

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

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

March 11, 2016

Dear Governor Christie:

Pursuant to Chapter 150, Laws of 1979, I herein transmit the minutes of actions taken at the open session of the regularly scheduled meetings of the New Jersey Transit Corporation, NJ Transit Rail Operations, Inc., NJ Transit Bus Operations, Inc., NJ Transit Mercer, Inc., and NJ Transit Morris, Inc., Board of Directors held on Wednesday, March 9, 2016.

Sincerely,

Original Signed By

Joyce J. Zuczek
Acting Board Secretary

Enclosures

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

Minutes of the actions taken at the Open Session of the regularly scheduled Board of Directors' meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc. held at NJ TRANSIT Headquarters, One Penn Plaza East, Newark, New Jersey on Wednesday, March 9, 2016.

Present

Richard T. Hammer, Acting Chairman
Bruce M. Meisel, Vice Chairman (By Telephone)
John Spinello, Governor's Representative
Steven M. Petrecca, Treasurer's Representative
James C. Finkle, Jr., Board Member
Flora M. Castillo, Board Member (By Telephone)
Raymond W. Greaves, Board Member (Non-Voting)

Also Present

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

Acting Chairman Hammer convened the Open Session at 9:01 a.m. in accordance with the Open Public Meetings Act. Kemmery Kendrick, Office of System Safety, provided a Public Safety Announcement. The Pledge of Allegiance to the Flag was conducted. Acting Board Secretary Zuczek conducted a Roll Call.

Acting Board Secretary Zuczek announced that adequate notice of the regularly scheduled meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations Inc., NJ TRANSIT Bus Operations, Inc. NJ TRANSIT Mercer, Inc. and NJ TRANSIT Morris, Inc. was provided in accordance with the Open Public Meetings Act, Chapter 231, P.L. 1975, and the meetings were occurring concurrently. Notices were mailed to newspapers of general distribution, forwarded to the Secretary of State, Trenton, New Jersey, and sent to each individual, agency and organization that requested such notice. In addition, notices of the

meetings were posted in the main lobby of NJ TRANSIT's Headquarters in Newark, New Jersey. Acting Board Secretary Zuczek announced that the Board Meeting was being video recorded

Acting Chairman Hammer asked for a motion to adopt the minutes of the February 10, 2016 Board meetings. A motion was made by Board Member James C. Finkle, Jr., seconded by Board Member Flora M. Castillo and adopted, except Vice Chairman Meisel abstained from the vote since he did not attend the meetings.

Public Comments on Agenda Items and Other Matters

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

Murray Bodin wants the red flashing lights at railroad crossings replaced with the traffic lights that are at light rail crossings. He also does not think there should be train horns since automobiles are so sound proof that drivers can't hear them. Mr. Bodin suggested the horns be located at the crossings. He believes it is NJ TRANSIT's responsibility to change all flashing lights to traffic lights with a sign stating the crossing is monitored by cameras.

Randy Glucksman, Chair of the Metro-North Rail Commuter Council, said commuting is stressful and urged the Board to do whatever is necessary to ensure there is a settlement and no strike.

Orrin Getz discussed how the fare on the Pascack Valley Line is more expensive compared to the other side of the Hudson River. He believes the reason is because the Metropolitan Transportation Authority (MTA), unlike NJ TRANSIT, has dedicated sources of funds to sustain its operations. Mr. Getz said it has a quarter percent sales tax, mortgage recording tax, and gets money from the MTA bridges and tunnels, as well as utilities surcharges. He said the funding NJ TRANSIT receives from Trenton has been dramatically slashed from \$348 million in 2009 to \$42 million today. Mr. Getz believes this is unsustainable and NJ TRANSIT is in a financial situation that means it cannot continue for a long period of time and does not have enough money to pay its union and non-union employees and promptly sustain its operations. He believes NJ TRANSIT needs more money from Trenton and must have a dedicated source of funding.

Mr. Getz suggested surcharges versus taxes might be the best way to provide the needed dedicated funds for NJ TRANSIT since taxes are considered a pariah in Trenton. He suggested promoting these surcharges by saying they are encouraging conservation and improving the environment. Mr. Getz noted gasoline prices are at an all time low and believes adding the surcharge to petroleum could be promoted as reducing dependence on petroleum and supporting NJ TRANSIT as a way to improve the environment. He also suggested a surcharge on utilities.

Mr. Getz recommended NJ TRANSIT go to Trenton with these ideas and not return until they obtain the dedicated funds. He said residents of Rockland County are dependent upon NJ TRANSIT because Metro-North contracts with NJ TRANSIT to provide the service. Mr. Getz said their residents are being hit because NJ TRANSIT cannot obtain the funding it needs to sustain its operations and pay its employees.

Hardy Holmes spoke on behalf of the Newark Branch of the NAACP. He complained about the Newark Penn Station waiting room on the Market Street side not having heat. Mr. Holmes said there was a complaint in 2014 about air conditioning and they were told NJ TRANSIT was waiting for parts, but they just received air conditioning in August 2015. He said they also did not have benches until August 2015.

Mr. Holmes said this waiting room has been long neglected and is disproportionately utilized by Blacks and Latinos. They believe there is a hint of racial animosity involved there. Mr. Holmes said they would like to see some improvements in the waiting room. They want heat in the winter and air conditioning in the summer. Mr. Holmes said the waiting room doors automatically close and there are no windows that open and in 86-degree heat it is a problem. He insisted upon radical changes by NJ TRANSIT.

David Peter Alan believes NJ TRANSIT and its riders are facing a crisis. He said only 88 hours from now their trains could disappear due to a labor dispute. Mr. Alan said mobility would be difficult for motorists and impossible for thousands of New Jersey residents who depend upon NJ TRANSIT trains for their basic mobility. He wants an agreement to keep the trains running.

Mr. Alan complimented the Board for two recent actions. He noted in December there was a single dissenting vote ended of policy of force unanimity that lasted 12 years and eight months. Mr. Alan wishes the subject had been different but congratulated Commissioner Hammer for having the courage to say no. He also complimented the Board for taking the time to deliberate on the ALP45 dual power engine overhauls. Mr. Alan believes this is a complex technical issue and it deserves time to carefully deliberate it.

Mr. Alan said the Lackawanna Coalition has consistently supported the Lackawanna Cutoff project going to Scranton, but not as a park and ride to nowhere. He questioned whether anyone at NJ TRANSIT has committed to working jointly with Pennsylvania authorities to bring service to Scranton. Mr. Alan thinks it is a cruel and wasteful joke to spend millions for the line to terminate at a park and ride in Andover.

Mr. Alan noted the Lackawanna Coalition wants full, stable and secure funding for community transportation, as well as for the operating side of NJ TRANSIT. He believes one of the reasons they may lose their trains on Saturday night is because Republican and Democrat elected leaders have been starving NJ TRANSIT's operating side. Mr. Alan said riders want more and better service. He complained that there is money for corporate largesse but not for late evening trains from New York City or hourly weekend service to Montclair. Mr. Alan believes it is easy to say there is no money for a labor settlement or to run more trains, but it

is more difficult to campaign for the funding needed. He is disturbed the Board and management have not campaigned for better funding, especially on the operating side.

Mr. Alan said he would appear before the Assembly Budget Committee in Montclair after the Board meeting to explain why it is vital to adequately and properly fund NJ TRANSIT operating side and community transportation. He believes this mission should not be left entirely to citizen advocates and NJ TRANSIT's Board has a fiduciary obligation to do everything possible to ensure NJ TRANSIT is properly funded. Mr. Alan invited the Board to join him on the train to Montclair to tell the Assembly Budget Committee that mobility for all New Jerseyans is an investment worth making.

Daniel J. O'Connell, New Jersey State Director for the Smart Transportation Division, the largest rail union at NJ TRANSIT, said they are glad to hear reports that progress has been made in negotiations between NJ TRANSIT and the NJ TRANSIT Rail Labor Coalition, and noted they have not had a raise for five years. He said Amalgamated Transit Union provided bus services for more than four years without a raise and non-agreement employees have not had a raise in eight years. Mr. O'Connell mentioned riders have been saddled with a fare increase of almost one-third and now are being told to expect another increase due to contract negotiations. He noted the operating budget of NJ TRANSIT has been cut by 90 percent and believes without those cuts, their contract would be settled and the riders would not have had the recent fare increases or be looking at a potential fare increase.

Mr. O'Connell said some have characterized rail labor's recent requests in bargaining as excessive and outrageous, but noted two independent panels of arbitrators' recommendations. He noted of the four commuter railroads in the New York Metropolitan Area, which include Long Island Railroad, Metro-North, PATH and NJ TRANSIT, NJ TRANSIT is fourth in compensation and would still be fourth if the Presidential Emergency Board recommendation is accepted.

Mr. O'Connell presented a letter signed by 53 state, county and local elected officials urging NJ TRANSIT to settle this contract to avoid a work stoppage that would be a transportation catastrophe and economically harm the region. He said the last time there was a work stoppage in 1983 there were far fewer riders. Mr. O'Connell noted NJ TRANSIT has warned that more than 60 percent of riders would be on their own if there is a work stoppage. He said the Rail Labor Coalition has always said they do not want a strike because it would hurt riders, the region's economy, their members, and NJ TRANSIT at a critical time in NJ TRANSIT's history.

Mr. O'Connell noted he previously worked as a locomotive engineer and their members take great pride in providing rail service to the region and New Jersey. He said they want to settle this at the bargaining table, not on the picket line, and they hope and pray NJ TRANSIT feels the same.

Steve Burkert, General Chairman for the Smart Transportation Division, wished NJ TRANSIT had worked with them on the Critical Service Advisory language because he feels it puts their frontline employees in an unfair position. He understands that a work

stoppage may happen. Mr. Burkert does not condone it but said they have done everything they can to avoid it. He believes the Advisory makes it seem like it is their fault if there is a work stoppage and puts a target on their backs.

Mr. Burkert said they have been working with the Police Chief because assaults have increased. He does not think it was intentional but asked that in the future they try to work together to be on the same page. Mr. Burkert understands they want to get the best information out to the commuters, but he is afraid NJ TRANSIT put the conductors and trainmen in a bad situation.

Mr. Burkert urged NJ TRANSIT to reach a settlement sooner than later and asked the Board to use any influence they have to push the negotiations because it would be very beneficial for everyone.

Board Member Greaves asked Mr. Burkert for a copy of the Advisory because he had not seen it.

Advisory Committee Report

Suzanne Mack said they had an Advisory Board meeting last week. They hope there is not a strike. Ms. Mack thanked Paul Wyckoff for briefing the Advisory Committees. She said the Committees discussed what is going on with Sandy and April schedule changes. Ms. Mack noted everyone has done a great job of contingency planning for a strike but hopes the plan will not be needed except for a future weather emergency.

Board Customer Service Committee Report

Board Member James C. Finkle, Jr. presented the report for the Customer Service Committee. The Customer Service Committee received a report about Operations' Responses to the Fiscal Year 2016 Second Quarter Customer Satisfaction Survey Key Drivers. The Committee also received updates regarding MyTix and Bus Shelters. Additionally, the Committee received a Customer Service update and a report on the Social Media Dashboard.

Board Administration Committee Report

Board Member James C. Finkle, Jr. presented the report for the Administration Committee. The Administration Committee discussed the Advertising Standards Regulations board item that provides guidelines and procedures governing NJ TRANSIT's outdoor advertising program. The Committee also received a Financial Update, which included an analysis of ridership trends.

Board Capital Planning, Policy, and Privatization Committee Report

Board Member James C. Finkle, Jr. presented the report for the Capital Planning, Policy and Privatization Committee. The Capital Planning, Policy and Privatization Committee

discussed the Superstorm Sandy Property Damage Insurance Claim board item that amends the existing contract with Marsh USA for the performance of forensic accounting services to support the property damage claim.

Additionally, the Committee discussed the Community Mobility and Local Programs purchase of eight transit-style vehicles for sub-recipients and the Purchase of Wetlands Mitigation Credits for Lackawanna Cut-Off project.

Executive Director's Monthly Report

Interim Executive Director Martin said they are in the final days of NJ TRANSIT's rail union threatening to go out on strike. He stressed, NJ TRANSIT continues to negotiate in good faith with the representatives from the rail union coalition in order to achieve an affordable resolution to the contract talks.

Interim Executive Director Martin said yesterday's discussions were productive and positive. Those negotiations continue today, and on Thursday, face-to-face meetings will resume, all with the continued goal of reaching an agreement which keeps in mind NJ TRANSIT's customers and the taxpayers of New Jersey.

They continue to fine tune a contingency plan to minimize the impact to NJ TRANSIT's customers, if the union coalition decides to strike. NJ TRANSIT released details of that plan last Thursday, and outlined the contingency on its website, in an effort to give customers the time needed to examine their options. However, in the case of a union stoppage, they would not be able to completely eliminate the inconvenience to NJ TRANSIT customers.

Interim Executive Director Martin reiterated that no contingency plan can replace the railroad. They will use every bus and light rail vehicle available and will augment that service with buses rented from private carriers. But the hard truth is that all of these efforts will not be enough to provide any type of normal commuting experience for the tens of thousands of customers who use NJ TRANSIT daily. There just are not enough tunnels under or bridges over the Hudson River; there is not enough room at the Port Authority Bus Terminal; there is not enough space on PATH; and there is not enough capacity on the roadways to get customers to ferries.

A rail stoppage would have severe impact on travel in the entire region, and those on NJ TRANSIT's system should expect severely crowded conditions and significant delays. The bottom line is that travelers on all modes of transportation throughout the entire region, not just mass transit, will be affected by a rail stoppage and NJ TRANSIT is asking everyone to stay informed and stay patient.

While extensive work has gone into the contract negotiations and preparing the contingency plan, NJ TRANSIT also remains dedicated to the day-to-day operation of this transit agency and making continual improvements to enhance the customer experience.

Along the lines of adding customer amenities, NJ TRANSIT has expanded the number of the goCharge mobile cell phone charging stations. The pilot program began last year at Newark Penn Station and Secaucus and just last month we added charging stations in Hoboken Terminal and New York Penn Station.

The charging stations have the capability to power dozens of cellphones at no cost to the customer, keeping them connected in this electronic world. The response so far to this program has been overwhelmingly positive. NJ TRANSIT will continue to evaluate the feedback to determine if it should be expanded further in the future.

Action Items:

1603-11: SUPERSTORM SANDY PROPERTY DAMAGE INSURANCE CLAIM: AMENDMENT TO CONTRACT FOR FORENSIC ACCOUNTING SERVICES

Interim Executive Director Martin introduced Warren Hersh, Acting Chief Financial Officer and Treasurer, who presented Action Item #1603-11 for approval.

Warren Hersh recommended approval of Item #1603-11, Superstorm Sandy Property Damage Insurance Claim: Amendment to Contract for Forensic Accounting Services. Approval was requested to increase the authorization amount for NJ TRANSIT Contract No. 10-046 with Marsh USA for forensic accounting services at a cost not to exceed \$1,500,000, plus five percent for contingency, for a total authorization of \$6,396,270, subject to the availability of funds.

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

Roll Call Vote:

Hammer	Meisel	Herbold	Longo	Castillo	Finkle	Greaves
Yes	Yes	Yes	Yes	Yes	Yes	Non-Voting Member

1603-12: COMMUNITY MOBILITY AND LOCAL PROGRAMS: VEHICLE PURCHASE CONTRACTS FOR TRANSIT-STYLE BUSES

Interim Executive Director Martin introduced Linda Mosch, Senior Director, Capital Planning & Programs, who presented Action Item #1603-12 for approval.

Linda Mosch recommended approval of Item #1603-12, Community Mobility and Local Programs: Vehicle Purchase Contracts for Transit-Style Buses. Authorization was requested to enter into a contract with Wolfington Body Company, Inc. of Mount Holly, New Jersey, for the purchase of eight 24-passenger buses (medium-duty cutaways) in an amount not to exceed \$1,138,280, plus five percent for contingencies, for a total authorization of \$1,195,194, subject to the availability of funds.

Vice Chairman Bruce M. Meisel moved the resolution, Board Member James C. Finkle, Jr. seconded it, and it was unanimously adopted.

Roll Call Vote:

Hammer	Meisel	Herbold	Longo	Castillo	Finkle	Greaves
Yes	Yes	Yes	Yes	Yes	Yes	Non-Voting Member

1603-13: LACKAWANNA CUT-OFF: PURCHASE OF WETLANDS MITIGATION CREDITS

Interim Executive Director Martin introduced Linda Mosch, Senior Director, who presented Action Item #1603-13 for approval.

Linda Mosch recommended approval of Item #1603-13, Lackawanna Cut-Off: Purchase of Wetlands Mitigation Credits. Approval was requested to purchase 2.1 acres of Wetlands Credits required for the Lackawanna Cut-Off project from Ecologic Mitigation Oxford of West Long Branch, New Jersey, at a cost not to exceed \$816,900, subject to the availability of funds.

Authorization was also requested to purchase the remaining 1.43 acres of Wetlands Credits required for the Lackawanna Cut-Off project from The Nature Conservancy in New Jersey of Chester, New Jersey, at a cost not to exceed \$567,138, subject to the availability of funds.

Board Member James C. Finkle, Jr. moved the resolution, Vice Chairman Bruce M. Meisel seconded it, and it was unanimously adopted.

Roll Call Vote:

Hammer	Meisel	Herbold	Longo	Castillo	Finkle	Greaves
Yes	Yes	Yes	Yes	Yes	Yes	Non-Voting Member

Executive Session Authorization

At approximately 9:38 a.m., Acting Chairman Hammer requested a motion to enter Executive Session to discuss personnel matters, contract and collective bargaining negotiations, the status of pending and anticipated litigation and matters falling within the attorney-client privilege, including, but not limited to, the Personal Injury Claim of Carlos Cruz and the Personal Injury Claim of Frank DeJesus.

Board Member Steven M. Petrecca moved the resolution and Board Member James C. Finkle, Jr. seconded it. The resolution was unanimously adopted.

In response to Vice Chairman Meisel's inquiry, Interim Executive Director Martin noted Item #1603-14 was deferred until after Executive Session.

Acting Board Secretary Zuczek conducted a Roll Call as Board Members returned to Open Session. Acting Chairman Hammer, Vice Chairman Meisel, and Board Members Spinello, Petrecca, Finkle, and Greaves returned to open session at approximately 10:15 a.m.

1603-14: REGULATIONS: READOPTION WITH AMENDMENTS TO N.J.A.C. 16:86 ADVERTISING STANDARDS

Interim Executive Director Martin introduced Warren Hersh, Acting Chief Financial Officer and Treasurer, who presented Action Item #1603-14 for approval.

Warren Hersh recommended approval of Item #1603-14, Regulations: Readoption with Amendments to N.J.A.C. 16:86 Advertising Standards. Authorization was requested to take all actions necessary to readopt with amendments the regulations, N.J.A.C. 16:86 et seq., Advertising Standards, consistent with this Board item and Exhibit A.

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

Roll Call Vote:

Hammer	Meisel	Herbold	Longo	Castillo	Finkle	Greaves
Yes	Yes	Yes	Yes	Yes	Yes	Non-Voting Member

1603-15: PERSONAL INJURY CLAIM OF CARLOS CRUZ

Interim Executive Director Martin introduced Warren Hersh, Acting Chief Financial Officer and Treasurer, who presented Action Item #1603-15 for approval.

Warren Hersh recommended approval of Item #1603-15, Personal Injury Claim of Carlos Cruz. Approval was requested to settle the claim of Carlos Cruz, through his attorney, at an amount discussed in executive session. The Attorney General has approved the proposed settlement, subject to the availability of funds.

Vice Chairman Bruce M. Meisel moved the resolution, Board Member Flora M. Castillo seconded it, and it was unanimously adopted.

Roll Call Vote:

Hammer	Meisel	Herbold	Longo	Castillo	Finkle	Greaves
Yes	Yes	Yes	Yes	Yes	Yes	Non-Voting Member

1603-16: PERSONAL INJURY CLAIM OF FRANK DEJESUS

Interim Executive Director Martin introduced Warren Hersh, Acting Chief Financial Officer and Treasurer, who presented Action Item #1603-16 for approval.

Warren Hersh recommended approval of Item #1603-16, Personal Injury Claim of Frank DeJesus. Approval was requested to settle the claim of Frank DeJesus, through his attorney, at an amount discussed in executive session. The Attorney General has approved the proposed settlement, subject to the availability of funds.

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

Roll Call Vote:

Hammer	Meisel	Herbold	Longo	Castillo	Finkle	Greaves
Yes	Yes	Yes	Yes	Yes	Yes	Non-Voting Member

Adjournment

Since there were no further comments or business, Acting Chairman Hammer called for adjournment and a motion to adjourn was made by Vice Chairman Bruce M. Meisel, seconded by Board Member James C. Finkle, Jr., and unanimously adopted. The meeting was adjourned at approximately 10:21 a.m.

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

MARCH 9, 2016

MINUTES	PAGE
➤ CALL TO ORDER	-
➤ SAFETY ANNOUNCEMENT	-
➤ PLEDGE OF ALLEGIANCE TO THE FLAG	-
➤ APPROVAL OF MINUTES OF PREVIOUS MEETINGS	48940
➤ PUBLIC COMMENTS ON AGENDA ITEMS AND OTHER MATTERS	-
➤ ADVISORY COMMITTEE REPORT	-
➤ SENIOR CITIZEN AND DISABLED RESIDENT TRANSPORTATION ADVISORY COMMITTEE REPORT <u>(NEXT SCHEDULED REPORT JUNE 2016)</u>	-
➤ BOARD COMMITTEE REPORTS	-
*Customer Service Committee	
*Administration Committee	
*Capital Planning, Policy and Privatization Committee	
➤ EXECUTIVE DIRECTOR'S MONTHLY REPORT	48941

ACTION ITEMS

1603-11 SUPERSTORM SANDY PROPERTY DAMAGE INSURANCE CLAIM: AMENDMENT TO CONTRACT FOR FORENSIC ACCOUNTING SERVICES 48963

Authorization for approval to increase the authorization amount for NJ TRANSIT Contract No. 10-046 with Marsh USA by \$1,500,000, plus five percent for contingency, for a total authorization of \$6,396,270, subject to the availability of funds.

1603-12 COMMUNITY MOBILITY AND LOCAL PROGRAMS: VEHICLE PURCHASE CONTRACT FOR TRANSIT-STYLE BUSES 48967

Authorization to enter into NJ TRANSIT Contract No. 15-051 with Wolfington Body Company, Inc. of Mt. Holly, New Jersey, for the purchase of eight 24-passenger buses (medium-duty cutaways) in an amount not to exceed \$1,138,280, plus five percent for contingencies, for a total authorization of \$1,195,194, subject to the availability of funds.

1603-13 LACKAWANNA CUT-OFF: PURCHASE OF WETLANDS MITIGATION CREDITS 48971

Authorization to purchase 2.1 acres of Wetlands Credits required for the Lackawanna Cut-Off project from Ecologic Mitigation Oxford of West Long Branch, New Jersey, at a cost not to exceed \$816,900, subject to the availability of funds.

Authorization to purchase the remaining 1.43 acres of Wetlands Credits required for the Lackawanna Cut-Off project from The Nature Conservancy in New Jersey of Chester, New Jersey, at a cost not to exceed \$567,138, subject to the availability of funds.

1603-14 REGULATIONS: READOPTION WITH AMENDMENTS TO N.J.A.C. 16:86 ADVERTISING STANDARDS 48977

Authorization to take all actions necessary to readopt with amendments the regulations, N.J.A.C. 16:86 et seq., Advertising Standards, consistent with this Board item and Exhibit A.

- **EXECUTIVE SESSION AUTHORIZATION:** Discuss personnel matters, contract and collective bargaining negotiations, the status of pending and anticipated litigation and matters falling within the attorney-client privilege, including, but not limited to, the Personal Injury Claim of Carlos Cruz and the Personal Injury Claim of Frank DeJesus. **48984**

1603-15 PERSONAL INJURY CLAIM OF CARLOS CRUZ 48985

Authorization to settle the claim of Carlos Cruz, through his attorney, at an amount discussed in executive session. The Attorney General has approved the proposed settlement, subject to the availability of funds.

1603-16 PERSONAL INJURY CLAIM OF FRANK DEJESUS 48987

Authorization to settle the claim of Frank DeJesus, through his attorney, at an amount discussed in executive session. The Attorney General has approved the proposed settlement, subject to the availability of funds.

- **ADJOURNMENT**

APPROVAL OF MINUTES

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

WHEREAS, pursuant to Section 4(f) of the New Jersey Public Transportation Act of 1979, the minutes of actions taken at the February 10, 2016 Board meetings of the New Jersey Transit Corporation, NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc. were forwarded to the Governor on February 16, 2016;

NOW, THEREFORE, BE IT RESOLVED that the minutes of actions taken at the February 10, New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc. Board of Directors' meetings are hereby approved.

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



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

TO: BOARD OF DIRECTORS
FROM: DENNIS J. MARTIN 
DATE: MARCH 9, 2016
SUBJECT: EXECUTIVE DIRECTOR'S REPORT – MARCH 2016

As you know, we are in the final days of NJ TRANSIT's rail union threatening to go out on strike. While that threat looms over us and more importantly our customers, we continue to negotiate in good faith with the representatives from the coalition in order to achieve an affordable resolution to the contract talks. In the unfortunate event the rail unions engage in the work stoppage this Sunday, March 13th or thereafter, we will implement our contingency plan which is outlined on the website. As you know, we released details of that plan last Thursday in an effort to give our customers the time needed to examine their options.

Since the release of the plan, we have received a lot of feedback. Let me reiterate, no contingency plan can replace the railroad. We will use every bus and light rail vehicle available and will augment that service with 200 buses rented from private carriers. The hard truth is that all of these efforts won't be enough to provide any type of normal commuting experience for the tens of thousands of customers who ride our service daily. There just are not enough tunnels under or bridges over the Hudson River. There is not enough room at the Port Authority Bus Terminal. There is not enough space on PATH, and there are not enough roadways to get customers to ferries. A rail stoppage would have a significant impact on travel in the entire region, and those on our system should expect severely crowded conditions and significant delays.

The bottom line is that travelers on all modes of transportation throughout the entire region, not only on mass transit, will be affected by a rail stoppage, and we are asking everyone to stay informed and stay patient. We encourage customers to sign up for our transit alerts, follow us on twitter, and check our website before traveling.

And while extensive work has gone into the contract negotiations and development and preparation of the contingency plan, we also remain dedicated to the day-to-day operation of the transit agency. That includes continual improvements to enhance the customer experience.

Along those lines, we have expanded the number of the goCharge mobile cell phone charging stations in the system. The pilot program began last year at Newark Penn Station and Secaucus Junction. Last month, we added charging stations in Hoboken Terminal and New York Penn Station. The charging stations have the capability to power dozens of cell phones at no cost to the customer, keeping them connected in this electronic world in which we live. The response so far to this program has been overwhelmingly positive. We will continue to evaluate the feedback to determine if it should be expanded further in the future.

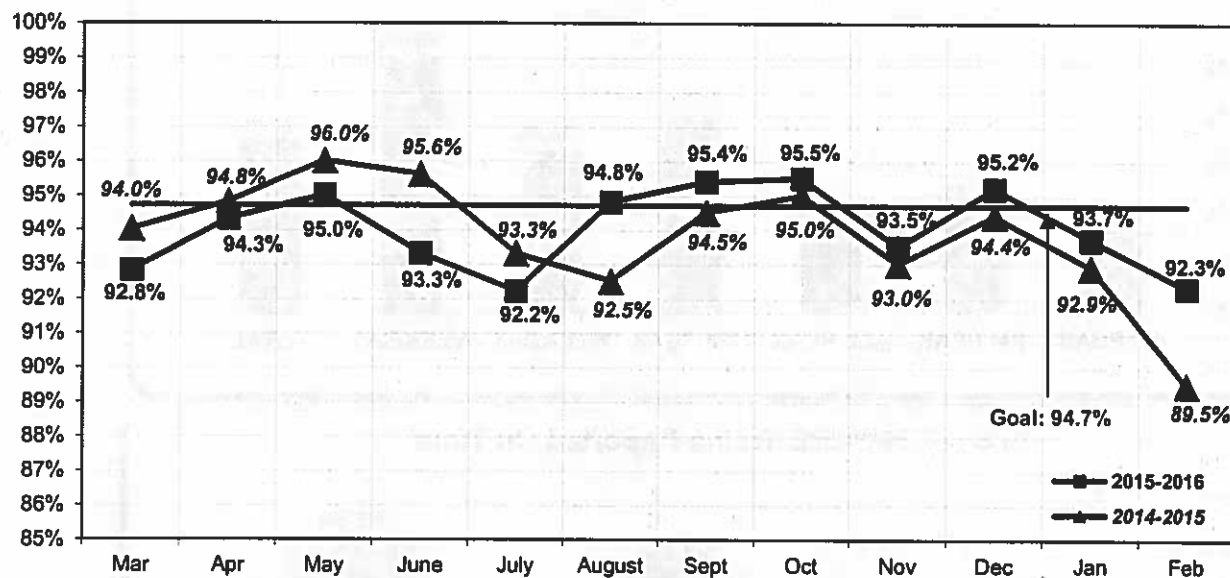
EXECUTIVE DIRECTOR'S MONTHLY REPORT MARCH 2016

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

PERFORMANCE MEASURES

NJ TRANSIT ON-TIME PERFORMANCE RAIL MARCH 2014 - FEBRUARY 2016

% Trains Reported Within 6 Minutes of Schedule



	2015	2016	# Change
February Comparison	89.5%	92.3%	2.8%

	2014-2015	2015-2016	# Change
12-Month Average March 2014-February 2016	93.8%	94.0%	0.2%

Analysis:

Rail On-Time Performance was 92.3% for February 2016. Of the 17,470 trains scheduled to operate, 16,120 were on time, while 1,350 trains (or 7.7%) were delayed. Key causes included:

- Amtrak Portal Bridge opening and mechanical issue caused 148 delays for a total of 77.0% OTP on February 11.
- Amtrak and NJT track issues caused 145 delays for a total of 76.6% OTP on February 12.
- Amtrak switch malfunction, NJT coach problem and NJT trackside interference caused 80 delays for a total of 85.4% OTP on February 26.

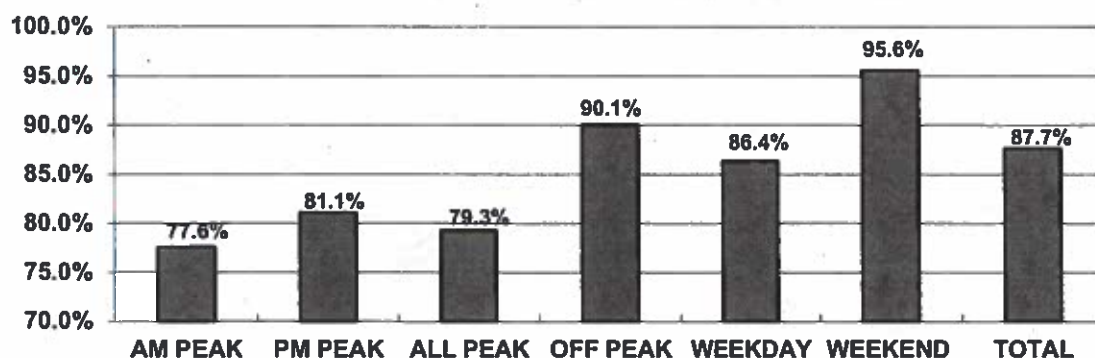
The 12-month average for Rail On-Time Performance for March 2014-February 2016 was 93.9%.

ON-TIME PERFORMANCE RAIL

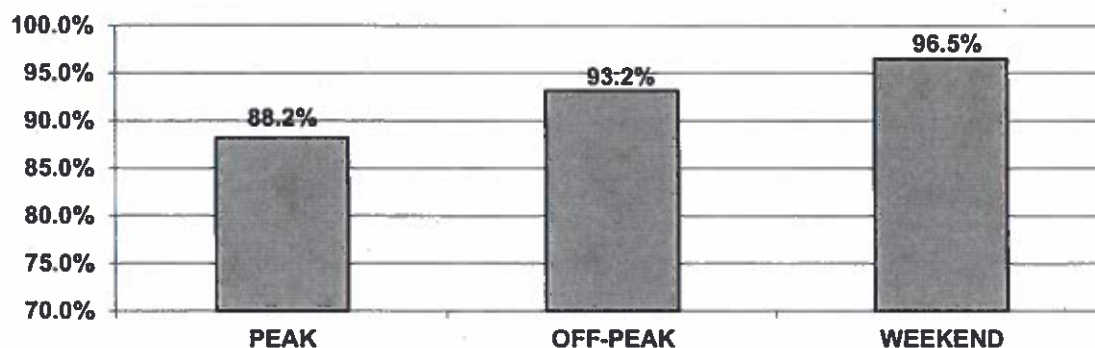
SUMMARY BY TIME PERIOD FEBRUARY 2016

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

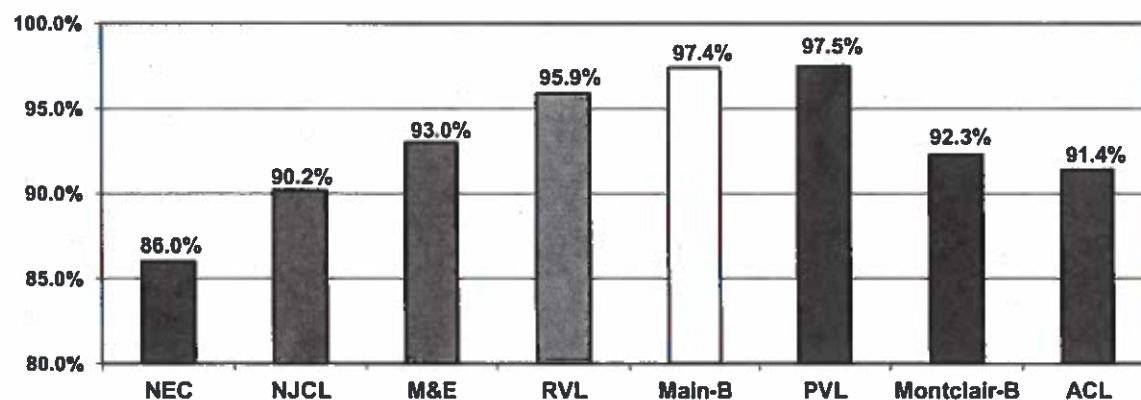
% NEW YORK PENN STATION Trains Reported On Time *



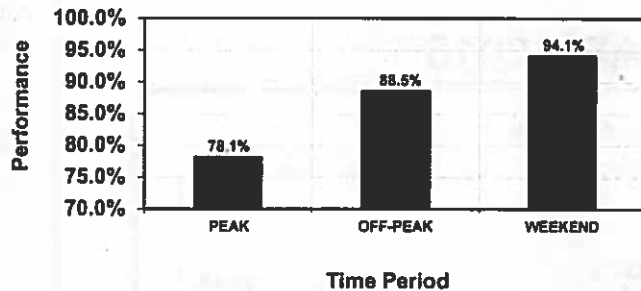
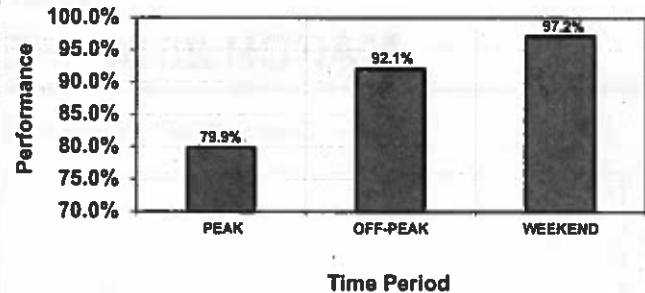
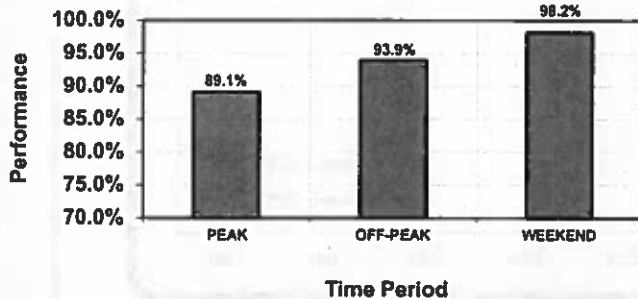
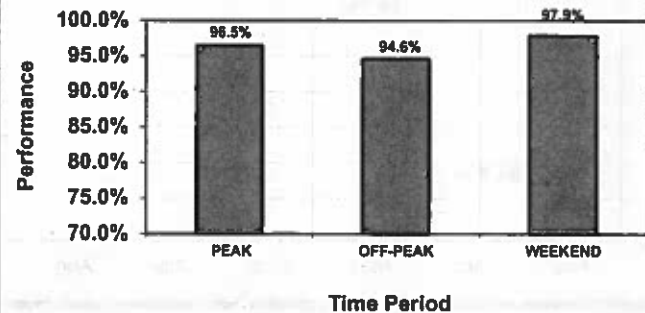
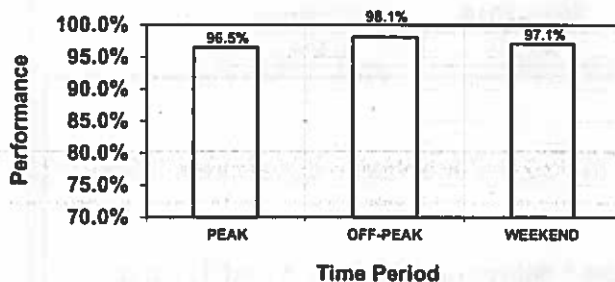
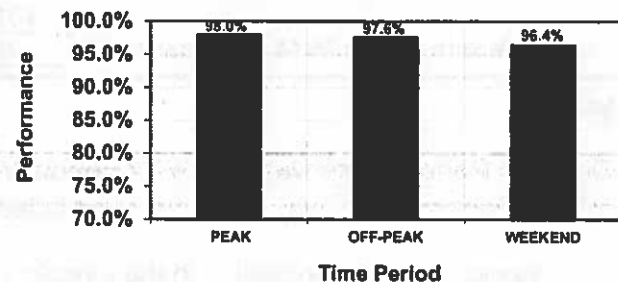
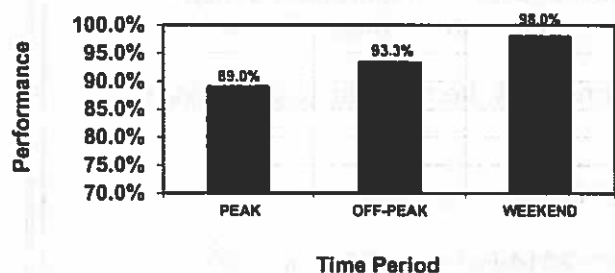
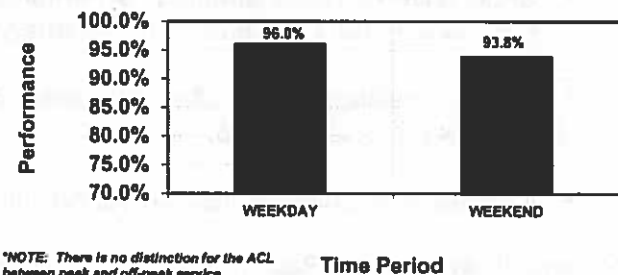
% SYSTEMWIDE Trains Reported On Time



% BY LINE Trains Reported On Time



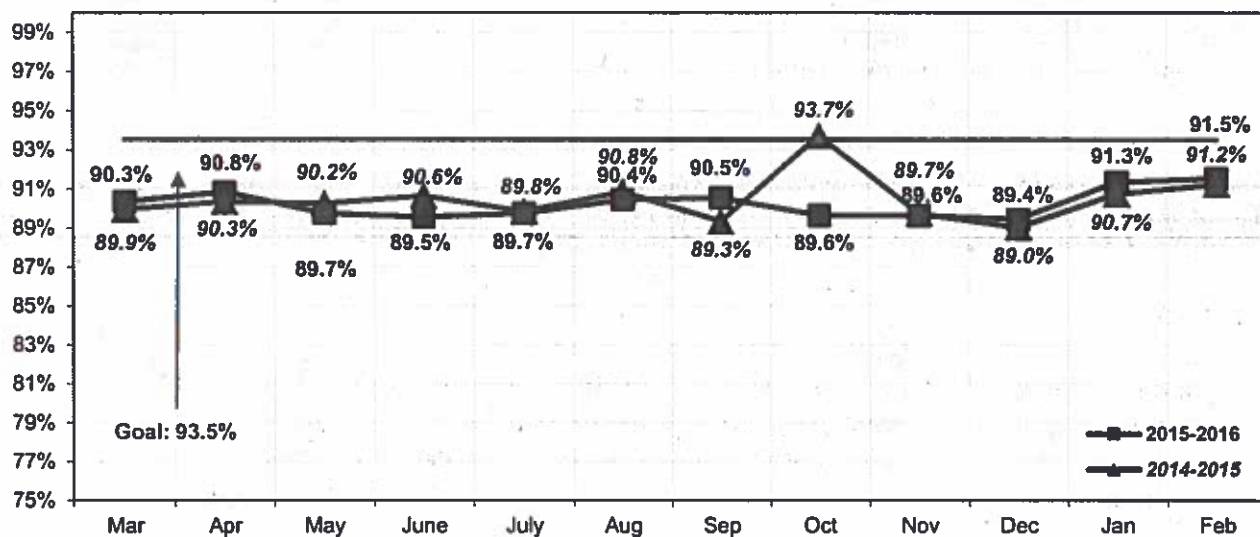
ON-TIME PERFORMANCE BY RAIL LINE & TIME PERIOD FEBRUARY 2016

NORTHEAST CORRIDOR**NORTH JERSEY COAST LINE****MORRIS & ESSEX****RARITAN VALLEY LINE****MAIN-BERGEN****PASCACK VALLEY****MONTCLAIR-BOONTON****ATLANTIC CITY***

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

NJ TRANSIT ON-TIME PERFORMANCE BUS MARCH 2014 - FEBRUARY 2016

% Buses Departing Major Terminals Within 6 Minutes of Schedule



	2015	2016	% Change
February Comparison	91.2%	91.5%	0.3%

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

Analysis:

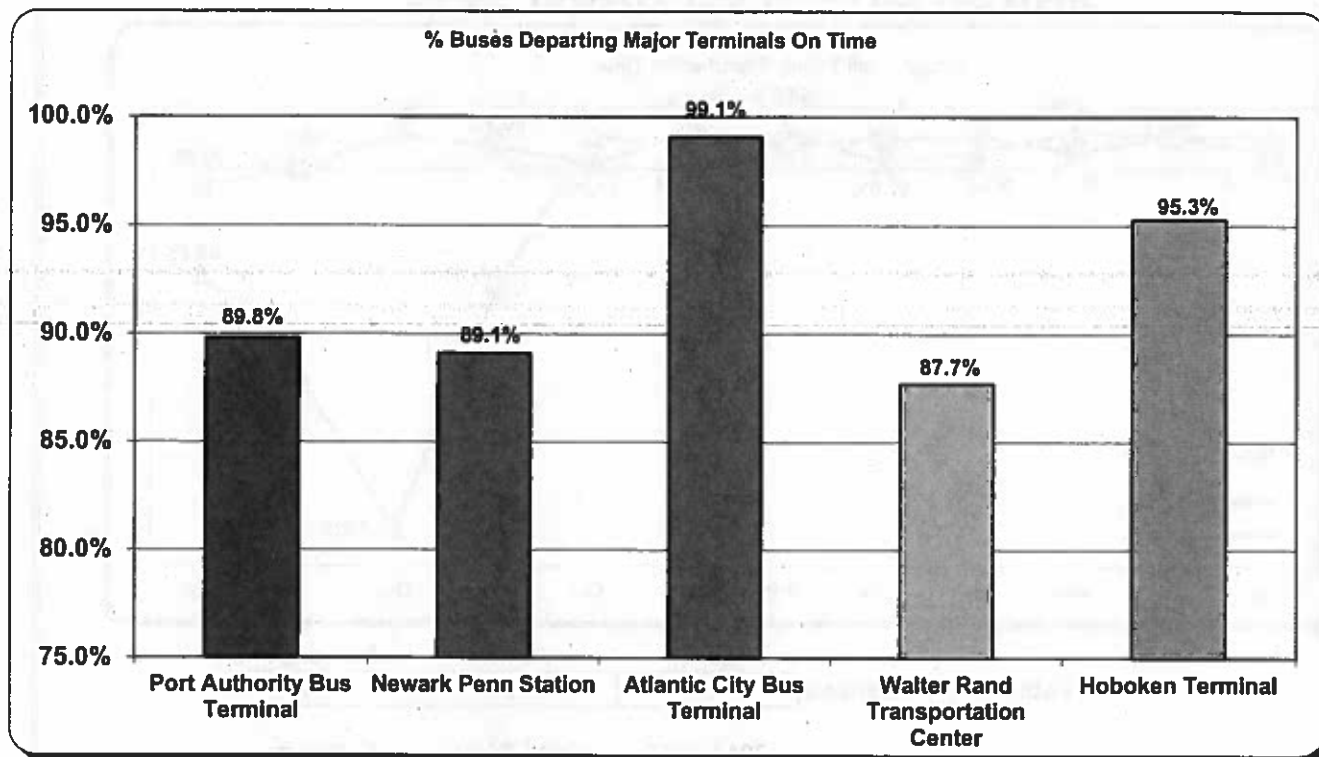
Bus On-Time Performance was 91.5% for February 2016. Of the 39,447 monitored departures, 3,355 (or 8.5%) experienced delays. Key causes included:

- Accidents and congestion in the Lincoln Tunnel caused delays on February 8 and 12, and accidents on surrounding streets impacted Port Authority Bus Terminal performance on February 16.
- Snow covered roads affected performance at the Walter Rand Transportation Center on February 3 and 15. A protest on February 11 in Philadelphia caused major delays.
- Weather-related events affected Newark Penn Station (snow, heavy rains and flooding) on February 3, 8, 24 and 26.
- Inclement weather and related congestion impacted Hoboken Terminal.

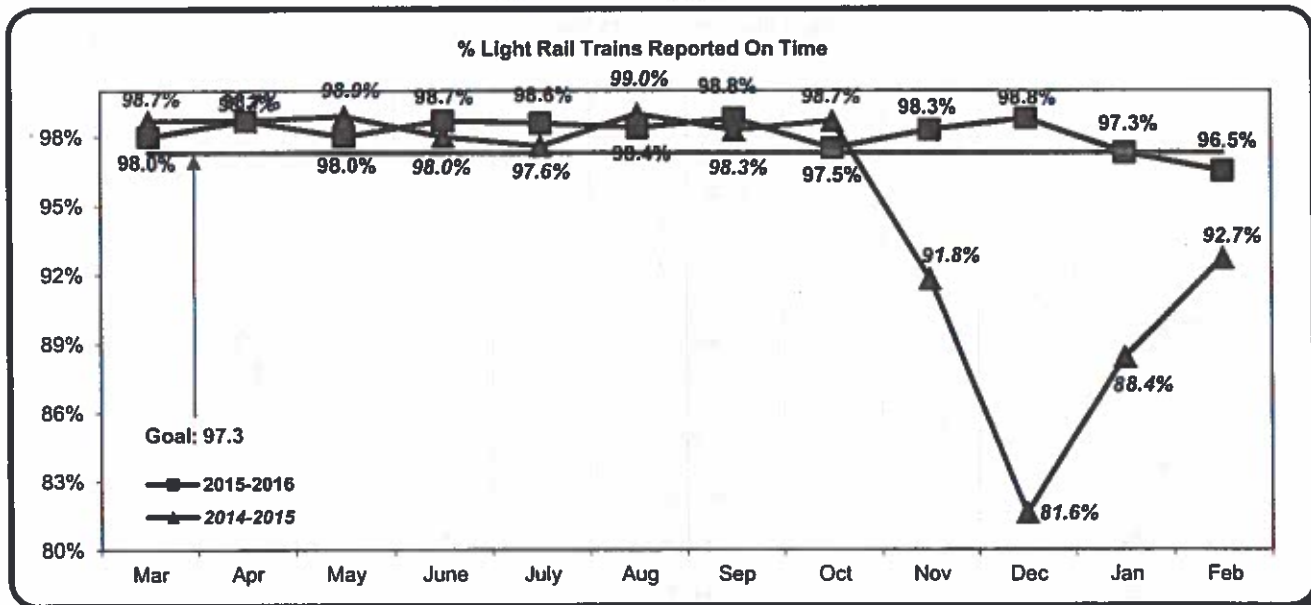
The 12-month average for Bus On-Time Performance for March 2014-February 2016 was 90.3%.

ON-TIME PERFORMANCE BUS

SUMMARY BY TERMINAL FEBRUARY 2016



NJ TRANSIT ON-TIME PERFORMANCE LIGHT RAIL MARCH 2014 - FEBRUARY 2016



	2015	2016	# Change
February Comparison	92.7%	96.5%	3.8%

	2014-2015	2015-2016	# Change
12-Month Average March 2014 - February 2016	95.2%	98.1%	2.9%

Analysis:

Light Rail On-Time Performance systemwide was 96.5% for the month of February 2016. Of the 24,956 monitored departures, 372 (or 3.5%) experienced delays. Key causes included:

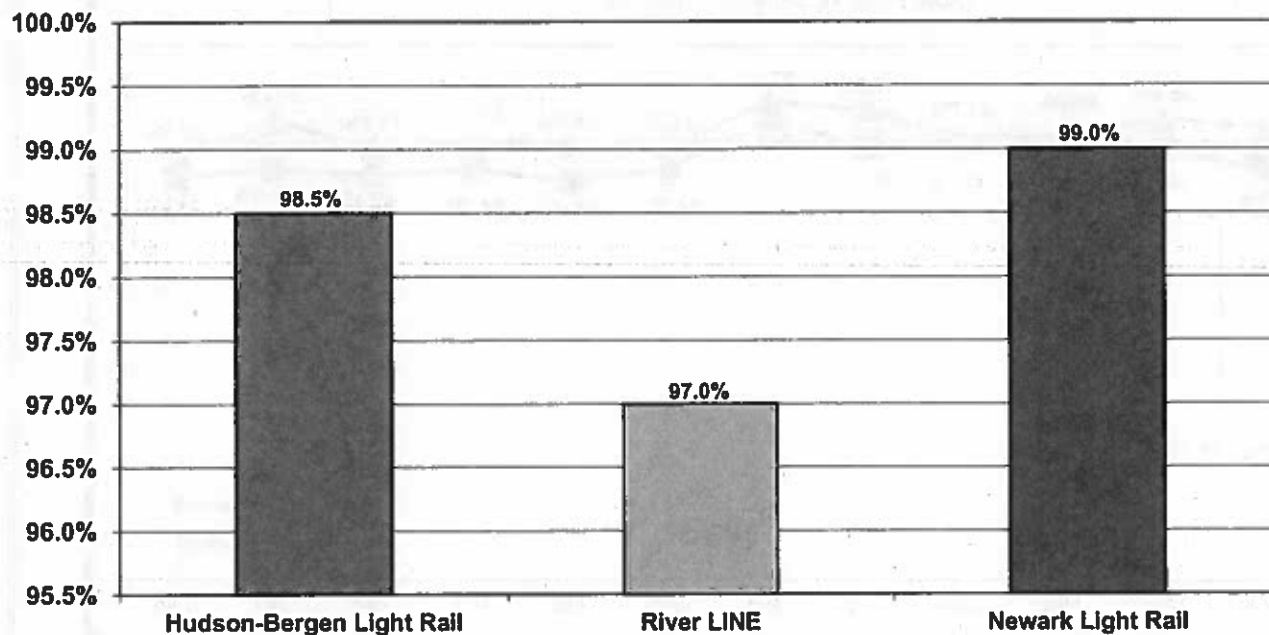
- A light rail-auto incident delayed 52 Hudson-Bergen Light Rail trains on February 8.
- A signal equipment switch failure delayed 10 RiverLINE trains on February 14.
- Operational issues delayed 15 Newark Light Rail trains on February 19.

The 12-month average for Light Rail On-Time Performance for March 2014-February 2016 was 96.7%.

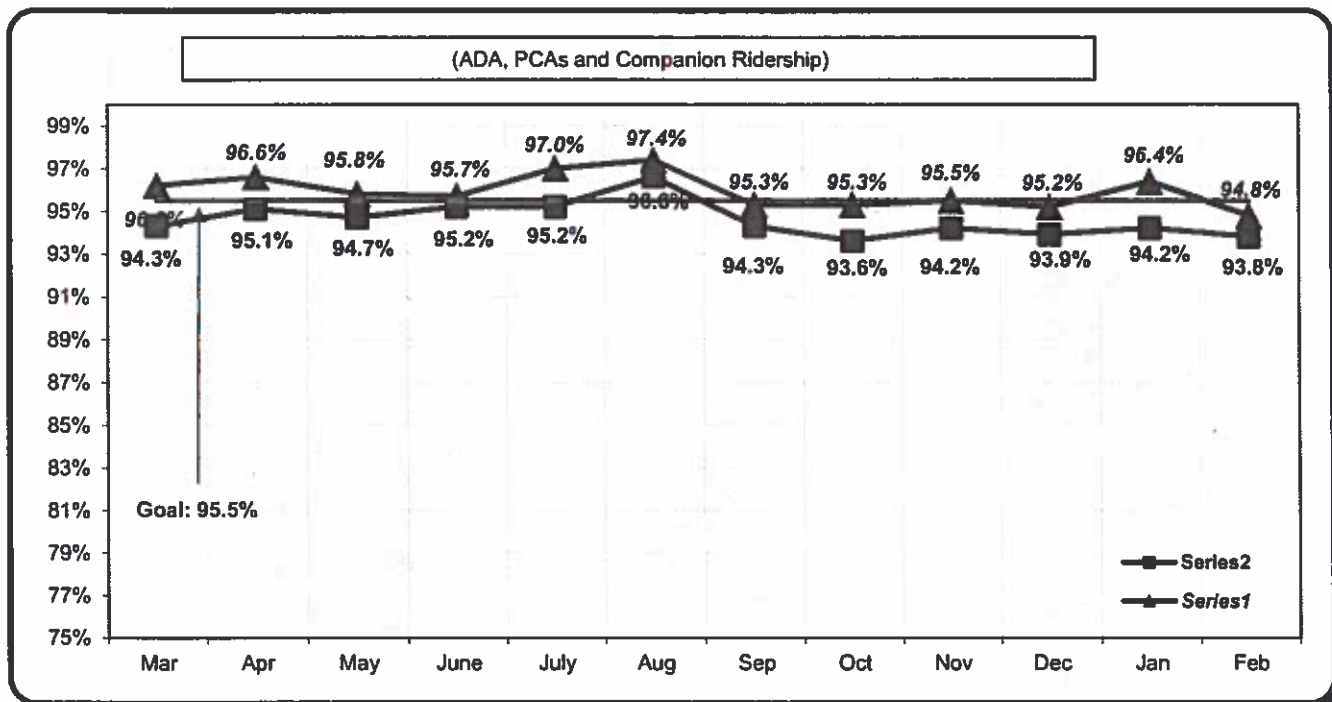
ON-TIME PERFORMANCE LIGHT RAIL

SUMMARY BY LINE FEBRUARY 2016

% Light Rail Trains Reported On Time



NJ TRANSIT ON-TIME PERFORMANCE ACCESS LINK MARCH 2014 - FEBRUARY 2016



	2015	2016	% Change
January Comparison	94.8%	93.8%	-1.0%

	2015	2016	Difference
January Ridership	104,671	116,361	11,690

	2014-2015	2015-2016	% Change
12-Month Average February-January	95.9%	94.6%	-1.3%

Analysis:

Access Link On-Time Performance was 93.8% for February 2016. Of the 116,361 total trips, 7,220, or 6.2% experienced delays.

Key causes include:

- * Weather-related service delays .
- * Cancellations and customer no-shows.
- * Road closures due to construction.

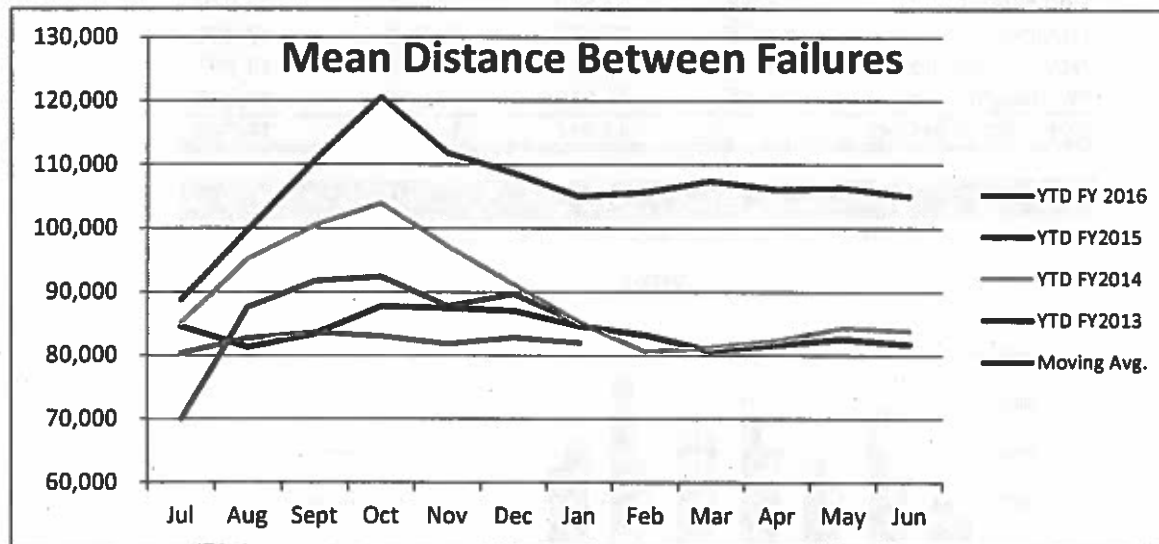
The 12-month average for Access Link On-Time Performance for March 2014 - February 2016 was 95.3%.

MEAN DISTANCE BETWEEN FAILURES

NJ Transit Rail

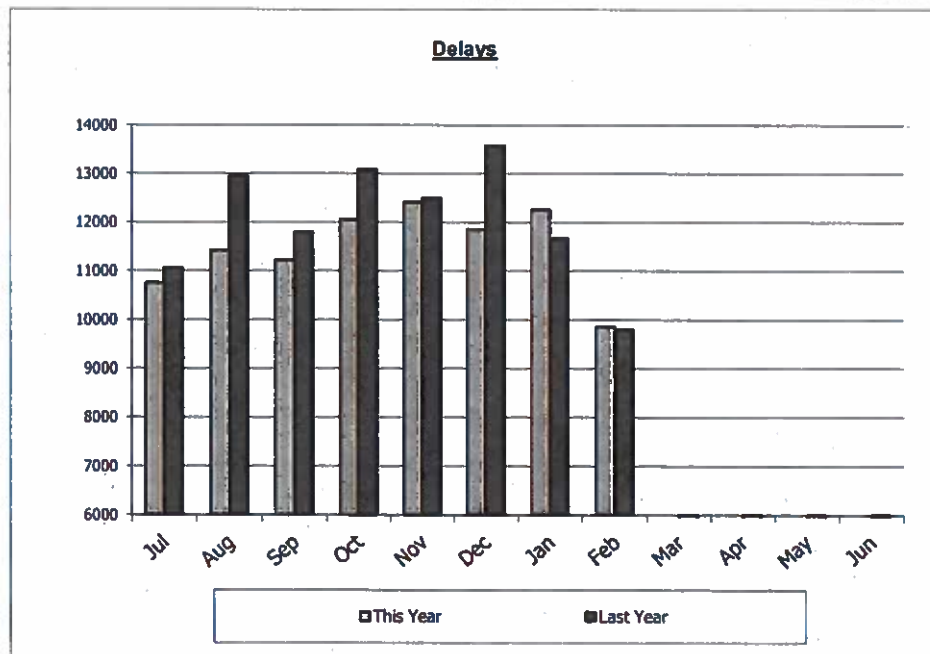
Mean Distance Between Failures

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



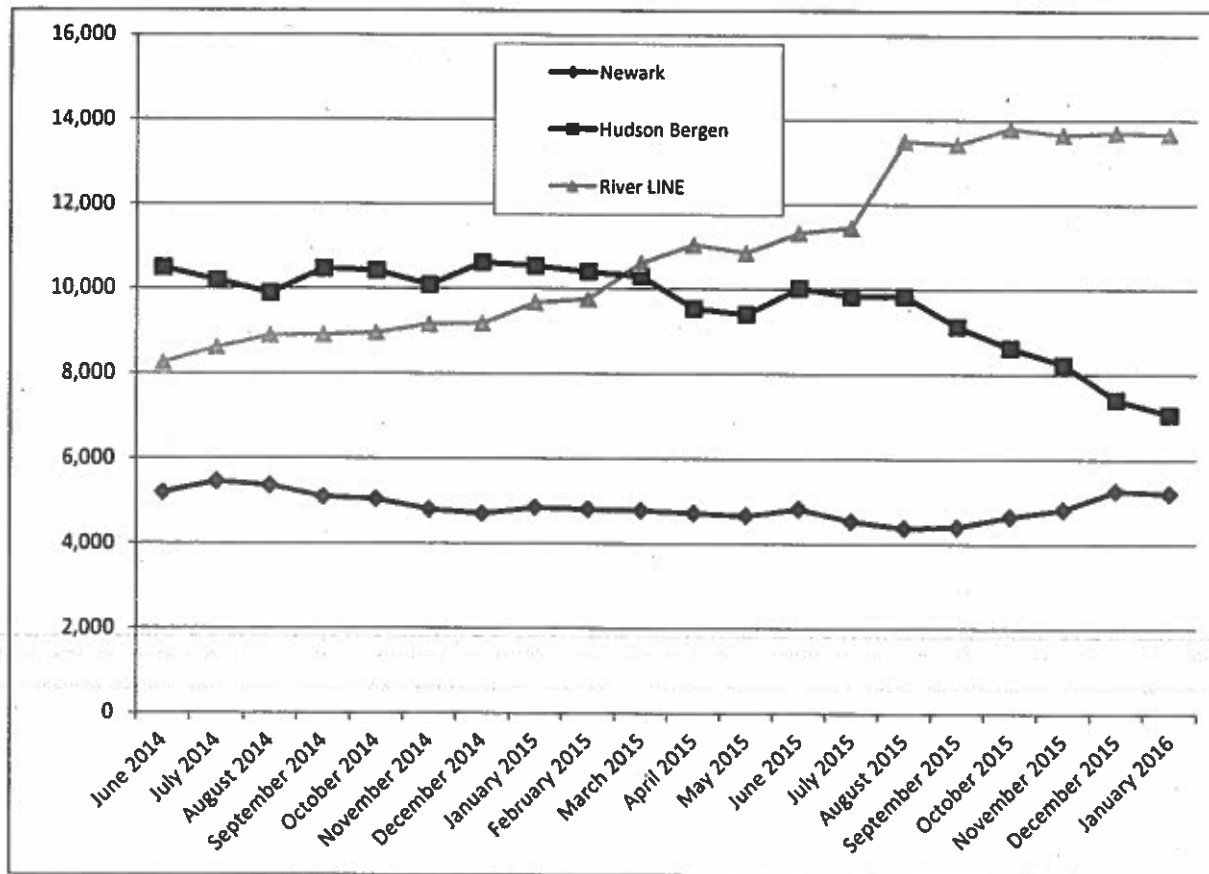
Garage Performance Parameters**February 2016**

Location	Miles Between In-Service Delays			
	FY2016 Goal	This Month	FY2016 YTD	FY2015 YTD
Fairview	7,000	5,811	6,160	6,621
Greenville	9,900	7,555	6,653	8,120
Market Street	9,500	7,560	8,255	9,435
Meadowlands	11,500	7,636	8,069	9,385
Oradell	13,500	7,668	10,518	10,142
Wayne	12,500	9,073	11,461	11,319
Northern Division	-	7,728	8,953	9,551
Big Tree	9,600	7,848	7,763	10,134
Hilton	10,500	8,698	11,234	11,867
Howell	16,750	29,468	33,948	20,422
Ironbound	9,800	9,272	10,185	10,777
Orange	10,200	7,224	8,492	11,533
Morris	10,500	22,698	41,337	49,581
Central Division	-	10,917	12,716	13,236
Egg Harbor	15,500	11,569	13,681	15,076
Hamilton	19,000	20,686	23,023	17,465
Newton Avenue	15,700	12,807	14,694	14,897
Washington Twp.	14,500	11,912	13,227	13,486
Southern Division	-	12,617	14,437	14,715
Bus Operations	-	9,856	11,426	11,974



NJ TRANSIT - LIGHT RAIL, January 2016**Miles Between In-Service Delays (Mechanical Failures)**

Light Rail System	January 2016 (Current Month)	12 Month Moving Average (Mean)
Newark Light Rail	3,913	5,195
Hudson Bergen	3,583	7,045
River LINE	10,134	13,658

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

Notes: Newark Light Rail's totals are impacted by the short 5 mile alignment distance and single car consists.

DBE/SBE PROGRAM

State Funded Contracts

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

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

*** Previously awarded \$1,869,324.75 during the month of January 2016 that was not reported in the February ED Report.**

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

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

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

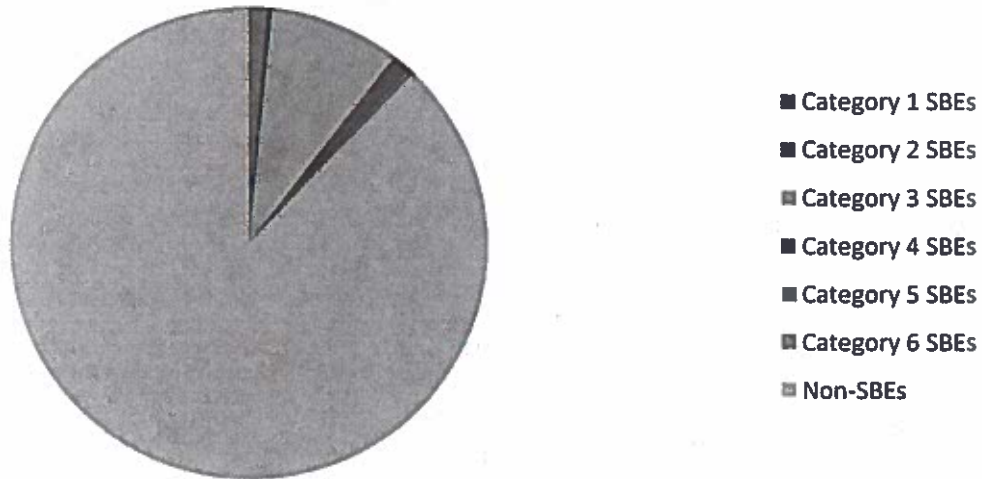
During the 1st Quarter (October 1, 2015 – December 31, 2015) of Federal Fiscal Year 2016 (October 1, 2015 through September 30, 2016), the FTA funded share of NJ TRANSIT's federal contracts awarded was **\$0.00**. Of that total, Disadvantaged Business Enterprises (DBEs) received **\$0.00** or **0.00%**.

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

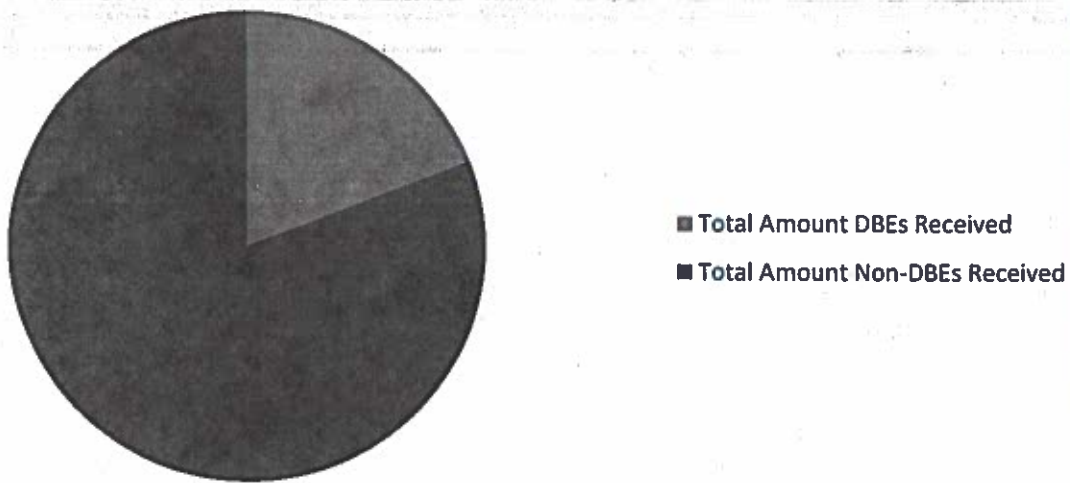
Contracts awarded	\$25,914,589.65
DBEs received	\$ 4,942,003.34 or 19.07%

***Numbers reflect federal share.**

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

DBE PARTICIPATION
FEDERAL CONTRACTS
TRIENNIAL YEARS 2014-2016

Total Amount DBEs Received	\$4,942,003.34	19.07%
Total Amount Non-DBEs Received	\$20,972,586.30	80.93%



EMPLOYEE RECOGNITION

NJ TRANSIT employees bid farewell after outstanding careers

Forty-two NJ TRANSIT employees recently retired with careers ranging from 10 to 43 years of service:

1. Virgil Bivins, Mechanic – Newton Avenue – 12 years
2. James Devaney, Operator – Oradell -- 16 years
3. James Eller, Operator – Howell – 13 years
4. Jacques Joseph, Operator – Ironbound – 15 years
5. Betty Anderson, Operator – Egg Harbor – 25 years
6. William Brennan, Mechanic – Washington Township – 34 years
7. Tommie Burney, Operator – Oradell – 11 years
8. John Campanella, Depot Master C – Newton Avenue – 34 years
9. Tyrone Cherry, Repairman A – Meadowlands – 26 years
10. Oscar Colbert, Light Rail Train Operator – Bloomfield – 32 years
11. William Connelly, Mechanic A – Newark Bus – 26 years
12. Chino Cooper, Operator – Washington Township – 36 years
13. Veronica Coy, Operator – Hilton – 26 years
14. Etrulai Craig, Data Verifier – GOB – 26 years
15. Gilda Crowley, Receiving Clerk – Newark Bus – 28 years
16. Marlon Garrido, Operator – Hilton – 25 years
17. Gregory Gordon, Repairman A – Market Street – 27 years
18. Linda Henderson, Operator – Hilton – 24 years
19. Vincent Hernandez, Jr., Mechanic – Washington Township – 28 years
20. Dennis Hullings, Special Maintenance – Ferry Street – 34 years
21. Elaine Kennedy, Operator – Hilton – 28 years
22. Richard Lloyd, Operator – Newton Avenue – 10 years
23. Mauricio Moncayo, Operator – Howell – 22 years
24. Octavia Monrinville, Operator – Greenville – 26 years
25. James Ramsey, Operator – Ironbound – 13 years
26. Beatrice Richardson, Operator – Meadowlands – 24 years
27. Janet Ron, Operator – Market Street – 22 years
28. Michael Terlingo, Operator – Washington Township – 36 years
29. John Wendland, Mechanic – Hilton – 35 years
30. Robert Whitaker, Mechanic A – Meadowlands – 37 years
31. Thomas Wilson, Mechanic A – Ironbound – 30 years
32. Stephen Wong, Operator – Oradell – 24 years
33. Roger Wunder, Depot Master C – Fairview – 29 years
34. Rafael Boffill, Operator – Fairview – 17 years
35. Orlando Roman, Starter – Fairview – 32 years
36. Charles Bommer, Jr., Repairman A – Fairview – 14 years
37. Joel Falkowitz, Accounts Payable Systems Program Manager, Penn Plaza – 15 years
38. Kenneth Atwell, Senior Trainmaster – PSNY – 22 years

- 39. Phyllis Calabrese, Senior Executive Secretary – Penn Plaza – 17 years
- 40. Anne DeAngelis, Director Strategic Staffing – Penn Plaza – 43 years
- 41. Karen Schrempp, Director Title VI & Civil Rights Compliance – Penn Plaza – 27 years
- 42. Joyce Smith, EO/AA Officer – Penn Plaza – 30 years

ACTION ITEMS

ITEM 1603-11: SUPERSTORM SANDY PROPERTY DAMAGE INSURANCE CLAIM: AMENDEMENT TO CONTRACT FOR FORENSIC ACCOUNTING SERVICES

BENEFITS

During Fiscal Year 2013, NJ TRANSIT maintained a \$400,000,000 property damage insurance program. The costs to repair the damage to NJ TRANSIT's insurable assets as a result of Superstorm Sandy in October 2012 are reimbursable from the insurance program. However, in order to justify the claim and receive reimbursement, the insurers participating on the program, through their dedicated claim adjuster, require detailed information in support of NJ TRANSIT's property damage insurance claim. The collection and analysis of information forms the basis of the insurance adjustment process and plays an integral role in the agency's ability to negotiate with its insurers to maximize the amount of insurance proceeds received. The quality and detail of information submitted in support of the insurance claim strengthens NJ TRANSIT's insurance coverage position and places the agency in a better position to receive insurance proceeds that will be part of the funding for repair and replacement projects within NJ TRANSIT's Capital Program.

Marsh USA is currently under contract with NJ TRANSIT following the completion of a competitive procurement process and subsequent approval by the NJ TRANSIT Board of Directors. Since 2012, Marsh USA has been working closely with NJ TRANSIT and the insurers' dedicated claim adjuster to identify the extent of the damage and to provide detailed information to substantiate the costs submitted as part of the insurance claim. As a result of the documentation compiled by Marsh USA, NJ TRANSIT received an advance totaling \$100,000,000, which represents a partial payment of the overall insurance claim. Due to the extent of information required by the insurance adjuster and the breadth of the insurance claim, additional authorization is required to continue the adjustment and valuation process. Additionally, the information compiled by Marsh USA has assisted NJ TRANSIT with its federal disaster relief grant applications to FTA and will assist with any potential future grant applications with FEMA.

ACTION (Scorecard: Financial Performance, Corporate Accountability)

Staff seeks approval to increase the authorization amount for NJ TRANSIT Contract No. 10-046 with Marsh USA by \$1,500,000, plus five percent for contingency, for a total authorization of \$6,396,270, subject to the availability of funds.

PURPOSE

Authorization of this contract amendment will provide for the continuation of critical services in support of NJ TRANSIT's property insurance claim and to assist the agency with its submission of federal grant applications.

BACKGROUND

NJ TRANSIT sustained significant property damage across its system as a result of Superstorm Sandy on October 29, 2012. Much of the damaged property was covered by NJ TRANSIT's all-risk property insurance program. The costs associated with the clean-up and repair of the insurable property will be covered by the applicable insurance policies however the insurers require extremely detailed information in order to consider whether such costs are compensable under the policies.

Marsh USA has a specialized team of forensic accountants to compile and analyze the information needed in support of the claim. Marsh USA began compiling information in support of NJ TRANSIT's property damage claim days after the storm in late October 2012. Authorization to contract with Marsh USA to perform these services was granted through the emergency authorization granted to NJ TRANSIT in the days following Superstorm Sandy. It was necessary to retain Marsh USA immediately after the storm so they could begin compiling the costs associated with the damage. They also initiated contact with the insurers to educate them as to the extent of the damage and the next steps in the agency's recovery efforts. Members of the accounting team worked closely with NJ TRANSIT employees to obtain all available clean-up and property damage cost estimates as well as compile the significant amount of NJ TRANSIT labor costs incurred in the days and weeks following the storm. The insurers require such information to be categorized by date, type of work, location and payroll center.

Marsh USA transmitted preliminary estimates and information to the insurers and their claims adjuster to ensure the claim was handled accurately and in a timely manner. Based on the preliminary information transmitted by Marsh USA, an initial advance payment of \$50,000,000 was made to NJ TRANSIT in early 2013 and subsequent payments totaling an additional \$50,000,000 were received in early 2014. Marsh USA will continue to compile all available information in support of the claim and assist in seeking further reimbursement from the insurance carriers and all available federal grants.

Due to the extent of the damage and the amount of information needed to prepare and justify the claim, additional time is required by the broker to effectively prepare the claim. The extension of this contract will provide continuity of the continuing property damage recovery process from both insurance providers and the FTA relating to Superstorm Sandy.

Funding

The costs for the forensic accounting services are reimbursable through the applicable property insurance policies subject to a \$1,000,000 sublimit. Costs incurred above the insurance sublimit will continue to be funded by the Transportation Trust Fund. The Board previously authorized \$4,821,270, including \$1,540,000, which was paid by NJ TRANSIT's Operating Budget to Marsh USA for corporate risk management broker

services between Fiscal Year 2011 and Fiscal Year 2014 pursuant to Contract No. 10-046. This authorization will bring the total contract authorization to \$6,396,270.

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

FISCAL IMPACTS

Requested Authorization:	Marsh USA Increase	\$1,500,000
		+ 5% contingency
	Marsh USA Total Authorization	\$6,396,270

Past Authorization:	Marsh USA – Broker Services
	FY 11 \$1,540,000 + 5%
	Marsh USA – Forensic accounting
	FY 13- FY 16 \$3,281,270

Expenditures to Date:	Marsh USA \$3,861,825
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Total Project Cost:	N/A
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Projected Date of Completion:	March 31, 2018
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Capital Program Amount:	\$1,500,000
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Operating Budget Amount:	None
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Anticipated Source of Funds:	Transportation Trust Fund
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Prints ID Number:	N/A
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DBE/SBE Goal:	5%
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<i>NJ Build</i> Amount:	N/A
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Related/Future Authorizations:	N/A
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Impacts on Subsequent Operating Budgets:	None
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RESOLUTION

WHEREAS, during Fiscal Year 2013, NJ TRANSIT maintained a \$400,000,000 property insurance program; and

WHEREAS, the costs to repair damage to NJ TRANSIT's insurable assets as a result of Superstorm Sandy are reimbursable from the agency's property insurance program; and

WHEREAS, NJ TRANSIT is required to submit detailed information in support of its property damage insurance claim; and

WHEREAS, upon completion of a competitive procurement process and subsequent Board approval, pursuant to Contract 10-046, Marsh USA was authorized to perform forensic accounting services in support of NJ TRANSIT's property insurance claim and to assist with the agency's federal grant applications; and

WHEREAS, due to the extent of the damage and the amount of detailed information needed to prepare and justify the claim and federal grant applications, additional authorization is sought to continue to utilize Marsh USA to perform forensic accounting services;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to increase the amount for NJ TRANSIT Contract No. 10-046 with Marsh USA by \$1,500,000, plus five percent for contingency, for a total contract authorization of \$6,396,270, subject to the availability of funds.

ITEM 1603-12: COMMUNITY MOBILITY AND LOCAL PROGRAMS: VEHICLE PURCHASE CONTRACT FOR TRANSIT-STYLE BUSES**BENEFITS**

The Federal Transit Administration (FTA) makes available a variety of grant funding programs that allow for vehicle purchases to support community transit services operated by counties, municipalities, non-profit organizations and others. NJ TRANSIT is the direct recipient of FTA funds and procures vehicles under these grant programs on behalf of local sub-recipients. This maximizes purchasing power and ensures appropriate compliance with federal regulations.

Seven vehicles are being purchased with funding from the Section 5310 Transportation for Elderly Persons and Person with Disabilities Program. One vehicle is being purchased with Congestion Mitigation and Air Quality (CMAQ) Program funds flexed into the Section 5310 program. Transportation Trust Fund monies are used to provide the required local match for the federal Section 5310 funds.

ACTION (Scorecard: Corporate Accountability, Customer Experience)

Staff seeks authorization to enter into NJ TRANSIT Contract No. 15-051 with Wolfington Body Company, Inc. of Mt. Holly, New Jersey, for the purchase of eight 24-passenger buses (medium-duty cutaways) in an amount not to exceed \$1,138,280, plus five percent for contingencies, for a total authorization of \$1,195,194, subject to the availability of funds.

PURPOSE

Authorization of this contract will provide transit-style buses to be used by one private non-profit organization and five designated public bodies to provide transit services to senior citizens and persons with disabilities.

BACKGROUNDFunding

Federal funds were made available during the past two years for the purchase of vehicles to be allocated to sub-recipients under the programs described above. NJ TRANSIT has allocated the funds to sub-recipients in accordance with the program purpose and worked with sub-recipients to determine appropriate vehicle types. NJ TRANSIT developed specifications for the vehicles.

Selection Process for Section 5310 and CMAQ

Under these programs, federal funding is made available annually and a competitive grant process is undertaken. The Section 5310 application process for sub-recipients is directly administered by NJ TRANSIT with input from other groups and organizations, including Metropolitan Planning Organizations (MPOs), during the review and selection

process. Section 5310 is predominantly a capital (vehicle) program. CMAQ program applicants are solicited directly by MPOs; NJ TRANSIT subsequently submits the federal grant request and administers the program. CMAQ can be used for operating or capital purposes. This Board item only reflects capital requests for minibuses contained in approved grants. The agencies receiving these buses are shown below.

County	Agency	Quantity	Funding
Essex	Township of Nutley	1	S5310
Middlesex	County of Middlesex	2	S5310
Ocean	County of Ocean	1	S5310
Passaic	Camp Hope	1	S5310
Sussex	County of Sussex	2	S5310
Cape May	County of Cape May	1	CMAQ

Section 5310 expenditures require a local match, which NJ TRANSIT is funding through the Transportation Trust Fund.

Procurement

NJ TRANSIT's Office of Business Development assigned a Transit Vehicle Manufacturer goal for this procurement. An Invitation for Bid (IFB) was advertised in *The Star-Ledger* and *The Trenton Times* on October 8, 2015. A Pre-Bid Conference was held on October 22, 2015. Bids were opened on November 24, 2015 at NJ TRANSIT's Newark Headquarters.

IFB 15-051 RESULTS

COMPANY	BID PRICE	MATERIALS OPTIONS PRICE	TOTAL AUTHORIZATION
Wolffington Body Company, Inc. Mt. Holly, New Jersey	\$ 1,050,216.00	\$ 88,064.00	\$ 1,138,280.00
Rohrer Enterprises, Inc. DBA/Rohrer Bus Sales Trenton, New Jersey	\$ 1,066,224.00	\$ 83,552.00	\$ 1,149,776.00
Alliance Bus Group Carlstadt, New Jersey	\$ 1,112,000.00	\$ 167,200.00	\$ 1,279,200.00

Options for Additional Vehicles

The IFB document for the vehicles included the provision for NJ TRANSIT to amend the quantity of vehicles by up to three vehicles within 150 days of contract notice to

proceed. Board authorization will be requested for the purchase of any additional vehicles under this option.

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

FISCAL IMPACTS

Requested Authorization:	This Authorization	\$ 1,138,280	+ 5% contingency
	Total Authorization	\$ 1,195,194	

Past Authorizations: None

Expenditures to Date: None

Total Project Cost: \$ 1,195,194

Projected Date of Completion: December 2016

Capital Program Amount: \$ 1,195,194

Operating Budget Amount: None

Anticipated Source of Funds: Federal Transit Administration
Transportation Trust Fund

PRINTS ID Number: NJT00376
NJT00465
NJT00468

DBE/SBE Goal: Transit Vehicle Manufacturer

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

Related Future Authorizations: Annual Community Mobility and Local Programs
Option Vehicles

**Impacts on Subsequent
Operating Budgets:** None for this action

RESOLUTION

WHEREAS, the State of New Jersey has applied for and funded local transit services throughout the state through a variety of Federal Transit Administration (FTA) grant programs; and

WHEREAS, funding is available to purchase vehicles for local transportation programs under FTA Section 5310, and CMAQ; and

WHEREAS, upon completion of a competitive procurement process, Wolfington Body Company, Inc. was determined to be the lowest responsive, responsible bidder;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to enter into NJ TRANSIT Contract No. 15-051 with Wolfington Body Company, Inc. of Mt. Holly, New Jersey, for the purchase of eight 24-passenger buses (medium-duty cutaways) in an amount not to exceed \$1,138,280, plus five percent for contingencies, for a total authorization of \$1,195,194, subject to the availability of funds.

ITEM 1603-13: LACKAWANNA CUT-OFF: PURCHASE OF WETLANDS MITIGATION CREDITS**BENEFITS**

NJ TRANSIT is working to provide travelers with transit alternatives to congested roads and aid in the compliance with clean air legislation. One of the rail system extension projects that support these goals is the restoration of the Lackawanna Cut-Off in western New Jersey. This project seeks to provide improved public transportation for commuters who must use the congested I-80 corridor, particularly in Morris County. Upon opening, the Lackawanna Cut-Off Minimal Operable Segment (MOS) will initially attract 80 weekday riders and is forecast to attract 130 average weekday riders by 2030.

As part of the Lackawanna Cut-off project, the New Jersey Department of Environmental Protection (NJDEP) authorized NJ TRANSIT to permanently disturb 3.53 acres of freshwater wetlands for the reactivation of the rail line and construction of the planned Andover Station provided that mitigation credits for the disturbed wetlands are purchased at a ratio of one-to-one from an approved wetlands mitigation bank.

ACTION (Scorecard: Customer Experience, Corporate Accountability, Financial Performance)

Staff seeks authorization to purchase 2.1 acres of Wetlands Credits required for the Lackawanna Cut-Off project from Ecologic Mitigation Oxford of West Long Branch, New Jersey, at a cost not to exceed \$816,900, subject to the availability of funds.

Staff also seeks authorization to purchase the remaining 1.43 acres of Wetlands Credits required for the Lackawanna Cut-Off project from The Nature Conservancy in New Jersey of Chester, New Jersey, at a cost not to exceed \$567,138, subject to the availability of funds.

PURPOSE

Authorization of these contracts will allow NJ TRANSIT to purchase wetlands mitigation credits from two NJDEP-approved mitigation banks in order to comply with the NJDEP permit condition to mitigate the environmental impacts to the regulated wetlands resources impacted by the rail restoration work.

BACKGROUNDHistory

The Lackawanna Cut-Off Minimal Operable Segment project involves the restoration of commuter rail service from Port Morris, NJ to Andover, NJ a distance of 7.3 miles. The MOS is a rail spur off the outer end of NJ TRANSIT's existing Montclair/Boonton Line on the former right-of-way known as the "Lackawanna Cut-Off".

The purpose of this project is to implement a passenger rail service effectively and efficiently improve travel in Northwest New Jersey to the New York/New Jersey corridor. As part of the planned restoration, NJ TRANSIT intends to rehabilitate the Roseville Tunnel and install one grade crossing at Brooklyn-Stanhope Road in Stanhope. A new station with parking for 55 cars will be constructed off Roseville Road in Andover, the MOS terminus. NJ TRANSIT began design of the project with the award of a design services contract to Jacobs Engineering in 2009.

Restoration of the trackbed began in 2010 with the award of a construction contract to Union Paving for the clearing of trees, site grading, and installation of the 4.25 miles of ballast for the future track installation along a portion of the right-of-way between Port Morris in Roxbury Township and Byram Township. Upon completion of this portion of the trackbed, NJ TRANSIT forces installed approximately 1.5 miles of track.

In 2013, NJ TRANSIT issued a design contract to Parsons Transportation for the design and engineering for the rehabilitation of the Roseville Tunnel. This design effort identified the necessary structural repairs and waterproofing system criteria that is being used to develop the design/build construction documents for the rehabilitation of the tunnel. The design/build rehabilitation construction contract is planned to be advertised in Spring 2016.

Design of the Andover Station is being accomplished by NJ TRANSIT's Design Services Unit. The station will consist of a commuter shelter building installed on a 200-foot high-level platform. Parking will be provided for 55 cars. Design is currently at 90 percent with construction advertisement planned for 2016.

In June 2011, NJ TRANSIT submitted a preliminary application for the project to the NJDEP for pre-application review and discussion. The application was finalized and submitted on February 7, 2012 for an Individual Flood Hazard Area Permit, Freshwater Wetlands Permit and Special Activity Transition Permit for the construction of the remaining portion of the track right-of-way and the planned Andover Station. In an effort to address comments and discussions with the NJDEP an amended application was submitted on June 7, 2013 which included a request for a hardship waiver for land disturbance within a Riparian Zone and Special Water Resource Protection Area.

On March 26, 2015, the NJDEP granted NJ TRANSIT the required permits to advance the project provided that NJ TRANSIT purchase the specified wetlands mitigation credits from either of two certified wetland mitigation banks in the applicable watershed area.

NJ TRANSIT's existing rail rolling stock (diesel locomotives and coaches) will be used to provide weekday commuter rail service between Andover Station and Hoboken Terminal. Headways will be hourly during peak periods and approximately every two hours during the off-peak period. No weekend service is planned. Hours of service will be from approximately 5:00 a.m. to 10:30 p.m. The service plan will include eight eastbound and eight westbound revenue trains per weekday. Four non-revenue trains

will be operated in each direction in order to move equipment to or from Port Morris Yard. The cost of operations is estimated to be \$2,100,000 annually.

The project is partially funded with a federal earmark grant of \$18.1 million. The balance of the project is funded using federal formula and Transportation Trust funds.

Justification

The Lackawanna Cut-Off Project required an NJDEP Freshwater Wetlands Permit to fully develop the old track bed that became fallow and was overgrown and ponded in the years since rail operations ceased along the line in 1979. The ponding and vegetative growth over the years created the ecological conditions in areas that are now classified as regulated wetlands under State and Federal laws and programs. Disturbing these areas are regulated activities that warrant a replacement-in-kind of the ecological systems that evolved in the right-of-way. Wetlands mitigation credits must be purchased in order to advance the Lackawanna Cut-Off project.

Procurement

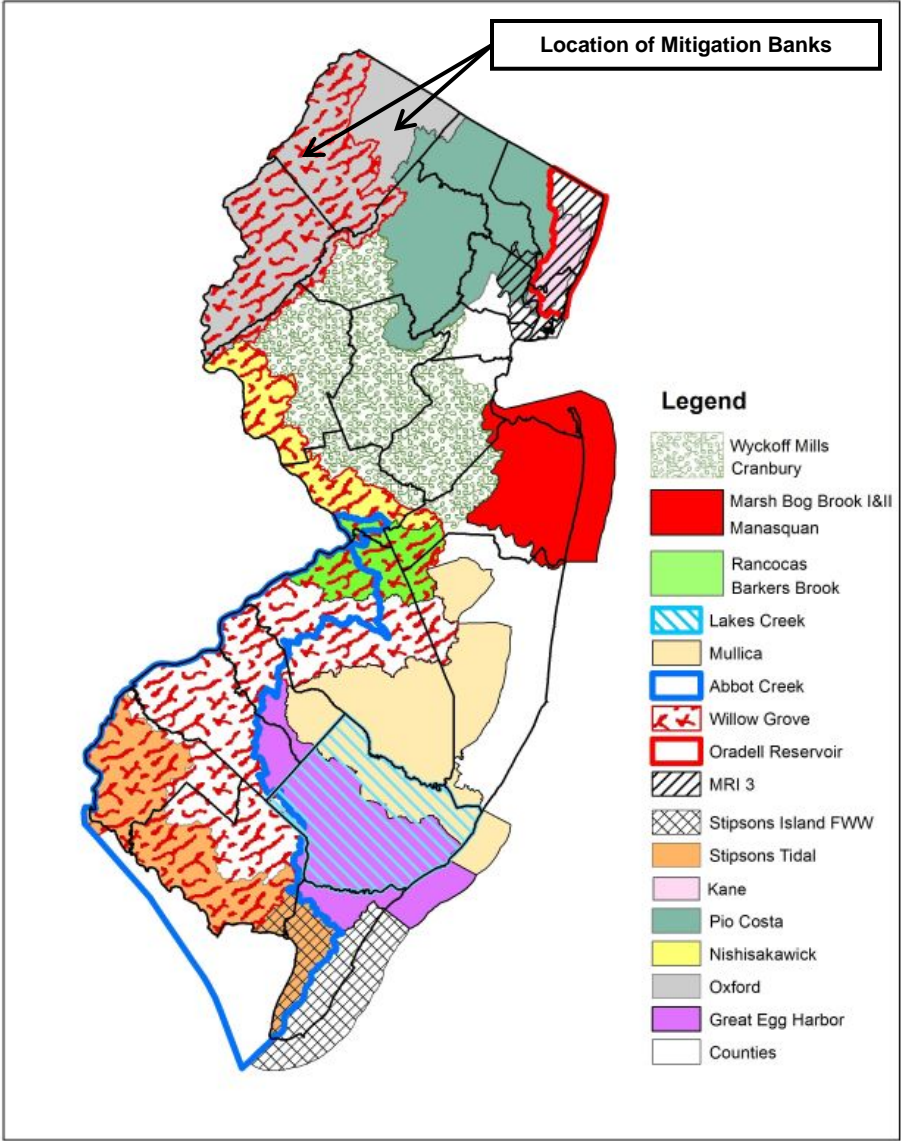
Wetlands Credits are considered intangible property required to satisfy compensatory mitigation associated with U.S. Army Corps of Engineers and NJDEP permit requirements, as compensation for unavoidable impacts to wetlands, streams, or other aquatic resources. Wetlands Credits are only available from Wetlands "Banks" with a service area that includes the permit applicant's project, and where wetlands have been established or enhanced in accordance with U.S. Environmental Protection Agency (USEPA) and U.S. Army Corps of Engineers' regulations. Each bank has a formal agreement that identifies the number of credits available for sale and requires the use of ecological assessment techniques to certify that those credits provide the required ecological functions.

As such, there are only two sources of wetlands credits within the designated mitigation zone for this project. Invitations for Quotations were sent to the two Wetlands Banks approved by the U.S. Army Corps of Engineers for this area – Ecologic Mitigation Oxford of West Long Branch and The Nature Conservancy of New Jersey of Chester.

The IFQ allows for the purchase of partial credits such that NJ TRANSIT can purchase 3.53 credits exactly or portions of this amount depending upon the availability of the credits currently held by the wetlands mitigation banks. The IFQ specified that NJ TRANSIT may, at its discretion, purchase all of the credits offered at the lowest price and purchase the remainder of the required credits from the mitigation bank offering the next lowest unit cost.

Ecologic Mitigation Oxford submitted a cost proposal in the amount of \$389,000 per acre for 2.1 acres of wetland mitigation. The Nature Conservancy submitted a cost proposal in the amount of \$396,600 per acre for the full 3.53 acres of wetland mitigation.

Approved Wetland Mitigation Banks



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

FISCAL IMPACTS

Requested Amount:	Ecologic Mitigation Oxford	\$	816,900
	The Nature Conservancy	\$	567,138
	Total Authorization	\$	1,384,038
Past Authorizations:	None		

Expenditures to Date: \$ 12,019,000 (as of 11/30/15)

Total Project Cost: \$ 61,624,000

Projected Date of Completion: October 2018

Capital Program Amount: \$ 61,624,000

Operating Budget Amount: \$0

PRINTS ID Number: HQS00150

Anticipated Source of Funds: Federal Transit Administration
Transportation Trust Fund

DBE/SBE Goal: Not Applicable

***NJ Build* Amount:** None

Future Related Authorizations: Roseville Tunnel Rehabilitation Design/Build Contract
Andover Station and Trackbed Construction

**Impacts on Subsequent
Operating Budgets:** None for this action

RESOLUTION

WHEREAS, NJ TRANSIT is working to increase the availability of New Jersey's public transportation, provide transit alternatives to congested roads and support the goals of clean air legislation; and

WHEREAS, one of the projects that supports these goals is the restoration of passenger rail service on the Lackawanna Cutoff in western New Jersey, which utilizes the Roseville Tunnel and provides improved public transportation for commuters that use the congested I-80 corridor; and

WHEREAS, the filling of 3.53 acres of freshwater wetlands is required for the reactivation of the rail line and construction of the planned Andover Station; and

WHEREAS, the procurement of 3.53 acres of Wetlands Mitigation Credits is required by the environmental permitting agencies for this project; and

WHEREAS, Ecologic Mitigation Oxford, LLC submitted the lowest price for 2.1 acres of wetland mitigation credits; and

WEHEREAS, The Nature Conservancy in New Jersey submitted the second lowest price for the remaining 1.43 acres of wetland mitigation credits;

NOW, THEREFORE, BE IT RESOLVED, that the Chairman or Executive Director is authorized to purchase 2.1 acres of Wetlands Credits from Ecologic Mitigation Oxford of West Long Branch, New Jersey, required for the Lackawanna Cut-Off project, at a cost not to exceed \$816,900, subject to the availability of funds; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to purchase the remaining 1.43 acres of Wetlands Credits from The Nature Conservancy in New Jersey of Chester, New Jersey, required for the Lackawanna Cut-Off project, at a cost not to exceed \$567,138, subject to the availability of funds.

**ITEM 1603-14: REGULATIONS: READOPTION WITH AMENDMENTS
TO N.J.A.C. 16:86 ADVERTISING STANDARDS**

BENEFITS

The licensing of outdoor advertising displays on billboards and advertising structures located within NJ TRANSIT's right-of-way, facilities, structures and properties provides significant annual guaranteed non-farebox revenue to NJ TRANSIT to help underwrite and subsidize operating expenses. The responsible display of aesthetically appropriate advertising and structures within NJ TRANSIT's right-of-way, facilities, structures and properties is a vital component in NJ TRANSIT's efforts to leverage private sector revenues for the benefit of commuters and is consistent with the nationwide use of transit facilities for advertising messages. This item is intended to re-promulgate regulations at N.J.A.C. 16:86 which will provide guidance concerning advertising on NJ TRANSIT's property.

Staff reviewed the current regulations and determined that the rules are necessary, adequate, reasonable, efficient, understandable and responsible for the purposes for which they were originally promulgated and should be readopted, with the proposed amendments. The rules are proposed to be amended to prohibit advertisements that: disparage the services of NJ TRANSIT; demean or disparage an individual, group of individuals or entity; promote or oppose a political party; express or advocate an opinion, position or viewpoint on matters of public debate about economic, political, moral, religious, or social issues; or encourage or depict unsafe behavior with respect to NJ TRANSIT related activities. Additionally, the amendment proposes to expand prohibition of advertisements for "tobacco and tobacco-related products" to explicitly include electronic cigarettes and expand "property owned by NJ TRANSIT" to include electronic and digital equipment and media. The proposed readoption with amendments was published in the New Jersey Register on November 2, 2015 (Exhibit A). The comment period expired on January 1, 2016, and no comments were received.

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

Staff seeks authorization to take all actions necessary to readopt with amendments the regulations, N.J.A.C. 16:86 et seq., Advertising Standards, consistent with this Board item and Exhibit A.

PURPOSE

Authorization to readopt the amended regulations will advance efforts to reestablish and enhance guidelines and procedures which govern NJ TRANSIT's outdoor advertising program.

BACKGROUND

NJ TRANSIT was established by the New Jersey Public Transportation Act of

1979 (N.J.S.A. 27:25-1 et seq.) as the instrumentality of the State of New Jersey to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. Since 1980, NJ TRANSIT has been contracting with advertising firms to display revenue-producing advertising on NJ TRANSIT property, including bus and rail equipment, railroad stations and platforms, and land leases for billboards.

This item was reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization: Authorization to take all actions necessary to readopt with amendments the regulations, N.J.A.C. 16:86 et seq., Advertising Standards, consistent with this Board item and Exhibit A.

Past Authorizations:

March 1997 Item 9703-21	Regulations: Advertising Standards for NJ TRANSIT
April 2003 Item 0402-26	Regulations: Advertising Standards for New Jersey Transit Corporation (NJ TRANSIT)
October 2008 Item 0810-75	Regulations: Readoption with Amendments to <u>N.J.A.C.</u> 16:86 Advertising Standards
September 2015 Item 1509-37	Regulations: Rule-Making Process Proposed Readoption with Amendments to <u>N.J.A.C.</u> 16:86 Advertising Standards

Expenditures to Date: N/A

Total Project Cost: N/A

Projected Date of Completion: N/A

Capital Program Amount: N/A

Operating Budget Amount: N/A

Anticipated Source of Funds: N/A

Prints ID Number: N/A

DBE/SBE Goal: N/A

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

Related/Future Authorization: N/A

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

RESOLUTION

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

WHEREAS, NJ TRANSIT determined that it is necessary to provide standards for the installation, display and maintenance of advertising on properties and facilities owned or operated by NJ TRANSIT and its subsidiaries; and

WHEREAS, the regulations will provide direction concerning advertising on NJ TRANSIT's property, and limit certain types of advertising on NJ TRANSIT property; and

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

WHEREAS, the proposed readoption with amendments was published in the New Jersey Register on November 2, 2015 (Exhibit A). The comment period expired on January 1, 2016, and no comments were received; and

WHEREAS, these amended rules will advance the guidelines and procedures which govern NJ TRANSIT's outdoor advertising program;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to take all actions necessary to readopt with amendments the regulations, N.J.A.C. 16:86 et seq., Advertising Standards, consistent with this Board item and Exhibit A.

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believe the proposed amendments and new rule exceed the Federal requirements.

Jobs Impact

The SEH Board does not anticipate that any jobs will be generated or lost as a result of the proposed amendments and new rule. Commenters may submit data or studies on the potential jobs impact of the proposed amendments and new rule together with their comments on other aspects of the proposal.

Agriculture Industry Impact

The SEH Board does not believe the proposed amendments and new rule will have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The SEH Board does not believe the proposed amendments and new rule apply to "small businesses," as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but acknowledges the possibility that one or more carriers might meet that definition. The proposed amendments and new rule do not establish new or additional reporting or recordkeeping requirements, but have the effect of establishing new compliance requirements, as described in the Summary above.

No differentiation in compliance requirements is provided based on business size. The requirements of and the goals to be achieved by the Federal law in question does not vary based on business size of a carrier, and the SEH Board would not be at liberty to make such a distinction even if the SEH Board were to consider such a distinction warranted. Accordingly, the proposed amendments and new rule provide no differentiation in compliance requirements based on business size. No additional professional services would have to be employed in order to comply with the proposed amendments.

Housing Affordability Impact Analysis

The SEH Board does not believe the proposed amendments and new rule will have an impact on housing affordability in this State in that the proposed amendments and new rule relate to the benefit levels and terms of standard health benefits plans offered in New Jersey for purchase by individuals.

Smart Growth Development Impact Analysis

The SEH Board does not believe the proposed amendments and new rule will have an impact on the number of housing units or the availability of affordable housing in the State, or that the proposed amendments and new rule will have an effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments and new rule relate to the benefit levels and terms of standard health benefits plans offered in New Jersey.

Full text of the proposal follows:

APPENDIX

OFFICE OF ADMINISTRATIVE LAW NOTE: The New Jersey Small Employer Health Benefits Program Board is proposing amendments to N.J.A.C. 11:21 Appendix Exhibits F, G, W, Y, HH, and II and proposing new N.J.A.C. 11:21 Appendix Exhibit I. Pursuant to N.J.S.A. 52:14B-7(c) and N.J.A.C. 1:30-5.2(a)2, the Exhibits as proposed for amendment and the proposed new Exhibit are not published herein, but may be reviewed by contacting:

New Jersey Small Employer Health Benefits Program
20 West State Street, 10th Floor
PO Box 325
Trenton, NJ 08625-0325

New Jersey Office of Administrative Law
9 Quakerbridge Plaza
PO Box 049
Trenton, NJ 08625-0049

TRANSPORTATION

(a)

NEW JERSEY TRANSIT CORPORATION

Advertising Standards

Proposed Readoption with Amendments: N.J.A.C. 16:86

Authorized By: New Jersey Transit Corporation, Veronique Hakim, Executive Director.

Authority: N.J.S.A. 27:25-5 and 27:25-6.

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

Proposal Number: PRN 2015-137.

Submit comments by January 1, 2016, to:

Joyce Zuczek
New Jersey Transit Corporation
One Penn Plaza East
Newark, NJ 07105
E-mail: jzuczek@njtransit.com

The agency proposal follows:

Summary

In accordance with the sunset provisions of Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, New Jersey Transit Corporation (NJ TRANSIT) has evaluated the rules at N.J.A.C. 16:86, Advertising Standards for New Jersey Transit Corporation, scheduled to expire on October 20, 2015, pursuant to N.J.S.A. 52:14B-5.1, and has determined that they are necessary, adequate, reasonable, efficient, understandable, and responsive to the purposes for which they were originally promulgated. As this notice of proposal was submitted to the Office of Administrative Law prior to the expiration date, pursuant to N.J.S.A. 52:14B-5.1.c(2), the expiration date is extended 180 days to April 17, 2016.

Since 1980, NJ TRANSIT has contracted, either directly or indirectly, with advertising firms and other companies to display revenue producing advertising on NJ TRANSIT's property, including, but not limited to, its bus and rail equipment, railroad stations and platforms, and land leases for billboards. The firms advertise their clients' products and services on NJ TRANSIT property. NJ TRANSIT property on which revenue producing advertising can be placed includes an existing inventory of approximately 3,605 buses (including Access Link, Vanpool, and private carriers operating NJ TRANSIT-owned buses), 1,113 rail commuter cars, 93 light rail vehicles, 227 rail and light rail stations, 30 bus stations, 687 railroad bridges, 544 miles of active and inactive railroad right of way and 108 miles of light rail right of way throughout the State as well as through electronic media. These vehicles and properties offer thousands of interior and exterior spaces of various sizes for the display of advertising in a variety of media forms, including, but not limited to, framed and unframed posters, clocks, light pole banners, freestanding signs, painted bridges, and digital display. As NJ TRANSIT acquires or disposes of assets, or develops new advertising media platforms, the advertising inventory of NJ TRANSIT fluctuates. In Fiscal Year 2014, such advertising produced approximately \$19 million in non-farebox revenue.

The rules proposed for readoption with amendments at N.J.A.C. 16:86 sets forth limitations for advertisements and a procedure for NJ TRANSIT, its advertising contractors, and the advertiser to follow in determining whether a particular advertisement may be placed on NJ TRANSIT's property.

A summative review of each of the subchapters follows:

Subchapter 1, General Provisions, includes the purpose and scope of the chapter and the limitations upon advertisements.

Subchapter 2, Procedures, establishes an Advertising Standards Committee to make NJ TRANSIT's final agency determinations, describes the procedure for the review of advertisements, and the procedure for dispute resolution.

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Subchapter 3, Severability, describes the applicability of any remaining categories set forth in Subchapter 2 if any category therein is determined to be invalid.

Proposed amendments at N.J.A.C. 16:86 are as follows:

An amendment is proposed to expand the purpose to include enhancing non-farebox revenue and maintaining a professional advertising environment by promoting the security, safety, comfort, and convenience of NJ TRANSIT customers.

An amendment is proposed to amend the prohibition of "tobacco and tobacco-related products" to explicitly include electronic cigarettes.

An amendment is proposed to expand the description of property owned by NJ TRANSIT at N.J.A.C. 16:86-1.1 to also include electronic and digital equipment and media.

An amendment is proposed to replace "advertising firm" with "advertising provider" and to redefine it to be "advertising contractor or advertising sales entity (collectively "advertising provider").

An amendment is proposed to provide the Board Office address for an advertiser to submit a grievance.

New N.J.A.C. 16:86-1.2(a)9 is proposed to add a prohibition for an advertisement that "disparages the services of NJ TRANSIT or is not in the best interest of public transportation."

New N.J.A.C. 16:86-1.2(a)10 is proposed to prohibit an advertisement that demeans or disparages an individual, group of individuals, or entity.

New N.J.A.C. 16:86-1.2(a)11 is proposed to prohibit an advertisement that promotes or opposes a political party, the election of a candidate, or any group of candidates for Federal, State, or local government offices, or initiatives, referendums, or other ballot measures.

New N.J.A.C. 16:86-1.2(a)12 is proposed to prohibit advertisements that encourage or depict unsafe behavior with respect to NJ TRANSIT property or services.

New N.J.A.C. 16:86-1.2(a)13 is proposed to prohibit advertisements that express or advocate an opinion, position, or viewpoint on matters of public debate about economic, political, moral, religious, or social issues.

NJ TRANSIT has provided a 60-day comment period on this notice of proposal, therefore, this notice is excepted from the rulemaking calendar requirements at N.J.A.C. 1:30-3.3(a)5.

Social Impact

NJ TRANSIT, in its agreements with advertising contractors, has in the past reserved the right to disapprove any advertisement on its property. NJ TRANSIT has been imposing limitations informally since it was created in 1979 and in rules since 1997 and they are well known to advertising agencies and advertisers. NJ TRANSIT believes all of these limitations are consistent with all applicable laws and policies.

Proposed amendments at N.J.A.C. 16:86, as detailed in the Summary above will further NJ TRANSIT's role as a responsible member of the community.

Economic Impact

NJ TRANSIT has been imposing limitations informally since it was created in 1979 and by rules since 1997 and they are well known to advertising agencies and advertisers. In Fiscal Year 2014, NJ TRANSIT received approximately \$19 million in non-farebox revenue by allowing advertising on its property. The rules proposed for readoption with amendments will have no impact on the amount of funds NJ TRANSIT receives from State and Federal sources or the fares it receives from its customers.

The rules proposed for readoption with amendments at N.J.A.C. 16:86 should not have an economic impact since the amendments clarify standards already implemented on a daily basis under the current provision banning advertisements not in the best business interest of NJ TRANSIT or not in the best interest of public transportation.

Federal Standards Statement

There are no Federal standards that are relevant to the rules proposed for readoption with amendments. As the owner of its property, NJ TRANSIT may impose reasonable restrictions on commercial speech displayed on its sold advertising space.

Jobs Impact

The rules proposed for readoption with amendments will not result in the creation or loss of jobs.

Agricultural Impact Statement

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments apply to advertisements proposed to be placed on NJ TRANSIT property. NJ TRANSIT's advertisers may be small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules permit an advertiser to request a review of an advertisement to determine if it is prohibited under N.J.A.C. 16:86-1.2. A dispute under these rules may be grieved in writing to the Committee; if a factual dispute exists, it shall be transmitted to the Office of Administrative Law as a contested case. Costs for these procedures should not be significant, although they will vary based on the circumstances of the grievance and whether the advertiser decides to employ attorney representation. No different treatment has been provided for small businesses. In order to uphold NJ TRANSIT's role as a responsible member of the community, all advertisers, whether large or small, will be treated equally.

Housing Affordability Impact Analysis

NJ TRANSIT does not anticipate any impact on housing affordability as a result of the proposed readoption with amendments. The rules proposed for readoption with amendments govern the display of advertisements on NJ TRANSIT facilities, vehicles, equipment, electronic and digital equipment and media, and other property owned or controlled by NJ TRANSIT or its subsidiaries. As such, the rules proposed for readoption with amendments will have no effect on housing units or on the average cost of housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments have no impact on the achievement of smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the rules govern the display of advertisements on NJ TRANSIT facilities, vehicles, equipment, electronic and digital equipment and media, and other property owned or controlled by NJ TRANSIT.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:86.

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

SUBCHAPTER 1. GENERAL PROVISIONS

16:86-1.1 Purpose

(a) The purpose of these rules is to [implement a ban on advertisements that contain tobacco and tobacco related products and] enhance and maximize NJ TRANSIT's non-farebox revenues through advertising revenue by encouraging and maintaining a professional advertising environment that helps promote the security, safety, comfort, and convenience of NJ TRANSIT's customers. Towards that end, these rules prohibit advertisements that contain or depict tobacco and tobacco-related products, including electronic cigarettes, and advertisements that are obscene, false, political in nature, disparaging, unsafe, controversial, deceptive[,] or misleading, or promote illegal goods, services, or activities [from being displayed on properties owned by NJ TRANSIT. The purpose of these rules is to announce that NJ TRANSIT is a responsible member of the community; to establish that NJ TRANSIT is not desirous of lending its name, directly or indirectly, to the promotion of the use of tobacco and tobacco related products, especially among minors; and, independently, to promote the general health and welfare of NJ TRANSIT passengers many of whom may be minors.] on facilities, vehicles, equipment, electronic and digital equipment and media, and other property (collectively, "property") owned or controlled by the New Jersey Transit Corporation or its subsidiaries (collectively "NJ TRANSIT").

(b) [The standards in this] This chapter [shall apply to all contracts to] sets forth the standards for the installation, display, and maintenance of

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advertising on [properties and facilities] property owned or controlled by [the New Jersey Transit Corporation and/or its subsidiaries (collectively "NJ TRANSIT")] NJ TRANSIT.

(c) (No change.)

16:86-1.2 Limitation upon advertisements

(a) No advertisement located on property owned or controlled by NJ TRANSIT shall be displayed or maintained that falls within one or more of the following categories:

1. The advertisement [proposes a commercial transaction and the advertisement or] includes information [contained in it] that is false, misleading, or deceptive;

2.-3. (No change.)

4. The advertisement contains obscene material as defined by N.J.S.A. 2C:34-3, as such definition may be amended, modified or supplemented from time to time;

5.-7. (No change.)

8. The advertisement proposes the use of or promotes tobacco or tobacco-related products, including electronic cigarettes; [or]

9. The advertisement [is not in the best business interest] disparages the services of NJ TRANSIT or is not in the best interest of public transportation[.];

10. The advertisement contains material that demeans or disparages an individual, group of individuals, or entity;

11. The advertisement promotes or opposes a political party, the election of a candidate or any group of candidates for Federal, state, or local government offices, or initiatives, referendums, or other ballot measures;

12. The advertisement encourages or depicts unsafe behavior with respect to NJ TRANSIT property or services; or

13. The advertisement expresses or advocates an opinion, position, or viewpoint on matters of public debate about economic, political, moral, religious, or social issues.

SUBCHAPTER 2. PROCEDURES

16:86-2.1 Advertising Standards Committee

The Executive Director shall establish a three member Advertising Standards Committee ("Committee") comprised of representatives from NJ TRANSIT subunits, with expertise in real estate and economic development, communications and customer service, and government and community relations. Such Committee shall be independent and its determinations shall constitute NJ TRANSIT's final agency determinations.

16:86-2.2 Review of advertisements

(a) NJ TRANSIT's advertising [firm] contractor or advertising sales entity (collectively "advertising provider") shall review each advertisement submitted for installation, display, and maintenance on NJ TRANSIT [properties and facilities] property to determine whether the advertisement falls within, or may fall within, one or more of the categories set forth in N.J.A.C. 16:86-1.2. NJ TRANSIT may also review such advertisement for compliance with N.J.A.C. 16:86-1.2. If NJ TRANSIT or its advertising [firm] provider determines that an advertisement falls within, or may fall within, one or more of the categories set forth in N.J.A.C. 16:86-1.2:

1. The NJ TRANSIT advertising [firm] provider shall promptly provide the advertiser with a copy of [these] the standards set forth in N.J.A.C. 16:86-1.2 and written notice of the determination, the reason(s) for the determination, and the advertiser's right to request a prompt review before the Advertising Standards Committee.

2. The NJ TRANSIT advertising [firm] provider shall provide the Advertising Standards Committee with a copy of the written notice to the advertiser and the advertisement at issue.

3. Upon request of the advertiser, the Advertising Standards Committee shall conduct a prompt review to determine whether the advertisement at issue falls within one or more of the categories set forth in N.J.A.C. 16:86-1.2.

4. The Advertising Standards Committee shall promptly provide the advertiser and the advertising [firm] provider with a written notice of its

determination. The Advertising Standards Committee's determination shall be final as per N.J.A.C. 16:86-2.1.

16:86-2.3 Dispute resolution

[In the event of a dispute arising under these rules, an] An aggrieved party wishing to challenge a decision of the advertising provider shall transmit its grievance in writing to the Advertising Standards Committee at NJ TRANSIT, Board Office, One Penn Plaza East, Newark, New Jersey 07105. If no factual issues are presented, the decision by the Advertising Standards Committee shall constitute the final agency action of NJ TRANSIT and shall be appealable to the Appellate Division of the Superior Court. In the event of a dispute of the facts, the Advertising Standards Committee shall within 45 days transmit the matter for the development of a record and an initial decision by the Office of Administrative Law in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The Advertising Standards Committee shall then render a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey.

SUBCHAPTER 3. SEVERABILITY

16:86-3.1 Severability

If any category set forth in N.J.A.C. 16:86-1.2 is determined to be invalid as applied to any particular type of NJ TRANSIT property [or facility], the category shall remain applicable to other types of NJ TRANSIT [properties and facilities] property. If any category set forth in N.J.A.C. 16:86-1.2 is determined to be invalid as applied to all NJ TRANSIT property [and facilities], the remaining categories shall remain valid.

OTHER AGENCIES

(a)

NEW JERSEY SPORTS AND EXPOSITION
AUTHORITYDistrict Zoning Regulations
Official Zoning Map

Block 451, Lot 21, in the Township of North Bergen

Proposed Amendment: N.J.A.C. 19:4-3.3

Authorized By: New Jersey Sports and Exposition Authority, Ralph J. Marra, Jr., Senior Vice President, Legal and Regulatory Affairs.
Authority: N.J.S.A. 5:10A-1 et seq., specifically 5:10A-7(b). See also N.J.A.C. 19:3-1.3 and 1.5.

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

Proposal Number: PRN 2015-142.

A public hearing on this matter will be held on Tuesday, November 24, 2015, at 10:00 A.M. at the following location:

New Jersey Sports and Exposition Authority
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

Submit written comments by January 1, 2016, to:

Sara J. Sundell, P.E., P.P.
Director of Land Use Management
New Jersey Sports and Exposition Authority
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071
sara.sundell@njmeadowlands.gov

It is requested (but not required) that anyone submitting written comments also include a disc containing a digital version, preferably in Microsoft Word. Interested persons may obtain a copy of this notice of proposal from the NJSEA website, www.njmeadowlands.gov. The notice of proposal may also be inspected during normal office hours at the NJSEA, One DeKorte Park Plaza, Lyndhurst, New Jersey 07071.

EXECUTIVE SESSION AUTHORIZATION

BE IT HEREBY RESOLVED pursuant to N.J.S.A. 10:4-12 and N.J.S.A. 10:4-13 that the Board of Directors of the New Jersey Transit Corporation hold an executive session to discuss personnel matters, contract and collective bargaining negotiations, the status of pending and anticipated litigation and matters falling within the attorney-client privilege, including, but not limited to, the Personal Injury Claim of Carlos Cruz and the Personal Injury Claim of Frank DeJesus; and

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

ITEM 1603-15: PERSONAL INJURY CLAIM OF CARLOS CRUZ

BENEFITS

It is the opinion of NJ TRANSIT and defense counsel, in recognition of the serious injuries that resulted, staff recommends a settlement in the claim of Carlos Cruz.

ACTION

Staff seeks authorization to settle the claim of Carlos Cruz through his attorney, at an amount discussed in executive session. The Attorney General has approved the proposed settlement, subject to the availability of funds.

PURPOSE

NJ TRANSIT By-Laws require Board approval of the settlement of all claims and lawsuits involving personal injury, death or property damage in excess of \$500,000. This case, venued in the Philadelphia County Court of Common Pleas, Philadelphia, Pennsylvania initiated from a claim brought under the Federal Employers' Liability Act, 45 U.S. C. § 51 et seq.

FISCAL IMPACTS

Requested Authorization:

Request authorization to settle the Personal Injury Claim of Carlos Cruz

Projected Date of Completion:

FY 2016

Anticipated Source of Funds:

FY 2016 Operating Budget

Diversity Goals/Participation:

Not applicable. No goods or services to be procured.

RESOLUTION

WHEREAS, Article VI, Section II of the By-Laws requires Board Authorization for settlement of claims in excess of \$500,000; and

WHEREAS, Carlos Cruz has presented a claim with a probable settlement cost greater than \$500,000; and

WHEREAS, staff has reviewed the claim and recommends settling this case out of court;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to settle the claim of Carlos Cruz through his attorney, at an amount discussed in executive session. The Attorney General has approved the proposed settlement, subject to the availability of funds.

ITEM 1603-16: PERSONAL INJURY CLAIM OF FRANK DEJESUS

BENEFITS

It is the opinion of NJ TRANSIT and defense counsel, in recognition of the serious injuries that resulted, staff recommends a settlement in the claim of Frank DeJesus.

ACTION

Staff seeks authorization to settle the claim of Frank DeJesus through his attorney, at an amount discussed in executive session. The Attorney General has approved the proposed settlement, subject to the availability of funds.

PURPOSE

NJ TRANSIT By-Laws require Board approval of the settlement of all claims and lawsuits involving personal injury, death or property damage in excess of \$500,000. This case, venued in the Philadelphia County Court of Common Pleas, Philadelphia, Pennsylvania initiated from a claim brought under the Federal Employers' Liability Act, 45 U.S. C. § 51 et seq.

FISCAL IMPACTS

Requested Authorization:	Request authorization to settle the Personal Injury Claim of Frank DeJesus
Projected Date of Completion:	FY 2016
Anticipated Source of Funds:	FY 2016 Operating Budget
Diversity Goals/Participation:	Not applicable. No goods or services to be procured.

RESOLUTION

WHEREAS, Article VI, Section II of the By-Laws requires Board Authorization for settlement of claims in excess of \$500,000; and

WHEREAS, Frank DeJesus has presented a claim with a probable settlement cost greater than \$500,000; and

WHEREAS, staff has reviewed the claim and recommends settling this case out of court;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to settle the claim of Frank DeJesus through his attorney, at an amount discussed in executive session. The Attorney General has approved the proposed settlement, subject to the availability of funds.