Testimony of Taxi and Limousine Commission
Charles R. Fraser, General Counsel

City Council Transportation Committee
January 14, 2009 1PM

Intro. 880 to amend the Administrative Code of the City of New York, creating a bill of rights for for-hire vehicle passengers.

Good afternoon Chairman Liu and members of the Transportation Committee. My name is Charles Fraser, and I am the General Counsel for the Taxi and Limousine Commission. Thank you for the opportunity to speak to you today about the proposed amendment to the Administrative Code to create a bill of rights for for-hire vehicle passengers.

As an agency that licenses 50,000 vehicles and 100,000 drivers, who collectively transport 1.2 million passengers a day, we agree that a clearly stated passenger bill of rights is an important tool. The TLC has maintained a passenger bill of rights in the yellow taxi industry for many years. In fact, we are nearing the conclusion of the development of a major revision of our for-hire vehicle rules that will be accompanied by the promulgation of a livery passengers' bill of rights. We expect to complete that process in the next two or three months.

Given that the taxi passengers' bill of rights is not statutory, and given our current work on a comparable livery passengers' bill of rights, we do not think that legislating a bill of rights for for-hire vehicle passengers is the best approach. The TLC bill of rights, being rooted in TLC rules, carries with it administrative penalties needed to enforce it. And being rooted in TLC rules, our bill of rights can be revised and updated without further legislative action. The TLC welcomes the opportunity to work with the Council to finalize and promulgate a livery passenger bill of rights.

Thank you for your time, and I would be glad to try to answer any questions you might have.

Testimony of Taxi and Limousine Commission
Ira Goldstein Chief of Staff

City Council Transportation Committee
January 14, 2009 1PM

Intro. 705 to amend the Administrative Code of the City of New York to remove restrictions on a taxicab operator's choice of a credit/debit card processor.

Good afternoon Chairman Liu and members of the Transportation Committee. My name is Ira Goldstein, and I am the Chief of Staff of the New York City Taxi and Limousine Commission. Thank you for the opportunity to speak to you today about the proposed amendment to the administrative code to remove the restrictions on a taxicab operator's choice of a credit/debit card processor. I would like to again provide a brief history of the project that includes the credit card initiative. The credit card system in taxicabs is part of a larger project known as the Taxicab Passenger Enhancement Program (T-PEP). In addition to the acceptance of credit cards, T-PEP includes the electronic collection of trip data, allows every taxicab available to receive text messages regarding important information that needs to be shared quickly, facilitates recovery of lost property, and delivers information, which includes a digital map, to passengers via a screen located in the rear passenger compartment of the cab. Medallion owners contract with one of three approved vendors who provide a completely integrated or "all-inclusive" system.

The actual implementation of the T-PEP program involved the development of a truly custom-made and fully-integrated mobile system available to taxicab medallion owners through one of three approved vendors. The actual process from concept to complete implementation, which was just achieved this past December, took just under four years. During this time the TLC performed the necessary due diligence and procurement steps to ensure the final product meets the needs of all stakeholders. In developing a business model and subsequent Request for Proposals (RFP), the TLC sought extensive public and industry input through the issuance of a Request for Information (RFI); a "Technology Summit" open to interested vendors and taxi industry representatives; and focus groups with passengers and drivers. A RFP was issued in March 2005 and the TLC awarded contracts to four vendors of which three are still active. The TLC and each vendor signed detailed contracts which set the minimum technical and service level requirements along with maximum prices that could be charged. Through these contracts, the TLC was able to leverage the entire medallion taxicab industry and its 13,000-plus vehicles to ensure that drivers, owners and passengers received maximum benefits and the highest quality of service. To further reduce the cost of the system, the TLC authorized paid media on the rear seat passenger screens.

The security of the credit card transactions in a mobile environment was of particular concern to the TLC. In addition, drivers indicated that they did not want to wait the estimated 48-72 hours for credit-card transactions to clear and wanted cash paid for credit card payments at the end of their shift. For these reasons, the TLC paid special attention to the credit card systems to ensure that the driver and owner could not only easily operate the system, but be able to trust the accuracy and security of the handling of credit card transactions. Built into the program were mechanisms to ensure that drivers were able to receive cash at the end of each shift. Currently about 20% of all trips are paid by credit card.

As the TLC developed the overall structure of the program, it was clear that all parties involved would have some burden: The passengers were receiving these enhancements as part of a 26% fare increase; the medallion owners were required to install and maintain the systems in the vehicle; fleet owners and agents were required to pay drivers cash at the end of the shift; and drivers were paying for credit card transaction costs associated with their shift. A critical component of this program is the fully-integrated "turn-key" solution each vendor is required to offer. Upon contract each vendor provides and installs the equipment along with a mechanism to maintain the systems; the wireless connections necessary to conduct credit card transactions, to update the content on the passenger screens, receive and send driver-based text messages, and collect necessary trip information using sophisticated GPS equipment that also updates taxicab location on the passenger screen; and credit card processing to ensure a speedy transaction confirmation that conforms to all Payment Card Industry security standards (PCI).

Local Law 705 seeks to "rewrite" the years of work by the TLC. While the language of the bill is confusing and difficult to follow, it does appear at its core to address the maximum 5% fee being charged to drivers who receive cash at the end of each shift. This fee is a charge that approximately covers the cost associated with processing a credit card within a taxicab. The "processing" not only includes confirmation of the credit card transaction, but also includes the wireless line necessary to complete the transaction, the security of both the hardware and wireless services; the capabilities of performing credit card transactions with no cellular signal; the payment of cash at the end of a shift; and any accounting and reconciliation, which can be quite extensive given the multitudes of credit card rates today. The language of the bill appears to only address the charges associated with being a "merchant," which are limited to the confirmation of a credit card transaction and back office processing. While it can be argued a 5% charge for this service may seem high, the TLC believes that that actual services being provided are absolutely worth the 5% charge.

As for saving the drivers money by allowing them to arrange for their own merchant account, the bill simply ignores the other services that a taxicab will still need to provide. The driver will now have to pay for wireless services and the lease or purchase of a credit card machine at his/her own expense; they will have to pay for their new merchant processor a percentage of each credit card transaction fee, they will lose the protection of the "store forward" capability as well as the TLC-negotiated preferential credit card rate, and they will no longer be able to "cash out" at the end of the shift. The passenger will also lose out on many conveniences, including the PIM technology which allows for the popular suggested tipping function as well as the speed of all transactions allowing for the passenger to just tap and go. The additional confusion that would ensue with different drivers having different merchant accounts for drivers, agents, fleets and vendors would turn a clear "turn-key" solution into an almost unsolvable puzzle. Further, the implementation of a program based on the language in the bill would require the vendors to fundamentally alter the contracts with their merchant banks as well as with the City and with the medallion owners, which raises constitutional concerns.

We believe that the proposed legislation would not assist the taxicab industry, and would, in fact, cost drivers money. The Committee should be aware that the TLC has begun taking steps to begin exploring the second generation of T-PEP. In our judgment, the T-PEP program has been a tremendous success in New York, and it is being copied in several cities around the country. Having proved that our concept of T-PEP is serviceable, we are working on a Request for Information (RFI) seeking ways to improve on the first generation of T-PEP. In the meantime, changing the existing contracts, and our vendors' now well-established business practices, would be detrimental to the driver, the owners, the vendors and, ultimately, the passengers -- in other words, the entire industry.

Thank you for your time this afternoon.

Testimony of Ed Ott, Executive Director of the New York City Central Labor Council

Before the City Council Committee on Transportation
January 14, 2009

In Support of Proposed Intro. 705

In relation to in relation to removing restrictions on a taxicab operator's choice of a credit/debit card processor

Good Afternoon Chairman Liu and members of the Committee on Transportation. My name is Ed Ott and I am the Executive Director of the New York City Central Labor Council/AFL-CIO, a federation of 400 affiliated local unions representing one-and-a-half million working men and women in New York City. I am testifying today in strong support of proposed Intro. 705 to remove restrictions on a taxicab operator's choice of a credit/debit card processor.

Drivers lose 5 percent of their income on every ride when credit cards are used.

Intro 705 would let every individual driver become the account holder. So the monies would go directly to drivers' accounts and drivers would not lose the 5% they currently lose on even the tip and toll. Even though banks typically charge 1.5% processing fee, NYC taxi drivers also pay surcharges to the garage or broker they lease the taxi and medallion from as well as to the GPS vendor who supply the credit card machines. The 5% loss is on top of the extra costs drivers are paying for the machines and higher leases.

The Council bill would overturn the Taxi and Limousine Commission's regulation which lets only medallion owners become the account holder. We have had ongoing discussions for over a year now, and we think this is the best solution. Several Council members have already signed on to the bill, and I would like to thank in particular, Councilmember Weprin and Councilmember Liu for their leadership on this. NYTWA is also seeking pre-authorization for all flat fares and a sign informing passengers that they have to pay the driver even if the machine fails.

The 5% is a big cut out of our income, especially in this economy where there are fewer passengers. We take the risks, pay the lease and do the work for 12-hour shifts. Why should the garages steal our income.

New York Taxi Workers Alliance

Union of NYC Taxi Drivers! Member of NYC Central Labor Council

37 East 28th Street, Suite #302 New York, New York 10016

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January 14, 2009

Written Statement for Transportation Committee Hearing on Intro 705

On behalf of the New York Taxi Workers, I am writing to express our support of Intro 705 and urge the City Council to pass the legislation as soon as possible.

What Intro 705 Means To Us....

- Our Money In Our Hands
- End to Suffering of 5% Loss
- Build Our Own Financial Portfolio (credit line with bank and accrue interest)

Why Intro 705 is Important....

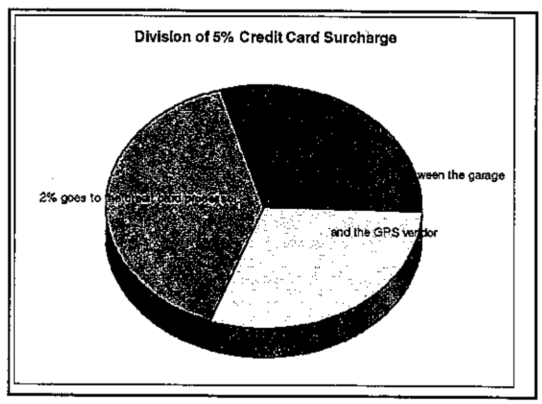
- Rewards Drivers' Labor
- Respects Drivers' Financial Rights
- Brings Fairness to an otherwise inequitable system where the risks are socialized and the profits privatized

Under the current credit card system, taxi drivers continue to suffer great economic hardship due to the 5% surcharge, dependency on taxi garages/brokers to forward the monies, uncertainty and delays in getting reimbursed, lack of protection against charge backs or fare beating (card is declined and rider refuses to pay in cash), loss of time from slow signals and system breakdowns.

While credit cards have been touted to increase revenue and clientele for businesses, the TLC's version is a system of more work for less pay. On a good day, it's a wage cut. At the core, it's a punishment. Drivers are not guaranteed income, forced to take a wage cut on the fares that they do receive, and take all the risks with the system's functionality.

Fare	How much income I lose on 5% surcharge
$10	-$ 0.50
$15	- $0.75
$20	-$1.00
$50	-$2.50

Due to the delays in recovering the money, drivers are constantly short on cash in a cash-ruled industry. Cash shortages have meant falling behind on rent and other living expenses because the money you once saw just isn't there. Less cash means more trips to gas up throughout a 12-hour shift. More work, less pay.



Besides the overwhelming economic hardships, the current set-up of forced dependency on the garage/broker has also meant further tilting of the balance of power against the drivers' interests. Under the 20+year leasing system, this is the first time that garages/brokers are profiting off drivers' income directly, outside of the leases they collect. Drivers have no health insurance, retirement, paid-time off or the basic right to collective bargaining under leasing. The sole advantage of no take from the meter for the bosses is also now gone. By losing 5% on the tip and toll, drivers are even paying for the cost of the actual trip, beyond the cost of operations. The current set-up punishes rather than rewards. It furthers the inequities rather than providing justice for workers.

There are three fundamental problems with the existing set-up:

Drivers lack any financial control or benefit as they cannot become the account holder: cannot take advantage of lower rates or gain interest on the money, have no access to the documentation (if the garage/broker says the transaction was cancelled, the driver has no way to verify), and have no guarantee of retrieving the monies at all or in a timely frame.

A public environment created to scapegoat drivers for any problems with the technology. As a result, the riding public lack's information ranging from instructions on completing the transaction to their obligation to pay the driver in cash if the signal fails or the card is declined.

Malfunctions with the technology particularly since the GPS, meter, passenger information monitor and credit card reader are interconnected. When one component fails, the reader is out.

Why 705

While Intro 705 does not address all of the problems with the credit card program, particularly the impact of mechanical problems, its restores economic benefits and fairness to a system that is now predicated on punishing the driver. 705 may not be the panacea, but it is a remedy to the most pressing factor: getting the money directly and the 5% loss.

Amendments

To add to the strength of the Intro, we urge the Council to enact the following amendments:

1. **Require signs** in all taxis to protect drivers against fare beating:
   "Failure to pay the driver is theft of service prosecutable under the law. In case of transaction failure due to any reason, you are legally required to compensate the driver in cash."

2. **Allow the driver to swipe the card at the beginning of the trip for out-of-town flat fares to protect against signal failures and over-the-limit credit cards.** In a recent survey of 130 drivers, one out of three drivers reported loss of income because of passenger refusal to pay in cash when the signal failed or the card was declined. The loss is of course greater on out-of-town fares which are generally longer and the driver cannot pick-up a return passenger.

3. **Close the loopholes in the existing TLC lease cap regulations** to protect drivers against increases by garages/brokers seeking to compensate for the loss of their share of the 5% revenue.
   - *Weekly Lease Shift: If a driver leases a taxicab for six consecutive shifts, the garage or broker cannot charge above the weekly maximum cap of $667.*
   - *Medallion Only Lease: All drivers who enter into contracts to purchase the vehicle and lease the medallion cannot be charged medallion costs above $800. (For example, cannot be charged for the Tax Stamp (a medallion cost) separate and / or above the $800.)*

The passage of Intro 705 with the addition of these three amendments would end an unfair, unjust and punitive system that guts the income of a workforce of over 40,000-licensed taxi drivers. We urge you to pass the legislation immediately. Thank you.

Respectfully Submitted:

Bhairavi Desai, Executive Director
New York Taxi Workers Alliance

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Why We Support Intro 705 And Need Additional Amendments

PROBLEM: The System Now	SOLUTION: Intro 705
Drivers Are Not Guaranteed Income and Lose 5% on Each Transaction	**Drivers Empowered** to Process Transaction Directly Through Their Own Bank/Credit Union; so money goes directly to them and no loss of "service fees" to the garage/broker or vendor
Drivers Suffer Delays in Retrieving Funds	**Drivers Have Virtual Immediate Access** to Their Own Incomes in Their Own Accounts
Drivers Unprotected Against Rise in Fare Beatings due to Declined Transactions and Rider Refusal To Pay in Cash	**Amend Existing Intro: Drivers Protected** Against Fare Beatings by Requiring Signs in all Taxis: *"Failure to pay the driver is theft of service prosecutable under the law. In case of transaction failure due to any reason, you are legally required to compensate the driver in cash."*
Drivers Left to Mercy of Malfunctioning Technology, especially on out-of-town fares	**Amend Existing Intro: Drivers' Secured** Through Payment Upfront for Out-of-Town Flat Fares to Protect Against Signal Failures and Over-the-limit Credit Cards
Drivers Suffer Higher Operating Expenses as technology costs are passed on to them through higher leases	**Amend Existing Intro**: Drivers Protected Against Violations of TLC Lease Cap Regulations by Closing Loopholes: *(We are not looking through this process to lower the caps, just close the loop holes in the definitions.)* ➢ *Weekly Lease Shift: If a driver leases a taxicab for six consecutive shifts, the garage or broker cannot charge above the weekly maximum cap of $667.* ➢ *Medallion Only Lease: All drivers who enter into contracts to purchase the vehicle and lease the medallion cannot be charged medallion costs above $800. (For example, cannot be charged for the Tax Stamp (a medallion cost) separate and / or above the $800.)*

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Incident Reports from the NYTWA GPS Hotline

NYTWA has created a hotline which drivers can call to report any problems they are having with the GPS systems. A statistical sound sample of 131 reported incidents revealed the following:

- 50% of incidents were related to system malfunctions: locked up screens, log-in times of over an hour, repeated breakdowns that required drivers to spend hours of their time trekking to repair shops, etc.

- 33% of incidents led to nonpayment of fares due to credit card system failures, with passengers either having no cash or refusing to pay cash after their credit cards had failed

- 21% of incidents were caused by the credit card system losing its signal

- 18% of incidents led to conflict with passengers over credit cards

- 12% of incidents involved credit card reimbursement problems, ranging from single unpaid fares to several months and hundreds of dollars in credit card transactions for which drivers had not received reimbursement

Keep in mind that this is just a small sample of the drivers who have had issues with the GPS systems. Even among the drivers who reported incidents, there are likely many more incidents that they did not report.

What this does tell us is that the GPS systems are causing economic hardship to drivers in real and specific ways. Intro 705 would address one aspect of that hardship, which is why we appeal to you to help ensure it gives drivers some of the control over their livelihood that they deserve.

NEW YORK STATE FEDERATION OF TAXI DRIVERS INC.

January 14, 2009

Statement on Intro. 880 "Passenger's Bill of Rights"

Good afternoon, Council members and committee members.

The New York State Federation of Taxi Drivers, Inc. (NYSFTD) is a non-profit trade organization founded in November of 1998. Founded by a group of concerned Industry Stakeholders and Livery Cab drivers, The purpose of the Federation of Taxi Drivers is to promote and further the common interests and goals of the people who drive cabs for a living be it yellow, livery, black-car or any other type of For-hired vehicle in the State of New York and especially the riding public. Throughout the years we have work closely with city and state official to accomplish these goals.

While we at the New York State Federation of Taxi Drivers don't have any objection to the passage of Intro: 880 the "Passenger's Bill of Rights", we have recently notice an increase in attacks against taxi and livery drivers in the city and we must do something to protect the rights of taxi and livery drivers, for this reason the drivers should also be protected under this Intro. The Federation is asking this committee and our city council that within the "Passenger's Bill of Rights" it should also be introduce a notice has to the legal protection of a Taxi or Livery Driver. A warning in relations to New York State penal law 60.07 where any one convicted of crimes against a taxi or livery driver could be sentence to an additional three (3) to five (5) years in prison for such offense, let anyone seating in a livery vehicle thinking of hurting or attacking a driver know that doing so would be a felony under the laws of New York State. While this warning will not prevent an attack against a driver, more likely it will give a driver more confident to trust more passengers, be able to take a passenger to any destination, knowing that they are also protected under this "Passenger's Bill of Rights".

We must realize that taxi and livery drivers are human being, have families and are also voting resident of such a fine city, let's make the drivers feel proud of the job they do. We are willing to work with any agency or public official for the implementation of rules and regulation that is fair and balance to the public and to the drivers has well.

Thank You,

Franchie Muniz
Executive Director

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For a Better Industry

Testimony of Jesse Davis, President and Chief Technology Officer of Creative Mobile Technologies

Before the New York City Council Transportation Committee Regarding Intro 705

January 14, 2009

Good afternoon Mr. Chair and distinguished members of the Council. My name is Jesse Davis and I am President and Chief Technology Officer of Creative Mobile Technologies, one of the Contractor Agents approved by the Taxi and Limousine Commission for its Taxicab Passenger Enhancement Program which includes credit card acceptance, GPS-powered passenger maps, electronic trip sheets, text messaging and media content. CMT provides its customers with upwards of $6,000 worth of software licensing and equipment for free.

The intention of Intro 705 is unclear, but as written, it is ambiguous and highly problematic. This legislation may violate Federal Reserve Bank regulations that set clear rules as to who is able to contract with a credit card processor. If enacted, it may also substantially impair as well as abrogate terms of existing contracts that were negotiated in good faith between the TLC and the vendors, between the vendors and their processors and between the vendors and their customers. These contracts were approved by the Law Department of the City of New York, and the parties have relied upon these contracts in developing their business models. Moreover, from a public policy perspective, this bill offers no benefit to owners, drivers or the riding public.

Intro 705 seeks to remove what it refers to as restrictions on a taxicab operator's choice of a "merchant bank provider" where in paragraph 19-537 the bill defines merchant bank provider as " an entity approved by the New York state banking department and/or the comptroller of the currency of the United States to provide credit/debit card processing services and authorized by the commission to provide such services to enable the in-cab payment of taxicab fares, surcharges, tolls and tips." Taxi operators already have this choice. In fact, they have three choices. When they choose my company, CMT, they are choosing Bank of America Merchant Services, the nation's largest processor. When they choose either of the two other companies, they are choosing the merchant bank provider of that company as each provides its own credit/debit card processing services. I believe the TLC envisioned this kind of healthy competition among vendors as a significant part of the program's foundation. I can honestly say that this competition among vendors has driven all of us to deliver a better, more affordable product for the City of New York, our customers and the riding public.

The City provided in its standard contract that each vendor would contract with a single credit card processor – and that is currently the case. This bill effectively seeks to rewrite existing contracts. To be in compliance with this bill vendors would be forced to violate exclusive contracts with their own credit card processors. Its implications on the contracts that exist between the City of New York and the vendors is equally troubling and would likely have a chilling effect on all future contracts with the City as the sanctity of contract would be lost.

I would like to also point out that currently a taxi driver, who is not also an owner or a medallion, does not have any contractual relationships with a vendor or with the merchant bank provider of the vendor. Both the "b" and "c'" provisions of Intro 705 seem to rely entirely upon a taxi driver's ability to establish a contractual relationship with a merchant account provider, but to do so would require the driver to become a merchant account holder. In this regard the bill is fundamentally flawed. Drivers who lease vehicles from owners cannot normally become a merchant account holder consistent with the Federal Reserve regulations and state banking requirements that require merchant account holders to be legal business entities and forbid individuals from becoming merchant holders. Therefore, without becoming an owner the driver cannot become a merchant account holder and therefore cannot normally choose a merchant bank provider any more than a customer in a store can choose one.

If this bill were to be implemented, the very real world practical results of this bill would be to ultimately force the three vendors to enter into contractual relationships with multiple merchant bank providers, and in doing so, may bankrupt this entire program. Let me explain:

> CMT's business model, which was largely informed by the City's requirements for this program, did not anticipate the need to support multiple credit card processors. Our goal was to negotiate the highest level of service at the lowest possible price, something we could only attain by contracting with a single entity that provides all the acquiring and processing services and eliminating the middlemen and ISOs that are traditionally found in merchant relationships. For CMT and for CMT's customers Bank of America Merchant Services, the largest merchant services provider in the country, is both the Acquirer and Processor.
>
> Being forced to change our business model to accommodate an unbounded number of merchant bank providers would present an extraordinary technical and financial burden to CMT, and it would increase costs and reduce service levels to CMT customers. To provide credit/debit card processing services CMT needed to develop our in-vehicle point of sale device and out secure data network. CMT needed to purchase and install a certified authorization and settlement payment switch that securely routes authorizations and settlement instructions between the CMT network and the processor's network. CMT had to contract with both an Acquirer and Processor to provide merchant services to our customers and CMT had to lease and install point-to-point secure data circuits that connect the CMT payment switch with our processor's network. Lastly CMT had to acquire and maintain a PCI Level I certification on our entire end-to-end solution. Although CMT's payment switch could support connections with multiple processors, it certainly cannot support connections to all of them. For each connection that is supported, there is a significant upfront and ongoing licensing cost for each one, an upfront cost that could be in the \$50k - \$75k range and ongoing annual cost that is 15-18% of the upfront cost. Each new connector requires a dedicated

Testimony of Jesse Davis, President and Chief Technology Officer of Creative Mobile Technologies

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communications circuit with backup, a one-time installation cost in the $3k - $5k range and a recurring monthly charge in the $1,500 - $2,500 range.

In order to provide CMT customers with the highest levels of service, CMT had Bank of America develop a customized credit/debit transaction reconciliation and reporting interface and CMT developed a suite of customized reporting and reconciliation processes that allow even our most technically unsophisticated customer to easily manage their credit/debit business. For CMT to maintain same levels of service, we would have to develop and implement similar custom interfaces with each of the merchant bank providers providing that each of the merchant bank providers can even support the technical requirements.

The Taxicab Passenger Enhancement Program, also known as T-PEP, has been a resounding success. Over the last 12 months, CMT has recorded over 71 million trips of which 10 million were credit card fares. The average credit card metered fare has gone from $20.32 to $14.71 today. CMT's average time for credit card authorization is under 2.4 seconds. CMT's transaction process is so secure there has not been a single case of compromised credit card data and in fact CMT was recognized for our swift adoption of the Visa USA® PCI Compliance Acceleration Program (CAP), for our dedication to ensuring our customer's cardholder data is protected and for maintaining the integrity of the payments industry with our continued focus on data security.

What all this means is that taxi passengers have become more and more confident in using credit cards to pay for their fares. And as the program took off, taxis saw more passengers and drivers saw higher tips. Other aspects of the program including text messaging, media content and electronic trip sheets have improved the riding experience and the business of operating taxicabs.

My company has invested millions of dollars into delivering the City's vision, and we believe we have exceeded our contractual obligations by providing an ever-evolving state-of-the-art product for taxi passengers and the taxi industry. Now, this bill suggests that the open bidding process that gave birth to this program and the business models that all vendors crafted to fit this program, can be suddenly and drastically changed. That is wrong. For these reasons, I oppose this bill.

Thank you for your time. I would be happy to answer any questions you may have.

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President: Ronald Sherman

Testimony of Peter M. Mazer

General Counsel, Metropolitan Taxicab Board of Trade

Before the City Council Transportation Committee Regarding Intros. 705 and 880

January 14, 2009

Good afternoon, Chairman Liu and members of the City Council Transportation Committee. My name is Peter Mazer, and I am General Counsel to the Metropolitan Taxicab Board of Trade (MTBOT), a trade association representing 27 fleet owners who operate more than 3,500 taxicabs that serve the public 24 hours a day, seven days a week, 365 days a year. Prior to commencing my service at MTBOT, I served as General Counsel to the New York City Taxi and Limousine Commission, and also worked the past four years as an attorney representing owners, drivers and businesses in the taxicab and for hire industries.

Today I wish to speak on Intro. No. 705, and particularly how this Bill will effect taxicab owners who have entered into contractual relationships with one of the three taxicab technology service providers approved by the Taxi and Limousine Commission (TLC). Each medallion owner, from an individual owner who drives his or her own vehicle exclusively, to a fleet owner who dispatches vehicles on a shift basis to different drivers, is required to equip the taxicab with an approved taxicab technology system[1] that complies with TLC specifications. This equipment must be sourced from an entity approved by the TLC as a taxicab technology service provider,[2] a

[1] TLC Rule 1-11(f).
[2] TLC Rule 3-03(e)(6).

vendor that has contracted with the TLC to provide this service. Contracts between the TLC and the three currently approved vendors are in full force and effect today.

In order to comply with TLC requirements, each medallion owner or its agent must enter into a contract with one of these three providers. The standard form of contract between the medallion owner and the vendor has been approved by the Commission, and must be used by the parties. These agreements are also currently in full force and effect. The agreements provide that only medallion owners or their authorized agents, who must be licensed by the TLC, may be parties to the agreement with the taxicab technology service provider.

The standard agreement requires that the taxicab technology service provider provide credit card processing services to the medallion owner. The owner and vendor are required under the terms of this agreement to enter into a merchant agreement.[3] Fees that may be charged are limited by this Agreement.

Each of these contracts, negotiated between the City of New York and the taxi technology service providers, set forth the rights and responsibilities of the owners, who are required by the Commission to install and maintain mandated equipment. These contracts have been relied upon by the owners, who have invested money and other resources, such as staff, to comply with TLC rules. The medallion owners, as merchants, are responsible for all merchant fees, bear the risk of any charge-back, and are required to wait for reimbursement from credit card processors, just as any other merchant.

Intro. No. 705 would significantly alter the contractual relationship between the owner and taxicab technology service provider, as well as the relationship between these providers and the TLC, by granting a driver the complete freedom to select an approved merchant bank provider. This change would make the driver the merchant, although the driver has no contractual or legal obligation to the TLC to equip or maintain a taxicab with a technology system. The TLC has recognized that credit card processors will typically not permit more than one merchant account to exist for a single medallion; however, if this bill is enacted, each

[3] Standard TLC Owner-Contractor Contract Form, sec. 5.3.

medallion, particularly one operated by a different driver each day, could have an unlimited number of merchant accounts assigned to it. This is unlawful, violates the terms of existing agreements, is technologically unfeasible, and provides no discernible benefit to either the drivers or the riding public.

The United States constitution limits government interference impairing the obligation of contracts. There are existing contracts between vendors and medallion owners, and contracts between vendors and the City that would be significantly impaired by this law. Legislation significantly impairing contracts is permitted only where there is an emergency or other compelling general public policy need which must be addressed. In this case, such a compelling need is not evident. Drivers already can choose from among three merchant bank providers. There are three approved taxicab technology service providers, each of whom uses a different bank. A driver can select the agent or owner from which he can lease the taxicab he chooses to drive. Providing additional choices, in addition to the three already available, offers no assurance that drivers would receive better service. Indeed, even if drivers were free to be designated as merchants, there is no assurance that each driver is sufficiently credit-worthy to qualify for an individual merchant account.

There have been media reports that frame this bill in the context of the five percent (5%) capped fee that an owner is permitted under TLC rules to charge a driver to recoup transaction costs and risk costs associated with handling credit cards. This bill would have absolutely no effect on the five percent cap because drivers cannot typically become merchant account holders. It is important to note that the five percent cap is in line with other cities: for example, in Chicago it is 5%, in Boston and Cleveland, 6%, and in Atlanta, 10%.[4] In fact, many fleet owners have already testified before this committee that their actual costs far exceed five percent per transaction.

I must observe that fleet owners, such as MTBOT members, provide services to drivers, at significant cost, that would not be provided to drivers if they held their own merchant accounts. Drivers receive reimbursement on a daily basis for credit card transactions; owners

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typically do not receive the funds for several days and are therefore advancing funds to drivers, interest free. Owners have become bankers in effect, floating tens of thousands of dollars every day before they get paid by the credit card companies. This effort has required infrastructure--- everything from personnel to new computers--- and represents an additional cost of operation the owners face every day. Owners also incur administrative expenses to provide City-mandated services. Were drivers designated as merchants, they would also bear the loss for any charge-back currently borne by the owner. Drivers as merchants would be required to incur all fees related to handling credit card transactions.

Finally, we should take a look at the benefits, if any, to the public that this bill would offer. With three approved taxicab technology service providers in contract with the City, and standard form contracts between the vendors and medallion owners in place, the public can be assured of the safety, reliability and integrity of each credit card transaction. We have a system that was put into place after years of research and negotiation. There is no need to unravel this entire program when no benefit has been proven for doing so.

Before concluding, on a separate note I would like to state that MTBOT unequivocally supports Intro No. 880, creating a livery passenger's bill of rights. The passenger bill of rights that has been a feature in yellow cabs for many years has had a positive effect on service in the medallion taxicab industry. We whole-heartedly support its extension into the prearranged for-hire transportation industry.

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Thank you for your time and consideration. I would be happy to answer any questions you may have.

COMMITTEE FOR TAXI SAFETY
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TESTIMONY FROM DAVID POLLACK ON BEHALF OF THE COMMITTEE FOR TAXI SAFETY FOR THE CITY COUNCIL HEARING REGARDING

INTRO #705

Good Morning Council members and Chairman Liu,

There is currently a 5% charge on credit card fares which is used to try and offset various credit card related expenses. Some drivers think this 5% is pure profit and that Intro 705 will totally eliminate a 5% reimbursement. This is a falsehood.

It should be noted that the 5% in question does not totally cover all expenses associated with credit card fares. There are per charge fees, in addition to various percentages each credit card company charges. There is also an airtime fee necessary for required text messaging and Personal Information Monitors. There is the in-house expense of tracking and the distribution of credit card monies and the manpower associated dealing with customer complaints like double charges etc.

Additionally, it should be noted that no member of the Committee for Taxi Safety has yet to recover their initial down payment paid for each of the T-PEP units installed in each yellow taxi. Once again, the 5% is not totally covering our overhead.

Most members of the Committee for Taxi Safety and other management companies have hired additional staff to deal with daily issues associated with credit cards. Some members have purchased additional software and/or additional computers to help track credit card payments and to assure drivers that the availability of monies can be attained as soon as credit card fares are posted.

If they were to switch T-PEP vendors the purchase of a "point of sale" device is an obvious necessity.

As an independent merchant there is also additional expense:

There would be charges for Air-Time for the purpose of driver TEXTS and the Personal Information Monitor.

They will still be a percentage charge by credit card companies for each fare; something the TLC should be commended for because they negotiated excellent percentages on behalf of the entire NYC taxi industry.

We suggest all parties review the financial information available from our regulatory body, the TLC. We believe you will find that there is no real benefit for drivers by passing this Intro.

Comments Submitted for Presentation To The New York City Council Transportation Committee Hearing On Int 705

Chair: John C. Liu

Int 705 - By Council Members Weprin, Gerson, Liu, Mendez, Lappin, Yassky, James, Avella, Arroyo and Foster - A Local Law to amend the administrative code of the city of New York, in relation to removing restrictions on a taxicab operator's choice of a credit/debit card processor.

Respectfully Submitted By:

Richard Thaler,PhD.

dthaler@usa.net

January 14,2009

Introduction

The TLC and the industry's narrow special interests have exploited the TLC's policy of restricting market entry for Taxi Technology –Passenger Enhancements Program (T-PEP) vendors at the passenger's and driver's expense. As a result T-PEP has been unable to achieve the cost benefits and system performance which can only be realized by means of open market competition. Ironically, none of the approved vendors is itself a financial institution authorized to provide electronic fare payment merchant acquiring credit card processing services, the most important T-PEP feature. Yet the TLC in an unprecedented restriction of the market, locked out the federally and state regulated credit card processing financial industry providers to all but one subcontractor provider for each approved TLC vendor. As a result, drivers are forced to pay non competitive usurious transaction fees, and are unable to become the merchant of record which is a likely violation of card issuer requirements for independent contractors. Under card issuer rules , an independent contractor accepting card payment in consideration for products or services without being a party to the merchant processing agreement maybe committing a “factoring” violation with the merchant of record. The T-PEP vendor contracts also fail to ensure that driver revenue funding is provided and protected by regulated financial institutions and not by medallion leassors. It's now time to address these failures and as a first step begin to open the market to competition in electronic fare payment merchant acquiring credit card processing beginning with the passage of Intro 0705.

Reported remarks by the TLC suggesting that the City's vendor contracts will be jeopardized by passage of Intro 0705 are without merit. The contracts grant the City wide latitude in the City's sole discretion to cure operational problems and enforce contract modifications which may required by subsequent legislation in the best interests of the City and the Taxi Industry

The Importance of Intro 0705 To Cure On-Going T-PEP Problems In The Current View of T-PEP Since the Jan 4, 2007 Council Transportation Committee Oversight Hearing with Excerpts From Comments Submitted To That Oversight Hearing and the Taxi of Tomorrow, Request for Interest, April 21, 2008.

Summary and Background

It's now nine years since the eTaxiNY™ system and reference design features was first presented to the TLC and subsequently adopted by the TLC as basis of the TLC T-PEP mandate in March 2004. Contrary to TLC claims that T-PEP development began in 2004 as a result of the RFI and RFP, prior to that time the eTaxiNY(TM)system and reference design was fully functional and approved by the New York State Banking Department for electronic fare payment and direct driver merchant revenue funding. However the "start up" vendors selected by the TLC required the long delay between March 2004 and the start of T-PEP deployment in 2007 in order to complete their development. Throughout this period, eTaxiNY(TM) remained the most advanced taxi technology System in terms of a non advertising service model for passenger conveniences and necessities , performance, reliability, and cost benefits to owners and drivers incorporating a direct driver merchant funding model. Yet despite the industry's support for acquiring eTaxiNY(TM) it was prohibited by the TLC. Ironically the TLC found fault with eTaxiNY(TM)'s first choice selection of the Sprint EVDO data network, although it is now used in T-PEP. Just another example of the TLC's lack of judgement if not incompetence in these matters.

It remains clear since the Jan 4, 2007 New York City Council Transportation Committee Oversight Hearing that the TLC's unusual and questionable use of the "Innovative Procurement" PPB Rule process has been discredited and has failed to produce competent vendors and vendor products. This is evidenced by the failure of one of the four approved vendors to perform under their contract with the City, as well as frequent documented system failures among the remaining vendors causing lost driver hack time and the failure to regulate the distribution of independent contractor driver fare revenue by medallion owner,leassor merchants.

The TLC's support for an "advertising model" as opposed to the eTaxiNY™ "Passenger Service Model" is another unexplainable TLC repeated policy failure. Notwithstanding the failure of the TLC video advertising project during 2002 to 2003 it has again been approved by the TLC for T-PEP. In the presentation of the eTaxiNY(TM) reference design "passenger services" model to the TLC it has been made clear that medallion taxi operation cannot be put at financial risk and expose it to the inevitable cycles in the advertising market as we are witnessing in the current recession.

The TLC and the industry's narrow special interests have exploited the TLC's policy of market restriction at the passenger's and driver's expense while unable to achieve the cost benefits and system performance which can only be realized by means of open market competition. Ironically, none of the approved vendors is itself a financial institution authorized to provide electronic fare payment merchant acquiring credit card processing services, the most important T-TEP feature. Yet the TLC in an unprecedented market restriction locked out the federally and state regulated credit card processing financial industry providers to all but one subcontractor provider for each vendor chosen by the approved TLC vendor. As a result, drivers are forced to pay non competitive usurious transaction fees, are unable to become the merchant of record which is a likely violation of card issuer requirements for independent contractors accepting card payment in consideration for services directly provided by the independent contractor without being a party to a merchant processing agreement. The T-PEP vendor contracts also fail to ensure that driver revenue funding is provided and protected by regulated financial institutions and not by medallion leassors. It's now time to address these failures and as a first step begin to open the market to competition in electronic fare payment merchant acquiring credit card processing beginning with the passage of Intro 0705.

The Importance Of The Open Market Provisions of Intro 0705 For Lease Drivers,Owner Drivers, DOV Operators And the Independent Licensed Taxi Meter Shops.

The consequences to the Taxi Industry as the TLC continues to pursue restrictive market, TLC managed procurement for the Taxi Industry's T-PEP program are described in the following excerpt of the response to the TLC's Taxi of Tomorrow Request for Information submitted by Richard Thaler dated April 21, 2008:

"One would think experience is an important "teacher" and by bitter experience the TLC should have learned that it is unwise to substitute a narrow untested procurement objective for the proven approach promoting the widest competition and innovation based on clear basic system features and specifications. The TLC's costly management failure to properly evaluate and judge vendors for their ability to perform for the T-PEP effort has caused considerable public and Industry anguish not to mention the failure of the chosen systems to perform reliably and to properly ensure the regulation, reconciliation and distribution of driver fare revenue. Even more alarming is the virtual collapse of the approved vendor group where out of five approved vendors, only two as a practical matter remain. Considering the flawed RFP evaluation process it is not surprising that Digital Dispatch Systems is only playing a less than minor disappointing role and Taxi Technology has suffered a contract cancellation for failure to perform causing the delay of over 2200 taxi system installations for an additional year and the most credible vendor ACS deciding not to proceed because of their likely displeasure with the contract process. So that hypothetically ,but what could have been a plausible outcome, if only Taxi Technology with its prestigious Ingenico supplier and the successful well known Canadian company Digital Dispatch Systems would have been the only approved vendors while CMT as the Mobile Knowledge contract manager would have been rejected as a start up with inherent medallion ownership conflicts and Verifone Transportation Systems rejected as a result of their incompetence reported by Schaller in his analysis revealing the failure to reliably process and fund driver credit card revenue and with the most credible company ACS pulling out anyway, where would T-PEP be now. As it is Credit/Debit card fare payment activity is disappointing and still well below the performance expected of well designed cardholder activated payment systems common in fast check out environments.

Only the two remaining vendors with significant market share are now responsible for this poor performance in a de facto duopoly imposing a non competitive high cost burden on the Industry. After over four years since the service mandate, the passengers have paid for a fare increase for over three years without the enhancements promised and the system installations will not be completed until August 31, 2008.

To further illustrate the dangers of a market restrictive solicitation and procurement process, the developers of the original T-PEP system, eTaxiNY(TM) described in the New York Times January 16, 2003 and mentioned below cautioned the TLC that the advertising market is not sufficiently stable to support "off setting " revenues from passenger monitor advertising and must be avoided in the financial model for T-PEP system support. Moreover the failure of the Taxi Video Advertising pilot in 2003 to win passenger support should have provided a sufficient basis to not to encourage and sanction this dependence in the restricted procurement process. Dependence on any form of "subsidy" to support a limited competition, high cost financial model must be avoided. Long term financial viability is only possible by adopting open vendor competition incorporating a passenger service model pioneered by the eTaxiNY(TM) system model. The current passenger advertising and revenue enhancement model encouraged and sanctioned by the TLC's procurement for the benefit of the vendors as provided for in the vendor Master Agreement with the City is unsustainable, necessarily placing a high cost burden on the Industry and is likely to lead to financial difficulties for the two remaining vendors with significant market share. The open market approach encouraging competition and innovation is looking real good by comparison."

Especially when the justification for the use of the Innovative Procurement provision of the PPB Rules requiring approval by the City's Contract Officer was based on a complete misrepresentation of the circumstances. The approval request totally ignored the role of the Independent Licenced Meter Shops. Referring to Comments presented by Richard Thaler to the City Council Transportation Committee oversight hearing on January 4,2007,

"The TLC Agency Chief Contracting Officer's (ACCO's) determination,"2. Method Best Serves the Interests of the City."", justifying the use of PPB Procurement Section 3.12 was presented in his request to the CCPO dated November 8, 2004. It is not only a misrepresentation of the market circumstances, but the cause of an unnecessary TLC budget expense of over $2 million and will result in unnecessary significant increased costs to the owners, drivers and the public. The misrepresentation for the justification of the unprecedented RFP process and the need to limit the market was restated in the RFP, page 7,

"individuals and small businesses do not have easy access to such technological expertise",

and,

"Historically, certification-like models have been unsuccessful when there is a highly technical project requiring significant investments for research and development with a limited market potential"

There was no factual basis given by the TLC to make this determination as applied to the Service Enhancements Systems, yet the request was "rubber stamped" by the City's Contracting Procurement Officer (CCPO)."

Prior to the TLC credit card vendor rules and the award of city contracts to

a selected group of vendors, the taxi industry had a vibrant, skilled

Independent Licensed Meter Shop business group of approximately 14 available to support owners, DOV operators and fleets in a wide range of so called "highly technical" matters in addition to taxi meter sales, installation and service. However the role of the Independent Licensed Meter Shops has been totally ignored in T-PEP support for the taxi operators and the terms of the vendor contracts as a practical matter have caused the taxi meter business to be concentrated at vendor operated facilities,causing the Independent Licensed Meter shops to loose most if not all of their meter business. Once again the the "No fees Payable" provision of the vendor contracts with the city which

provides the vendors the opportunity to seek additional financial benefits as a result of the TLC's "exclusion of other vendors that are not selected by the TLC", has done great harm to the industry whether or not it is an illegal conspiracy to restrain of trade.

The passage of Intro 0705 promises to cure the problem for the Independent Licensed Taxi Meter Shops as well the problems suffered by the independent contractor drivers by providing the option for the drivers,owner operators and DOV operators to separate credit card processing from the grip of the few selected vendors to impose their selection of a merchant acquirer financial institution and subject the drivers to the control and distribution of their fare revenue by taxi fleets and medallion leasing agents. The drivers may then be free to become the merchant of record with their selection of the lowest cost merchant acquirer for direct fare revenue funding.

As reported in the Post on Friday and shown below, a surprising remark was made in the

opening report at the TLC meeting on Thursday. It was surprising because it was a complete non sequitur timed within a week of the Transportation Committee hearing on Intro 0705. The report admitted that the T-PEP program should be reviewed for improvement leading to a second phase "2.0" to be determined by the TLC. For all the reasons described in these comments, this effort by the TLC should not be allowed to de-rail the Council's immediate action on 0705 on the basis that it would interfere with the TLC's overall review and plan for the next program phase.

By TOM NAMAKO

Last updated: 2:18 am

January 9, 2009

Posted: 2:09 am

January 9, 2009

Get ready for Taxi 2.0.

The city wants to improve the GPS, touch-screen and credit-card payment technology installed in thousands of yellow cabs, Taxi and Limousine Commission Chairman Matt Daus said yesterday. And it wants anyone and everyone to send in his or her ideas.

The commission plans to release a formal request for suggested tech improvements. Since it will be posted on the TLC Web site, Daus encouraged everyone - from business owners to private citizens - to visit and start submitting their proposals.

financial institution while liberating owner operators and DOV operators to select and return to their favorite taxi meter shop which in their judgement provides the best support.

communications circuit with backup, a one-time installation cost in the $3k - $5k range and a recurring monthly charge in the $1,500 - $2,500 range.

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My company has invested millions of dollars into delivering the City's vision, and we believe we have exceeded our contractual obligations by providing an ever-evolving state-of-the-art product for taxi passengers and the taxi industry. Now, this bill suggests that the open bidding process that gave birth to this program and the business models that all vendors crafted to fit this program, can be suddenly and drastically changed. That is wrong. For these reasons, I oppose this bill.

Thank you for your time. I would be happy to answer any questions you may have.

Comments for Presentation to the New York City Council Transportation Committee Oversight Hearing on the TLC Service Enhancements Program

January 4th, 2007

Summary

Will the Service Enhancements improve the experience for the passenger?

As currently proposed and planned, emphatically the answer is: NO! But more importantly the issue is the great potential financial harm it will cause the Industry.

Despite the TLC's approval for the passenger monitor to be used primarily for push advertising, unlike a Service Model, push advertising has failed in a previous TLC pilot and in subsequent focus group reports. It is ludicrous to accept the TLC's claim that the obvious negative aspects of the previous pilot (and the talking taxi program which was canceled due to its intrusive annoyance) will be addressed because the monitor can be shut off given the high cost of this feature and the more cost efficient ways of providing better services.

In fact the pioneering and leading company in interior passenger monitor taxi advertising in large cities nationwide has failed in business (despite its monitor shut-off button), leaving one approved TLC vendor temporally without a passenger monitor subcontractor.

Benjamin Franklin and Albert Einstein observed that insanity is repeating the same action while expecting a different outcome, which is exactly what the TLC continues to attempt. The irony is that the TLC is requiring overpriced passenger display systems which provide advertising so that the cost can be off-set for something that irritates the passengers who don't want it in the first place. However, the most serious program issue is the financial harm it will cause the industry. The systems are now obsolete and are projected to cost twice their commodity market value. The drivers will be caused the greatest harm with a posted credit/debit card transaction fee mark up of 1.25% over the TLC's capped transaction fee of 3.75% for a total of 5% to receive their fare revenue from fleets and agents at the end of each shift. This amounts to a usurious finance charge of 223% APR for 2day advance funding. The fleet operators and lease agents will also be responsible for issuing 1099 tax forms for the drivers.

Over six years ago, unlike the advertising model, the TLC was shown a fully functional Service Model reference design implementation and a recommended set of operating standards which became the Service Enhancements mandate together with the fare increase on March 30, 2004. For the last three years as of this March, the program which was potentially a significant advance in service technology was instead infected with serious charter and rule violations, failure to achieve stated objectives, and misrepresentations of TLC achievements. The press has already reported the appearances of conflicts, irregularities, and rule violations.

At this point the program must be canceled and a technology assessment and cost benefit analysis be done to open the market for standards based vendor competition for Service Enhancements which actually provide the conveniences and necessities due the passengers and drivers.

Introduction

I will attempt to identify serious TLC Service Enhancements Program difficulties with respect to Charter and TLC Rule violations, its failure to achieve stated program objectives and misrepresentations of program achievements. I hope this Committee will consider these opinions and suggestions to remedy and improve the program consistent with the Council's oversight responsibilities for agency conduct and procurement activities under Charter Sections 29 and 30.

Background

Beginning over six years ago the TLC was presented a complete reference design including suggested standards of operation and a fully functional system implementation for what was to become the Medallion Taxi Service Enhancements Rule (a.k.a. The Taxi Technology Program on March 30, 2004). A portion of the March 30, 2004 fare increase approved together with the Service Enhancements Rule was earmarked to off-set the costs of the program to the Industry, estimated at the time to be $46 million over three years.

In the normal course of TLC Transportation Policy and Implementation Initiatives under Charter Chapter 65, Sections 2300, 2302, and 2303 the TLC is required to promulgate system standards of operation and specifications, and, if necessary, under the pilot program rules, conduct limited evaluation and acceptance tests for the approval by the TLC of equipment and service vendors to install, support, and operate compliant systems in medallion taxis.

For the new Service Enhancements program the TLC chose to depart from this established practice by using an "Innovative" procurement process under Section 3.12 of the PPB Rules which requires the CCPO's review and approval of a formal request by the TLC's ACCO justifying the need to use Section 3.12.

The TLC received approval from the CCPO to use Section 3.12. The TLC in cooperation with DoITT proceeded to conduct a RFP solicitation and system evaluation process on behalf of the Industry, selecting 5 vendors and negotiating pricing for system hardware and services as well as the terms and conditions of service contracts. One vendor withdrew and the remaining 4 vendors are proceeding to an Acceptance Test phase prior to receiving a notice to market and sell compliant systems to medallion owners for installation and operation in medallion taxis.

Charter and TLC Rule Violations, Failure to Achieve Stated Objectives and Misrepresentations of Program Achievements

The authority granted to the Taxi Commission in City Charter Chapter 65, Section 2300 does not extend to procurements on behalf of the Industry which limits the owner's choice as to who may sell rather than encouraging an open market for compliant vendor products and services. This policy is in direct conflict with the Citizen's Budget Committee Report of 2002 admonishing city agencies for past practices and warning that only the widest open market vendor competition provides the best, lowest cost products and services. Moreover the limitation of the vendor market to only 4 vendors under the "No Fees Payable" provision of the vendor contract negotiated by the TLC raises serious federal anti-trust, banking and telecommunications issues:

> "...The consideration provided by the TLC to the Contractor for the Services, the System and the promises made by the Contractor hereunder is (a) an opportunity for Contractor to offer the Owner Base Services to Owners pursuant to Section 6(Owner-Contractor Contracting Process), (b) the TLC's

exclusion of other vendors and service providers that are not selected by the TLC as the result of the RFP process, and (c) the opportunity for the Contractor to obtain revenue from PIM advertising. The foregoing considerations offered by the TLC is not an exhaustive list of the benefits Contractor may experience in connection with this Agreement or any Owner-Contractor contract…."

The TLC Agency Chief Contracting Officer's (ACCO's) determination,"2. Method Best Serves the Interests of the City.", justifying the use of PPB Procurement Section 3.12 was presented in his request to the CCPO dated November 8, 2004. It is not only a misrepresentation of the market circumstances, but the cause of an unnecessary TLC budget expense of over $2 million and will result in unnecessary significant increased costs to the owners, drivers and the public. The misrepresentation for the justification of the unprecedented RFP process and the need to limit the market was restated in the RFP, page 7,

> "individuals and small businesses do not have easy access to such technological expertise",

and,

> "Historically, certification-like models have been unsuccessful when there is a highly technical project requiring significant investments for research and development with a limited market potential"

There was no factual basis given by the TLC to make this determination as applied to the Service Enhancements Systems, yet the request was "rubber stamped" by the City's Contracting Procurement Officer (CCPO). Throughout the course of the evaluation and selection process it appears it is the TLC and its subject matter experts that lack a sufficient understanding of the system technology and engineering. Contrary to the TLC's claim, the resulting systems are nothing more than "patched together" commodity hardware at negotiated prices amounting to twice the market value. As an example, the passenger display subcontractor for one selected vendor failed and "went out of business" after the selection process despite the subcontractors pioneering efforts in taxi interior display advertising in large cities throughout the country. It should have provided another strong indication that interior advertising will also again be rejected in New York Taxis. Apparently it was a simple matter for the vendor to quickly substitute the passenger display commodity hardware feature without long term development time as suggested by the TLC. Notwithstanding the "low tech", high price results costing the TLC over $2 million to manage, it appears that important features for efficient electronic fare payment such as the use of an ISO 14443 contact less reader (for American Express's 'Express Pay", Visa's 'Blink', and MasterCard's 'PayPass') and a PIN pad for popular on-line debit 'check card' payments may be missing.

The TLC continues to encourage interior passenger display advertising which proved to be a serious failed mistake in the TLC's 2002-2003 "Taxi Video" pilot. This was confirmed later as a failed endeavor with the business failure of the country's pioneer and leading provider of taxi passenger display advertising systems and continues to displease passengers in subsequent focus group reports. So essentially the TLC is requiring an advertising display with full knowledge of the irritation and displeasure caused to passengers so that the advertising revenue will off-set the cost of the annoying display hardware. It is ludicrous to accept the TLC's justification for this requirement by simply claiming the passenger can shut off the hardware display.

Six years ago a "service model" for the passenger display made sense and was presented to the TLC. At that time it included real time airline arrival and departure information with airline check-in processing using the International Air Travel Association Common User Self Service Standard (IATA CUSS) standard used at airport terminal kiosks. However, technology apparently moves faster than the TLC's ability to embrace it, and the systems currently being considered under the Services mandate are obsolete and provide little cost benefit. All of the Service Enhancements features may be provided more safely and more cost effectively without a passenger display. The latest evolution of Point of Sale devices perform all electronic fare payment functions more effectively and at a lower cost without the need for the passenger display. In fact, the current placement of the passenger display below the passenger's horizontal line of sight presents an established physiological risk of passenger disorientation and 'car-sickness' (looking down at the screen while the car is in motion), and, more importantly, a new high potential risk for passenger injury by being thrown toward the partition in stop and go traffic.

Passengers interested in the limited information that could be provided by a passenger display are now using their smart phones. Smart Phone use will increase exponentially in 2007 as the wireless carriers become content providers. From movies and TV to music downloads and any and every conceivable kind of information, the Smart Phone is becoming the device of choice as Web 2.0 services also mature and the theoretical 3.1 megabits per second wireless bandwidth exceeds 1 megabits per second in actual download speeds (EVDO REV A) now offered by Sprint. Although Sprint is now the acknowledged leader in wireless data communications, and also leading in WiMax deployment, the TLC and DoITT evaluators rejected Sprint because the evaluators found Sprint to be unfit to provide carrier Wireless Telecom Services for the Service Enhancements Program. During the past six years of presentations and demonstrations of the reference design and system implementation to the TLC mentioned above, the eTaxiNY™ Web site shown as part of the design implementation can now include the mapping and route function feature easily accessed on smart phones by those interested passengers.

The smart phone can do far more in terms of passenger conveniences and necessities without the additional "taxing" cost burdens to all the owners, drivers, and passengers themselves with a costly display that is now obsolete.

Notwithstanding the excessive system costs to the owners and system obsolescence, it is likely the drivers and DOV operators will suffer the greatest potential financial harm. It appears that the TLC has endorsed the electronic payment model using the owner, fleet operator, or agent as the merchant of record. Potential problems may arise since under the merchant contract it is a legal fiction in that the owner is providing taxi transportation services directly to the passengers and honoring credit/debit cards according to the card issuer requirements rather than the driver as an independent contractor. Also, the owner-merchant will be required to issue IRS 1099 MISC tax forms to the drivers for electronic fare payment net revenue as an independent contractor. In addition, according to the TLC's posted allowable transaction fee "mark up" if the owner-lessor is permitted to charge the driver-lessee the mark-up, then the owner-lessor will be violating the lease caps with the TLC's permission. As posted, the "mark up" cap at 1.25% of the credit/debit charges incurred during the drivers shift capped at 3.75% for a total charge of 5% cannot be justified as an administrative charge and must be considered a finance charge for a two day end of shift advance, at a usurious 223% APR!

The proper solution to the merchant funding dilemma was incorporated in the previous reference design implementation whereby the drivers, if they choose, must be accepted as the merchant of record and be charged the lowest "owner" transaction rate without the "mark up". A direct end of shift advance in the design implementation enables the driver to access net electronic fare payment revenue at a convenient ATM.

And finally, it would be unfortunate if in considering this significant Medallion Taxi Service Enhancements undertaking that all, even more important industry priorities including passenger and driver safety and security enhancements and taxi exhaust emission reduction are not likewise considered.

Advances in real time high resolution video capture and transmission now enable real time incident video to be transmitted to law enforcement and/or medical first responders. These new affordable technologies combined with real time event data recording (EDR) as reported in the NHTSA 2006 EDR Final Rule provide the important Automatic Crash Notification (ACN) event trigger and a new level of passenger and driver safety and security.

Exhaust emission reduction may also be easily integrated into a Service Enhancements System program for the entire medallion taxi population. Currently taxis are inspected three times per year although it is recognized that for a given vehicle population OBDII monitoring is the most effective means to minimize exhaust emissions. For this purpose an OBDII software "scan tool" as shown to the TLC in the reference design implementation may be incorporated as part of the Service Enhancements System to report exhaust emission related trouble codes "full time". A driver would appreciate knowing if a miss-fire is not only responsible for spikes in exhaust emissions, but a loss in fuel economy as well.

As reported by the TLC, it is projected that the program will cost the industry from $40 million to over $90 million over three years while the TLC's Chairman has made cavalier claims that the TLC staff proceeded with the entire evaluation, selection, and contract process to achieve the best advanced technology systems at the lowest cost to the industry. Claims that the drivers will do more business and tips will increase are purely speculative as experience in other point of sale environments may not be similar, especially given the passenger's distaste for display advertising and the tip would have to increase substantially by ((1+.05)(tip) + 5%) or to between 30% and 55% to 15.5% - 26% in comparison to cash tips ranging from 10% to 20% for the driver to break even. An objective technology and cost benefit assessment would reveal this is a complete misrepresentation and which is something that should have been required by the Board of Commissioners after the long delay in implementing the program. The entire process of evaluation, selection, contract negotiation, and execution was turned over to several agency staffs and proceeded without TLC Board of Commissioner's oversight for which several commissioners have expressed some surprise and regret that it is too late for necessary oversight as was made clear in the transcript of the TLC public meeting on December 14, 2006.

At this point given that the passengers have been paying for almost three years for Service Enhancements that have not yet completed Acceptance Testing, the only reasonable and rational action must be the termination of this $2 million TLC mistake to prevent one far more costly to the owners and drivers. The Board of Commissioners and the Council should terminate the current program already reported in the press for being tarnished by the appearance of conflicts, irregularities and rule violations.

In cooperation with the Industry including the technical skills and experience of the licensed meter shops that have likewise been excluded from the current process, a new truly advanced, cost effective program should be crafted recognizing new important priorities. Drawing upon the Industry's experience and skills ignored by the TLC, combined with an open market, standards based certification process and if necessary with the help of the Council, the Industry can repair the damage and waste of time of the past three years and deploy a Service Enhancements program that has real value and one that the City and Taxi Industry can embrace with pride.

<u>Conclusion</u>

I have attempted to identify TLC Service Enhancements program Charter and TLC Rule violations, failure to achieve Program objectives and misrepresentations of program achievements. I hope the Committee will consider these opinions and suggestions for program remedies consistent with the Council's oversight responsibilities for agency conduct and procurement activities under Charter sections 29 and 30.

Respectfully submitted by,
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New York City Taxi of Tomorrow Request for Information Response

April 21, 2008

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As a mechanical engineering professional and someone in the past who has been directly involved in the design, manufacturing and TLC and Federal certification of "after market", purpose built modifications for New York City Medallion Taxis as the founder of Vehicle Technology Inc. in 1974, I welcome the opportunity to submit comments to this RFI.

Beginning thirty five years ago the New York City Medallion Industry faced serious operating disruptions threatening the continuation of medallion taxi service as a result of the 1973 and 1978 fuel crises combined with the new medallion taxi regulations incorporated in the implementation of the Metropolitan Air Quality Control Plan required by the Federal Clean Air Act, the USEPA and the New York State Department of Environmental Conservation. The Plan required the "California Emissions Control Package" for medallion taxis, a ban on cruising and for the first time, taxi emissions inspections three times a year. As a consultant to the MTBOT I was retained to work with the City's Department of Air Resources to formulate and implement a workable Plan for the fleet segment of 6000 taxis at that time. It was agreed that an industry ban on cruising was not justified by the "Linear Roll Back Air Quality Model" used in the Metropolitan Control Plan. An on-site fleet garage emissions inspection program was proposed and approved although terminated years later. Viewing today's TLC objectives and challenges with a historical perspective considering the similarities with the events beginning thirty five years ago can be helpful in guiding current TLC policy and practices. The need to improve fuel economy and exhaust emissions over 35 years ago is striking in the similarity with the current TLC objectives.

The document in Attachment 1 describes the situation in the Medallion Taxi Industry in the five year period beginning in 1976. The document summarizes the results of the landmark USDOT Urban Mass Transportation Administration's supported diesel powered medallion taxi vehicle feasibility and proof of concept demonstration in New York using Vehicle Technology's diesel powered Dodge Taxis designed to reduce exhaust emissions and improve fuel economy. In the commercial taxi market Vehicle Technology's TLC and Federally approved Dodge Diesel Coronet, Aspen and Monaco Medallion Taxis enabled many Independent Owner Drivers including LOMTO's late President Howard Fogel who was also a member of Queens Two Way Radio Group to successfully operate through the 1970s' "fuel crises". Unfortunately the scandal in the use of City owned demonstration medallions in gasoline taxis violating the terms of the subsequent diesel taxi demonstration agreement involving the TLC Chairman halted a continuation of the next commercial phase of the fleet demonstration following the original successful USDOT supported demonstration.

Motivated by market opportunities arising out of shortcomings and weaknesses in OEM taxi vehicle components subjected to New York taxi service, Vehicle Technology as an aftermarket engineering, product design, development and production company introduced various component upgrades for its diesel taxi models. As an example of the rapid deployment of an aftermarket solution to a serious component failure in the case of the popular Dodge Aspen, Vehicle Technology incorporated a reinforced subframe eliminating the failures common in the stock taxi subframe. In a related upgrade designed to cure frequent failures of rubber upper control arm suspension bushings and reduce the harshness of the ride, Vehicle Technology developed an all steel upper control arm bushing with lubricated roller bearings combined with specially calibrated shock absorbers which not only out lasted the taxi, but dramatically improved the ride and the ability of the taxi to navigate and smooth the ride through the City's 1970s' pot holes. Vehicle Technology was also the first to provide a rear mounted air conditioning evaporator for passenger comfort.

As the Ford Taxi gained in popularity in the late 1970s, Vehicle Technology developed a new turbo diesel drive line for the Ford/Lincoln Town car chassis which was approved by the USEPA and the US Congress for the 1981-1983 diesel oxides of nitrogen standard. Ford Motor Company contracted with Vehicle Technology for the fast track design and development of the Turbo Diesel Town Car, which had the same chassis front end as the Ford taxi, to compete with GM's Oldsmobile and Cadillac diesels. Attached is the Ad published in Automotive News by the US Distributor of the Italian VM engine Vehicle Technology selected for this purpose. The choice of this engine over 25 years ago has stood the test of time as the VM engine has recently been selected by Chrysler for its Jeep and GM for a high performance Turbo Diesel Cadillac. A six cylinder VM diesel powered Ford taxi in 1981 could now easily meet the TLC's '08 25MPG standard and the four cylinder version could easily meet the '09 30MPG standard as well as the 50 state USEPA emissions standards using the latest emission control technology. As was the case 25 years ago, diesel's inherently higher thermal efficiency and greater fuel economy is in part a result of high compression ignition compression ratios compared to spark ignition engines. This combined with high part load air-fuel ratios results in greater fuel economy in traffic conditions without the need for more complex and costly hybrid power and the potential environmental toxicity impact of discarded propulsion batteries.

The point of this retrospective is that many of the challenges today are nothing new and cannot easily be resolved by attempting to restrict the market with what appears to be the TLC's intention to select a single supplier "perfect" solution by means of a limited procurement which is likely to follow a very dangerous path. One would think experience is an important "teacher" and by bitter experience the TLC should have learned that it is unwise to substitute a narrow untested procurement objective for the proven approach promoting the widest competition and innovation based on clear basic system features and specifications. The TLC's costly management failure to properly evaluate and judge vendors for their ability to perform for the T-PEP effort has caused considerable public and Industry anguish not to mention the failure of the chosen systems to perform reliably and to properly ensure the regulation, reconciliation and distribution of driver fare revenue. Even more alarming is the virtual collapse of the approved vendor group where out of five approved vendors, only two as a practical matter remain. Considering the flawed

RFP evaluation process it is not surprising that Digital Dispatch Systems is only playing a less than minor disappointing role and Taxi Technology has suffered a contract cancellation for failure to perform causing the delay of over 2200 taxi system installations for an additional year and the most credible vendor ACS deciding not to proceed because of their likely displeasure with the contract process. So that hypothetically ,but what could have been a plausible outcome, if only Taxi Technology with its prestigious Ingenico supplier and the successful well known Canadian company Digital Dispatch Systems would have been the only approved vendors while CMT as the Mobile Knowledge contract manager would have been rejected as a start up with inherent medallion ownership conflicts and Verifone Transportation Systems rejected as a result of their incompetence reported by Schaller in his analysis revealing the failure to reliably process and fund driver credit card revenue and with the most credible company ACS pulling out anyway, where would T-PEP be now. As it is Credit/Debit card fare payment activity is disappointing and still well below the performance expected of well designed cardholder activated payment systems common in fast check out environments.

Only the two remaining vendors with significant market share are now responsible for this poor performance in a de facto duopoly imposing a non competitive high cost burden on the Industry. After over four years since the service mandate, the passengers have paid for a fare increase for over three years without the enhancements promised and the system installations will not be completed until August 31, 2008.

To further illustrate the dangers of a market restrictive solicitation and procurement process, the developers of the original T-PEP system, eTaxiNY(TM) described in the New York Times January 16, 2003 and mentioned below cautioned the TLC that the advertising market is not sufficiently stable to support "off setting " revenues from passenger monitor advertising and must be avoided in the financial model for T-PEP system support. Moreover the failure of the Taxi Video Advertising pilot in 2003 to win passenger support should have provided a sufficient basis to not to encourage and sanction this dependence in the restricted procurement process. Dependence on any form of "subsidy" to support a limited competition, high cost financial model must be avoided. Long term financial viability is only possible by adopting open vendor competition incorporating a passenger service model pioneered by the eTaxiNY(TM) system model. The current passenger advertising and revenue enhancement model encouraged and sanctioned by the TLC's procurement for the benefit of the vendors as provided for in the vendor Master Agreement with the City is unsustainable, necessarily placing a high cost burden on the Industry and is likely to lead to financial difficulties for the two remaining vendors with significant market share. The open market approach encouraging competition and innovation is looking real good by comparison.

This all adds up to the fact that there is no basis for the TLC's claim echoed by Ricardo that according to Ricardo's VTS Executive Summary that "It is clear that the current approach of an aftermarket adaption of existing vehicles does not provide an optimal solution to the needs of the stakeholders". In the first place the basic features and specifications approach has not been tested as it would apply to a more "perfect" optimal vehicle since many vehicles apparently meet the current relaxed specifications and are approved for use whether or not the TLC's vehicle standards are misguided. Moreover there is no indication yet as a regulatory or policy matter as to what "optimal" or "perfect" means or even an understanding of a clear policy for the setting of vehicle feature priorities. A serious competitive after market effort or "off-line" production effort may very well respond with innovative market based solutions if the opportunity was presented by formulating clear basic features and specification objectives without smothering innovation by means of a restricted procurement. Product innovation should be more substantial than frivolous gadgetry as a substitute for safety, security and comfort.

Notwithstanding Ricardo's longstanding international reputation for engine technology, design and development the VTS effort offers little that is new and is mostly a rehash, with only a few exceptions to well established OEM standards and practices and requirements for compliance with Federal standards. These are likely already incorporated in what is referred to as the donor vehicle which without any a priori knowledge of the donor vehicle it is not possible to claim with confidence that the specifications and performance requirements of the Taxi of Tomorrow are expected to significantly differ from those of the "donor" vehicle. The HVAC details in Section 2.11 are one possible exception. According to Ricardo the Taxi of Tomorrow must comply with FMVSS standards, Ya Think? It is not clear where the vehicle target dimension came from or what justifies the claim that, "The ride objectives of the Taxi of Tomorrow are to provide a ride comfort level significantly higher than the existing fleet". Dismissing the ride quality of the Ford Crown Victoria is unfortunate especially considering the subjectivity of the passengers who will surely miss the Ford. As a priority matter the passenger's first preference would likely be a more reliable T-PEP fare payment system than the need to improve the Ford's ride quality. A simple but important low tire pressure indicator was completely overlooked in addition to EDR and a real time safety and security system mentioned elsewhere in this RFI.

Assuming the Industry is allowed to remain mixed with respect to wheelchair accessible vehicles it should be obvious that passengers would rather spend the time whether it's only a few minutes or in longer trips to the airports in passenger car comfort rather than feeling like cargo in a Boars Head Deli or US Postal Service type van. Considering Vehicle Technology's rapid response accomplishments in the engineering computer design and development "stone age" prior to Auto Cad and advances in computer simulation, a serious after-market effort today could rapidly produce amazing upgrades, innovations and refinements given the market incentives. As an example the Skoda Superb is an excellent starting point with its VM Blue Power diesel and extended passenger compartment. It has become the diplomatic and presidential vehicle of choice for some governments replacing the larger limousines. At the other extreme, for individual passengers looking for the Boars Head Deli cargo feel with devotion to "sustainability" the tiny Peugeot Bipper van could be a good starting point.

What should be very troublesome to the Industry "stakeholders" responsible for buying, operating and financing new taxi vehicles is the potential limitation to the approval a single OEM supplier and the curious underlying new Administration priority unrelated to providing taxi service that somehow there is value to the City for co-branding and marketing a New York Taxi "Icon". "Regulating" the sale to non TLC license holders is even more curious. To paraphrase an ex-US President, "The iconic value is the rapid, safe, comfortable, low cost service, not the vehicle shape stupid". The exception to this was the true Checker Icon which was not unique to New York. Checker left the scene because of its limited market it couldn't justify new Federal compliance costs and the cost of new development to keep the taxis from falling apart after 12 months in New York fleet service. Just to throw a little cold water on the heavy breathing over the "co-branding" opportunity for the marketing and sales of non taxi consumer vehicles based on a NYC taxi vehicle "icon", a major OEM may realize that Lincoln has suffered significant losses in luxury car prestige and sales since that market didn't want to be seen driving a "taxi" as their personal car.

With the financial and regulatory challenges facing the auto industry, especially the domestic manufacturers it is doubtful that the creation of a new car line for taxi purposes is feasible. More likely, relatively minor changes to an existing car line will be feasible which comes back to aftermarket or "off-line ", built for purpose modifications in a true competitive and innovative environment.

Setting clear priorities should be the first order of business in order to determine economic trade-offs. Of course the safety and security of passengers, drivers and pedestrians should be the highest priority. Curiously vehicle crash worthiness and a safety and security system for pre-crash Electronic Data Recording (EDR), medical emergency and criminal assault using real time video notifications to first responders proposed to the TLC and shown in Attachment 3 is ignored in the "Taxi of Tomorrow" and VTS discussions.

The current T-PEP system originally called eTaxiNY(TM) was first conceived and shown to the TLC in December 1999 along with proposed standards for passenger activated electronic fare payment and then demonstrated to the Mayor at his invitation in February 2004. But it took until March 2004 for the eTaxiNY(TM) system features and standards to be mandated for deployment by November 2005. Since that time technology advanced quickly and as an example the contactless payment card standard ISO 14443 implementation did not exist when the TLC was given the first eTaxiNY(TM) demonstration. It was later developed for the eTaxiNY™ first in cooperation with American Express in 2004 for Express Pay. Now because of advances in consumer electronics, the need for the passenger monitor in the Taxi of Tomorrow is obsolete. With the emergence of Near Field Communications (NFC) and the ubiquitous Smart Phone providing the widest range of features, functions and content chosen according to user preferences , any additional content associated with the taxi environment of interest to the passenger should be communicated to the Smart Phone by means of the NFC pairing feature for WiFi or Bluetooth. As an example, the passenger could retain the GIS image of the trip route if they wish and in addition to the standard payment cards use the new electronic "wallet" function of the phone to pay the fare using an optional real time ACH POS debit transaction for improved cardholder security and lower transaction cost. The fare payment functionality would be provided by a small inexpensive Point of Sale device managed by an embedded host processor supporting remote device health monitoring and system fault management originally incorporated in eTaxiNY(TM) to relieve the driver from the distractions caused by the need for "baby sitting" the T-PEP system's need to reboot or stop to report a system failure. The POS device incorporates a small interactive touch display for passenger tip entry and electronic fare payment confirmation.

Although Ricardo appears to remain agnostic with regard to engine type, the new generation of clean diesels are ideal for New York City Taxis. In fact the successful diesels selected by Vehicle Technology over 35 years ago incorporated the Ricardo style indirect injection combustion chamber for un-diesel like smooth, quiet operation and relatively low emissions and fuel consumption for that period. A consideration should also be given to the likely development of a "software" meter and the need to display the fare information.

In setting priorities for taxi vehicle design it is now critical that feature and specification objectives are formulated and prioritized for the right reasons and important features are not rejected for the wrong reasons as a result of a conflict with unscientific politics. The very controversial CO_2 issue is an important example if other important priorities are sacrificed because of concern over the taxi "carbon foot print". At the risk of not being invited to Sierra Club functions, whether or not human activity influences the dynamic atmospheric concentration equilibrium of CO_2, the production of CO_2 in engine exhaust has little to no effect on climate temperature, is not a pollutant and is not a regulated substance. Other engine exhaust pollutants defined in the Clean Air Act and USEPA are regulated in grams of pollutant per vehicle mile, not per quantity of fuel consumed or dependent on vehicle size or weight. However it is essential that the taxi emission control systems are always functioning properly. Since taxi emission control systems inspected by the TLC only three times a year, full time OBD2 system monitoring should be required by means of a scan tool which was incorporated in the eTaxiNY(TM) system to alert drivers to emission control system malfunctions by displaying the Diagnostic Trouble Codes indicating the need for service. With all the emphasis on green everything it is surprising that this feature which will significantly reduce taxi emissions was nowhere to be found in VTS or the Taxi of Tomorrow discussions.

But TLC Regulation of CO_2 in an arbitrary manner and setting higher fuel economy standards has no effect on public health or the depletion of the earth's oil deposits. If a taxi operator is willing to spend more on fuel to ensure their safety and comfort and the safety and comfort of their passengers, they should have that option.

Qualified atmospheric scientists and heat transfer engineers know that CO_2 has very limited solar absorption properties due to its narrow solar radiation absorption bands for incident and reflected radiation and even with the measured growth of atmospheric CO_2,CO_2 is still a small atmospheric component and its effect on climate temperature is negligible especially compared to H_2O. While the believers of the theory that sources of CO_2 as a result of human activity cause global warming are busy trying to regulate worldwide CO_2 production or even attempting to identify all sources of CO_2 and are busy organizing cap and trade business and busy screwing in dangerous fluorescent/mercury light bulbs, they may find it hard to face that the earth may in fact be in a period of a flat temperature trend or even cooling. This actual trend may be controlled by natural phenomena such as Milankovitch earth orbit fluctuations and variations in solar activity. And not the trend claimed by the IPCC for which serious doubts have been raised concerning the accuracy of measured temperatures due to errors in satellite, balloon and earth station temperature measurements as well as the validity of the statistical methods used in analyzing the temperature data. The complex nature of atmospheric and climate analysis including the important role the ocean and ocean floor plays in CO_2 sequestration at the moment far exceeds the state of the art scientific and computer modeling for long term forecasting. While improvements in fuel economy and exhaust emission reduction are important objectives, any attempt to politicize medallion taxi and for hire vehicle features and specifications based on "carbon foot print" politics at the expense of passenger and driver safety, convenience and comfort is unjustified and should be avoided.

While conservation of natural resources should always be encouraged, all priorities should be considered and weighted accordingly. With regard to the concern over the depletion of petroleum resources and the immediate need to reduce taxi fuel consumption to preserve this resource there is a growing understanding that petroleum may not be a "fossil fuel" after all, but is abiotic and renewable. In any event as petroleum recovery technology improves, contrary to the alarmists it is likely that oil supplies will be plentiful for the next 100 years. But it is not the first time alarmists' predictions were wrong as the thought of an imminent peak and decline in petroleum reserves and production is nothing new ,with the same incorrect dire predictions appearing in text books over 50 years ago. Well before the end of this century and likely within the next 50 years it's a good bet that hydrogen will begin to replace petroleum as the transportation fuel.

This will be accompanied by the transition to more efficient hydrogen fuel cell technology and water will be "cracked" using nuclear fusion to produce the hydrogen fuel. Decentralized production of hydrogen may also be produced by electrolysis of water. But technical challenges for hydrogen distribution and storage must be overcome.

Notwithstanding speculation about future developments and trends it is crucial that policy makers understand today's realities as applied to the formulation of features, requirements and specifications for the taxi vehicle life cycle time period. Ultimately, taxi vehicle regulatory policy and specifications formulated today should reflect priorities that are not perverted by irrelevant factors incorrectly applied, but are correctly determined to protect the best interests of the public and the Industry with a focus on optimizing the delivery of transportation services to New York's diverse passenger market.

As an important step toward optimizing the delivery of transportation services the TLC's pilot for wheelchair accessible medallion taxi and for hire vehicle dispatch services was an important milestone requiring a more general consideration of class of service categories linked to Taxi of Tomorrow vehicle types and Class of Service pricing. As a de facto matter the City's taxi and for hire transportation industries already incorporate multiple vehicle types and class of service categories with accompanying multiple fare structures. New Class of Service concepts with associated vehicle types should now be considered for the medallion segment with a more complete understanding of the diverse medallion trip types and an understanding that "one size fits all" may not be optimal. Incentives for wheelchair accessible medallion auction pricing is already an important example of a more general Class of Service pricing concept applied to a specific vehicle type targeted to a specific Class of Service. Extending this incentive to rate of fare categories should now be considered. If an owner chooses to invest in a more expensive vehicle for a more costly Class of Service fare category while on the other hand an owner may choose to operate a less expensive, low fuel consumption vehicle targeting single passengers in a less expensive fare category, enabling that option may better serve the market. But care must be taken not to burden and penalize specific Class of Service categories with unfair relative rate of fare pricing. An example of such a mistake is the decision to use a metered rate of fare in the wheelchair accessible pilot dispatch service for livery and medallion taxis rather than a "standard" livery type zone rate of fare without the need to require wheelchair accessible liveries to install taxi meters. Following normal call for service practice the passenger indicates pick up and destination points and is given the fare amount by the call taker using location based dispatching. Pursuing a Class of Service concept to ensure the cost burdens are to the greatest extent equitably shared between passengers and operators is a worthy goal. The Administration's misguided attempt to link traffic management with mass transit funding is an example of attempting to unfairly shift the cost burden between two important and worthy objectives. If admittedly 5% of the commuters need or choose to use private cars compared to 95% using mass transit why should it be politically correct to place 100% of the mass transit improvements cost burden solely on the 5% for the benefit of the 95%?

Apparently the idea that the 5% would be investing in new services in the future for their benefit was not credible. Similar consideration should be given to whether or not the entire medallion industry should be wheelchair accessible in order to properly service the market to a uniformly high quality of service standard with concomitant service category pricing.

Consistent with sound vehicle regulatory requirements, the Industry should enjoy the benefits of vehicle quality, choice and low cost best achieved with the widest supplier competition and innovation.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☒ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: John McDonnell
Address: 75-10 68 Ave Queens NY
I represent: Taxi Drivers
Address: ______

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THE CITY OF NEW YORK

Appearance Card

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☑ in favor ☐ in opposition

Date: JANUARY 14, 2009

(PLEASE PRINT)

Name: FRANCHIE MUÑIZ / JOSE VILORIA

Address: 3280 ROCHAMBEAU AVE 2I, BRONX N.Y. 10467

I represent: NEW YORK STATE FEDERATION of TAXI DRIVERS

Address: 5911 4th AVE. BROOKLYN, N.Y. 11220

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Appearance Card

I intend to appear and speak on Int. No. 880 Res. No. ____

☑ in favor ☐ in opposition

Date: 1/14/09

(PLEASE PRINT)

Name: JOSE VILORIA

Address: 182 W 180 ST BX NY 10453

I represent: NYS FEDERATION OF TAXI DRIVERS

Address: 5911 4 AVE BROOKLYN NY 11220

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Date: ____

(PLEASE PRINT)

Name: Beresford SIMMONS

Address: 37 E 28 ST

I represent: TWIA

Address: 37 E 28 ST

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Appearance Card

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Date: 01/14/09

(PLEASE PRINT)

Name: OSMAN CHOWDHURY

Address: 43-42-45 ST APT 4G SUNNYSIDE NY 11104

I represent: NYTWA

Address: ________

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Appearance Card

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Date: 1/14/09.

(PLEASE PRINT)

Name: GARY Roth

Address: 40 Rector St. NY, NY 10006

I represent: NYC TAXI & Limousine Commission

Address: 40 Rector St NY NY 10006

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☐ in favor ☐ in opposition

Date: 1/14/2009

(PLEASE PRINT)

Name: PETER M. MAZER

Address: 24-16 QUEENS PLAZA S., RM 503 LIC, NY 11101

I represent: METROPOLITAN TAXICAB BOARD OF TRADE

Address: SAME

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I intend to appear and speak on Int. No. 705 Res. No. ______

☒ in favor ☐ in opposition

Date: 1-14-09

(PLEASE PRINT)

Name: Bhairavi Desai

Address: 37 E. 28 St. #302 10016

I represent: NY Taxi Workers Alliance

Address: ______

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Appearance Card

I intend to appear and speak on Int. No. 705, 880 Res. No. ______

☐ in favor ☒ in opposition

Date: ______

(PLEASE PRINT)

Name: Ethan Gerber, ENYTA

Address: 26 Court Street Bklyn NY

I represent: ENYTA [illegible]

Address: ______

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☒ in favor ☐ in opposition

Date: 1/14/09

(PLEASE PRINT)

Name: Ryan Richardson

Address: 606 Sterling Pl Brooklyn, NY

I represent: ______

Address: ______

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Date: ______

(PLEASE PRINT)

Name: JAHANGIR ALAM

Address: 31-21 54 ST # 5C WOODSIDE

I represent: MEMBER NYTWA

Address: N-/C

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☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Charles R. Fraser

Address: ______

I represent: Taxi and Limousine Commission

Address: 40 Rector St., NY, NY 10005

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Appearance Card

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Date: 1/14/09

(PLEASE PRINT)

Name: Ira Goldstein

Address: Taxi & Limousine Commission, 40 Rector St, NY, NY 1000[illegible]

I represent: TLC

Address: Same as above

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Appearance Card

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Date: ______

(PLEASE PRINT)

Name: Ed Ott

Address: NYC Central Labor Council

I represent: ______

Address: ______

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Date: ______

(PLEASE PRINT)

Name: Mamnun Ul Haq

Address: ______

I represent: NY Taxi WORKers Alliance

Address: ______

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Appearance Card

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☒ in favor ☐ in opposition

Date: 11/18/09

(PLEASE PRINT)

Name: Michael Thaler

Address: 525 E 82nd Street

I represent: Self

Address: ______

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THE CITY OF NEW YORK

Appearance Card

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☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: VICTOR SALAZAR
Address: 120 ELGAR PL. # 33A
I represent: NYTWA & MYSELF
Address: BRONX, NY

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☐ in favor ☒ in opposition

Date: 1/14/09

(PLEASE PRINT)

Name: David Pollack
Address: ~~23-10 Jackson Ave.~~
I represent: Committee for Taxi Safety (CTS)
Address: 23-10 Jackson Ave LIC NY 11101

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Appearance Card

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☐ in favor ☒ in opposition

Date: ________

(PLEASE PRINT)

Name: MALCOLM RITTNER
Address: 374 4 AVE
I represent: DOUBLE SHIFT FLEETS