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May 25, 2016

VIA UPS AND EMAIL
Ms. Sarah Feinberg, FRA Administrator
Federal Railroad Administration
U.S. Department of Transportation
Attn: FRA Legal Department
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Re: Request for a Buy America Waiver for Low Cost Materials Related to the Catenary System for MTA LIRR North East Corridor Congestion Relief Project

Dear Administrator Feinberg:

The Long Island Rail Road Company ("LIRR"), a public benefit corporation of the State of New York and subsidiary of the Metropolitan Transportation Authority ("MTA"), hereby requests a non-availability waiver of the Buy America requirements set forth at 49 U.S.C §24405(a) from the Federal Railroad Administration ("FRA") to support material procurements for LIRR's North East Corridor ("NEC") Congestion Relief Project at Harold Interlocking (the "Harold Interlocking Project" or the "Project").

In August 2011, the FRA provided High-Speed Intercity Passenger Rail Program funding (the "FRA Grant") to the New York State Department of Transportation for the MTA as its subgrantee to undertake a comprehensive passenger rail congestion relief project at Harold Interlocking on the NEC mainline. Harold Interlocking located in Queens, New York, approximately four miles east of midtown Manhattan, serves as a vital connection for Amtrak, LIRR, and New Jersey Transit commuters traveling to and from New York Penn Station and a critical link in Amtrak's NEC service between Boston and New York City. The scope of work for the Harold Interlocking Project includes construction that will provide Amtrak with two conflict-free, grade-separated routes (the Westbound By-Pass and Eastbound Reroute through Harold Interlocking) for Amtrak's north-south bound service; new interlockings that will enable more efficient access to the existing Sunnyside Yard storage tracks; and a new Amtrak car washer. Other elements to be constructed include new catenary foundations, catenary structural steel frames, new tracks, bridges, signals and retaining walls.

The FRA Grant requires that the funding provided pursuant to the American Recovery and Reinvestment Act ("ARRA") be dispersed by September 30, 2017. Accordingly, in order to ensure both timely completion of Stage 3 and Stage 4 of the Project and compliance with the FRA Grant, LIRR must proceed without delay with the procurement of two components critical to the Project – the high-speed section insulator and conical coupling. Therefore, LIRR must purchase these two components so that they are invoiced no later than June 2017 in order to be dispensed by the

September 30, 2017 deadline. As a result, an FRA waiver would be required no later than October 1, 2016 to enable LIRR to timely procure the components.

I. Request for FRA Buy America Waiver

LIRR is requesting a Buy America non-availability waiver from the FRA for two components – the high-speed section insulator and the conical coupling, which are part of the Amtrak catenary system that supplies electrical power to the Amtrak's trains.

The high speed insulator and conical coupling must be purchased as part of Stage 3 and 4 of the NEC Harold Interlocking Project in order to ensure timely completion of the Project. As detailed below, the total dollar value of the high-speed section insulator and the conical coupling for which LIRR is requesting a waiver amounts to less than 0.73% of the overall value of the three contracts under which these components will be procured ($[redacted]M).

LIRR Commodity	Description	Qty.	Contract	Est. Total Value
85372AMT	High-Speed Section Insulator	15	Contract No. FHA03/ Force Account Harold for Amtrak/Stage 3	$[redacted]
		12	Contract No. FQA65/ Force Account Queens for Amtrak Loop Interlocking 65/Stage 3	
		3	Contract No./FHA04/ Force Account Harold for Amtrak for stage 4	
85370AMT	Conical Coupling	4	Contract No. FHA03/ Force Account Harold for Amtrak for Stage 3	$[redacted]
		3	Contract No. FHA04/ Force Account Harold for Amtrak for Stage 4	
Total Value of Components				$[redacted]

II. Market Non-Availability

LIRR has made a good faith effort to identify domestic sources for the high-speed section insulator and conical coupling through two procurements. Following those procurements, LIRR has concluded that there is currently no available domestic source for the two components.

A. High-Speed Section Insulator

The high-speed section insulator is a critical component for the Amtrak Rail Network. In order to keep trains moving, the section insulator divides the catenary system (including the contact wire) into sections. This allows power to be removed from one section of wire without disrupting another section and trains can operate outside of the "dead" wire area. Amtrak has already tested and approved the high-speed section insulator for their catenary system.

In January 2015, LIRR issued a competitive solicitation for, among other things, the high-speed section insulator which was advertised in the New York Post and New York State Contract Reporter. The solicitation was also sent to eighteen vendors known to LIRR as domestic sources that have either bid on LIRR contracts before and/or previously provided material to LIRR.

In response to that solicitation, LIRR received two responses: one from Mac Products Inc. ("Mac") and the other from Transtech of SC, Inc. ("Transtech"). Mac submitted a bid for other items but did not bid on the high-speed section insulator required by LIRR. Following submission of that bid, LIRR contacted Mac to ascertain why it did not bid on the high-speed section insulator. At that time, Mac advised LIRR that it was unable to comply with the Buy America requirements set forth in the solicitation.

Transtech also submitted a bid. That bid included a bid price for the high-speed section insulator; however, Transtech submitted a Buy America certification indicating that its product was not Buy America compliant. LIRR contacted Transtech regarding the certification and was informed that the high-speed section insulator is specially manufactured by Arthur Flury. Arthur Flury's manufacturing facilities are located in Switzerland. Accordingly, the high-speed section insulator from Transtech is not Buy America compliant, as it is not manufactured domestically.

LIRR has considered, as an alternative, the potential redesign of the high-speed section insulator using domestic material. However, an alternative is not feasible at this time because to qualify as an approved component for Amtrak, the re-designed high-speed section insulator would need to be provided to Amtrak at no cost and then placed into service on Amtrak non-revenue track and then undergo testing for a period of at least one year. The need for a one-year testing period before this component could be used in revenue service would create an overall delay in completion of the Project. This delay would almost certainly cause LIRR to lose the FRA Grant funds because LIRR would be unable to procure the high-speed section insulator and dispense those funds by the September 30, 2017 deadline set forth in the FRA Grant. As such, procurement of a redesigned and untested domestic high-speed section insulator is not a viable option at this time.

B. Conical Coupling

In November 2015, LIRR issued a solicitation seeking vendors to provide a conical coupling for the NEC Harold Interlocking Project. The solicitation was advertised in the New York Post and New York State Contract Reporter. The solicitation was also sent to five vendors known to LIRR as

domestic sources that have either bid on LIRR contracts before and/or previously provided material to LIRR.

In response to that solicitation, LIRR received only one response – from Transtech, the vendor that also bid on the high-speed section insulator. Transtech submitted a Buy America certification stating that its conical coupling is not Buy America compliant after which LIRR then contacted Transtech to discuss the Buy America certification. At that time, Transtech informed LIRR that like the high-speed section insulator, its conical coupling is manufactured in Switzerland by Arthur Flury. As such, Transtech is not able to provide a Buy America compliant conical coupling to LIRR for the NEC Harold Interlocking Project.

LIRR has been unable to identify a domestic alternative for the conical coupling. Notwithstanding that fact, even if a domestic alternative could be located today, the use of such a component would not be feasible at this time because to qualify as an approved component for Amtrak, a domestic component would need to be tested for a minimum of one-year in Amtrak territory prior to being placed into service. The need for a one-year testing period before a domestic component could be used in revenue service would create an overall delay in completion of the Project. Like the high-speed section insulator, this delay would almost certainly cause LIRR to lose the FRA Grant funds because LIRR would be unable to procure the conical coupling and dispense those funds by the September 30, 2017 deadline set forth in the FRA Grant. As such, procurement of a domestic conical coupling is not a viable option at this time.

III. Conclusion

Based upon the foregoing and in accordance with 49 U.S.C 24405(a), LIRR has made a good faith effort to identify domestic catenary materials. Accordingly, LIRR respectfully requests that the FRA issue a Buy America waiver for the two components critical to the NEC Harold Interlocking Project – the high-speed section insulator and the conical coupling.

Should you have any questions or require additional information, please feel free to contact me at (718) 725-2622.

Respectfully Submitted,

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Long Island Rail Road
Manager - Procurement East Side Access

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