

7/17 Faxed

#18




July 17, 2002

Metropolitan  
Transportation  
Authority

One Gateway Plaza  
Los Angeles, CA  
90012-2952

**TO: BOARD OF DIRECTORS**

**FROM: ROGER SNOBLE**  
**CHIEF EXECUTIVE OFFICER** 

**THROUGH: LONNIE MITCHELL**  
**EXECUTIVE OFFICER, PROCUREMENT**

**SUBJECT: P2000 WARRANTY**

This memorandum addresses the questions raised by Board staff on 11 July concerning the P-2000 warranty. Staff promised to address warranty questions raised during discussion of July 2002 board report # 18, Vehicle Acquisition Project (Action: Contract modification in the credit amount of \$778,800).

Staff was questioned about modified warranty start dates mentioned in a Board Box of 5 May 2000. Warranty discussions occurred with Siemens during the Spring and Summer of 2001 in conjunction with retention clause payout procedures and milestone payments procedures. Negotiations were successful regarding retention and milestone payments. Although several proposals affecting calculation of warranty start dates were made, neither party could reach a mutually agreeable position. Warranty discussions were terminated.

The P-2000 vehicle warranty has not changed since the Notice to Proceed was issued to Siemens in February 1994. The requested July board action (#18), if approved, will result in an increase of the basic car body warranty (GC-11.1a) from 5 to 6 years from vehicle acceptance or conditional acceptance (revenue service), whichever occurs first. No other warranty provision is changed.

The warranty is defined and controlled by two P-2000 contract clauses, General Condition GC-11.0 "Warranty" and Special Provision SP-18 "Vehicle Acceptance". The Special Provision has precedence.

There are several paragraphs in each contract clause. The most applicable to this memorandum is the following:

## **GC 11.1 Components**

*The Contractor shall warrant:*

- a) *The structure of the car body, underframe, support brackets, and the truck frames, axles, and the exterior painting for a period of five (5) years from the date each car is accepted by the LACMTA*
- b) *All other parts, except Spare Parts, for a period of three (3) years from the date each Car is accepted by the LACMTA or two years after placement into revenue service, whichever comes first.*
- c) *Spare parts for two(2) years from the date of installation, but not to exceed three years after delivery*
- d) *Special tools and test equipment for a period of three (3) years from the date of acceptance.*

Other sections of GC-11 address Defects (11.2), Component failure Criterion (11.3), Repair and Replacement of Defects Caused by Other Car Parts (11.4), No Increase in Maintenance Requirements (11.5), Warranty of Work (11.6), LACMTA-Owned Spare Parts (11.7), Use of LACMTA Facilities (11.8), Use of LACMTA Warranty Administration, Procedures, and Report Forms (11.9).

### **SP-18 Vehicle Acceptance**

*Acceptance will occur upon successful completion of all testing set forth in Volume II, Technical Requirements, Section 17 of these Contract Documents, and completion of all Work in accordance with the Contract, including all submittals and retrofits. The authority will notify Contractor in writing of acceptance or rejection, and in the case of rejection, the reasons therefore.*

*If, during inspection and acceptance testing, the Authority determines that a vehicle(s) is suitable for operation in revenue service, but that it is not totally responsive to the Contract Documents requirements such that substantial delay might be incurred in implementing required corrective action(s), the Authority may, at its discretion, issue a "Certificate of Conditional Acceptance" for the vehicle(s) for mutual execution by the Authority and Contractor. Such conditionally accepted vehicles shall then be available to the Authority for use in revenue service until such time as the Contractor is able to initiate and execute the necessary corrective action(s).*

*Such "Conditional Acceptance" of a vehicle(s) shall not negate its (their) eligibility for achieving a milestone payment. On conditional acceptance into revenue service, warranty starts to run on all parts, except those requiring corrective action.*

*Should the Authority experience delays in its Vehicle Acceptance Program attributable to the Contractor because of defective materials, workmanship, or design, the Contractor shall not be permitted to store unaccepted Vehicles on the Authority's property pending resolution of the problems. Consequential to the foregoing, no more the ten (10) unaccepted Vehicles will be*

*permitted to be stored by the Contractor on the Authority's property at one time unless otherwise agreed to by the Authority.*

The Authority has conditionally accepted thirty-three P-2000 vehicles (as of 15 July, 2002). The first six vehicles (203, 205, 207, 209,214,215) were conditionally accepted in advance of revenue service. All subsequent vehicles have simultaneously been conditionally accepted and placed into revenue service. Siemens has been complying with contractual requirements to perform warranty work since the first P-2000 vehicles were placed into revenue service in April 2001.

## BROADCAST REPORT

NAME:MTA EXEC OFFICES  
 TEL :213 922 6915  
 DATE:07/17'02 12:30

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BROADCAST = 016 LOCATION

OK = 015 LOCATION

FAIL = 001 LOCATION