



MINUTES

NEW YORK STATE THRUWAY AUTHORITY

BOARD MEETING NO. 675

June 25, 2009

Minutes of a meeting of the New York State Thruway Authority, held in the Board Room at Administrative Headquarters, 200 Southern Boulevard, Albany, New York 12209 and via video conference from the Authority's New York Division, 4 Executive Boulevard, Suffern, NY 10901.

The meeting began at 11:06 a.m.

There were present:

**Chairman John L. Buono
E. Virgil Conway, Board Member
Donna J. Luh, Board Member
Kevin J. Plunkett, Board Member, via video conference
Brandon R. Sall, Board Member
Richard N. Simberg, Board Member**

Constituting a majority of the members of the Thruway Authority Board.

Ms. Crotty was not present at this meeting and did not vote on any of the Items.

In addition, there were present the following staff personnel:

**Michael R. Fleischer, Executive Director
Katherine McCartney, Deputy Counsel
John Bryan, Chief Financial Officer
Jill Warner, Secretary and Board Administrator
Christopher Waite, Chief Engineer
Betsy Graham, Acting Director, Office of Public Affairs
Thomas Pericak, Division Director, Buffalo Division
William Rinaldi, Division Director, Albany Division**

Richard Garrabrant, Division Director, Syracuse Division
Ted Nadratowski, Division Director, New York Division
Kevin Allen, Acting Director, Audit and Management Services
John Barr, Director, Administrative Services
Donald Bell, Director, Operations and Maintenance
Carmella Mantello, Director of Canal Corporation
First Sergeant Marc Tryon, Troop T
Wendy Allen, Deputy Chief of Staff
Michael Sikule, Director, Office of Investments and Asset Management
Thomas Fitzgerald, Director, Office of Human Resource Management
Tony Kirby, Director, Office of Real Property Management
Harry Lennon, Senior Investigator, Audit and Management Services
Tracie Sandell, Assistant Counsel
Joanne Riddett, Director, Information Technology
Daniel Gilbert, Chief of Staff
Also in attendance:
John Armstrong, Assistant Television Engineer, NYN
Thomas Benware, Staff, Senator Dilan's Office
Steven Turner, Partner, Hawkins Delafield & Wood LLP
William Estes, Assistant Counsel to Governor Paterson
Daniel Cohen, Director, Citigroup Global Markets Inc.
Daniel Tomson, Managing Director, Citigroup Global Markets Inc.
Angella Rodell, Senior Vice President, First Southwest Company
Kayla McEwen, Associate, First Southwest Company
Jerry DeLuca, D.P.A.
Cathy Woodruff, Reporter, *Albany Times Union*

Chairman Buono noted that he, Mr. Howard, Ms. Luh, Mr. Conway, Mr. Plunkett, Mr. Simberg and Mr. Sall had received and reviewed the Agenda submitted for consideration at this meeting and were prepared to act on each of the items.

Chairman Buono called the meeting to order.

Ms. Warner recorded the minutes as contained herein.

Public notice of the meeting had been given, Ms. Warner said.



Item 1 Ms. Warner (Appendix A)
Minutes of Meeting No. 674

On the motion of Ms. Luh, seconded by Mr. Plunkett, without any objections, the Board approved the minutes of Meeting No. 674 held on May 20, 2009, which were made available to the Board Members as part of the Agenda.

Item 2 by Mr. Fleischer (Appendix B)
Staff Appointment of William Estes as General Counsel

Mr. Fleischer stated that Mr. Estes is a highly regarded attorney with a wealth of experience and knowledge that will significantly benefit the Authority and Corporation. He has served with distinction in the Executive Chamber, the United States Securities and Exchange Commission, the United State Attorney's Office as well as the New York State Office of the Attorney General. Mr. Estes stated that he looks forward to working with the great staff at the Authority under the direction of the Board.

After full discussion, on the motion of Mr. Conway, seconded by Ms. Luh, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 5763
STAFF APPOINTMENT OF WILLIAM ESTES AS
GENERAL COUNSEL

RESOLVED, that the Board hereby appoints William Estes as the General Counsel, effective July 13, 2009 at salary grade 38 with an annual salary of \$145,000, funds for which are available in the 2009 Operating Budget, and be it further,

RESOLVED, that this resolution be incorporated in the minutes of this meeting



Item 3 by Mr. Fleischer (Appendix C)

Authorization for the Executive Director to Defer Payment of the 2009 General Salary Increase, Step Advances and Longevity Payments for Managerial/Confidential (M/C) Employees and Adjustment of the 2009 M/C Salary Schedule

Mr. Fleischer stated that this Item is identical to the one discussed earlier in the Canal Corporation Meeting. The Chairman requested that the same comments be included as part of the Authority Minutes (below).

Ms. Luh stated that she hopes the deferment won't last too long because the Authority has a great staff who have families to provide for, the work day isn't just 8 hours here, it's nights and weekends too. Chairman Buono stated that the entire Board echoes Ms. Luh's comments.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Simberg, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 5764

**AUTHORIZATION FOR THE EXECUTIVE DIRECTOR
TO DEFER PAYMENT OF THE 2009 GENERAL
SALARY INCREASE, STEP ADVANCES AND
LONGEVITY PAYMENTS FOR
MANAGERIAL/CONFIDENTIAL (M/C) EMPLOYEES
AND ADJUSTMENT OF THE 2009 M/C SALARY
SCHEDULE**

RESOLVED, that the Executive Director be, and hereby is, authorized to defer payment of the general salary increase, step advances and longevity payments for M/C employees scheduled for the pay periods that include July 1, 2009 through June 30, 2010 and the commensurate 2009 adjustment of the M/C Salary Schedule until such time as he determines appropriate, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting



Report by the Chair of the Audit and Finance Committee

Mr. Conway reported to the Board on the actions taken by the Audit and Finance Committee at Meeting No. 15, held on June 23, 2009. The Committee approved the Thirteenth Supplemental Bond Resolution Authorizing the Issuance of General Revenue Bonds, Series I; the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A; the Selection of Certain Consultants and Agents Related to the Issuance of the Series I Bonds or the Series 2009A BANS; and other related documents and agreements necessary for the sale, issuance and delivery of the Series I Bonds or the Series 2009A BANS for Board Action. Mr. Conway suggested that the Board skip ahead in the meeting Agenda and discuss Item 5 at this point, the Chairman concurred and Mr. Conway's presentation was continued after a vote was taken on Item 5. The Committee approved the 2009 Internal Audit Programs and accepted the report submitted to the Office of the State Inspector General. Finally, the Committee reviewed and discussed some additional financial issues.

Item 4 by Mr. Bryan (Appendix D)
Financial Report – April and May 2009

Mr. Bryan reported that for the first 5 months of 2009, overall traffic was down approximately 3.1 percent over the level experienced in 2008, which mirrors the trends established nationally. After adjusting for the leap year, underlying traffic was down 2.4 percent in the first 5 months of 2009, with passenger traffic down 1.2 percent and commercial traffic down 12.3 percent.

The traffic environment continues to slightly improve. As noted in the charts that are attached to the monthly statement, while commercial traffic continues to be down significantly from 2008, staff is seeing passenger traffic growth come back into the positive territory in both April and May. Staff anticipates that traffic will continue to slowly improve as the national economy exits the recession and it appears that if this is the case that we will be on a track to better the latest Stantec traffic forecast.

To summarize the Authority's revenue situation, through the end of May the Authority collected \$233.5 million in revenue, which was \$21.3 million higher than the level collected in the same period of 2008, representing an increase of 10 percent. Total revenues from all sources increased by \$19.3 million or 8.5 percent over the first five months of last year.

Despite the reduction in traffic, concession revenues, which are dependent on the level of fuel and food sales at the Authority's Travel Plazas, increased slightly over



Item 4 by Mr. Bryan (Appendix D)
Financial Report – April and May 2009 (Continued)

the first 5 months of 2008. Last year at this time there were a number of food concessions that were closed for capital upgrades and the introduction of new venues, which have since reopened and are now generating revenue for the Authority.

As previously reported, interest earnings are way down, as yields earned on investments drop with declining market rates. The four week T-Bill paid only 0.11 percent last week and staff expects this low rate environment to continue for some time.

On the expense side, cost containment continues to produce good results. Operating expenses for both the Thruway and the Canal through May were down 0.7 percent from the same period in 2008 and are actually about 2 percent below the operating budget at this time.

Chairman Buono stated that he noticed that the fuel prices on the road are pretty good and in some cases have been lower than those off-road. Ms. Luh also stated that Mr. Bryan's reports are excellent and helpful when she is asked questions by people outside the Thruway. She appreciates the time and effort staff puts in to creating these reports. Mr. Bryan acknowledged that he has a good staff.

Following discussion regarding the financial condition of the Authority, on the motion of Mr. Sall, seconded by Mr. Plunkett, without any objections, the Board accepted the Financial Report for the month of March 2009.

Item 5 by Mr. Bryan (Appendix E)
Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A, Approving the Form of the Bond Anticipation Notes Purchase Agreement for the Series 2009A Notes, Approving the Form of and Authorizing the Preparation, Execution and Delivery of the Preliminary Offering Memorandum and Approving the Form of the Final Offering Memorandum and Authorizing the Execution of One or More Continuing Disclosure Agreements, Authorizing the Execution of Any Other Documents Necessary for the Sale, Issuance and Delivery of the Series I Bonds or the Series 2009A Notes and Authorizing the Selection of Certain Consultants and Agents Related to the Issuance of the Series I Bonds or the Series 2009A Notes



Item 5 by Mr. Bryan (Appendix E)

Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A (Continued)

This Item was discussed prior to Item 4 and before the conclusion of Mr. Conway's report to the Board. Mr. Bryan stated that based on the recommendation of the Audit and Finance Committee, this resolution seeks the full Board's approval to issue up to \$700 million from a new series of the General Revenue Bonds, Series I, as well as issue General Revenue Bond Anticipation Notes in anticipation of the Series I Bonds.

Funds generated from this proposed transaction will be used to help finance the Authority's highway and bridge program over the next two years.

The reason why staff is seeking the Board's approval to issue Notes at this time is that short-term interest rates are near historical lows and staff believes that issuing short-term obligations to fund the Authority's capital program is a prudent financial decision at this time.

Staff has sought a rating on the BANs from both Moody's Investor's Service and Standard and Poor's. The Board should know that Standard and Poor's is citing the proactive and positive steps staff has taken to maintain the Authority's good financial margins during this difficult economic and financial period and the continued focus on improving operational performance as reasons why they are providing the Authority with the highest possible rating.

Mr. Bryan stated that he thinks it is important to mention two issues that are contained in this resolution.

First, the Board approved the most recent financial plan in November 2008 as part of the 2009 Budget, which assumed that the Authority would be issuing long-term bonds in 2009 rather than the short-term obligations staff is advancing for the Board's consideration today. As a result, the financial plan in the attached transaction documents is updated to reflect the latest estimates of the Authority's financial condition and is amended to include the impact of the issuance of BANs this summer.

Lastly, this resolution seeks approval for an amendment to the General Revenue Bond Resolution, and if acceptable to the Board, would begin to secure Bondholders' consents to expand the Authority's ability to enter into a lease or a franchise contract whereby the Authority would continue to own and bear long term



Item 5 by Mr. Bryan (Appendix E)

Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A (Continued)

responsibility for a facility but contract with a firm or consortium to operate, maintain and/or re-build that facility.

Mr. Plunkett inquired if the rating agency's comment Mr. Bryan quoted was a reflection of the toll increase and the Authority's cutting back on expenses. Mr. Bryan concurred. Mr. Plunkett then inquired if the Authority had not raised tolls would there have been a different result from rating agencies. Mr. Bryan responded that the result would have been drastically different and it may have precluded the Authority from entering into the market entirely. The toll increase, as well as actions taken on the operational side, are responsible for the SP1+ rating the Authority received, which is the highest rating you can get from Standard and Poors.

Mr. Plunkett inquired if the rating assists the Authority in obtaining a good interest rate on the Bonds. Mr. Bryan concurred, adding that it also helps with the marketability of the Bonds. The market is still somewhat closed to agencies who have lower ratings. Higher rated facilities are seeing good marketability on their Bonds, while the others are closed out or have extremely expensive issuances. Mr. Conway added that using a two-year BAN places the Authority in a good position.

Mr. Simberg inquired as to whether or not the Authority would have the ability to buy back some of these BANS if the economic conditions change drastically in the next two years and stated that staff should be monitoring the situation closely. Mr. Bryan concurred.

After full discussion, on the motion of Mr. Conway, seconded by Ms. Luh, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 5765

APPROVING THE THIRTEENTH SUPPLEMENTAL RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL REVENUE BONDS, SERIES I, APPROVING THE RESOLUTION FOR THE GENERAL REVENUE BOND ANTICIPATION NOTES, SERIES 2009A, APPROVING THE FORM OF THE BOND ANTICIPATION NOTES PURCHASE AGREEMENT FOR THE SERIES 2009A NOTES, APPROVING THE



Item 5 by Mr. Bryan (Appendix E)

Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A (Continued)

FORM OF AND AUTHORIZING THE PREPARATION, EXECUTION AND DELIVERY OF THE PRELIMINARY OFFERING MEMORANDUM AND APPROVING THE FORM OF THE FINAL OFFERING MEMORANDUM AND AUTHORIZING THE EXECUTION OF ONE OR MORE CONTINUING DISCLOSURE AGREEMENTS, AUTHORIZING THE EXECUTION OF ANY OTHER DOCUMENTS NECESSARY FOR THE SALE, ISSUANCE AND DELIVERY OF THE SERIES I BONDS OR THE SERIES 2009A NOTES AND AUTHORIZING THE SELECTION OF CERTAIN CONSULTANTS AND AGENTS RELATED TO THE ISSUANCE OF THE SERIES I BONDS OR THE SERIES 2009A NOTES

RESOLVED, in accordance with the New York State Thruway Act, Title 9 of Article 2 of the New York State Public Authorities Law, as amended (the “Act”), the Authority is authorized to issue its bonds, in such principal amount as, in the opinion of the Authority, shall be necessary to provide sufficient moneys for achieving the corporate purposes of the Authority, and be it further

RESOLVED, that the revised financial plan contained in the attached documents is hereby accepted, and be it further

RESOLVED, that the Act authorizes the Authority to adopt bond resolutions establishing the contract with its bond and note holders, and be it further

RESOLVED, that there has been approved by the Board, on August 3, 1992, a General Revenue Bond Resolution (as amended and supplemented, the “Resolution”) which, consistent with the Act, authorizes bonds of the Authority, designated as “General Revenue Bonds”, as direct and general obligations of the Authority



Item 5 by Mr. Bryan (Appendix E)

Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A (Continued)

in accordance with the terms thereof to finance all or a portion of the costs of various corporate purposes of the Authority, and be it further

RESOLVED, that Section 202 of the Resolution requires that the issuance of General Revenue Bonds by the Authority shall be authorized by a supplemental resolution or resolutions of the Authority adopted at or prior to the time of issuance, and be it further

RESOLVED, that Section 207 of the Resolution provides that whenever the Authority shall by Supplemental Resolution have authorized the issuance of a Series of Bonds, the Authority may by resolution authorize the issuance of Bond Anticipation Notes in anticipation of the issuance of the Series of Bonds, in a principal amount not exceeding the principal amount of the Bonds of such Series so authorized, and be it further

RESOLVED, that there has been prepared and submitted to the Board a form of Thirteenth Supplemental Revenue Bond Resolution Authorizing General Revenue Bonds, Series I (the “Series I Supplemental Resolution”), to provide sufficient funds to pay the principal of and interest on General Revenue Bond Anticipation Notes, Series 2009A (“Series 2009A Notes”); to pay Project Costs, including funds as may be advisable for deposit in the Reserve Maintenance Fund; to pay Costs of Issuance relating to the Series I Bonds; and, if necessary, to make a deposit to the Senior Debt Service Reserve Fund equal to the Senior Debt Service Reserve Fund Requirement, taking into account the Reserve Credit Facilities on deposit therein, upon the issuance of the Series I Bonds, and be it further

RESOLVED, that there has been prepared and submitted to the Board a form of Resolution authorizing up



Item 5 by Mr. Bryan (Appendix E)

Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A (Continued)

to \$700,000,000 in General Revenue Bond Anticipation Notes, Series 2009A (the “Series 2009A Notes Resolution”), to provide sufficient funds to pay the Costs of Issuance relating to the Series 2009A Notes and to fund a portion of the cost of the Authority’s Multi-year Capital Plan, including funds for deposit into the Reserve Maintenance Fund, and be it further

RESOLVED, that the Authority intends to authorize the issuance, pursuant to the Resolution and the Series I Supplemental Resolution, of its General Revenue Bonds, Series I (the “Series I Bonds”), and be it further

RESOLVED, that the Authority intends to issue, pursuant to the Series 2009A Notes Resolution and in accordance with Section 207 of the Resolution, its Series 2009A Notes and to sell its Series 2009A Notes to the Underwriters pursuant to a Bond Anticipation Note Purchase Agreement, the form of which Bond Anticipation Note Purchase Agreement has been set before the Board, and be it further

RESOLVED, that the Board approves the form of the Series I Supplemental Resolution as submitted with this item and made a part of this resolution as though set forth in full herein, and authorizes an Authorized Officer (as defined in the Resolution) to approve and execute such changes to the Series I Supplemental Resolution as may be deemed necessary or convenient to effectuate the purposes thereof, and be it further

RESOLVED, that the Board approves the form of the Series 2009A Notes Resolution as submitted with this item and made a part of this resolution as though set forth in full herein, and authorizes an Authorized Officer to approve and execute such changes to the Series 2009A Notes



Item 5 by Mr. Bryan (Appendix E)

Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A (Continued)

Resolution as may be deemed necessary or convenient to effectuate the purposes thereof, and be it further

RESOLVED, that in connection with the sale of the Series I Bonds, the Board approves the form of the proposed amendment to the Resolution described in Section 601 of the Series I Supplemental Resolution as submitted with this item and made a part of this resolution as though set forth in full herein. It is understood that such amendment, in each case to the extent necessary under the terms of the Resolution, would be effective only upon receipt of the consent of the holders of at least a majority in principal amount of the Bonds Outstanding and through the adoption of a Supplemental Resolution implementing such changes at a future date, and be it further;

RESOLVED, that the Board approves the Bond Anticipation Note Purchase Agreement in substantially the form submitted with this item and made a part of this resolution as though set forth in full herein, in the manner set forth in Section 301 of the Series 2009A Notes Resolution and authorizes an Authorized Officer to execute and deliver such Bond Anticipation Note Purchase Agreement and to approve and execute such changes to such Bond Anticipation Note Purchase Agreement as may be deemed necessary or convenient to effectuate the purposes thereof, and be it further

RESOLVED, that in connection with the sale of the Series 2009A Notes, the Board approves the form of the Preliminary Offering Memorandum as submitted with this item and made a part of this resolution as though set forth in full herein, and authorizes an Authorized Officer to approve and execute such changes as may be deemed necessary or convenient to effectuate the purposes thereof, and be it further



Item 5 by Mr. Bryan (Appendix E)

Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A (Continued)

RESOLVED, that the Board authorizes the distribution of the Preliminary Offering Memorandum relating to the Series 2009A Notes by an Authorized Officer, in substantially the same form submitted with this item with such changes, insertions and omissions to the Preliminary Offering Memorandum as may be approved by an Authorized Officer, said distribution being conclusive evidence of such approval, and any amendments or supplements thereto which may be necessary or desirable, and be it further

RESOLVED, that the Board authorizes an Authorized Officer to confirm that the Preliminary Offering Memorandum related to the Series 2009A Notes is deemed final for purposes of Rule 15c2-12 of the Securities and Exchange Commission, except for certain permitted omissions and information not required under said Rule to be included therein, and be it further

RESOLVED, that the Board authorizes an Authorized Officer to execute or deliver, on behalf of the Authority, a final Offering Memorandum relating to the Series 2009A Notes in substantially the form of the Preliminary Offering Memorandum submitted with this item, with such changes, insertions and omissions as may be approved by an Authorized Officer, said execution or delivery being conclusive evidence of such approval, and any amendments or supplements thereto which may be necessary or desirable. Any material changes from the Preliminary Offering Memorandum approved pursuant to this resolution to be made in the final Offering Memorandum which are not made pursuant to matters which are authorized to be determined pursuant to a Certificate of Determination (as defined in the Resolution) shall be distributed to members of the Board for comments, if any, prior to final printing. After execution, if



Item 5 by Mr. Bryan (Appendix E)

Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A (Continued)

appropriate, an Authorized Officer is hereby authorized to deliver to the purchasers of the Series 2009A Notes an executed copy or copies of such final Offering Memorandum and any further amendments or supplements thereto, and be it further

RESOLVED, that prior to applying the proceeds of the Series 2009A Notes to any Facility (as defined in the Resolution), the Authority, with respect to such Facility, shall have complied with any applicable requirements of the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law) and any other applicable environmental laws or regulations, and be it further

RESOLVED, that the Authority intends to finance, on an interim basis, the costs of its capital program for the Thruway System and the other transportation projects authorized by law which costs are reasonably expected to be paid or reimbursed with the proceeds of debt to be incurred by the Authority, in the maximum principal amount of \$700,000,000 pursuant to the issuance of the Series 2009A Notes. Such costs include, but are not limited to, highway and bridge construction, reconstruction, rehabilitation, widening, relocation and incidental extensions. This resolution is a declaration of official intent adopted pursuant to the requirements of applicable Treasury Regulations, and be it further

RESOLVED, that the Board authorizes an Authorized Officer to execute upon such terms and conditions as are determined to be in the best interests of the Authority and are consistent with the provisions of the Series I Supplemental Resolution: one or more Continuing Disclosure Agreements in substantially the form submitted with this item and any additional agreements or other documents necessary to facilitate the sale of the Series



Item 5 by Mr. Bryan (Appendix E)

Approving the Thirteenth Supplemental Resolution Authorizing the Issuance of General Revenue Bonds, Series I, Approving the Resolution for the General Revenue Bond Anticipation Notes, Series 2009A (Continued)

2009A Notes and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this resolution, and be it further

RESOLVED, that the Board confirms and ratifies the continuation and selection of The Bank of New York Mellon, New York, New York as Trustee and Paying Agent, and be it further

RESOLVED, that an Authorized Officer is authorized to make any determinations or selections and/or appointments of any necessary or convenient consultants or agents and to execute any additional certificates, agreements or other documents necessary to facilitate the authorization, sale, issuance and delivery of the Series 2009A Notes and the Series I Bonds and to achieve the other purposes of this Resolution, including but not limited to agreements with securities depositories and documents relating to credit enhancement, and to do and cause to be done any and all acts and things necessary or proper to carry out the transactions contemplated by this Resolution, and be it further

RESOLVED, that this resolution be incorporated in full in the minutes of this meeting

Item 6 by Mr. Bryan (Appendix F)

Declaring Real Property Reference No. 490 Not Presently Necessary for the Authority's Corporate Purposes and Authorizing Its Lease to the City of Rye

In advance of Mr. Bryan's presentation of the item and any associated discussion, Mr. Plunkett made the following statement and then left the room.



Item 6 by Mr. Bryan (Appendix F)

Declaring Real Property Reference No. 490 Not Presently Necessary for the Authority's Corporate Purposes and Authorizing Its Lease to the City of Rye (Continued)

It is my understanding that the Authority Board will be requested to authorize the Executive Director to execute a lease of certain Thruway Authority property to the City of Rye. I am the part-time Corporation Counsel to the City of Rye. As such, I shall recuse myself from any discussion on this matter, as I have done in the past, and I will abstain from voting on this Item now being brought before the Board. As with prior meetings in which this matter has been discussed, I have requested that the Executive Director advise all staff that they shall not communicate with me about this matter. Additionally, no confidential information concerning this matter has been or will be shared with me. I will now leave the Board Room while this matter is under consideration.

Following Mr. Plunkett's statement and in advance of Mr. Bryan's presentation of the item and any associated discussion, Mr. Sall made the following statement.

Mr. Plunkett has indicated he is recusing himself from discussion and voting on the City of Rye Board Item. Mr. Plunkett stated he acts as part-time Corporation Counsel for the City of Rye. Mr. Plunkett is a partner with the firm of DelBello Donnellan Weingarten Wise and Wiederkerh, LLP. As I have stated previously, I am Of Counsel to that law firm. As Of Counsel, I do not share in the firm's profits for those matters I am not directly involved in. As I am not involved in the legal representation of the City of Rye, and I have no financial connection to the firm's representation of the City of Rye, it is not necessary for me to recuse myself from discussing and voting on this item. I have in the past discussed the issue of a potential conflict with the Thruway Authority's Counsel and we have concluded that there is no conflict that would prevent my participation in this matter.

Mr. Bryan reported that this resolution seeks the Board's approval to lease 4.9 acres of vacant Authority property located at the junction of Interstates 95 and 287 in the City of Rye. The City of Rye has requested a lease of the property to construct, operate and maintain a public recreational park on the premises. The City has cited an urgent need for the property to accommodate the demand by school-related sports groups for an athletic field/facility. As shown in Exhibit 4, the City has developed a conceptual site plan for the park, inclusive of a soccer field, a parking area and lavatory facilities.



Item 6 by Mr. Bryan (Appendix F)

Declaring Real Property Reference No. 490 Not Presently Necessary for the Authority's Corporate Purposes and Authorizing Its Lease to the City of Rye (Continued)

The term of the lease will be for 15 years, the lease may be terminated at any time by the Authority, and since the City has shown that the property will be substantially used for public purposes, the annual rent is being set at below market value, as authorized under the Public Authorities Accountability Act.

It is important to note that the NYS Department of Transportation and the Federal Highway Administration have stated that ownership of the property should be retained by the Authority for future transportation uses (especially in light of the ongoing Tappan Zee Corridor Project). However, they both agree the property is not currently needed for transportation purposes and the 15-year lease which staff is proposing is satisfactory to them.

Mr. Conway inquired as to why the amount of the lease is increasing after the initial two years. Mr. Bryan responded that for the first two years it will be leased for \$1 and then for the next 13 years it will be \$30,000 per year. Mr. Conway asked why it was being done that way. Mr. Fleischer stated that the City plans to expend resources building the facilities in the first two years. Mr. Sall stated that the City of Rye will spend approximately \$3 million improving this property so that it can be used for ball fields, etc. He inquired as to whether or not the feeling was that because the City was going to be spending so much money the rent for the first two years should be nominal. Mr. Fleischer concurred. Mr. Conway stated that he doesn't feel that \$30,000 is nominal. Mr. Conway inquired as to why the Authority wouldn't continue to rent the property to the City for \$1 per year. Ms. Luh stated that that wouldn't make sense when the City is willing to pay the \$30,000; if we give them the land for \$1 we open ourselves up to having to do that for others. Chairman Buono stated that he appreciates both perspectives and typically would agree that if the land is to be for public use there shouldn't be for a large charge but on the other hand the Authority has a responsibility.

Mr. Sall inquired as to why the lease calls for the City of Rye to shut down the field for 30 days or so during the winter months. Mr. Fleischer responded that it is done for legal protection so that the property is not used for purely recreational purposes which would fall under the 4F Provisions making it difficult to use the



Item 6 by Mr. Bryan (Appendix F)

Declaring Real Property Reference No. 490 Not Presently Necessary for the Authority's Corporate Purposes and Authorizing Its Lease to the City of Rye (Continued)

property for transportation purposes in the future. This was a mechanism that the Authority, the City of Rye, FHWA and DOT agreed upon. It should have very little impact on the use of the facilities at this location during the spring, summer and fall but allows for it not to have continuous recreational use. Mr. Sall stated that the provision didn't make sense to him and he inquired if it couldn't be done another way, if the field is there, why should it be shut down? Mr. Fleischer stated that this agreed upon mechanism is there to ensure that the City will have the ability to use the fields but the transportation entities will not be negatively impacted in their ability to use it for a transportation purpose in the future if it is needed as such. There was a specific case involving property at Stewart Airport where this type of issue caused a problem. Chairman Buono inquired if the City has any problem with this. Mr. Fleischer responded negatively. Mr. Bryan added that the City has already planned that the field will be shut down in January.

After full discussion, on the motion of Mr. Sall, seconded by Mr. Simberg, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 5766

**DECLARING REAL PROPERTY REFERENCE NO. 490
NOT PRESENTLY NECESSARY FOR THE
AUTHORITY'S CORPORATE PURPOSES AND
AUTHORIZING ITS LEASE TO THE CITY OF RYE**

RESOLVED, that the Authority Board hereby finds and determines that Real Property Reference No. 490 (hereinafter, "Property"), as delineated on Exhibit III attached hereto and made a part hereof, is hereby declared presently unnecessary for the Authority's corporate purposes, and be it further

RESOLVED, that the recommendation regarding the environmental significance of this Board action (hereinafter the "Recommendation"), pursuant to the State Environmental Quality Review Act ("SEQRA"), be, and the same hereby is, approved, and be it further



Item 6 by Mr. Bryan (Appendix F)

Declaring Real Property Reference No. 490 Not Presently Necessary for the Authority's Corporate Purposes and Authorizing Its Lease to the City of Rye (Continued)

RESOLVED, that the Authority's Contracting Officer determined that the Property may be leased to the Applicant by negotiation without public advertising pursuant to Public Authorities Law (hereinafter, "PAL") §2897 (6) (c) (v) and Thruway Real Property Management Policy (hereinafter, "Policy") §IV. G., and that the leasing of the Property, on the terms recommended in the agenda item, complies with all other applicable provisions of law relating to the disposal of real property, including, PAL article 9, title 5-A, and with the Policy, and be it further

RESOLVED, that a lease of the Property to the City of Rye (hereinafter, "Applicant"): (1) for a period of fifteen years, (2) at annual rent in the amount of \$1 per annum for each of years one and two and \$30,000 per annum for each of years three through fifteen, and (3) in accordance with the terms described and recommended in this agenda item, be, and the same hereby is, authorized, subject to such other terms as may be deemed by the Executive Director, the Chief Engineer, the Chief Financial Officer, and the General Counsel to be in the best interest of the Authority, and that are consistent with the substance and intent of this agenda item, provided, however, that if any adverse comments are received in response to the Explanatory Statement, this matter must be re-submitted to the Authority Board for further consideration, and be it further

RESOLVED, that the Executive Director, or his designee, be, and the same hereby is, authorized to execute a lease agreement ("Agreement"), along with all other documents necessary to effectuate the leasing of the Property, including, but not limited to the letters of intent referred to in the agenda item, in accordance with the terms described and recommended in this agenda item, and be it further



Item 6 by Mr. Bryan (Appendix F)

Declaring Real Property Reference No. 490 Not Presently Necessary for the Authority's Corporate Purposes and Authorizing Its Lease to the City of Rye (Continued)

RESOLVED, that the Executive Director, or his designee, shall have the authority to: exercise all powers reserved to the Authority under the provisions of the Agreement, manage and administer the Agreement, amend the provisions of the Agreement consistent with the terms of this agenda item and other applicable Board authorizations, and suspend or terminate the Agreement as he deems to be in the best interests of the Authority, and be it further

RESOLVED, that the Chief Engineer, or his designee, be, and the same hereby is, authorized to execute the SEQRA Short Environmental Assessment Form and SEQRA Negative Declaration, and to distribute any required documents on behalf of the Board relative to such adoption, and be it further

RESOLVED, that the Executive Director, the Chief Engineer, the Chief Financial Officer, and the General Counsel be, and the same hereby are, authorized to take all steps necessary to implement this Board action, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting

Item 7 by Mr. Bell (Appendix G)

Authorizing the Executive Director to Execute a Second Supplemental Agreement to the Authority's Agreement with the New York State Department of Transportation ("DOT") for the Maintenance and Operation of Interstate 84 ("I-84") on Behalf of DOT

Mr. Bell stated that the proposal in front of the Board combines the current year's contract value with the 2009 State appropriation and an additional \$652,000 that's available from the 2007 State budget appropriation to increase the Maximum Amount Payable to roughly \$22 million. It will also extend the expiration date to October 31, 2010 and will allow for the seamless maintenance of I-84 without the



Item 7 by Mr. Bell (Appendix G)

Authorizing the Executive Director to Execute a Second Supplemental Agreement to the Authority's Agreement with the New York State Department of Transportation ("DOT") for the Maintenance and Operation of Interstate 84 ("I-84") on Behalf of DOT (Continued)

Authority having a five to six week break in service due to a lack of funding in the current contract.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Conway, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 5767

AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A SECOND SUPPLEMENTAL AGREEMENT TO THE AUTHORITY'S AGREEMENT WITH THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION ("DOT") FOR THE MAINTENANCE AND OPERATION OF INTERSTATE 84 ("I-84") ON BEHALF OF DOT

RESOLVED, that the Executive Director be, and hereby is, authorized to execute a Second Supplemental Agreement with DOT for the maintenance and operation of I-84 in substantially the same form and under the same terms and conditions as attached hereto as Exhibit D and be it further

RESOLVED, that the Executive Director, or his designee, shall have the authority to exercise all powers reserved to the Authority under the provisions of the Agreement, manage and administer the Agreement, amend the provisions of the Agreement consistent with the terms of this item and other Board authorizations and suspend or terminate the Agreement in the best interests of the Authority, and be it further

RESOLVED, that this resolution be incorporated in full in the minutes of this meeting



Item 8 by Mr. Waite (Appendix H)
Report on the Capital Program

Mr. Waite reported that the Authority let 22 projects through May 31st, with a combined low bid amount of \$53.8 million, which is ten percent less than the Engineers' Estimate total of \$59.0 million, mostly due to bid savings. Further, the Authority had a letting on May 27th for contract TAA 09-32A, HQ Building Freight Elevator Modernization, but no bids were received. The project has been rescheduled for a September 2009 letting.

Remaining contracts to be let include another 42 projects in 2009 with a value of \$131.4 million. Combined with what has been let to date, the current 2009 letting total is \$185.2 million. Given the delay of the six projects (total construction value of \$7,650,000) listed below, the current letting total is now less than the goal. Other projects previously on this list have been deferred to 2010. There are three projects that are new to the list and four that were new the last time Mr. Waite reported to the Board. Further, there are two projects that were scheduled to be let in 2009, but after further examination, Maintenance determined that they could be completed by their forces at a considerable savings. As result, they will no longer be shown on the letting list.

Mr. Waite stated that staff continues to monitor NYSDOT's lettings and the impact of stimulus funds and has determined it will have less of an impact on Authority's Program than was originally expected. The Authority continues to get good bids that are 10 percent under engineer's estimates. While NYSDOT lettings will have less of an impact, fuel costs will push contract costs upward. Fuel costs are expected to increase by another 20 to 30 percent by the end of 2009. This will impact our future bids and on-going contracts (given the fuel and asphalt price adjustment items). Based upon this information, the Capital Program Executive Committee recently received an updated inflation analysis and recommended adjustments to the Capital Program. If the adjustments are accepted, they will be presented to the Board. Projects that were deferred or had been put on the shelf will be moved forward and are in the range of \$28 million, so the Authority will make or exceed its original goal for the letting program.

On the motion of Mr. Simberg, seconded by Mr. Plunkett, without any objections, the Board accepted the Report (May 2009) on the Capital Program.



Item 9 by Mr. Waite (Appendix I)

Authorizing an Amendment to the 2009 Contracts Program for A853.1, Central Sign Shop Roof Replacement in Albany

Mr. Waite reported that based upon a recently completed inspection of this roof, staff determined the roof needs to be replaced. Several significantly deteriorated areas were found during the inspection and it is likely that those areas will leak if the roof is not addressed prior to winter.

After full discussion, on the motion of Mr. Conway, seconded by Ms. Luh, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 5768

**AUTHORIZING AN AMENDMENT TO THE 2009
CONTRACTS PROGRAM FOR A853.1, CENTRAL SIGN
SHOP ROOF REPLACEMENT IN ALBANY**

RESOLVED, that the 2009 Contracts Program be amended in order to let A853.1, Central Sign Shop Roof Replacement in Albany (construction cost of \$250,000), in 2009, be, and the same hereby is, approved, and be it further

RESOLVED, that the 2009 Contracts Program be amended to account for the additional \$250,000 in Thruway funds, and that a sum of \$250,000 in 2009 Thruway cash flow be, and the same hereby is, allocated towards A853.1 from bid savings and other adjustments made to the 2009 Contracts Program, and be it further

RESOLVED, that the Executive Director or his designee shall have the authority to exercise all powers reserved to the Authority under the provisions of the contract, manage and administer the contract, amend the provisions of the contract consistent with the terms of this item and other Board authorizations and suspend or terminate the contract in the best interests of the Authority, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting



Item 10 by Mr. Waite (Appendix J)

Authorizing Negotiation and Execution of Engineering Agreement D213876 with Clough Harbour & Associates LLP for Construction Inspection Services Relative to TAB 09-31, Interchanges 45 and 46 Ramp and Toll Lane Pavement Resurfacing in the Buffalo Division

Mr. Waite reported that the cost to inspect this contract is estimated to be \$320,000, which is 11 percent of the construction cost. The inspection cost is higher than typical given that the contractor will be working during days and nights (most paving will be done at night) and at two sites that are separated by eleven miles.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Simberg, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 5769

AUTHORIZING NEGOTIATION AND EXECUTION OF ENGINEERING AGREEMENT D213876 WITH CLOUGH HARBOUR & ASSOCIATES FOR CONSTRUCTION INSPECTION SERVICES RELATIVE TO TAB 09-31, INTERCHANGES 45 AND 46 RAMP AND TOLL LANE PAVEMENT RESURFACING IN THE BUFFALO DIVISION

RESOLVED, that the Chief Engineer be, and hereby is, authorized to negotiate and execute engineering agreement D213876 with Clough Harbour & Associates, 2200 Main Place Tower, Buffalo, New York 14202 for construction inspection services relative to TAB 09-31, Interchanges 45 and 46 Ramp and Toll Lane Pavement Resurfacing in the Buffalo Division, provided that the Maximum Amount Payable does not exceed \$320,000 (as noted in Items H409.1 and H872.1 of the 2009 Contracts Program), and be it further

RESOLVED, that the Chief Engineer or his designees shall have the authority to exercise all powers reserved to the Authority under the provisions of the agreement, manage and administer the agreement, amend the provisions of the agreement consistent with the terms of this item and in accordance with the 2009 Contracts Program Resolution and other Board authorizations, and



Item 10 by Mr. Waite (Appendix J)

Authorizing Negotiation and Execution of Engineering Agreement D213876 with Clough Harbour & Associates LLP for Construction Inspection Services Relative to TAB 09-31, Interchanges 45 and 46 Ramp and Toll Lane Pavement Resurfacing in the Buffalo Division (Continued)

suspend or terminate the agreement in the best interests of the Authority, and be it further

RESOLVED, that the information relating to this agreement be included in the Chief Engineer's Quarterly Report to the Board on Contracts Program activities, such information to include the exact Maximum Amount Payable and date of execution of the agreement, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting

Item 11 by Mr. Waite (Appendix K)

Authorizing Negotiation and Execution of Engineering Agreement D213880 with WSA Group PE-PC for Construction Inspection Services Relative to TAS 09-35, Rock Remediation between M.P. 212.6 and M.P. 213.1 (eastbound) in the Syracuse Division

After full discussion, on the motion of Mr. Conway, seconded by Mr. Plunkett, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 5770

AUTHORIZING NEGOTIATION AND EXECUTION OF ENGINEERING AGREEMENT D213880 WITH WSA GROUP PE-PC FOR CONSTRUCTION INSPECTION SERVICES RELATIVE TO TAS 09-35, ROCK REMEDIATION BETWEEN M.P. 212.6 AND M.P. 213.1 (EASTBOUND) IN THE SYRACUSE DIVISION

RESOLVED, that the Chief Engineer be, and hereby is, authorized to negotiate and execute engineering agreement D213880 with WSA Group PE-PC, 3 Lear Jet Lane, Suite 202, Latham, New York 12110 for construction inspection services relative to TAS 09-35, Rock Remediation between M.P. 212.6 and M.P. 213.1 (eastbound) in the Syracuse Division, provided that the Maximum Amount



Item 11 by Mr. Waite (Appendix K)

Authorizing Negotiation and Execution of Engineering Agreement D213880 with WSA Group PE-PC for Construction Inspection Services Relative to TAS 09-35, Rock Remediation between M.P. 212.6 and M.P. 213.1 (eastbound) in the Syracuse Division (Continued)

Payable does not exceed \$400,000 (as noted in Item H1081.1 of the 2009 Contracts Program), and be it further

RESOLVED, that the Chief Engineer or his designees shall have the authority to exercise all powers reserved to the Authority under the provisions of the agreement, manage and administer the agreement, amend the provisions of the agreement consistent with the terms of this item and in accordance with the 2009 Contracts Program Resolution and other Board authorizations, and suspend or terminate the agreement in the best interests of the Authority, and be it further

RESOLVED, that the information relating to this agreement be included in the Chief Engineer's Quarterly Report to the Board on Contracts Program activities, such information to include the exact Maximum Amount Payable and date of execution of the agreement, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting

Adjournment

There being no further business to come before the Board, on the motion of Mr. Conway, seconded by Ms. Luh, without any objections, the meeting was adjourned.

Jill B. Warner
Secretary

