

TO: The Thruway Authority Board

DATE: December 5, 2022

FROM: Matthew J Driscoll  
Executive Director

SUBJECT: Authorizing the Executive Director to Proceed with Necessary Actions to Implement Toll Rate Adjustments

The Thruway Authority must continue to review and adjust its current toll rates to sufficiently fund its capital program, operations and debt service. The 2023 Thruway Authority Budget currently projects additional revenue needs above the levels generated by the existing toll rates beginning in 2024. Additional revenues will be necessary to allow the Thruway Authority to responsibly meet future capital needs, fund outstanding debt and continue to provide reliable service to its patrons.

Stantec Inc. (“Stantec”), the Authority’s independent traffic engineer, estimates that traffic and revenue growth will become insufficient in the future for the Authority to maintain fiscal balance and debt service coverage ratios established in the Authority’s Fiscal Management Guidelines and the minimum pledged to its bondholders in the General Revenue Bond Resolution.

Considering the recent landmark investments made into the system and the significant role the Thruway plays in the New York State and regional economies, it is imperative that actions be taken now to enhance operational efficiency and ensure the continued reliability of the system.

This item recommends that the Board authorize the Executive Director to begin the public process required to implement a toll adjustment which will support the long-term fiscal stability of the Authority.

Pursuant to Section 609 of the General Revenue Bond Resolution, the Authority has covenanted with bondholders to place in effect as soon as practicable a schedule of tolls, fees and

charges which provides sufficient net revenue in ensuing Authority fiscal years to comply with the rate covenant to eliminate any deficiency in funds and accounts at the earliest practicable time. Pursuant to the General Revenue Bond Resolution, any schedule of tolls, fees and charges must be concurred with by an independent consultant's certificate.

Considering the foregoing, Authority staff requested that Stantec perform the following services:

1. Estimate the revenues required to meet the Authority's capital, operating, maintenance and other needs;
2. Review revenues and expenditures under the Authority's existing toll rates and long-term financial plan for the period 2022-2031; and,
3. Recommend a plan to implement a new schedule of toll rates which will provide sufficient net revenues to the Authority and comply with 2 NYCRR Part 203, the General Revenue Bond Resolution and the Authority's Fiscal Management Guidelines.

As noted in the attached report provided by Stantec (Exhibit 1), a toll adjustment incorporating the following components will provide sufficient net revenues to meet projected revenue needs and provide debt service coverage ratios that comply with the General Revenue Bond Resolution:

Changes Specific to the Governor Mario M. Cuomo Bridge

- Increase the NY E-ZPass rate to \$7.75 by 2027: Beginning on January 1, 2024, provide annual increases to the NY E-ZPass toll rates on the Governor Mario M. Cuomo Bridge during the period 2024-2027 in the amount of 50 cents annually.
- Maintain the Commuter Discount and Resident Discount Program: Beginning on January 1, 2024, maintain the commuter discounts to equal 40 percent of the Base NY E-ZPass rate for passenger vehicles. In addition, the resident discount E-ZPass Plan for qualified Westchester and Rockland residents will increase from its current 17 percent discount to a 20 percent discount off the NY E-ZPass rate. This program is only offered to class 2L passenger vehicles with a NY E-ZPass who opt into the plan and provide proof of residency.

System-wide Changes

- Tolls by Mail Toll Rates: Beginning on January 1, 2024, increase the current 30 percent Tolls by Mail rate differential (a toll rate 30 percent above the NY E-ZPass rate) to a 75 percent differential. With this change, NY E-ZPass customers will receive a 75% discount from the Tolls by Mail and Non-NY E-ZPass toll rates.
- Non-NY E-ZPass Rates: Beginning on January 1, 2024, increase the current Non-NY E-ZPass toll rate differential from a 15 percent rate differential (a toll rate 15 percent above the NY E-ZPass rate for Non-NY E-ZPass tolls) to a 75 percent differential. With this change, NY E-ZPass customers will receive a 75% discount from the Tolls by Mail and Non-NY E-ZPass toll rates.

- Increase the NY E-ZPass Rates System-wide: Beginning on January 1, 2024, provide a 5% increase in NY E-ZPass toll rates on the rest of the system. Beginning on January 1, 2027, provide a 5% increase in NY E-ZPass toll rates on the rest of the system.

#### Continuation of Toll Practices

The Authority will continue the following practices implemented as of January 1, 2021:

- Impose a \$2 Administrative Surcharge on Tolls by Mail Bills for non-E-ZPass statements to support the administrative costs associated with processing transactions through the Tolls by Mail program and to incentivize more customers to sign up for an E-ZPass account.
- Image Tolls Policy: All transactions that are processed through a license plate image review pay the Tolls by Mail toll rate. Customers who have an E-ZPass account yet their toll transaction must be processed via the Tolls by Mail process (ex. due to failure to mount the E-ZPass transponder properly and a toll transaction is processed through a license plate image review under the Tolls by Mail process) are charged the Tolls by Mail toll rate to account for the higher administrative cost incurred for processing the transaction.

In order to implement a toll adjustment, the Authority will need to follow procedures set forth in the Public Authorities Law, the Executive Law, the State Administrative Procedure Act, and the State Environmental Quality Review Act. The following describes the specific requirements:

Public Authorities Law Section 2804 (PAL)

PAL § 2804 establishes the procedures governing any prospective “increase in fees, tolls or other charges for the use of the highway, bridge or tunnel facilities” and provides that any proposed statewide toll increase be accompanied by at least 3 public hearings.

In addition, PAL § 2804 requires financial reports indicating the need for the toll increase be submitted to the Governor, Comptroller, Chairman of the Senate Finance Committee, Chairman of the Assembly Ways and Means Committee, and the Ranking Minority members of the Senate Finance Committee and the Assembly Ways and Means Committee 120 days prior to the proposed increase taking effect. The required financial reports have been completed and are attached as Exhibit 1 and Exhibit 2.

Executive Law Section 101-a

Executive Law Section 101-a requires that at least sixty days prior to the first required public hearing on a proposed rule, the Temporary President of the Senate and the Speaker of the Assembly shall be sent a notification of such proposed action with (a) the statutory authority under which the action is proposed, (b) the time and place of any public hearing that may be scheduled concerning the proposed action, or the manner in which data, views or arguments may be submitted to the Authority concerning the proposed action, (c) the complete text of the proposed rule, and (d) a fiscal statement setting forth the fiscal consequences of the proposed action on the state and its local governments.

State Administrative Procedures Act (SAPA)

The Authority would undertake a formal rule making process under SAPA to modify the Authority’s toll structure. Proposed toll schedules, based on the recommended changes attached

as Exhibit 3. These rule making documents will be submitted to the Secretary of the State for publication, the Temporary President of the Senate, the Speaker of the Assembly, and the Administrative Regulations Review Commission. SAPA also provides the public an opportunity to submit comments regarding the rule making to the Authority and requires the Authority to make an assessment of the public comments received.

State Environmental Quality Review Act (SEQRA)

Rule making regarding toll modifications constitutes an action under SEQRA. Environmental review relating to the implementation of toll adjustments will be conducted concurrently with rule making and satisfaction of the PAL § 2804 hearing requirements. A consultant will assist the Authority with satisfaction of the SEQRA process within the same 120-day time frame as is needed to comply with the PAL requirements.

Because the aforementioned toll adjustment process will take a minimum of 120 days, it is recommended that the Executive Director be authorized to immediately proceed with the necessary preparatory actions to implement the toll adjustments, including but not limited to filing the proposed rule making, submission of the required reports, conducting public hearings and all other action necessary to fulfill the statutory, regulatory and other requirements for the toll adjustment.

The Finance Committee considered this item at its December 5, 2022 meeting and recommended that this item be presented to the full Board for consideration.

RECOMMENDATION:

It is recommended that the Board adopt the following resolution:

RESOLUTION NO.

AUTHORIZING THE EXECUTIVE DIRECTOR TO PROCEED WITH NECESSARY PREPARATORY ACTIONS TO IMPLEMENT TOLL RATE ADJUSTMENTS NECESSARY FOR SUFFICIENT NET REVENUE TO FINANCE THE AUTHORITY'S CAPITAL PROGRAM AND TO COMPLY WITH 2 NYCRR PART 203, THE GENERAL REVENUE BOND RESOLUTION AND THE AUTHORITY'S FISCAL MANAGEMENT GUIDELINES

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RESOLVED, that under the New York State Public Authorities Law, the Authority has the definitive and unfettered ability to independently fix and collect fees for use of the Thruway system, as it deems necessary, to produce sufficient revenues to cover expenses and fulfill obligations to its bondholders; and be it further

RESOLVED, that under New York State and Federal law, the State of New York has expressly pledged to Authority bondholders that it will not limit or alter the rights vested in the Authority to fix and collect fees for use of the Thruway system; and be it further

RESOLVED, that the Executive Director, or his designee, be, and hereby is, authorized to take all actions necessary to prepare for the implementation of the toll adjustments consistent with this

Board item and Exhibits 1 and 2 attached hereto and that such actions shall conform with the General Revenue Bond Resolution and the applicable statutory procedures outlined in the Public Authorities Law, the Executive Law, the State Administrative Procedure Act, and the State Environmental Quality Review Act; and be it further

RESOLVED, that the financial documents satisfying the financial reporting requirements of the Public Authorities Law Section 2804, attached hereto as Exhibit 1 and Exhibit 2, be, and hereby are, approved; and be it further

RESOLVED, that after the necessary actions have been taken, the Executive Director shall present a recommendation to the Board regarding a specific schedule for the toll adjustments, consistent with this Board Item and Exhibit 1 and Exhibit 2, necessary to meet the requirements of 2 NYCRR Part 203, the General Revenue Bond Resolution, the Authority's Fiscal Management Guidelines and determining the environmental significance of any such actions; and be it further

RESOLVED, that the recommendation regarding the environmental significance of this action authorizing the Executive Director to perform and distribute studies, conduct preliminary



planning and hearings and file the documents necessary to formulate a proposal for action be, and hereby is, approved; and be it further

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



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Executive Director