



Niagara Frontier Transportation Authority

June 6, 2019

Mr. Robert Graber
Clerk
Erie County Legislature
92 Franklin Street
Buffalo, New York 14202

Re: NFTA Board Minutes

Dear Mr. Graber:

Enclosed for your information and files please find a copy of the approved Minutes and Attendance from the Niagara Frontier Transportation Authority's Annual Board Meeting held on April 25, 2019.

Very truly yours,

A handwritten signature in blue ink, appearing to read "LFlynn", is written over the typed name.

Lisa Flynn
Assistant to David J. State
General Counsel

Enclosure

**NIAGARA FRONTIER TRANSPORTATION AUTHORITY
 NIAGARA FRONTIER TRANSIT METRO SYSTEM, INC.
 ANNUAL BOARD MEETING
 APRIL 25, 2019 12:30 PM
 MINUTES**

1. ANNUAL BOARD MEETING - April 25, 2019 - MINUTES	
A. CALL TO ORDER	3
B. APPROVAL OF MINUTES (March 28, 2019)	
C. EXECUTIVE DIRECTOR'S REPORT	4
2. NFTA CORPORATE REPORT	5
A. Audit, Governance and Finance Committee Report (Sister Denise Roche)	
B. Consolidated Financial (John Cox)	
C. Corporate Resolutions (Kim Minkel)	
1) Election of Officers, Niagara Frontier Transportation Authority	11
2) Election of Officers, Niagara Frontier Transit Metro System, Inc.	12
3) Mission Statement	13
4) Approval of 2019-2020 Investment Guidelines Policy for NFTA and NFT Metro System, Inc.	14
5) Approval of 2019/2020 NFTA Master Liability Management Policy	20
6) Approval of 2019/2020 Guidelines for Dispositions and Transfers of Capital and Non-Capital Assets, NFTA and NFT Metro System, Inc.	34
7) Approval of Procurement Guidelines for NFTA and NFT Metro System, Inc.	39
8) Authorization of Guidelines for Acquisitions and Dispositions of Real Property FY 2019/2020, NFTA and NFT Metro System, Inc.	78
9) Approval of 2019/2020 Travel Policy and Guidelines Policy for NFTA and NFT Metro System, Inc.	82
10) Authorization of NYSDOT Mass Transportation Capital Project Agreement, Contract No. K007406	94
11) Authorization for NYSDOT Multi-Modal Project Agreement, Contract D027637, BNIA	96
12) Authorization for Collective Bargaining Agreement, Assistant Fire Chiefs Association	97
13) Authorization for Procurement, Road Salt, NFTA and Metro	99
14) Authorization for Agreement, FirstLight, Engineering Services Support, NFTA	100
15) Authorization for Agreement, Doorway Mat Services, NFTA and Metro	101
16) Authorization for Agreement, Maintenance and Service for Elevators and Escalators, Metro	103
17) Authorization for Lease Agreement, Lamar Obie Company, LLC, 247 Cayuga Road, NFTA	106
3. AVIATION BUSINESS GROUP REPORT	107
A. Aviation Committee Report (Adam Perry)	
B. Business and Financial Update (Bill Vanecek)	
C. Aviation Resolutions (Kim Minkel)	

1) Authorization for Agreement, Airport Pavement Maintenance, BNIA	110
2) Authorization for Agreement, Airport Pavement Maintenance, NFIA	112
4. SURFACE TRANSPORTATION BUSINESS GROUP REPORT	114
A. Surface Transportation Committee Report (Bonita Durand)	
B. Business and Financial Update (Tom George)	
C. Surface Transportation Resolutions (Kim Minkel)	
1) Authorization for Supplemental Agreement No. 1, Mott MacDonald NY, Inc. and Change Order No. 1, voestalpine Nortrak, DL&W Station, LRRT	117
2) Authorization for Agreement, City of Niagara Falls, Seasonal Trolley Service, Metro	120
3) Authorization for Agreement, “K” Program Kits, Metro	121
4) Authorization for Agreement, Niagara Frontier Urban Freight Transportation Study Update, GBNRTC	122
5. GENERAL COUNSEL REPORT (David State)	
6. EXECUTIVE SESSION	
7. ADJOURNMENT	124

1. **CALL TO ORDER**

A. **Meeting Called to Order**

The Chair called the meeting to order at approximately 12:34 p.m.

B. **Approval of Attendance and Minutes of the NFTA Regular Board Meeting held on March 28, 2019**

It was moved by Commissioner Aul, seconded by Commissioner Demakos, that the Attendance and Minutes of the March 28, 2019 Regular Meeting of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc., be accepted and approved.

AYES: ROCHE, DEMAKOS, GURNEY, AUL, ANSARI, HICKS, PERRY

NOES: NONE

ADOPTED

C. Executive Director Report

Executive Director Kimberley Minkel advised the Board that TAPD Senior Investigator Chris DiPasquale will be recognized by the Erie County Law Enforcement Foundation on May 16th at Eckl's at Larkin and BNIA Customer Care Superintendent Beverly Halligan has been nominated for a Beacon Award. The Executive Director acknowledged Beverly's role in helping secure the J.D. Power Number 1 ranking in customer service at BNIA. She informed the Board that a S.I.D.A. badge training course would be offered after the Board meeting. She also invited the Board to a groundbreaking ceremony at BNIA on Thursday, May 9th at 10:00 am for the terminal enhancement project.

The Executive Director informed the Board that their NFTA Board self-evaluation survey is due next month and will be reviewed in Executive Session at the May Board meeting. She also commended Public Transit Director Thomas George and Metro employees, particularly front line operators and noted complaints are down 21% and more notably commendations are up 51% . Two years ago a survey by GBNRTC showed a customer satisfaction of 90%, so this is further customer service improvement within Metro.

- 2. NFTA CORPORATE REPORT**
 - A. Audit, Governance and Finance Committee Report
 - B. Consolidated Financial
 - C. Corporate Resolutions

**NFTA/METRO
Financial Highlights
FYE 19**

	MARCH				FYE 19			
	Budget	Actual	Fav/(Unfav) Variance	% Var	Budget	Actual	Fav/(Unfav) Variance	% Var
OPERATING REVENUES AND ASSISTANCE								
Metro Passenger Fares	3,412,976	3,266,668	(146,308)	-4.3%	37,187,958	35,822,568	(1,365,390)	-3.7%
BNIA Concessions/Commissions	2,448,320	2,370,259	(78,061)	-3.2%	26,709,817	28,468,669	1,758,852	6.6%
Erie County Sales Tax	1,620,179	1,714,770	94,591	5.8%	20,691,889	21,180,371	488,482	2.4%
Mortgage Tax	665,167	740,114	74,947	11.3%	10,423,432	10,137,040	(286,392)	-2.7%
OPERATING EXPENSES								
Salaries & Overtime (excluding sick leave incentive, vacation accrual, etc.)	7,606,937	7,462,003	144,934	1.9%	91,394,091	90,125,649	1,268,442	1.4%
Transit Fuel/Power	466,586	375,016	91,570	19.6%	4,879,439	4,960,578	(81,139)	-1.7%
Utilities	322,194	405,819	(83,625)	-26.0%	4,932,856	4,926,467	6,389	0.1%
Insurance & Injuries	365,197	568,021	(202,824)	-55.5%	4,290,415	4,815,720	(525,305)	-12.2%

Corporate Resolutions

1. Election of Officers, Niagara Frontier Transportation Authority
2. Election of Officers, Niagara Frontier Transit Metro System, Inc.
3. Adoption of Mission Statement, Niagara Frontier Transportation Authority
4. Approval of 2019-2020 Investment Guidelines Policy for NFTA and NFT Metro System, Inc.
5. Approval of 2019-2020 NFTA Master Liability Management Policy
6. Approval of 2019-2020 Guidelines for Dispositions and Transfers of Capital and Non-Capital Assets, NFTA and NFT Metro System, Inc.
7. Approval of Procurement Guidelines for NFTA and NFT Metro System, Inc.
8. Approval of Guidelines for Acquisitions and Dispositions of Real Property for FY 2019-2020, Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc.
9. Approval of 2019-2020 Travel Policy and Guidelines Policy for NFTA and NFT Metro System, Inc.
10. Authorization of NYSDOT Mass Transportation Capital Project Agreement, Contract No. K007406
11. Authorization for NYSDOT Multi-Modal Project Agreement, Contract D027637, BNIA
12. Authorization for Collective Bargaining Agreement, Assistant Fire Chiefs Association
13. Authorization for Procurement, Road Salt, NFTA and Metro
14. Authorization for Agreement, FirstLight, Engineering Services Support, NFTA
15. Authorization for Agreement, Doritex Corporation, Doorway Mat Services, NFTA and Metro
16. Authorization for Agreement, DCB Elevator Co., Inc., Maintenance and Service for Elevators and Escalators, Metro
17. Authorization for Lease Agreement, Lamar Obie Company, LLC d/b/a Lamar Transit Advertising, 247 Cayuga Road, NFTA

CORPORATE:

2. C. (i) Niagara Frontier Transportation Authority, Acceptance of Corporate Resolutions 2. C. (1) through 2. C. (2)

The Executive Director advised that Items 2. C. (1) through 2. C. (2) have been discussed with the Board of Commissioners of the NFTA, and the Board is unanimously in favor of all subject Resolutions. Whereupon, it was moved by Commissioner Ansari, seconded by Commissioner Aul that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 2. C. (1) through 2. C. (2) dated April 25, 2019 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: ROCHE, DEMAKOS, GURNEY, AUL, ANSARI, HICKS, PERRY

NOES: NONE

ADOPTED

CORPORATE:

2. C. (ii) Niagara Frontier Transportation Authority, Acceptance of Corporate Resolutions 2. C. (3) through 2. C. (9)

The Executive Director advised that Items 2. C. (1) through 2. C. (2) have been discussed with the Board of Commissioners of the NFTA, and the Board is unanimously in favor of all subject Resolutions. Whereupon, it was moved by Commissioner Demakos, seconded by Commissioner Hicks that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 2. C. (3) through 2. C. (9) dated April 25, 2019 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: ROCHE, DEMAKOS, GURNEY, AUL, ANSARI, HICKS, PERRY

NOES: NONE

ADOPTED

CORPORATE:

2. C. (iii) Niagara Frontier Transportation Authority, Acceptance of Corporate Resolutions 2. C. (10) through 2. C. (17)

The Executive Director advised that Items 2. C. (10) through 2. C. (17) have been discussed with the Board of Commissioners of the NFTA, and the Board is unanimously in favor of all subject Resolutions. Whereupon, it was moved by Commissioner Aul, seconded by Commissioner Demakos that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 2. C. (10) through 2. C. (17) dated April 25, 2019 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: ROCHE, DEMAKOS, GURNEY, AUL, ANSARI, HICKS, PERRY

NOES: NONE

ADOPTED

CORPORATE:

2. C. (1) Election of Officers, Niagara Frontier Transportation Authority

The By-Laws of the Niagara Frontier Transportation Authority provide for the annual election of officers, with the exception of the Chair, by vote of the Board of Commissioners.

The Chair has nominated and recommended that the Board elect Commissioner Demakos as the Vice Chairman; Commissioner Gurney as the Secretary and Commissioner Durand as the Treasurer.

Whereupon, it was moved by Commissioner Ansari, seconded by Commissioner Aul, and unanimously agreed, that the above nominations for the election of officers be accepted and nominations closed, and that the following resolution be adopted:

"RESOLVED, that the officers of the Niagara Frontier Transportation Authority for the period ending March 31, 2020, be and hereby are:

- Vice Chair Commissioner Demakos
- Secretary Commissioner Gurney
- Treasurer Commissioner Durand

CORPORATE:

2. C. (2) Election of Officers, Niagara Frontier Transit Metro System, Inc.

The By-Laws of the Niagara Frontier Transit Metro System, Inc. provide for the annual election of officers, with the exception of the Chair, by vote of the Board of Commissioners.

The Chair has nominated and recommended that the Board elect Commissioner Demakos as the Vice Chairman; Commissioner Gurney as the Secretary and Commissioner Durand as the Treasurer.

Whereupon, it was moved by Commissioner Ansari, seconded by Commissioner Aul, and unanimously agreed, that the above nominations for the election of officers be accepted and nominations closed, and that the following resolution be adopted:

"RESOLVED, that the officers of the Niagara Frontier Transit Metro System, Inc. for the period ending March 31, 2020, be and hereby are:

- Vice Chair Commissioner Demakos
- Secretary Commissioner Gurney
- Treasurer Commissioner Durand

CORPORATE:

2. C. (3) **Adoption of Mission Statement, Niagara Frontier Transportation Authority**

RECOMMENDATION: Staff recommends that the Board formally adopt the mission statement that was developed as part of the Niagara Frontier Transportation Authority's (NFTA) Strategic Plan.

INFORMATION: New York Public Authorities Law Section 2824-a requires each state public authority to develop and adopt a mission statement, and maintain the mission statement on its website. The NFTA's Mission Statement, as set forth below, has been unchanged since its formal adoption on March 22, 2010 and was last reviewed and approved by the Board in April 2018.

MISSION STATEMENT

The Niagara Frontier Transportation Authority is a multi-modal entity encompassing a skilled and dedicated workforce. We are firmly committed to providing safe, efficient and professional transportation services that enhance the quality of life in the Buffalo Niagara region in a manner consistent with the needs of our customers.

Aviation: serves as a catalyst for economic growth by maintaining cost effective, customer oriented, efficient airports to attract and retain comprehensive and competitive air transportation services.

Surface: enhance the quality of life of residents and visitors by providing the highest level of safe, clean, affordable, responsive, and reliable transportation through a coordinated and convenient bus and rail system.

Property: manage and develop the NFTA-owned real property to optimize the generation of self-supporting discretionary revenue to support our transportation businesses while fostering economic growth.

Support services: proactively provide high quality, coordinated, innovative, technological, cost-effective support service solutions for our internal and external stakeholders.

FUNDING: No funding is required.

"**RESOLVED**, that the Board hereby adopts the Mission Statement of the Niagara Frontier Transportation Authority, as set forth above."

CORPORATE:

2. C. (4) **Approval of FY 2019-2020 Investment Guidelines for the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc.**

RECOMMENDATION: Staff recommends that the Board approve the Investment Guidelines (Guidelines) for FY 2019-2020 for the Niagara Frontier Transportation Authority (NFTA) and its subsidiary, Niagara Frontier Transit Metro System, Inc. (Metro).

INFORMATION: The Guidelines were originally established in the early 1980s pursuant to New York State Public Authorities Law (PAL) Section 2925 and Investment Guidelines for Public Authorities, which were promulgated by the Office of the State Comptroller. The Guidelines, a copy of which are attached, have not been changed since they were reviewed and approved by the Board in April 2018.

FUNDING: No funding is required.

“**RESOLVED**, that the Board hereby approves the FY 2019-2020 Investment Guidelines, in the form attached hereto, for the NFTA and Metro.”

**2019/2020 - INVESTMENT GUIDELINES FOR
NIAGARA FRONTIER TRANSPORTATION AUTHORITY
AND ITS SUBSIDIARIES**

Section 1. Title

These guidelines shall be known as "Guidelines for Investment by the Niagara Frontier Transportation Authority and its Subsidiaries," hereafter referred to as the "Investment Guidelines".

Section 2. Purpose and Objectives

The purpose of the Investment Guidelines is to establish comprehensive guidelines which detail the operative policy and instructions to officers and staff of the Niagara Frontier Transportation Authority ("Authority") regarding the investing, monitoring and reporting of funds of the Authority and its subsidiary corporations in compliance with the Public Authorities Law Section 2925 and OSC Investment Guidelines for Public Authorities and State Regulations at 2 NYCRR Part 201.3.

The prime investment objectives are to:

- Minimize risk;
- Assure liquidity;
- Maximize interest earnings on a competitive basis.

Section 3. Definitions

- 1). "Authority" shall be defined to include the Niagara Frontier Transportation Authority as enacted by Section 1299 of the Public Authorities Law, and each subsidiary corporation thereof.
- 2). "Funds" shall be defined to include all monies and other financial resources available for investment by the Authority, on its own behalf, or on behalf of any other entity or individual. Funds shall not be defined to include Pension Funds which are separately administered pursuant to New York State and Federal Law.

Section 4. Annual Review and Approval

The Investment Guidelines shall be reviewed at least annually, amended as necessary and recommended by the Audit and Governance Committee for approval by the Authority's Board of Commissioners (the "Board").

Section 5. Permitted Investments

The following is a listing of the permitted investments, all of which are consistent with the appropriate provisions of law relating to the Authority and any additional requirements pursuant to any contract with bond and note holders:

- 1). Certificates of Deposit issued by a bank or trust company authorized to do business in New York State;
- 2). Time Deposit, Demand Deposit, and Money Market Accounts in a bank or trust company authorized to do business in New York State;
- 3). Obligations of the United States Government;
- 4). Obligations of New York State or any municipality or municipal corporation located therein;

- 5). Repurchase Agreements involving the purchase and sale of direct obligations of the United States Government.

Section 6. Diversification of Investments

Investments of the Authority shall be reasonably diversified, as shall firms with which the Authority transacts business. This section shall not be construed to mandate absolute diversification in the event that the Authority Board or its Executive Director on advice of the Chief Financial Officer considers, in a certain instance, that diversification is not in the best interest of the Authority. Diversification shall be reviewed quarterly with the Audit and Governance Committee with respect to type of investment and the allocation of investments among financial institutions. See attached example.

Section 7. Collateral.

- 1). Certificates of Deposit, Time Deposit, Demand Deposit, and Money Market Accounts shall be fully secured by insurance of the Federal Deposit Insurance Corporation (FDIC) and, when applicable, by obligations of the United States, or obligations of federal agencies, the principal and interest of which are guaranteed by the United States, or obligations of New York State or any municipality or municipal corporation located therein. Collateral shall be delivered to the Authority or a Custodial Bank with which the Authority has entered into a Security/Custodial Agreement, in accordance with General Municipal Law, §10.
- 2). Collateral shall not be required with respect to the direct purchase of obligations of New York State or any municipality or municipal corporation located therein, obligations of the United States, and obligations of federal agencies, the principal and interest of which are guaranteed by the United States Government.
- 3). The securities purchased under a Repurchase Agreement must be direct United States Government obligations. The purchase price should be the present market value of the securities and not the face value.
- 4). Securities purchased through a Repurchase Agreement shall be valued to market at least weekly.
- 5). The market value of the collateral shall equal the value of the investment and its accrued interest at all times. The recorded value of the collateral backing any investment shall be adjusted to market at the time of the initial investment, and thereafter at least monthly to be certain that the principal amount of the market value of collateral is at least 100% of the investment.
- 6). The security/custodial agreement shall provide that eligible securities (in compliance with Section 7, Paragraph 1), are being pledged to secure Authority deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the Authority to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the Authority, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Authority or its custodial bank.

The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for, the Authority, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency or revaluation of eligible

securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the Authority a perfected interest in the securities.

- 7). In the event the market value of the collateral is less than 99% of the value of the original investment and accrued interest, the financial institution at which the investment was placed will be required to immediately move additional collateral to the custodian in order to be in compliance with Section 7, Paragraph 4 of these guidelines.
- 8). Failure of the financial institution to correct this situation within one (1) business day upon notice by the Authority or its custodian, will result in the financial institution being held in default. Further, all investment activity with that financial institution will be suspended until the default is resolved.

Section 8. Delivery of Securities

- 1). Every Repurchase Agreement shall provide for payment to the seller only upon the seller's delivery of obligations of the United States to the Custodial Bank designated by the Authority, or in the case of a book-entry transaction, when the obligations of the United States are credited to the Custodian's Federal Reserve Bank account. The seller shall not be entitled to substitute securities without written approval of the Authority's Chief Financial Officer or his designee. The Custodial Bank shall confirm all transactions in writing to insure that the Authority's ownership of the securities is properly reflected on the records of the Custodial Bank.
- 2). Payment shall be made by or on behalf of the Authority for obligations of New York State, obligations the principal and interest of which are guaranteed by the United States, direct United States Obligations, certificates of deposit, and other purchased securities upon the delivery thereof to the custodial bank, or in the case of a book-entry transaction, when the purchased securities are credited to the Custodial Bank's Federal Reserve System account. All transactions shall be confirmed in writing.

Section 9. Written Contracts

Written contracts are required for Repurchase Agreements, Certificates of Deposit, and custodial undertakings. With respect to the purchase of obligations of United States, New York State, or other governmental entities, etc. in which monies may be invested, the interests of the Authority will be adequately protected by conditioning payment on the physical delivery of purchased securities to the Custodian's Federal Reserve System account. All purchases will be confirmed in writing to the Chief Financial Officer of the Authority, or her designee.

It is therefore, the policy of the Authority to require written contracts as follows:

- 1). Written contracts shall be required for all Repurchase Agreements. Only credit worthy banks and primary reporting dealers shall be qualified to enter into a Repurchase Agreement with the Authority. The written contract shall provide that only obligations of the United States may be purchased, and the Authority shall take delivery, through the Authority's custodian, of the purchased securities. No specific repurchase agreement shall be entered into unless a master repurchase agreement has been executed between the Authority and the trading partners.
- 2). Written contracts shall be required for the purchase of all Certificates of Deposit.
- 3). A written contract shall be required with the Custodial Bank.

Section 10. Financial Strength of Institutions

All financial institutions must be creditworthy. Prior to doing business with the Authority, credit rating agencies (Moody's, Fitch, or Standard and Poor's) will be used to determine their creditworthiness. Credit ratings will be updated and reviewed quarterly. In addition to the quarterly review of the credit ratings, the financial institution's annual reports must be submitted each year to the Authority's Chief Financial Officer or her designee for review and analysis.

Section 11. Operations

The Chief Financial Officer is hereby authorized to make all investment decisions, invest all Authority surplus funds and execute repurchase agreements and certificates of deposit on behalf of the Authority in line with these guidelines.

The aforementioned authorization may be delegated by the Chief Financial Officer to qualified representatives, who shall assume the duties relative to investment of Authority surplus funds subject to established internal controls including, but not limited to the following:

- 1). No single staff person shall both execute and authorize an investment transaction.
- 2). All transactions must be approved in writing, prior to execution of the transaction, by either the Chief Financial Officer, or qualified representatives.
- 3). All authorized investment transactions must be compiled, recorded and reviewed by the Chief Financial Officer, or qualified representatives by the end of each business day.

Oral directions concerning the purchase or sale of securities shall be confirmed in writing. The Authority shall pay for purchased securities upon the delivery, or book-entry, thereof.

Competition in the placing of investments will be implemented. If a telephone quote is the standard method of placing a form of investment, a complete and continuous record of all such quotes, solicited and received, must be maintained. Timeliness of response is critical. A minimum of three (3) separate quotes will be required on each purchase or sale of security, and shall be awarded to the highest bidder, net of fund's transfer charges incurred and other account fees.

Section 12 Standards for the Qualification of Investment Bankers, Brokers, Agents, Dealers and Other Investment Advisers and Agents Transacting Business With the Authority

The Authority shall transact business only with qualified, certified or licensed investment bankers, brokers, agents, dealers and other investment advisers and agents. The Authority staff, on the advice and consent of the Authority Board, shall consider the quality, reliability, experience, financial strength, size and any other factors which in the judgment of the Authority make an individual or firm qualified to transact business with the Authority.

Specifically, but without limitation, the following are considered qualified:

- 1). Brokers, agents, dealers, any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York (included in the then current "List of the Government Securities Dealers Reporting to the Market Reports Division of the Federal Reserve Bank of New York").
- 2). Investment Advisers - any bank or trust company organized under the laws of any state of the United States of America or any national banking association, and any firm or person which is: a). registered with the Securities and Exchange Commission under the Investment Adviser Act of 1940, and
b). registered with the New York State Secretary of State as an Investment Adviser, and

- c). is a member in good standing with the Investment Counsel Association of America.
- 3). Custodian - any bank or trust company organized under the laws of any state of the United States of America or any national banking association.

The Authority's policy regarding conflicts of interest shall be followed regarding the investment of funds. No Authority board member, senior Authority official, any officer or employee, is authorized to participate in the selection of institutions where the individual is an officer, a director or substantial stockholder.

Section 13. Amendments

The Authority shall have the power, from time to time, to amend the Investment Guidelines in accordance with the provisions of Section 2925 of the Public Authorities Law.

Section 14. Quarterly Reporting

The quarterly report or reports covering such other period as may be approved by the Board of Commissioners, shall be presented to the Audit, Governance and Finance Committee of the Board.

The quarterly report will include Investment Benchmark as follows:

- Certificate of Deposit - Average Interest Rate Awarded, Average Interest Rate Quoted and Wall Street Average;
- Repurchase Agreement - Average Interest Rate Awarded and Average Interest Rate Quoted;
- Government Secured Money Markets – Average Interest Rate and State Average
- Type of Investment Concentration
- Diversification of Investments

Section 15. Annual Report

The Authority shall annually prepare and approve an Annual Investment Report which shall include:

- the Investment Guidelines as then currently amended;
- amendments to the Investment Guidelines since the last investment report;
- the investment income records of the Authority;
- a list of the total fees, commissions or other charges paid to each investment banker, broker, agent, dealer and adviser rendering investment associated services to the corporation since the last investment report.
- the results of the annual independent audit, pursuant to Section 2925 of the Public Authority Law and the New York State Comptroller's Regulations 2 NYCRR Part 201. Such Annual Investment Report may be a part of any other annual report that the Authority is required to make.
- The Annual Report shall be submitted to the Office of the State Comptroller, the New York State Senate and Finance Committee and the Ways and Means Committee of the New York state Assembly. Each report shall be made available to the public upon reasonable request thereof.

Section 16. Effective Date

The Investment Guidelines shall be effective as of April 25, 2019.

CORPORATE:

2. C. (5) **Approval of FY 2019-2020 Niagara Frontier Transportation Authority Master Liability Management Policy**

RECOMMENDATION: Staff recommends that the Board approve the FY 2019-2020 Niagara Frontier Transportation Authority (NFTA) Master Liability Management Policy.

INFORMATION: The purpose of the Master Liability Management Policy is to establish the basis for the NFTA’s liability management program on sound financial principles. The NFTA’s goal is to protect its revenues and investment earnings from adverse fluctuations in interest rates, as well as to manage the expense payments and cash flows. The Master Liability Management Policy sets forth a liability management structure to facilitate the sound and efficient management of debt, addressing both the practical aspects of liability management as well as the philosophical aspects. This structure includes defining permissible hedging instruments and providing limitations on their use. The Master Liability Management Policy also provide for accountability through the monitoring and evaluation of performance results achieved by the liability management program.

The Master Liability Management Policy, a copy of which is attached, has not been changed since it was reviewed and approved by the Board in April 2018.

FUNDING: No funding is required.

“**RESOLVED**, that the Board hereby approves the FY 2019-2020 NFTA Master Liability Management Policy, in the form attached hereto.”

Niagara Frontier Transportation Authority Master Liability Management Policy Guidelines

April 25, 2019

1. Scope

This Liability Management Policy applies to all present and future debt of the Niagara Frontier Transportation Authority and its subsidiaries (NFTA).

All debt transactions, including hedging transactions or commitments will be subject to this policy and prior review and approval of the NFTA Board of Commissioners.

2. Liability Management Policy Objectives

- Establish a basis for the NFTA's Liability Management Program based on sound financial principles.
- Set forth a liability management structure to facilitate the sound and efficient management of debt and cash flows.
- To define permissible hedging instruments and limitations on their use.
- To comply with the due diligence requirements that prudent professionals utilize.
- To conform to all applicable federal, state, local and Authority legal requirements.
- To provide guidelines that control the overall process so that all liabilities are managed in accordance with the stated objectives.
- Develop formalized criteria to monitor, evaluate and establish the basis for comparing the performance results achieved by the liability management program, thereby establishing accountability.

3. Philosophy:

The NFTA takes an active role in managing exposures to fluctuations in cash outflows for various operating expenses as well as changes in interest rates. The active management of exposures involves an ongoing assessment of the risks facing the Authority and the most efficient methods for eliminating, reducing or transferring these risks of cash flow fluctuations and other external influences.

The NFTA, in its liability management, assesses risks and market conditions to determine:

- The most appropriate level of exposure to a particular cash flow or rate level, and
- The most effective vehicle for achieving that exposure.

The NFTA recognizes that the costs and benefits of different hedging instruments and the desirability of exposure to a particular cash flow or interest rate, or financial price, can vary over time depending on the market conditions and circumstances of the NFTA. We further

recognize that our target exposure to cash flows and interest rates and the instruments used to achieve the stated targets, will also vary with market conditions and the NFTA's current credit rating, as well as other items known and unknown at this time, that change on a periodic basis.

The NFTA defines hedging as activities intended to achieve desired exposures to cash flows and interest rates consistent with our objective of protecting revenues and other assets from adverse changes in rates or prices. Hedging does not require the elimination of all exposure to a given risk; rather, hedging should be used to keep exposures within acceptable bounds, as defined by this policy.

The NFTA defines speculation as the creation of positions that are inconsistent with the NFTA's liability management objectives. One characteristic of speculation is that it distorts exposures beyond the range normally encountered.

The initiation of hedges shall be only for non-speculative purposes, to eliminate, reduce, or otherwise redistribute risks related to existing cash flows and debt positions, and in all cases only where it is economically justifiable to do so relative to other alternatives. The termination of hedges is a part of the management liability process and shall not be considered a speculative activity.

4. Authority

The NFTA is authorized by section 2.08 of the Master resolution dated May 12, 1994, to utilize hedge, support and other financial agreements. The NFTA Board of Commissioners establishes liability management policies and guidelines. Based on those policies and guidelines, independent liability management consultants and financial advisor(s) with demonstrated expertise may be chosen to help manage the liabilities of the NFTA.

The NFTA shall not solicit or receive communications or proposals, enter into, terminate or take any other action involving a swap dealer or major swap participant in connection with a proposed or existing NFTA swap (including executions, novations, amendments, and negotiated terminations of swaps) unless NFTA shall retain an independent swap advisor (the "Financial Advisor") in accordance with, among other things, the requirements of Section 12 of these Master Liability Management Policy Guidelines.

The selection of underwriters, the financial advisor and bond counsel shall be made in accordance with the Authority's procurement guidelines through the evaluation of request for proposals.

In order to capitalize on fast-changing market conditions, the Executive Director and the Chief Financial Officer may enter into any transaction authorized by this policy, pursuant to the prior approval of the Board of a resolution setting the general parameters of the transaction.

The Chief Financial Officer, in consultation with the financial advisor as needed, shall have the authority to determine if transactions shall be on a negotiated, competitive or on a private placement basis.

Terms and conditions of any swap transaction as negotiated by the Chief Financial Officer, in accordance with these guidelines, shall be subject to the provisions of the applicable New York State statutes and these guidelines.

The NFTA shall be authorized to enter into interest rate swap transactions only with qualified swap counterparties. The Chief Financial Officer, in consultation with the Executive Director and General Counsel, shall have the authority to select the counterparties, so long as the criteria are met. The composition of the approved swap counterparties will change from time to time.

5. Guidelines for the Use of Variable Rate Debt

Variable rate debt can be a valuable tool for the NFTA to use in the management of its assets and liabilities. However, the use of variable rate debt, though historically allowing lower borrowing costs, presents some risks that the NFTA must consider. The following guidelines shall be used in determining if variable rate debt is appropriate.

In general, the NFTA should maintain its flexibility and continuously review new products and opportunities to allow the Authority to take advantage of changing interest rate environments and new products or approaches as they become available. In low interest rate environments, the NFTA should lock in low fixed rates, through conversions, fixed rate debt issuance, and either traditional or synthetic refundings. In high interest rate environments, the NFTA should increase variable rate debt issuance, defer borrowing and evaluate other alternatives that will allow the Authority to reduce its overall cost of capital when interest rates decrease.

Due to the historical spread between long-term rates and short-term rates, the NFTA should consider maintaining a portion of its portfolio in variable rate debt. However, the NFTA shall attempt to constrain its unhedged variable rate exposure to no more than 20% of the Authority's outstanding indebtedness. The NFTA shall identify any short-term cash reserves or balances since the earnings from these funds will serve as a natural hedge offsetting the impact of higher variable rate debt costs. In addition, the Authority should also consider other strategies to allow assets and liabilities to move in tandem, such as entering into a "percentage of LIBOR" swap. Any synthetic fixed rate debt, achieved through a swap transaction whereby the Authority swaps variable rate for fixed rate should not be counted toward this ceiling.

Variable Rate Debt Alternatives

Each mode of variable rate exposure has its unique advantages and disadvantages. Decisions about which mode NFTA should utilize at any point in time should be based on a number of factors including the relative cost benefit to the Authority. Variable Rate Demand Obligations (VRDOs) are the traditional means of achieving variable rate exposure and provide municipal issuers with access to a large, well-established liquid market. Auction rate products offer the

advantage of not requiring bank liquidity. Synthetic variable rate debt offers issuers access to the well established swap market, along with structuring flexibility and potentially lower borrowing costs.

The NFTA should determine allocations to each class of variable rate debt within caps and floors and manage the precise allocation based on market constraints in advance of issuing bonds. Factors impacting decisions will be the capacity of insurers to insure NFTA bonds, the cost of bond insurance, swap market levels, and the cost and availability of letters of credit, as well as any other related costs.

6. Authorized Hedging Instruments

Interest rate swaps and options and variable rate debt are appropriate financial management tools that can help the NFTA meet important financial objectives. Properly used, these instruments can increase NFTA's financial flexibility, provide opportunities for interest rate savings or enhanced investment yields, and help NFTA manage its balance sheet through better matching of assets and liabilities. However, as important as these techniques are, they should not be used for speculation.

Swaps are appropriate to use when they achieve a specific objective consistent with overall financial policy. Swaps may be used to lock-in a current market fixed rate or create additional variable rate exposure. Swaps may be used to produce interest rate savings, alter the pattern of debt service payments, or for asset/liability matching purposes. Swaps may be used to cap, limit or hedge variable rate payments.

Options granting the right to commence or cancel an underlying swap may be used to the extent the swap itself is otherwise consistent with these guidelines; however, the NFTA must determine if the use of any such option is appropriate and warranted given the potential benefit, risks, and objectives of the Authority.

Variable rate debt, either as variable rate demand obligations, auction rate securities or created synthetically through a swap, is an important municipal finance tool. However, similar to swaps, variable rate debt has certain risks and benefits that must be analyzed and understood by the NFTA prior to entering into a variable rate transaction.

7. Guidelines for the Use of Swaps, Options and other Derivatives

In connection with the use of any swaps, NFTA's Board shall make a finding that, pursuant to Section 2.06 (Variable Rate Debt) and Section 2.08 (Hedge, Support and Other Financial Agreements) of the Master Resolution adopted by the NFTA Board on May 12, 1994 the authorized swaps contemplated herein are designed to reduce the amount or duration of the interest rate risk or result in a lower cost of borrowing when used in combination with the issuance of the Bonds or enhance the relationship between the risk and return with respect to NFTA's investments or program of investment.

Rationale

The NFTA may utilize financial instruments that:

- Optimize capital structure; including schedule of debt service payments and/or fixed vs. variable rate allocations
- Achieve appropriate asset/liability match
- Actively manage or reduce interest rate risk
- Provide greater financial flexibility
- Generate interest rate savings
- Enhance investment yields.

The use of derivative financial products may provide a higher level of savings benefit to the NFTA, or otherwise help the NFTA to meet the objectives outlined herein, as the NFTA may determine in its sole discretion.

The NFTA may expressly utilize the following financial products on a current or forward basis, after identifying the objective(s) to be realized and assessing the attendant risks:

- Interest rate swaps, including fixed, floating and/or basis swaps
- Interest rate caps/floors/collars
- Options, including swaptions, caps, floors, collars and/or cancellation or index-based features

Limitations

NFTA may not use financial instruments that in NFTA's sole discretion:

- Are speculative or create extraordinary leverage or risk
- Lack adequate liquidity to terminate at market
- Provide insufficient price transparency to allow reasonable valuation

In connection with any transaction, the Chief Financial Officer, the Executive Director, the General Counsel and NFTA's Financial Advisor and Bond Counsel shall review the proposed transaction and outline any considerations associated with the transaction to the Board of Commissioners, or a designated committee of the Board. Such a review shall include the identification of the proposed benefit and potential risks, which shall include, but not necessarily be limited to, those risks outlined herein. As part of this analysis, the NFTA shall present both the existing and any proposed transactions consistent with the Market Net Termination Exposure outlined herein.

Understanding the Risks

Among the items that the NFTA shall examine in determining whether to enter into a swap or other derivative transaction are the following:

Market or Interest Rate Risk

- The possibility that your debt service costs associated with variable rate debt increase and negatively affect coverage ratios and cash flow margins.

Tax Risk

- The possibility that the transaction is subject to a future change in federal income tax policy.

Liquidity Risk

- The possibility that a VRDO remarketing may fail.

Termination Risk

- The possibility that the transaction be terminated by either party. There may be a cost involved in termination.

Risk of Uncommitted Funding (Put Risk)

- The transaction may create additional financing dependent upon third party participation.

Legal Risk

- The possibility that the transaction is not expressly authorized.

Counterparty Risk

- This related to the creditworthiness of the counterparty.

Rating Agency Risk

- The proposed transaction may not be consistent with current ratings.

Basis Risk

- A potential mismatch between the interest rate received from the swap contract and the interest actually owed on the bonds.

Tax Exemption Risk

- The transaction puts the NFTA's bonds at the risk of being deemed taxable.

Accounting Risk

- The transaction creates any unanticipated accounting issues from a financial statement perspective.

Administrative Risk

- The potential the transaction can not be readily administered and monitored consistent with the policies outlined herein.

Amortization Risk

- The risk that there are potential costs of servicing debt or honoring swap transactions resulting from a mismatch between bonds and the notional amount of the swap outstanding.

Subsequent Business Conditions

- The transaction or its benefits depend upon the continuation, or realization, of specific industry or business conditions.

Savings Thresholds

A synthetic refunding, using swaps or other derivatives, should generate present value savings of at least 5%. Currently a common threshold in the municipal finance industry is that a refunding should generate 3% present value savings. Financial transactions, using swaps or other derivative products, should generate 2% greater savings than the benefit threshold then in effect for traditional bonds. This threshold will serve as a guideline and will be subject to

amendment should the transaction, in NFTA's sole judgment, helps to meet any of the objectives outlined herein. The higher savings target reflects the greater complexity and higher risk of derivative financial instruments.

Terms and Notional Amount of Swap Agreement

The NFTA will use standard ISDA swap documentation including the Schedule to the Master Agreement and a Credit Support Annex. The NFTA may consider additional documentation if the product is proprietary or the NFTA deems such documentation is otherwise in its interest.

The NFTA shall determine the appropriate term for an interest rate swap agreement on a case-by-case basis. In connection with the issuance or carrying of bonds, the term of the swap agreement between the NFTA and a qualified swap counterparty shall not extend beyond the final maturity date of existing debt of NFTA on a specific project, or in the case of a refunding transaction, beyond the final maturity of the refunding bonds. At no time shall the total net notional amount of all swaps exceed the total amount of outstanding revenue bonds. For purposes of calculating net exposure, credit shall be given to any fixed versus variable rate swaps that offset for a specific project or bond transaction.

The swap agreement between the NFTA and each counterparty shall include payment, term, security, collateral, default, remedy, termination, and other terms, conditions, provisions and safeguards as the NFTA, in consultation with its legal counsel, deems necessary or desirable.

Subject to the provisions contained herein, NFTA swap documentation and terms shall include the following:

- Downgrade provisions triggering termination shall in no event be worse than those affecting the counterparty.
- Governing law for swaps will be New York.
- The specified indebtedness related to credit events in any swap agreement should be narrowly drafted and refer only to indebtedness of the NFTA.
- Collateral thresholds should be set on a sliding scale reflective of credit ratings.
- Eligible collateral should be limited to Treasuries and obligations of Federal Agencies where the principal and interest are guaranteed by the United States.
- The right to optionally terminate a swap agreement at any time over the term of the agreement.
- Termination value should be set by "market quotation" methodology, when NFTA deems appropriate.

Qualified Swap Counterparties

The NFTA shall do business with highly rated counterparties. Qualified swap counterparties should be rated:

- (i) at least "Aa3" or "AA-" by one of the nationally recognized rating agencies and not rated lower than A2 or A by any nationally recognized rating agency, or

- (ii) have a "AAA" subsidiary as rated by at least one nationally recognized credit rating agency.

The nationally recognized rating agencies are Moody's Investors Services, Inc., Standard and Poor's Rating Services, and FitchRatings. In addition, a qualified swap counterparty must have a demonstrated record of successfully executing swap transactions as well as creating and implementing innovative ideas in the swap market. Each counterparty shall have minimum capitalization of at least \$150 million.

However, the NFTA should not have an immutable credit standard. While, as noted above, the NFTA will make best efforts to do business with highly rated counterparties of AA- or better. However, for lower rated (below AA-) counterparties, the NFTA should seek credit enhancement in the form of:

- Contingent credit support or enhancement;
- Collateral consistent with the policies contained herein;
- Ratings downgrade triggers.

In order to diversify NFTA's counterparty credit risk, and to limit NFTA's credit exposure to any one counterparty, limits will be established for each counterparty based upon both the credit rating of the counterparty as well as the relative level of risk associated with each existing and projected swap transaction.

The NFTA shall structure swap agreements to protect itself from credit deterioration, and shall consider using a credit support annex or other form of credit enhancement to secure counterparty performance. Such protection shall include any terms and conditions that, at NFTA's sole discretion, are necessary or in NFTA's best interest.

Maximum Net Termination Exposure

The guidelines below provide general termination exposure guidelines with respect to whether NFTA should enter into an additional transaction with an existing counterparty. Such guidelines will also not mandate or otherwise force automatic termination by NFTA or the counterparty. Such provisions will only act as guidelines in making a determination as to whether or not a transaction should be executed given certain levels of existing and projected net termination exposure to a specific counterparty. The calculation of net termination exposure per counterparty shall take in consideration multiple transactions, some of which may offset the overall exposure to NFTA.

Maximum Net Termination Exposure will be based on the sum of

- (i) the market value of existing transactions as of the first day of the month prior to the execution of any new transaction, plus
- (ii) the expected worse case termination value of the new transaction.

For purposes of this calculation, the NFTA shall include all existing and projected transactions of an individual counterparty and all transactions will be analyzed in aggregate such that the maximum exposure will be additive and netted.

The maximum termination exposure shall be tied to the credit rating of a counterparty and whether or not the counterparty has posted collateral against this exposure. Under this approach, NFTA will set limits on individual counterparty exposure based on existing as well as new or proposed transactions. For existing transactions, exposure shall be based on the market value as of the first day of the month prior to the execution of any new or proposed transaction. For a new or proposed transaction, exposure will be based on the estimated maximum exposure assuming two standard deviations.

The exposure thresholds shall be reviewed periodically to ensure that the thresholds are appropriate. If a counterparty has more than one rating, the lowest rating will govern for purposes of the calculating the level of exposure. The following chart summarizes the thresholds:

Maximum Net Termination Exposure for Counter Parties

Credit Rating	Maximum Collateralized Exposure	Maximum Uncollateralized Exposure	Maximum Total Termination Exposure
AAA	Not applicable	\$40 million	\$40 million
AA	\$30 million	\$10 million	\$40 million
Below AA	\$30 million	None	\$30 million

If the exposure limit is exceeded by a counterparty, the NFTA shall conduct a review of the exposure limit per counterparty. The NFTA, in consultation with its Bond Counsel and Financial Advisor, shall evaluate appropriate strategies to mitigate this exposure.

Swap Collateralization

As part of any swap agreement, the NFTA shall require collateralization or other forms of credit enhancements to secure any or all swap payment obligations. As appropriate, NFTA, in consultation with Counsel may require collateral or other credit enhancement to be posted by each swap counterparty under the following circumstances:

- Each counterparty to the NFTA may be required to post collateral if the credit rating of the counterparty or parent falls below the "AA" category. Additional collateral for further decreases in credit ratings of each counterparty shall be posted by each counterparty in accordance with the provisions contained in the collateral support agreement to each counterparty with the NFTA.
- Threshold amounts shall be determined by the NFTA on a case-by-case basis. The NFTA will determine the reasonable threshold limits for the initial deposit and for increments of collateral posting thereafter.

- Collateral shall be deposited with a third party trustee, or as mutually agreed upon between the NFTA and the counterparty.
- A list of acceptable securities that may be posted as collateral and the valuation of such collateral will be determined and mutually agreed upon during negotiation of the swap agreement with each swap counterparty.
- The market value of the collateral shall be determined on a monthly basis, or more frequently if the NFTA determines it is in NFTA's best interest given the specific collateral security.

8. Contingency Reserve

In the event that the NFTA receives a premium payment or other revenue stream from a counterparty as the result of entering into a transaction that may result in the future issuance of variable rate debt, the NFTA shall make every effort to segregate one hundred percent of such payment or revenue stream in the NFTA's accounts. Such funds shall only be used to pay the shortfall that may occur if the amount of variable rate debt service paid by the NFTA exceeds the variable rate payments received by the NFTA from a counterparty, unless otherwise approved by the Board. In the event that such segregated funds shall exceed the amount that the NFTA expects to be the maximum aggregate shortfall that could reasonably occur as a result of the variable rate debt service payments made by the NFTA being in excess of the variable rate payments received by the NFTA from a counterparty, such excess funds may be used for any other authorized purpose.

9. Reporting

A written report providing the status of all interest rate swap agreements entered into by the NFTA will be provided to the Board at least on a quarterly basis and shall include the following:

- A description of all outstanding interest rate swap agreements, including project and bonds series, type of swap, rates paid and received by NFTA, total notional amount, average life of each swap agreement, remaining term of each swap agreement.
- Highlights of all material changes to swap agreements or new swap agreements entering into by NFTA since the last report.
- Market value of each of NFTA's interest rate swap agreements.
- The credit rating and each swap counterparty and credit enhancer insuring swap payments, if any.
- If applicable, information concerning any default by a swap counterparty to NFTA, including but not limited to the financial impact to NFTA, if any.
- A summary of swap agreements that were terminated.
- For swap transactions entered into to generate debt service savings, the NFTA will calculate on an annual basis the actual debt service requirements versus the projected debt service on the swap transaction. Such a calculation shall include the

determination of the cumulative actual savings versus the projected savings at the time a swap is executed.

10. Amount of Debt to be Issued

The amount of bond debt that may be issued for the aviation system is governed by the Master resolutions Section 2.02 and debt for all other areas of the Authority must be justified on a cost benefit basis.

All debt must be reviewed and approved by the Audit and Governance Committee before full Board approval.

11. Liability Management Policy Review

This policy will be reviewed, by the NFTA Board of Commissioners, at least annually and any amendments, deletions, additions, improvements or clarification will be made if deemed appropriate.

12. Compliance with 17 C.F.R. § 23.450

Financial Advisor. NFTA shall select and retain a Financial Advisor that satisfies the applicable requirements of 17 C.F.R. § 23.450(b) in order to solicit or receive communications or proposals, enter into, terminate or take any other action involving a swap dealer or major swap participant in connection with a proposed or existing NFTA swap (including executions, novations, amendments, and negotiated terminations of swaps). NFTA shall not retain a Financial Advisor that a swap dealer or major swap participant has referred, recommended, or introduced to NFTA within one year prior to the Financial Advisor's representation of NFTA in connection with a swap transaction.

Compliance Letter. NFTA's Financial Advisor shall provide to NFTA a letter demonstrating compliance with 17 C.F.R. § 23.450(b) (the "Compliance Letter"). The Compliance Letter shall include:

- (A) Representations of the Financial Advisor to the effect that the Financial Advisor:
 - (i) has sufficient knowledge to evaluate the transaction and risks;
 - (ii) is not subject to a statutory disqualification as defined in 17 C.F.R. § 23.450(a)(2);
 - (iii) is not, and within one year prior to executing the Compliance Letter was not, an associated person of the swap dealer or major swap participant within the meaning of Section 1a(4) of the Act;

- (iv) has no principal relationship with any swap dealer or major swap participant;
 - (v) is not directly or indirectly, through one or more persons, controlled by, in control of, or under common control with the swap dealer or major swap participant;
 - (vi) has policies and procedures reasonably designed to ensure that it satisfies the applicable requirements of 17 C.F.R. § 23.450(b);
 - (vii) meets the independence test in 17 C.F.R. § 23.450(b); and
 - (viii) is subject to restrictions on certain political contributions imposed by the CFTC, the SEC, or a self-regulatory organization subject to the jurisdiction of the CFTC or the SEC.
- (B) The legal obligation of the Financial Advisor to comply with the applicable requirements of 17 C.F.R. § 23.450(b), including the obligation to:
- (i) act in the best interests of NFTA;
 - (ii) provide timely and effective disclosures to NFTA of all material conflicts of interest that could reasonably affect the judgment or decision making of the Financial Advisor with respect to its obligations to NFTA;
 - (iii) implement and comply with policies and procedures reasonably designed to manage and mitigate any material conflicts of interest that could reasonably affect the judgment or decision making of the Financial Advisor with respect to its obligations to NFTA; and
 - (iv) evaluate the fair pricing and the appropriateness of any swap (including executions, novations, amendments, and negotiated terminations of swaps).

In the alternative NFTA may amend its retainer agreement with the Financial Advisor to include the obligation referred to in (B) above. The Chief Financial Officer shall have the authority to, upon the advice of counsel, agree to all of the terms and provisions (including fees) of, and execute, any letter or retainer amendment entered into in connection with this Section 12.

Monitoring. NFTA shall monitor the performance of the Financial Advisor consistent with the requirements of 17 C.F.R. § 23.450(b), including, but not limited to, as follows:

(a) Upon being ask to make any representation to any swap dealer or major swap participant in connection with a potential or an existing swap transaction, NFTA shall obtain from the Financial Advisor a letter, e-mail or other written communication to the effect that the Compliance Letter is true and correct in al material respects.

(b) The Chief Financial Officer of NFTA shall undertake such other shall monitoring activities with respect to the Financial Advisor as may be required to comply with 17 C.F.R. § 23.450(b).

Safe Harbor. The Chief Financial Officer of NFTA is authorized to execute written agreements with a swap dealer or major swap participant or enter into ISDA protocols which are intended to satisfy “safe harbor” of 17 C.F.R. § 23.450(d).

Defined Terms. The terms “swap dealer” or “major swap participant” and “Act” shall have the meanings as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and applicable regulations of the Commodity Futures Trading Commission (“CFTC”) and the Securities and Exchange Commission (“SEC”).

CORPORATE:

2. C. (6) **Approval of FY 2019-2020 Guidelines for Dispositions and Transfers of Capital and Non-Capital Assets, NFTA and Metro**

RECOMMENDATION: Staff recommends that the Board approve the attached Guidelines for Dispositions and Transfers of Capital and Non-Capital Assets (Guidelines) for the Niagara Frontier Transportation Authority (NFTA) and Niagara Frontier Transit Metro System, Inc. (Metro).

INFORMATION: New York Public Authorities Law (PAL) Sections 2824 and 2896 requires that the Board review and approve the Guidelines for Dispositions and Transfers of Capital and Non-Capital Assets on an annual basis. The Guidelines were last reviewed and approved by the Board in April 2018. There are no changes recommended at this time.

FUNDING: No funding is required.

“**RESOLVED**, that the Guidelines for Dispositions and Transfers of Capital and Non-Capital Assets of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc. are hereby approved in the form attached hereto.

FURTHER RESOLVED, that Staff shall cause said Guidelines to be filed and posted online as required by PAL Section 2896.”

Reference: EXECUTIVE
Title: DISPOSITIONS AND TRANSFERS OF CAPITAL AND NON-CAPITAL ASSETS
Policy Number: 01-01-10
Revision Date: 4-26-18

**NIAGARA FRONTIER TRANSPORTATION AUTHORITY
NIAGARA FRONTIER TRANSIT METRO SYSTEM, INC.**

GUIDELINES FOR DISPOSITIONS AND TRANSFERS OF CAPITAL AND NON-CAPITAL ASSETS

I PURPOSE

These Guidelines set forth the policies and procedures to be followed for the disposition of capital and non-capital assets for the Niagara Frontier Transportation Authority and the Niagara Frontier Transit Metro System, Inc. (collectively referred to as "NFTA"). The NFTA has also enacted Guidelines for the Acquisition and Disposition of Real Property that must be followed in conjunction with these Guidelines.

Definitions

Capital Assets include **Real Property** (consisting of land or buildings) and **Personal Property** (all property other than real property, primarily consisting of equipment, vehicles, furniture and fixtures).

Disposition is any transfer of title or any other beneficial interest in personal property.

Non-Capital Assets primarily include obsolete inventory items, scrap metals or fluids, and other items (including items which did not meet company guidelines for asset capitalization whereby cost was below minimum capitalization thresholds or items which ownership was not claimed as "lost and found").

II COMPLIANCE

Any Disposition must be made in accordance with all applicable laws, including section 2824 and 2896 of the Public Authorities Law and the NFTA's enabling legislation, rules, regulations and grant agreements, including associated grant application and management guidelines. Dispositions of Personal Property having a book value in excess of \$100,000 require Board approval; Dispositions of Personal Property having a book value in excess of \$10,000 require the approval of the Executive Director; all other Dispositions require the approval of the Department's Director.

III PROCEDURE

The Director, Engineering and Property or appointed representative, is the contracting officer responsible for Dispositions of Real Property in accordance with the Guidelines for Acquisitions and Dispositions of Real Property.

The Controller, Accounting Services, is the contracting officer responsible for the compliance of the disposition of Personal Property and enforcement of these Guidelines.

Dispositions of Capital and Non-Capital Assets will be managed in accordance with the following procedures:

Department Manager Guidelines

If a Department Manager possesses any obsolete or non-useful property, he/she should take action to dispose of such property as identified below.

A. Request to Dispose of a Capital Asset or Non-Capital Asset

The Department Manager must complete a form for "Request for Disposal of Capital and Non-Capital Assets" which is attached as Appendix A. The completed "Request for Disposal of Capital and Non-Capital Assets" form must be submitted to the Controller, Accounting Services, located at 181 Ellicott Street, Buffalo, New York. The Capital Project Accountant will notify the Department Manager of the logistics of where and when to deliver any Personal Property for eventual disposal.

B. Request to Transfer a Capital Asset

If a Department Manager is in possession of an asset that will be transferred to another division or department, the Department Manager must complete a "Request To Transfer A Capital Asset" form, which is attached as Appendix B.

The recipient Department Manager / Department Director must sign this form to acknowledge their approval and receipt of the transferred asset.

The completed "Request To Transfer A Capital Asset" form should be forwarded to the Controller, Accounting Services located at 181 Ellicott Street, Buffalo, New York.

C. Vehicle Title

The Niagara Frontier Transit Metro System, Inc. ("Metro") maintains vehicle title for all Metro buses and other vehicles. The Risk Management Department maintains vehicle title for all NFTA vehicles other than Metro vehicles.

Either Metro or the Risk Management Department will provide vehicle title for NFTA Metro and NFTA vehicles to the Capital Project Accountant. The Capital Project Accountant will coordinate release of titles to the appropriate party upon disposal.

Methods of Disposal (Managed by Accounting Services)

No employees (either directly or through relation or friendships) are allowed to acquire, for their own personal use, any disposed assets or any component parts of any asset unless such employee independently becomes a purchaser via participation in a Public Auction. Failure to abide with this policy can result in termination of employment and / or criminal penalties.

The following methods of disposal are allowable and may only be completed through Accounting Services:

1. Disposal by Bid – In general, all Dispositions shall be by bid conducted by the Manager, Procurement, in accordance with section 2897 of the Public Authorities Law.

2. Donation – Any Capital Asset or Non-Capital Asset which is life expired and of no further use to the NFTA may be donated to a charitable organization with the approval of the Executive Director through separate memorandum and completed disposition form. Further, FAA recommends life expired airport equipment be donated to reliever airports. Items will be listed for auction to determine fair market value. If auction bids are under \$15,000, they will be reviewed by the Director of Aviation and Chief Financial Officer for turnover to a reliever airport with a final memorandum approval from the Executive Director. Any such donations are at the discretion of the Authority.

3. Lost / Stolen / Damaged or Destroyed – The Department Manager must immediately report when any asset under their control is lost, stolen, damaged or destroyed to:

- the Director, Risk Management and Special Projects;
- the Chief of the Transit Police; and
- Controller, Accounting Services (see below)

The Department Manager must immediately complete a “Request for Disposal of Capital and Non-Capital Assets” form attached as Appendix A and forward the completed form to the Controller, Accounting Services. Each employee is responsible for the care and safekeeping of any NFTA assets. Administrative action and / or pecuniary liability may result due to proven negligence or misconduct that causes the loss of NFTA assets.

4. Public Auction – All Personal Property that has a fair market value of less than \$15,000 may be sold at a public auction. The contracted Auction services will be obtained through authorized procurement procedures whereby such award will be decided on a competitive basis.

5. Scrap Dealers – If the contracted Auctioneer declines to sell any Personal Property due to lack of value or marketability, the Capital Project Accountant must obtain a minimum of **three estimates** from reputable scrap dealers for the disposal of such Property if the value is estimated to be between \$2,500 and \$15,000. (The Manager, Procurement may provide assistance to the Capital Project Accountant in the solicitation of estimates). The three estimates should be attached to a “Request for Disposal of Capital and Non-Capital Assets” form, which is attached as Appendix A. (If scrap proceeds are less than \$2,500, only one estimate is required).

6. Trade-Ins – If Personal Property currently owned by the NFTA is contemplated as a trade-in towards the purchase of new Personal Property, the Department Manager must complete a “Request for Disposal of Capital and Non-Capital Assets” form, which is attached as Appendix A. If the trade-in value to be provided by the merchant is less than the current fair market value, the Department Manager should obtain approval from the Manager, Procurement, to complete the trade-in. The Manager, Procurement, may suggest the disposal of the existing property using either Bid or Public Auction services to attain a higher value. Otherwise, if the trade-in value exceeds the current fair market value, then the Department Manager may proceed with the trade-in towards their new property without any additional approvals other than those required by the Procurement Guidelines.

7. E-Waste Recycling – The NFTA is a named participant in an Agreement executed by Erie County on the disposal of E-Waste through a Certified Recycler (CR). As E-Waste is identified, the NFTA Department Manager must provide a list of items to be recycled which includes the following information regarding each item (Manufacturer, Model, Serial Number), along with a signed Disposal form to Accounting Services.

E-Waste items shall be accumulated at their location. Accounting Services (Capital Project Accountant) will coordinate with MIS to contact the CR and arrange for pickup. Absolutely, no items may be removed from our facilities prior to receiving the CFO’s signature of approval.

Once the process of pickup by the CR is complete, a reconciliation of the recycling that has been certified by the CR and the internal listing of items that is attached to the Disposal form will be conducted. Final documentation will reside in Accounting Services.

8. None of the above – If Accounting Services intends to dispose of any Capital or Non-Capital Asset in a method other than any of the aforementioned circumstances, such disposal must be documented and approved by the Executive Director.

Proceeds from Disposal of Assets

All disposal proceeds should be provided to the Controller, Accounting Services. The Capital Project Accountant will remove the asset from current ledgers and record the appropriate gain or loss on disposal.

If any proceeds are for Capital Assets which were purchased using grant funds, the Capital Project Accountant will coordinate the return or refund of such proceeds to the proper grantor (Federal and/or New York State) agencies with the Grant Department. The Grants Department is required to provide notification to the original granting agency of the transaction.

Guidelines

The Guidelines shall be annually reviewed and approved by the Board. The Controller, Accounting Services, shall ensure that a copy of the Guidelines as reviewed and approved by the Board is reported as part of the Public Authorities Reporting Information System and is posted on the NFTA website.

Inventory and Reporting

The Controller, Accounting Services, is responsible for ensuring that the NFTA maintains adequate inventory controls and accountability systems of all Personal Property under its control. Personal Property with a fair market value of \$5,000 or more shall be inventoried periodically and recommendations made to the Department Manager for Disposition.

The Controller, Accounting Services, is responsible for preparing an annual report listing all Personal Property of the NFTA with a fair market value of \$5,000 or more disposed of during the previous year, a list and full description of the Personal Property, the price received by the NFTA and the name of the purchaser.

CORPORATE:

2. C. (7) **Approval of Procurement Guidelines for FY 2019-2020 for the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc.**

RECOMMENDATION: Staff recommends that the Board approve the attached FY 2019-2020 Procurement Guidelines, which shall be applicable to the Niagara Frontier Transportation Authority (NFTA) and its subsidiary, Niagara Frontier Transit Metro System, Inc. (Metro).

INFORMATION: New York Public Authorities Law Sections 2824 and 2879 provide that the Board shall review and approve the Procurement Guidelines on an annual basis. The Procurement Guidelines were last approved by the Board on April 27, 2018. There are no recommended changes at this time.

FUNDING: No funding is required.

“**RESOLVED**, that the Board hereby approves the Procurement Guidelines, in the form attached hereto, effective April 25, 2019 for the NFTA and Metro.”

PROCUREMENT GUIDELINES

OF

NIAGARA FRONTIER TRANSPORTATION AUTHORITY

AND

NIAGARA FRONTIER TRANSIT METRO SYSTEM, INC.

Effective April 25, 2019
By Resolution of the Board
of Commissioners

TABLE OF CONTENTS

<u>TOPIC/ARTICLE</u>	<u>PAGE</u>
Scope	3
Intent	3
Definitions	3
Procurement Protocol	9
Evaluating Responsiveness and Responsibility	11
Guidelines	13
- Board Approval/ <u>1</u>	13
- Buy America/ <u>2</u>	13
- Foreign Business Enterprises/ <u>3</u>	13
- Performance Security and Bonding Requirement/ <u>4</u>	14
- Prevailing Wage Rates/ <u>5</u>	15
- Sealed Bidding/ <u>6</u>	16
- Sealed Bidding (Two-Step Variation)/ <u>7</u>	17
- Negotiation/ <u>8</u>	17
- Qualifications - Based Procurement/ <u>9</u>	18
- Options/ <u>10</u>	20
- New York State Contract Reporter/ <u>11</u>	20
- Sole Source Awards/ <u>12</u>	20
- Contract Types/ <u>13</u>	21
- Specifications/ <u>14</u>	22
- Small Purchases/ <u>15</u>	22
- State, Federal and County Contract Lists/ <u>16</u>	24
- Funding/ <u>17</u>	24
- Professional Service Contracts/ <u>18</u>	24
- Disadvantaged Business Enterprise/ <u>19</u>	25
- Confidentiality and Conflicts of Interest/ <u>20</u>	26
- Minimum Contract Requirements/ <u>21</u>	26
- Contract Modifications, Change Orders and Supplemental Agreements/ <u>22</u>	27
- Emergency or Exigency/ <u>23</u>	27
- Expediency/ <u>24</u>	28
- Waiver of Competition/ <u>25</u>	29
- Records Retention/ <u>26</u>	29
- Procurement Reporting/ <u>27</u>	29
- Split Procurements/ <u>30</u>	30
- Updating, Monitoring and Control of Procurement Guidelines and Procedures/ <u>31</u>	30
- Utilities, Surplus and Second-Hand Supplies/ <u>32</u>	30

Attachments

Code of Ethics (Attachment "A").....	31
Protest Procedures (Attachment "B").....	33
Criteria and Standards Governing Commercial and Public Service Advertising (Attachment "C").....	35

PROCUREMENT GUIDELINES

SCOPE

Set forth herein are comprehensive guidelines established for the purpose of governing the procurement of goods and services by the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc. (together, the "Authority").

The Greater Buffalo-Niagara Regional Transportation Council ("GBNRTC") and the Niagara International Transportation Technology Coalition ("NITTEC"), for which the Authority serves in a limited capacity as "administrative host agency," has agreed to procure goods and services consistent with these guidelines.

INTENT

It is the Authority's intent to implement and strictly enforce Procurement Guidelines that encourage and promote open competition; ensure fairness and equity in the procurement process; and result in the acquisition of goods and services at fair and reasonable prices.

DEFINITIONS

1. ADVERTISEMENT:

- A. The publication of a Notice of Procurement Opportunity in any of the following forums, as is appropriate: newspapers of general circulation in Erie and Niagara County; regional, state, national and international trade journals and magazines; newsletters, MBE/WBE/DBE/SDVOB publications that may exist from time to time and the Authority website.
- B. The dissemination of a Notice of Procurement Opportunity to three (3) or more potential bidders, proposers, or suppliers by telephone, in writing or by e-mail.
- C. Any or all methods of advertisement as are herein defined may be utilized as is necessary and appropriate to promote competition under the guidelines.

2. ALLOWABLE INDIRECT COSTS:

Those costs generally associated with overhead that cannot be specifically identified with a single project or contract and are considered reasonable and allowable under specific State contract or allowability limits.

3. BOARD:

The Authority Board of Commissioners.

4. COMPETITIVE RANGE:

All proposals that are determined to have a reasonable chance of being selected for award based upon price and other factors as stated in the Notice of Procurement Opportunity or Request for Proposals ("RFP").

5. CONTRACT FOR GOODS OR SERVICES:

Any authorized written agreement including contracts, purchase orders, letter agreements or memoranda of understanding, which creates a mutually binding legal relationship, which obligates the seller to furnish (or dispose of) products, services or Public Work, and the buyer to pay for same.

6. CONTRACTOR:

Any individual (or group of individuals), business, firm, union, club, organization, or other entity obligated to sell, furnish, provide or render goods or services to the Authority pursuant to a contract including sellers, consultants, vendors, suppliers and construction contractors.

7. COST-REIMBURSEMENT (CR) TYPE CONTRACT:

A general compensation arrangement which requires the Authority to pay the Consultant a fixed fee plus all allowable actual costs (as established by predetermined cost principles and rates) provided such costs and fee do not exceed the final negotiated contract price, as incurred by the Consultant in performing the "agreed to" Scope of Work.

8. DISADVANTAGED BUSINESS ENTERPRISE (DBE):

Small business concern as defined pursuant to Section 3 of the Small Business Act: (a) which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly-owned business, at least fifty-one percent (51%) of the capital stock of which is owned by one or more socially and economically disadvantaged individual; (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

9. DISCRIMINATORY JURISDICTION:

Any other country, nation, province, state or political subdivision thereof which employs a preference or price distorting mechanism to the detriment of or otherwise discriminates against a New York state business enterprise in the procurement of goods and services by the same or a non-governmental entity influenced by the same, as defined in section 2879 of the Public Authorities Law.

10. DISCUSSION:

Discussion is defined as any oral or written communication between the Authority and an offeror, other than communication conducted for the purpose of minor clarification whether or not initiated by the Authority, that (1) involves information essential for determining the acceptability of a proposal, or (2) provides the offeror an opportunity to revise or modify its proposal.

11. EMERGENCY:

Danger or threat of harm to life, health, safety, environment or property which requires immediate action; provided, that an emergency procurement shall be made with such competition as is practicable under the circumstances and a written determination of the

basis for the emergency and for the selection of the particular contractor shall be included in the procurement file. Emergency is a subcategory of "Sole Source".

12. EXIGENCY:

Prospect of interruption to, or obstruction of, the Authority's efficient operation or adequate provision of service, arising from an unforeseen circumstance. Exigency is a subcategory of "Sole Source."

13. EXPEDIENCY:

Prospect of an outcome not in the "best interest" of the Authority arising from adherence to the means and method of the procurement prescribed herein or, alternatively, adherence to these Guidelines is impractical or inappropriate given all the existing circumstances, none of which were foreseeable or controllable by the Authority. Expediency is a subcategory of "Sole Source."

14. FIRM-FIXED-PRICE (FFP) TYPE CONTRACT:

A general compensation arrangement which places the risk of performance for a lump sum on the contractor, regardless of the actual costs incurred by the contractor. The only allowable adjustments to the lump sum contract price are those arising from authorized changes in scope of services or changes in specifications.

15. FOREIGN BUSINESS ENTERPRISE:

A business enterprise, including a sole proprietorship, partnership or corporation, which offers for sale, lease or other form of exchange, goods sought by the Authority and which are substantially produced outside New York State, or services, other than construction services, sought by the Authority which are substantially performed outside New York State. For purposes of construction services, foreign business enterprise shall mean a business enterprise which has its principal place of business outside New York state.

16. LABOR SURPLUS AREA FIRM:

A business entity which performs substantially in a labor surplus area (a geographical area as is defined by the U.S. Department of Labor as an area of concentrated unemployment, underemployment or labor surplus).

17. MINORITY BUSINESS ENTERPRISE (MBE):

Any business enterprise which is at least fifty-one percent (51%) owned by, or in the case of a publicly owned business, at least fifty-one percent (51%) of the common stock or other voting interests of which is owned by minority group members, and such ownership interest is real, substantial and continuing. The minority ownership must have and exercise the authority to independently control the business decisions of the entity. The enterprise must also be authorized to do business in New York State, be independently owned and operated, and not be dominant in its field. For the purposes of these guidelines "minority group member" shall have the meaning set forth in § 2879(3) of the Public Authorities Law.

18. NEGOTIATION:

Procurement by evaluation of proposals in the competitive range on the basis of pre-established and published selection criteria which criteria may be evaluated with price as a factor.

19. NEW YORK STATE CONTRACT REPORTER:

A publication of procurement opportunities printed for the New York State Economic Development Bureau pursuant to the New York State Economic Development Law.

20. NOTICE OF PROCUREMENT OPPORTUNITY:

A written or verbal communication which shall identify the proposed procurement action and the terms of pursuing the opportunity.

21. PROCUREMENT:

The buying, purchasing, renting, leasing or other acquisition by the Authority, of products, services, or Public Works, excepting:

- A. the purchase of periodicals, reference materials, treatises or professional research tools;
- B. the payment of fees or tuition associated with continuing education courses, training courses, conferences, seminars and symposiums;
- C. expenditures governed by the Authority's "Travel Policy and Guidelines";
- D. the purchase of advertising space or advertising time in any medium; and
- E. the purchase of catering services.

22. PRODUCT:

Equipment, materials and supplies including, but not limited to, printing, insurance (except for health / welfare-related insurance required under a collective bargaining agreement pursuant to which the Authority is bound) and leases of property excluding land or interests in land.

23. PUBLIC WORK:

The construction, demolition, repair, rehabilitation, restoration or maintenance of any building, roadway, structure, fixture, facility or improvement owned by, or leased to, the Authority and the Authority or Metro must be a party to the related contract. For the avoidance of doubt, a Public Work does not include the routine operation, repair or maintenance of any existing public structure, building or real property.

24. PURCHASE:

The receipt of products, services or Public Works by the Authority, in exchange for money, property or other valuable consideration including like-kind trades.

25. QUALIFICATIONS BASED PROCUREMENT:

A competitive procurement method under which competitors' qualifications are evaluated on the basis of pre-established and published selection criteria and negotiations are conducted with only the most qualified offeror. Price shall not be considered as a factor in determining the most qualified offeror.

26. RESPONSIBLE:

A potential contractor is responsible if it can demonstrate that it has the capability to perform fully and successfully under the terms of the proposed contract, taking into account the offeror's technical and financial capability, and the integrity and reliability necessary to ensure good faith performance.

27. RESPONSIVE:

A bid is responsive if it complies with the terms of the solicitation in all material respects, and it is completed, executed and submitted in accordance with the instructions in the solicitation.

28. SEALED BIDDING:

A competitive procurement method under which a contract is awarded to the lowest priced, responsive, responsible bidder.

29. SERVICE DISABLED VETERAN-OWNED SMALL BUSINESS:

A business that is at least fifty one percent (51%) owned and controlled by a service disabled veteran, and the daily management operations of such business are controlled by a service-disabled veteran or caregiver of a service-disabled veteran, and such business must be a "small business," as defined by the Small Business Administration.

30. SERVICES:

A personal, professional, consulting, technical, or other service including, but not limited to, legal, testing, accounting, bookkeeping, secretarial, management consulting, audit, investment banking, planning, training, statistical research, insurance, advertising, public relations, architectural, engineering, appraisal, janitorial, surveying, housekeeping and waste disposal, performed for a fee, commission or other compensation.

31. SINGLE BID:

Two or more competitive bids are solicited and only one bid is received. A Single Bid is a subcategory of "Sole Source".

32. SINGLE SOURCE:

The goods or services to be procured are available from only one responsible source; or no other goods or services will satisfy the Authority's requirements; or prior state, federal or Board approval has been granted. Single Source is a subcategory of "Sole Source".

33. SMALL PURCHASE:

The acquisition of goods or services having an actual price less than One Hundred Thousand Dollars (\$100,000). See Article 15.

34. SMALL PURCHASE FORMAL BIDDING:

A "small purchases" method of procuring goods or services under \$100,000.00, based upon competitive selection following the publication of a notice of procurement opportunity in the New York State Contract Reporter and the acceptance of sealed bids or proposals. See Article 15.

35. SMALL PURCHASE INFORMAL BIDDING:

A small purchases method of procuring goods or services under \$50,000, based upon competitive selection which may be made on the basis of written or telephonic quotes and in accordance with the guidelines set forth in Article 15(C); provided, however, that procurement requirements shall not be artificially divided in order to constitute a small purchase.

36. SOLE SOURCE

A general category of awards where competition is waivable, or is not feasible under the circumstances, as determined by the Procurement Department and authorized by the Executive Director. The included subcategories are: single bid; exigency; expediency, and single source.

37. SOLICITATION:

The process by which the Authority contacts prospective vendors, suppliers or consultants to provide notice of a procurement opportunity and invite the submission of quotes, bids, proposals or statements of qualifications.

38. TERM CONTRACT:

A competitively procured contract based on qualifications, that allows the Authority, at its discretion, to retain the services of the term consultant or term contractor, on a project-by-project basis, subject to pre-negotiated terms and conditions.

39. TIED-BID:

The receipt of two or more equally low, responsive bids from responsible bidders. See, Article 6 (D).

40. TIME AND MATERIAL (T & M) CONTRACT:

A general compensation arrangement which provides for a fixed rate including overhead and profit, and material paid for at cost plus handling charges.

41. WOMEN-OWNED BUSINESS ENTERPRISE (WBE):

Any business enterprise which is at least fifty-one percent (51%) owned by, or in the case of a publicly-owned business, at least fifty-one percent (51%) of the common stock or other voting interests of which is owned by citizens or permanent resident aliens who are

women, and such ownership interest is real, substantial and continuing. Women business owners must have and exercise the authority to independently control the business decisions of the entity. The enterprise must also be authorized to do business in New York State, be independently owned and operated, and not be dominant in its field.

PROCUREMENT PROTOCOL

The primary objective of procurement is to ensure and foster economy, efficiency and effectiveness in the acquisition of goods and services. To achieve these goals it is essential that all of the participants in the procurement process have a clear understanding of their roles and responsibilities. Set forth in this Article is a general outline of the various departmental functions to be fulfilled in the procurement process. The Procurement Department maintains a comprehensive written procurement systems manual based on these concepts.

(A) Procurement Department:

- (i) The Procurement Department shall be responsible for conducting the following minimum pre-procurement planning activities on at least an annual basis:
 - (a) Forecasting the price and availability of items and materials for User Departments.
 - (b) Developing a purchasing schedule for IFBs and RFPs.
 - (c) Establishing purchasing goals and objectives.
- (ii) The functions of the Procurement Department shall be to:
 - (a) Analyze the marketplace to determine the status of competition, technological developments, the impact of the economy on potential vendors, labor conditions, and changes in pricing or delivery methods.
 - (b) Communicate and coordinate with similarly situated procurement departments to explore joint purchasing arrangements and to share marketplace information.
 - (c) Analyze User Department procurement requisitions to ensure the proper authorizations are present, and that the procurement is tailored to meet the Authority's needs and is not unnecessary or duplicative. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach.
 - (d) Prepare invitation for bids, requests for proposals, informal solicitations, and notices of procurement opportunity, as needed.
 - (e) Administer the acquisition process, including: ensuring adequate advertisement of the notice of procurement opportunity; surveying sources; serving as contact for potential contractors; and accepting, opening, evaluating, and tabulating bids;
 - (f) Remain current and in compliance with applicable federal and state laws.

- (g) Maintain Vendors files.
- (h) Maintain all support documentation including small purchases procurement authorization, small purchase tabulation and solicitation summary, single bid/proposal validation reports and single source validation report.
- (i) Develop MWBE and SDVOB participation goals, monitor MWBE and SDVOB participation, and report MWBE and SDVOT utilization to appropriate state agencies.

(B) User Department (The department in need of and requesting the procurement of goods or services):

- (i) It shall be the responsibility of each User Department to evaluate its projected procurement needs on an annual basis, and to undertake and coordinate procurement planning activities with the Procurement Department, annually.
- (ii) For the procurement of any product or service of Twenty-Five Thousand Dollars (\$25,000), or more, the User Department shall prepare a written purchase requisition and submit same to the Procurement Department a minimum of three (3) months prior to the desired delivery, bid opening, performance, or proposal due date. For purchases under Twenty-Five Thousand Dollars (\$25,000), the purchase requisition shall be submitted to the Procurement Department not less than ten (10) days in advance. The purchase requisition shall serve as the mechanism by which the User Department communicates its specific procurement need to the Procurement Department, and it represents the beginning of the procurement process.
- (iii) The requisition shall include the following elements:
 - (a) Properly completed form per the Authority's Requisition Procedures; and
 - (b) Budget; including proposed funding source by designation of the account funding code, estimated cost and basis for estimated cost; and
 - (c) Specifications; completed in accordance with Article 13.
- (iv) The User Department is responsible for (i) managing all phases of the contract administration procedure, (ii) monitoring the performance of the contract to ensure compliance with its terms and (iii) the final contract and/or purchase order in accordance with Authority Procedure 2-01-01, as amended from time to time.

(C) Engineering Department:

- (i) The Engineering Department shall serve as the User Department for major Public Work projects.
- (ii) The preparation and submittal of a requisition shall be required for Public Work projects which have been developed or identified under Board authorization or which have received state or federal funding approval.

(D) Internal Audit:

The Internal Audit Department shall have responsibility for evaluating the adequacy and effectiveness of internal controls governing the procurement process, for providing cost analysis services upon the request of the Procurement Department and for conducting any necessary audits, such as those required by the federal Buy America Act.

(E) Office of General Counsel:

The Office of General Counsel shall provide interpretations of the procurement guidelines, advice to the User and Procurement Departments on statutory and regulatory compliance and assist in the Board Agenda process for awards requiring Board approval. All issues regarding disqualification and/or release of a low bidder must be reviewed by the Office of General Counsel prior to a decision being made.

(F) EEO/Diversity Development Department

The Office of EEO/Diversity Development shall develop DBE goals. EEO/Diversity Development will monitor DBE participation for federal and state funded projects. The EEO/Diversity Development Department will also report DBE utilization to appropriate federal and state agencies.

EVALUATING RESPONSIVENESS AND RESPONSIBILITY

(A) Factors which should be considered by the Authority in evaluating responsiveness should include the following considerations:

- (i) Has all required information been provided?
- (ii) Does the bid contain mistakes?
- (iii) Has bidder failed to commit to a firm price?
- (iv) Are there unacceptable qualifications or conditions tied to the bid?
- (v) Has the bid been prepared in accordance with the bidding instructions?
- (vi) Are unacceptable provisions included in the bid?
- (vii) Has the bidder altered or limited any of the contract or solicitation provisions?
- (viii) Has the bidder offered non-conforming products or services?
- (ix) Has the bidder failed to acknowledge amendments to the IFB issued by the Authority?

Note that the foregoing list is not exhaustive. Minor deviations which are immaterial and do not effect quantity, quality or delivery, may be waived by the Authority if such waiver does not prejudice or affect the relative standing of the bidders.

(B) In evaluating the responsibility of an apparent low bidder or proposed subcontractor, the Authority may consider, among other factors, whether the subjects' record with the Authority or other owners includes or demonstrates:

- (i) Being listed on a federal or state debarred contractors list.
- (ii) Poor prior performance on an Authority contract.
- (iii) Lack of: adequate expertise; prior experience with comparable projects; or financial resources necessary to perform the work outlined in the contract in timely, competent and acceptable manner. Evidence of such factors may include failure to submit satisfactory evidence of insurance, surety bonds, or financial responsibility; or a history of terminations for cause.
- (iv) Engagement in criminal conduct in connection with any other government contracts or the conduct of business activity that involves such crimes as extortion, racketeering, bribery, fraud, bid-rigging and embezzlement.
- (v) Grave disregard for the safety of employees, State personnel, or members of the public. Consideration will be given to whether employees who will be assigned to work on the project are properly trained and whether the equipment to be used is safe and functioning properly.
- (vi) Willful noncompliance with the State's Labor Laws regarding prevailing wage and supplement payment requirements, including consideration of any pending violations.
- (vii) Disregard for other State Labor Laws, including child labor, proper and timely wage payments and unemployment insurance laws.
- (viii) Violations of the State Workers' Compensation Law including failure to provide proof of proper workers' compensation or disability coverage.
- (ix) Violations of the State's Environmental Conservation Law or violations of any other federal or State environmental statutes.
- (x) The failure to abide by State and federal statutes and regulations regarding efforts to solicit and utilize disadvantaged, minority and women-owned business enterprises as potential sub-contractors.
- (xi) The submission of a bid which is mathematically or materially unbalanced.
- (xii) The submission of a bid which is so much lower than the Authority's confidential engineer's estimate that it appears unlikely that the contractor will be able to complete the project satisfactorily at the price bid.
- (xiii) The presentation of false or misleading statements or any other issue that raises serious questions about the responsibility of the bidder or proposed subcontractor.

GUIDELINES

ARTICLE 1. BOARD APPROVAL

Board approval is required for each of the following:

- (A) All Contracts for Goods or Services in the actual or estimated value of One Hundred Thousand Dollars (\$100,000) or more; and

- (B) Contracts where performance is to continue for a period in excess of one (1) year.

ARTICLE 2. BUY AMERICA

- (A) **FEDERAL REQUIREMENTS:** Procurements which include federal funds are subject to federal "Buy America" requirements. Generally, this means that steel, iron, and/or manufactured products which are incorporated in Public Works or product purchases are to have been produced in the United States, unless a waiver has been granted by a federal agency or the project is subject to a general waiver (See, 49 CFR 661.7 App. A). General waivers have been established for microcomputer equipment, including software, and purchases of \$150,000 or less. Rolling stock must have a 65% domestic content in years 2018 and 2019 and a 70% domestic content in 2020 and beyond. Final assembly must take place in the United States.
- (B) **STATE REQUIREMENTS:**
- (i) Product purchase contracts involving an estimated expenditure in excess of \$50,000.00 shall require that to the extent such products are made of, fabricated from, or contain steel components that such steel components are produced or made in whole or substantial part in the U.S., its territories or possessions, except in the procurement of motor vehicles and automobile equipment assembled in Canada in conformity with the "Automotive Products Trade Act of 1965" or any amendments thereto.
 - (ii) Public work projects in excess of \$100,000.00 shall require that all structural steel, reinforcing steel or other major steel items to be incorporated in the project shall be produced or made in whole or substantial part in the U.S., its territories or possessions.
 - (iii) By resolution of the Board of Commissioners these state provisions may be waived if it is determined that such provisions would result in unreasonable costs or that such steel products or steel components cannot be produced or made in the U.S. in sufficient and reasonably available quantities or of satisfactory quality or design.

ARTICLE 3. FOREIGN BUSINESS ENTERPRISES

In the event of the award of a Contract for the Goods or Services from a Foreign Business Enterprise in an amount equal to or greater than one million dollars, simultaneously with notifying the successful bidder or proposer, the Authority shall notify the NYS Commissioner of Economic Development of the pending award. The pending Contract for Goods or Services shall not be entered into until at least fifteen days have elapsed. However, this provision does not apply to Contracts for Goods or Services awarded on an emergency or exigency basis or where a waiver of this requirement has been obtained from the NYS Commissioner of Economic Development.

The notification to the NYS Commissioner of Economic Development shall include the name, address and telephone and facsimile number of the Foreign Business Enterprise, a brief description of the goods or services to be obtained, the amount and term of the proposed Contract for Goods or Services, and the name of the individual at the Foreign Business Enterprise or acting on behalf of the same who is principally responsible for the proposed Contract for Goods or Services.

Pursuant to section 2879 of the Public Authorities Law, the Authority shall not enter into a Contract for Goods or Services with a Foreign Business Enterprise which has its principal place of business located in a Discriminatory Jurisdiction contained on the list prepared by the NYS Commissioner of Economic Development pursuant to subdivision 6 of section 165 of the State Finance Law. The provisions of this subparagraph may be waived by the Executive Director if the Executive Director determines in writing that it is in the best interests of the Authority to do so. The Executive Director shall deliver each such waiver to the NYS Commissioner of Economic Development.

ARTICLE 4. PERFORMANCE SECURITY AND BONDING REQUIREMENTS

(A) Bid Security

All Public Work contracts equal to or in excess of Fifty Thousand Dollars (\$50,000) shall require bid security equal to ten percent (10%) of the bid price. Bid security may be in the form of a bid bond, certified check or other guaranteed negotiable instrument or letter of credit.

The bid security of the bidders submitting the three lowest bids will be retained until execution of the contract or until a maximum of 180 days after bid opening, whichever is sooner. Bid security of the remaining bidders will be returned within ten calendar days after the bid opening date.

In the event of neglect or refusal on the part of the successful bidder to execute the contract and furnish evidence of insurances within ten (10) days after written notification of notice of intent to award the contract, and furnish the Performance Security and Labor and Material Payment Bond within three (3) days after receipt of the executed contract, the entire bid security shall be forfeited to and retained by the Authority as liquidated damages for such neglect or refusal.

Bid security is not mandated for product contracts.

(B) Performance Security

All Public Work contracts of Ten Thousand Dollars (\$10,000.00) or more, shall require a performance bond or certified check or other guaranteed negotiable instrument or letter of credit guaranteeing the contractor's faithful performance.

Performance security is not mandated for product contracts.

In instances where a performance bond is offered, the bond shall be in the amount of the contract and be issued by a duly incorporated entity authorized to guarantee the faithful performance of contracts and to do business in the State of New York as a surety.

(C) Letter of Credit

A letter of credit used as bid or performance security should be an irrevocable letter of credit issued by a bank or financial institution of B-rating or better, as determined by Moody's and Standard & Poors, signed by an authorized representative of the issuing institution and naming the Authority as beneficiary. The letter of credit must state that an amount representing at least ten percent (10%) of the bid price is available to be drawn on unconditionally by the Authority under the expressed terms and conditions. These

terms and conditions including the location at which the Authority can draw the funds, an effective date, and expiration date should be clearly stated in the letter of credit.

(D) Labor and Material Payment Bonds

All Public Work contracts, regardless of amount, shall require Labor and Material Payment Bonds in an amount equal to the contract amount.

(E) Maintenance Bonds

All Public Work contracts, regardless of amount, shall require as a minimum, a one (1) year Maintenance Bond, which period shall commence as of the date of Final Acceptance. The Maintenance Bond shall be in the full contract amount.

(F) Waiver

- (1) Bid and Maintenance Bond requirements may be waived prior to bid date by the Executive Director or his designee for cause. In instances where such bonds are not required payment shall be withheld until full and complete performance has been accomplished under the terms of the contract.
- (2) Performance Security and Labor and Material Payment Bonds may be waived by the Executive Director or his designee, prior to the bid date, in accordance with State Finance Law § 137(1), provided that the aggregate amount of the Contract is under One Hundred Thousand Dollars (\$100,000.00) and that the Authority retains twenty percent from each progress payment or estimate until the entire contract work has been completed and accepted, at which time the Executive Director or his designee may authorize, pending the payment of the final estimate, the release of up to seventy-five percent of the retained percentage.

ARTICLE 5. PREVAILING WAGE RATES

Certain Public Work contracts may be subject to the payment of prevailing wage rates, regardless of the dollar amount of the contract. It shall be the responsibility of the Procurement Department and/or the Engineering Department to obtain the applicable prevailing wage rates for the particular procurement and ensure that the rates are included in the bid solicitation.

Generally, projects for construction, reconstruction or maintenance done on behalf of a public entity involving the employment of laborers, workers or mechanics are Public Works. In instances where there is a question regarding whether this condition exists, the Bureau of Public Work will make a determination based on the particular project details.

Generally, agreements between a contractor and a public entity in which the principal purpose is to furnish services through the use of "building service employees" are subject to prevailing wage rates. A "building service employee" includes, but is not limited, to, building cleaner, janitor, gardener, groundskeeper, window cleaner, and occupations relating to the collection of garbage or refuse, and to the transportation of office furniture and equipment, and the transportation and delivery of fossil fuel.

The Procurement and Engineering Departments are encouraged to contact the Legal Department for assistance in the event they are uncertain as to the applicability of prevailing rates to a particular procurement.

ARTICLE 6. SEALED BIDDING

- (A) Sealed bidding is the preferred procurement method for acquisitions of Fifty Thousand Dollars (\$50,000) or more where the following factors are present:
- (i) The contract will be based upon a complete, adequate and realistic specification or purchase description and/or an itemized bid proposal;
 - (ii) Two (2) or more responsible bidders are willing and able to compete effectively for the award;
 - (iii) A fair and reasonable award can be made principally on the basis of price; and
 - (iv) The procurement lends itself to an FFP-type contract.
- (B) **Sealed bidding is not required when:**
- (i) The purchase is under \$50,000 and an Informal; small purchase procurement procedure is being followed;
 - (ii) An emergency or exigency exists which renders delay impermissible;
 - (iii) A single source has been validated;
 - (iv) A single bid has been validated;
 - (v) Federal or state authorization for non-competitive negotiations has been obtained;
 - (vi) A modification or amendment to a contract is justified;
 - (vii) The procurement lends itself to a CR-type contract; or
 - (viii) A resolution adopted by a vote of at least two-thirds of the Members in attendance at a meeting of the Board states that the Board has determined that it is not in the best interest of the Authority to advertise for bids.
- (C) **Minimum requirements for sealed bidding include:**
- (i) the preparation of an independent estimate prior to bid opening;
 - (ii) the "advertisement" of an Invitation For Bids (IFB) or a synopsis of a procurement action;
 - (iii) the acceptance of sealed bids;
 - (iv) the public opening of sealed bids;
 - (v) the preparation of a written bid analysis; and
 - (vi) the award of a FFP type contract to the lowest priced responsive, responsible bidder.
- (D) **In the event of a tied-bid**, the contract shall be awarded based upon the following descending order of priorities:
- (i) Small businesses which are "labor surplus area firms".
 - (ii) Other small businesses.
 - (iii) Other businesses that are also "labor surplus area firms".
 - (iv) Other businesses (i.e., DBEs, WBEs & MBEs).
 - (v) If two or more bidders still remain equally eligible after application of the above order of priority, award shall be made by a drawing by lot limited to those bidders. If time permits, the bidders involved shall be given an opportunity to attend the drawing. The drawing shall be witnessed by at least three persons, and the contract file shall contain the names and addresses of the witnesses and the person supervising the drawing.

ARTICLE 7. SEALED BIDDING (Two-Step Variation)

- (A) The two-step sealed bidding method may be appropriate in instances where the specification is "functional" or performance based and there may exist a variety of acceptable technical approaches.
- (i) Step one consists of the request for, submittal, evaluation, and "discussion" (optional) of a technical proposal. For purposes of two-step sealed bidding, this includes engineering approach, special manufacturing processes and special testing techniques. No pricing is considered in step one. Discussions may be conducted for clarification of questions relating to technical requirements.
 - (ii) Step two consists of the submission of sealed price bids by those who submitted acceptable technical proposals in step one. Each bidder's price shall be based on its own technical proposal. If an award is made, a FFP-type contract is awarded to the lowest priced responsive, responsible bidder.

ARTICLE 8. NEGOTIATION

- (A) Procurement by Negotiation is the preferred procurement method for acquisitions of Fifty Thousand Dollars (\$50,000) or more where one (1) or more of the following factors are present:
- (i) The desired goods or services cannot be precisely defined, described or standardized.
 - (ii) The desired end product is conceptual in nature.
 - (iii) A CR type contract is contemplated.
 - (iv) Discussions concerning the technical aspects and price negotiation are intended.
 - (v) Offerors are to be given the opportunity to revise the price or technical aspects of their proposal.
 - (vi) Price alone cannot be the determinative factor in award. Quality, qualifications, performance data, or other contractual factors are to be considered in selecting the most advantageous offering.
 - (vii) Artistic or aesthetic values supersede price as primary selection criteria.
- (B) **Procurement by Negotiation is not required when:**
- (i) The purchase is under \$50,000 and an Informal; small purchase procurement procedure is being followed;
 - (ii) An emergency or exigency exists which renders delay impermissible;
 - (iii) A single source award or single bid award is validated;
 - (iv) Federal or state authorization for noncompetitive procurement has been obtained;
 - (vi) A resolution adopted by a vote of at least two-thirds of the Members in attendance at a Meeting of the Board states that the Board has determined that it is impractical to advertise for competitive proposals or it is not in the best interest of the Authority to do so; or
 - (vii) a modification or amendment to a contract is justified.
- (C) **Minimum requirements for Negotiation include:**
- (i) The solicitation of statements of qualifications (SOQ) and/or the advertisement of a Request for Proposals (RFP) a minimum of 21 days shall be allowed for the preparation of proposals and the setting of the proposal due date;
 - (ii) In the event that an SOQ is advertised, preparation of a preselection list of the best qualified consultants, based on the experience and qualification data supplied

by the consultants. Generally, the preselection list may consist of 3 to 5 consultants. If technical proposals were solicited in conjunction with the advertisement, all consultants who submitted responsive proposals must be included for evaluation.

- (iii) The acceptance of sealed proposals;
- (iv) The evaluation of the proposals on the basis of published selection criteria;
- (v) The published selection criteria for procurements less than \$250,000 shall be as follows:
 - (a) Professional Services; 40% qualifications and experience, 30% technical criteria and 30% cost.
 - (b) Revenue Generating and Other Services; 20% qualifications and experience, 30% technical criteria and 50% cost.
 - (c) Technical/Operation Sensitive Services; 20% qualifications and experience; 40% technical criteria and 40% cost.
 - (d) Specialty Vehicles, Equipment and Technical Products; 20% qualifications and experience, 50% technical criteria and 30% cost.

Diversity Practices will be assessed for procurements anticipated to be \$250,000 or greater when it is practical, feasible and appropriate to do so.

Published selection criteria shall be as follows:

- (a) Professional Services; 35% qualifications and experience, 30% technical criteria, 30% cost and 5% diversity practices.
 - (b) Revenue Generating and Other Services; 20% qualifications and experience, 30% technical criteria and 50% cost.
 - (c) Technical/Operation Sensitive Services; 20% qualifications and experience; 40% technical criteria, 35% cost and 5% diversity practices.
 - (d) Specialty Vehicles, Equipment and Technical Products; 20% qualifications and experience, 45% technical criteria, 30% cost and 5% diversity practices.
- (vi) The preparation of an independent estimate before opening the sealed proposal;
 - (vii) Proposals within the "competitive range" are identified and discussions are held with each proposer;
 - (viii) Best and final offers (BAFOs) may be requested of all proposers determined to be within the competitive range or on the short-list; and
 - (ix) The Authority evaluates BAFOs and awards either a FFP-type or a CR-type contract to the proposer whose BAFO is most advantageous to the Authority.

- (D) If so stated in the RFP, selection may be based on the basis of the original proposals, without discussions with any offeror. However, in the event discussions are conducted with any one offeror, discussions **must** then be conducted with all offerors in the competitive range.

ARTICLE 9. QUALIFICATIONS-BASED PROCUREMENT

- (A) This method is required in procuring architectural, engineering and certain related services whenever state or federal funds will or may be used. There are differences between the Federal Aviation Administration and Federal Transit Administration as to what services are required to be procured in this manner, so reference should be made to the most current version of FAA Advisory Circular 150/5100-14D, FTA Advisory Circular 4220.1F or New York State law for guidance.

(B) Minimum requirements for a qualifications based procurement include:

- (i) Empaneling of the selection board, consisting of usually at least three qualified members. If the intended procurement is for a GBNRTC, or NITTEC study either a GBNRTC, or NITTEC, study manager or the GBNRTC, or NITTEC, Executive Director shall be included on the Selection Board, as is appropriate for the scope of the study. The selection board shall be prepared to evaluate qualifications, proposals, potential consultants (i.e., conduct interviews and inquiries as required), and make recommendations. Where a GBNRTC, or NITTEC, study may not be in the direct interest of the Authority, the Selection Board may include representatives from outside agencies which have an interest in the study.
- (ii) Development by the selection board, of the selection criteria and the evaluation system to be used in preparing a preselection list of consultants, and in determining the final selection.
- (iii) The solicitation of qualifications by either advertisement of a Request For Qualifications (RFQ) or by requiring qualifications as part of a Request For Proposals (RFP) advertisement. A minimum of 21 calendar days shall be allowed for the preparation of proposals and the setting of the proposal due date.
- (iv) In the event that an RFQ is advertised, preparation of a preselection list of the best qualified consultants, by the selection board, based on the experience and qualification data supplied by the consultants. If technical proposals were solicited in conjunction with the advertisement, all consultants who submitted proposals must be included for evaluation. Generally, the preselection list may consist of 3 to 5 consultants.
- (v) Notification to the unsuccessful consultants who expressed an interest.
- (vi) Solicitation of sealed technical proposals from each of the consultants.
- (vii) The selection board, at its option may conduct interviews, presentations, and/or discussions. If this option is elected, interviews, presentations, and/or discussions must be held with each consultant who has submitted a technical proposal if the initial solicitation was by way of RFQ. If not, interviews, presentations, and/or discussions must be held with each consultant in the competitive range in accordance with the evaluation of the technical proposals.
- (viii) Evaluation of technical proposals and experience and qualification data based upon published selection criteria of which price shall not be a factor, rank and identify most qualified Consultant.
- (ix) Initiate discussions with the most qualified, acceptable proposer to develop and agree upon the "Scope of Work." Thereafter, the Authority prepares its Engineer's Estimate and requests the cost proposal of the most qualified, acceptable proposer.
- (x) Upon completion of the Engineer's Estimate the selection board shall open and review the cost proposal. Thereafter, negotiations are undertaken.
- (xi) If a fair and reasonable price cannot be reached with the most qualified, acceptable proposer, negotiations are commenced with the next most qualified and acceptable proposer. The cost proposal of the next most qualified proposer may be requested **only after** negotiations with the most qualified proposer have been formally terminated. This process shall be repeated until the successful negotiation of a fair and reasonable contract price for an acceptable proposal from a qualified proposer is reached, or until the procurement is discontinued;
- (xii) In accordance with the requirements of New York Public Authorities Law §2879(3)(b)(iv) the Authority will not refuse to negotiate with a professional firm solely because the ratio of the "Allowable Indirect Costs" to direct labor costs of the professional firm or the hourly rate in any labor category of the professional firm exceeds a limitation generally set by the Authority in the determination of

the reasonableness of the estimated cost of services to be rendered by the professional firm, but rather the Authority should also consider the reasonableness of cost based on the total estimated cost of the service of the professional firm which should include, among other things, all the direct labor costs of the professional firm for such services, plus all "allowable indirect costs," other direct costs, and negotiated profit of the professional firm. A professional firm is defined for the purpose of this subparagraph as any legal entity permitted by law to practice the professions of architecture, engineering or surveying.

- (xiii) Submittal of written and documented recommendation for award by the selection board to the Board of Commissioners when required. In addition, the GBNRTC, or NITTEC, studies documentation of the Selection Board's recommendation for award will be maintained at the GBNRTC, or NITTEC, offices and will be available to interested parties.

ARTICLE 10. OPTIONS

An option is a unilateral right in a contract by which, for a specified time, the Authority may acquire additional equipment, supplies, or services than originally procured. An option may also extend the term of the contract. An option must be evaluated as part of the original contract award. In addition, for procurements funded by the Federal Transit Administration, a cost and price analysis must be conducted at the time of exercise of the option in order to ensure that the option price is still fair and reasonable.

ARTICLE 11. NEW YORK STATE CONTRACT REPORTER

All procurements of goods or services having an actual or estimated value of Fifty Thousand Dollars (\$50,000) or more shall be published in **THE NEW YORK STATE CONTRACT REPORTER (NYSCR)**. The Notice of Procurement opportunity shall appear in the **NYSCR** at least fifteen (15) business days prior to the Bid or Proposal due date. However, advance publication shall not be required under emergency or exigency conditions, or when an expediency action has been adopted by the Board, or if the procurement is being resolicited within 45 business days after the date bids or proposals were originally due.

At the time a determination of intent to award a procurement contract is made, the following information shall be submitted for publication in NYSCR: for procurement contracts obtained through the Sealed Bidding process, the result of the bid opening including the names of bidding firms and the amounts bid by each; for procurement contracts obtained through the Negotiation and/or Qualification-Based processes, the names of firms submitting proposals and the proposal selected as the best value offer; and for all other procurement contracts, the name of the proposed awardee.

ARTICLE 12. SOLE-SOURCE AWARDS

(A) A sole source award shall not be justified on the basis of:

- (i) A lack of advance planning by the initiating department; or
- (ii) Concerns related to the amount of funds available (i.e., funds will expire) to the Authority for the acquisition of supplies or services.

(B) A sole-source award is justified under circumstances limited to the following:

- (i) A validated "Single Bid";
- (ii) Emergency (Article 23);

- (iii) Exigency (Article 23);
- (iv) Expediency (waiver of competition, for cause, by a two-thirds vote of the Board of Commissioners) (Article 24); or
- (v) A validated "Single Source" (Article 12[D]).

A cost or price analysis must be prepared for all sole source awards in accordance with FTA guidelines.

(C) A single bid is not validated for purposes of sole source award until Authority staff:

- (i) canvasses all, or in the alternative, three (3) or more prospective bidders from whom bids were solicited to learn the causes for the lack of bidding activity;
- (ii) evaluates and documents the responses;
- (iii) reconsiders its requirements and specifications;
- (iv) makes findings supporting the need for the original requirements and the sufficiency of the specifications, and that the single bidder is responsive and responsible or that the proposer is qualified and the proposal is acceptable; and
- (v) conducts a price or cost analysis to establish that the bid price is fair and reasonable. The cost analysis shall verify the proposed cost data, the projections of the data and the evaluation of specific elements of cost and profit.

(D) A single source is not validated for purposes of a sole source award until Authority staff investigates and documents one (1) or more of the following circumstances:

- (i) The proposed source is the original manufacturer and the terms and conditions of a viable warranty would be violated by the installation of unauthorized parts or components in existing equipment, machinery, vehicles, or systems, or "servicing" by uncertified or unauthorized personnel, and there are no other sources from which authorized parts or components or servicing from certified or authorized personnel may be obtained;
- (ii) The proposed source possesses exclusive, limited rights in data, patent rights, copyrights, secret processes, or the control of basic raw material;
- (iii) The proposed source is the provider under an existing "term contract" (see, Definitions) and the procurement constitutes a subaward thereunder.
- (iv) Prior approval by a State or Federal funding Agency.
- (v) The Executive Director has determined, in accordance with a standardization program adopted by the Authority, that only specified makes and models of technical equipment and parts will satisfy the Authority's needs for additional units or replacement items and only one (1) source is available;
- (vi) The goods or services are available through an existing contract which had been awarded through a competitive procurement method and a price or cost analysis establishes that the price is fair and reasonable.

(E) All eligible contracts for the purchase of goods or services which are to be awarded on a single source basis, sole source basis or pursuant to any other method of procurement that is not a competitive procurement and where the aggregate consideration under the contract may reasonably be valued in excess of \$1,000,000 and eligible amendments to contracts previously approved by the Comptroller where the value of the amendment is 10% or more of the contract amount previously approved by the Comptroller are subject to the prior review and approval of the New York State Comptroller. Please refer to section 2979-a of the New York Public Authorities Law and Part 206 to 2 N.Y.C.R.R. for relevant definitions and the process to be followed.

NOTE: With the exception of awards made under Articles 12(D)(i), (ii), (iii) the aggregate value of single source, unadvertised awards to any one firm or person shall not exceed One Hundred Thousand Dollars (\$100,000.00) per year, absent Board approval.

ARTICLE 13. CONTRACT TYPES

- (A) A Firm Fixed Price (FFP) type contract should be used where there are no substantial uncertainties relating to cost, performance or schedule (Lump Sum and Unit Price contracts are examples of FFP-Type Contracts).
- (B) Cost-Reimbursement (CR) type contracts are generally appropriate for qualifications-based procurements and Negotiated procurements based on a Scope of Services rather than detailed Specifications.
- (C) Cost Plus Percentage of Cost type contracts, and Cost Plus Percentage of Construction Cost type contracts are prohibited.
- (D) Time and Material (T&M) contracts are permitted only:
 - (i) After a determination that no other compensation arrangement is suitable; and
 - (ii) The contract or purchase order contains a price ceiling that the contractor exceeds at its own risk; and
 - (iii) All labor and equipment rates (including overhead and profit), are predetermined and set forth in the contract and materials are to be paid for at cost.

ARTICLE 14. SPECIFICATIONS

- (A) To permit the preparation and evaluation of bids on a common basis, specifications shall present a clear and accurate description of the desired technical requirements for materials, products or services. Further, the specifications shall state the criteria by which the Authority shall determine whether the requirements have been satisfied.
- (B) The specifications shall reflect the Authority's actual needs and shall not contain features which unduly restrict competition.
- (C) A "brand name or equal" description may be used when:
 - (i) It is impractical or uneconomical to make an accurate description of technical requirements; or
 - (ii) An adequate or more detailed description could not be provided, other than by inspection and analysis, in time for the procurement; and
 - (iii) The specification clearly sets forth the salient physical and functional characteristics of the brand name product which are essential to the Authority's minimum requirements and will be used to evaluate proposed or equal substitutions; and
 - (iv) The specification includes the complete common generic identification of the "brand name" product, together with applicable model, make or catalog number, and address of the company.
- (D) Or equal substitutions should be considered for acceptance where the Authority determines that the proposed substitution is equal in all material respects to the brand-name product. Or equal substitutions should not be rejected on the basis of minor differences in design, construction or features which do not affect the suitability of the products for their intended use.

- (E) Prior to developing acquisition specifications Authority staff shall conduct a study of the market place to determine market availability to satisfy the intended acquisition. If a specification is in any way restrictive, a needs analysis must be prepared establishing justification for the specifications. Also, a market analysis must be prepared to document the efforts made in identifying the available market place.

ARTICLE 15. SMALL PURCHASES

- (A) Small purchase acquisitions do not require Board approval unless the term of such acquisition will continue in excess of one (1) year.

(B) **Formal Bidding**

Contracts for goods or services equal to or in excess of Fifty Thousand Dollars (\$50,000), but less than One Hundred Thousand Dollars (\$100,000) may be awarded by the Executive Director or her designee, upon satisfaction of the following minimum requirements:

- (i) Publication of a notice of procurement opportunity in the NEW YORK STATE CONTRACT REPORTER (NYSCR), and either advertisement of a notice of procurement opportunity in any other appropriate forum, or dissemination of a notice of procurement to at least three (3) potential offerors by telephone or in writing.
- (ii) Dissemination of detailed information regarding the proposed procurement, including but not limited to, terms and conditions of the contractual relationship and the scope of services to all interested potential offerors.
- (iii) Receipt of competitive bids or proposals pursuant to sealed bidding procedures or Negotiation procedures, as is applicable.
- (iv) Examination of OGS NYS Commodity Index to determine whether the procurement may be obtained from that source on terms advantageous to the Authority.
- (v) Documentation of the procedures followed and report of same including identification of the budget line item, to the Executive Director or his designee.

(C) **Informal Bidding**

Contracts for goods or services for (i) less than One-hundred Thousand Dollars (\$100,000.00) may be awarded by the Executive Director or, her designee; provided, however, that if such contract is a GBNRTC or NITTEC contract, it shall first be approved by its Board of Directors, or (ii) less than Ten Thousand Dollars (\$10,000) may be awarded by the General Counsel, the Chief Financial Officer, any General Manager or Director, the Executive Director of the GBNRTC or the Executive Director of NITTEC, or their designee (note, that any such delegation must be in writing), upon satisfaction of the following minimum requirements:

- (i) If appropriate, examination of OGS NYS Commodity Index to determine whether the procurement may be obtained from that source on terms advantageous to the Authority.
- (ii) At least three (3) written or telephonic quotes must be solicited for purchases equal to or over Three Thousand Dollars (\$3,000) and under Fifty Thousand Dollars (\$50,000). Purchases up to Three Thousand Dollars (\$3,000) may be

- made without quotes, if the procurement manager or her designee considers the prices to be fair and reasonable.
- (iii) For each, procurement records shall be maintained which set forth: the names and addresses of the contractors or vendors solicited; the terms and prices quoted; whether the goods or service may be procured under the OGS NYS Commodity Index, and if so, the price.
 - (iv) In the case of procurements of Three Thousand Dollars (\$3,000) or more, if three (3) or more quotations cannot be obtained because there is not a sufficient number of suppliers able to meet the purchase requirements (including timely delivery), such facts shall be set forth in writing.
 - (v) Approval of a small purchase contract award shall not be granted unless and until the foregoing written information has been reviewed and found to be acceptable. Approval may be indicated by dated signature authorization by the Executive Director or the authorized individual.
 - (vi) Price Lists or catalogs may be used in obtaining three (3) or more quotes.
- (D) A written confirmation of the successful contractor's quotation, including price and relevant contract terms shall be obtained in the case of verbal quotes or offers, prior to award.
- (E) In the event a "Single Source" or "Single Bid" selection is the subject of a Small Purchase under \$50,000, authorization for the purchase must come from the Executive Director.

ARTICLE 16. FEDERAL, STATE AND COUNTY CONTRACT LISTS

The State Office of General Services contract prices and County contract prices are deemed competitive prices. Contracts may be awarded based on the state or county contract price without additional competitive procedures. The United States General Services Administration (GSA) has identified specific contracts that the Authority is authorized to use. Contracts may be awarded based on the federal contract price when allowed by the GSA. If the contract price available through the federal, state or county price lists is lower than the lowest bid price after sealed bidding, formal bidding, or informal bidding, the bids shall be rejected and a contract awarded based upon the federal, state or county contract price.

ARTICLE 17. FUNDING

- (A) In all cases where contracts are being funded by state or federal funds, applicable regulations of the state or federal authorities governing the award of such contracts shall be observed.
- (B) The Federal Aviation Administration and the Federal Transit Administration each have specific criteria for the procurement of Design-Bid-Build and Design-Build contracts. Please refer to the relevant Advisory Circular for specific requirements.
- (C) The Federal Aviation Administration and the Federal Transit Administration each prohibit the use of in-State or local geographical preferences, with the exception of architectural and engineering services.
- (D) The Federal Aviation Administration and the Federal Transit Administration require a cost analysis or a price analysis in connection with every procurement action.
- (E) The Federal Transit Administration requires the use of Part 31 of the Federal Acquisition Regulations with respect to pricing issues.

- (F) The Federal Transit Administration has specific rules governing advance payments and progress payments. Advance payments are prohibited. Progress payments are permitted provided that title has been obtained. Please refer to FTA Circular 4220.1F.
- (G) No contract shall be awarded or obligation incurred for any purpose which involves the expenditure of money, in excess of the monies appropriated and available in the Authority's budgets for said purpose, except as otherwise authorized by the Board.

ARTICLE 18. PROFESSIONAL SERVICE CONTRACTS

- (A) The following guidelines apply to the procurement of consulting or professional services such as legal, audit, planning, testing, accounting, architectural, engineering or surveying services, except to the extent that the procurement of such services are governed by state or federal regulations.
- (B) Professional service contracts which do not exceed One Hundred Thousand Dollars (\$100,000) and will not involve services to be rendered in excess of one (1) year may be awarded following either the Formal Bidding or Informal Bidding Small Purchase guidelines set forth under Article 15, as is appropriate.
- (C) The selection of professional service contractors shall be on a competitive basis, except that the Board may waive competition by a two-thirds vote of the Members in attendance at a Meeting of the Board, if it is in the Best Interests of the Authority to do so. The standard of "Best Interest of the Authority" may, but need not be based upon one or more of the following criteria for the selection of professional service contractors:
 - (i) Confidentiality;
 - (ii) Specialized expertise or unusual qualifications or services are obtainable from one source only;
 - (iii) Historical relationship with the Authority, the continuation of which will result in some economy advantage to the Authority and will avoid duplication of costs;
 - (iv) Specialized knowledge;
 - (v) Lack of responsible competition, as validated pursuant to Article 11, supra;
 - (vi) Nature, magnitude or complexity of services required;
 - (vii) Lack of resources, support staff, specialized facilities or equipment;
 - (viii) Short term or infrequent need for services; and
 - (ix) Selection which is necessary as a result of emergency or exigency conditions.

ARTICLE 19. DISADVANTAGED BUSINESS ENTERPRISES/MINORITY WOMEN BUSINESS ENTERPRISES/SERVICE DISABLED VETERAN-OWNED BUSINESSES

- (A) It is the desire of the Board to promote and assist participation by DBEs, MBEs, WBEs and to facilitate a fair share of the awarding of contracts thereto.
- (B) An updated list of all DBE certified firms in New York State may be obtained from the New York State Unified Certification Program website at www.biznet.nysucp.net. A directory of MWBE certified firms may be obtained from the New York State MWBE website at www.nylovesmwbe.ny.gov. A list of all SDVOB certified firms in New York state may be obtained from the New York State Office of General Services website at <http://www.ogs.ny.gov/Core/SDVOBA.asp>. The Procurement Department shall be responsible for referencing such lists prior to the publication of a notice of procurement opportunity or informal solicitation to determine the availability of certified DBE, MBE and WBE entities.

- (C) The Procurement Manager shall ensure that the Authority establishes appropriate goals for participation by MWBEs and SDVOBs in procurement contracts awarded by the Authority and for the utilization of MWBEs and SDVOBs as subcontractors and suppliers by entities having procurement contracts with the Authority. Statewide numerical participation target goals shall be established by the Authority based on the findings of the most current disparity study.
- (D) Every effort will be made to achieve the MWBE and SDVOB goals assigned to projects. The Authority's procurement solicitation documents shall include MWBE and SDVOB goals, as appropriate. These documents are advertised and posted on the Authority's website. MWBE and SDVOB utilization will be monitored and reported by the Procurement Department with assistance from the Engineering Departments.

ARTICLE 20. CONFIDENTIALITY AND CONFLICTS OF INTEREST

- (A) Authority staff engaged in the procurement process shall ensure that proprietary information submitted by bidders and proposers, and source selection information, including the number or identity of offerors is not disclosed to any unauthorized person. In the event a request for such confidential information is made, the Office of General Counsel shall determine the appropriateness of disclosure.
- (B) No procurement contracts shall be entered into with former commissioners, officers or employees of the Authority except to the extent permitted by Section 73 of the Public Officers Law and the Authority Board of Commissioners' Code of Ethics.
- (C) No procurement contracts shall be awarded to a firm to:
 - (i) Prepare the work statement/specifications for purchase of supplies or a proposed Public Work when the firm is affiliated with another company whose business is related to the pending procurement. (In order to ensure objective contractor performance and eliminate any unfair competitive advantage, a contractor that develops or drafts specifications for a particular procurement shall be excluded from competing for and performing work under the directly ensuing procurement, unless the initial design contract was awarded under a competitive selection process); or
 - (ii) Perform a study or work effort concerning a certain organization, technical field or geographic area when the firm has a business relationship or common interest with the organization, field or area to be studied.
- (D) The files for procurement contracts covered by Section 139-k of the State Finance Law must include the required information regarding persons or organizations retained to attempt to influence the procurement process. Any contacts that reasonably appear to be an attempt to influence the procurement process by persons or organizations other than those identified in the bid or proposal documents shall be recorded as required by Section 139-k of the State Finance Law.

ARTICLE 21. MINIMUM CONTRACT REQUIREMENTS

- (A) The following types of provisions shall be contained in all goods and services contracts, except that any of the provisions listed which are inapplicable or unnecessary because of the nature or duration of the services to be performed, or goods to be supplied, the location or locations where they are to be performed or supplied, or the type of the compensation being paid, therefore, need not be included:

- (i) Description of services or goods or the scope and extent of contract work;
- (ii) Compensation, delineating the contract price and method of payment or the rates and fees upon which compensation shall be based;
- (iii) Time for performance or date of completion, including when appropriate, dates for completion of significant tasks; the Authority shall not enter into any contract for rolling stock or replacement parts with a period of performance exceeding five years inclusive of options;
- (iv) Liability of contractor; indemnification of Authority;
- (v) Reports of contractor;
- (vi) Ownership of plans, drawings or other products of the performance of the service;
- (vii) No assignments or subcontracts without the express prior written consent of the Authority;
- (viii) Maintenance of records, accounts;
- (ix) Rights of inspection and audit of books and records;
- (x) Insurance requirements;
- (xi) Termination;
- (xii) Monitoring of the performance of services;
- (xiii) The extent of subcontracting and sub-consulting agreements;
- (xiv) Contract modification or change order requirements;
- (xv) Notice of Claim/Disputes;
- (xvi) Use of Authority's supplies, facilities or property.
- (xvii) Use of Authority's personnel, and certification of key personnel and facilities necessary to accomplish the work within the time required; and
- (xviii) All provisions required to be included in the contracts of the Authority by federal, state or local laws, ordinances, codes, rules or regulations, including when appropriate, notice to the Contractor that the proposed procurement action will be subject to state and/or federal funding regulations and approval.

ARTICLE 22. CONTRACT MODIFICATIONS, CHANGE ORDERS AND SUPPLEMENTAL AGREEMENTS

- (A) Change orders, supplemental agreements or other contract modifications which alter a procurement contract shall be approved by either the Board, the Executive Director, the General Counsel, the Chief Financial Officer, the Executive Directors of GBNRTC and NITTEC, a General Manager, or Director as is appropriate and as is limited by the levels of authorization outlined in Article 11, Small Purchases.
- (B) The Authority shall perform a cost analysis unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation.
- (C) Profit shall be negotiated as a separate element, taking into consideration:
 - (i) complexity of the work,
 - (ii) the risk borne by the contractor,
 - (iii) the contractor's investment,
 - (iv) the degree of subcontracting,
 - (v) the contractor's past performance, and
 - (vi) industry profit rates for similar work.

- (D) Any change order, supplemental agreement or other contract modification shall contain a justification assuring that the proposed action is an appropriate alternative, under the circumstances, to a competitive procurement.
- (E) The Federal Transit Administration prohibits cardinal changes, defined as significant changes in contract work that cause major deviations from the original purpose of the work or the intended method of achievement, or cause revisions of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract. Please refer to FTA Circular 4220.1F for further information.

ARTICLE 23. EMERGENCY OR EXIGENCY

- (A) The General Counsel, Chief Financial Officer, Executive Directors of GBNRTC and NITTEC and General Managers and Directors, or their designee, are authorized to declare an emergency or exigency and to make awards not to exceed Nine Thousand Nine Hundred Ninety-Nine Dollars (9,999), per occurrence, and shall report same to the Executive Director at the earliest opportunity, as described in part (E), below. The delegation of this authority must be in writing and the designee must report directly to the authorized individual.
- (B) In the event the authorization limit set forth in Paragraph 23(A) will be exceeded, the General Counsel, Chief Financial Officer, Executive Directors of the GBNRTC and NITTEC, Directors or General Managers shall contact the Executive Director or in his absence the Chairman of the Board. The Executive Director is authorized to declare an emergency or exigency and to make awards not to exceed One Hundred Thousand Dollars (\$100,000), per occurrence and shall report same to the Chairman at the earliest opportunity, as described in part (E), below.
- (C) In the event the authorization limit set forth in Paragraph 23(B) will be exceeded, the Executive Director shall contact the Chairman of the Board, or in his absence, the Vice Chairman of the Board. The Chairman (or if applicable, the Vice Chairman), is authorized to declare an emergency or exigency and to make awards which may exceed One Hundred Thousand Dollars (\$100,000).
- (D) In the event the final contract amount owed is equal to or greater than One Hundred Thousand Dollars (\$100,000), the individual responsible for declaring the emergency or exigency shall prepare and submit a "DECLARATION OF EMERGENCY/EXIGENCY REPORT" to the Executive Director for submittal to the Board at the earliest possible Board Meeting. At a minimum, the "DECLARATION REPORT" shall set forth the following information:
- (i) A description of the emergency or exigent circumstances, or the unforeseen circumstance.
 - (ii) A description of the perceived damages or threat of harm or loss, or the perceived interruption to or obstruction of operation or provision of service.
 - (iii) A description of the preventative action taken.
 - (iv) A listing of all Authority personnel involved in the response or the occurrence.
 - (v) An explanation of the steps taken to procure goods or services and the rationale for the award and procurement decisions made by the individual.
 - (vi) Identification of the source of funds used to pay for the response.
 - (vii) A request for Board ratification of the response to the Emergency or Exigency.

- (E) In the event the final contract amount is less than One Hundred Thousand Dollars (\$100,000), the individual responsible for declaring the emergency or exigency shall prepare and submit a "DECLARATION OF EMERGENCY/EXIGENCY REPORT" to the Executive Director at the earliest possible time, documenting the information outlined in sections (D) (i) through (vi), above.

ARTICLE 24. EXPEDIENCY

- (A) The provisions of this article shall be implemented under special and limited circumstances as determined by a two-third's vote of the Members in attendance at a Meeting of the Board, based on the best interests of the Authority upon request by staff seeking Board Waiver of one or more procurement guidelines. The criteria for establishing best interests of the Authority for the purposes of this Article may be found at Article 18(C).
- (B) The request shall include but not be limited to the following:
- (i) Statement of objective and rationale for expediency;
 - (ii) Course of action outlining:
 - a. step-by step procedure to accomplish the objective;
 - b. specific guideline waiver request(s);
 - c. Justification and anticipated benefit to the Authority.
 - (iii) Request for authorization to proceed.

ARTICLE 25. WAIVER OF COMPETITION PURSUANT TO SECTION 2879 OF THE PUBLIC AUTHORITIES LAW

Pursuant to section 2879 of the Public Authorities Law the Board may waive competition for the purchase of goods or services from small business concerns or those certified as minority or women-owned business enterprises, or goods or technology that are recycled or remanufactured, in an amount not-to-exceed \$200,000.00. Such a waiver may only be granted for non-federally funded purchases and shall require a two-thirds vote of the Members in attendance at a Meeting of the Board.

ARTICLE 26. RECORDS RETENTION

Procurement records shall be retained in accordance with the New York State Records Retention Manual.

Every procurement file shall contain, at a minimum, records detailing:

- (A) the rationale for the method of procurement,
- (B) the rationale for the selection of contract type,
- (C) reasons for contractor selection or rejection, and
- (D) the basis for the contract price.

ARTICLE 27. PROCUREMENT REPORTING

- (A) The Procurement Department shall ensure that on an annual basis, the Authority shall prepare, approve and make publicly available, a report summarizing the Authority's procurement activity for the period of the report. The report shall include a listing of all contracts of Five Thousand Dollars (\$5,000), or more, the selection process used to select such contractors, and the status of existing procurement contracts.

- (B) On an annual basis the Office of General Counsel shall prepare and submit for Board approval a report on Procurement Contracts. This report shall include a copy of the existing guidelines, an explanation of the guidelines and any amendments thereto since the last annual report. This report may be made a part of any other reports that the Authority is required to make.
- (C) This information shall be submitted annually through the New York State Public Authorities Data Report to the New York State Division of Budget, and copies thereof to the New York State Department of Audit and Control, the Senate Finance Committee, the Assembly Ways and Means Committee and the Executive Officers and Legislatures of Erie and Niagara Counties.

ARTICLE 30. SPLIT PROCUREMENTS

The splitting of procurements for the purpose of circumventing the requirements of more complex procurement procedures or a higher level of authority or decision-making is prohibited.

ARTICLE 31. UPDATING, MONITORING AND CONTROL OF PROCUREMENT GUIDELINES AND PROCEDURES

- (A) The Procurement Department and the Office of General Counsel shall ensure that the Procurement Guidelines and Procedures are submitted to the Board for review, updating (if deemed necessary), and re-authorization, on an annual basis.
- (B) The Department of Internal Audit shall develop and implement a program to monitor the Authority's compliance with the Procurement Guidelines and Procedures.
- (C) The Procurement Department shall develop and implement a control system to ensure that the Guidelines and procedures are being followed.

ARTICLE 32. UTILITIES, SURPLUS AND SECOND-HAND SUPPLIES

- (A) Utilities and utility services such as telephone, water, electric power and natural gas (except for those utilities and utility services which are competitively procured), may be purchased upon the authorization of the CFO or his designee without Board approval, provided that the cumulative dollar amount for such purchases for the year is within the amounts budgeted for such utilities or services, as approved by the Board.
- (B) The Authority may purchase surplus and second-hand supplies, materials or equipment from the Federal Government, the State of New York or any political subdivision, municipality, or district without advertising or the solicitation of bids, proposals or quotations, however, purchases involving an expenditure of One Hundred Thousand Dollars (\$100,000) or more shall require Board Approval.

ATTACHMENT “A”

CODE OF ETHICS

In addition to the requirements imposed by (i) Sections 73 and 74 of the New York Public Officers Law, which govern outside business/professional activities and conflicts of interest, respectively, and apply to all employees of the Authority, (ii) Authority Policy 01-01-04 (Code of Ethics) and (iii) the Board of Commissioners Code of Ethics, the Authority will assure that ethical conduct is maintained by adhering to the following requirements:

1. No employee, officer, commissioner, or agent of the Authority shall participate in the selection, or in the award or administration of a contract, if a conflict of interest real or apparent would be involved. Such a conflict would arise when:
 - a) The commissioner, officer, employee, or agent,
 - b) Any member of his * immediate family,
 - c) His partner, or
 - d) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.
2. The Authority's, commissioners, officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub agreements.
3. Rule with respect to conflicts of interest. No commissioner, officer or employee of the Authority should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.
4. **Standards:**
 - a) No commissioner, officer or employee of the Authority should:
 - (i) Accept other employment which will impair his independence of judgment in the exercise of his official duties.
 - (ii) Accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
 - (iii) Disclose confidential information acquired by him in the course of his official duties nor use such information to further his personal interests.
 - (iv) Use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
 - (v) Engage in any transaction as representative or agent of the Authority with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
 - (vi) By his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

* For editorial convenience, this use of the masculine personal pronoun is deemed gender neutral throughout this document.

- (b) A commissioner, officer or employee of the Authority should:
- (i) Abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
 - (ii) Endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.
- (c) Anyone involved in the negotiation of contracts shall ensure that all statements, communications and representations to contractor representatives are accurate and truthful.
- (d) Great care must be exercised to ensure the proper recording and charging of all costs to the appropriate account, regardless of the status of the budget for that account. The falsification of time reports or other cost records will not be tolerated. Every supervisor is responsible for assuring that the work time of employees is recorded promptly and charged accurately.
- (e) No employee may submit or concur in the submission of any claims, bids, proposals or any other document that is false, fictitious or fraudulent.
- (f) Great care must be exercised by supervisors to avoid placing, or seemingly to place, pressure on subordinates which might cause them to deviate from acceptable norms of conduct.
- (g) The purchase of supplies, materials, and services from suppliers, vendors, contractors and subcontractors must be done in a manner that preserves the integrity of our procurement process based on the bid process.
- (h) Laws and regulations regarding entertainment, gifts and payments may be somewhat complicated. For this reason, questions regarding specific policies should be referred to Authority's Ethics Officer.
- (i) Employees should report any instance in which they are offered money, gifts, or anything else of value by a supplier or prospective supplier or contractor of the Authority to the Authority's Ethics Officer.
- (j) Every employee is charged with the duty to preserve the Authority's assets, property, plant and equipment.

5. Violations:

In addition to any penalty contained in any other provision of law any such commissioner, officer or employee who shall knowingly and intentionally violate any of the provisions of this section may be subject to disciplinary action, suspended, or removed from office or employment in the manner provided by contract, law, or established employment policies.

ATTACHMENT "B"

PROTEST PROCEDURES

The Protest Procedures set-forth herein apply to both sealed bids and negotiated procurements.

1. Pre-Bid/Proposal Opening Protests. If a bidder/proponent can demonstrate that the Contract Documents issued by the Authority are unduly exclusionary and restrictive or that federal, state or local laws or regulations have been violated during the course of the procurement, then the bidder/proponent may seek a review by the Executive Director or his appointed representative, at 181 Ellicott Street, Buffalo, New York 14203. Protests shall be clearly identified as Protests and submitted in writing as early as possible, but no later than five (5) business days before bid/proposal opening. Within four (4) business days after receipt of a pre-bid/proposal protest, the Executive Director shall make one of the determinations listed in paragraph (3).

2. Post-Bid/Proposal Opening Protests. A protest to the acceptance or rejection of any or of all offers or bids to a contract, or to the award thereof, or to any such action proposed or intended by the Authority must be received in writing by the Executive Director no later than five (5) business days after the protesting party first learned, or reasonably ought to have learned, of the required Board action or, if Board action is not required, any proposed or intended action to which he/she protests.

3. In the event the protestor alleges that the Executive Director or the representative appointed by the Executive Director to serve as Decision-Maker for the particular protest, engaged in improper conduct during the subject procurement, the General Counsel shall serve as the Decision-Maker. In the event it has been alleged that the General Counsel has engaged in improper conduct during the subject procurement, either the Executive Director or the Director of Engineering shall serve as the Decision-Maker.

4. Rulings on Protests. Within four (4) business days, the Executive Director shall render one of the following determinations:

- (a) Protest is overruled.
- (b) Protest is substantiated. Executive Director shall issue instructions to remedy issues relating to the protest.
- (c) Procurement activity is suspended until written notification by the Executive Director.:

Such determination shall be in writing and shall provide at a minimum a general response to each material issue raised in the protest. All documents submitted by the Protestor and/or Authority Staff and reviewed by the Decision-Maker in the reaching of a determination shall form and be retained by the Authority as the formal record of the dispute resolution process.

The issuance of the foregoing determination is the Authority's final decision of the dispute.

All interested parties shall be notified of any protests that are filed. The Authority shall refrain from awarding a contract within five (5) business days of the date of a decision rendered by the Executive Director regarding a protest, unless the Authority determines that:

- (i) The items to be procured are urgently required.
- (ii) Delivery or performance will be unduly delayed by failure to make a prompt award.
- (iii) Failure to make a prompt award will otherwise cause undue harm to the Authority or the federal government.

ATTACHMENT "B"

5. Protestor's Appeal to Federal or State Agencies. In the event federal or state funds are participating in the procurement, then the protestor may seek a review by the appropriate funding agency. The Federal Transit Administration will only consider a protest if the Authority (a) does not have protest procedures, (b) has not complied with its protest procedures, or (3) has not reviewed the protest when given the opportunity to do so. The Federal Transit Administration will exercise discretionary jurisdiction over those appeals involving issues important to the Federal Transit Administration's overall public transportation program.

Protestors shall file such a protest in accordance with the requirements set forth below, not later than five (5) business days after a final decision is rendered under the Authority's protest procedure. In instances where the protestor alleges that the Authority failed to make a final determination on the protest, protestors shall file a protest with the appropriate agency not later than five (5) business days after the protestor knew or should have known of Authority's failure to render a final determination on the protest.

ATTACHMENT “C”

CRITERIA and STANDARDS GOVERNING COMMERCIAL ADVERTISING

1. All advertising placed in facilities and vehicles owned and operated by the Niagara Frontier Transportation Authority / Niagara Frontier Transit Metro System, Inc. must reflect a high level of good taste, decency and community standards in copy and art. All advertising should harmonize with the environment of its placement.
2. All advertising should be truthful and comply with the spirit and letter of all applicable laws and regulations of the various jurisdictions into which it is introduced. All copy and art should avoid conveying derisive, exaggerated, distorted, deceptive or offensive impressions.
3. Advertising promoting contests should insure the contest is being conducted with fairness to all entrants and complies with all applicable laws and regulations.
4. Testimonials should be authentic and should honestly reflect the response of the person making them. The advertising sales contract provides for the indemnification of Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc. against any action by any person quoted or referred to in any advertisement placed in Niagara Frontier Transportation Authority / Niagara Frontier Transit Metro System, Inc. owned facilities and vehicles.
5. Medical products or treatments should be presented in a restrained and inoffensive manner to the general public.
6. Advertisers should take special care to avoid illustrations or references that disregard normal safety precautions.
7. Advertising offering premiums or gifts should avoid representations that would enlarge the value of the item in the minds of the viewers.
8. Use of Niagara Frontier Transportation Authority or Niagara Frontier Transit Metro System, Inc. graphics or representations in advertising is subject to approval by the Executive Director or other proper official.
9. No implied or declared endorsement of any product or service by Niagara Frontier Transportation Authority or Niagara Frontier Transit Metro System, Inc. is permitted.
10. The Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc. reserve the right to reject or remove any advertising that it deems to be not in good taste and decency and not in the public interest.
11. Items or references which might be objectionable to a substantial segment of the community should be avoided. For example, advertising depicting or referring to an undesirable social behavior or which might be offensive because of racial or religious references should be avoided. Copy which might be contrary to the best interest of the Niagara Frontier Transportation Authority/Niagara Frontier Transit

ATTACHMENT "C"

Metro System, Inc. and harmful to the users of their facilities and vehicles will not be acceptable.

ATTACHMENT "C"

CRITERIA and STANDARDS GOVERNING PUBLIC SERVICE ADVERTISING

Public Service Advertising proposed to be posted in any of the equipment or facilities of NFTA and/or Metro will be such:

1. The advertisement will be non-commercial, non-partisan politically and not designed to influence legislation. Advertising will be accepted only from not-for-profit organizations, corporations or government agencies, philanthropic or cultural organizations whose activities would be of interest or benefit to a majority of the area population.
2. That the advertisement must meet the same guidelines governing commercial advertising.
3. The purpose of the project be such that the advertising methodology can help achieve its objectives and goals.
4. That the action message shall have region-wide appeal, significance and applicability.
5. That the project be of sufficient seriousness and public importance to warrant the use of public service advertising space.
6. That the sponsoring organization be classified as a tax exempt organization by the Internal Revenue Services or that specific activity, or event, being promoted by the "for-profit" organization be in and of itself "non-profit" in nature.
7. That the name of the sponsoring organization, either as it appears on the document granting tax-exempt status, or by the name generally recognized by the public as determined by the Contracting Officer, may be required to be identified on the advertisement. If the name of the sponsoring organization is not a part of the message itself, a "sponsored by" line may be required that, in the judgment of the Contracting Officer, is of a type size and type style to be easily identifiable and readable by the public.
8. That public service space will not be granted to any organization that, in the last twelve months, has purchased, or is purchasing, commercial advertising space or time in any media for the general subject campaign or promotion.
9. That the advertisement involves monies (fund-raising, admission fees, donations and other methods of compensation) must clearly identify the nature of the appeal (e.g. if donations are to be sought, whether the collection will be voluntary or if the donation is a required admission fee must be explained).
10. That in advertisements where a phone number or an address is given a written explanation must be furnished to the Contracting Officer as a condition of the approval, which document will state exactly what is intended to happen to an individual when he or she either calls the number listed, writes to, or stops by the address given.
11. That the sponsoring organization shall pay the applicable labor cost for installation and removal of the subject message as charged by the Authority's advertising contractor and approved by the Contracting Officer. That, prior to installation, the camera-ready artwork, graphics, photographs be submitted to the Contracting Officer for approval.

ATTACHMENT "C"

12. The advertising is subject to approval by the NFTA and Metro director of public relations and advertising and the advertising contractor. Public service advertising will be accepted on a space-available basis only. The advertisement will be posted only for such period of time as the advertisement space remains available and is not required for commercial advertisement. The public service advertiser will indemnify and hold harmless NFTA and Metro and the advertising contractor from any and all claims brought as a result of the display of the advertisement.

CORPORATE:

2. C. (8) **Approval of Guidelines for Acquisitions and Dispositions of Real Property for FY 2019-2020, Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc.**

RECOMMENDATION: Staff recommends that the Board approve the attached Guidelines for Acquisitions and Dispositions of Real Property (Guidelines) for the Niagara Frontier Transportation Authority (NFTA) and Niagara Frontier Transit Metro System, Inc. (Metro).

INFORMATION: New York Public Authorities Law (PAL) Sections 2824 and 2896 provide that the Board shall review and approve the Guidelines on an annual basis. The Guidelines, a copy of which are attached, have not been changed since they were reviewed and approved by the Board in April 2018.

FUNDING: No funding is necessary.

“**RESOLVED**, that the Guidelines for Acquisitions and Dispositions of Real Property for the NFTA and Metro are hereby approved in the form attached hereto.”

FURTHER RESOLVED, that Staff shall cause the Guidelines for Acquisitions and Dispositions of Real Property to be filed and posted online as required by PAL Section 2896.”

Reference: EXECUTIVE
Title: ACQUISITION AND DISPOSITION OF REAL PROPERTY
Policy Number: 01-01-09
Revision Date: 4-28-16

**NIAGARA FRONTIER TRANSPORTATION AUTHORITY
NIAGARA FRONTIER TRANSIT METRO SYSTEM, INC.**

GUIDELINES FOR ACQUISITIONS AND DISPOSITIONS OF REAL PROPERTY

These Guidelines set forth the policies and procedures to be followed for the acquisition and/or disposition of real property for the Niagara Frontier Transportation Authority and the Niagara Frontier Transit Metro System, Inc. (collectively referred to as "NFTA").

Definitions

For the purpose of these Guidelines, an "Acquisition" is a conveyance of real property to the NFTA as title in fee simple, title subject to retention of a life estate or a life use, lease where the lease term including options is fifty years or more or permanent easement.

For the purpose of these Guidelines, a "Disposition" is a conveyance of real property from the NFTA as title in fee simple, title subject to retention of a life estate or a life use, leasehold or permanent easement.

I PURPOSE

The NFTA's enabling legislation provides that the NFTA may acquire, hold and dispose of real property in the exercise of the NFTA's powers. The purpose for any potential Acquisition or Disposition should be examined in the context of the NFTA's statutory powers to determine whether this standard has been met.

II COMPLIANCE

Any Acquisition or Disposition must be made in accordance with all applicable laws, including section 2824 and 2896 of the Public Authorities Law and the NFTA's enabling legislation, rules, regulations and grant agreements, including associated grant application and management guidelines. All Acquisitions and Dispositions are subject to Board approval, except that the Executive Director has the authority to execute Agreements for easements over and under NFTA real property to provide utility services for the NFTA or tenants of the NFTA

III PROCEDURE

The Director, Engineering and Property or the appointed representative, is the contracting officer responsible for the NFTA's compliance with and enforcement of these Guidelines. Acquisitions and Dispositions will be managed by the Real Property Department in accordance with the following procedures.

1. Requests for Acquisitions or Dispositions may be generated by Director, Aviation; Director, Public Transit; or Director, Engineering and Property; depending on where the real property is located and which business unit is responsible for that area. Requests made by the Director, Aviation must be coordinated with, and generally consistent to, the current Airport Layout Plan and Master Plan. Requests for disposal must be documented in the form "Request for Disposal of Capital and Non-Capital Assets" and the relevant

procedures followed as set forth in the Guidelines of Disposal of Capital and Non-Capital Assets.

2. The Real Property Department shall notify the Grants Department of the request. The Grants Department shall ascertain if any funding is available, whether any grant agreements need to be complied with, and/or determine whether the approval of a Grantor must be obtained. The Real Property Department shall provide sufficient information to the Grants Department to satisfy the request of any Grantor.
3. The Real Property Department shall provide for all sales of real property sixty days notice to the county, city, town and village in which the real property is located prior to offering the property for public sale in accordance with section 1299-g of the Public Authorities Law.
4. The Real Property Department shall notify the Greater Buffalo-Niagara Regional Transportation Council ("GBNRTC") of all requests for Dispositions of real property located in former railroad right-of-way corridors that have been identified for potential transportation infrastructure development so that the GBNRTC can seek comments in order to maintain the objectives of the regional planning process.
5. The Real Property Department shall have the number of appraisals prepared that the Director, Engineering and Property, deems sufficient to establish the fair market value of the real property, unless the provisions of 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, or any grant agreement, if applicable, require a specific appraisal process, in which case that process will be followed. Real property may not be sold for less than its fair market value except as specified in paragraph 7 of this section.
6. All Dispositions shall be made by publicly advertising for bids, except as set forth in paragraph 7 of this section. The advertisement for bids shall be made at such time prior to the Disposition or contract for Disposition, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the real property. All bids shall be publicly disclosed at the time and place stated in the advertisement. The award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be the most advantageous to the NFTA, price and other factors considered. The NFTA retains the right to reject all bids when it is in the public interest to do so.
7. Dispositions may be negotiated or made by public auction without public advertising for bids but subject to obtaining such competition as is feasible under the circumstances, if:
 - (a) the fair market value of the real property does not exceed \$15,000;
 - (b) bid prices after advertising are not reasonable, either as to all or some part of the real property, or have not been independently arrived at in open competition;
 - (c) the Disposition will be to New York State or any political subdivision, and the estimated fair market value of the real property and other satisfactory terms of the Disposition are obtained by negotiation;
 - (d) the Disposition is for an amount less than the estimated fair market value of the real property, under those circumstances permitted in section 2897 (7) of the Public Authorities Law; or
 - (e) such action is otherwise authorized by law.

An explanatory statement shall be prepared of the circumstances of each Disposition by negotiation of:

- (a) real property that has an estimated fair market value in excess of \$100,000, except that any real property disposed of by lease or exchange shall only be subject to clauses (b) and (c) of this subparagraph; or
- (b) any real property disposed of by lease, if the estimated annual rent over the term of the lease is in excess of \$15,000; or
- (c) any real property disposed of by exchange, regardless of value.

Each such statement shall be transmitted as required by Section 2897 of the Public Authorities Law not less than ninety days in advance of the disposition, and a copy thereof shall be preserved in the files of the NFTA.

- 8. The Real Property Department shall provide sufficient information to the Health, Safety and Environmental Quality (“HSEQ”) Department to enable the HSEQ Department to issue a recommendation as to the level of environmental review necessary for any Acquisition or Disposition. The HSEQ Department shall be responsible for conducting the review and providing the results and recommendation to the Manager, Facilities and Property, and the Manager, Grants, if necessary to comply with a Grantor’s environmental review requirements.
- 9. The Real Property Department shall obtain Board approval for the Acquisition or Disposition.
- 10. The Real Property Department shall provide the Legal Department with sufficient information to prepare the documents necessary to effectuate the Acquisition or Disposition.
- 11. The Real Property Department shall coordinate payment for any Acquisitions with the Grants and Accounting Departments.
- 12. The Real Property Department shall advise the Property Accountant and Director, Risk Management and Special Projects, of all Acquisitions and Dispositions and coordinate the appropriate accounts for the deposit of any payments with the Grants and Accounting Departments.
- 13. The Real Property Department shall coordinate any relocation activities required by 49 CFR Part 24.

Guidelines

The Guidelines shall be annually reviewed and approved by the Board. The Manager, Facilities and Property, shall ensure that a copy of the Guidelines as reviewed and approved by the Board, reported in the Public Authority Reporting Information System and is posted on the NFTA website.

Inventory and Reporting

The Director, Engineering and Property, is responsible for ensuring that the NFTA maintains adequate inventory controls and accountability systems of all real property under its control. The real property shall be inventoried on an annual basis to determine which real property shall be disposed of. A written report of such real property shall be included with the annual report on real property.

The Director, Engineering and Property, is responsible for preparing an annual report listing all real property of the NFTA, all real property that the NFTA intends to dispose of and all such property disposed of during such period. The report must also include the price received for all real property that the NFTA disposed of during such period, and the name of the purchaser. The report shall be reported in the Public Authorities Reporting Information System within 90 days after the end of the NFTA’s fiscal year.

CORPORATE:

2. C. (9) **Approval of FY 2019-2020 Travel Policy and Guidelines for NFTA and Metro.**

RECOMMENDATION: Staff recommends that the Board approve the FY 2019-2020 Travel Policy and Guidelines for the Niagara Frontier Transportation Authority (NFTA) and its subsidiary, Niagara Frontier Transit Metro System, Inc. (Metro), as revised and set forth in the attached document.

INFORMATION: The Travel Policy and Guidelines were originally formulated by a Commissioner / Management Staff Travel Policy Committee and approved by the Board of Commissioners in order to provide reasonable reimbursement for necessary expenses incurred by NFTA and Metro employees while travelling on official business. The attached Travel Policy and Guidelines represents an annual update to the guidelines originally adopted May 28, 1983.

The maximum per diem rates are taken from state and federal guidelines established by the federal office of General Services Administration (GSA). The mileage reimbursement rate for business use of one's personal vehicle is the standard mileage rate as determined by the Internal Revenue Service (IRS) and is posted on the NFTA Intranet. By adoption of the attached Travel Policy and Guidelines, it is intended that per diem and mileage rates will be continually updated as amendments are promulgated by the GSA or IRS.

FUNDING: No funding is required.

“**RESOLVED**, that the Board hereby approves the FY 2019-2020 Travel Policy and Guidelines for the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc., as set forth in the attachment hereto.”

TRAVEL POLICY & GUIDELINES

For the

Niagara Frontier Transportation Authority and NFT Metro Systems, Inc.

INTRODUCTION

This document defines the policy and guidelines to be followed when traveling on NFTA/Metro business. This policy applies to all NFTA/Metro employees and commissioners. It is intended that a consistent and equitable practice with respect to incidence and reimbursement of expenses be maintained throughout the NFTA. The Chief Financial Officer or designee has final responsibility for interpretation of this Travel Policy.

BEFORE YOU TRAVEL – TRAVEL AUTHORIZATION IS MANDATORY

Trips within the local area of Erie and Niagara Counties involving overnight travel and **all non-local travel is to be requested on a Travel Request Form (Attachment ~~A~~) including** justification memorandum and any relevant documentation such as an agenda. The approval process is as follows:

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- **The Executive Director will approve the propriety of ALL requests.**
- Directors/CFO/General Counsel – approve the travel requests for of all branch personnel within their respective branch.
- The Chairman of the Board will approve the propriety of the Executive Director and Commissioners requests.
- The Vice-Chairman will approve the propriety of the Chairman's requests.
- Executive Director, or Chairman of the Board of Commissioners as appropriate, for approval of business purpose and necessity.

The approved travel request will then be returned to the traveler by the Executive Director's secretary or designee. Travel Request forms must be processed far enough in advance to permit circulation for the approvals, purchase of tickets, and return of the approved copy to the Traveler. No expenditures are allowed for any travel expenses until the final approvals are obtained.

Receipt of Travel Requests on or after the beginning date of travel will be summarily disapproved unless extenuating circumstances warrant a post-approval by the Executive Director. These circumstances must be thoroughly documented via a memorandum with the travel request.

REIMBURSABLE EXPENSES

The following types of expenses, if incurred in compliance with this travel policy and while on NFTA/Metro business, may be submitted for reimbursement. It is expected that all transportation of seventy (70) miles or less will be by automobile, bus or rail. Travelers are to utilize the most reasonably economical and practical means of ground transportation available between the transportation terminal, lodging or business meeting location. Commuting costs and time shall not be reimbursed.

- **Parking** – receipts are required for all parking expenses while on company business.
- **Tolls** – tolls are reimbursable if paid while on approved company business. Receipts are required for reimbursement. For those that utilize EZPass, a copy of your EZPass statement should be submitted to identify the charge for reimbursement.

- **Mileage** - is based on the rate established by the Authority pursuant to IRS regulations. *The mileage rate will be continually updated as amendments are promulgated by the I.R.S.* The current and historical business mileage rates are available at the following website address: <https://www.irs.gov/Tax-Professionals/Standard-Mileage-Rates>

The Chief Financial Officer will distribute notice of changes in travel allowance limitation when received. Mileage reimbursement is applicable only to use of a personal vehicle while on company business. Mileage on your personal vehicle is allowed from residence or work location to/from the departure point (airport, train station, bus terminal, or destination(s)) while on travel status.

When travel is from an employee's home to the departure point, or from a departure point to home, at a minimum, transportation expenses must be reimbursed using the lesser of 1) mileage between the employee's home and the departure point or 2) mileage between the employee's work location and the departure point, multiplied by the IRS mileage reimbursement rate. This reimbursement method is called the "**lesser of mileage rule.**" Examples of the application of the "lesser of mileage rule" are available at the follow web address: <http://www.osc.state.ny.us/agencies/travel/lesser.pdf>

All mileage must be documented in detail on the travel reimbursement form.

- **Taxicabs/Shuttle** - For use of common carriers such as taxicabs and hotel shuttles, reimbursement is allowed for actual charges up to \$15.00 without a receipt, or actual charges over \$15.00 supported by a receipt. Upon request, the traveler must justify transportation costs that appear to be excessive. No reimbursement will be made for personal use transportation (e.g. travel from lodgings to a restaurant, etc.).
- **Air Travel** - Travelers must use less than first class accommodations except as approved by the Chairman of the Board. It is the policy of the company to use the lowest fare wherever possible. Travelers are required to schedule trips far enough in advance to permit utilization of special, lower fares, e.g. super-saver. Coach or economy class will be used on all flights. Frequent flyer benefits can be retained by the [employee but](#) should not be the basis for switching air schedules, hotel accommodations or car rentals unless such choice is reasonably equal in cost to the lowest acceptable alternative. The company will not reimburse any associate/membership fees for frequent flyer clubs.

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****SAVE YOUR BOARDING PASSES FOR EXPENSE REIMBURSEMENT****

Cancellations - All unused non-refundable airline tickets must be reported to your Director immediately. Unused non-refundable tickets will be [noted](#), and you are to use them for a future trip. There are service charges that will apply; however, it will reduce the cost of your next trip. Refundable tickets are to be submitted to the applicable airline for credit.

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- **Public Transportation** - the cost of public transportation is a reimbursable expense. Receipts are necessary for reimbursement.
- **Automobile Rentals** - Automobile rentals are **not allowed** unless there is no other means of ground transportation, or it is the most cost-effective means of transportation. This must be documented when seeking reimbursement for these expenses. Travelers should procure insurance coverage. Reimbursement for auto rental expense should be for the amount actually paid for business use. Receipts are required to support car rental expenses.

- **Lodging** – The NFTA utilizes the U.S General Services Administration (GSA) per diem rates as a guideline for all lodging. The maximum daily amounts for lodging are designated by location at the following website address:

<http://www.gsa.gov/portal/content/104877>

Certain hotels will honor our request for government lodging rates. These rates should be requested at the time reservations are made. If rates are not available, please check an additional two (2) hotels within walking distance. If none of the hotels offer a government rate, or it is not available, documentation should be attached to the travel request listing the hotels contacted and rates offered. Original hotel receipts are required when submitting for your travel reimbursement.

Exemption from New York State Taxes

New York State Authority employees should request exemption from payment of occupancy taxes in New York State while on Authority business, by presentation of a letter of tax exemption to the lodging establishment. See **Attachment C**.

Hotels are not required to honor the exemption. In the event that the hotel does not honor the letter of exemption, documentation of the denial of tax exemption must be submitted with the travel expense reimbursement form.

- **Meals and Incidental Expenses** - The NFTA utilizes the U.S General Services Administration (GSA) per diem rates for all meals and incidental expenses for overnight travel. (no receipts are required). Employees on travel status are entitled to the maximum daily amounts for meals and incidentals as designated by location at the following website address:

<http://www.gsa.gov/portal/content/104877>

Meals applicable to non-local overnight travel are to be pro-rated, based on the applicable meal and incidental allowance amount. **No receipts are required for meals.**

Example:	Breakfast	- 20% of the M&IE allowance
	Lunch	- 30% of the M&IE allowance
	Dinner	- 50% of the M&IE allowance

Eligibility for each meal allowance will be determined as follows when you are leaving to go on your trip and when you arrive back from it:

	<u>Leave Home or Office</u>	<u>Return Home or Office</u>
Breakfast	before 7:00 a.m.	after 8:00 a.m.
Lunch	before 12:00 p.m.	after 1:00 p.m.
Dinner	before 7:00 p.m.	after 7:00 p.m.

In the event of any non-local travel that doesn't include an overnight stay, meals and incidental expense reimbursements are considered to be a taxable fringe benefit. Per IRS Guidelines, meals and incidental expense reimbursements for non-overnight travel (for example, a day trip to Albany and back that does not include an overnight stay) is considered to be a taxable fringe benefit, and the applicable state and federal employment taxes must be withheld and reported as wages on Form W-2.

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When travel is from an employee's home to the departure point, or from a departure point to home, time of departure/return is determined using the lesser of 1) estimated travel time between the employee's home and the departure/return point or 2) time/mileage between the employee's work location and the departure point. Commuting time to your work location shall not be included to determining time of departure/ return. **Meal allowance is not allowed if a meal is provided at no cost to the employee (such as breakfast with egg(s) at a hotel). No additional reimbursement will be allowed if an employee exceeds their maximum allowance for any meal.**

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NON-REIMBURSABLE EXPENSES

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Purely personal expenses while traveling are not reimbursable by the company. The following is a partial listing of items that are considered non-reimbursable:

- All costs pertaining to spouses or other non-Authority personnel accompanying the traveler on an Authority business trip
- Parking tickets, fines, and the like are deemed to be personal to the employee
- Telephone calls beyond those made for business purposes and occasional calls home. Long distance telephone calls presented on expense reports must be referenced to the individual called and the business connection.
- Gifts of any value
- Damages to an employee's vehicle while on company business
- Purchase of clothing and other personal items such as haircuts, shoe shines, newspapers, magazines, tobacco, alcohol, etc.
- Entertainment (e.g., theater tickets, in-room movies)
- Loss of personal property while on company business
- Cost of personal credit cards
- Purchase of life or travel insurance during travel
- Loss of cash advance, company paid airline tickets, or personal funds
- Alcoholic beverages

CONFERENCES AND SEMINARS

It is not uncommon for sponsors of conferences, seminars and similar events to arrange for blocks of rooms in order to ensure room availability and close proximity to the meeting site. Thus, an authorized attendee utilizing such lodgings could be required to pay a higher lodging rate for the particular area. Employees should ask for the government rate when booking the hotel room to determine availability. If the government rate is not available, as noted in the lodging section, obtain rates from two (2) other hotels within the same area. If they have a government rate, book your room there, and if not, document. The documentation must be attached to your travel request and travel reimbursement.

- Meals provided at a conference or seminar will not be reimbursed.
- Expenses incurred for attending a conference must be supported by an **agenda** or a conference brochure identifying the opening and closing dates of the conference, and the times of conference events. This information must be submitted with the Travel Request **form** and Travel Expense Reimbursement form.
- If a registration fee includes an extra charge for social activities, such as site-seeing tours, golf outings, etc., these charges are considered personal expenses and will not be reimbursed.

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OPTIONAL PERSONAL USE OF AUTOMOBILE

Use of a personal automobile for business travel to a non-local city will be compensated for in the following manner:

- Reimbursement will be based on the lesser of the total cost of the round-trip mileage reimbursement using a personal vehicle versus the cost of flying using the most economical airfare. It is the responsibility of the traveler to provide the approving manager the calculation of the requested amount due prior to the approval of the Travel Request Form.
- Excessive work hour time required to travel by auto (or bus or train) as compared to air flight time will not be compensated.
- Other Modes of Transportation - Reimbursement for other, costlier forms of transportation (e.g. taxicabs) will be limited to an amount that would have been incurred had the employee used his personal auto and as calculated in the manner noted above.

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TRAVEL OUTSIDE THE CONTINENTAL UNITED STATES

Travel allowance and guidelines set forth will also apply to trips out of the country. However, the traveler must convert payments from foreign funds to equivalent U.S. dollars at the current rate of exchange for your destination. First class travel is prohibited. It is extremely important for employees who are traveling internationally to notify the NFTA well in advance of the trip in order to verify requirements and set the entry application process in motion if necessary. When traveling internationally please ensure that you have the necessary visa, immunizations, and passports. If a visa is required, the fee should be placed on your expense report for reimbursement. Also, be aware of any pertinent customs regulation, fees for passports, visas and any necessary vaccinations or medications will be reimbursed. All international travelers should provide the NFTA with a copy of their passport so assistance can be provided in the event of theft or loss during travel abroad. Foreign Per Diem Rates are indicated on the GSA website as necessary.

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TRAVEL EXPENSE REIMBURSEMENT

A Travel Expense Reimbursement Form (Attachment B) must be submitted within 30 days of travel.

Mileage reimbursements must be submitted at least quarterly within 5 business days of the end of the quarter using the Travel Expense Reimbursement Form. Requests for reimbursement may occur more frequently. Details of the mileage request must be provided on the travel reimbursement form.

Any requests that are not submitted within the designated time frames may be denied reimbursement.

IMPORTANT TIPS TO COMPLETE THE TRAVEL EXPENSE REIMBURSEMENT FORM:

- Agenda
- Boarding Passes must be attached.
- Document the actual departure and return time.
- Meals will only be reimbursed based on the per diem. No receipts are required.

- Lodging will only be reimbursed based on original receipts.
- **Original** receipts for such things as taxis, airfare, bus, rail transportation, tolls or copy of toll calculator.
- For travel out of the country, the traveler must convert payments from foreign funds to equivalent U.S. dollars at the current rate of exchange.
- Cash advances must be deducted from the travel expense reimbursement form if received.
- Any deviations from this travel policy must be documented via a memorandum attached to the travel reimbursement form.

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Travel Expense Reimbursement Form Approval Process:

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- Below Manager level - by the Manager or Director
- Department Managers - by their Director
- Directors – reviewed by the Chief Financial Officer and then approved by the Executive Director
- Executive Director - reviewed by the Chief Financial Officer and then approved by the Chairman of the Board
- Commissioners - reviewed by the Chief Financial Officer and then approved by the Chairman of the Board
- Chairman of the Board - reviewed by the Chief Financial Officer and then approved by the Vice Chairman.

Approved expense reports that are completed in accordance with the allowances set forth in the guidelines are to be routed directly to the Chief Financial Officer. Reimbursements will be made by company check, if the amount of expenses exceeds the amount of any cash advances or prepaid items.

TRAVEL EXPENSE REIMBURSEMENT FOR NFTA COMMISSIONERS

Authority Board members shall be entitled to reimbursement of actual and necessary expenses incurred, provided proper documentation is submitted with the Travel Expense Reimbursement Form.

CASH ADVANCES

Cash advance requests to facilitate payment of costs incurred while traveling on Authority business will be honored only in those instances where hardship would result. Such requests are to be made in advance in the form of a request for check form to the Chief Financial Officer. Any excess of cash advances over allowable out-of-pocket costs must be refunded to the Authority within 30 days of travel.

In the event excess cash advances are not refunded within 30 days, with the approval of the Chief Financial Officer, wages may be garnished.

AUTHORITY CREDIT CARDS

Authority Credit Cards may not be used for meals while on travel status except with the prior approval of the Executive Director. Cash Advances may be requested for travel related expenses.

DISCRETIONARY EXPENSES

Refreshments or Meals when Hosting Non-NFTA Transit or Public Officials:

There may be special circumstances when an employee is host to transit or public officials, including Authority Board members, where such hosting is essential to the business and interests of NFTA. Hosting activities and expenditures must be reasonable, prudent, and subject to the review and approval of the applicable Director and Executive Director, or Chairman of the Board as appropriate **prior** to incurring any costs. See Attachment D.

When special circumstances require an employee's presence beyond reasonable hours of employment, or if during normal work hours it is necessary and prudent that essential business be conducted at a meal. In such instances, the approval of the Executive Director would be required prior to reimbursement.



Niagara Frontier Transportation Authority
Serving Buffalo Niagara

TRAVEL REQUEST FORM

NAME:
DEPARTMENT/DIVISION:
PURPOSE OF TRIP:

TRAVEL JUSTIFICATION:

TRAVEL FROM:	TRAVEL TO:
DEPARTURE DATE:	RETURN DATE:
TIME OF DEPARTURE:	TIME OF RETURN:

ESTIMATED EXPENSES	AMOUNT
REGISTRATION OR FEES: (ATTACH COPY OF AGENDA)	_____
AIRLINE/BUS/RAIL	_____
NUMBER OF DAYS OF LODGING _____ AMOUNT PER DAY _____	_____
<i>IF LODGING IS ABOVE PER DIEM RATE ATTACH DOCUMENTATION</i>	
<i>SHOWING YOU HAVE CONTACTED 2 OTHER HOTELS IN THE AREA AND THIS IS</i>	
<i>THE LOWEST RATE.</i>	
NUMBER OF DAYS FOR MEALS _____ AMOUNT PER DAY _____	_____
TAXI OR OTHER MODE OF TRANSPORTATION AT DESTINATION	_____
MILEAGE	_____
TOLLS	_____
PARKING	_____
TOTAL ESTIMATED EXPENSES:	_____

GENERAL LEDGER ACCOUNT TO BE CHARGED: _____

<i>I certify that I have read and understand the Travel Guidelines:</i>	
_____	Date: _____
<i>Employee</i>	

APPROVED BY:	SIGNATURE:	DATE
IMMEDIATE SUPERVISOR:	_____	_____
DIRECTOR:	_____	_____
EXECUTIVE DIRECTOR:	_____	_____
CHAIRMAN OF THE BOARD (if applicable)	_____	_____
VICE CHAIRMAN OF THE BOARD (if applicable)	_____	_____



This form may only be used by government employees of the United States, New York State, or political subdivisions of New York State.

Name of hotel or motel		Dates of occupancy	
		From:	To:
Address (number and street)		City	State ZIP code Country

Certification: I certify that I am an employee of the department, agency, or instrumentality of New York State, the United States government, or the political subdivision of New York State indicated below; that the charges for the occupancy of the above business on the dates listed have been or will be paid for by that governmental entity; and that these charges are incurred in the performance of my official duties as an employee of that governmental entity. I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document, and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that the vendor is a trustee for, and on account of, New York State and any locality with respect to any state or local sales or use tax the vendor is required to collect from me; that the vendor is required to collect such taxes from me unless I properly furnish this certificate to the vendor; and that the vendor must retain this certificate and make it available to the Tax Department upon request. I also understand that the Tax Department is authorized to investigate the validity of tax exemptions claimed and the accuracy of any information entered on this document.

Governmental entity (federal, state, or local)		Agency, department, or division	
Employee name (print or type)	Employee title	Employee signature	Date prepared

Instructions

Who may use this certificate

If you are an employee of an entity of New York State or the United States government and you are on official New York State or federal government business and staying in a hotel or motel, you may use this form to certify the exemption from paying state-administered New York State and local sales taxes (including the \$1.50 hotel unit fee in New York City).

New York State governmental entities include any of its agencies, instrumentalities, public corporations, or political subdivisions.

Agencies and instrumentalities include any authority, commission, or independent board created by an act of the New York State Legislature for a public purpose. Examples include:

- New York State Department of Taxation and Finance
- New York State Department of Education

Public corporations include municipal, district, or public benefit corporations chartered by the New York State Legislature for a public purpose or in accordance with an agreement or compact with another state. Examples include:

- Empire State Development Corporation
- New York State Canal Corporation
- Industrial Development Agencies and Authorities

Political subdivisions include counties, cities, towns, villages, and school districts.

The United States of America and its agencies and instrumentalities are also exempt from paying New York State sales tax. Examples include:

- United States Department of State
- Internal Revenue Service

Other states of the United States and their agencies and political subdivisions **do not** qualify for sales tax exemption. Examples include:

- the city of Boston
- the state of Vermont

To the government representative or employee renting the room

Complete all information requested on the form. Give the completed Form ST-129 to the operator of the hotel or motel upon check in or when you are checking out. You must also provide the operator with proper identification. Sign and date the exemption certificate. You may pay your bill with cash, a personal check or credit/debit card, or a government-issued voucher or credit card.

Note: If you stay at more than one location while on official business, you must complete an exemption certificate for each location. If you are in a group traveling on official business, each person must complete a separate exemption certificate and give it to the hotel or motel operator.

To the hotel or motel operator

Keep the completed Form ST-129 as evidence of exempt occupancy by New York State and federal government employees who are on official business and staying at your place of business. The certificate should be presented to you when the occupant checks in or upon checkout. The certificate must be presented no later than 90 days after the last day of the first period of occupancy. If you accept this certificate after 90 days, you have the burden of proving the occupancy was exempt. You must keep this certificate for at least three years after the later of:

- the due date of the last sales tax return to which this exemption certificate applies; or
- the date when you filed the return.

This exemption certificate is valid if the government employee is paying with one of the following:

- cash
- personal check or credit/debit card
- government-issued voucher or credit card

Do not accept this certificate unless the employee presenting it shows appropriate and satisfactory identification.

Note: New York State and the United States government are not subject to locally imposed and administered hotel occupancy taxes, also known as *local bed taxes*.

Substantial penalties will result from misuse of this certificate.

DISCRETIONARY EXPENSE APPROVAL FORM

Employee Name Dept./Div

Description Date Requested

Justification

Type and Amount of expenses:

Category	Description	Estimated Cost
Snacks		
Refreshments		
Sandwiches		
Other		

Total Est. Cost :

Employee Signature

Date

Director Approval

Date

Executive Director Approval

Date

CORPORATE:

2. C. (10) Authorization of NYSDOT Mass Transportation Capital Project Agreement, Contract No. K007406

RECOMMENDATION: Staff recommends that the Board authorize New York State Department of Transportation (NYSDOT) Mass Transportation Capital Project Agreement identified by Contract Number K007406 in the amount of \$14,860,094.

INFORMATION: The NYSDOT Mass Transportation Capital Project Agreement Contract Number K007406 provides state funding to support the projects listed below. The type of funding is listed for each project.

FUNDING: NYSDOT 2018 Accelerated Transit Capital (ATC), 2018 Modernization Enhancement Program (MEP), and NYSDOT local match funding.

NYSDOT Mass Transportation Main Agreement, Contract No. K007406

PIN	Project	Source	Estimated Project Cost	Federal Share	State Share	Local Share
5822.27.001	Railcar Rebuild	ATC	\$1,177,246	\$0	\$1,177,246	\$0
5824.63.001	Fare collection equipment – Metro Bus	MEP	\$2,235,036	\$0	\$2,235,036	\$0
5824.63.001	Fare collection equipment – Metro Bus	MEP	\$976,318	\$0	\$976,318	\$0
5824.70.001	Bus Facility Rehab - MTC	ATC	\$447,000	\$0	\$447,000	\$0
5824.71.001	Metro Rail Fare Collection Equip - replacement	MEP	\$3,650,204	\$0	\$3,650,204	\$0
5824.71.001	Metro Rail Fare Collection Equip - replacement	ATC	\$1,655,826	\$0	\$1,655,826	\$0
5824.72.001	METRO LRRT/Capital Maintenance/Rehab	ATC	\$1,397,428	\$0	\$1,397,428	\$0
5824.73.001	Bus Maintenance Equipment -Hybrid Bus Batteries	ATC	\$500,000	\$0	\$500,000	\$0
5900.01.001	Metro Bus - Preventive Maintenance	State Match	\$22,482,357	\$17,985,886	\$2,248,236	\$2,248,235
5900.11.001	Metro Rail - Preventive Maintenance	State Match	\$4,097,861	\$3,278,289	\$409,786	\$409,786
5900.15.001	Purchase-replacement 40ft Bus (CNG BUS)	State Match	\$1,630,140	\$1,304,112	\$163,014	\$163,014
Total			\$40,249,416	\$22,568,287	\$14,860,094	\$2,821,035

“RESOLVED, that the Board hereby authorizes New York State Department of Transportation Mass Transportation Capital Project Agreement, Contract No. K007406, as described above and relating to the above-referenced projects; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be, and hereby are, authorized to execute and deliver New York State Department of Transportation Mass Transportation Capital Project Agreement, Contract No. K007406, as described above and relating to the above-referenced projects.”

CORPORATE:

2. C. (11) **Authorization for NYSDOT Multi-Modal Project Agreement, Contract D027637, PIN5MA385.30A, BNIA**

RECOMMENDATION: Staff recommends that the Board authorize the Executive Director to execute a Multi-Modal Project Agreement with the New York State Department of Transportation (NYSDOT) for a total of \$300,000.

INFORMATION: This contract provides a total of \$300,000 in NYSDOT funds for the renovation of the baggage claim area as well as the expansion of the terminal at the Buffalo Niagara International Airport (BNIA).

FUNDING: Funding associated with the project and the NYS share is provided through PIN 5MA385.30A as follows:

<u>PIN</u>	<u>Project</u>	<u>Total Funding (All Sources)</u>	<u>Multi-Modal State Share</u>	<u>Local Share</u>	<u>Other Aid (AIR'99)</u>
5MA385.30A	Renovation of the baggage claim area as well as the expansion of the terminal at BNIA	\$62,617,768	\$300,000	\$60,817,768	\$1,500,000

“WHEREAS, the Niagara Frontier Transportation Authority desires to advance to the Project by making a commitment of advance funding of the non-local share and funding of the full local share of the costs of the Project;

RESOLVED, that the Board authorize the Executive Director to pay in the first instance 100 percent of the federal and non-federal share of the cost of the work for the project or portions thereof;

BE IT FURTHER RESOLVED, that the entire \$300,000 will be made available to cover the cost of participation in the project; and

BE IT FURTHER RESOLVED, that in the event the project exceeds the amount identified above, the Niagara Frontier Transportation Authority shall make available said excess amount immediately.

CORPORATE:

2. C. (12) **Authorization for Collective Bargaining Agreement, Assistant Fire Chiefs Association, NFTA**

RECOMMENDATION: Staff recommends that the Board authorize a five (5) year collective bargaining agreement between the Niagara Frontier Transportation Authority (NFTA) and Assistant Fire Chiefs Association for the period April 1, 2019 through March 31, 2024.

INFORMATION: The Assistant Fire Chiefs Association represents four (4) employees. Under the proposed agreement, members of this bargaining unit will receive the following wages:

Fiscal Year	Wage Increase	Est. Total Wage Exp.	Increase from Prior Year
2019-2020	2.50%	\$248,424	\$13,889
2020-2021	2.35%	\$255,214	\$6,790
2021-2022	2.35%	\$261,118	\$5,904
2022-2023	2.35%	\$267,560	\$6,442
2023-2024	2.50%	\$274,339	\$6,779

Effective upon ratification and approval, employees will be required to contribute twelve percent (12%) of the monthly premium cost for either single or family coverage in the Traditional Blue PPO 6398 (HDHP 6312), the Traditional Blue POS 298 (POS 205) or a replacement plan. The employees previously contributed ten percent (10%). The uniform cleaning allowance will increase an estimated \$35,000 over the life of this contract.

FUNDING: Funding for this Agreement is included in the NFTA’s FYE 2020 budget and the five-year plan.

“RESOLVED” that the Board hereby approves a Collective Bargaining Agreement between the Niagara Frontier Transportation Authority and Assistant Fire Chiefs Association for the period April 1, 2019 through March 31, 2024; and

BE IT FURTHER RESOLVED, that the Board authorizes the Executive Director, her designee and/or the Chair to execute and deliver a Collective Bargaining Agreement with Buffalo Niagara Airport Firefighters Association, as described above; and

BE IT FURTHER RESOLVED, that said Agreement may include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and he is hereby authorized to make payments under said Agreement upon certification by the Director of Human Resources, that such payments are in order and consistent with the terms of said Agreement.”

CORPORATE:

2. C. (13) **Authorization for Procurement, Road Salt, NFTA and Metro**

RECOMMENDATION: Staff requests that the Board authorize participation in the NYS OGS Procurement Services Group Road Salt Bid for the procurement of approximately 4,133 tons of bulk road salt for the winter season of 2019 - 2020.

INFORMATION: NYS OGS requires a commitment to participate before the bid for road salt is issued. Staff considers the NYS OGS Group Bid to be most advantageous to the Authority based on historical prices.

FUNDING: Included in the operating budgets of NFTA and Metro.

“**RESOLVED**, that the Board hereby authorizes participation in the NYS OGS Procurement Services Group Road Salt Bid for the procurement of approximately 4,133 tons of bulk road salt, as described above; and

BE IT FURTHER RESOLVED, that the Procurement Manager is authorized to issue Purchase Orders for the procurement of approximately 4,133 tons of bulk road salt to the successful bidder of the NYS OGS Procurement Services Group Salt Bid for the 2019 – 2020 winter season; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and he is hereby authorized to make payments under said Purchase Orders, upon certification by the NFTA and Metro facilities managers, or their respective designees, that such payments are in order based upon receipt of all required supporting documentation.”

CORPORATE:

2. C. (14) **Authorization for Addendum, FirstLight, Engineering Services Support, NFTA**

RECOMMENDATION: Staff recommends that the Board authorize an Addendum to that certain Engineering Services Agreement previously approved by the Board with First Light in an amount equal to \$176,715.00, inclusive of all taxes and fees, if any.

INFORMATION: The Authority is adding 400 mobile network devices to the bus fleet as part of the Fare Collection Project. These devices must be configured to support the different types of equipment that exist on the vehicles and support the new Fare Collection System. FirstLight would provide engineering support to program and troubleshoot the network devices. This work includes the discovery and documentation of the different system configurations, loading the devices and assisting in troubleshooting of the onboard systems.

FUNDING: Funding is provided for in the operating and capital budget.

“RESOLVED, that the Board hereby authorizes an Addendum with FirstLight for engineering support services, as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be and, hereby are, authorized to execute and deliver said Addendum, as described above; and

BE IT FURTHER RESOLVED, that said Agreement may include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer, be and, hereby is, authorized to make payments under said Agreement upon certification by the Chief Information Officer, that such payments are in order based upon receipt of all necessary supporting documentation.”

CORPORATE:

2. C. (15) **Authorization for Agreement, Doritex Corporation, Doorway Mat Services, NFTA and Metro**

RECOMMENDATION: Staff recommends that the Board authorize an Agreement with Doritex Corporation for the provision of doorway mat rental service at all NFTA and Metro locations commencing on May 1, 2019. The term of the contract is three years, with two additional one-year renewals to be exercised at the sole discretion of the NFTA. The estimated annual cost for year one is \$35,935.68, year two is \$35,935.68, and year three is \$36,684.35. Option year four is estimated at \$37,433.00 and year five is \$38,181.67. The aggregate estimated cost for all five years is \$184,170.38.

INFORMATION: Doorway mat services are used at various NFTA and Metro locations to improve safety while reducing maintenance and cleaning costs.

Request for Proposal No. 4854 was issued in accordance with NFTA Procurement Guidelines. Two responsive proposals were received. Proposals were reviewed and evaluated based upon qualifications and experience, technical criteria and cost. The evaluation team composed of representatives from Procurement, Property, Metro Bus, Metro Rail, and BNIA determined that Doritex Corporation's proposal satisfies all requirements and provides the best overall value.

Empire State Development has deemed this procurement exempt from MWBE requirements because there are no NYS certified providers of this service. The NFTA excluded this procurement from SDVOB requirements because there are no NYS certified providers of this service.

FUNDING: Funding for this project is provided through NFTA and NFTA Metro's Operating Budgets.

“RESOLVED, that the Board hereby authorizes an Agreement with Doritex Corporation for doorway mat services at all NFTA and Metro locations, as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be and are hereby authorized to execute and deliver said Agreement, as described above; and

BE IT FURTHER RESOLVED, that said Agreement may include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer, be and he is hereby authorized to make payments under said Agreement upon certification by the appropriate business center directors that such payments are in order based upon receipt of all required supporting documentation.”

RFP EVALUATION FORM

RFP 4854	CINTAS CORPORATION	DORITEX CORPORATION
DOORWAY MAT RENTAL SERVICE	Lancaster, NY	Alden, NY
SELECTION CRITERIA	Rate on a score of 1 - 10 with 10 being the highest	
Qualifications and Experience: Demonstrated ability in the industry, references, past performance, organization of team, and management procedures. 40%	7.00	8.00
Technical Criteria: Compliance with technical specifications. 30%	6.00	7.00
Cost. 30%	7.84	10.00
TOTAL	6.95	8.30
ESTIMATED COST	Annual Cost	Annual Cost
Year 1	\$43,929.59	\$35,935.68
Year 2	\$46,882.16	\$35,935.68
Year 3	\$46,662.78	\$36,684.35
Year 4	\$48,037.66	\$37,433.00
Year 5	\$49,522.50	\$38,181.67
TOTAL	\$235,034.69	\$184,170.38

CORPORATE:

2. C. (16) Authorization for Agreement, DCB Elevator Co., Inc., Maintenance and Service for Elevators and Escalators, Metro

RECOMMENDATION: Staff recommends that the Board authorize an Agreement with DCB Elevator Co. Inc., (DCB) to perform contracted maintenance on the Metro and Property elevators and escalators.

INFORMATION: This agreement will provide routine and non-routine maintenance for the Metro, OCC, MTC and 485 Cayuga elevators and escalators. Routine maintenance costs for year one are fixed at \$658,800. Non-routine costs such as vandalism and unanticipated failures are resolved via fixed hourly rates for the various skilled workers assigned. The term will be for one year with the option to renew for two additional single years at the sole discretion of the NFTA/Metro.

Routine costs		Non-Routine Work Average Hourly Rates
Year one	\$658,800	\$228.00/hr.
Year two	\$623,700	\$237.04/hr.
Year three	\$643,800	\$242.56/hr.

The routine costs for three years are \$1,926,180. From historical data, the three-year average of non-routine costs is \$79,830 annually. The total anticipated costs of the contract are \$2,165,670.

Overtime and holiday hourly rates for non-routine work are indicated on the attachment.

DCB will provide a dedicated team of elevator constructors consisting of one International Union of Elevator Constructors (IUEC), mechanic and IUEC apprentice who will report to the Metro system by 6:00 am Monday through Friday to ensure all equipment is running and to perform routine maintenance. Non-routine and emergency service will be resolved by qualified personnel responding within established time limits.

This procurement was publicly advertised in accordance with NFTA Procurement guidelines. Only the proposal received from DCB was deemed responsive.

“The established MBE, WBE and SDVOB goals were 5%, 25%, and 0% respectively. DCB Elevator Company is a certified WBE and therefore fulfills 100% of the WBE participation requirements. A waiver of the MBE goals has been requested of EDS because the number of certified providers is limited. NFTA excluded this procurement from SDVOB goals because there are no NYS certified providers of this service.”

FUNDING: Funding for the maintenance service is included in the operating budgets of each respective business center.

“RESOLVED, that the Board hereby authorizes an Agreement with DCB for the provision of maintenance service on Metro and Property elevators and escalators, as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be and are hereby authorized to execute said Agreement with DCB, as described above; and

BE IT FURTHER RESOLVED, that said Agreement may include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer, be and hereby is authorized to make payments under said Agreement upon certification by the appropriate business center directors that such payments are in order.”

RFP 4862	D.C.B. ELEVATOR COMPANY, INC.
MAINTENANCE SERVICE CONTRACT FOR ELEVATORS AND ESCALATORS	Lewiston, New York
SELECTION CRITERIA	Rate on a score of 1 - 10 with 10 being the highest
Technical Criteria: Compliance with technical specifications and project approach. 40%	8.70
Cost. 40%	10.00
Qualifications and Experience: Demonstrated ability in the industry, resumes, references, past performance, depth of knowledge of key personnel in critical areas, organization of the team, management procedures, and warranty/delivery. 15%	9.00
Diversity Practices. 5%	0.00
TOTAL	8.83
COST	
ROUTINE WORK	Annual Cost
YEAR 1	\$658,800.00
YEAR 2	\$623,700.00
YEAR 3	\$643,680.00
TOTAL	\$1,926,180.00
ESTIMATED COST	
NON-ROUTINE WORK	
Year 1 Hourly Rates	Average Hourly Rates
M – F 6:00 AM to 6:00 PM	\$228.00
M – F 6:00 PM to 6:00 AM	\$417.00
Saturday	\$417.00
Sundays & Holidays	\$456.00
Year 2 Hourly Rates	Average Hourly Rates
M – F 6:00 AM to 6:00 PM	\$237.04
M – F 6:00 PM to 6:00 AM	\$433.68
Saturdays	\$433.68
Sundays & Holidays	\$474.24
Year 3 Hourly Rates	Average Hourly Rates
M – F 6:00 AM to 6:00 PM	\$242.56
M – F 6:00 PM to 6:00 AM	\$443.00
Saturdays	\$443.00
Sundays & Holidays	\$485.12
<i>* For evaluation purposes only, the Non-Routine Hourly Rates were averaged based on the position of the employee and the time the work occurs. Type of positions include Supervisor, Lead Mechanic, Mechanic, Apprentice, and Combined Team Rate for Mechanic and Apprentice.</i>	

CORPORATE:

2. C. (17) **Authorization for Lease Agreement, Lamar Obie Company, LLC d/b/a Lamar Transit Advertising, 247 Cayuga Road, NFTA**

RECOMMENDATION: Staff recommends that the Board authorize a Lease Agreement with Lamar Obie Company, LLC d/b/a Lamar Transit Advertising (Lamar) for the use of production and office space at 247 Cayuga Road.

INFORMATION: Lamar has been leasing space at 247 Cayuga Road since 2012 to support the transit advertising services they provide to Metro and BNIA. Lamar's lease expired on August 31, 2018. Lamar was looking into relocating. However, Lamar decided to move offices within the building. Under this Lease Agreement, Lamar will lease 1,810 square feet of production space and 1,829 square feet of Class B office space. The term will be four years and 3 months, to coincide with the NFTA/Lamar advertising contract, commencing on June 1, 2019 and expiring on August 31, 2023. The initial rental rate will be \$13.13 per square foot for office space and \$8.36 per square foot for production space, or \$39,146.37 for the year, subject to a 3% annual escalator each year on June 1.

FUNDING: No funding is necessary.

“**RESOLVED**, that the Board hereby authorizes a Lease Agreement with Lamar for use of space at 247 Cayuga Road, as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be, and hereby are, authorized to execute and deliver said Lease Agreement, as described above; and

BE IT FURTHER RESOLVED, that said Lease Agreement may include such additional terms, conditions and safeguards to the NFTA as deemed appropriate by the General Counsel.”

3. AVIATION BUSINESS GROUP REPORT

- A. Aviation Committee Report
- B. Financial and Business Update
- C. Resolutions

Aviation Resolutions

1. Authorization for Agreement, Union Concrete and Construction Corporation, Airport Pavement Maintenance, BNIA
2. Authorization for Agreement, Union Concrete and Construction Corporation, Airport Pavement Maintenance, NFIA

AVIATION:

3. C. (i) Niagara Frontier Transportation Authority, Acceptance of Aviation Resolutions 3. C. (1) through 3. C. (2)

The Executive Director advised that Items 3. C. (1) through 3. C. (2) have been discussed with the Board of Commissioners of the NFTA, and the Board is unanimously in favor of all subject Resolutions.

Whereupon, it was moved by Commissioner Gurney, seconded by Commissioner Ansari, that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 3. C. (1) through 3. C. (2) and dated April 25, 2019 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: ROCHE, DEMAKOS, GURNEY, AUL, ANSARI, HICKS

ABSTENTIONS: PERRY [Item 3. C. (1) and Item 3. C. (2)]

NOES: NONE

ADOPTED

AVIATION:

3. C. (1) Authorization for Agreement, Union Concrete and Construction Corporation, Airport Pavement Maintenance, BNIA

RECOMMENDATION: Staff recommends that the Board award the subject construction contract to Union Concrete and Construction Corp., for the total amount bid amount of \$795,805.00.

INFORMATION: BNIA Operations personnel have identified airport pavement repair priorities. The focus is to eliminate safety hazards to personnel and patrons, aircraft and automobiles, and operation equipment. This two-year contract provides infrastructure repairs to both airside and landside infrastructure:

Airside Component:

Foreign Object Debris (FOD) poses a safety hazard to aircraft. This project's airside component corrects pavement and drain inlet deterioration that produce FOD. There are three project work elements:

- Taxilane A1 expansion joint repairs
- Runway 5-23 pavement repairs
- Taxiway A drain inlet repairs

Airfield Operations Area (AOA) work proceeds in accordance with the project's Safety and Phasing Plan. The phasing minimizes aircraft operational impacts and maintains security. The safety component protects aircraft, personnel, and equipment.

Landside Component:

The project's landside component addresses worn pavements and uneven storm drain inlets that are slip, trip and fall hazards in the airport's preferred parking lot, long term parking lot and economy parking lot

The project was publicly advertised in accordance with NFTA Procurement Guidelines. Five potential prime bidders registered as document holders, with three bids received as follows:

Company	Verified Total Bid Amount
Union Concrete and Construction Company West Seneca, New York Robert Hill, President	\$795,805.00
Thomann Asphalt Paving Corp. Lancaster, NY Michael P. Turski, Controller	\$848,987.50
D&H Excavating Arcade, New York Eldon King Jr., President	\$1,495,407.50

A detailed bid evaluation was performed. It was concluded Union Concrete and Construction Corp., has the knowledge, understanding, and ability to successfully accomplish the project work.

The established MBE, WBE and SDVOB goals were 3.5%, 26.5%, and 1% respectively. Union Concrete and Construction Co identified their MBE participation as 0%, and WBE participation as 8.2%. Union Concrete and Construction Co. identified their SDVOB participation as 0.19%. Union Concrete and Construction Co. requested Empire State Development approve an MWBE partial waiver because there are insufficient providers of these construction services. NFTA approved a partial waiver of SDVOB requirements because there are insufficient providers of these construction services

FUNDING: The funding source for this construction work is found in the BNIA Operating Accounts as follows:

Area	Account	Amount
Airside Component	02-0219-520-5600	\$409,705.00
Landside Component	02-0274-520-5601	\$386,100.00
	Total	\$795,805.00

“RESOLVED, that the Board authorizes an Agreement with Union Concrete and Construction Corporation for airport pavement maintenance at the Buffalo Niagara International Airport as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be and hereby are, authorized to execute and deliver said Agreement on the terms and subject to the conditions set forth above and as further negotiated; and

BE IT FURTHER RESOLVED, that said Agreement may include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer, be and he hereby is, authorized to make payments under said Agreement upon certification by the Director of Engineering that such payments are in order based upon receipt of all required supporting documentation.”

AVIATION:

3. C. (2) Authorization for Agreement, Union Concrete and Construction Corporation, Airport Pavement Maintenance, NFIA

RECOMMENDATION: Staff recommends that the Board award the subject construction contract to Union Concrete and Construction Corp., for the total amount bid amount of \$471,524.00.

INFORMATION: Foreign Object Debris (FOD) poses a safety hazard to aircraft. This project's two-year contract replaces Taxiway C pavement deterioration areas producing FOD. The contract contains two work areas, each approximately 4,500 square feet. Each work area will be completed in consecutive years.

Airfield Operations Area (AOA) work proceeds in accordance with the project's Safety and Phasing Plan. The phasing minimizes aircraft operational impacts and maintains security. The safety component protects aircraft, personnel, and equipment.

The project was publicly advertised in accordance with NFTA Procurement Guidelines. Four bids were received as follows:

Company	Verified Total Bid Amount
Union Concrete and Construction Corp. West Seneca, NY Robert Hill, President	\$471,524.00
Thomann Asphalt Paving Corp. Lancaster, NY John D. Thomann, President	\$495,298.00
Scott Lawn Yard Inc. Niagara Falls, NY Christine Miller, President	\$599,550.00
Mark Cerrone, Inc. Niagara Falls, New York Stephanie Churakos, Vice President & Secretary	\$617,000.00

A detailed bid evaluation was performed. It was concluded Union Concrete and Construction Corp., has the knowledge, understanding, and ability to successfully accomplish the project work.

The established MBE, WBE and SDVOB goals were 3.5%, 26.5%, and 1% respectively. Union Concrete and Construction Co identified their MBE participation as 1.0%, and WBE participation as 5.0%. Due to insufficient providers of these construction services, Empire State Development granted an MWBE waiver. The SDVOB Participation Goal of 1.0% was met.

FUNDING: The funding source for this construction work is found in the NFIA Operating Account 03-0219-520-5600.

“RESOLVED, that the Board authorizes an Agreement with Union Concrete and Construction Corporation for airport pavement maintenance at the Niagara Falls International Airport as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be and hereby are, authorized to execute and deliver said Agreement on the terms and subject to the conditions set forth above and as further negotiated; and

BE IT FURTHER RESOLVED, that said Agreement may include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer, be and he hereby is, authorized to make payments under said Agreement upon certification by the Director of Engineering that such payments are in order based upon receipt of all required supporting documentation.”

- 4. SURFACE TRANSPORTATION BUSINESS GROUP REPORT**
 - A. Surface Transportation Committee Report
 - B. Financial and Business Update
 - C. Resolutions

Surface Transportation Resolutions

1. Authorization for Supplemental Agreement No. 1, Mott MacDonald NY, Inc. and Change Order No. 1, voestalpine Nortrak, DL&W Station, LRRT
2. Authorization for Agreement, City of Niagara Falls, Seasonal Trolley Service, Metro
3. Authorization for Agreement, Prevost US, Inc., “K” Program Kits, Metro
4. Authorization for Agreement, WSP, Inc., Niagara Frontier Urban Freight Transportation Study Update, GBNRTC

SURFACE:

4. C. (i) Niagara Frontier Transportation Authority, Acceptance of Surface Transportation Resolutions 4. C. (2) through 4. C. (4)

The Executive Director advised that Items 4. C. (2) through 4. C. (4) have been discussed with the Board of Commissioners of the NFTA, and the Board is unanimously in favor of all subject Resolutions.

Whereupon, it was moved by Commissioner Aul, seconded by Commissioner Hicks, that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 4. C. (2) through 4. C. (4) and dated April 25, 2019 as set forth herein, be and hereby are accepted and approved in their entirety.

AYES: ROCHE, DEMAKOS, GURNEY, AUL, ANSARI, HICKS, PERRY*

ABSTENTIONS: PERRY [Item 3. C. (2) Only]

NOES: NONE

ADOPTED

SURFACE:

4. C. (1) **Authorization for Supplemental Agreement No. 1, Mott MacDonald NY, Inc. and Change Order No. 1, voestalpine Nortrak, DL&W Station, LRRT**

RECOMMENDATION: Staff recommends the Board award Supplemental Agreement No. 1 as a \$624,312.00 increase to Mott MacDonald NY, Inc., design services contract. This will result in an amended contract amount of \$4,624,302.00.

Additionally, Staff recommends that the Board award Change Order No. 1 as a \$128,019.80 increase to voestalpine Nortrak's materials supply contract. This will result in a total amended contract amount of \$2,464,763.80.

INFORMATION:

Design Services

In October 2017, the Board approved the design services contract to Mott MacDonald NY, Inc. to develop construction bid documents based on the Access Enhancement Study Alternative B. This initiated the detail design of: Yard & Shop track realignment to separate revenue service extension from maintenance activity, boarding platform on the Buffalo River side of DL&W and access to the 2nd level of DL&W. Supplemental Agreement No. 1 adds design service tasks in response to:

Coordination with the City of Buffalo

- Design revenue train crossover to accommodate its removal from the City of Buffalo's Lower Main project
- Accommodate future City of Buffalo South Park Avenue one-way traffic flow

Safety Improvements

- Replace manual yard switches with main line switches integrated with train control
- Incorporate enhanced pedestrian grade crossing safety features at both Main/SouthPark near Canalside and at the Prime Street crossing
- Investigate catenary wire deicing alternatives

Varying Site Conditions

- Investigate existing electrical duct bank interference with the overall project
- Evaluate shoreline implications including preliminary design for Buffalo River bulkhead repair and coordination with United States Army Corp of Engineers
- Additional train shed storage track electrification
- Evaluate train shed covered material storage alternatives

Project Phasing

- Evaluate alternative bridge locations and interior access designs and associated egress
- Evaluate relocating the 2nd floor rail operations office and dispatch area
- Structure contract documents allowing for phasing and alternate bid items

Following the identification of these tasks, NFTA requested a cost proposal. Results of the Negotiations follow:

Engineers Estimate	\$590,372.00
Initial Cost Proposal	\$779,43.009
Negotiated Cost Proposal	\$624,312.00

Material Supply

Change Order No. 1 provides for the PCOs (proposed change orders) listed in the table below, including the correlating contract quantity adjustments. The cost for this contract modification is in accordance with General Conditions Article 17 – Extra Work and unit prices which are included in the contract.

All Costs for these change proposals incorporate New York State Prevailing Wage Rates and Standard Material and Equipment Costs as verified by the Authority’s Resident Engineer.

PCO No. 1 and PCO No. 2 include contract quantity adjustments for the DL&W Special Trackwork Procurement Project, which resulted from completion of the final design for the Yard & Shop track realignment portion of the DL&W Station Project. Quantity adjustments include; additional main-line switches integrated with train control, decreased manual yard switches, additional track guide rails, insulated joints and correlating component hardware required.

The contract quantity and cost adjustments were reviewed and found to be fair and reasonable by the NFTA Resident Engineer and the Design Support Consultant.

PCO No. 01	Specialty Track Switch Quantity Adjustments	\$97,206.80
PCO No. 02	Additional Insulated Joints required for Train Control	\$30,813.00
Net Increase		\$128,019.80

FUNDING: The funding will be supported by project account codes 120000000-3210-2-3485 and 120000000-3107-2-3485.

Whereupon, it was moved by Commissioner Gurney, seconded by Commissioner Demakos, that the following Resolutions be adopted:

“RESOLVED, that the Board hereby authorizes Supplemental Agreement No. 1 with Mott MacDonald US, Inc. for additional design services in connection with the DL&W Station project, as described above; and

“RESOLVED, that the Board hereby authorizes Change Order No. 1 with voestalpine Nortrak, Inc. for additional materials in connection with the DL&W Station project, as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be and hereby are, authorized to execute and deliver Supplemental Agreement No. 1 with Mott MacDonald US, Inc. and Change Order No. 1 with voestalpine Nortrak Inc. as described above; and

BE IT FURTHER RESOLVED, that said Supplemental Agreement and Change Order may include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer, be and hereby is, authorized to make payments under said Supplemental Agreement and Change Order upon certification by the Director of Engineering that such payments are in order based upon receipt of all required supporting documentation.”

AYES: ROCHE, DEMAKOS, GURNEY, AUL, ANSARI, HICKS, PERRY

NOES: NONE

ADOPTED

SURFACE 4. C. (1)

SURFACE:

4. C. (2) Authorization for Agreement, City of Niagara Falls, Seasonal Trolley Service, Metro

RECOMMENDATION: Staff recommends that the Board authorize execution of an agreement with the City of Niagara Falls pursuant to which NFTA-Metro (Metro) is providing seasonal trolley service within the Niagara Falls area.

INFORMATION: For the past fifteen years, Metro has, pursuant to an agreement with the City of Niagara Falls, provided additional seasonal, fixed-route, open door trolley service in the Niagara Falls area including the Niagara Falls International Airport, downtown Niagara Falls, tourism sites and local hotels using replica trolley vehicles whenever possible. There were approximately 40,000 passenger boardings in 2018. Funding for such service is provided by the City of Niagara Falls through receipts from a bed tax on each guest room in participating Niagara Falls area hotels.

This year, Metro is providing a similar level of service and the City of Niagara Falls has approved this service and agreed to pay Metro \$594,740 therefor. The term of the agreement will commence on May 17, 2019 and will expire on October 27, 2019, unless earlier terminated by Metro on thirty (30) days' notice if the City fails to make payment when due.

- Dates of service:
 - May 17-26, weekends only (Fri-Sun)
 - May 27 – September 29 (daily)
 - October 4-27, weekends only (Fri-Sun)

Metro provides Niagara Falls hotels with passes for their guests (“Guests”), which are used as proof of fare. The pass entitles Guests to unlimited access to the trolley service, as well as Metro’s bus and rail service on the day and month for which they are validated by the Metro operator upon boarding. For audit purposes, if a Guest is provided with a pass or passes, the hotel issuing such pass shall cause a statement to be placed on that Guest’s billing statement noting the date and number of passes issued.

FUNDING: No funding is required.

“RESOLVED, that the Board hereby authorizes an Agreement with the City of Niagara Falls for seasonal trolley service, as described above, including from the Niagara Falls International Airport to various downtown Niagara Falls locations; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be and are hereby authorized to execute and deliver said Agreement, as described above; and

BE IT FURTHER RESOLVED, that said Agreement may include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel.”

SURFACE:

4. C. (3) **Authorization for Agreement, Prevost US, Inc., “K” Program Kits, Metro**

RECOMMENDATION: Staff recommends the Board authorize an Agreement with Prevost (Cars) US, Inc. of Elgin, Illinois for the purchase of “K” Program Kits for the 125K Milestone Brake Parts Preventative Maintenance Initiative on NOVA buses. The total cost of this procurement is \$350,086.04.

INFORMATION: In 2018, Bus Maintenance launched the “K” Program Initiative to assign a replacement schedule for every part on a bus based on mileage and hours in service. The goal of the program is to “Predict and Prevent- NOT- Fix as Fails”. Each kit contains the parts required to perform the maintenance. A total of 44 NOVA CNG buses will be included in the “125K” Program campaign.

Prevost is the sole-source provider of these proprietary parts. Empire State Development and OGS have deemed that sole sources are exempt from MWBE and SDVOB requirements.

FUNDING: Funding for this procurement is provided in the Metro operating budget.

“**RESOLVED**, that the Board hereby authorizes an Agreement with Prevost US, Inc. for “K” Program Kits for the 125K Milestone Brake Parts Preventative Maintenance Initiative on Nova buses, as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be and are hereby authorized to execute and deliver said, as described above; and

BE IT FURTHER RESOLVED, that said Agreement may include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer, be and hereby is authorized to make payments under said Agreement upon certification by the Director of Public Transit, that such payments are in order based upon receipt of all required supporting documentation.”

SURFACE:

4. C. (4) **Authorization for Agreement, WSP, Inc., Niagara Frontier Urban Freight Transportation Study Update, GBNRTC**

RECOMMENDATION: Staff recommends that the Board authorize an agreement with WSP, Inc. in an amount not to exceed \$120,000 for consultant services to prepare a Niagara Frontier Urban Freight Transportation Study Update.

INFORMATION:

The Greater Buffalo-Niagara Regional Transportation Council (GBNRTC) is the regional decision-making forum designated by the Governor to cooperatively develop multimodal transportation plans for the Erie and Niagara Counties of Upstate New York. Federal regulations require the GBNRTC to consider freight movements in the urban transportation planning process. The purpose of the Niagara Frontier Urban Freight Transportation Study Update is to update freight movement information and review projects from the 2009 regional freight study. Remaining projects and new projects will be revised and incorporated to assure eligibility for project funding sources now available.

The contract was publicly advertised in accordance with NFTA Procurement Guidelines. Proposals were reviewed by representatives of Erie and Niagara Counties, NYSDOT, GBNRTC and the International Trade Gateway Organization (ITGO). This review was based on criteria that included: technical criteria, personnel qualifications and experience, and cost. The results of the proposal review are shown on the attached evaluation form.

FUNDING: Funding for this effort has been made available to GBNRTC through its Unified Planning Work Program funded by USDOT.

“RESOLVED, that the Board hereby authorizes an Agreement with WSP, Inc. for consultant services to prepare a Niagara Frontier Urban Freight Transportation Study Update as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chair, be and are hereby authorized to execute an Agreement with WSP, Inc. as described above; and

BE IT FURTHER RESOLVED, that said Agreement shall include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer, be and he is hereby authorized to make payments under said Agreement upon certification by the Director of Public Transit, that such payments are in order based upon receipt of all required supporting documentation.”

Niagara Frontier Urban Area Freight Transportation Study Update RFP NO. 4863	GDGLoT Buffalo, NY	CPCS Washington, DC	WSP Buffalo, NY	Quetica Bloomington, MN	Cambridge Systematics New York, NY
Selection Criteria					
Qualifications & Experience: demonstrated ability in the industry, references, past performance, key personnel, organization, management, time table. 40%	8	34.4	33.8	29.4	34.2
Technical Criteria: project approach, methods, compliance with requirements. 30%	7	24	25	19.4	22
Cost. 30%	30	10.3	18.8	11.7	18.8
Total	45	68.7	77.6	60.5	75
Cost Proposal	\$ 75,000	\$ 217,911	\$ 120,000	\$ 192,023	\$ 119,928

6. General Counsel Report: Written
7. Executive Session: None
8. Adjournment

At approximately 1:15 p.m., the Chair indicated that there was no further business coming before the Board, therefore it was moved by Commissioner Perry, seconded by Commissioner Gurney, that the Annual Meeting of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc. be adjourned.

**AYES: ROCHE, DEMAKOS, GURNEY, AUL, ANSARI, HICKS,
PERRY**

NOES: NONE

ADOPTED