

September 18, 2017

Re: Request for Proposals for Independent Financial Audit Services (“RFP”)

Dear Sir or Madam:

This letter (this “Letter”) announces the Massachusetts Bay Transportation Authority Retirement Fund’s (the “Fund” or “MBTARF”) request for proposals to provide Independent Financial Audit Services (the “RFP”). The scope of work and the proposal submission requirements applicable to this RFP are attached hereto.

1. Conditions of Participation.

Notwithstanding anything to the contrary including, but not limited to, anything contained in this RFP or otherwise submitted by you either in your Proposal (as that term is defined in the RFP) or otherwise, by submitting your Proposal or other materials to the Fund, you acknowledge and agree without exception: (i) to be bound by the terms, conditions, and instructions included in the RFP; (ii) that you irrevocably waive any and all claim against the Fund relating to the RFP including, but not limited to, any costs that you incur in connection with the RFP; and (iii) that the Fund has no obligation to award a contract related to the RFP or reimburse you for any costs that you incur in connection with the RFP or your Proposal.

2. Fund Contact.

The Fund’s designated point of contact for this RFP (the “Fund Contact”) is:

Mr. John P. Barry, Interim Executive Director
MBTA Retirement Fund
One Washington Mall, 4th Floor
Boston, MA 02108
jbarry@mbtarf.com

Any questions should be submitted in writing to the Fund Contact in accord with the procedures set forth in the RFP.

3. Submission Deadline.

All Proposals must be received by the Fund Contact by October 19, 2017. The Fund may, in its sole discretion, choose to conduct in-person presentations and interviews on the week of November 6–10, 2017. The Fund may also, in its sole discretion, require you to participate in presentations and interviews with the Fund’s Board of Directors on November 17, 2017.

Thank you for considering submitting a proposal in response to this RFP.

John P. Barry
Interim Executive Director
MBTA Retirement Fund

cc: Pamela M. Holloman, Board Secretary

**MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY RETIREMENT FUND**

**REQUEST FOR PROPOSALS:
INDEPENDENT FINANCIAL AUDIT
SERVICES**

September 18, 2017



**MBTA
RETIREMENT
FUND**

Proposer Questions Due: October 3, 2017
Proposals Due: October 19, 2017 at 4:00 p.m.
Fund Contact: John P. Barry, Interim – Executive Director

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EXHIBITS

- A. 2016 Comprehensive Annual Financial Report – *www.mbtarf.com/annual reports*
- B. Trust Agreement, dated October 28, 1980 – *attached*
- C. Pension Agreement, dated July 1, 2014 – *www.mbtarf.com/Fund Communications*
- D. Standards of Fiduciary Responsibility, as amended June 16, 2017 – *attached*
- E. FTI Consulting Report to the Retirement Board of the MBTARF dated March 9, 2016 – *www.mbtarf.com/Fund Communications*

1. Introduction.

The Massachusetts Bay Transportation Authority Retirement Fund (the “**Fund**” or “**MBTARF**”) is a private trust created in 1948 by the Metropolitan Transit Authority, the predecessor agency to the Massachusetts Bay Transportation Authority (the “**MBTA**”) and the Boston Carmen’s Union, Amalgamated Transit Union Local 589 (the “**Boston Carmen’s Union**”). The Fund provides retirement benefits for the members of the Boston Carmen’s Union, the transit workers, and other MBTA employees (the “**Members**”). In addition to administering to the pension benefits of its Members, the Fund’s mission is to ensure that assets to support current and future pension benefit obligations are invested in a cost-effective manner to maximize investment returns within acceptable levels of risk. The Fund is governed by a board of directors (the “**Board**”) that is comprised of seven members: (i) two are designated by the Boston Carmen’s Union; (ii) one is elected by the members of the Fund, and is not a member of the Boston Carmen’s Union; (iii) three are appointed by the MBTA, at least one of whom is a Director of the MassDOT Board; and (iv) one is elected by the other six Board members.

As of December 31, 2016, the Fund had approximately \$1.485.6 million in net position, and reported net investment income of \$86.8 million for a 6.88% return. In 2016, the Fund received \$105.0 million in total contributions from both the MBTA as the employer and the Fund’s 6,019 active members and employees. The Fund paid benefits of \$195.7 million to its 6,684 retirees and beneficiaries. Copies of the CY2015 and CY2016 audits are available on the Fund’s website at www.mbtarf.com/annual-reports. Exhibit A.

The Board has issued this Request for Proposals in order to procure the services of a public accounting firm to conduct an independent annual audit of the financial statements of the Fund for fiscal years ending December 31, 2017, 2018 and 2019.

2. Definitions. For purposes of this RFP, the following capitalized terms have the meanings set forth below. Other capitalized terms are defined in context.

- 2.1 Auditor.** The term “**Auditor**” means the Proposer selected by the Fund (if any) to perform the Services pursuant to the Contract.
- 2.2 Contract.** The term “**Contract**” means the engagement agreement awarded pursuant to this RFP (if any).
- 2.3 Procurement Process.** The term “**Procurement Process**” means the time period commencing upon the Fund’s issuance of this RFP and concluding on the earlier of (i) the execution of the Contract, and (ii) the Fund’s decision not to enter into the Contract or to otherwise cancel this RFP.
- 2.4 Proposal.** The term “**Proposal**” means a written offer submitted by a Proposer in response to this RFP.
- 2.5 Proposer.** The term “**Proposer**” means an entity submitting a Proposal.
- 2.6 Request for Proposals or RFP.** The term “**Request for Proposals**” or “**RFP**” means this solicitation issued by the Fund seeking Proposals that the Fund may, in its sole discretion, use to select an Auditor.
- 2.7 Services.** The term “**Services**” means those services that the Auditor performs pursuant to the Contract, which are further described in Section 4 (Scope of Audit Services).
- 2.8 Service Task.** The term “**Service Task**” means each of the Audit Services described in Sections 4.1 (Financial Statements) through 4.8 (Other Services).

- 3. Conditions of Participation.** Notwithstanding anything to the contrary including, but not limited to, anything contained in the Proposal or otherwise submitted by the Proposer, by submitting its Proposal or other materials to the Fund, the Proposer (or potential Proposer) acknowledges and agrees without exception: (i) to be bound by the terms, conditions, and instructions included in this RFP; (ii) that it irrevocably waives any and all claims against the Fund relating to this RFP including, but not limited to, any costs that the Proposer incurs in connection with this RFP; and (iii) that the Fund has no obligation to award the Contract or reimburse the Proposer for any costs that it incurs in connection with this RFP.
- 4. Scope of Audit Services.** The Fund seeks to engage an Auditor to conduct an annual audit of the financial statements of the MBTARF for the fiscal years ending December 31st of 2017, 2018 and 2019 including the following Service Tasks:

 - 4.1 Financial Statements.** Auditor will perform an annual independent audit of the financial statements of the Fund in accordance with generally accepted auditing standards for the three fiscal years ended December 31, 2017, 2018 and 2019. The financial statement audits must be completed no later than June 1st.
 - 4.2 Comprehensive Annual Financial Report (CAFR).** Auditor will consult with Fund management, and perform an annual review and incremental audit of the Fund's CAFR. The CAFR must be reviewed no later than June 15th.
 - 4.3 GASB Statement No. 67.** Auditor will consult with Fund management, and perform an annual review and incremental audit of the Fund's GASB Statement No. 67. The GASB Statement No. 67 must be reviewed no later than May 15th.
 - 4.4 GASB Statement No. 68.** Auditor will consult with Fund Management, and perform an annual review and incremental audit of the plan sponsor, Massachusetts Bay Transportation Authority's GASB Statement No. 68. The GASB Statement No. 68 must be reviewed no later than July 15th.
 - 4.5 Attendance at Meetings.** Auditor must be available to attend a minimum of two (2) Board and Audit Committee meetings.
 - 4.6 Management Letter.** Auditor will issue and present a Management Letter, if necessary and appropriate, identifying any control deficiencies not considered significant deficiencies observed during the course of the annual audit and, prior to completion of the Management Letter, meet with the Board and appropriate Fund staff to review in detail the Auditor's findings and recommendations.
 - 4.7 Periodic Advice.** Auditor will be available throughout the contract period during regular business hours to provide the Fund advice and assistance relative to audit, tax, financial accounting and reporting issues. Auditor is expected to keep the Fund informed of new pronouncements and/or requirements of the Governmental Accounting Standards Board (GASB) and other applicable standards.
 - 4.8 Other Services.** Auditor must be qualified to deliver other services typically offered by an Independent Certified Public Accountant that the Fund requests and the Auditor agrees to perform for a separate fee including, without limitation, Agreed Upon Procedures (AUP) reporting in accord with the attestation standards established by the American Institute of Certified Public Accountants.
- 5. Minimum Qualifications.** Subject to Section 9 (Fund Reservation of Rights), the Fund will consider Proposers meeting the following mandatory Minimum Qualifications:

 - 5.1 Licensing/Qualifications.** The Proposer must be licensed for public and private practice as a Certified Public Accountant in Massachusetts; meet the independence requirements of the

American Institute of Certified Public Accountants (AICPA) and the independence standards outlined in the Government Auditing Standards issued by the Comptroller General of the United States; and meet the AICPA requirements for peer review.

- 5.2 Experience.** The Proposer must have expertise in governmental accounting and demonstrable experience in auditing public and private pension funds, governmental entities and investment companies. Key Staff assigned to the Fund must have at least five (5) years' experience auditing pension funds.
- 5.3 Local Office.** The Proposer must have an office in the Boston metropolitan area with a full service professional staff, and the proposed engagement team must meet Massachusetts requirements for continuing professional education credits, if applicable.
- 5.4 Insurance Coverage.** The Proposer must maintain adequate insurance including, without limitation, comprehensive general liability, professional liability and cyber liability insurance that provides sufficient coverage for negligent acts or omissions arising from the Proposer's performance under the Contract (if awarded).
- 5.5 Conflicts of Interest.** The Proposer must disclose all actual or potential conflicts of interest as further set out in Section 8.1.5 (Conflict of Interest).

6. Contact During the Procurement.

- 6.1 Fund Contact.** The Fund's designated point of contact for this RFP (the "**Fund Contact**") is:

Mr. John P. Barry
Interim – Executive Director
MBTA Retirement Fund
One Washington Mall, 4th Floor
Boston, MA 02108
jbarry@mbtarf.com
(617) 316-3834

- 6.2 Rules of Contact.** The following rules of contact (including, but not limited to, mail, face-to-face, telephone, facsimile, email, and any other means of communication) shall apply throughout the Procurement Process:
 - 6.2.1** Written correspondence from the Fund Contact shall be the single source of information regarding this procurement and the Proposer relies on all other correspondence at its own risk;
 - 6.2.2** No Proposer shall contact another Proposer regarding this procurement;
 - 6.2.3** Contact between the Proposer and the Fund shall only be made through the Fund Contact and his designated representatives;
 - 6.2.4** Oral explanations or instructions shall not be binding – all formal communications by the Fund relating to this procurement shall be made in writing; and
 - 6.2.5** The Proposer shall not contact Fund employees or representatives regarding this procurement except through the process identified in Section 6.2 (Rules of Contact).
- 6.3 Proposer Questions and Answers.** The Fund shall only consider questions and requests concerning this procurement submitted in writing to the Fund Contact using the following submission format:

Proposer [INSERT NAME] Questions for the Massachusetts Bay Transportation Authority Retirement Fund's RFP for Independent Financial Audit Services	
Question No.	Question
1.	

The Fund does not intend to consider questions and requests unless they are submitted in writing to the Fund Contact using the above submission format (note that the Proposer is not limited to the number of questions submitted). Only questions submitted by 4:00 P.M. (Eastern Time) on October 3, 2017 will be addressed. All questions and requests must be submitted with a cover letter or email that lists the Proposer's name, mailing address, email address, and telephone number. The Fund shall respond to all submitted questions and requests, and shall issue written responses to all entities that the Fund determines, in its sole discretion, are likely to submit a Proposal. By way of clarification, and not limitation, the Fund expressly reserves the right to distribute all submitted questions and requests by a Proposer to all other potential Proposers that the Fund identifies.

6.4 Presentations and Interviews. The Fund may choose, in its sole discretion, to invite one or more Proposers to participate in presentations and interviews concerning their Proposals. Presentations and interviews, if any, will be held at a time and place determined by the Fund.

7. Procurement Schedule. The following table sets out the current key deadlines during the Procurement Process.

No.	Activity	Due Date
1.	Issuance of the RFP	September 18, 2017
2.	Final Date for Receipt of Proposer Questions about the RFP	October 3, 2017
3.	Proposal Due Date	October 19, 2017
4.	Fund Staff Interviews	November 6-10, 2017
5.	Presentation to Board	November 17, 2017

8. Proposal Contents; Organization and Submission Requirements.

8.1 Proposal Contents. A Proposal must include the following:

8.1.1 Cover Letter. A one-page cover letter: (i) indicating the Proposer's desire to be considered for the Contract; (ii) acknowledging the Proposer's unconditional agreement to be bound by the terms and conditions of this RFP (including, but not limited to, those set out in Section 3 (Conditions of Participation) and Section 8.3.3 (Proposal Modifications; Withdrawal and Firm Offer)); (iii) identifying a single point of contact for the Proposer along with that contact's mailing address, telephone number and email address; and (iv) that is signed by an authorized representative of the Proposer.

8.1.2 Auditor Profile. A general overview of the Proposer, including a description of its size and its experience reflecting the Minimum Qualification criteria set forth in Sections 5.1 (Licensing/Qualifications) through 5.5 (Conflicts of Interest).

- 8.1.3 Approach to the Services; Timing.** A description of: (i) the recommended approach to provide the Services, including illustrations of the procedures to be employed; (ii) a tentative schedule for completing each Service; (iii) the kind and amount of assistance to be required by the Board or Fund employees; and (iv) any other tasks necessary to expedite the provision of the Services. If a Proposer is limited and/or unable to provide any of the Services, then it should discuss those limitations.
- 8.1.4 Proposed Engagement Letter.** A proposed form of engagement letter, including the Proposer's standard terms and conditions. The Fund expects to execute separate engagement letters for each of the fiscal years covered by this RFP but the fees set forth in each of the three engagement letters must be consistent with the Fee Proposal quoted in response to this RFP. When evaluating the proposed engagement letter, the Fund will consider, among other things, (i) the reasonableness of the terms and conditions and whether they reflect an appropriate allocation of risk and responsibility between the parties given that the Proposer will be acting as Auditor to the Fund; and (ii) the manner in which the Proposer intends to handle Member personal data it may acquire during the course of its work.
- 8.1.5 Conflicts of Interest.** An identification of potential or actual conflicts of interest, which may occur when the Proposer is unable, or potentially unable, to provide impartial and objective services to the Fund due to other activities, relationships, contracts or circumstances. In addition to conflicts included by the Proposer, the Proposer must also identify whether it has any actual or potential conflicts of interest with the following entities (including applicable affiliates and subsidiaries): (i) Conduent, f/k/a, Buck Consulting Group, LLC; (ii) the Segal-Marco Consulting Group, Inc.; (iii) State Street Corporation; (iv) the MBTA; (v) MassDOT; and (vi) the Boston Carmen's Union.
- 8.1.6 Insurance.** A description of the insurance that satisfies the criteria set out in Section 5.4 (Insurance Coverage).
- 8.1.7 Services Team; References.** A list of key personnel that the Proposer commits to assign to provide the Services (collectively, the "**Key Personnel**"), their resumes, and a designation of the particular Service Tasks for which each will be responsible. For each Key Personnel, also include three (3) references that the applicable Key Personnel has worked with in the past three (3) years. References must include a contact name, telephone number, and email address for the referenced party, along with a description of the services provided by the Key Personnel. The work performed by the Key Personnel should be similar in nature to the Service Tasks for which the Key Personnel shall be responsible.

- 8.1.8 Fee Proposal.** The fee structure must be a fixed-fee proposal for the Services covering the requisite three (3) year engagement. Notwithstanding the previous sentence, the Proposer must also provide labor rates for applicable job classifications that can be used if the Fund requires the Service Task described in Section 4.8 (Other Services).
- 8.2 Proposal Organization.** The Proposal must be divided into separate sections, organized by the title and order of the contents described in Section 8.1 (Proposal Contents), with the exception of the cover letter, which shall be included at the beginning of the Proposal. By way of clarification, Section 1 of the Proposal must be "Auditor Profile" and include the information requested in Section 8.1.2 (Auditor Profile) and Section 2 must be "Approach to the Services" and include the information requested in Section 8.1.3 (Approach to the Services).
- 8.3 Submission Requirements.**
- 8.3.1 Date, Time and Location of Receipt.** The Fund Contact must receive all Proposals no later than 4:00 p.m. (Eastern Time) on October 19, 2017 (the "**Proposal Due Date**") at the location set out in Section 6.1 (Fund Contact). Proposals must be clearly marked "MASSACHUSETTS BAY TRANSPORTATION AUTHORITY RETIREMENT FUND: PROPOSAL FOR INDEPENDENT FINANCIAL AUDIT SERVICES". Proposals must be enclosed in sealed container(s) and identify the Proposer's name and address in the upper left corner of such container(s). The Proposer shall deliver to the Fund Contact (i) eight (8) written, hard copies of the Proposal, (ii) two (2) electronic copies of the Proposal on electronic media; and (iii) pdf files of the Proposal by e-mail addressed to *jbarry@mbtarf.com*.
- 8.3.2 Formatting Requirements.** Underscoring that brevity is appreciated, the Proposer is to use its judgment with respect to the length of its Proposal. Proposals must be in English using a standard font with a minimum of 12 points in height, single-spaced, and printed on paper that is 8.5 inches by 11 inches in size. Single-sided pages must be used and Proposal pages must be numbered consecutively. The Proposals must be easily reproducible by normal black and white photocopying machines.
- 8.3.3 Proposal Modifications; Withdrawal and Firm Offer.** A Proposer may modify or withdraw its Proposal prior to the 4:00 p.m. (Eastern Time) on the Proposal Due Date by notifying the Fund Contact in writing of its intent to withdraw or modify its Proposal. All modifications must be clearly identified and include the entirety of the applicable Proposal page(s). Modifications that only identify line item changes will not be accepted. A Proposer must expressly state on the modification that it is the Proposer's intent that the modification supersedes and replaces the previously-submitted portion of the Proposal. The Proposer acknowledges and agrees that, unless the Proposer has withdrawn or modified its Proposal prior to the 4:00 p.m. (Eastern Time) on the Proposal Due Date, its Proposal shall remain a firm, fixed offer for a period of one hundred and eighty (180) calendar days following the Proposal Due Date and that the Proposer shall not be entitled to modify or withdraw its Proposal during such period.
- 9. Fund Reservation of Rights.** The Fund reserves the right, in its sole discretion, to do any of the following:
- 9.1** Reject any or all of the Proposals;
 - 9.2** Issue a new RFP or otherwise modify or change the RFP;
 - 9.3** Request clarifications from any Proposer regarding its Proposal;
 - 9.4** Engage in communications or other discussions with any Proposer;

- 9.5 Evaluate each Proposal in any manner that the Fund sees fit;
 - 9.6 Negotiate any portion or all of a Proposal, Services or this procurement with any Proposer;
 - 9.7 Engage multiple Proposers or other third parties to perform particular Service Tasks;
 - 9.8 Enter into the Contract with a third party that is not a Proposer or otherwise enter into a contract for the Services (or particular Service Tasks) at any time;
 - 9.9 Disqualify or otherwise reject any Proposer for any or no reason; and
 - 9.10 Waive any weakness or failure by any Proposer to comply with the terms of this RFP.
- 10. Evaluation Process and Criteria.** The Fund will evaluate each qualified Proposal based on the following criteria:
- 10.1 Experience and qualifications of the Proposer, and more specifically Key Staff assigned to the engagement, in the auditing of other similar non-governmental and governmental organizations and/or agencies and entities with similar qualifications extending to the Key Staff assigned to the audit engagement as well as the commitment from the Proposer to undertake best efforts to maintain the same audit team for all three (3) years.
 - 10.2 Proposal's responsiveness to RFP requirements.
 - 10.3 Proposer's and Key Staff's competence and knowledge demonstrated during the interview process, if applicable.
 - 10.4 Technical expertise, communication skills and flexibility to conduct the Audit in an efficient and effective manner.
 - 10.5 Approach to the Audit and demonstration in the Proposal that the Proposer has an understanding of the Audit's objective(s), the Fund's needs, and the final Audit Services to be delivered.
 - 10.6 Price.
 - 10.7 Compliance with qualification requirements in Section 5 (Minimum Qualifications).

While the order of these factors does not generally denote relative importance, the Fund acknowledges that selecting best value Proposals primarily requires a balanced combination of (1) reasonable rates and the availability of flat fees, blended rates and caps on fees, and (2) strong experience and demonstrated expertise in providing the Audit Services. The Fund reserves the right to consider such other relevant factors as it deems appropriate in order to hire the best value provider of the Audit Services.

11. Limited Confidentiality Obligations of the Fund.

- 11.1 **Proposal Designation.** A Proposer may identify those portions of its Proposal that it believes, in good faith and consistent with the public disclosure requirements of the Public Records Law ("PRL"), M.G.L.c. 66, § 10 and M.G.L.c. 4, § 7(26), qualify as confidential information (Confidential Information Designation), by clearly marking applicable pages of its Proposal as "CONFIDENTIAL." If a Proposer identifies any portion of its Proposal as confidential, the Fund shall use good faith efforts to apply the PRL protections or exemptions, if any, (Non-Disclosure; Standard) to the designated information, provided that the Proposer (i) includes a written statement with its Proposal justifying the Proposer's determination, and (ii) defends, indemnifies, and otherwise holds the Fund harmless from and against any action relating to the release or

disclosure of the designated information. The decision of the Fund's Records Access Officer ("RAO") relative to application of the PRL and any of its exemptions shall be final. *As a private trust, the Fund expressly reserves, and does not waive, the right to contest application of the PRL.*

11.2 Exceptions. The Fund's obligations with respect to Proposal information designated as confidential pursuant to Section 11 (Limited Confidentiality Obligations of the Fund) shall not apply to information that the Fund can demonstrate: (i) is or becomes a matter of public knowledge through no fault of the Fund; (ii) was or becomes available to the Fund on a non-confidential basis from a third party; (iii) was independently developed by the Fund without reference to the Proposer's information; or (iv) is required to be disclosed by law including, without limitation, the PRL.

11.3 Property of the Fund. All documents (including, but not limited to, Proposals) submitted by Proposers in connection with this RFP shall become the Fund's property. Notwithstanding anything to the contrary, no documents submitted to the Fund shall be returned to Proposers.

12. General.

12.1 Governing Law. This RFP shall be governed and construed in all respects in accordance with the laws of the Commonwealth of Massachusetts without regard to any conflict of laws principles. The exclusive venue and jurisdiction for any action or proceeding arising out of this RFP shall be the state and federal courts located in Boston, Massachusetts. Both the Fund and the Proposer accept the personal jurisdiction of such courts.

12.2 Disclaimers. In issuing this RFP and undertaking the procurement process contemplated herein, the Fund specifically disclaims: (i) any obligation to award or execute the Contract; (ii) any obligation to reimburse or otherwise compensate a Proposer for any costs that it incurs in connection with this RFP (including, but not limited to, participating in the procurement process); and (iii) any obligation of the Fund that is not expressly set out herein. By submitting a Proposal, the Proposer specifically acknowledges the disclaimers included in Section 9 (Fund Reservation of Rights) and this Section 12.2 (Disclaimers).

EXHIBIT A

2016 Comprehensive Annual Financial Report – www.mbtarf.com/annual-reports

EXHIBIT B

Trust Agreement, dated October 28, 1980

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TRUST AGREEMENT
OF THE
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
RETIREMENT FUND

Randy N. [Signature]
REGISTER

22
JUN 13 9 46 AM '99

REGISTRY OF DEEDS
REC'D ENTER EXAM. ATTEST

[Faint handwritten notes and signatures at the bottom of the page]

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TRUST AGREEMENT

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
RETIREMENT FUND

This Trust Agreement is made as of the 28th day of October, 1980, by and among the Massachusetts Bay Transportation Authority, a body politic and corporate and a politic subdivision of the Commonwealth of Massachusetts (hereinafter referred to as the "Authority"), Local 589, Amalgamated Transit Union, AFL-CIO (hereinafter referred to as the "Union"), and the Retirement Board of the Massachusetts Bay Transportation Authority Retirement Fund, said Retirement Board consisting of those members and alternate members from time to time appointed or elected in accordance with the Pension Agreement from time to time in effect between the Authority and the Union, (hereinafter referred to as the "Trustee").

W I T N E S S E T H:

WHEREAS, the Authority and the Union have adopted a Pension Agreement effective July 1, 1970 for the payment of retirement allowances to certain of the employees of the Authority (hereinafter referred to as the "members") which agreement, as amended from time to time by the Authority and the Union and by Arbitration Awards, is hereinafter referred to as the "Pension Agreement";

WHEREAS, it is provided in the Pension Agreement that the contributions of the Authority and of the members are to be placed in a trust for the exclusive benefit of the members, retired members and their beneficiaries and to defray reasonable and necessary expenses incurred in the administration of the Retirement Plan and the investment of the Retirement Fund.

WHEREAS, the Metropolitan Transit Authority as the predecessor of the Authority and Old Colony Trust Company, the predecessor of The First National Bank

of Boston, have entered into a Declaration of Trust dated January 1, 1948, as subsequently amended, pursuant to which all of the assets of the Fund have been held by The First National Bank of Boston as Fiduciary;

WHEREAS, the Authority, with the approval of the Retirement Board, desires to terminate said 1948 Declaration of Trust including all subsequent amendments thereto, by deleting all of the provisions of said Declaration of Trust in their entirety, to replace said provisions with this restated Declaration of Trust and to make the Union a party to this restated Declaration of Trust;

NOW, THEREFORE, the parties hereto each in consideration of the covenants, agreements and declarations of the others, mutually covenant, agree and declare as follows:

1. Creation of Trust. There is hereby established a trust to be known as the Massachusetts Bay Transportation Authority Retirement Fund (hereinafter referred to as the "Fund"). The Retirement Board shall be the Trustee of this trust and shall have the authority and responsibility of a trustee, under the law of the Commonwealth of Massachusetts and the terms of this Trust Agreement, including, without limitation, the management of the trust assets and the administration of the benefits to be provided by the trust under the terms of the Pension Agreement from time to time in effect between the Authority and the Union. The Trustee shall receive any payments, in cash or in other property, made to the Fund by or on behalf of the Authority and the members pursuant to the Pension Agreement; provided, however, that the Trustee shall not be responsible in any way for the determination of the proper amount of such payments and shall have no responsibility to assure that the Fund is adequate to meet all of the obligations prescribed by the Pension Agreement or any other obligations of the Authority. All sums of money and other property now held in the Fund, all money and property acceptable to the

Trustee as shall from time to time be paid by, or on behalf of, the Authority and the members to the Trustee, all investments made therewith and proceeds thereof and all earnings and profits thereon, less the payments which at the time of reference shall have been made by the Trustee, as authorized herein, shall constitute the Fund and shall be held, managed and administered as a fund in trust pursuant to the terms of this Agreement. The Trustee hereby affirms its acceptance of the trust created hereunder and agrees to perform the provisions of this Agreement on its part to be performed. The Trustee agrees to make reasonable efforts to collect the contributions due to the Fund.

2. Purposes. The Fund has been established for the exclusive benefit of the members and their beneficiaries and to defray reasonable and necessary expenses incurred in the administration of the Retirement Plan and the investment of the Retirement Fund. So far as possible this Agreement shall be interpreted in a manner consistent with this intent and with the intention of the parties that the trust hereunder satisfy those provisions of the Internal Revenue Code of 1954, as the same may be amended from time to time (hereinafter referred to as the "Code"), relating to qualified employees' trusts which are exempt from federal income taxation. Under no circumstances, shall any property of the Fund, or any contributions made by the Authority pursuant to the terms of the Pension Agreement, other than such amount, arising from actuarial error, as remains in the Fund after the termination thereof and the satisfaction of all obligations and liabilities thereunder, ever revert to or be used or enjoyed by the Authority or be used for any purpose other than for the exclusive purpose of providing benefits to members, retired members and their beneficiaries and defraying reasonable and necessary expenses incurred in the administration of the Retirement Plan and the investment of the Retirement Fund. The establishment of the trust created by this Agreement shall not be considered as giving any member or any other person any

legal or equitable rights as against the Authority, the Union, the Trustee, the Custodian or the property, whether corpus or income, of the Fund unless such rights are specifically provided for in this Agreement or the Pension Agreement, nor shall it be considered as giving any member or other employee the right to continue in the service of the Authority.

3. Management of Trust Fund. The Retirement Board may appoint a bank with trust powers or a trust company to act as the Custodian of all or part of the assets of the Fund and may delegate to such Custodian such of its duties in the management of the Fund as it shall determine. The Retirement Board may also authorize the Custodian to hold the assets of the Fund in the name of the Custodian or in street name. It shall be the duty of the Trustee to hold and, subject to the provisions of this Agreement, to invest and to reinvest the assets of the Fund in its discretion; and to make such payments therefrom as the Trustee may from time to time determine to be for the payment of benefits under the Pension Agreement or for the payment of proper and authorized expenses of administration.

4. Investment Adviser. The Trustee may, but shall have no duty to, appoint an Investment Adviser. The duties of the Investment Adviser may include the recommendation of investment objectives, restrictions and guidelines in accordance with Section 6, the recommendation of the appointment or removal of Investment Managers, the allocation of Fund Assets to each of them in accordance with Section 7, and such other duties and responsibilities as are delegated by the Retirement Board to the Investment Adviser hereunder. The Investment Adviser shall be either a bank, a trust company, an insurance company or an investment adviser registered as such under the Investment Advisers Act of 1940. The Trustee may enter into a written contract with the

Investment Adviser containing such terms and provisions, consistent with this Declaration of Trust, as the Trustee shall determine in its sole discretion, including, without limitation the right of the Trustee to require reports from the Investment Adviser at such times and containing such information as the Trustee determines to be appropriate. The Investment Adviser may recommend to the Trustee the terms of any agreement between the Trustee and an Investment Manager, including the duties of, and the fees to be paid to, such Investment Manager. The Trustee shall notify the Custodian of the identity of the Investment Adviser and the Custodian shall be entitled to rely on such notice until such time as the Trustee shall notify and direct the Custodian in writing that another Investment Adviser has been appointed in the place and stead of the first-named Investment Adviser. The Investment Adviser acting hereunder may resign at any time upon written notice to the Trustee, and the Trustee may remove any Investment Adviser at any time upon written notice to the same; provided, however, that the parties may by written instrument waive such notice.

5. Investments. Subject to the provisions of this Agreement, the Trustee shall invest and reinvest the assets of the Fund and keep the same invested, without distinction between principal and income, in such stocks, bonds or other securities (including stock options traded on any recognized option exchange provided that the same are written against securities held in the Fund) or certificates of participation or shares of any mutual investment company, trust or fund, annuity contracts of an investment nature issued by an insurance company, or any other property of any kind, real or personal, tangible or intangible, provided that at the direction of the Trustee to meet the Fund's liquidity

requirements or investment requirements, the Trustee may direct the Custodian to hold assets of the Fund in depository or money market funds established by the Custodian (as long as such accounts or money market funds bear a reasonable rate of interest). To the extent from time to time directed by the Trustee and solely for investment purposes, the Custodian may use the assets of the Fund to purchase annuity contracts issued by any insurance companies approved by the Trustee and to make such contributions to, and deposit such amounts with, such insurance companies as the Trustee may determine.

The Trustee may lend securities held in the Fund to brokers of good credit standing for the purpose of increasing the income of the Fund.

All investments of the Trust, nevertheless, shall be subject to the prudent man rule.

6. Investment Objectives, Guidelines and Restrictions. The Investment Adviser may recommend in writing such investment objectives, investment restrictions and investment guidelines as it deems necessary or appropriate for the investment of the assets of the Fund. Such investment objectives, restrictions and guidelines may be applicable to the Fund as a whole or to any one or more separate Investment Accounts established pursuant to Section 7 of this Agreement. Any such investment objectives, restrictions and guidelines may be withdrawn or modified by the Investment Adviser in a written instrument to that effect. After consideration of the investment objectives, restrictions and guidelines recommended by the Investment Adviser, the Trustee may adopt such investment objectives, restrictions and guidelines as it may determine, and these shall become effective upon their delivery in writing to the Investment Managers, if any, appointed pursuant to Section 7 to manage each separate Investment Account to which such objectives, restrictions and guidelines are applicable or, in the absence of any such Investment Managers, to the Custodian. After receiving the recommendations of the Investment Adviser as to the brokerage firms to be used by the Fund the Trustee may direct the Investment Managers and the Custodian as to the brokerage firms to be used by the Fund.

7. Appointment of Investment Managers. The Trustee may from time to time direct the segregation of any portion or portions of the Fund into one or more separate Investment Accounts, and, in such event, may appoint an Investment Manager to direct the investment and reinvestment of each such Investment Account pursuant to Section 5, subject to any investment objectives, restrictions and guidelines established by the Trustee and applicable to such separate Investment Account. The Trustee is hereby authorized to enter into agreements on behalf of the Fund with each such Investment Manager, which agreements shall contain such terms and conditions as the Trustee shall determine. The Trustee may remove an Investment Manager at any time.

Any Investment Manager hereunder shall be either a bank, a trust company, an insurance company, or an investment adviser registered as such under the Investment Advisers Act of 1940, which is not related to or otherwise affiliated with the Investment Adviser. With respect to each such separate Investment Account, the powers listed in paragraphs (a), (b), (d), (f) and (i) of Section 8 of this Agreement shall be exercised by the Custodian only when, if, and in the manner directed by the Investment Manager. In lieu of directing the Custodian to maintain a separate Investment Account, the Trustee may direct that custody of the Fund assets be transferred to an Investment Manager which is a bank or trust company, in which case said Investment Manager shall exercise the powers listed in paragraphs (a), (b), (d), (f), (h), and (i) of Section 8 directly with respect to the Fund assets held in its custody in accordance with its agreement with the Trustee.

The Trustee shall notify the Custodian of the appointment of any Investment Manager by delivering to the Custodian an executed copy of the instrument under which such Investment Manager was appointed. The Custodian shall be entitled to rely upon such notice until such time as the Trustee shall notify and direct the Custodian in writing that another Investment Manager has been appointed in the

place and stead of the first-named Investment Manager, or in the alternative, that the Investment Manager has been removed and the portion of the Fund then held in such Investment Manager's separate Investment Account or custody should no longer be so segregated but should be returned to the unsegregated portion of the Fund.

The Trustee may direct the Custodian to carry out the written instructions of any Investment Manager with respect to the management and investment of the assets then held in such Investment Manager's separate Investment Account and the Custodian shall not incur any liability on account of its compliance with such instructions. Such instructions shall be in writing and shall be signed by such person or persons, acting on behalf of the Investment Manager, as may be duly authorized in writing. The Custodian shall not incur any liability on account of its failure to exercise any of the powers delegated to any Investment Manager in respect of an Investment Account because of the failure of such Investment Manager to give instructions for the management of such assets. The Custodian shall be under no duty to question any Investment Manager, nor to review any securities or other property contained in a separate Investment Account or held in the custody of the Investment Manager, nor to make any suggestions to any Investment Manager in connection therewith.

8. Powers of Trustee. Subject to the provisions of this Agreement and the directions given by the Investment Managers to the Custodian, the Trustee and any Custodian appointed by the Trustee are authorized and empowered, but not by way of limitation:

(a) to sell, exchange, convey, transfer, redeem or dispose of, and also to grant options with respect to, any property, whether real or personal, at any time held by it as part of the Fund and any sale may be made by private contract or by public auction, and for cash or upon credit, or partly for cash and partly upon credit, as the Trustee or Custodian may deem best, and no person dealing with the Trustee or Custodian shall be bound to see to the application of the purchase money or to inquire into the validity, expediency or propriety of any such sale or other disposition;

(b) To acquire any real estate as the result of any foreclosure, liquidation or other salvage of any investment previously made by it; to hold such real estate pending liquidation of the same at such time, in such manner and upon such terms as the Trustee or Custodian may deem advisable, and to manage, operate, repair, improve, partition, mortgage or lease for any term or terms of years, any such real estate, upon such terms and conditions as the Trustee or Custodian deems proper, using other trust assets for any of such purposes if deemed advisable;

(c) To compromise, compound and settle any debt or obligation due to or from it as Trustee or Custodian hereunder and to reduce the rate of interest on, to extend or otherwise modify, or to foreclose upon default or otherwise enforce any such obligation;

(d) to vote in person or by general or limited proxy on any stocks, bonds or other securities held by it; to exercise any options appurtenant to any stocks, bonds or other securities for the conversion thereof into other stocks, bonds, or securities, or to exercise any rights to subscribe for additional stocks, bonds or other securities and to make any and all necessary payments therefor; to join in, or to dissent from, and to oppose, the reorganization, recapitalization, consolidation, liquidation, sale or merger of corporations or properties in which it may be interested as Trustee or Custodian hereunder, upon such terms and conditions as it may deem appropriate, and generally to exercise any of the powers of an owner with respect to stocks or other securities or property comprising the Fund which the Trustee or Custodian deems to be for the best interest of the Fund, provided, however, that the Trustee may retain the right to vote upon any and all matters;

(e) To accept and hold any securities or other property received by it under the provisions of any of the subdivisions of this Section 8 whether or not the Trustee or Custodian be authorized hereunder then to invest in such securities;

(f) to make, execute, acknowledge and deliver any and all deeds, leases, assignments and instruments;

(g) to borrow or raise moneys for the purposes of the Fund to the extent that the Trustee shall deem desirable upon such terms and conditions as it may deem desirable or proper, and for any sum so borrowed to issue its promissory note as Trustee hereunder and to secure the repayment thereof by pledging all or any part of the Fund; and no person loaning money to the Trustee shall be bound to see to the application of the money loaned or to inquire into the validity, expediency or propriety of any such borrowing;

(h) to cause any assets from time to time held by it to be registered in or transferred to its name as Trustee or Custodian or the name of its nominee or nominees without disclosure of its fiduciary capacity or to retain them unregistered or in form permitting transferability by delivery, but the books and records of the Trustee or Custodian shall at all times show that all such assets are part of the Fund; and

(i) to do all acts whether or not expressly authorized which it may deem necessary or proper for the protection of the property held hereunder.

9. Direction by Trustee or Investment Manager. All requests, notices, directions, requisitions for moneys and instructions by the Trustee to the Custodian shall be in writing, signed by the Executive Director of the Trustee, or by such other person or persons as may be designated from time to time by the Trustee. All requests, notices, directions and instructions by any Investment Manager to the Custodian shall be in writing and shall be signed by such person or persons, acting on behalf of the Investment Manager, as may be duly authorized in writing. The Custodian shall act and shall be fully protected in acting in accordance with such requests, notices, directions, requisitions and instructions. By such a writing, the Trustee or an Investment Manager may ratify, approve or confirm any action taken by the Custodian, and upon such ratification, approval or confirmation the Custodian shall be protected as though authorization by the Trustee or the Investment Manager had preceded such action. The Custodian shall be furnished promptly from time to time with certificates evidencing the appointment, or election, and termination of office of the persons constituting the Trustee, such certificates to be made and signed by the agency taking such action, and the Trustee shall likewise furnish certificates evidencing the election of its Chairman, Secretary, Executive Director and of the person or persons authorized to act on behalf of the Trustee, together with specimens of their signatures, and for all purposes hereunder the Custodian shall be conclusively entitled to rely upon the identity and authority of the Chairman, Secretary, Executive Director and persons constituting the Trustee and of such other persons as disclosed by such certificates.

10. Records and Accounting. The Custodian shall keep accurate and detailed records of its transactions hereunder, and all its accounts, books and records relating thereto shall be open at all reasonable times to the inspection of the Authority, the Union, the Trustee and the Investment Supervisor and their authorized representatives. The Trustee shall also keep accurate and detailed records of its transactions hereunder, and all its accounts, books and records relating thereto shall be open at

all reasonable times to the Authority and the Union. Within ninety (90) days following the close of each calendar year, or following the close of each such other annual period as may be agreed upon between the Custodian and the Trustee, and within ninety (90) days after the removal or resignation of the Trustee or Custodian or termination of the Fund as provided herein, the Trustee shall file with the Authority and the Union, a written report setting forth all investments, receipts and disbursements, and other transactions effected by or for it during such year or during the period from the close of such year to the date of such removal, resignation or termination, including a description of all securities and investments purchased and sold with the cost or net proceeds of such purchases or sales and showing all cash, securities and other property held at the end of such fiscal year or other period. The Authority and the Union may approve such accounts of the Trustee by an instrument in writing delivered to the Trustee. In the absence of the filing in writing with the Trustee by the Authority or the Union of exceptions or objections to any such account within ninety (90) days after their receipt of any such account, the Authority and the Union shall be deemed to have approved such account; and in such case, or upon the written approval of the Authority and the Union of any such account, the Trustee, to the extent permitted by applicable law, shall be released, relieved and discharged with respect to all matters and things set forth in such account. In any proceeding instituted by the Authority or the Union with respect to any account of the Trustee, only the Authority and the Union shall be necessary parties. Nothing herein shall bar the Trustee from having its accounts settled by a court of competent jurisdiction. The Trustee shall from time to time make such other reports and furnish such other information concerning the Fund to the Authority and the Union as either of them may in writing reasonably request.

11. Payment of Taxes. The Trustee shall, after notifying the Authority and the Union pay out of the Fund any and all taxes of any and all kinds, including without limitation property taxes and income taxes levied or assessed under existing or future laws upon or in respect of the Fund or any monies, securities or other property forming a part thereof or the income therefrom subject to the terms of any agreements or contracts made with respect to trust investments which make other provision for such tax payments. The Trustee may assume that any taxes assessed on or in respect of the Fund or its income are lawfully assessed unless the Authority or the Union shall in writing advise the Trustee that in the opinion of counsel such taxes are or may be unlawfully assessed. In the event that the Authority or the Union shall so advise the Trustee, the Trustee will, if so requested in writing by the Authority or the Union, contest the validity of such taxes in any manner deemed appropriate by the party requesting such contest but at the expense of such party;

the Union and/or the Authority may contest the validity of any such taxes, at the expense of the party desiring such contest, in the name of the Trustee; and the Trustee agrees to execute all documents, instruments, claims and petitions necessary or advisable, in the opinion of the Trustee, the Authority or the Union, for the refund, abatement, reduction or elimination of any such taxes.

12. Trustee's Compensation and Expenses. The expenses incurred by the Trustee in the performance of its duties hereunder, including reasonable compensation for employees and agents, office expenses and for services of counsel rendered to the Trustee and reasonable expenses incident thereto, the Custodian's reasonable compensation (which shall be in such amounts as may be agreed upon in writing from time to time between the Trustee and the Custodian), and all other proper and reasonable charges and disbursements of the Trustee or Custodian, shall be paid by the Trustee out of the Fund and the same, to the extent that they are not paid by the Authority, shall constitute a charge upon the Fund.

13. Interpretation of Agreement. Except as otherwise provided elsewhere in this Agreement and/or the Pension Agreement, the general administration of the Fund and the responsibility for carrying out the provisions of this Agreement and the Pension Agreement are placed in the Trustee. The Trustee shall determine any question arising in the interpretation of this Agreement, such determination to be made in accordance with Article VI of the Pension Agreement. Notwithstanding any provisions to the contrary contained in the collective bargaining agreement in effect from time to time between the Authority and the Union, or in any other collective bargaining agreement which incorporates this Agreement and Declaration of Trust, no dispute arising under, or in connection with, this Agreement and Declaration of Trust shall be subject to the arbitration procedures contained in said collective bargaining agreements.

14. Resignation or Removal of Custodian. Any Custodian acting hereunder may resign at any time upon thirty (30) days' written notice to the Trustee, and the Trustee may remove any Custodian at any time upon thirty (30) days' written notice to the Custodian; provided, however, that the parties may by written instrument waive such notice. If any Custodian shall resign, be removed or for any other reason cease to be Custodian, the Trustee may appoint a successor Custodian to whom the Custodian shall promptly deliver all of the assets of the Fund less any unpaid fees or expenses, and if no such successor Custodian is appointed, the Custodian may deliver the assets of the Fund less any unpaid fees or expenses to the Trustee. Subject to the foregoing provisions, any resignation or removal of the Custodian or appointment of a new Custodian shall be by instrument in writing and shall become effective on the date therein specified. Any successor Custodian shall have the same powers and duties as the succeeded Custodian. The appointment of any successor Custodian hereunder shall without any separate instrument or conveyance

immediately vest title to the assets of the Fund in such successor Custodian. Upon request of such successor Custodian, the Custodian ceasing to act shall execute and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Custodian all the right, title and interest of the retiring Custodian in and to the assets of the Fund.

15. Amendment. Subject to the provisions of Section 19 of Chapter 563 of the Acts of 1964, the Authority should have the right, pursuant to agreement with the Union, at any time and from time to time, with the approval of the Trustee, to amend this Agreement by delivering to the Trustee a copy of a written instrument of amendment authorized by the Board of Directors of the Authority, approved by the Trustee and executed by an officer of the Authority and an officer of the Union; provided, however, that except as may be necessary or advisable in order that this Trust may qualify and continue to qualify as a tax-exempt employees' trust under the applicable provisions of the Code, the Authority and the Union shall have no power to amend this Agreement in such manner as would cause or permit any of the Fund assets to be diverted to purposes other than for the exclusive benefit of the members, retired members and their beneficiaries prior to the satisfaction of all liabilities with respect to such members, retired members and beneficiaries under the Pension Agreement and the payment of reasonable and necessary expenses incurred in the administration of the Retirement Plan and the investment of the Retirement Fund; and provided further that the duties or liabilities of the Trustee shall not be increased without its written consent. Any such amendment shall be effective upon delivery to the Trustee unless a different effective date is specifically stated and any such amendment may be made retroactively. In the event that the Trustee is unable to adopt a vote with respect to a proposed amendment of this Agreement, the matter shall be disposed of in accordance with Article VI of

the Pension Agreement. The Authority and the Union hereby agree to abide by the Trustee's decision (reached in accordance with Article VI) with respect to such matter and to take such action as may be necessary to effectuate such decision.

16. Termination. Upon certification by the Authority and the Union that the Massachusetts Bay Transportation Authority Retirement Fund has been terminated and that the Fund is accordingly to be distributed in accordance with the termination provisions thereof, the Trustee shall pay such amounts from the Fund as are required by the Pension Agreement to members, retired members or their beneficiaries or for the administrative expenses of the Fund or for other payments in accordance with the provisions of the Pension Agreement.

17. Successor to the Trustee, the Custodian, the Authority, or the Union.

The term Retirement Board means the Retirement Board authorized and constituted by the Pension Agreement from time to time in effect between the Authority and the Union consisting of those Members, or in their absence, their respective Alternate Members, appointed or elected thereto and acting as members of the Retirement Board. Any successor to the functions of the Retirement Board shall ipso facto succeed to all the rights, powers and duties of said Retirement Board as Trustee hereunder. Any successor to all or a major part of the business of the Custodian, by whatsoever form or manner resulting, shall ipso facto succeed to all the rights, powers and duties of the Custodian hereunder. The word Authority means the Massachusetts Bay Transportation Authority, and also means its successors or assigns, whether the succession or assignment shall come about by statute, operation of law, or otherwise, provided that the successor or assignee becomes a party to this Agreement and Declaration of Trust, as amended, by executing an appropriate supplemental agreement with the Trustee and the Union to be bound by the terms hereof. The word Union means Local 589, Amalgamated Transit Union, AFL-CIO, and

also means its successors or assigns, by whatever form or manner resulting, provided that the successor or assignee becomes a party to this Agreement and Declaration of Trust, as amended, by executing an appropriate supplemental agreement with the Trustee and the Authority to be bound by the terms hereof.

18. Spendthrift Provision. Beneficial interests in the Fund of members, retired members or their beneficiaries shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void; nor shall any such beneficial interest be in any manner liable for or subject to the debts, contracts, liabilities, engagements or torts of the person entitled to such benefit except as otherwise expressly permitted by the terms of the Pension Agreement.

19. Construction. The provisions of this Agreement shall be construed, administered and enforced according to the laws of the Commonwealth of Massachusetts. All contributions to the Fund shall be deemed to be made in the Commonwealth of Massachusetts.

20. Allocation of Responsibility. The responsibility and obligations of the Authority, the Union, the Trustee, the Custodian, the Investment Adviser or of any Investment Manager appointed hereunder, shall be strictly limited to those set forth in this Agreement. The Trustee, Custodian, Investment Adviser and each Investment Manager appointed hereunder shall discharge such responsibilities and obligations with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Neither the Authority nor the Union shall be responsible in any way for the manner in which the Trustee, Custodian, Investment Adviser or any Investment Manager carry out their respective responsibilities under this Agreement. The Trustee shall

be responsible for the prudent selection and retention of the Custodian, Investment Adviser and Investment Managers. The Investment Adviser shall not be responsible in any way for the manner in which any such Investment Manager, carried out its responsibilities hereunder.

21. Definition of Words. Feminine or neuter pronouns shall be substituted for those of the masculine form, and the plural shall be substituted for the singular, in any place or places herein where the context may require such substitution or substitutions.

22. Titles. The titles of paragraphs are included only for convenience and shall not be construed as part of this Agreement or as in any respect affecting or modifying its provisions.

23. Execution of Agreement. This Agreement may be executed in any number of counterparts and each fully executed counterpart shall be deemed an original.

24. Approval and Ratification. This restated Trust Agreement is subject to approval by the Board of Directors of the Authority and the Retirement Board as Trustee and to ratification by the membership of the Union.

IN WITNESS WHEREOF, these presents have been executed as of the date first above written.

APPROVED AS TO FORM:

[Signature]
General Counsel

[Signature]
Director of Labor Relations
and Personnel Administration

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

By: [Signature]
Governor's Designee & Chief Admin.

LOCAL 589, AMALGAMATED TRANSIT UNION,
AFL-CIO

[Signature]
President-Business Agent

[Signature]
Financial Secretary-Treasurer

RETIREMENT BOARD OF THE
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
RETIREMENT FUND

By: [Signature]
Chairman

EXHIBIT C

Pension Agreement, dated July 1, 2014 – [www.mbtarf.com/Fund Communications](http://www.mbtarf.com/Fund%20Communications)

EXHIBIT D

Standards of Fiduciary Responsibility, as amended June 16, 2017

**MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
RETIREMENT BOARD**

STANDARDS OF FIDUCIARY RESPONSIBILITY

(Initially adopted by Board: February 22, 1992)

(Most recently revised by Board: June 16, 2017)

WHEREAS, the Massachusetts Bay Transportation Authority Retirement Fund (the “**Fund**”) was created in 1948 pursuant to a trust agreement negotiated as a part of a collective bargaining agreement authorized by legislation transferring the private employees and pension obligations of the Boston Elevated Railway to the Metropolitan Transit Authority (the “**MTA**”) and has been operated ever since as a private pension trust for the benefit of eligible employees of the Massachusetts Bay Transportation Authority (the “**Authority**”); and

WHEREAS, the 1948 trust agreement was restated by the Trust Agreement dated October 28, 1980 (“**Trust Agreement**”) entered into by and among the Authority, Local 589, Amalgamated Transit Union, AFL-CIO (the “**Union**”) and the Retirement Board of the Fund (the “**Board**”); and

WHEREAS, the Fund is administered by the Board which was created in 1948 by a set of “Rules and Regulations” later incorporated in Pension Agreements entered into at various times since 1948 by the Authority (and its predecessor, the MTA) and its employees; and

WHEREAS, the current Pension Agreement by and between the Authority and the Union is effective as of July 1, 2014 (the “**Pension Agreement**”) but may be subject to amendment in the future; and

WHEREAS, pursuant to the Pension Agreement the Board consists of seven individual members, two of whom are designated by the Union, one of whom is elected by the Members, as defined in Article I(10) of the Pension Agreement (the “**Members**” or “**Members of the Fund**”), who do not belong to the Union, three of whom are appointed by the Authority (one of whom shall also be a Director of the Massachusetts Department of Transportation, which governs and exercises the corporate powers of the Authority pursuant to Chapter 46 of the Acts of 2015), and one of whom is chosen by the other six appointees to the Board to serve as the Honorary Board Member; and

WHEREAS, an essential characteristic of the Board and its individual members is that they occupy a fiduciary relationship with respect to the Members of the Fund; and

WHEREAS, the Fund is a private trust and has never been a public agency and, therefore, certain Massachusetts statutes such as the Open Meeting Law (M.G.L. c 30A, §§ 18-25) and conflict of interest and financial disclosure laws (M.G.L. c 30A, §§ 18-25, c. 268A and c. 268B), which apply to governmental agencies, do not by operation of law apply to the Board; and

WHEREAS, the Board believes that preservation of its private status independent of governmental operation and control is essential to the performance of its fiduciary obligations to the Members of the Fund and that its status enhances the interests of those Members; and

WHEREAS, the Board, believing that adoption of certain policies and standards of conduct similar to those embodied in, *inter alia*, federal pension law, the above-referenced statutes and the

common law can further the interests of the Fund and protect its Members, has previously adopted and updated such policies and standards; and

WHEREAS, investment decisions are becoming increasingly complex, causing the Board to employ a staff, which administers the affairs of the Fund on a day-to-day basis, and independent Financial Advisors and other Consultants, as each of those terms is defined in Section 3.3 below, who assist the Board in fulfilling its fiduciary obligations; and

WHEREAS, significant changes to statutes and regulations applicable to the Fund specifically and private pension plans and the prudent investment of trust assets generally have occurred since these Standards of Fiduciary Responsibility were last amended, and additional proposals are emerging with frequency; and

WHEREAS, the Board endeavors to select from the various reforms and proposals at the state and federal levels those features and practices that best serve the interests of the Fund's beneficiaries; and

THEREFORE, the Board adopts for itself, collectively and individually, its Employees, Consultants, Financial Advisors and Attorneys, all as further defined in Section 3.3, the following:

Article 1.
Fiduciary Standards Concerning the
Conduct of the Board and the Administration of the Fund

1.1 Duty of Loyalty

The cardinal rule of these Standards of Fiduciary Responsibility (the “**Standards**”) is that the individual Board members and Employees are pension fund fiduciaries who owe a duty of undivided loyalty to the Fund and its Members. Consultants similarly owe a duty of undivided loyalty to the Fund and its Members with respect to the professional and/or investment matters for which they are engaged, as set forth more fully in Section 1.4. These Standards have been adopted by the Board (the individual members of which are referred to as “**Trustees**”, as further defined in Section 3.3 below) pursuant to the Pension Agreement and the Trust Agreement.

1.2 Duty of Representation

1.2.1 The Trustees, whenever acting in relation to matters of interest to the Fund and its Members, are representatives of, and fiduciaries to, the Fund and shall act for the sole and exclusive benefit of the Members of the Fund, not for the MBTA, the Union or any other employee group, or any other person, organization or interest. Thus, despite the source of an individual Trustee's appointment or election (management or labor), they do not “represent” the interests of either management or labor while serving as Trustees, but instead shall act in the sole and exclusive interest of the Fund and its Members.

1.2.2 Employees are representatives of and fiduciaries to the Fund and shall act at all times for the sole and exclusive benefit of the Members of the Fund.

- 1.2.3 The duties of loyalty and representation specific to the administration of the Fund for Trustees, Employees and Consultants are further defined throughout the terms of these Standards including, without limitation, Article 2.

1.3 Duty of Prudent Investment - Rules for Investments

- 1.3.1 The Trustees, Employees and Financial Advisors are fiduciaries and shall invest and manage Fund assets in general as a prudent investor would, considering the purposes, terms and other circumstances of the Trust and the Pension Agreement, both as amended, and in conformity with the provisions of the Prudent Investment Act, M.G.L. c. 203C (the “Act”). In satisfying this standard, the Trustees, Employees, and Financial Advisors, shall exercise reasonable care, skill, and caution and shall consider each of the circumstances set forth in the Act so far as apt and, in the case of Financial Advisors, consistently with, and limited by, the scope of their contractual agreement(s) with the Fund.
- 1.3.2 References in the Trust to the common law “prudent man” rule (e.g. Trust at ¶20) shall be interpreted in a manner consistent with the “prudent investor rule” as defined in §11 of the Act. (The Trust was executed in 1980; the Act was adopted in 1998.)
- 1.3.3 Trustees and Employees involved with particular investment decision(s) shall invest and manage Fund assets, and otherwise discharge their duties with respect to the Fund, solely in the interest of the Members.
- 1.3.4 Without limiting these obligations, such Trustee, Employee and, insofar as applicable and consistent with their contractual agreement(s) with the Fund, Financial Advisor, shall:
- 1.3.4.1 act for the exclusive purpose of:
- (a) providing benefits to Members of the Fund; and
 - (b) defraying reasonable expenses of administering the Fund (Trust at ¶2 and §8 of the Act).
- 1.3.4.2 in investigating and managing trust assets, consider each of the circumstances identified in §3(c) of the Act, so far as applicable, including:¹
- (a) general economic conditions;
 - (b) the possible effect of inflation or deflation;

¹ The list of considerations in 1.3.4.2(a)-(h) mirror the enumerated considerations in the Act (§3(c)(1)-(8)), which applies to the Fund by operation of law. The Act recognizes that not each of the stated considerations may be relevant to a particular trustee when considering “investment and managing trust assets” nor constitute a comprehensive list of relevant considerations.

- (c) the expected tax consequences of investment decisions or strategies;
- (d) the role that each investment or course of action plays within the overall trust portfolio;
- (e) the expected total return from income and the appreciation of capital;
- (f) other resources of the beneficiaries;
- (g) the needs for liquidity, regularity of income, and preservation or appreciation of capital; and
- (h) an asset's special relationship or special value, if any, to the purposes of the Trust or to one of the beneficiaries.

1.3.4.3 reasonably diversify such investments so as to minimize the risk of large losses (unless, under the circumstances, it is prudent not to do so). *See* §4 of the Act. Investment and management decisions respecting Fund assets shall be considered in the context of the Trust portfolio for which such party is responsible as a part of an overall investment strategy reasonably suited to the Trust as a whole or, in the case of Financial Advisors, those Fund assets for which the Financial Advisor is contractually responsible (§3(b) of the Act).

1.3.4.4 invest in any kind of property or type of investment which is consistent with the Act, (*See* §3(e) of the Act) applicable law, all contractual obligations to which such investment management relationship is subject and these standards.

1.3.4.5 invest in accordance with the documents and instruments governing the Fund and the Act including, without limitation, the then-effective Statement of Investment Policy (“**IPS**”) adopted by the Board. *See* Trust at ¶¶6-9.

1.3.5 A Trustee, Employee or Financial Advisor who has special skills or expertise, or is named as a Trustee, Employee or Financial Advisor in reliance upon such person's representation that the Trustee, Employee or Financial Advisor has such special skills or expertise, shall have a duty to use such special skills or expertise in connection with its performance of its duties and responsibilities with respect to the Fund, and in connection therewith. *See* §3(f) of the Act.

1.3.6 As a consequence of complying with the foregoing provisions of Article 1 hereof, and of the Act, a Trustee or Employee shall not be liable to a Member of the Fund to the extent that the Trustee or Employee acted in reasonable reliance on the provisions of the Pension Agreement, the Trust, and the Fund's other governing documents and instruments, as amended from time to time.

1.3.7 The Fund or the Executive Director may delegate investment and management functions to a Financial Advisor if it is prudent to do so, *See* §10 of the Act, and

1.3.7.1 The Fund shall exercise reasonable care, skill, diligence and prudence in:

- (a) selecting a Consultant or Financial Advisor;
- (b) establishing the scope and terms of the delegation, consistent with the purposes and terms of the Fund; and
- (c) periodically reviewing the Consultant or Financial Advisor's actions in order to monitor such performance and compliance with the terms of the delegation.

1.3.7.2 In performing a delegated function, a Financial Advisor shall owe a duty to the Fund to exercise reasonable care to comply with the terms of the delegation, §10(b) of the Act, and it shall acknowledge in writing to the Fund that it is a fiduciary pursuant to the Act, or in the alternative, and in compliance with the IPS, acknowledge fiduciary status pursuant to a substantially comparable law governing investment fiduciaries reasonably acceptable to Fund investment counsel (e.g. Employee Retirement Income Security Act of 1974, as amended, or the Investment Advisers Act of 1940, as amended).

1.3.7.3 A Trustee or Employee of the Fund who complies with the requirements of subsection 1.3.7 shall not be liable to any Member of the Fund or to the Trustees for the decisions or actions of the Financial Advisor to whom the function was delegated. *See* §10(c) of the Act.

1.3.7.4 By accepting the delegation of trust functions from the Trustees of the Trust, a Consultant or Financial Advisor recognizes application of Massachusetts law and submits to the jurisdiction of Massachusetts' courts, *see* §10(d) of the Act, absent written agreement executed by the parties choosing the application of laws and/or selecting the forum of another jurisdiction.

1.4 Obligations of Consultants and Financial Advisors

Consultants and Financial Advisors hired to perform services by the Trustees or its Executive Director likewise owe an undivided duty of loyalty to the Fund with respect to the professional matters for which they are engaged.

1.4.1 Without limiting any other provisions of the Standards in any way, all Consultants and Financial Advisors shall:

- 1.4.1.1 conduct themselves with integrity and act in an ethical manner in their dealings with the public, Retirement Board, Employees, Members of the Fund and fellow Consultants and Financial Advisors;
 - 1.4.1.2 conduct themselves and encourage other Consultants and Financial Advisors to perform their functions in a professional and ethical manner that will reflect credit on themselves and their profession;
 - 1.4.1.3 act with competence and strive to maintain and improve their competence and that of others in their profession; and
 - 1.4.1.4 use proper care and exercise independent professional judgment.
- 1.4.2 A Consultant or Financial Advisor engaged by the Trustees or the Executive Director may simultaneously represent or work for the Trustees and another vendor to the Trustees or related party to such a vendor only if that multiple representation is disclosed in writing to the Trustees through the Executive Director, and approved by formal vote of the Trustees which is duly recorded and made available for inspection by Members of the Fund as provided herein.
- 1.4.3 Consultants acting as attorneys (e.g. acting in the capacity of general counsel, investment counsel or other outside legal counsel) shall render services to the Fund in full compliance with the Massachusetts Rules of Professional Conduct (SJC Rule 3:07, as amended) and shall comply with all Standards of Conduct (Article 2), except those specifically limited to Financial Advisors as set forth in Sections 2.7 and 2.8.

Article 2.
Standards of Conduct

2.1 **Gifts: Gratuities: Entertainment**

- 2.1.1 No Trustee, Employee, Consultant or Financial Advisor may directly or indirectly ask for, accept or receive anything of Significant Value, as defined in subsection 2.1.3 below, for himself or another intended to influence or reward him for a Board or Fund-related act performed or to be performed by him.
- 2.1.2 No Trustee, Employee, Consultant or Financial Advisor may directly or indirectly ask for, accept or receive anything of Significant Value for himself or another from a Fund Member or beneficiary other than from a family member in circumstances unrelated to the business of the Board or the administration of the Fund.
- 2.1.3 No Trustee, Employee, Consultant or Financial Advisor may accept or receive anything having Significant Value from any person doing business with or for the Board. “**Significant Value**” shall mean such value as may give rise to reasonable doubts about improper influence, taking into account the existence of pending or foreseeable matters of interest to the giver and customary practices and courtesies in the relevant industry.

2.1.3.1 Nothing contained in subsection 2.1.3 shall preclude a Trustee, Employee, Consultant or Financial Advisor from accepting:

- (a) gifts of modest value (not in excess of \$100) given at Christmas, other holidays or special occasions, such as a hospitalization or bereavement, which represent expressions of friendship;
- (b) ceremonial or commemorative type gifts (such as a plaque, silver-plated shovel or an inscribed pen) of unknown value;
- (c) invitations to and provision of educational seminars, workshops, investment manager annual meetings, lectures, or similar programs germane to pension administration and investments; or
- (d) entertainment events (including meals, cocktail parties, sporting events, plays, etc.) sponsored by vendors and extended to pension fund administrators generally, whether at conventions for pension funds, in conjunction with educational programs, or otherwise, provided, however, that in the case of entertainment events whose value exceeds \$100, (i) the identity of the sponsor, or person paying for the entertainment, (ii) the nature and approximate value of the entertainment, and (iii) the person(s) receiving the entertainment are disclosed in writing to the Board.

2.2 Outside Activities

No Trustee or Employee may engage in the business of investment counseling or related activities without prior written disclosure to and approval from the Executive Director or Chairman of the Board.

2.3 Information

No Trustee, Employee, Consultant or Financial Advisor may utilize proprietary or non-public material information concerning a specific investment opportunity that has been brought to his or her attention in his official capacity with the Board, nor shall such information be divulged to a third party (other than to another pension fund manager) absent a duly executed contractual agreement authorizing such use (which agreement shall be subject to the disclosure and approval requirements of Section 2.6). Any such person who comes into possession of material, non-public information concerning a publicly traded company must safeguard the information and not intentionally or inadvertently communicate it to any third person (including family, friends or business associates) unless the third person has a need to know it for legitimate Fund related business. Additionally, such persons are cautioned that federal law generally prohibits persons who have duties not to disclose material non-public information concerning publicly traded companies from trading on the basis of that information. The Board's policy is that if any Trustee, Employee, Consultant or Financial Advisor obtains any such information concerning a publicly traded company that person may not buy or sell securities of that company or take any other action to take advantage of that information.

Nothing contained herein shall preclude a Consultant or Financial Advisor engaged in the business of investment counseling from discussing such opportunities with other clients.

2.4 Acting as Advocate for Others

No Trustee, Employee, Consultant or Financial Advisor may act for compensation as advocate, agent or attorney for another person in connection with any particular matter which has come before or is pending before the Board. Nothing contained herein shall preclude uncompensated action consistent with the faithful discharge of fiduciary obligations including the duties of loyalty and representation.

2.4.1 Neither the Board nor any Employee may initiate any communication to or act on any communication from a former Trustee or Employee within two (2) years of his or her termination as Trustee or Employee in connection with any proposal by any person or entity to provide services or investment products to the Fund, or otherwise to engage in any business transaction with the Fund. Notwithstanding the foregoing, the Executive Director, may, with the approval of the Board, engage in communications with a former Trustee or Employee for the purpose of obtaining services to facilitate the transition or training of a successor to a former Trustee or Employee.

2.5 Conflicting Financial Interests

2.5.1 Except as otherwise provided herein, no Trustee, Employee, Consultant or Financial Advisor may participate as such in any matter before the Board which has a direct or substantial effect on his or her financial interests, those of their family, or of any business, however organized, with which the individual is affiliated in any capacity. This provision is not, however, intended to limit a Financial Advisor who also serves as an investment manager from maintaining a financial interest in a Fund investment as expressly set forth in the terms of a particular investment contract.

2.5.2 Any Trustee, Employee, Consultant or Financial Advisor whose duties to the Fund or the Board would otherwise require them to participate in such a particular matter shall make a written disclosure to the Executive Director, while the Executive Director shall make such written disclosure to the Chairman of the Board, of the nature and circumstances of the particular matter and of such financial interest. The Executive Director or the Board Chair may in their discretion determine that the interest is not so substantial that it is likely to affect the integrity of the services it expects from the disclosing individual and permit them to participate in the matter, or they may determine to take such other action as they deem appropriate. Such determinations shall be reviewed by the Board at its next regular meeting and, if approved, ratified by formal vote of the Board, which shall be duly recorded and the record thereof made available for inspection by all Members of the Fund.

2.6 Personal Investments

- 2.6.1 Except upon approval by the Board after disclosure of all material facts, no Trustee or Employee shall maintain a personal investment account with a Financial Advisor or a product provider with whom the Board makes or has made an investment. The term “private investment account” shall not include a checking or savings account, NOW account, certificate of deposit or similar cash management account with a federal or state chartered banking institution, credit union, mutual fund, or other financial institution.
- 2.6.2 A Trustee, Employee, Consultant and Financial Advisor shall disclose to the Board whether they have any direct financial interest in any product provided to the Fund or any security, instrument, plan, or other investment vehicle; it being understood that Financial Advisors in particular may, within the contractual scope of the services which they have been engaged to provide, maintain such an interest.
- 2.6.3 At the time the Board first considers whether to engage a Financial Advisor or utilize an investment product or at the time the Trustee, Employee, Consultant or Financial Advisor first learns of the engagement (whether the engagement has already occurred or is under consideration), or at the time of the direct investment, whichever first occurs, the Trustee, Employee, Consultant or Financial Advisor shall make a written disclosure to the Executive Director of any direct investment with that Financial Advisor or product provider, whether actual or anticipated. The Executive Director shall bring that written disclosure to the attention of the Board at its next regular meeting. The Board may in its discretion determine that the investment interest is substantial and could interfere with the integrity of the services provided or to be provided and so prohibited or may determine it to be permissible because it is not likely to affect such services. In either event, the Executive Director shall promptly notify in writing the affected Trustee, Employee, Consultant or Financial Advisor of the Board’s decision.
- 2.6.4 No Trustee, Employee, Consultant or Financial Advisor may, knowingly or having reason to know, have a direct or indirect financial interest in a contract with the Board, other than a duly authorized contract of employment, investment or engagement.
- 2.6.4.1 An indirect financial interest within the scope of subsection 2.6.4 is an interest that is not owned directly by the Trustee, Employee, Consultant or Financial Advisor, but which is either controlled by him or held by another for his benefit.
- 2.6.4.2 A financial interest otherwise prohibited by subsection 2.6.4 shall be deemed not to violate said subsection where:
- (a) the Trustee, Employee, Consultant or Financial Advisor divests himself of the interest within 45 days of learning of its existence,

- (b) the interest consists of less than one percent of the stock of a corporation, trust, limited partnership, limited liability company, or other entity, or
- (c) the Trustee, Employee, Consultant or Financial Advisor makes full disclosure to the Board of the nature of the interest and the Board in its discretion determines that the interest is not so substantial that it is likely to affect the integrity of the services it expects from the disclosing individual. Such a determination shall be by formal vote of the Board, and shall be duly recorded and the record thereof shall be made available for inspection by all Members of the Fund.

2.6.5 When a direct or personal investment has been disclosed in accordance with subsection 2.6.4 above and is deemed acceptable by the Board, the transactions implementing it shall be subjugated to transactions involving the Fund so that those transactions do not operate adversely to the Fund. Any Trustee, Employee, Consultant or Financial Advisor making a recommendation for the purchase or sale of a security or other investment shall give the Fund an adequate opportunity to act on the recommendation before acting on their own behalf.

2.7 Specific Rules for Financial Advisors

2.7.1 Financial Advisors shall be subject to the following special and additional rules:

2.7.1.1 Financial Advisors are investment fiduciaries and may be engaged only if they meet the ethical and disclosure standards demanded by the Trustees, including, without limitation, subscribing to or agreeing to be bound by a code of ethics and standards of professional conduct at least as stringent as that of the CFA Institute Code of Ethics and Standards of Professional Conduct in effect at the time of their engagement.

2.7.1.2 As a material term and condition of engagement a potential Financial Advisor must disclose to the Fund on a form prescribed by the Executive Director:

- (a) the identity of any third party who has received or will receive any form of remuneration related to the engagement with the Fund or the provision of services to it, and the amount and nature of the actual or anticipated payments;
- (b) a statement that it has not colluded with any third person in preparing its submittals to the Fund;
- (c) a description of any beneficial ownership interest it or any person associated with it as an owner, officer or Employee has in any security or other investment product that is being offered to the Fund. For purposes of this disclosure provision, a

“beneficial ownership interest” may be direct or indirect and includes a pecuniary interest, the power to vote or direct the voting of securities or other investments or the power to dispose or direct the disposition of the security or investment; and

- (d) a description of any “disclosable interest”, as determined by the Executive Director, that may give rise to an actual, potential or perceived conflict under these Standards and otherwise.

2.7.1.3 On or before January 31, all Financial Advisors engaged by the Fund must annually update their disclosures to the Fund on a form provided by the Executive Director setting forth:

- (a) the amount of any remuneration paid during the prior calendar year to any third party related to the engagement by the Fund or the provision of services or investment products to it, and projecting the identity of any third party and the amount of remuneration to be paid during that calendar year related to the engagement or provision of services or investment products;
- (b) any beneficial ownership interest as described in subsection 2.7.1 above it or any person associated with it as an owner, officer or Employee has acquired or disposed of in the prior calendar year in any security or other investment that has been or will be offered to the Fund; and
- (c) a description of any “disclosable interest,” as determined by the Executive Director that has arisen in the prior calendar year.

2.7.1.4 No Financial Advisor may invest moneys belonging to the Fund in any entity in which it also holds any undisclosed beneficial ownership interest.

2.7.2 The Executive Director, with such legal and staff assistance as he deems necessary, shall review all information provided by the Financial Advisors pursuant to subsection 2.7.1 above and may request additional information, if warranted. The Executive Director shall document their conclusions with respect to such disclosures. Whenever they deem it appropriate and on a current basis, they will report to the Board all such conclusions, and discuss the effect of the disclosed events on the Fund’s investments and any anticipated changes in the “disclosable interests” required in the forms he provides to Financial Advisors. Within a reasonable time after accepting or receiving Fund assets, the Financial Advisor shall review the Fund’s assets for which it is responsible and make and implement decisions concerning the retention and disposition of assets, in order to bring the Fund portfolio into compliance with the purposes, terms and the other circumstances of the Fund, and with the requirements of the Act, including taking all such decisions and actions with respect to the receipt of new contributions made

to the Fund each year, and the appointment of new Financial Advisors, or the investment of new Fund money with an existing or newly appointed Financial Advisor.

2.8 Placement Agents

2.8.1 In addition to the provisions of Section 2.7 above, the following will apply to a Financial Advisor's business practices related to Placement Agents, as defined in subsection 3.3.6:

2.8.1.1 prior to entering into a contract or contract amendment with the Fund the Financial Advisor must provide a written representation that it has not utilized a Placement Agent in seeking an engagement with the Fund; and

2.8.1.2 current Financial Advisors to the Fund must provide an annual written representation to the Fund stating that they are not utilizing a Placement Agent in any of their dealings with the Fund and describing their use of Placement Agents, if any, in dealings with other clients.

2.8.2 In the event that the Financial Advisor has used a Placement Agent, or intends to do so in connection with its future business with the Fund, the following information must be provided to the Board's staff:

2.8.2.1 the name of the Placement Agent, the details of its relationship to the Financial Advisor and the services to be provided;

2.8.2.2 a description of any compensation to be paid by the Financial Advisor to the Placement Agent and confirmation that any such compensation is the sole obligation of the Financial Advisor and not the Fund;

2.8.2.3 resumes of each officer of the Placement Agent and a statement that the officers possess a minimum of three (3) years of investment experience; and

2.8.2.4 a statement as to whether the Placement Agent or any of its affiliates are registered with the Securities and Exchange Commission (SEC), Financial Industry Regulatory Authority (FINRA) or Commodity Futures Trading Commission (CFTC) and the details of such registration.

2.8.3 In the event a Placement Agent is expected to receive compensation of any kind in connection with the Fund's investment with an Financial Advisor, the Executive Director will notify the Board in writing of the details of such an arrangement. The Executive Director will also notify the Board in the event that any Financial Advisor violates the Fund's provisions governing Placement Agents.

- 2.8.4 Financial Advisors will submit an annual statement to the Fund that they are in compliance policy and provided all representations required herein.

Article 3. **Scope of the Standards**

3.1 Application

These Standards shall apply to the fullest extent practicable to all persons associated with the Fund or the Board, including, without limitation, the Trustees, their alternates, and Employees, whether serving on a full-time, part-time, or intermittent basis and regardless of the amount of their compensation, and all Consultants to the Board, including accountants, actuaries, investment advisors, investment managers, custodians, Financial Advisors, brokers or intermediaries and attorneys.

3.2 Effective Date

These Standards shall take effect at the time of their adoption by the Board and shall apply to actions by Trustees, Employees, Consultants and Financial Advisors occurring thereafter. The prior Standards of Fiduciary Responsibility shall continue to apply to actions of such parties during the period of their prior effectiveness.

3.3 Definitions

As used in these Standards, unless the context clearly indicates an alternative construction, the following capitalized terms have the meanings set out below. Other capitalized terms are defined in the context in which they are used.

- 3.3.1 “**Trustee**” means a Member of the seven-person Retirement Board established pursuant to Article VI of the Pension Agreement. “**Trustee**” shall include the Honorary Board Member elected pursuant to paragraph (l)(d) of said Article VI and the alternate members elected or appointed pursuant to paragraph (l)(e) of said Article VI.
- 3.3.2 “**Employee**” shall include both officers and full and part-time employees of the Fund.
- 3.3.3 “**Consultant**” shall include and all types of other outside advisors, including attorneys, accountants, actuaries and auditors other than Financial Advisors.
- 3.3.4 “**Financial Advisor**” shall include the Investment Advisor (referred to in the IPS as the Investment Consultant), as referenced in the Trust at ¶4 and all types of investment managers, investment advisors, money managers, brokers, intermediaries, financial agents, fund managers and custodians, which the Fund is authorized to engage pursuant to the Trust. *See* Trust at ¶7.
- 3.3.5 “**Member(s) of the Fund**” or “**Member(s)**” shall take the meaning assigned in the Recitals above.

3.3.6 “**Placement Agents**” shall include intermediaries who raise capital for Financial Advisors from investors such as the Fund.

3.4 Distribution

A copy of these Standards shall be provided to each new Employee, Trustee, Consultant and Financial Advisor at the time his or her association with the Board commences.

Article 4. **Enforcement**

4.1 Sanctions

4.1.1 Violation of any one or more of the Standards set forth above shall be grounds for immediate termination of the relationship between the violator and the Fund and/or the Trustees. The power to terminate a party found to violate these standards carries with it the lesser power to suspend, publicly censure or privately reprimand the violator. If the violation is committed by a Trustee, the Board may recommend to the organization appointing or electing the Trustee that the offending party be expelled and a replacement appointed.

4.1.2 The sanctions provided herein are intended to supplement and not limit any other sanctions, rights or remedies available to the Trustees and as may be provided by applicable law.

4.1.3 The Board acknowledges that duly authorized, express, written contractual terms, if existing, may influence, effect, supersede or modify enforcement rights hereunder (e.g. contracts with some Financial Advisors may involve illiquid assets and may not be terminable).

4.2 Procedure

4.2.1 An allegation that a Trustee, Employee, Consultant or Financial Advisor has violated any one of these Standards may be initiated by a sworn written complaint made by any Member of the Fund or by a directive from the Chairman of the Board or from the Executive Director. Such complaint or directive shall be timely filed with the Executive Director, or, in the event of a conflict, with the person ordinarily responsible for the duties of the Executive Director in the event of his absence or disability. The complaint or directive shall state the facts upon which the violation is said to have occurred and the specific provisions of these Standards alleged to be violated. A complaint or directive will be deemed to be timely only if filed within sixty (60) days of the date on which the facts are first known to the complainant and in any event within two years of the alleged violation.

4.2.2 Any Trustee, Employee, Consultant or Financial Advisor who is the subject of a complaint or directive under the foregoing Section shall forthwith be provided a copy of the complaint or directive. Such individual shall be afforded an opportunity for a hearing before a hearing officer selected by the Trustees at which he or she

may be represented by counsel. The complaint or directive and all proceedings thereon shall be strictly confidential until the Trustees take final action thereon.

4.2.3 The hearing officer shall have full access to all resources available to the Trustees and may, with the approval of the Trustees, retain independent Consultants to assist him in the conduct of proceedings under this Article. Any person so retained shall be bound by the provisions of these Standards. The hearing officer shall make findings of fact and a recommendation to the Board concerning sanctions.

4.2.4 The Trustees shall accept the findings of the hearing officer if supported by the evidence and it shall thereafter consider his recommendations. The Trustees shall act as promptly as may be consistent with due deliberation.

4.3 Legal Action

In appropriate circumstances, as determined by the Trustees, the Fund may commence legal action in order to recover damages, seek equitable relief, or to obtain other legal remedies or relief with respect to any persons or entities to which these Standards apply, and with respect to any other persons and entities in accordance with applicable law.

Article 5. **Rules of Construction**

5.1 Effective Date

Any references to statutes shall be to those in effect on January 1, 2017.

5.2 Final Arbiter

Resort may be made to judicial case law or administrative agencies' interpretative materials only with respect to terms or phrases whose meaning is specifically incorporated from cited statutes or rules. The Trustees are, in any case, the final arbiter of the interpretation of these Standards.

5.3 Headings

The headings of the respective Articles and Sections are for organizational purposes only and shall not be used as tools of construction to aid in the interpretation of the words of these Standards.

5.4 Miscellaneous

Whenever these Standards would otherwise require disclosure by the Executive Director to him or herself, said disclosure shall be made to the Chairman of the Board.

EXHIBIT E

FTI Consulting Report to the Retirement Board of the MBTARF dated March 9, 2016 –
[www.mbtarf.com/Fund Communications](http://www.mbtarf.com/Fund%20Communications)

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