



MINUTES

NEW YORK STATE THRUWAY AUTHORITY

BOARD MEETING NO. 677

November 18, 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.

The meeting began at 10:30 a.m.

There were present:

**Chairman John L. Buono
E. Virgil Conway, Board Member
Erin M. Crotty, Vice Chair
Donna J. Luh, Board Member
Kevin J. Plunkett, Board Member
Brandon R. Sall, Board Member
Richard N. Simberg, Board Member**

Constituting all of the members of the Thruway Authority Board.

In addition, there were present the following staff personnel:

**Michael R. Fleischer, Executive Director
William Estes, General 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
Ted Nadratowski, Division Director, New York Division
Richard Garrabrant, Division Director, Syracuse 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
Major Robert Meyers, Troop T
Wendy Allen, Deputy Chief of Staff
Michael Sikule, Director, Office of Investments and Asset 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
Dorraine Steele, Director, Office of Fiscal Audit and Budget
Cathy Sheridan, Manager, Canal Capital Program
James Chicoine, Director, Office of Capital Program Management
Katherine McCartney, Deputy Counsel
Karen Osborn, Budget Manager, Office Fiscal Audit and Budget
Also in attendance:
John Armstrong, Assistant Television Engineer, NYN
Gerry DeLuca, DeLuca Public Affairs

Chairman Buono noted that he, Ms. Crotty, 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.

OTHER BUSINESS

Chairman Buono took a moment to congratulate one of the Authority/Corporation's Board members, Ms. Donna Luh, on her recent induction into the National Transportation Women's Hall of Fame and read the following statement into the record:



On Friday, October 23, 2009, Ms. Luh and five other women were inducted into the Women's Hall of Fame during a ceremony in the Buffalo Transportation Pierce Arrow Museum, a first-time-ever event.

At this special event recognizing Women and the Automobile a gathering celebrated the accomplishments of outstanding women who have contributed to the automobile and transportation industry in Western New York, including one of our own, Ms. Luh.

Ms. Luh's extensive experience, as well as her dedication to the transportation industry - not only in Western New York but across the State - certainly makes her a deserving recipient of this prestigious honor.

On behalf of the entire organization, Chairman Buono extended congratulations on a job well done and thanked Ms. Luh for her continued dedication to the Authority and to making the Thruway a better, more-efficient system for the millions of motorists that use it each year.

Item 1 Ms. Warner (Appendix A)
Minutes of Meeting No. 676

On the motion of Mr. Sall, seconded by Ms. Luh, without any objections, the Board approved the minutes of Meeting No. 676 held on September 16, 2009, which were made available to the Board Members as part of the Agenda.

Report by the Governance Committee Chair

Mr. Plunkett reported to the Board that the Governance Committee met earlier this morning and approved actions relative to the Thruway Authority Occupancy and Work Permit Accommodation Policy (also known as TAP 401), which sets forth requirements for the permitted use of Authority real property.

The Policy was approved by the Board in October 1995 and, in its present form, is inconsistent with the Thruway Real Property Management Policy and Real Property Management Standard Operating Procedures Manual. The latter Policy and Manual, which were revised to align with the guidelines of the Public Authorities Accountability Act, fully identify current Authority practices and procedures for the issuance of occupancy and work permits. These documents are approved annually by the Governance Committee and the Board.



Report by the Governance Committee Chair (Continued)

The inconsistencies and duplicity among TAP 401 and the Real Property Management Policy and Manual have led to confusion to both applicants and staff involved in the permitting process. To improve customer convenience, facilitate better administration of the occupancy and work permit program, and document actual practices, the Governance Committee approved the following actions: rescission of TAP 401; transformation of TAP 401 into a new, customer-friendly manual of guidelines that identify and explain the basic, important permitting elements and procedures established in the Real Property Management Policy and Real Property Management Standard Operating Procedures Manual; and authorizing the Contracting Officer, who is Mr. Bryan, to make future changes to these guidelines as deemed necessary.

Board approval will be requested at the next meeting.

Report by the Audit and Finance Committee Chair

Mr. Conway reported to the Board on the actions taken by the Audit and Finance Committee at Meeting No. 17, held on November 16, 2009. The Committee approved the Revised 2009 Financial Plan, Modifications to the Multi-Year Capital Program, and the 2010 Thruway/Canal Budget be presented for Board consideration today; the Committee also approved the 2010 Thruway/Canal Contracts Program for Board consideration today.

The Audit and Finance Committee approved the Report of Investments for the quarter ending September 30, 2009 for submission to the Board today. The Audit and Finance Committee also approved the scope of services for the 2009 Financial Statement and Single Audits to be performed by Toski, Schaefer & Co., PC.

The Audit and Finance Committee accepted the following Items: Concession Audits Performed by UHY LLP; an actuary report on other Post Employment Benefits Liability (GASB 45) prepared by USI Consulting Group; and a report submitted to the Office of the State Inspector General.

The Audit and Finance Committee assessed the adequacy of the Audit and Finance Committee Charter and approved miscellaneous grammatical revisions and a minor change to include the review of Quarterly Investments Reports consistent with current practice and pursuant to previously approved Board Policy on Investments.



Report by the Audit and Finance Committee Chair (Continued)

Finally, the Audit and Finance Committee discussed the following Items: the Office of the State Comptroller Draft Audit; the Office of the State Inspector General Investigations; and Audit and Finance Committee 2010 Draft Work Plan.

Item 2 by Mr. Bryan (Appendix B)
Financial Reports – August and September 2009

Mr. Bryan reported that as staff saw in June and July, traffic on the Thruway System in August and September continued to show some welcome improvement. As noted in the charts that are attached to the monthly statement, commercial traffic in August and September continued to show declines over last year but the rate of decline slowed considerably. On the passenger side, staff saw traffic continue to improve as well.

To summarize the year to date traffic numbers, for the first 9 months of 2009, total traffic was down approximately 1.4 percent over the same period of 2008 – mirroring the trend on the nation's roads and highways and at other toll facilities. After adjusting for the leap year impact, underlying traffic was down 1 percent in the first 9 months of 2009, with passenger traffic up 0.1 percent and commercial traffic down 10 percent. Staff expects that trend to continue through the rest of the year. The national economy is exiting the recession and continues to show some improvement and staff are starting to see healthy weekend numbers in the dailies for October and November. As the 2010 Budget presentation will show this morning, the Authority will end 2009 in balance and in pretty good financial shape.

With respect to revenues, through the end of September, the Authority collected \$462 million in tolls, which was \$37 million higher than the level collected in the same period of 2008, representing an increase of 8.8 percent. Other revenue sources, which include concession and sundry revenues, slightly offset this increase. As a result, total revenues from all sources increased by \$34.3 million or 7.6 percent over the first 9 months of last year.

On the expense side, as staff has seen for nearly 2 years now, cost containment continues to produce good results. Operating expenses for both the Thruway and the Canal through September were up by only 1.2 percent from the same period in 2008 and the Authority is on target for its operating budget.



Item 2 by Mr. Bryan (Appendix B)
Financial Reports – August and September 2009 (Continued)

Mr. Bryan mentioned that the revenue summary table on the first page of the chart and the graph supplement that accompany the Blue Book break out the major sundry items. Several Board members have asked about revenues in this area. We will break them out from now on. He also included some new graphs in the report dealing with investment earnings, consumer confidence and the exchange rate of the dollar – which have also been of interest of late.

Following discussion regarding the financial condition of the Authority, on the motion of Mr. Sall, seconded by Mr. Conway, without any objections, the Board accepted the Financial Report for the months of August and September 2009.

Item 3 by Mr. Bryan (Appendix C)
Investment Transactions

Mr. Bryan reported that this item is being advanced to the Board today on the advice of the Audit and Finance Committee and seeks the full Board's approval of the Authority's investment report for the third quarter of 2009. OSC guidelines require the Authority provide a quarterly report on all investments made by the Authority. The report details, by fund, the investments made and yield obtained for each investment.

In the third quarter of 2009, the Authority invested a total of \$1.5 billion, earning an average yield of approximately 0.33 percent.

Following discussion regarding the purchase of authorized securities, repurchase agreements and certificates of deposit, on the motion of Mr. Conway, seconded by Mr. Plunkett, without any objections, the Board accepted the Authority's quarterly report on Investment Transactions.



Item 4 by Mr. Bryan (Appendix D)

Approval of Revisions to the 2009 Financial Plan and the 2010 Proposed Budget for the New York State Thruway Authority

Mr. Bryan reported that this item is being advanced to the Board on the advice of the Audit and Finance Committee and it seeks the full Board's approval of the Authority's Revised 2009 Financial Plan, the Proposed 2010 Budget and the Revised Multi-Year Financial Plan.

Compared to the 2009 Budget that was adopted by the Board in December of 2008, the Revised 2009 Budget includes revenue, expense and fund deposit adjustments that will result in a balanced budget for the year. Despite the effects of the ongoing national recession and the impact it has had on passenger and commercial traffic behavior, the continuation of operating expense reductions, principally an extension of strict hiring controls and other actions that have been put in place over the past 3 years, will allow the Authority to remain in good financial health through the end of 2009.

The Proposed 2010 Budget is based on the assumption that the economic recovery period will be protracted and slow and Federal aid allocated to the Thruway will drop to historically low levels – representing only 0.4% of the sources that will fund our 2010 budget. To help meet the challenges these issues present, the Proposed 2010 Budget includes a continuation of ongoing strict hiring controls and other enhanced cost containment measures. It also includes, at the suggestion of several Board members, a reduction of an additional 28 full-time staff positions by un-funding currently vacant positions, no layoffs. That will bring the total number of positions that have been eliminated over the last decade to 516.

For 2010, staff anticipates the total operating budget for the Canal and Thruway will grow by 4.3 and 1.4 percent, respectively. However, if staff adjusts for mandated, non-discretionary costs, operating expenses for both the Canal and the Thruway are expected to actually decline by more than 1 percent.

The Proposed 2010 Budget includes funding for several important capital projects:

- the completion of the new Woodbury Toll Plaza that will bring highway speed E-ZPass to Authority customers in that often congested area;
- initiation of additional deck replacement and other repairs on the Tappan Zee Bridge;



Item 4 by Mr. Bryan (Appendix D)

Approval of Revisions to the 2009 Financial Plan and the 2010 Proposed Budget for the New York State Thruway Authority (Continued)

- continued deck replacement and other structural work on the Grand Island Bridges,
- pavement reconstruction from Exit 57 (Hamburg) to 57A (Angola); and
- the continuation of the total reconstruction of a 15 mile section of highway in the Syracuse Division, which will be the largest single highway reconstruction project the Authority has ever undertaken.

Finally, as illustrated in the Multi-Year Financial Plan:

- Ongoing cost containment efforts and a more positive future traffic outlook will allow the Authority to maintain balanced budgets in 2009 and 2010, all but eliminate the small deficit that was previously expected in 2011, and allow the Authority to rely less on debt to finance out capital needs;
- Debt service coverage is expected to remain above the minimum levels established in the Authority's Fiscal Management Guidelines and bond resolution in 2009 and 2010 – offering a great opportunity for the Authority to preserve its current high, A grade credit rating;
- No reductions in the Multi-Year Capital Program are required to retain a balanced financial plan. The Authority will continue to provide safe and efficient transportation services by maintaining its pledge to invest \$2.1 billion into its Multi-Year Capital Program, with nearly \$950 million in lettings scheduled from now until the end of 2011; and
- Sufficient cash resources will be available, allowing pay-as-you-go financing of the Multi-Year Capital Program to remain above 20% in 2009 and 2010.

Mr. Simberg requested clarification regarding the drop in Federal Aid for 2010. Mr. Bryan responded that Federal Aid to the Authority has declined because a previous agreement the Authority had with the Department of Transportation that provided approximately \$30 million a year in Interstate Maintenance Funds expired 6 years ago. Therefore, the money the Authority is receiving in Federal Aid is left over funds from prior approvals, but the Authority has not received any new allocations of Item



4 by Mr. Bryan (Appendix D)

Approval of Revisions to the 2009 Financial Plan and the 2010 Proposed Budget for the New York State Thruway Authority (Continued)

Federal Aid and the Authority will receive approximately \$5 million this year. Mr. Fleischer added that the Federal rescission process has put Federal Canal aid in jeopardy. The Authority previously received \$6 million in enhancement funds for the Canal and there was a threat that it would be rescinded. Mr. Fleischer spoke with the Acting DOT Commissioner and had it restored for 2010. Mr. Bryan stated that it was restored for 2009 but the funds won't come in until February or March of 2010. The entire TAP Program is in jeopardy and will possibly be consolidated into something else in the future. Mr. Bryan is not hopeful that the Canal will get anything after this last \$6 million payment.

Mr. Plunkett stated that since the draft Budget was submitted to the Board for their review there has been some good news on balance. Mr. Bryan concurred and stated that the original traffic forecast on which HDR based the budget was from data that was collected in July or August. Staff provided new figures that were more up-to-date and HDR revised their estimate. They increased the 2009 figure by \$10.5 million and the 2010 figure by \$13 million. Also, the Authority did not spend as much as originally anticipated out of the Reserve Maintenance Fund on equipment and projects so the balance of approximately \$10 million will be rolled over in 2010 and staff un-funded 25 additional positions in 2010, bringing the total number of unfunded positions to 28, which had a material impact on operating costs.

Chairman Buono inquired as to what the Authority's debt service ratio would be for 2010. Mr. Bryan responded that the coverage ratio for 2010 will be at 1.8, which is a healthy number, for 2009 it will be around 1.7, also a good number and it should allow the Authority to keep its high investment grade level.

Ms. Crotty asked if the Authority participated in the Governor's retirement incentive program. Mr. Fleischer responded that the Authority did not participate primarily because staff was not contemplating layoffs. The idea was that instead of layoffs Agencies would offer a retirement incentive and for the Authority it didn't make economic sense to pay people to leave since we were not contemplating layoffs. Had the Authority opted to participate in the incentive it would have had to pay every employee who chose to retire \$20,000.

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



Item 4 by Mr. Bryan (Appendix D)

Approval of Revisions to the 2009 Financial Plan and the 2010 Proposed Budget for the New York State Thruway Authority (Continued)

RESOLUTION NO. 5784

APPROVAL OF REVISIONS TO THE 2009 REVISED FINANCIAL PLAN AND THE 2010 PROPOSED BUDGET FOR THE NEW YORK STATE THRUWAY AUTHORITY

RESOLVED, that the Report on the 2009 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 2009, 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 2010, submitted by the Executive Director, the Chief of Staff and the Chief Financial Officer, be, and the same hereby is, approved and funded in accordance with the attached Exhibit III, 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



Item 4 by Mr. Bryan (Appendix D)

Approval of Revisions to the 2009 Financial Plan and the 2010 Proposed Budget for the New York State Thruway Authority (Continued)

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 5 by Mr. Bryan (Appendix E)

Authorizing the Designation of Underwriting Firms to the Authority's Senior Manager and Co-Manager Underwriting Pools and Authorizing the Executive Director to Enter into Contracts With the Designated Firms for Underwriting Services

In advance of Mr. Bryan's presentation of the Item and any associated discussion, Mr. Plunkett issued the following statement and subsequently left the room:

"A matter is currently pending before the Board that involves the potential selection of a panel of underwriting firms. I believe I should recuse myself from any vote pertaining to this because I have relatives employed by two of the firms.

I will not participate in any discussion and will not vote on this item. Such recusal will also apply to any vote or any subsequent discussion concerning this item. Additionally, no confidential information concerning this matter has been or will be shared with me. I have requested the Executive Director advise all staff that they shall not communicate with me about this matter.

I will now leave the Board Room while this matter is under consideration."

Mr. Bryan reported that the Authority currently has agreements with sixteen investment banking firms on an as-needed and non-exclusive basis and these agreements expire on December 31, 2009.

Working within the framework and guidelines established by the Governor's Executive Order 10 Task Force, the Authority issued a Request for Proposals (RFP)



Item 5 by Mr. Bryan (Appendix E)

Authorizing the Designation of Underwriting Firms to the Authority's Senior Manager and Co-Manager Underwriting Pools and Authorizing the Executive Director to Enter into Contracts With the Designated Firms for Underwriting Services (Continued)

this July, seeking firms interested in providing underwriting services upon expiration of the existing agreements. The Authority received twenty-nine proposals for the Senior Manager pool and thirteen proposals for the Co-Manager. Firms applying for the Senior Manager pool were automatically considered for the Co-Manager pool if they did not make the cut. In past underwriter procurements, the Authority only received 20-25 responses so the competition this time around was quite high.

After the evaluations were concluded and weights were applied, the Selection Committee found that the best interests of the Authority would be served by entering into agreements with the eleven firms having the highest weighted scores for the Senior Manager pool and with the thirteen firms having the highest weighted scores for the Co-Manager pool.

Ms. Crotty inquired if Barclays Capital Inc. is the former Lehman Bros. people. Mr. Bryan concurred.

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

RESOLUTION NO. 5785

AUTHORIZING THE DESIGNATION OF UNDERWRITING FIRMS TO THE AUTHORITY'S SENIOR MANAGER AND CO-MANAGER UNDERWRITING POOLS AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO CONTRACTS WITH THE DESIGNATED FIRMS FOR UNDERWRITING SERVICES

RESOLVED, that the Board authorizes the designation of Barclays Capital Inc.; Citigroup Global Markets Inc.; Goldman, Sachs & Co.; J.P. Morgan Securities Inc.; Jefferies & Company, Inc.; Merrill Lynch, Pierce, Fenner & Smith Incorporated; Morgan Keegan & Company, Inc.; Morgan Stanley & Co. Incorporated; Raymond James & Associates, Inc.; RBC Capital Markets



Item 5 by Mr. Bryan (Appendix E)

Authorizing the Designation of Underwriting Firms to the Authority's Senior Manager and Co-Manager Underwriting Pools and Authorizing the Executive Director to Enter into Contracts With the Designated Firms for Underwriting Services (Continued)

Corporation and Wachovia Bank, National Association to a Senior Manager pool, from which firms will be selected to serve as senior managers and co-senior managers to the Authority when issuing bonds, and be it further

RESOLVED, that by virtue of designation to the Senior Manager pool, said firms may also be selected to serve as co-managers to the Authority when issuing bonds, and be it further

RESOLVED, that the Board authorizes the designation of BB&T Capital Markets a division of Scott & Stringfellow LLC; Fidelity Capital Markets; Jackson Securities, LLC; Janney Montgomery Scott LLC; KeyBanc Capital Markets Inc.; Loop Capital Markets, LLC; M. R. Beal & Company; Roosevelt & Cross, Incorporated; Samuel A. Ramirez & Company, Inc.; Siebert Brandford Shank & Co., LLC; Southwest Securities, Inc.; Stifel, Nicolaus & Company, Incorporated and Stone & Youngberg to the Co-Manager pool, from which firms will be selected to serve as co-managers to the Authority when issuing bonds, and be it further

RESOLVED, that the Executive Director is authorized to enter into contracts with each firm designated to the Senior Manager and Co-Manager pools for underwriting services for a term of two (2) years with two (2) six (6) month renewal options, commencing January 1, 2010, and be it further

RESOLVED, that the Executive Director is authorized to designate, in accordance with this resolution, from the aforementioned approved firms, the Senior Managers, Co-Senior Managers and Co-Managers to perform the necessary banking services for the bond sales



Item 5 by Mr. Bryan (Appendix E)

Authorizing the Designation of Underwriting Firms to the Authority's Senior Manager and Co-Manager Underwriting Pools and Authorizing the Executive Director to Enter into Contracts With the Designated Firms for Underwriting Services (Continued)

occurring between January 1, 2010 and December 31, 2011 or longer if the underwriting services contracts are extended, 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 full in the minutes of this meeting

Item 6 by Mr. Estes (Appendix F)

Approving a Revised Code of Ethics Governing Board Members

Mr. Estes reported that the New York State Ethics Commission promulgated a rule which requires that public authority boards adopt a code of ethical conduct covering conflicts of interest and the business and professional activities, including outside activities, of such members both during and after service with such boards. The Board originally adopted a Code of Ethics in 2004 but the Governance Committee undertook a review because of the passage of two statutes. The first was the 2005 Public Authorities Accountability Act (PAAA), which created the Authority Budget Office (ABO). The ABO then created a model Code of Ethics; and in 2007 the Public Employees Ethics Reform Act (PEERA) was passed.

The revised code before the Board incorporated both the ABO's model code and elements of the Ethics Reform Act, as well as statutory language regarding conflicts of interest, gifts, recusal procedures for Board Members and post-service restrictions that are in the statutes. The revised code was reviewed by the Commission on Public Integrity, the ABO and the Governance Committee.



Item 6 by Mr. Estes (Appendix F)

Approving a Revised Code of Ethics Governing Board Members (Continued)

Mr. Estes pointed out that on page one of Item 6 (as well as on page one of Item 7 of the Canal Corporation Minutes) there is a typographical error. The regulations stated in the Item before the Board is written as 21 NYCRR and it should be 19 NYCRR. He asked that the Board approve the Item as amended and that a revised Appendix F (Appendix G for the Canal Corporation) be attached to the Minutes of this meeting.

After full discussion, on the motion of Mr. Plunkett, seconded by Mr. Sall, without any objections, the Board accepted the revision to Item 6 and adopted the following resolution:

RESOLUTION NO. 5786

**APPROVING A REVISED CODE OF ETHICS
GOVERNING BOARD MEMBERS**

RESOLVED, that the revised Code of Ethics Governing Board Members attached hereto as Exhibit B be, and the same hereby is, approved, 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 an Amendment to the Authority's Agreement with McDonald's Corporation to Adjust Food Pricing Provisions

Mr. Bell reported that McDonald's currently operates 11 Service Areas along the Thruway, 10 of which are under one contract (Angola has a separate contract). The contract for the 10 Service Areas has two five-year extension periods at McDonald's option, unless they are in default of the contract, which they are not. McDonald's has notified the Authority that they wish to extend the contract. This Item concerns the pricing of the food that McDonald's sells. Under the current contract the prices are set based on Pennsylvania Turnpike, Connecticut Turnpike, Ohio Turnpike and Illinois Turnpike pricing. McDonald's is no longer on the Pennsylvania Turnpike. The Connecticut Turnpike contracts are expiring and McDonald's is not one of the primary bidders, so their future in Connecticut is uncertain; as such, the Authority needs to find a new way for the pricing to be set.



Item 7 by Mr. Bell (Appendix G)

Authorizing the Executive Director to Execute an Amendment to the Authority's Agreement with McDonald's Corporation to Adjust Food Pricing Provisions (Continued)

The contracts the Authority has with Delaware North and HMS Host are based on regional surveys of similar restaurants with a 7 percent markup on the food pricing, and that is what is being proposed for the McDonald's amendment to the current contract. Because the Authority has never changed a pricing structure mid-stream, staff has reached out the Office of the State Comptroller (OSC) for their guidance and review. OSC has indicated that they have no concerns with the proposal. Mr. Plunkett inquired if the Authority has the OSC approval in writing. Mr. Bell stated that staff has an email from OSC. Mr. Bell added that the Angola contract expires in one year and at that time that contract will be rolled over into the terms and conditions of the larger McDonald's contract.

Mr. Sall inquired if this is the same way that gas prices are set at the Service Areas. Mr. Bell responded that gas prices are also set by surveys, in a similar method, although the pricing for gas stations is set using smaller regions. McDonald's, in essence, will use a southern region, western region, etc. and pricing will be based on four service locations and the gas prices aren't based on a percentage - they get a 2 cent markup per gallon.

Mr. Plunkett asked what this will mean for other restaurants that are in Authority Service Areas. Mr. Bell responded that the same pricing for the restaurant concepts will be used. At the Service Areas operated by McDonald's these terms will cover all food concepts and they will have to survey similar concepts in the region.

Ms Crotty questioned the "out" in the contract as it pertains to Extra Value Meals and Happy Meals and if those are the two biggest volume sellers for them. Mr. Bell responded that the cheeseburger is their biggest seller. He added that when the original contract was created that "out" was one of the points that was negotiated with McDonald's, most likely because of profit margin.

Mr. Sall asked what this means for prices, will they go up or down because of this. Mr. Bell responded that looking at prices at the Service Areas three weeks ago some will go up and some will go down it's not across the Board one or the other. Generally from Albany south the prices there will be more decreases than increases and from Albany west there will be slightly more increases than decreases. Mr. Sall then asked if it would be possible for the Authority to collect more rent in locations that will now gross more. Mr. Bell stated that the rent is based on sales volume so



Item 7 by Mr. Bell (Appendix G)

Authorizing the Executive Director to Execute an Amendment to the Authority's Agreement with McDonald's Corporation to Adjust Food Pricing Provisions (Continued)

theoretically if the dollar value of the sales increases then the rent increases. This change isn't really intended to do that, it's intended to find a way for the Authority to set prices and monitor McDonald's prices with the existing basis disappearing.

Chairman Buono inquired as to how often the Authority reviews the regional restaurant and gas prices. Mr. Bell responded that the gas stations are done several times a week while the restaurants are much less frequent because the gas prices are so volatile. The Chairman asked why, on the Jersey Turnpike, is it full service at all gas stations. Mr. Bell responded that it is a New Jersey law. Mr. Simberg stated that years ago there was a massive fire as a result of someone pumping their own gas in so the Legislature passed a law in New Jersey to keep that from happening again.

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

RESOLUTION NO. 5787

AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN AMENDMENT TO THE AUTHORITY'S AGREEMENT WITH THE MCDONALD'S CORPORATION TO ADJUST FOOD PRICING PROVISIONS

RESOLVED, that the Executive Director be, and hereby is, authorized to execute an Amendment to the Authority's 1991 Agreement with McDonald's Corporation, as amended, on terms and conditions consistent with this agenda item, and on such other terms and conditions as the Executive Director, the Director of Maintenance and Operations and the General Counsel determine to be in the best interest 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 through the end of October, the Authority let 41 projects, with a combined low bid amount of \$98.0 million, which is 13 percent less than the engineers' estimate due to bid savings. During the last two months of 2009, staff expects to let another 18 projects with a value of \$77.3 million. The letting program is end-loaded for the last quarter of the year to give contractors time to look at proposals and put bids in and then over the winter prepare for the next construction season.

Mr. Waite stated that Authority staff has identified projects that have risks that could result in letting delays. Included in future monthly reports will be an update on the status of these projects/risks and actions being taken to reduce the risk. Possible issues include: environmental permits; right-of-way acquisition (ROW); interagency issues; utility and railroad permits; and design rescoping/issues.

Mr. Simberg inquired if contracts were continually adjusted for changes in anticipated inflation and construction costs. Mr. Waite responded affirmatively, stating that staff look at the average rate of bid costs, as well as previous lettings and adjust the figures continuously. Mr. Simberg asked if, based on the success of 2009, figures were being adjusted downward as far as the magnitude of bid prices staff will be seeing in the next month and thereon. Mr. Waite concurred, however, staff will keep figures conservative as having an estimate come in below the bid causes some concern.

On the motion of Mr. Conway seconded by Ms. Luh, without any objections, the Board accepted the Reports (September and October 2009) on the Capital Program.

Item 9 by Mr. Waite (Appendix I)
Authorizing Additional Funding for the Award of TAA 09-32AR (D213872),
Rehabilitation of the Administrative Headquarters Freight Elevator

Mr. Waite reported that staff had let this project earlier in 2009 and received no bids. It was re-let in September and four bids were received with a low bid of \$249,777 which was \$79,777 over the engineer's estimate. Having received no bids the first time staff did not have a basis to adjust the estimate for the second letting. After advertising the project and receiving comments from potential bidders staff realized that this would be a noisy and disruptive project that should be done off-hours and



Item 9 by Mr. Waite (Appendix I)

**Authorizing Additional Funding for the Award of TAA 09-32AR (D213872),
Rehabilitation of the Administrative Headquarters Freight Elevator (Continued)**

the project was amended to notify contractors of the need to do the work at night but the contract but did not adjust the estimate to account for it.

Mr. Plunkett inquired as to what Mr. Waite's estimation is of the difference in requiring the off-hours work. Mr. Waite responded that approximately \$30,000 would be reasonable and that it is also possible when the contractor comes in to do the work they may not have to do as much drilling to fit the new casing in the old shaft which is considerably less work and could be done during the day and staff could negotiate some savings. The lowest two of the four bids were within 10 percent of each other so it appears to be the representative cost of the work. Mr. Fleischer added that staff cannot negotiate changes to the cost of the actual work until the contract has been awarded because of procurement laws.

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

RESOLUTION NO. 5788

**AUTHORIZING ADDITIONAL FUNDING FOR THE
AWARD OF TAA 09-32AR (D213872),
REHABILITATION OF THE ADMINISTRATIVE
HEADQUARTERS BUILDING FREIGHT ELEVATOR**

RESOLVED, that additional funding for the award of TAA 09-32AR (D213872), Rehabilitation of the Administrative Headquarters Building Freight Elevator, to Downey-Goodlein Elevator Corporation for their low bid of \$249,777 be, and the same hereby is authorized, and be it further

RESOLVED, that an additional sum of \$79,777 be, and the same hereby is, allocated toward contract TABS 09-18B 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



Item 9 by Mr. Waite (Appendix I)

**Authorizing Additional Funding for the Award of TAA 09-32AR (D213872),
Rehabilitation of the Administrative Headquarters Freight Elevator (Continued)**

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 Additional Funding for TANY 05-31B (D213533), Tappan Zee Bridge
Partial Deck Replacement Contract**

In 2008 the contractor had plates on the bridge, which were necessary while the old joints were removed and it took a number of weeks to remove each joint. Thick plates were used to span a wide opening in the deck and be able to carry tractor trailers without bending or deflecting onto the new joints. This slowed traffic down tremendously. The plates moved, the bolts broke loose, people got flat tires and there were a lot of problems. Over the winter staff re-designed the whole approach with different sized plates and asphalt ramps and it was quite successful in the spring. There was additional cost associated with the re-design and the asphalt ramps.

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

RESOLUTION NO. 5789

**AUTHORIZING ADDITIONAL FUNDING FOR TANY
05-31B (D213533), TAPPAN ZEE BRIDGE PARTIAL
DECK REPLACEMENT CONTRACT**

RESOLVED, that an additional sum of \$2,650,000 be, and the same hereby is, allocated toward contract TANY 05-31B (D213533), Tappan Zee Bridge Partial Deck Replacement, and be it further



Item 10 by Mr. Waite (Appendix J)

Authorizing Additional Funding for TANY 05-31B (D213533), Tappan Zee Bridge Partial Deck Replacement Contract (Continued)

RESOLVED, that the revised contract value for TANY 05-31B (D213533) be \$178,825,898.30, and be it further

RESOLVED, that \$2,650,000 in Thruway capital funds is available for TANY 05-31B (D213533) 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 11 by Mr. Waite (Appendix K)

Approving the 2010 Contracts Program

Mr. Waite reported that the Contracts Program will be funded using a combination of Thruway revenues, bond proceeds, Federal aid, State and other funds. The total for the year is quite high, in fact, higher than any previous year. The goal for 2009 was \$200 million and the Authority will achieve between \$170 and \$180 million of that. But this year is over \$600 million (including the Canal Corporation). The reason for the difference is related to three large projects in 2010. One is the next re-decking project on the Tappan Zee Bridge, which alone is over \$200 million. The second is a reconstruction of the Thruway from Interchange 23 to 24, that is approximately \$115 million and the third is over \$90 million for a project from Hamburg to Silver Creek. If you back those three projects out, the Contracts Program is back to its normal figures. The design work for all three projects is complete, but there's always the risk of permit issues but the bulk work of the design is done.



Item 11 by Mr. Waite (Appendix K)
Approving the 2010 Contracts Program (Continued)

Mr. Sall inquired as to the total investment for 2010 for the Tappan Zee Bridge. Mr. Waite responded that the current contract is concluding and hopefully work will be done this winter and there is very little expenditure involved in the ongoing contract. The Authority has applied for TIGER funds as part of the administration's grant for the American Recovery and Reinvestment Act (ARRA), which will have an effect on when the next contract is let. Chances are slim that the Authority will get those funds as there is not enough money to go around but staff is waiting to hear whether federal funds will be received before letting this contract. If there is a letting in late spring the contractor will have to hire a sub-contractor to do all the casting of the panels and getting the steel and welding things together, so very little will likely get done on the bridge in 2010. Mr. Sall asked how much of the \$284 million to be let in New York Division is attributable to the bridge. Mr. Waite responded that the letting value is \$211 million, but cash flow will be small.

Ms. Crotty stated that the cash flow number is \$432 million and inquired if that figure is overly optimistic. Mr. Waite responded that it's not overly optimistic but the cash flow for next year is for projects that have already been let. If staff lets a \$200 million project on the Tappan Zee Bridge in 2010 they won't spend nearly that amount in cash for that year, it will be in 2011 and 2012.

Mr. Plunkett inquired as to the percentage of completion of the Tappan Zee project. Mr. Waite stated that if you measure the current project by payment it may be in the low 90's, if you measure it by work it's in the high 90's. Mr. Plunkett asked how many more projects are expected and how much more work needs to be done. Mr. Fleischer stated that the anticipated project will mostly take care of the deck completion, but staff will still need to address the piers, the sub-structures, the seismic issues. Staff will speak to the Board in the future about a 15 year plan for taking care of the existing bridge.

Mr. Simberg stated that he was concerned with having such a large construction program for 2010 given the parameters of the economy, but it's probably the best time since the Authority is not being over-competed by DOT or other agencies in the northeast. For a change, the Authority can get competitive prices and he advised that staff should continue to monitor the program as they go forward to make sure the Authority is getting those prices and if not, take another look at it.

Ms. Crotty stated that she questions at each meeting if the Authority is meeting its letting goals and cash goals because we have a very ambitious capital program, but



Item 11 by Mr. Waite (Appendix K)
Approving the 2010 Contracts Program (Continued)

at the same time we have the funding to pay for it. These are jobs for people who are looking for work, she advised that staff should keep the business in New York, keep New York companies working. She stated she has concerns with the shrinkage of employees at the Authority, is staff confident it can deliver the program. Mr. Fleischer responded that he is confident staff can deliver the program but because historically there is the possibility of not achieving the letting goal staff has changed the way they develop the letting program to have shelf projects and over programming so that if the permits aren't available or staff wants to change the scope of a project there are real projects, that need to get done, that can be moved into the program. Ms. Crotty concurred and stated that the Board certainly saw staff do that this year.

Chairman Buono stated that over the next 5 or 6 years the Authority will be spending a couple of billion dollars on projects, and are probably one of the only organizations in the state doing so, and asked Betsy Graham and Michael Fleischer to develop a good public relations program for each area where there will be a significant project, to let the public know what's happening, with their Thruway tolls. It's important that people know this is where their money is being spent. Ms. Luh stated that Tom Pericak, in Buffalo Division, is talking to the Rotaries and other groups and it is very effective. The unions are hearing it, elected officials are hearing it and the response has been very good especially in Green Island. It makes people feel more secure when budgets are being cut everywhere to hear good news. Mr. Fleischer stated that he and Ms. Graham would work to develop that.

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

RESOLUTION NO. 5790
APPROVING THE 2010 CONTRACTS PROGRAM

RESOLVED, that the 2010 CONTRACTS PROGRAM for Highway, Bridge, Intelligent Transportation Systems and Architectural be, and the same hereby is, approved, and be it further



Item 11 by Mr. Waite (Appendix K)
Approving the 2010 Contracts Program (Continued)

RESOLVED, that the Chief Engineer 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 2010 CONTRACTS PROGRAM;

B. to hold the respective Engineer's/ Architect's Estimate of Cost for such contracts confidential;

C. to advertise for receipt of bids for those projects which are tabulated in the 2010 CONTRACTS PROGRAM: (1) when the final Engineer's/Architect's Estimates of Cost are 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 \$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 2010 CONTRACTS PROGRAM, 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 2010 CONTRACTS PROGRAM;

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; or

2. the low bid exceeds the Engineer's/Architect's Estimate by up to \$75,000 on contracts up to and including \$500,000, or 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 Estimate amount and the low bid; or



Item 11 by Mr. Waite (Appendix K)
Approving the 2010 Contracts Program (Continued)

3. the low bid exceeds the Engineer's/Architect's Estimate by up to \$100,000 on contracts up to and including \$500,000, or 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 Estimate 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 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 approve contingent or extra work on such 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 contracts 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;

G. 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;

H. to acquire and grant such property interests (fee title, easements, etc.), in accordance with the provisions



Item 11 by Mr. Waite (Appendix K)
Approving the 2010 Contracts Program (Continued)

of the Authority's Real Property Management Policy, as may be necessary for implementation of the 2010 CONTRACTS PROGRAM; provided that the total amount of acquisitions or the amount of grants for any one project shall not exceed \$150,000 each without Board authorization;

I. 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 2010 CONTRACTS PROGRAM;

J. to approve 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, in the case of agreements of over \$3,000,000;

K. to approve, with the prior approval of the Executive Director, 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 25 percent including any additional funds authorized in paragraph J; and provided further, when such supplemental agreement includes additional new design or construction inspection tasks, such approval must be based upon the following: it is determined that the assignment of the additional tasks is in the best interests of the Authority when considering the proximity of the additional tasks to the ongoing tasks, or it is determined to be in the best interests of the Authority to expedite the additional tasks through such assignment, or it is determined that significant savings to the Authority will result through the assignment of the additional tasks;

L. to exercise all powers reserved to the Authority under the provisions of any contracts or agreements executed pursuant to this item, manage and administer any such contracts or agreements, amend the



Item 11 by Mr. Waite (Appendix K)
Approving the 2010 Contracts Program (Continued)

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, 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 this resolution 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 2010 CONTRACTS PROGRAM, and be it further

RESOLVED, that quarterly reports shall be submitted to the Board by the Chief Engineer on all awarded construction contracts; on approved additional funds for construction contracts over and above the contingency funds; on all engineering agreements and supplemental engineering agreements, approved pursuant to the provisions of this resolution, 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 2010 Budgets which are otherwise not required for expenditure during 2010 to its proper fund in accordance with acceptable budgeting and accounting procedures;

B. to monitor total cash expenditures for the 2010 CONTRACTS PROGRAM to insure that they do not exceed \$412,048,378 during the 2010 Fiscal Year;



Item 11 by Mr. Waite (Appendix K)
Approving the 2010 Contracts Program (Continued)

C. to return bid checks submitted for such contracts to unsuccessful bidders; and to make necessary adjustments in the respective 2010 approved Budgets as required by implementation of any part of the Resolution relative to the 2010 CONTRACTS PROGRAM, and be it further

RESOLVED, that the Executive Director or Chief Engineer be, and they hereby are, authorized to execute such contracts, including any amendments thereto, provided such amendments do not increase the authorized contract value beyond that which is otherwise authorized, and be it further

RESOLVED, that the provisions of this resolution shall be deemed to supercede all other inconsistent Authority policies and procedures to the extent necessary to implement the approved 2010 CONTRACTS PROGRAM and for no other purposes, and be it further

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

Item 12 by Mr. Waite (Appendix L)
Approving Supplemental Agreement No. 5 to D213271 with C&S Engineers, Inc. for Design Services Relative to the Reconstruction of I-90, M.P. 284.1 to M.P. 289.3 in the Syracuse Division

Mr. Waite stated that in order to take advantage of the current economic climate and prices staff is looking to add another 5 miles of construction on to the original 15 miles of this project. 30 miles in the Syracuse Division were identified as being most in need of re-construction but there were not funds available at the time to do them all so staff pared it down to 15. The firm that worked on the design of the original 15 will do the next 5 and have been approved by the Board to do the final design on the full 30 mile stretch of road.

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



Item 12 by Mr. Waite (Appendix L)

Approving Supplemental Agreement No. 5 to D213271 with C&S Engineers, Inc. for Design Services Relative to the Reconstruction of I-90, M.P. 284.1 to M.P. 289.3 in the Syracuse Division (Continued)

RESOLUTION NO. 5791

APPROVING SUPPLEMENTAL AGREEMENT NO. 5 TO D213271 WITH C&S ENGINEERS, INC. FOR DESIGN SERVICES RELATIVE TO THE RECONSTRUCTION OF I-95, M.P. 284.1 TO M.P. 289.3 IN THE SYRACUSE DIVISION

RESOLVED, that the proposed Supplemental Agreement No. 5 to D213271 with C&S Engineers, Inc., 499 Col. Eileen Collins Boulevard, Syracuse, New York 13212, for an additional sum of \$1,900,000, be, and the same hereby is, approved, and be it further

RESOLVED, that the revised Maximum Amount Payable for this Agreement (D213271) be \$6,275,000, 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 Supplemental Agreement, manage and administer the Supplemental Agreement, amend the provisions of the Supplemental Agreement consistent with the terms of this item and in accordance with the 2010 Contracts Program Resolution and other Board authorizations, and suspend or terminate the Supplemental Agreement in the best interests of the Authority, and be it further

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



Item 13 by Mr. Bryan (Appendix M)
Utilization of Monies in the New York State Infrastructure Bank

Mr. Bryan stated that this item requests the Board's approval to allow for the dissolution of the New York State (NYS) State Infrastructure Bank and the transfer of its remaining balance to the NYS Dedicated Highway and Bridge Trust Fund and the Thruway Authority's Reserve Maintenance Fund, commensurate with the original capitalization shares of the Bank.

The National Highway System Designation Act of 1995 allowed states to allocate Federal funds with state matches to fund a revolving investment fund with the ability to provide low interest loans and other forms of credit assistance to public and private entities to carry out highway construction and transit capital projects.

In 1997, the Thruway Authority entered into a cooperative agreement with DOT, MTA, FHWA and FTA that authorized the creation of the State Infrastructure Bank (SIB) and in 1998 an Memorandum of Understanding (MOU) was entered into between the Thruway Authority, the MTA and DOT that identified details concerning the SIB's operation.

The SIB was capitalized with \$15 million, consisting of \$12 million in Federal funds and \$3 million in Authority funds that served as the required state match. No new loans have been financed from the SIB since 2003 and there are currently no incoming loan requests.

As stated in this resolution, the dissolution of the SIB can only be done upon the written approval of all the signatories to the original MOU that authorized the SIB's creation.

The current balance in the NYS SIB is approximately \$10.7 million – which means that if today the Authority were to get all of the written approvals needed to dissolve the Bank, \$8.6 million would be transferred to the NYS Dedicated Highway and Bridge Trust Fund and \$2.1 million to the Authority's Reserve Maintenance Fund.

Mr. Plunkett stated that there is \$ 10.7 million left and we're getting \$2.1 million back. Mr. Bryan concurred stating that the Authority would be getting its 20 percent out. Mr. Plunkett inquired as to where the original \$3 million came from. Mr. Bryan responded that it came from out of the Authority's Reserve Maintenance Fund. The Federal funds are going to the State Highway and Bridge Trust Fund and must be used for Title 23 or 49 projects, which is what the original intention was. Mr. Estes



Item 13 by Mr. Bryan (Appendix M)
Utilization of Monies in the New York State Infrastructure Bank (Continued)

clarified that the Authority is only taking the money out but the structure of the SIB is going to remain in place at the request of the Federal partners. Mr. Plunkett inquired if there will be any income coming in to the Authority from loans that are performing now. Mr. Bryan stated that there are not any loans outstanding, the only revenue the Authority is getting now is investment income on the money that is in the fund.

Mr. Sall asked for clarification on why the Authority put in \$3 million but is getting back \$2.1 million. Mr. Bryan explained that there were some loan losses that occurred in the bank over the years, primarily the Rochester Fast Ferry, so the Authority will have to write-off a portion of that loan loss.

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

RESOLUTION NO. 5792
UTILIZATION OF MONIES IN THE STATE
INFRASTRUCTURE BANK

RESOLVED, that all monies in the New York State Infrastructure Bank may be utilized for eligible United States Code Title 23 or 49 projects with no requirement for repayment of the funds, provided that all the signatories to the Cooperative Agreement – the Federal Highway Administration, the Federal Transit Administration, the New York State Department of Transportation and the Metropolitan Transportation Authority – agree, in writing, to the use of the NYS SIB funds without a requirement for repayment, and be it further

RESOLVED, that upon receipt of such written approval, the balance of the NYS SIB may be allocated and transferred to the NYS Dedicated Highway and Bridge Trust Fund and the Authority's Reserve Maintenance Fund, commensurate with original capitalization shares, and be it further



Item 13 by Mr. Bryan (Appendix M)
Utilization of Monies in the New York State Infrastructure Bank (Continued)

RESOLVED, that the Executive Director be, and he hereby is, authorized to execute any documents necessary to effectuate the transfer and use of NYS SIB funds, and be it further

RESOLVED, that the Chief Financial Officer be, and he hereby is authorized to make appropriate transfers and adjustments to return of the Authority's original capitalization to the Reserve Maintenance Fund and make any necessary write-offs, 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. Plunkett, seconded by Ms. Crotty, without any objections, the meeting was adjourned.

Jill B. Warner
Secretary

