the highest proposal came from Anna and Pierre’s café, they lack experience in operating a coffee shop or any other retail business. Additionally, the principal has not secured funds for the proposed build-out. Similarly, the second highest proposer, Taqueria 3 Stars, has no business plan, no current operating locations, and no demonstrated financial capabilities to cover the premises' improvements or the ten-year rent payment obligation.

MTA Real Estate found Mr. Matt Camerino and Jac Zadrina of The Bagel Train to be the most compelling overall. Mr. Camerino has over 15 years of experience in the restaurant industry, owning, managing, and operating numerous food and beverage retail locations. Mr. Jac Zadrina, with 30 years of experience in real estate investment, serves as the financial arm of the partnership and an investor in Mr. Camerino’s restaurant ventures. Additionally, Mr. Camerino and Mr. Zadrina currently own and operate two food and beverage establishments in Highland Falls, NY: Highland Social at 8 Schneider Avenue and Grandma's Bagels and Pizza at 265 Main Street. The lease will allow for a future sublease of the kiosk, at the sole discretion and approval of MTA Real Estate.

Credit and background investigations performed on Mr. Matt Camerino and Mr. Jac Zadrina discovered no evidence of criminal conviction history, or other issues connected with the individuals. Mr. Zadrina has very good credit and has demonstrated sufficient financial resources to successfully complete the required improvements and compensation obligations.

MTA Real Estate obtained an independent appraisal in May 2023 to determine the market value for the retail at the Station and the appraised value was \$26,900.00 per annum. While The Bagel Train was below this appraisal value, it had the best overall proposal including restaurant concept, restaurant experience, and financial capability.

Based on the foregoing, MTA Real Estate requests authorization to enter into a lease agreement on behalf of MNR with Bagel Train Brewster LLC for the operation of a full-service café and sandwich shop at the Brewster Station building.



# Staff Summary

<b>Subject</b> <b>ACQUISITION OF 3876-3880 PARK AVENUE FROM 1049 OGDEN REALTY CO., LLC IN CONNECTION WITH THE MNR CLAREMONT SUBSTATION PROJECT IN THE BRONX, NY</b>
<b>Department</b> <b>REAL ESTATE</b>
<b>Department Head Name</b> <b>DAVID FLORIO</b>
<b>Department Head Signature</b>
<b>Project Manager Name</b> <b>JASON ORTIZ</b>

<b>Date</b> <b>JULY 31, 2024</b>
<b>Vendor Name</b>
<b>Contract Number</b>
<b>Contract Manager Name</b>
<b>Table of Contents Ref. #</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Metro-North	07/29/24		X	
1	Finance Committee	07/29/24	X		
2	Board	07/31/24	X		

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

**AGENCY:** MTA Metro-North Railroad (“MNR”)  
**SELLER:** 1049 Ogden Realty Co., LLC  
**LOCATION:** 3876-3880 Park Avenue, Bronx, NY 10457  
**PREMISES:** Entire lot consisting of 7,530± square feet and entire industrial building consisting of 17,955± square feet  
**USE:** Demolition of existing vacant building and construction of a new electrical substation  
**ACTION REQUESTED:** Authorization to enter into contract of sale for purchase of the Premises and to purchase the Premises pursuant thereto  
**PURCHASE PRICE:** \$2,250,000

**COMMENTS:**

MNR is proceeding with the Claremont Substation Project (the “Project”) in order to strengthen the traction power system on the Harlem Line. Existing equipment at substations in the adjacent Melrose and Tremont neighborhoods are overloaded and located too far apart to provide the necessary power. The Project’s objective/benefit is to build a new substation in Claremont to increase the load capacity of the traction power system to improve MNR’s service reliability. The Project includes the construction of a new substation and the associated installation of feeders to the existing third rail and local utility infrastructure.

In connection with the Project, the MTA is seeking to acquire the Premises. In July 2023, the MTA Board authorized MTA Real Estate to proceed with this acquisition by negotiated agreement or condemnation, with the terms of any negotiated agreement subject to further Board approval. In May 2024, the MTA Board approved the Determination and Findings and authorized MTA staff and counsel to pursue eminent domain proceedings to acquire the required property interests by eminent domain, if necessary.

MTA Real Estate has maintained negotiations with the Seller since the completion on November 27, 2023 of an independent appraisal of the property, MTA Real Estate and the Seller have reached a preliminary agreement for the MTA to acquire the property in lieu of condemnation at the asking price of \$2,250,000 which is in line with the fair market value established by the appraisal.

# Staff Summary

## FINANCE COMMITTEE MEETING

### ACQUISITION OF 3876-3880 PARK AVENUE FROM 1049 OGDEN REALTY CO., LLC IN CONNECTION WITH THE MNR CLAREMONT SUBSTATION PROJECT IN THE BRONX, NY (cont'd)

Page 2 of 2

Based on the foregoing, MTA Real Estate is requesting authorization to enter into a contract of sale with 1049 Ogden Realty Co., LLC and acquire the Premises pursuant to such contract on the above terms and conditions.

# Staff Summary

<b>Subject</b> <b>LICENSE AGREEMENT BETWEEN THE LIRR AND CONSOLIDATED EDISON FOR VACANT LAND ON LIRR PROPERTY ADJACENT TO THE FREIGHT LINE IN BROOKLYN, NY</b>
<b>Department</b> <b>REAL ESTATE</b>
<b>Department Head Name</b> <b>DAVID FLORIO</b>
<b>Department Head Signature</b>
<b>Project Manager Name</b> <b>XAVIER CARRERA</b>

<b>Date</b> <b>JULY 31, 2024</b>
<b>Vendor Name</b>
<b>Contract Number</b>
<b>Contract Manager Name</b>
<b>Table of Contents Ref. #</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Finance Committee	07/29/24	X		
2	Board	07/31/24	X		

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

**AGENCY:** MTA Long Island Rail Road (“LIRR”)  
**LICENSEE:** Consolidated Edison (“Con Edison”)  
**LOCATION:** Vacant land adjacent to the LIRR freight line, at 789 E 91<sup>st</sup> Street, Brooklyn, NY  
**LICENSED AREA:** Approximately eight thousand square (8,000) feet.  
**USE:** Storage, staging, and mobile office space for the support of Con Edison’s new electrical substation.  
**TERM:** Five (5) years with three (3) one (1) year renewal options, totaling an eight (8) year term.  
**ACTION REQUESTED:** Authorization to enter into a license for the Licensed Area  
**COMPENSATION:** \$5.00 per square foot OR \$40,000 per year and a 10% escalation after the fifth year.

**COMMENTS:**

Con Edison purchased property located at 789 East 91st Street in Brooklyn, New York, which Con Edison intends to demolish in order to build a new electrical substation on the lot. Con Edison approached the LIRR and MTA Real Estate requesting the use of the LIRR lot adjacent to 789 East 91st Street. The lot is leased to the New York and Atlantic Railroad (“NYAR”) and is currently vacant and not in use by either the LIRR or NYAR. Con Edison plans to use the lot for storage, staging, and mobile office space for the support of the construction of Con Edison’s new electrical substation. The new electrical substation construction is expected to be completed in approximately five to eight years.

The proposed compensation falls within the competitive range which is \$2.50 to \$5.00 per square foot as determined by an independent Broker’s Opinion of Value.

Based on the foregoing, MTA Real Estate requests authorization to enter into a license, on behalf of the LIRR, with Con Edison under the above-described terms and conditions.