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To: Katherine Fichter, MassDOT

Re: 2006 Daniels-Finegold MBTA Settlement Agreement

Dear Ms. Fichter:

I am a retired Superior Court judge. In the spring of 2007, a judge of the United States District Court appointed me as the Independent Monitor under the 2006 Daniels-Finegold MBTA ADA class action Settlement Agreement (Settlement). The Settlement imposes more than 200 obligations on the MBTA. Since 2007, I have worked with the MBTA and Plaintiffs on the implementation of both the letter and spirit of the Settlement. I meet regularly with MBTA management, plaintiffs and hold semi annual public meetings to obtain feedback from the public with regard to customer service. I also engage the services of subject matter experts to assist me in a variety of areas such as reviewing the performance of the internal monitoring program mandated by the Settlement. As a result of the hard work of many dedicated MBTA employees, I have witnessed significant progress in improving customer services as well as in-house policies, practices, and management oversight. As events over this past winter demonstrate, however, it is evident that much more needs to be done in terms of management modernization, improved efficiency and additional sources of revenue if the MBTA is to meet the needs of the citizens and business community of the greater Boston area. For the benefit of the Governor's ongoing review of the MBTA's management and approaches to State of Good Repair (SGR), I would like to highlight a few areas where further management attention and long-term funding is needed.

1. Management Continuity: Reviewing management practices over the past eight years has been complicated because management practices frequently change as new or acting General Managers have been appointed. Over the past eight years, I have worked with five General Managers or Acting General Managers. A sixth General Manager takes over in a few days. This constant turnover at the General Manager level needs to stop if the MBTA is to achieve long-term management improvements.

2. Management Consultant: I recommend that an outside consulting firm be brought in to review the MBTA's management practices and to make recommendations for improvements.

3. Moving to Electronic Records: Throughout the MBTA there is an over-reliance on paper records. Consequently, real time monitoring of issues by management can be exceedingly difficult. One specific example are the bus circle checks that bus operators supposedly must

conduct prior to checking the bus out of the yard. Among the items bus operators are supposed to review are the functionality of headlights, turn signals, destination/route signs, PA/VMS system, front door kneeler, ramp, flip seats, and wheeled mobility device securement straps. Operators then supposedly fill out paper bus cards to indicate that the circle check was complete or which items need repair. Garage observations indicate that circle checks do not always occur and that the paper cards may or may not be turned in, let alone entered into pertinent databases to produce work / part orders. Observations of buses indicate that buses may operate for days with failed headlights. Failed or partially dead destination/route signs as well as broken/missing bumpers and side panels may go months without replacement. If one assumes that a bus card identified each issue each time that the bus pulled out then the data should be triggering repairs, assuming the data was entered. However, there is also a superintendent that is generally present during pullouts. That individual presumably could also identify major failures such as broken headlights or bumpers. Perhaps some superintendents do but here again, it is a paper record that is subject to loss or improper data intake. The MBTA's failure to leave the paper world behind ultimately impacts riders' experiences negatively and makes it impossible to evaluate vehicle maintenance.

4. Complaint Resolution: Based on my review as well as community feedback, the MBTA, while making huge strides, still lacks a modern closed loop complaint intake and resolution system. Assuming that the intake is done properly, there is substantial likelihood that a complaint distributed to a particular department may not receive adequate follow-up. Several years ago the MBTA adopted a "95 in 5" policy requiring that 95% of the customer complaints be followed up with an investigation and a response to the customer within five days. In practice, this policy often results in little more than letting the customer know that their complaint has been investigated and that appropriate action will be taken. However, all too often, nothing more is done beyond identifying the subject of the complaint and informing the customer that appropriate action will be taken. Except for complaints relating to accessibility, there is no formal tracking or oversight of subsequent investigations and disciplinary actions that may follow. An outside consultant recently studied the complaint resolution system and has made recommendations for improvement.

5. Disconnect between Departments: I am pleased with the progress made with the Vehicle Engineering Department in terms of developing and hiring qualified staff and consultants to manage vehicle design and procurements. The latest hybrid buses are a vast improvement and the ongoing design process for OL/RL and GL Type 9 cars will produce cars that are more user friendly than all previous cars. This success would not have occurred without a strong and committed staff. However, Vehicle Engineering essentially becomes disconnected from the new vehicle once the warranty period ends and the vehicle is maintained by Operations. While Vehicle Engineering may be asked to get involved in a major issue, they lack the staff and ability to verify that Operations is following the proper maintenance schedule specified by the vehicle or subsystem component manufacturer. More troubling is the inability to track or monitor individual component failure trends to better inform future vehicle designs and specifications. The exception is when a major component such as a traction motor, door, or ramp system fails in quantities such that Operations asks for assistance. This disconnect, similar to the above example of circle check failures and reliance on paper, partly explains why \$600,000 buses can, in a matter of a few years, look and sound as many MBTA buses do today.

6. Failure to Coordinate with Local Communities and Agencies: Similarly, there is often a failure to coordinate between the MBTA and other entities such as MassDOT or with municipalities such as the City of Boston. Let me provide two examples: 1. Commonwealth Avenue

reconstruction where there was an implicit assumption that the MBTA would pay for new Green Line stations within BU's campus yet did not assume the stations had to be accessible. Additional phases of Commonwealth Avenue up to Boston College are in planning by Boston yet coordination with the MBTA is not apparent. 2. Article 80 large project reviews that do not provide mitigation or improvements to nearby inaccessible stations or entrances. The BRA's approval of the redevelopment of 59 Temple Place into the Godfried Hotel occurs directly over a stair only entrance to Downtown Crossing and major transfer point to the Silver Line. What is more the entrance is opposite that of the Boston Center for Independent Living, a named plaintiff in the 2006 Settlement. The BRA's recent approval of a new high rise at Christian Science Plaza was a huge missed opportunity to partly fund accessibility at Symphony Station. Both of these projects underwent substantial City review as well as EOE MEPA review yet MBTA upgrades were not required. That Boston and MassDOT's lack of coordination with MBTA needs should continue is detrimental to the MBTA's goal of becoming 100% accessible. Yet it also seems relatively easy to solve with discussions involving the Mayor, MassDOT & EOE.

7. Overhauls and Replacement Plans: Prior to the signing of the Settlement and during my initial year as Independent Monitor, MBTA senior staff talked of developing Overhauls and Replacement Plans for buses, rail cars and other systems with finite lifespans such as elevators, escalators, and power substations. Like bridges, vehicles as well as elevators and escalators have windows of time where overhauls are needed to ensure that the useful lifespan is achieved prior to replacement. Unfortunately, during my eight year tenure I have yet to see overhauls and replacement units budgeted for in a substantial manner. Aside from rolling stock concerns, I am most concerned at the pace of progress for elevators and escalators that are relied upon by hundreds of thousands of riders each day. While the MBTA has completed most of the redundant elevators initially specified within the Settlement, there are at least another 25 elevators needed to achieve a modicum of resiliency at major MBTA stations and eliminate obvious gaps in accessibility. Beyond these elevators, a 2012 review by VTX & Kone identified that the MBTA faces a growing backlog of more than 70 elevators over 20 years old and a staggering 100 or more escalators over 20 years ago. Worse still, many of these escalators do not have modern safety features. Despite the MBTA having an initial set of replacement elevators in design, there is no 10-20 year overhaul and replacement plan with funding set-aside for the MBTA's 350+ elevators and escalators. And even if there is a funded plan, the MBTA's inability to fast track design, implement design/build or consider a long-term concession contract to put the replacement obligation onto the elevator / escalator maintenance firm, the current favorable reliability statistics will be difficult to maintain in the long-term.

8. Achieving 100% Accessibility: In 2011, then General Manager Rich Davey recommitted the MBTA to making the MBTA 100% Accessible by 2021. Given the amount of work that needs to be done to accomplish this goal, 2021 is an unrealistic timetable without additional sources of revenue. Although some stations such as Government Center, will become accessible over the next few years, there are no plans for making other stations accessible including over 30 Green Line and 40 Commuter Rail stations, Bowdoin, Boylston, Symphony and Wollaston subway stations, and over 100 trolleys and 250 commuter rail coaches. Also, major stations such as Davis, JFK/UMASS, NEMC, Oak Grove and State have inaccessible major entrances, and ferries / docks remain inaccessible. Finally, I am aware that SWA intends to survey all MBTA stations through the Plan for Accessible Transportation Infrastructure (PATI) program and prioritize accessibility needs. People in general like "prioritized plans" but without a sustained 10+ year budget to address what is likely over \$2 billion dollars worth of inaccessible stations, I do not see how the MBTA will become fully accessible by 2021.

It is my hope that my observations are of benefit for the Governor's Commission. Achieving a fully accessible MBTA and maintaining a state of good repair go hand in hand and will benefit MBTA riders for decades to come.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ **Patrick J. King**

Hon. Patrick J. King (Ret.)

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