



MINUTES
NEW YORK STATE CANAL CORPORATION
BOARD MEETING NO. CC-186
DECEMBER 16, 2013

Minutes of a meeting of the New York State Canal Corporation, held in the Board Room of Empire State Development, 633 3rd Avenue, 37th Floor, New York, New York; as well as via video conference from the New York State Thruway Authority's Board Room, 200 Southern Boulevard, Albany, New York, and the Department of Civil and Environmental Engineering, 4030 Jonsson Engineering Center, Rensselaer Polytechnic Institute, 110 Eighth Street, Troy, NY

The meetings of the New York State Thruway Authority and Canal Corporation Boards opened in joint session for the consideration of various matters. These minutes reflect only those items considered by the New York State Thruway Authority Board. The meeting began at 4:24 p.m.

There following were present:

Chairman Howard P. Milstein
Donna J. Luh, Vice Chairperson
J. Donald Rice, Jr., Board Member
Brandon R. Sall, Board Member
Richard N. Simberg, Board Member
E. Virgil Conway, Board Member

Jose Holguin-Veras, Ph.D., via video conference

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

In addition, the following staff personnel were present:

Thomas J. Madison, Jr., Executive Director

John Bryan, Chief Financial Officer and Treasurer,

William Estes, General Counsel, via video conference

Jerry Yomoah, Board Administrator

Jonathan Ehrlich, Special Assistant to the Chairman

Scott Hollis, Information Technology Specialist III

Michael Shamma, Acting Chief Engineer

Ted Nadratowski, Interim Director, Maintenance and Operations

Dan Weiller, Director of Media Relations & Communications

Also in attendance:

Jeff Parker, Ernst and Young

Doug Zimmerman

Murray Bodin, Member of the Public

Chairman Milstein called the meeting of the Thruway Authority and Canal Corporation Boards to order. (01:25:08)

Mr. Yomoah recorded the minutes as contained herein (public notice of the meeting had been given).

Item 1 by Mr. Yomoah (Appendix A)
Approval of Minutes of Meeting No. 185 (01:25:08)

At the recommendation of Ms. Luh, seconded by Mr. Sall, without any objections, the Board approved the minutes of Meeting No. CC-185 held on November 7, 2013, which were made available to the Board Members as part of the Agenda.

Item 2 by Messrs. Madison and Bryan (Appendix B)
Review and Approve Revisions to the 2013 Financial Plan and the 2014 Proposed Budget for the New York State Thruway Authority and New York State Canal Corporation (01:25:08)

This Item was advanced to the Board at the recommendation of the Finance Committee.

At the recommendation of Chairman Milstein, seconded by Mr. Conway, without any objections, the Board unanimously adopted the following resolution:

RESOLUTION NO. 596
APPROVAL OF REVISIONS TO THE 2013 FINANCIAL PLAN AND THE 2014 PROPOSED BUDGET FOR THE NEW YORK STATE THRUWAY AUTHORITY AND NEW YORK STATE CANAL CORPORATION

RESOLVED, that the Report on the 2013 Financial Plan as presented in this item be, and the same hereby is, accepted by the Board, and be it further

RESOLVED, that the Chief Financial Officer be, and he hereby is, authorized to make any and all adjustments to the appropriate funds consistent with this revised Financial Plan for 2013, and be it further

RESOLVED, that the Chief Financial Officer be, and he hereby is, authorized to make any other adjustments based on actual results that are consistent with this projected plan, and report such actions to the Board, and be it further

RESOLVED, that the Authority's proposed Budget for the fiscal year 2014, submitted by the Executive Director and the Chief Financial Officer, be, and the same hereby is, approved and funded in accordance with the attached Exhibit II, and be it further

RESOLVED, that the Executive Director or his designee be, and he hereby is, authorized to make such expenditures as set forth in this Budget, subject to compliance with Authority policies and procedures, and to make such internal adjustments and transfers within the Authority Budget as are necessary and proper, and to make any other adjustment with the concurrence of the Board, and be it further

RESOLVED, that a copy of the Budget approved herein, when printed in final form, be attached to these minutes and made a part thereof, and be submitted to the New York State entities in accordance with Section 2801 of the Public Authorities Law, and be it further

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

Item 3 by Mr. Shamma (Appendix C)
Review and Approve the 2014 Thruway and Canal Contracts Program
(01:25:08)

This Item was advanced to the Board at the recommendation of the Finance Committee.

At the recommendation of Chairman Milstein, seconded by Mr. Conway, without any objections, the Board unanimously adopted the following resolution:

RESOLUTION NO. 597
APPROVING THE 2014 THRUWAY AND CANAL
CONTRACTS PROGRAM

RESOLVED, that the 2014 Thruway and Canal Contracts Programs for Highway, Bridge, Intelligent Transportation Systems, Architectural, Canals and related facility projects, full copies of which have been provided to the Boards for review, be, and the same hereby are, approved, and be it further

RESOLVED, that the Chief Engineer or his designee be, and hereby is, authorized:

A. to prepare and approve Official Proposals, Plans and Specifications, Engineer's/Architect's Estimates of Cost and Contract Documents for such projects as are tabulated in the 2014 Thruway and Canal Contracts Programs;

B. to hold the respective Engineer's/Architect's Estimates of Cost for such contracts confidential until after contracts have been awarded;

C. to advertise for receipt of bids for those projects which are tabulated in the 2014 Thruway and Canal Contracts Programs: (1) when the final Engineer's/Architect's Estimate of Cost is equal to or less than the

project's budget allocations, and (2) when the final Engineer's/Architect's Estimate of Cost does not exceed the project's budget allocation by more than \$75,000 for projects with budget allocations of up to and including \$500,000 or by more than 15 percent for

projects with budget allocations that exceed \$500,000 provided confirmation is received from the Department of Finance and Accounts that sufficient funds are available in the 2014 Thruway and Canal Contracts Programs for the final Engineer's/Architect's Estimate of Cost, or (3) when the final Engineer's/Architect's Estimate of Cost exceeds the project's budget allocation beyond the limits in (2), provided that he receives prior approval of the Executive Director and confirmation from the Department of Finance and Accounts that sufficient funds are available in the 2014 Thruway and Canal Contracts Programs for the final Engineer's/Architect's Estimate of Cost;

D. to award any such contract to the lowest responsible bidder when it is deemed to be an acceptable bid, and:

1. the low bid is equal to or less than the Engineer's/Architect's Estimate of Cost; or

2. the low bid exceeds the Engineer's/Architect's Estimate of Cost by no more than \$75,000 on contracts up to and including \$500,000, or by no more than 15 percent on contracts over \$500,000 and confirmation is received from the Department of Finance and Accounts that, by virtue of bid savings and/or deferrals, sufficient funds are available for the additional difference between the Engineer's/Architect's Estimate of Cost amount and the low bid; or

3. the low bid exceeds the Engineer's/Architect's Estimate of Cost by no more than \$100,000 on contracts up to and including \$500,000, or

by no more than 20 percent on contracts over \$500,000, provided that he receives prior approval of the Executive Director and confirmation from the Department of Finance and Accounts that, by virtue of bid savings and/or deferrals, sufficient funds are available for the additional difference between the Engineer's/Architect's Estimate of Cost amount and the low bid; or

4. the low bid exceeds the limits of (1), (2) or (3) provided he obtains Board authorization for the necessary additional funds;

E. to reject bids for any such contract which are determined to be not in accordance with bid documents and specifications thereof, or not in the Authority's or Corporation's best interests, or which are submitted by bidders determined to be not responsible. In these cases and where no

bids are received, he may again advertise for receipt of bids pursuant to paragraph C;

F. to, utilizing the procedure set forth in Executive Instruction 2011-4, Procedure for Declared Emergency Work, prepare and approve Official Proposals, Plans and Specifications, Engineer's/Architect's Estimates of Cost and Contract Documents, including amendments and order-on-contracts, award (pursuant to paragraph D) and reject bids (pursuant to paragraph E) for such work being progressed to address a declared emergency, provided that the total of the Engineer's/Architect's Estimate of Cost for any such contract, amendment or order-on-contract does not exceed \$2,000,000; the Board will

receive contemporaneous notifications of those actions taken for emergency work;

G. to approve contingent or extra work on construction contracts, when necessary, provided the additional cost shall not exceed the bid price by more than \$150,000 for contracts bid up to and including \$1,000,000, or 15 percent for contracts bid in excess of \$1,000,000, and to approve additional extra work beyond that authorized above with the prior approval of the Executive Director, provided the final cost of the respective contract shall not exceed the total bid price by more than \$200,000 for contracts bid up to and including \$1,000,000, or 20 percent for contracts bid in excess of \$1,000,000; and to adjust and determine disputed contract claims in accordance with contract documents;

H. to enter into, extend, and modify project specific agreements or multi-project agreements with localities, utility companies, railroads, and/or others as may be necessary in order to facilitate the administration, award, progress and completion of such contracts;

I. to acquire and grant such property interests (fee title, easements, etc.) in accordance with the provisions of the Authority's and Corporation's Real Property Management Policies, as may be necessary for implementation of the 2014 Thruway and Canal Contracts Programs, provided that the total amount of acquisitions or the amount of grants for any one project shall not exceed \$150,000 without Board authorization;

J. to execute engineering agreements approved by the Board, or where otherwise authorized by the Executive Director, including amendments thereto, for services relating to projects included in the 2014 Thruway and Canal Contracts Programs;

K. to execute a supplemental agreement for expenditure of additional funds in furtherance of a Board approved engineering agreement, including any Board approved supplemental agreement, provided that the amount of such additional funds does not exceed \$150,000 in the case of agreements up to and including \$3,000,000, or 5 percent of a Board approved agreement including a Board approved supplemental agreement, in the case of agreements over \$3,000,000;

L. to execute, with the prior approval of the Executive Director, a supplemental agreement for the expenditure of additional funds in furtherance of a Board approved engineering agreement, including any Board approved supplemental agreement, provided that the amount of such additional funds does not exceed 25 percent of such Board approved agreement including a Board approved supplemental agreement and any additional funds authorized in paragraph K; and provided further, when such supplemental agreement includes additional new design or construction inspection tasks, such approval must be based upon a determination that the assignment of the additional tasks is in the best interests of the Authority or Corporation: when considering the proximity of the additional tasks to the ongoing tasks, or to expedite the additional tasks through such assignment, or that significant savings to the

Authority or Corporation will result through the assignment of the additional tasks;

M. to exercise all powers reserved to the Authority and Corporation under the provisions of any contracts or agreements executed pursuant to these items, manage and administer any such contracts or agreements, amend the provisions of any such contracts or agreements consistent with the terms of this item and in accordance with other applicable Board authorizations, and suspend or terminate any such contracts or agreements in the best interests of the Authority or Corporation, and be it further

RESOLVED, that any powers granted to the Executive Director by the Board to approve expenditures or to increase expenditures for contracts and agreements shall be in addition to those powers granted under these resolutions and any action taken pursuant thereto shall be deemed to be authorized under this resolution, and be it further

RESOLVED, that in accordance with the other powers delegated herein, the Chief Engineer shall be, and hereby is, authorized to make all necessary decisions pursuant to the State Environmental Quality Review Act (SEQRA) with relation to the 2014 Thruway and Canal Contracts Programs, and be it further

RESOLVED, that quarterly reports shall be submitted to the Board by the Chief Engineer on: all awarded construction contracts; approved additional funds for construction contracts over and above the contingency funds; and all engineering agreements and

supplemental engineering agreements, approved pursuant to the provisions of these resolutions, and be it further

RESOLVED, that the Chief Financial Officer be, and he hereby is, authorized:

A. upon award of such contracts to return such funds budgeted for such projects in the respective 2014 Budgets which are otherwise not required for expenditure during 2014 to the proper fund in accordance with acceptable budgeting and accounting procedures;

B. to monitor total cash expenditures for the 2014 Contracts Programs to insure that they do not exceed \$1,376,252,187 for the Thruway Authority and \$77,052,195 for the Canal Corporation during the 2014 Fiscal Year;

C. to return bid checks submitted for such contracts to unsuccessful bidders, and to make necessary adjustments in the respective 2014 approved Budgets as required by implementation of any part of this Resolution, and be it further

RESOLVED, that the provisions of this resolution shall be deemed to supersede all other inconsistent Authority and Corporation policies and procedures to the extent necessary to implement the approved 2014 Thruway and Canal Contracts Programs and for no other purposes, and be it further

RESOLVED, that these resolutions be incorporated in the minutes of this meeting.

Item 4 by Mr. Bryan (Appendix D)
Authorizing the Modification and Consolidation of the Thruway Authority's
and Canal Corporation's Procurement Contracts Policies (25-5-01)
(01:25:08)

This Item was advanced to the Board at the recommendation of the Governance Committee.

At the recommendation of Chairman Milstein, seconded by Mr. Conway, without any objections, the Board unanimously adopted the following resolutions:

RESOLUTION NO. 599
AUTHORIZING THE MODIFICATION AND
CONSOLIDATION OF THE THRUWAY
AUTHORITY'S AN CANAL CORPORATION'S
PROCUREMENT CONTRACTS POLICIES (25-5-
01)

RESOLVED, that the Thruway Authority and Canal Corporation Procurement Contracts Policies (25-5-01 and 25-5-01C) attached hereto as Exhibits B and C be, and the same hereby are, rescinded, and be it further

RESOLVED, that the combined Procurement Contracts Policy (25-5-01) for the Thruway Authority and Canal Corporation attached hereto as Exhibit A be, and the same hereby is, approved, and be it further

RESOLVED, that the Executive Director be, and he hereby is, authorized to, in consultation with the Chief Financial Officer and the General Counsel, develop or modify operational and/or administrative procedures as necessary to implement the revised Policy, and be it further

RESOLVED, that this Resolution shall take effect immediately, and be it further

RESOLVED, that these resolutions be incorporated in the minutes of these meetings.

Item 5 by Mr. Madison (Appendix E)
Report on Procurement Contracts and Other Agreements Up to \$150,000 Executed by the Executive Director During the Period July 1, 2013 through September 30, 2013 (01:25:25)

On the motion of Chairman Milstein, seconded by Mr. Conway, without any objections, the Board accepted the report on Procurement Contracts and other Agreements up to \$150,000 executed by the Executive Director during the period July 1, 2013 through September 30, 2013.

Item 6 by Mr. Shamma (Appendix F)
Report on the 2013 Capital Program (01:28:03)

Extensive discussion of the Capital Program was undertaken by members of the Board. Mr. Shamma's report was distributed to Board Members and a copy is maintained in the Authority's records along with details of the Board Members' discussion included in the video recording of the meeting.

After full discussion, the Board accepted the report on the Thruway Authority and Canal Corporation 2013 Capital Program.

Item 7 by Mr. Barr (Appendix G)
Approving the Selection of Professional Health Services, Inc. to Provide Occupational Medical Services for Authority and Corporation Employees, Authorizing the Executive Director to Execute a Contract with Professional Health Services, Inc. and Appropriation of Funds for the Contract (01:35:11)

Extensive discussion of this contract was undertaken by members of the Board. The details of the presentation by Mr. Barr and Board Members' comments and questions with respect thereto are included in the video recording of the meeting maintained in Authority records.

On the motion of Ms. Luh, seconded by Chairman Milstein, without any objections, the Board unanimously adopted the following resolution:

RESOLUTION NO. 600
**APPROVING THE SELECTION OF
PROFESSIONAL HEATH SERVICES INC. TO
PROVIDE OCCUPATIONAL MEDICAL SERVICES
FOR AUTHORITY AND CANAL CORPORATION
EMPLOYEES, AUTHORIZING THE EXECUTIVE
DIRECTOR TO EXECUTE A CONTRACT WITH
PROFESSIONAL HEALTH SERVICES INC. AND
APPROPRIATION OF FUNDS FOR THE
CONTRACT**

RESOLVED, that the Executive Director be, and hereby is, authorized to execute an agreement with Professional Health Services, Inc. for services relative to providing OSHA-mandated occupational medical services for both Thruway Authority and Canal Corporation employees, and be it further

RESOLVED, that the agreement shall for a term of two years with the option to renew for three additional one-year terms and that the maximum cost of these services is anticipated to be \$164,400 each year for 2014 and 2015, for a maximum amount payable for the initial two-year term of \$328,800, and be it further

RESOLVED, that the maximum amount payable for the five-year term shall be \$822,000 should the Authority exercise its option to renew for each of three optional one-year terms, 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, to manage and administer the contract, amend

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 the Director of Thruway Finance be, and hereby is, authorized to charge expenditures for services rendered under such agreement to the appropriate funds provided therefore, subject to reallocation and adjustment as determined by final audit of charges, and be it further

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

Item 8 by Mr. Shamma (Appendix H)
Approved Engineering Agreements D214233 and D214234 with Two Firms for Design Services Related to the Rehabilitation of Five Guard and Lift Gates and Rehabilitation of Lock O-7 (02:00:39)

Extensive discussion of this agreement was undertaken by members of the Board. The details of the presentation by Mr. Shamma and Board Members' comments and questions with respect thereto are included in the video recording of the meeting maintained in Authority records. On the motion of Ms. Luh, seconded by Chairman Milstein, without any objections, the Board unanimously adopted the following resolution:

RESOLUTION NO. 601

**AUTHORIZING THE EXECUTION OF
ENGINEERING AGREEMENTS D214233 and
D214234 WITH TWO FIRMS FOR DESIGN
SERVICES RELATED TO THE REHABILITATION
OF FIVE GUARD AND LIFT GATES AND
REHABILITATION OF LOCK O-7**

RESOLVED, that the proposed engineering agreement D214233 with KCI Engineering of New York, P.C., 225 East Avenue, Suite 302, Rochester, New York 14604 for design services relative to the rehabilitation of West Rome Guard Gate No. 7, East Rome Guard Gate No. 6, Utica Harbor Lock Lift Gate, Lock E-17 Lift Gate and Indian Castle Guard Gate No. 3 in the Eastern Canal Division, for a Maximum Amount Payable of \$1,300,000, which is provided through Item C59.1 of the 2014 Contracts Program, be, and the same hereby is, approved, and be it further

RESOLVED, that the proposed engineering agreement D214234 with Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C., 200 First Federal Plaza, 28 East Main Street, Rochester, New York 14614 for design services relative to the rehabilitation of Lock O-7 in the Western Canal Division, for a Maximum Amount Payable of \$2,000,000, which is provided through Item C88.1 of the 2014 Contracts Program, be, and the same hereby is, approved, and be it further

RESOLVED, that the Chief Engineer or his designees shall have the authority to exercise all powers reserved to the Corporation under the provisions of the agreements, manage and administer the agreements, amend the provisions of the agreements consistent with the terms of this Item and in accordance with the 2014 Contracts Program Resolution and other Board authorizations, and suspend or terminate the agreements in the best interests of the Corporation, and be it further

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

PUBLIC COMMENT PERIOD

There was one public speaker who did not address items specific to the Authority agenda. Please refer to the video recording of the meeting for the content of the speaker's statements.

Mr. Murray Bodin, Member of the Public (2:05:18)

EXECUTIVE SESSION AND ADJOURNMENT (2:09:40)

Chairman Milstein requested a motion to adjourn to Executive Session to discuss personnel matters.

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

Jerry B. Yomoah
Board Administrator

Note: Webcasts, which include dialogue of Authority/Corporation Board Meetings, are available on the Thruway Authority website 48 hours after such meetings occur and remain on the website for a period of four months.