

740

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. FUSCHILLO, DeFRANCISCO, GOLDEN, LIBOUS, MARTINS,
MAZIARZ -- read twice and ordered printed, and when printed to be
committed to the Committee on Transportation

AN ACT to amend the transportation law, the executive law and the public
authorities law, in relation to authorizing innovative infrastructure
development

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "innova-
2 tive infrastructure development act".

3 S 2. The transportation law is amended by adding a new article 24 to
4 read as follows:

5 ARTICLE 24

6 INNOVATIVE INFRASTRUCTURE DEVELOPMENT

7 SECTION 500. DEFINITIONS.

8 501. AUTHORITY OF THE COMMISSIONER.

9 502. TRANSPORTATION INFRASTRUCTURE PROJECTS.

10 503. COST ANALYSIS.

11 504. PREPARATION OF PRELIMINARY SOLICITATIONS.

12 505. PRELIMINARY ACCEPTANCE OF BEST VALUE PROPOSALS.

13 506. GENERAL PROVISIONS.

14 507. AGREEMENTS.

15 508. REVENUES.

16 509. CONDEMNATION AND OPERATION IN THE EVENT OF A DEFAULT.

17 510. FEDERAL, STATE AND LOCAL ASSISTANCE.

18 511. POLICE POWERS; VIOLATIONS OF LAW.

19 512. POWERS AND DUTIES OF THE PRIVATE ENTITY.

20 513. CONFIDENTIALITY.

21 514. SEVERABILITY CLAUSE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD01412-02-3

1 S 500. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS A DIFFERENT MEAN-
2 ING APPEARS FROM THE CONTEXT, THE FOLLOWING TERMS SHALL MEAN:

3 1. "PRIVATE ENTITY" MEANS ANY ASSOCIATION, CORPORATION, LIMITED
4 LIABILITY COMPANY, PARTNERSHIP, FIRM, BUSINESS TRUST, JOINT VENTURE, NOT
5 FOR PROFIT ENTITY, FUND OR OTHER PRIVATE BUSINESS ENTITY.

6 2. "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER
7 STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY
8 OR COMMISSION, ANY MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION,
9 ANY PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENE-
10 FIT CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY
11 OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF ANY OF THE FOREGOING.

12 3. "TRANSPORTATION INFRASTRUCTURE" MEANS (A) HIGHWAYS, RAILROADS,
13 AIRPORTS, TRANSIT FACILITIES, BUSES, FERRIES, BRIDGES, TUNNELS, TRACKS,
14 VEHICLES, PORTS, ROLLING STOCK, EQUIPMENT, PARKING FACILITIES, TRANSIT
15 STATIONS, BUS STATIONS, INTERMODAL CENTERS, TERMINALS, REST AREAS,
16 TRANSPORTATION MANAGEMENT AND INFORMATION SYSTEMS, INTELLIGENT TRANSPOR-
17 TATION SYSTEMS, LAND USE CONTROL AND DEVELOPMENT, FUEL STORAGE, ENERGY
18 SYSTEMS, SECURITY SYSTEMS, SEISMIC CONTROL SYSTEMS, UTILITY RELOCATION,
19 AND RIGHTS-OF-WAY ASSOCIATED WITH EACH MODE OR FACILITY AND RELATED
20 FACILITIES AND SYSTEMS, AND; (B) SERVICES FOR THE MOVEMENT OF PEOPLE,
21 VEHICLES, GOODS OR INFORMATION ON, BY OR THROUGH THE USE OF THOSE ITEMS
22 SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION, AND SHALL INCLUDE
23 SERVICES PROVIDED PURSUANT TO TRANSPORTATION INFRASTRUCTURE AGREEMENTS.

24 4. "TRANSPORTATION INFRASTRUCTURE AGREEMENT" SHALL MEAN ANY AGREEMENT
25 ENTERED INTO BY THE COMMISSIONER PURSUANT TO SECTION FIVE HUNDRED ONE OF
26 THIS ARTICLE.

27 5. "TRANSPORTATION INFRASTRUCTURE PROJECT" SHALL MEAN THE PLANNING,
28 ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION,
29 RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT,
30 RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE,
31 DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE.

32 6. "BOARD" SHALL MEAN THE INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD
33 AS ESTABLISHED BY SECTION NINE HUNDRED THIRTY OF THE EXECUTIVE LAW.

34 S 501. AUTHORITY OF THE COMMISSIONER. NOTWITHSTANDING THE PROVISIONS
35 OF ANY LAW TO THE CONTRARY, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO
36 TRANSPORTATION INFRASTRUCTURE AGREEMENTS, ON SUCH TERMS AND CONDITIONS
37 AS THE COMMISSIONER DEEMS APPROPRIATE AND SUBJECT TO THE APPROVAL OF THE
38 DIRECTOR OF THE BUDGET AND THE BOARD, AND IN ACCORDANCE WITH SECTION ONE
39 HUNDRED TWELVE OF THE STATE FINANCE LAW, WITH PUBLIC AND/OR PRIVATE
40 ENTITIES TO PROVIDE FOR, OR IN SUPPORT OF, OR ASSOCIATED WITH TRANSPOR-
41 TATION INFRASTRUCTURE PROJECTS. IN FURTHERANCE OF SUCH AGREEMENTS, THE
42 COMMISSIONER MAY:

43 1. ACCEPT, IN ACCORDANCE WITH THE STATE FINANCE LAW AND THE PUBLIC
44 OFFICERS LAW, ANY APPROPRIATION, GRANT OR OFFER OF FUNDS OR PROPERTY OR
45 OTHER FORMS OF ASSISTANCE FOR THE PURPOSES OF THIS ARTICLE FROM ANY
46 PUBLIC AND/OR PRIVATE ENTITY AND COMPLY WITH THE TERMS AND CONDITIONS
47 THEREOF;

48 2. ACCEPT, PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE
49 AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION, PROPERTY OR ANY INTER-
50 ESTS THEREIN AND TRANSPORTATION INFRASTRUCTURE TO BE MAINTAINED AS PART
51 OF THE STATE'S TRANSPORTATION SYSTEM. ANY SUCH INTEREST IN TRANSPORTA-
52 TION INFRASTRUCTURE SO ACQUIRED SHALL BE DEEMED TO HAVE BEEN ACQUIRED BY
53 THE COMMISSIONER PURSUANT TO SECTION THIRTY OF THE HIGHWAY LAW;

54 3. UTILIZE ANY OF THE POWERS OR AUTHORITY OF THE COMMISSIONER TO
55 ACHIEVE THE PURPOSES OF THIS ARTICLE;

1 4. FINANCE ALL OR ANY PART OF THE COSTS TO THE DEPARTMENT OR TO ANY
2 PUBLIC AND/OR PRIVATE ENTITY OF ANY TRANSPORTATION INFRASTRUCTURE
3 PROJECT, INCLUDING FINANCING THROUGH OR ACCOMPANIED BY ONE OR MORE LEAS-
4 ES OR CONCESSIONS OF SUCH PROJECT OR ANY PART THEREOF BY OR TO SUCH
5 ENTITY OR ENTITIES AND/OR BY OR TO THE DEPARTMENT; AND

6 5. UTILIZE THE COMMISSIONER'S EMINENT DOMAIN POWERS PURSUANT TO THE
7 HIGHWAY LAW AND THE EMINENT DOMAIN PROCEDURE LAW, ON SUCH TERMS AND
8 CONDITIONS AS THE COMMISSIONER DEEMS APPROPRIATE, TO ACQUIRE PROPERTY
9 REQUIRED FOR TRANSPORTATION INFRASTRUCTURE PROJECTS THAT ARE THE SUBJECT
10 OF TRANSPORTATION INFRASTRUCTURE AGREEMENTS WITH THE COMMISSIONER PURSU-
11 ANT TO THIS SECTION.

12 S 502. TRANSPORTATION INFRASTRUCTURE PROJECTS. 1. TRANSPORTATION
13 INFRASTRUCTURE PROJECTS PROVIDED PURSUANT TO A TRANSPORTATION INFRAS-
14 TRUCTURE AGREEMENT SHALL NOT BE SUBJECT TO THE PROVISIONS OF ANY LOCAL
15 LAW, LAND USE REVIEW REQUIREMENTS, REAL PROPERTY TAX OR ANY OTHER LOCAL
16 TAX.

17 2. WHENEVER A TRANSPORTATION INFRASTRUCTURE PROJECT INVOLVES THE
18 CONSTRUCTION, RECONSTRUCTION OR IMPROVEMENT OF A STATE HIGHWAY, WHICH IS
19 NOW OR WHICH SHALL HEREAFTER BE DESIGNATED IN SECTION THREE HUNDRED
20 FORTY-ONE OF THE HIGHWAY LAW, SHALL PROVIDE FOR THE RELOCATION OF SUCH
21 STATE HIGHWAY OR PORTION THEREOF ON A LOCATION WHICH DEVIATES FROM THE
22 LOCATION OF THE EXISTING HIGHWAY FOR A CONTINUOUS LENGTH IN EXCESS OF
23 ONE MILE AS MEASURED ALONG THE CENTER LINE OF THE EXISTING HIGHWAY, THE
24 COMMISSIONER SHALL BEFORE FILING THE DESCRIPTIONS AND THE ORIGINAL TRAC-
25 INGS OF ANY MAPS OR PROCEEDING WITH THE ACQUISITION OF PROPERTY OR THE
26 WORK OF CONSTRUCTION, RECONSTRUCTION OR IMPROVEMENT, TRANSMIT SUCH PLANS
27 TO THE BOARD OF SUPERVISORS OF EACH COUNTY IN WHICH SUCH RELOCATION OR
28 ANY PORTION THEREOF IS SITUATED. IN CASE THE RELOCATION OR ANY PORTION
29 THEREOF AS PROPOSED, IS SITUATED IN A COUNTY OTHER THAN THE COUNTY IN
30 WHICH THE EXISTING HIGHWAY OR PORTION THEREOF IS LOCATED, SUCH PLANS
31 SHALL BE TRANSMITTED TO BOTH OF SUCH COUNTIES AND SHALL BE SUBJECT TO
32 REVIEW BY EACH OF SUCH COUNTIES IN THE MANNER AS HEREINAFTER PROVIDED.
33 THE BOARD OF SUPERVISORS, AFTER THE RECEIPT OF SUCH PLANS, MAY CONDUCT A
34 PUBLIC HEARING OR HEARINGS UPON SUCH NOTICE AS SUCH BOARD OF SUPERVISORS
35 SHALL DEEM REASONABLE, BUT NOT LESS THAN TEN DAYS, TO THE COMMISSIONER
36 AND TO SUCH OTHER PARTY OR PARTIES DEEMED BY SAID BOARD OF SUPERVISORS
37 TO BE INTERESTED IN THE PROJECT. IN ANY EVENT, AND WITHIN FORTY-FIVE
38 DAYS AFTER RECEIPT OF THE PLANS, THE BOARD OF SUPERVISORS SHALL, BY
39 RESOLUTION, DULY ADOPTED BY A MAJORITY VOTE OF ITS MEMBERS, PROVIDE A
40 RECOMMENDATION OF APPROVAL, DISAPPROVAL OR MODIFICATION IN SUCH PLANS AS
41 THE PUBLIC INTEREST SHALL REQUIRE. SUCH RESOLUTION SHALL BE FORWARDED TO
42 THE COMMISSIONER WITHIN FIVE DAYS OF ADOPTION. IN CASE SUCH RELOCATION
43 IS SITUATED IN TWO OR MORE COUNTIES, SUCH RESOLUTION MUST BE SEPARATELY
44 ADOPTED BY THE BOARD OF SUPERVISORS OF EACH COUNTY AS TO THE RELOCATION
45 SITUATED THEREIN. THE FORM OF THE RESOLUTION SHALL BE PRESCRIBED BY THE
46 COMMISSIONER. THE COMMISSIONER SHALL IN REVIEWING ANY TRANSPORTATION
47 INFRASTRUCTURE PROJECT PROPOSAL SUBJECT TO THIS SUBDIVISION TAKE ANY
48 RESOLUTION ADOPTED PURSUANT TO THIS SUBDIVISION INTO CONSIDERATION. UPON
49 THE FAILURE OR OMISSION OF ANY BOARD OF SUPERVISORS TO ACT WITHIN THE
50 TIME AND MANNER HEREIN REQUIRED, THE SAID PLANS SHALL BE DEEMED TO BE
51 ACCEPTABLE SO FAR AS SUCH BOARD OF SUPERVISORS IS CONCERNED.

52 S 503. COST ANALYSIS. PRIOR TO ANY SOLICITATION OF PROPOSALS MADE
53 PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW, THE
54 COMMISSIONER SHALL CONDUCT A STUDY AND ISSUE A REPORT WHICH SHALL DETAIL
55 THE RISK ADJUSTED ESTIMATED LIFE OF PROJECT COST FOR THE PROPOSED TRANS-

PORTATION INFRASTRUCTURE PROJECT WERE THE DEPARTMENT TO UNDERTAKE SUCH PROJECT THROUGH TRADITIONAL MEANS OF PROCUREMENT AND FINANCING.

S 504. PREPARATION OF PRELIMINARY SOLICITATIONS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER IS AUTHORIZED TO PREPARE PRELIMINARY SOLICITATIONS FOR THE PROVISION OF TRANSPORTATION INFRASTRUCTURE PROJECTS. SUCH A SOLICITATION SHALL SET FORTH THE PROPOSED PARAMETERS FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT AND SHALL BE SUBJECT TO APPROVAL OF THE BOARD PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

S 505. PRELIMINARY ACCEPTANCE OF BEST VALUE PROPOSALS. 1. AFTER A SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW, THE COMMISSIONER SHALL REVIEW ALL PROPER PROPOSALS AND MAY PRELIMINARILY ACCEPT AND ADVANCE TO THE BOARD FOR APPROVAL THE PROPOSAL THAT IS DETERMINED BY THE COMMISSIONER TO BE THE BEST VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, CONSIDERING THE FOLLOWING:

(A) A PUBLIC NEED FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(B) THE REASONABLENESS OF ESTIMATED COSTS, BENEFITS AND LIABILITIES OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(C) THE COMPATIBILITY OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT AND THE SCHEDULING OF ITS DEVELOPMENT OR IMPLEMENTATION AND ITS CONNECTIONS TO OR ROLE WITHIN THE EXISTING TRANSPORTATION SYSTEM AND THE COMPATIBILITY WITH THE TRANSPORTATION PLANS OF THE STATE AND OF ANY AFFECTED LOCAL JURISDICTIONS;

(D) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT, CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(E) THE QUALIFICATIONS, EXPERIENCE, AND FINANCIAL CAPACITY OF THE PUBLIC AND/OR PRIVATE ENTITY PROVIDING THE TRANSPORTATION INFRASTRUCTURE PROJECT; AND

(F) WHETHER THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT SATISFIES ANY OTHER CRITERIA ESTABLISHED IN THE SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

2. THE COMMISSIONER SHALL NOT ACCEPT OR ADVANCE ANY PROPOSAL UNLESS THE AGGREGATE LIFE OF PROJECT COST FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT IS LESS THAN THE ESTIMATE PROVIDED IN THE COST ANALYSIS MADE PURSUANT TO SECTION FIVE HUNDRED THREE OF THIS ARTICLE.

S 506. GENERAL PROVISIONS. 1. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE THE COMMISSIONER OR BOARD TO ACCEPT ANY PROPOSAL, OR ENTER INTO ANY AGREEMENT WITH ANY PUBLIC AND/OR PRIVATE ENTITY.

2. NOTHING IN THIS ARTICLE SHALL BE DEEMED TO LIMIT THE APPLICABILITY OF EXISTING POWERS AND AUTHORITY OF THE COMMISSIONER OR TO REQUIRE THE COMMISSIONER TO ADVANCE ANY PROJECT THROUGH THE PROVISIONS OF THIS ARTICLE.

3. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT MAY CONVEY ANY INTEREST IN PROPERTY UNDER THE JURISDICTION OF THE DEPARTMENT TO A PUBLIC AND/OR PRIVATE ENTITY PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE, PROVIDED HOWEVER THAT NO SUCH CONVEYANCE SHALL BE A FEE SIMPLE ABSOLUTE AND ANY CONVEYANCE OF AN INTEREST IN PROPERTY IN EXCESS OF THIRTY-FIVE YEARS SHALL REQUIRE APPROVAL BY A SUPER-MAJORITY OF THE BOARD PURSUANT TO ARTICLE FORTY-THREE OF THE EXECUTIVE LAW.

1 4. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS A WAIVER OF OR LIMI-
2 TATION UPON THE SOVEREIGN IMMUNITY OF THE STATE OR ANY INSTRUMENTALITY
3 THEREOF.

4 5. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE ANY RULES AND
5 REGULATIONS DEEMED NECESSARY OR DESIRABLE FOR THE IMPLEMENTATION OF THIS
6 ARTICLE.

7 6. PROJECTS UNDERTAKEN BY THE COMMISSIONER PURSUANT TO THIS ARTICLE
8 SHALL BE SUBJECT TO THE REQUIREMENTS OF ARTICLE EIGHT OF THE ENVIRON-
9 MENTAL CONSERVATION LAW, AND, WHERE APPLICABLE, THE REQUIREMENTS OF THE
10 NATIONAL ENVIRONMENTAL POLICY ACT.

11 S 507. AGREEMENTS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRA-
12 RY, THE COMMISSIONER, THROUGH TRANSPORTATION INFRASTRUCTURE AGREEMENTS
13 ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE, MAY
14 PROVIDE FOR:

15 1. THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANAL-
16 YSIS, CONSTRUCTION, RECONSTRUCTION, REHABILITATION, RESTORATION, ESTAB-
17 LISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERA-
18 TION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION
19 INFRASTRUCTURE BY A SINGLE PUBLIC OR PRIVATE ENTITY OR COMBINATION OF
20 PUBLIC AND PRIVATE ENTITIES;

21 2. THE ALLOCATION OF RESPONSIBILITY AND TIMING FOR SPECIFIC PROJECT
22 ELEMENTS, REVENUE-SHARING ARRANGEMENTS, ALLOCATION OF FINANCIAL RESPON-
23 SIBILITY FOR COST OVERRUNS, ALLOCATION OF DEVELOPMENT COSTS, INSURANCE
24 OR SURETY REQUIREMENTS, LIABILITY FOR NON-PERFORMANCE, STANDARDS AND
25 INCENTIVES FOR PERFORMANCE, DEFAULT, TERMINATION, BUY-BACK, RENEGOTI-
26 ATION OR AMENDMENT CLAUSES, INSPECTION CLAUSES, FINANCIAL REPORTING,
27 ACCOUNTING AND AUDITING STANDARDS, ENVIRONMENTAL PERFORMANCE STANDARDS,
28 ANY OTHER RIGHTS AND DUTIES; AND

29 3. THE CROSSING OF ANY STREET, HIGHWAY, RAILROAD, CANAL OR NAVIGABLE
30 WATER COURSE OR RIGHT-OF-WAY, OR OTHER ROADWAY SO LONG AS THE CROSSING
31 DOES NOT UNREASONABLY INTERFERE WITH THE REASONABLE USE THEREOF.

32 S 508. REVENUES. ANY DEPARTMENT REVENUES DERIVED FROM ANY LEASE,
33 CONCESSION OR OTHER FINANCING STRUCTURE PURSUANT TO A TRANSPORTATION
34 INFRASTRUCTURE AGREEMENT MAY ONLY BE USED FOR THE PURPOSE OF THE DEVEL-
35 OPMENT OF TRANSPORTATION INFRASTRUCTURE.

36 S 509. CONDEMNATION AND OPERATION IN THE EVENT OF A DEFAULT. IN THE
37 EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS UNDER A
38 TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO SECTION
39 FIVE HUNDRED ONE OF THIS ARTICLE, THE COMMISSIONER WITH BOARD APPROVAL
40 IS HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE, IN THE NAME OF THE
41 PEOPLE OF THE STATE, ALL OR ANY PORTION OF ANY TRANSPORTATION INFRAS-
42 TRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION BY SUCH PUBLIC OR PRIVATE
43 ENTITY, WITH ANY DAMAGES SUFFERED TO THE STATE AS A RESULT OF SUCH
44 DEFAULT BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION
45 OF THE TRANSPORTATION INFRASTRUCTURE. THE COMMISSIONER, WITH BOARD
46 APPROVAL, MAY ALSO TERMINATE THE TRANSPORTATION INFRASTRUCTURE AGREEMENT
47 AND EXERCISE ANY OTHER RIGHTS OR REMEDIES WHICH MAY BE AVAILABLE TO THE
48 DEPARTMENT AT LAW OR IN EQUITY. IN THE EVENT OF SUCH ACQUISITION AND
49 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT IS
50 HEREBY AUTHORIZED, BUT IS NOT REQUIRED, TO OPERATE AND MAINTAIN THE
51 TRANSPORTATION INFRASTRUCTURE.

52 S 510. FEDERAL, STATE AND LOCAL ASSISTANCE. 1. NOTWITHSTANDING ANY
53 PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER, IN RELATION TO
54 TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO
55 SECTION FIVE HUNDRED ONE OF THIS ARTICLE, MAY:

(A) TAKE ANY ACTION TO OBTAIN FEDERAL, STATE OR LOCAL ASSISTANCE FOR A TRANSPORTATION INFRASTRUCTURE PROJECT THAT SERVES THE PURPOSES OF THIS ARTICLE AND MAY ENTER INTO ANY CONTRACTS REQUIRED TO RECEIVE SUCH ASSISTANCE. THE COMMISSIONER MAY USE SUCH ASSISTANCE FOR THE IMPLEMENTATION OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE.

(B) AGREE TO MAKE GRANTS OR LOANS OR OTHER FORMS OF ASSISTANCE FOR THE DEVELOPMENT AND/OR OPERATION OF THE TRANSPORTATION INFRASTRUCTURE PROJECT FROM TIME TO TIME FROM AMOUNTS RECEIVED FROM THE FEDERAL, STATE, OR ANY LOCAL GOVERNMENT, OR ANY AGENCY OR INSTRUMENTALITY THEREOF.

2. NOTHING IN THIS ARTICLE OR IN A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO THIS ARTICLE SHALL BE DEEMED TO ENLARGE, DIMINISH OR AFFECT THE AUTHORITY, IF ANY, CONCERNING THE DEBT CAPACITY OF THE STATE OR ANY OTHER PUBLIC ENTITY.

S 511. POLICE POWERS; VIOLATIONS OF LAW. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY:

1. ALL POLICE OFFICERS OF THE STATE AND OF EACH AFFECTED LOCAL JURISDICTION, SHALL HAVE THE SAME POWERS AND JURISDICTION WITHIN THE LIMITS OF THE TRANSPORTATION INFRASTRUCTURE AS THEY HAVE IN THEIR RESPECTIVE AREAS OF JURISDICTION AND SUCH POLICE OFFICERS SHALL HAVE ACCESS TO THE TRANSPORTATION INFRASTRUCTURE AT ANY TIME FOR THE PURPOSE OF EXERCISING SUCH POWERS AND JURISDICTION. THIS AUTHORITY DOES NOT EXTEND TO THE PRIVATE OFFICES, BUILDINGS, GARAGES, AND OTHER IMPROVEMENTS OF A PRIVATE ENTITY TO ANY GREATER DEGREE THAN THE POLICE POWER EXTENDS TO ANY OTHER PRIVATE BUILDINGS AND IMPROVEMENTS.

2. TO THE EXTENT THE TRANSPORTATION INFRASTRUCTURE IS A HIGHWAY, ROAD, BRIDGE, TUNNEL, OVERPASS, OR SIMILAR TRANSPORTATION INFRASTRUCTURE FOR MOTOR VEHICLES, THE TRAFFIC AND MOTOR VEHICLE LAWS GENERALLY APPLICABLE TO SUCH INFRASTRUCTURE UNDER THE JURISDICTION OF THE DEPARTMENT SHALL APPLY TO CONDUCT ON THE TRANSPORTATION INFRASTRUCTURE. PUNISHMENT FOR OFFENSES SHALL BE AS PRESCRIBED BY LAW FOR CONDUCT OCCURRING ON SIMILAR TRANSPORTATION INFRASTRUCTURE IN THE STATE.

S 512. POWERS AND DUTIES OF THE PRIVATE ENTITY. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY:

1. THE PRIVATE ENTITY SHALL HAVE ALL POWER ALLOWED BY LAW GENERALLY TO A PRIVATE ENTITY HAVING THE SAME FORM OF ORGANIZATION AS THE PRIVATE ENTITY AND SHALL HAVE THE POWER TO DEVELOP, MAINTAIN AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE AND/OR ENTER INTO SERVICE CONTRACTS OR OTHER AGREEMENTS IN CONNECTION WITH THE USE THEREOF.

2. THE PRIVATE ENTITY MAY LEASE OR ACQUIRE ANY OTHER RIGHT TO USE OR DEVELOP, MAINTAIN AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE CONSISTENT WITH SUBDIVISION THREE OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE.

S 513. CONFIDENTIALITY. ANY REQUEST FOR PROPOSAL OR AGREEMENT ENTERED PURSUANT TO THIS ARTICLE SHALL MAKE PROVISION FOR THE PROTECTION OF INTERESTS AND RIGHTS IN INTELLECTUAL PROPERTY AND TRADE SECRETS AND CONFIDENTIAL INFORMATION OTHERWISE PROTECTED BY STATE OR FEDERAL LAW.

S 514. SEVERABILITY CLAUSE. IF ANY SECTION, CLAUSE OR PROVISION OF THIS ARTICLE SHALL BE DETERMINED TO BE UNCONSTITUTIONAL OR BE INEFFECTIVE IN WHOLE OR IN PART, TO THE EXTENT THAT IT IS NOT UNCONSTITUTIONAL OR INEFFECTIVE, IT SHALL BE VALID AND EFFECTIVE AND NO OTHER SECTION, CLAUSE OR PROVISION SHALL, ON ACCOUNT THEREOF, BE DEEMED INVALID OR INEFFECTIVE.

S 3. The executive law is amended by adding a new article 43 to read as follows:

ARTICLE 43

INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD

SECTION 930. INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD.

931. POWERS AND DUTIES.

S 930. INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD. 1. THERE IS HEREBY ESTABLISHED IN THE EXECUTIVE DEPARTMENT AN INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD ("BOARD") TO CONSIST OF NINE MEMBERS, WHO SHALL BE APPOINTED AS FOLLOWS: (A) THREE SHALL BE APPOINTED BY THE GOVERNOR, PROVIDED THAT ONE SHALL BE THE COMMISSIONER OF TRANSPORTATION AND OF THE REMAINING TWO, ONE EACH SHALL BE FROM EACH OF THE TWO MAJOR POLITICAL PARTIES; (B) TWO SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE; (C) TWO SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY; (D) ONE SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE; AND (E) ONE SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY.

2. THE GOVERNOR SHALL DESIGNATE THE CHAIR FROM AMONG THE MEMBERS OF THE BOARD.

3. (A) AT LEAST ONE MEMBER EACH APPOINTED BY THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY SHALL BE AN EXPERT IN TRANSPORTATION, AND/OR PUBLIC FINANCE AND/OR INFRASTRUCTURE MANAGEMENT.

(B) AT LEAST ONE MEMBER EACH APPOINTED BY THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY SHALL BE FROM THE PRIVATE SECTOR, PROVIDED, HOWEVER THAT THE MEMBER APPOINTED PURSUANT TO THIS PARAGRAPH MAY BE THE SAME AS THAT MEMBER APPOINTED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION.

(C) NO MEMBER OF THE BOARD SHALL ALSO BE A MEMBER OF THE LEGISLATURE.

4. THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICE AS MEMBERS, BUT SHALL BE ENTITLED TO ACTUAL NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES. MEMBERS OF THE BOARD SHALL BE CONSIDERED PUBLIC OFFICERS FOR PURPOSES OF SECTION SEVENTEEN OF THE PUBLIC OFFICERS LAW.

5. A QUORUM SHALL CONSIST OF A MAJORITY OF THE MEMBERS OF THE BOARD. A QUORUM SHALL BE REQUIRED TO CONDUCT BUSINESS. APPROVAL OF ANY MATTER PROPERLY BEFORE THE BOARD SHALL REQUIRE THE AFFIRMATIVE VOTE OF THE MAJORITY OF THE BOARD; PROVIDED HOWEVER THAT ANY PROVISION OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT, AS DEFINED IN SECTION FIVE HUNDRED OF THE TRANSPORTATION LAW OR SUBDIVISION ONE OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW, WHICH PROVIDES FOR THE CONVEYANCE OF ANY INTEREST IN EXCESS OF THIRTY-FIVE YEARS SHALL REQUIRE AN AFFIRMATIVE VOTE BY A SUPER-MAJORITY OF SIX MEMBERS FOR APPROVAL.

6. MEETINGS SHALL BE CALLED BY THE CHAIR OR BY A MAJORITY OF THOSE MEMBERS APPOINTED. MEETINGS SHALL BE HELD AT LEAST BI-ANNUALLY.

7. THE BOARD MAY APPOINT SUCH OFFICERS AND EMPLOYEES AS IT MAY REQUIRE FOR THE PERFORMANCE OF ITS DUTIES AND FIX AND DETERMINE THEIR QUALIFICATIONS, DUTIES, AND COMPENSATION, AND RETAIN OR EMPLOY COUNSEL, AUDITORS AND PRIVATE FINANCIAL CONSULTANTS AND OTHER SERVICES ON A CONTRACT BASIS OR OTHERWISE FOR RENDERING PROFESSIONAL, BUSINESS OR TECHNICAL SERVICES AND ADVICE; SUCH AUTHORITY SHALL BE SUBJECT TO APPROPRIATION.

8. THE BOARD SHALL ESTABLISH BY-LAWS FOR THE MANAGEMENT AND REGULATION OF ITS AFFAIRS.

S 931. POWERS AND DUTIES. 1. SOLICITATION OF PROPOSALS. THE BOARD MAY APPROVE AND PUBLICLY SOLICIT A PRELIMINARY PROPOSAL ADVANCED PURSUANT TO SECTION FIVE HUNDRED FOUR OF THE TRANSPORTATION LAW OR SUBDIVISION FOUR OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW, OR

1 MAY PUBLICLY SOLICIT OTHER PROPOSALS FROM PUBLIC AND/OR PRIVATE ENTITIES
2 FOR TRANSPORTATION INFRASTRUCTURE PROJECTS AS DEFINED IN SUBDIVISION SIX
3 OF SECTION FIVE HUNDRED OF THE TRANSPORTATION LAW, SUBDIVISION ONE OF
4 SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW OR
5 SUBDIVISION ONE OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC
6 AUTHORITIES LAW.

7 2. APPROVAL OF BEST VALUE PROPOSALS. (A) THE BOARD MAY APPROVE A
8 PROPOSAL PRELIMINARILY ACCEPTED PURSUANT TO SECTION FIVE HUNDRED FIVE OF
9 THE TRANSPORTATION LAW, SUBDIVISION FIVE OF SECTION THREE HUNDRED EIGHT-
10 Y-NINE OF THE PUBLIC AUTHORITIES LAW, SUBDIVISION FIVE OF SECTION FIVE
11 HUNDRED FORTY-THREE OF THE PUBLIC AUTHORITIES LAW, OR ANY OTHER PROPOSAL
12 PROPERLY SUBMITTED IN RESPONSE TO A SOLICITATION MADE PURSUANT TO SUBDI-
13 VISION ONE OF THIS SECTION IF THE BOARD DETERMINES THAT SUCH PROPOSAL
14 PRESENTS THE BEST VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF
15 THE STATE FINANCE LAW CONSIDERING THE FOLLOWING:

16 (I) A PUBLIC NEED FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE
17 PROJECT;

18 (II) THE REASONABLENESS OF ESTIMATED COSTS, BENEFITS AND LIABILITIES
19 OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

20 (III) THE COMPATIBILITY OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE
21 PROJECT, AND THE SCHEDULING OF ITS DEVELOPMENT OR IMPLEMENTATION AND ITS
22 CONNECTIONS TO OR ROLE WITHIN THE EXISTING TRANSPORTATION SYSTEM AND THE
23 COMPATIBILITY WITH THE TRANSPORTATION PLANS OF THE STATE AND OF ANY
24 AFFECTED LOCAL JURISDICTIONS;

25 (IV) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT,
26 CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPOR-
27 TATION INFRASTRUCTURE PROJECT;

28 (V) THE QUALIFICATIONS, EXPERIENCE, AND FINANCIAL CAPACITY OF THE
29 PUBLIC AND/OR PRIVATE ENTITY PROVIDING THE TRANSPORTATION INFRASTRUCTURE
30 PROJECT; AND

31 (VI) WHETHER THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT SATIS-
32 FIES ANY OTHER CRITERIA ESTABLISHED BY THE BOARD IN THE SOLICITATION
33 MADE PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

34 (B) THE BOARD SHALL NOT APPROVE ANY PROPOSAL UNLESS THE AGGREGATE LIFE
35 OF PROJECT COST FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT IS LESS
36 THAN THE ESTIMATE PROVIDED IN THE COST ANALYSIS MADE PURSUANT TO SECTION
37 FIVE HUNDRED THREE OF THE TRANSPORTATION LAW, SUBDIVISION THREE OF
38 SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW OR
39 SUBDIVISION THREE OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC
40 AUTHORITIES LAW.

41 (C) THE BOARD MAY ONLY APPROVE A PROPOSAL CONTAINING THE CONVEYANCE OF
42 ANY INTEREST IN EXCESS OF THIRTY-FIVE YEARS WITH THE AFFIRMATIVE VOTE OF
43 A SUPER-MAJORITY AS SET FORTH IN SUBDIVISION FIVE OF SECTION NINE
44 HUNDRED THIRTY OF THIS ARTICLE.

45 3. APPROVAL OF TRANSPORTATION INFRASTRUCTURE AGREEMENTS. BOARD
46 APPROVAL SHALL BE REQUIRED OF ANY TRANSPORTATION INFRASTRUCTURE AGREE-
47 MENT TO BE ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THE
48 TRANSPORTATION LAW, SUBDIVISION TWO OF SECTION THREE HUNDRED EIGHTY-NINE
49 OF THE PUBLIC AUTHORITIES LAW, OR SUBDIVISION TWO OF SECTION FIVE
50 HUNDRED FORTY-THREE OF THE PUBLIC AUTHORITIES LAW.

51 4. APPROVAL OF ACQUISITION OF ALL OR PART OF TRANSPORTATION INFRAS-
52 TRUCTURE. BOARD APPROVAL SHALL BE REQUIRED FOR THE ACQUISITION OF ALL OR
53 ANY PART OF ANY TRANSPORTATION INFRASTRUCTURE PURSUANT TO SECTION FIVE
54 HUNDRED TEN OF THE TRANSPORTATION LAW OR SUBDIVISION NINE OF SECTION
55 THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW.

1 5. ANNUAL REPORT. THE BOARD SHALL PREPARE AN ANNUAL REPORT AND SHALL
2 SUBMIT SUCH REPORT ON OR BEFORE JANUARY THIRTY-FIRST OF EACH YEAR TO THE
3 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
4 ASSEMBLY AND THE CHAIRS OF THE SENATE AND ASSEMBLY TRANSPORTATION
5 COMMITTEES. (A) THE ANNUAL REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED
6 TO:

7 (I) DETAILS OF ANY SOLICITATION OR PRELIMINARY SOLICITATION MADE OR
8 PREPARED DURING THE REPORTING PERIOD;

9 (II) DETAILS OF ANY PROPOSAL SUBMITTED OR ACCEPTED PURSUANT TO A
10 PUBLIC SOLICITATION DURING THE REPORTING PERIOD;

11 (III) DETAILS ON THE PROGRESS OF ONGOING TRANSPORTATION INFRASTRUCTURE
12 PROJECT AGREEMENT NEGOTIATIONS;

13 (IV) DETAILS ON ANY AMENDMENTS TO EXISTING TRANSPORTATION INFRASTRUC-
14 TURE AGREEMENTS DURING THE REPORTING PERIOD;

15 (V) DETAILS OF ONGOING TRANSPORTATION INFRASTRUCTURE PROJECTS, INCLUD-
16 ING BUT NOT LIMITED TO THE MEETING OR FAILURE TO MEET ANY TIME DEAD-
17 LINES, THE ACHIEVEMENT OR FAILURE TO ACHIEVE ANY PERFORMANCE GOALS, ANY
18 COST OVERRUNS, ANY DEFAULT AND ANY OTHER INFORMATION PERTINENT TO THE
19 PROJECT'S ONGOING OPERATION; AND

20 (VI) AN ACCOUNTING OF ANY REVENUES AND EXPENDITURES ASSOCIATED WITH
21 ONGOING TRANSPORTATION INFRASTRUCTURE PROJECTS DURING THE REPORTING
22 PERIOD.

23 (B) THE ANNUAL REPORT MAY ADDITIONALLY INCLUDE ANY RECOMMENDATIONS FOR
24 LEGISLATION RELATED TO TRANSPORTATION INFRASTRUCTURE PROJECT DEVELOP-
25 MENT.

26 S 4. The public authorities law is amended by adding a new section 389
27 to read as follows:

28 S 389. INNOVATIVE INFRASTRUCTURE DEVELOPMENT. NOTWITHSTANDING ANY
29 OTHER PROVISIONS OF LAW TO THE CONTRARY:

30 1. AS USED IN THIS SECTION, UNLESS A DIFFERENT MEANING APPEARS FROM
31 THE CONTEXT, THE TERMS:

32 (A) "PRIVATE ENTITY" MEANS ANY ASSOCIATION, CORPORATION, LIMITED
33 LIABILITY COMPANY, PARTNERSHIP, FIRM, BUSINESS TRUST, JOINT VENTURE,
34 NOT-FOR-PROFIT ENTITY, FUND OR OTHER PRIVATE BUSINESS ENTITY.

35 (B) "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER
36 STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY
37 OR COMMISSION, ANY MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION,
38 ANY PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENE-
39 FIT CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY
40 OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF THE FOREGOING.

41 (C) "TRANSPORTATION INFRASTRUCTURE" MEANS THE THRUWAY SYSTEM AS
42 DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THIS TITLE AND THE
43 PROVISIONS FOR THE MOVEMENT OF PEOPLE, VEHICLES, GOODS OR INFORMATION
44 ON, BY OR THROUGH THE USE OF THE THRUWAY SYSTEM AND SHALL INCLUDE
45 SERVICES PROVIDED PURSUANT TO TRANSPORTATION INFRASTRUCTURE AGREEMENTS.

46 (D) "TRANSPORTATION INFRASTRUCTURE AGREEMENT" SHALL MEAN ANY AGREEMENT
47 ENTERED INTO BY THE AUTHORITY PURSUANT TO SUBDIVISION TWO OF THIS
48 SECTION.

49 (E) "TRANSPORTATION INFRASTRUCTURE PROJECT" SHALL MEAN THE PLANNING,
50 ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION,
51 RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT,
52 RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE,
53 DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE, INCLUD-
54 ING, BUT NOT LIMITED TO, AGREEMENTS RELATING TO THE DISTRIBUTION OF FARE
55 AND TOLL PAYMENT MEDIA AND ELECTRONIC PAYMENT DEVICES, AND THE ESTAB-

1 LISHMENT AND COLLECTION OF USER FEES, PURSUANT TO ONE OR MORE TRANSPOR-
2 TATION INFRASTRUCTURE AGREEMENTS.

3 (F) "USER FEES" MEANS THE RATES, TOLLS, FARES, RENTALS OR FEES OR
4 OTHER CHARGES IMPOSED FOR OR ASSOCIATED WITH THE USE AND OPERATION OF
5 ALL OR A PORTION OF TRANSPORTATION INFRASTRUCTURE PURSUANT TO A TRANS-
6 PORTATION INFRASTRUCTURE AGREEMENT.

7 (G) "BOARD" MEANS THE INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD AS
8 ESTABLISHED BY SECTION NINE HUNDRED THIRTY OF THE EXECUTIVE LAW.

9 2. NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE
10 AUTHORITY IS AUTHORIZED, AS ADDITIONAL CORPORATE PURPOSES THEREOF, TO
11 ENTER INTO TRANSPORTATION INFRASTRUCTURE AGREEMENTS, ON SUCH TERMS AND
12 CONDITIONS AS THE AUTHORITY DEEMS APPROPRIATE AND SUBJECT TO THE
13 APPROVAL OF THE DIRECTOR OF BUDGET AND THE BOARD, AND IN ACCORDANCE WITH
14 SECTION ONE HUNDRED TWELVE OF THE STATE FINANCE LAW, WITH PUBLIC AND/OR
15 PRIVATE ENTITIES TO PROVIDE FOR, OR IN SUPPORT OF, OR ASSOCIATED WITH
16 TRANSPORTATION INFRASTRUCTURE PROJECTS. IN FURTHERANCE OF SUCH AGREE-
17 MENTS, THE AUTHORITY MAY:

18 (A) ACCEPT IN ACCORDANCE WITH THE STATE FINANCE LAW AND THE PUBLIC
19 OFFICERS LAW, ANY APPROPRIATION, GRANT, OR OFFER OF FUNDS OR PROPERTY OR
20 OTHER FORMS OF ASSISTANCE FOR THE PURPOSES OF THIS SECTION FROM ANY
21 PUBLIC AND/OR PRIVATE ENTITY AND TO COMPLY WITH THE TERMS AND CONDITIONS
22 THEREOF;

23 (B) ACCEPT, PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE
24 AGREEMENT, PROPERTY OR ANY INTEREST THEREIN AND TRANSPORTATION INFRAS-
25 TRUCTURE TO BE MAINTAINED AS PART OF THE THRUWAY SYSTEM. ANY SUCH INTER-
26 EST IN TRANSPORTATION INFRASTRUCTURE SO ACQUIRED SHALL BE DEEMED TO HAVE
27 BEEN ACQUIRED BY THE AUTHORITY OR AT THE AUTHORITY'S REQUEST PURSUANT TO
28 THIS TITLE;

29 (C) UTILIZE ANY OF ITS POWERS OR AUTHORITY TO ACHIEVE THE PURPOSES OF
30 THIS SECTION INCLUDING BUT NOT LIMITED TO THE POWER TO ISSUE BONDS,
31 NOTES AND OTHER OBLIGATIONS;

32 (D) FINANCE ALL OR ANY PART OF THE COSTS TO THE AUTHORITY OR TO ANY
33 PUBLIC AND/OR PRIVATE ENTITY OF ANY TRANSPORTATION INFRASTRUCTURE
34 PROJECT, INCLUDING FINANCING THROUGH OR ACCOMPANIED BY ONE OR MORE LEAS-
35 ES OR CONCESSIONS OF SUCH PROJECT OR ANY PART THEREOF BY OR TO SUCH
36 ENTITY OR ENTITIES AND/OR BY OR TO THE AUTHORITY OR ANY OF ITS SUBSID-
37 IARIES OR AFFILIATES;

38 (E) UTILIZE THE AUTHORITY'S EMINENT DOMAIN POWERS, PURSUANT TO
39 SECTIONS THREE HUNDRED FIFTY-EIGHT AND THREE HUNDRED FIFTY-EIGHT-A OF
40 THIS TITLE, ON SUCH TERMS AND CONDITIONS AS THE AUTHORITY DEEMS APPRO-
41 PRIATE, TO ACQUIRE PROPERTY REQUIRED FOR TRANSPORTATION INFRASTRUCTURE
42 PROJECTS; AND

43 (F) PROVIDE FOR THE COLLECTION AND/OR RETENTION OF USER FEES PURSUANT
44 TO THIS ARTICLE; PROVIDED HOWEVER THAT ANY PROVISION OF A TRANSPORTATION
45 INFRASTRUCTURE AGREEMENT WHICH PROVIDES FOR INCREASES IN USER FEES ON
46 INFRASTRUCTURE CURRENTLY SUBJECT TO USER FEES, ESTABLISHMENT OF USER
47 FEES IN A NEW LOCATION ON INFRASTRUCTURE CURRENTLY SUBJECT TO USER FEES,
48 OR THE ESTABLISHMENT OF USER FEES ON NEWLY CONSTRUCTED INFRASTRUCTURE OR
49 INFRASTRUCTURE IMPROVED TO INCREASE CAPACITY SHALL BE CONSISTENT WITH
50 THE POWERS OF THE AUTHORITY TO ESTABLISH OR INCREASE USER FEES PURSUANT
51 TO THIS TITLE.

52 3. COST ANALYSIS. PRIOR TO ANY SOLICITATION OF PROPOSALS MADE PURSUANT
53 TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW THE AUTHORITY
54 SHALL CONDUCT A STUDY AND ISSUE A REPORT WHICH SHALL DETAIL THE RISK
55 ADJUSTED ESTIMATED LIFE OF PROJECT COST FOR THE PROPOSED TRANSPORTATION

1 INFRASTRUCTURE PROJECT WERE THE AUTHORITY TO UNDERTAKE SUCH PROJECT
2 THROUGH TRADITIONAL MEANS OF PROCUREMENT AND FINANCING.

3 4. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY
4 IS AUTHORIZED TO PREPARE PRELIMINARY SOLICITATIONS FOR THE PROVISION OF
5 TRANSPORTATION INFRASTRUCTURE PROJECTS. SUCH SOLICITATIONS SHALL SET
6 FORTH THE PROPOSED PARAMETERS OF THE PROJECT AND SHALL BE SUBJECT TO
7 APPROVAL OF THE BOARD PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE
8 EXECUTIVE LAW.

9 5. (A) AFTER A SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED
10 THIRTY-ONE OF THE EXECUTIVE LAW, THE AUTHORITY SHALL REVIEW ALL PROPER
11 PROPOSALS AND MAY PRELIMINARILY ACCEPT AND ADVANCE TO THE BOARD FOR
12 APPROVAL THE PROPOSAL THAT IS DETERMINED BY THE AUTHORITY TO BE THE BEST
13 VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE
14 LAW CONSIDERING THE FOLLOWING:

15 (I) A PUBLIC NEED FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE
16 PROJECT;

17 (II) THE REASONABLENESS OF ESTIMATED COSTS, BENEFITS AND LIABILITIES
18 OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

19 (III) THE COMPATIBILITY OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE
20 PROJECT AND THE SCHEDULING OF ITS DEVELOPMENT OR IMPLEMENTATION AND ITS
21 CONNECTIONS TO OR ROLE WITHIN THE EXISTING THRUWAY SYSTEM AND THE
22 COMPATIBILITY WITH THE TRANSPORTATION PLANS OF THE AUTHORITY AND OF ANY
23 STATE OR LOCAL JURISDICTIONS;

24 (IV) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT,
25 CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPOR-
26 TATION INFRASTRUCTURE PROJECT;

27 (V) THE QUALIFICATIONS, EXPERIENCE, AND FINANCIAL CAPACITY OF THE
28 PUBLIC AND/OR PRIVATE ENTITY PROVIDING THE TRANSPORTATION INFRASTRUCTURE
29 PROJECT; AND

30 (VI) WHETHER THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT SATIS-
31 FIES ANY OTHER CRITERIA ESTABLISHED IN THE SOLICITATION MADE PURSUANT TO
32 SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

33 (B) THE AUTHORITY SHALL NOT ACCEPT OR ADVANCE ANY PROPOSAL UNLESS THE
34 AGGREGATE LIFE OF PROJECT COST FOR THE TRANSPORTATION INFRASTRUCTURE
35 PROJECT IS LESS THAN THE ESTIMATE PROVIDED IN THE COST ANALYSIS MADE
36 PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

37 6. (A) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE
38 AUTHORITY OR BOARD TO MAKE ANY SOLICITATION, ACCEPT ANY PROPOSAL OR
39 ENTER INTO ANY AGREEMENT WITH ANY PUBLIC AND/OR PRIVATE ENTITY.

40 (B) NOTHING IN THIS SECTION SHALL BE DEEMED TO: (I) LIMIT THE AUTHOR-
41 ITY'S EXISTING POWERS AND AUTHORITY; (II) REQUIRE THE AUTHORITY TO
42 ACCEPT ANY PROJECT THROUGH THE PROVISIONS OF THIS SECTION; (III) REQUIRE
43 THE AUTHORITY TO ENTER INTO ANY AGREEMENTS PURSUANT TO THIS SECTION; OR
44 (IV) REQUIRE THE AUTHORITY TO TAKE ANY ACTION THAT WOULD CONTRADICT OR
45 IMPAIR ANY EXISTING AUTHORITY CONTRACT OR AGREEMENT WITH ITS BONDHOLDERS
46 OR OTHER ENTITIES.

47 (C) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORI-
48 TY MAY CONVEY AN INTEREST IN PROPERTY, IN WHICH THE AUTHORITY HAS AN
49 INTEREST TO A PUBLIC AND/OR PRIVATE ENTITY PURSUANT TO THE TERMS OF A
50 TRANSPORTATION INFRASTRUCTURE AGREEMENT, PROVIDED HOWEVER THAT NO SUCH
51 INTEREST SHALL BE A FEE SIMPLE ABSOLUTE AND ANY CONVEYANCE OF AN INTER-
52 EST IN PROPERTY IN EXCESS OF THIRTY-FIVE YEARS SHALL REQUIRE APPROVAL OF
53 A SUPER-MAJORITY OF THE BOARD PURSUANT TO ARTICLE FORTY-THREE OF THE
54 EXECUTIVE LAW.

(D) THE AUTHORITY IS HEREBY AUTHORIZED TO PROMULGATE ANY RULES AND REGULATIONS DEEMED NECESSARY OR DESIRABLE FOR THE IMPLEMENTATION OF THIS SECTION.

(E) PROJECTS UNDERTAKEN BY THE AUTHORITY PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO THE REQUIREMENTS OF ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW, AND, WHERE APPLICABLE, THE REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL POLICY ACT.

7. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION MAY PROVIDE FOR:

(A) THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION, RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION FACILITIES AND THE PROVISION OF TRANSPORTATION INFRASTRUCTURE BY A SINGLE PUBLIC OR PRIVATE ENTITY OR COMBINATION OF PUBLIC AND PRIVATE ENTITIES;

(B) THE ALLOCATION OF RESPONSIBILITY AND TIMING FOR SPECIFIC PROJECT ELEMENTS, REVENUE-SHARING ARRANGEMENTS, ALLOCATION OF FINANCIAL RESPONSIBILITY FOR COST OVERRUNS, ALLOCATION OF DEVELOPMENT COSTS, INSURANCE OR SURETY REQUIREMENTS, LIABILITY FOR NON-PERFORMANCE, STANDARDS AND INCENTIVES FOR PERFORMANCE, DEFAULT, TERMINATION, BUY-BACK, RENEGOTIATION OR AMENDMENT CLAUSES, INSPECTION CLAUSES, FINANCIAL REPORTING, ACCOUNTING AND AUDITING STANDARDS, ENVIRONMENTAL PERFORMANCE STANDARDS, ANY OTHER RIGHTS AND DUTIES;

(C) THE IMPOSITION BY THE AUTHORITY, OR THE ESTABLISHMENT BY THE PUBLIC AND/OR PRIVATE ENTITY WITH WHICH THE AUTHORITY CONTRACTS PURSUANT TO THIS SECTION, OF USER FEES AND THE PLEDGE OF ALL OR ANY PORTION THEREOF IN CONNECTION WITH ANY FINANCING THEREON CONSISTENT WITH PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION AND EXISTING CONTRACTS OR RESOLUTIONS RELATING THERETO; AND

(D) THE CROSSING OF ANY STREET, HIGHWAY, RAILROAD, CANAL OR NAVIGABLE WATER COURSE OR RIGHT-OF-WAY, OR OTHER ROADWAY SO LONG AS THE CROSSING DOES NOT UNREASONABLY INTERFERE WITH THE REASONABLE USE THEREOF.

8. ANY AUTHORITY REVENUES DERIVED FROM ANY LEASE, CONCESSION OR OTHER FINANCING STRUCTURE PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAY ONLY BE USED FOR THE PURPOSE OF THE DEVELOPMENT OF TRANSPORTATION INFRASTRUCTURE.

9. IN THE EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS UNDER A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO SUBDIVISION TWO OF THIS SECTION, THE AUTHORITY WITH BOARD APPROVAL IS HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE ALL OR ANY PORTION OF ANY TRANSPORTATION INFRASTRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION OR DEVELOPMENT BY OR IN CONJUNCTION WITH SUCH PUBLIC OR PRIVATE ENTITY, WITH ANY DAMAGES SUFFERED TO THE AUTHORITY AS A RESULT OF SUCH DEFAULT BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION OF THE TRANSPORTATION INFRASTRUCTURE. THE AUTHORITY MAY ALSO TERMINATE THE TRANSPORTATION INFRASTRUCTURE AGREEMENT AND EXERCISE ANY OTHER RIGHTS OR REMEDIES WHICH MAY BE AVAILABLE TO IT AT LAW OR IN EQUITY. IN THE EVENT OF SUCH ACQUISITION AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS HEREBY AUTHORIZED, BUT NOT REQUIRED, TO OPERATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE, INCLUDING THE IMPOSITION AND COLLECTION OF APPLICABLE USER FEES.

10. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY, THE AUTHORITY, THROUGH TRANSPORTATION INFRASTRUCTURE AGREEMENTS MAY:

(A) TAKE ANY ACTION TO OBTAIN FEDERAL, STATE OR LOCAL ASSISTANCE FOR A TRANSPORTATION INFRASTRUCTURE PROJECT THAT SERVES THE PUBLIC PURPOSE OF THIS CHAPTER AND MAY ENTER INTO ANY CONTRACTS REQUIRED TO RECEIVE SUCH FEDERAL ASSISTANCE. THE AUTHORITY MAY USE SUCH ASSISTANCE FOR THE IMPLEMENTATION OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO SUBDIVISION TWO OF THIS SECTION; AND

(B) AGREE TO MAKE GRANTS OR LOANS OR OTHER FORMS OF ASSISTANCE FOR THE DEVELOPMENT AND/OR OPERATION OF THE TRANSPORTATION INFRASTRUCTURE PROJECT FROM TIME TO TIME FROM AMOUNTS RECEIVED FROM THE FEDERAL, STATE, OR LOCAL GOVERNMENT, OR ANY AGENCY OR INSTRUMENTALITY THEREOF.

11. NOTHING IN THIS SECTION OR IN A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION SHALL BE DEEMED TO ENLARGE, DIMINISH OR AFFECT THE AUTHORITY, IF ANY, OTHERWISE POSSESSED BY THE AUTHORITY TO TAKE ACTION THAT WOULD IMPACT THE DEBT CAPACITY OF THE STATE OR ANY OTHER PUBLIC ENTITY.

12. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY:

(A) THE PRIVATE ENTITY SHALL HAVE ALL POWER ALLOWED BY LAW GENERALLY TO A PRIVATE ENTITY HAVING THE SAME FORM OF ORGANIZATION AS THE PRIVATE ENTITY AND SHALL HAVE THE POWER TO DEVELOP AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE AND IMPOSE USER FEES PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT CONSISTENT WITH PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION AND/OR ENTER INTO SERVICE CONTRACTS OR OTHER AGREEMENTS IN CONNECTION WITH THE USE THEREOF;

(B) THE PRIVATE ENTITY MAY LEASE OR ACQUIRE ANY OTHER RIGHT TO USE OR DEVELOP AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE CONSISTENT WITH PARAGRAPH (C) OF SUBDIVISION SIX OF THIS SECTION; AND

(C) IN OPERATING THE TRANSPORTATION INFRASTRUCTURE, THE PRIVATE ENTITY MAY PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAKE CLASSIFICATIONS ACCORDING TO REASONABLE CATEGORIES FOR ASSESSMENT OF USER FEES PROVIDED SUCH PRIVATE ENTITY GETS NECESSARY APPROVAL IN ACCORDANCE WITH THE TERMS OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENT.

13. ANY REQUEST FOR PROPOSAL OR AGREEMENT ENTERED PURSUANT TO THIS SECTION SHALL MAKE PROVISION FOR THE PROTECTION OF INTERESTS AND RIGHTS IN INTELLECTUAL PROPERTY AND TRADE SECRETS AND INFORMATION OTHERWISE PROTECTED BY STATE OR FEDERAL LAW.

14. IF ANY CLAUSE OR PROVISION OF THIS SECTION SHALL BE DETERMINED TO BE UNCONSTITUTIONAL OR BE INEFFECTIVE IN WHOLE OR IN PART, TO THE EXTENT THAT IT IS NOT UNCONSTITUTIONAL OR INEFFECTIVE, IT SHALL BE VALID AND EFFECTIVE AND NO OTHER CLAUSE OR PROVISION SHALL, ON ACCOUNT THEREOF, BE DEEMED INVALID OR INEFFECTIVE.

S 5. The public authorities law is amended by adding a new section 543 to read as follows:

S 543. INNOVATIVE INFRASTRUCTURE DEVELOPMENT. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY:

1. AS USED IN THIS SECTION, UNLESS A DIFFERENT MEANING APPEARS FROM THE CONTEXT, THE TERMS:

(A) "PRIVATE ENTITY" MEANS ANY ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, FIRM, BUSINESS TRUST, JOINT VENTURE, NOT-FOR-PROFIT ENTITY, FUND OR OTHER PRIVATE BUSINESS ENTITY.

(B) "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY OR COMMISSION, ANY MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION, ANY PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF THE FOREGOING.

(C) "TRANSPORTATION INFRASTRUCTURE" MEANS BRIDGES AS DEFINED IN SUBDIVISION NINE OF SECTION FIVE HUNDRED TWENTY-SIX OF THIS TITLE AND THE PROVISIONS FOR THE MOVEMENT OF PEOPLE, VEHICLES, GOODS OR INFORMATION ON, BY OR THROUGH THE USE OF BRIDGES AND SHALL INCLUDE SERVICES PROVIDED PURSUANT TO TRANSPORTATION INFRASTRUCTURE AGREEMENTS.

(D) "TRANSPORTATION INFRASTRUCTURE AGREEMENT" SHALL MEAN ANY AGREEMENT ENTERED INTO BY THE AUTHORITY PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

(E) "TRANSPORTATION INFRASTRUCTURE PROJECT" SHALL MEAN THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION, RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE, INCLUDING, BUT NOT LIMITED TO, AGREEMENTS RELATING TO THE DISTRIBUTION OF FARE AND TOLL PAYMENT MEDIA AND ELECTRONIC PAYMENT DEVICES, AND THE ESTABLISHMENT AND COLLECTION OF USER FEES, PURSUANT TO ONE OR MORE TRANSPORTATION INFRASTRUCTURE AGREEMENTS.

(F) "USER FEES" MEANS THE RATES, TOLLS, FARES, RENTALS OR FEES OR OTHER CHARGES IMPOSED FOR OR ASSOCIATED WITH THE USE AND OPERATION OF ALL OR A PORTION OF TRANSPORTATION INFRASTRUCTURE PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT.

(G) "BOARD" MEANS THE INNOVATIVE INFRASTRUCTURE DEVELOPMENT BOARD AS ESTABLISHED BY SECTION NINE HUNDRED THIRTY OF THE EXECUTIVE LAW.

2. NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED, AS ADDITIONAL CORPORATE PURPOSES THEREOF, TO ENTER INTO TRANSPORTATION INFRASTRUCTURE AGREEMENTS, ON SUCH TERMS AND CONDITIONS AS THE AUTHORITY DEEMS APPROPRIATE AND SUBJECT TO THE APPROVAL OF THE DIRECTOR OF BUDGET AND THE BOARD, AND IN ACCORDANCE WITH SECTION ONE HUNDRED TWELVE OF THE STATE FINANCE LAW, WITH PUBLIC AND/OR PRIVATE ENTITIES TO PROVIDE FOR, OR IN SUPPORT OF, OR ASSOCIATED WITH TRANSPORTATION INFRASTRUCTURE PROJECTS. IN FURTHERANCE OF SUCH AGREEMENTS, THE AUTHORITY MAY:

(A) ACCEPT IN ACCORDANCE WITH THE STATE FINANCE LAW AND THE PUBLIC OFFICERS LAW, ANY APPROPRIATION, GRANT, OR OFFER OF FUNDS OR PROPERTY OR OTHER FORMS OF ASSISTANCE FOR THE PURPOSES OF THIS SECTION FROM ANY PUBLIC AND/OR PRIVATE ENTITY AND TO COMPLY WITH THE TERMS AND CONDITIONS THEREOF;

(B) ACCEPT, PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT, PROPERTY OR ANY INTEREST THEREIN AND TRANSPORTATION INFRASTRUCTURE TO BE MAINTAINED BY THE AUTHORITY. ANY SUCH INTEREST IN TRANSPORTATION INFRASTRUCTURE SO ACQUIRED SHALL BE DEEMED TO HAVE BEEN ACQUIRED BY THE AUTHORITY OR AT THE AUTHORITY'S REQUEST PURSUANT TO THIS TITLE;

(C) UTILIZE ANY OF ITS POWERS OR AUTHORITY TO ACHIEVE THE PURPOSES OF THIS SECTION INCLUDING BUT NOT LIMITED TO THE POWER TO ISSUE BONDS, NOTES AND OTHER OBLIGATIONS;

(D) FINANCE ALL OR ANY PART OF THE COSTS TO THE AUTHORITY OR TO ANY PUBLIC AND/OR PRIVATE ENTITY OF ANY TRANSPORTATION INFRASTRUCTURE PROJECT, INCLUDING FINANCING THROUGH OR ACCOMPANIED BY ONE OR MORE LEASES OR CONCESSIONS OF SUCH PROJECT OR ANY PART THEREOF BY OR TO SUCH ENTITY OR ENTITIES AND/OR BY OR TO THE AUTHORITY OR ANY OF ITS SUBSIDIARIES OR AFFILIATES;

(E) UTILIZE THE AUTHORITY'S EMINENT DOMAIN POWERS, PURSUANT TO SECTION FIVE HUNDRED TWENTY-NINE OF THIS TITLE, ON SUCH TERMS AND CONDITIONS AS THE AUTHORITY DEEMS APPROPRIATE, TO ACQUIRE PROPERTY REQUIRED FOR TRANSPORTATION INFRASTRUCTURE PROJECTS; AND

(F) PROVIDE FOR THE COLLECTION AND/OR RETENTION OF USER FEES PURSUANT TO THIS ARTICLE; PROVIDED HOWEVER THAT ANY PROVISION OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT WHICH PROVIDES FOR INCREASES IN USER FEES ON INFRASTRUCTURE CURRENTLY SUBJECT TO USER FEES, ESTABLISHMENT OF USER FEES IN A NEW LOCATION ON INFRASTRUCTURE CURRENTLY SUBJECT TO USER FEES, OR THE ESTABLISHMENT OF USER FEES ON NEWLY CONSTRUCTED INFRASTRUCTURE OR INFRASTRUCTURE IMPROVED TO INCREASE CAPACITY SHALL BE CONSISTENT WITH THE POWERS OF THE AUTHORITY TO ESTABLISH OR INCREASE USER FEES PURSUANT TO THIS TITLE.

3. COST ANALYSIS. PRIOR TO ANY SOLICITATION OF PROPOSALS MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW THE AUTHORITY SHALL CONDUCT A STUDY AND ISSUE A REPORT WHICH SHALL DETAIL THE RISK ADJUSTED ESTIMATED LIFE OF PROJECT COST FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT WERE THE DEPARTMENT TO UNDERTAKE SUCH PROJECT THROUGH TRADITIONAL MEANS OF PROCUREMENT AND FINANCING.

4. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED TO PREPARE PRELIMINARY SOLICITATIONS FOR THE PROVISION OF TRANSPORTATION INFRASTRUCTURE PROJECTS. SUCH SOLICITATIONS SHALL SET FORTH THE PROPOSED PARAMETERS OF THE PROJECT AND SHALL BE SUBJECT TO APPROVAL OF THE BOARD PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

5. (A) AFTER A SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW, THE AUTHORITY SHALL REVIEW ALL PROPER PROPOSALS AND MAY PRELIMINARILY ACCEPT AND ADVANCE TO THE BOARD FOR APPROVAL THE PROPOSAL THAT IS DETERMINED BY THE AUTHORITY TO BE THE BEST VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW CONSIDERING THE FOLLOWING:

(I) A PUBLIC NEED FOR THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(II) THE REASONABLENESS OF ESTIMATED COSTS, BENEFITS AND LIABILITIES OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(III) THE COMPATIBILITY OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT AND THE SCHEDULING OF ITS DEVELOPMENT OR IMPLEMENTATION AND ITS CONNECTIONS TO OR ROLE WITHIN THE EXISTING AUTHORITY INFRASTRUCTURE AND THE COMPATIBILITY WITH THE TRANSPORTATION PLANS OF THE AUTHORITY AND OF ANY STATE OR LOCAL JURISDICTIONS;

(IV) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT, CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT;

(V) THE QUALIFICATIONS, EXPERIENCE, AND FINANCIAL CAPACITY OF THE PUBLIC AND/OR PRIVATE ENTITY PROVIDING THE TRANSPORTATION INFRASTRUCTURE PROJECT; AND

(VI) WHETHER THE PROPOSED TRANSPORTATION INFRASTRUCTURE PROJECT SATISFIES ANY OTHER CRITERIA ESTABLISHED IN THE SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

(B) THE AUTHORITY SHALL NOT ACCEPT OR ADVANCE ANY PROPOSAL UNLESS THE AGGREGATE LIFE OF PROJECT COST FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT IS LESS THAN THE ESTIMATE PROVIDED IN THE COST ANALYSIS MADE PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

6. (A) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE AUTHORITY OR BOARD TO MAKE ANY SOLICITATION, ACCEPT ANY PROPOSAL OR ENTER INTO ANY AGREEMENT WITH ANY PUBLIC AND/OR PRIVATE ENTITY.

(B) NOTHING IN THIS SECTION SHALL BE DEEMED TO: (I) LIMIT THE AUTHORITY'S EXISTING POWERS AND AUTHORITY; (II) REQUIRE THE AUTHORITY TO ACCEPT ANY PROJECT THROUGH THE PROVISIONS OF THIS SECTION; (III) REQUIRE THE AUTHORITY TO ENTER INTO ANY AGREEMENTS PURSUANT TO THIS SECTION; OR (IV)

1 REQUIRE THE AUTHORITY TO TAKE ANY ACTION THAT WOULD CONTRADICT OR IMPAIR
2 ANY EXISTING AUTHORITY CONTRACT OR AGREEMENT WITH ITS BONDHOLDERS OR
3 OTHER ENTITIES.

4 (C) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORI-
5 TY MAY CONVEY AN INTEREST IN PROPERTY, IN WHICH THE AUTHORITY HAS AN
6 INTEREST TO A PUBLIC AND/OR PRIVATE ENTITY PURSUANT TO THE TERMS OF A
7 TRANSPORTATION INFRASTRUCTURE AGREEMENT, PROVIDED HOWEVER THAT NO SUCH
8 INTEREST SHALL BE A FEE SIMPLE ABSOLUTE AND ANY CONVEYANCE OF AN INTER-
9 EST IN PROPERTY IN EXCESS OF THIRTY-FIVE YEARS SHALL REQUIRE APPROVAL OF
10 A SUPER-MAJORITY OF THE BOARD PURSUANT TO ARTICLE FORTY-THREE OF THE
11 EXECUTIVE LAW.

12 (D) THE AUTHORITY IS HEREBY AUTHORIZED TO PROMULGATE ANY RULES AND
13 REGULATIONS DEEMED NECESSARY OR DESIRABLE FOR THE IMPLEMENTATION OF THIS
14 SECTION.

15 (E) PROJECTS UNDERTAKEN BY THE AUTHORITY PURSUANT TO THIS ARTICLE
16 SHALL BE SUBJECT TO THE REQUIREMENTS OF ARTICLE EIGHT OF THE ENVIRON-
17 MENTAL CONSERVATION LAW, AND, WHERE APPLICABLE, THE REQUIREMENTS OF THE
18 NATIONAL ENVIRONMENTAL POLICY ACT.

19 7. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, TRANSPORTA-
20 TION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION MAY
21 PROVIDE FOR:

22 (A) THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL
23 ANALYSIS, CONSTRUCTION, RECONSTRUCTION, RESTORATION, REHABILITATION,
24 ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT,
25 OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION
26 FACILITIES AND THE PROVISION OF TRANSPORTATION INFRASTRUCTURE BY A
27 SINGLE PUBLIC OR PRIVATE ENTITY OR COMBINATION OF PUBLIC AND PRIVATE
28 ENTITIES;

29 (B) THE ALLOCATION OF RESPONSIBILITY AND TIMING FOR SPECIFIC PROJECT
30 ELEMENTS, REVENUE-SHARING ARRANGEMENTS, ALLOCATION OF FINANCIAL RESPON-
31 SIBILITY FOR COST OVERRUNS, ALLOCATION OF DEVELOPMENT COSTS, INSURANCE
32 OR SURETY REQUIREMENTS, LIABILITY FOR NON-PERFORMANCE, STANDARDS AND
33 INCENTIVES FOR PERFORMANCE, DEFAULT, TERMINATION, BUY-BACK, RENEGOTI-
34 ATION OR AMENDMENT CLAUSES, INSPECTION CLAUSES, FINANCIAL REPORTING,
35 ACCOUNTING AND AUDITING STANDARDS, ENVIRONMENTAL PERFORMANCE STANDARDS,
36 ANY OTHER RIGHTS AND DUTIES;

37 (C) THE IMPOSITION BY THE AUTHORITY, OR THE ESTABLISHMENT BY THE
38 PUBLIC AND/OR PRIVATE ENTITY WITH WHICH THE AUTHORITY CONTRACTS PURSUANT
39 TO THIS SECTION, OF USER FEES AND THE PLEDGE OF ALL OR ANY PORTION THERE-
40 OF IN CONNECTION WITH ANY FINANCING THEREON CONSISTENT WITH PARAGRAPH
41 (F) OF SUBDIVISION TWO OF THIS SECTION AND EXISTING CONTRACTS OR RESOL-
42 UTIONS RELATING THERETO; AND

43 (D) THE CROSSING OF ANY STREET, HIGHWAY, RAILROAD, CANAL OR NAVIGABLE
44 WATER COURSE OR RIGHT-OF-WAY, OR OTHER ROADWAY SO LONG AS THE CROSSING
45 DOES NOT UNREASONABLY INTERFERE WITH THE REASONABLE USE THEREOF.

46 8. ANY AUTHORITY REVENUES DERIVED FROM ANY LEASE, CONCESSION OR OTHER
47 FINANCING STRUCTURE PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREE-
48 MENT MAY ONLY BE USED FOR THE PURPOSE OF THE DEVELOPMENT OF TRANSPORTA-
49 TION INFRASTRUCTURE.

50 9. IN THE EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS
51 UNDER A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO
52 SUBDIVISION TWO OF THIS SECTION, THE AUTHORITY WITH BOARD APPROVAL IS
53 HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE ALL OR ANY PORTION OF ANY
54 TRANSPORTATION INFRASTRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION OR
55 DEVELOPMENT BY OR IN CONJUNCTION WITH SUCH PUBLIC OR PRIVATE ENTITY,
56 WITH ANY DAMAGES SUFFERED TO THE AUTHORITY AS A RESULT OF SUCH DEFAULT

1 BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION OF THE
2 TRANSPORTATION INFRASTRUCTURE. THE AUTHORITY MAY ALSO TERMINATE THE
3 TRANSPORTATION INFRASTRUCTURE AGREEMENT AND EXERCISE ANY OTHER RIGHTS OR
4 REMEDIES WHICH MAY BE AVAILABLE TO IT AT LAW OR IN EQUITY. IN THE EVENT
5 OF SUCH ACQUISITION AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE
6 CONTRARY, THE AUTHORITY IS HEREBY AUTHORIZED, BUT NOT REQUIRED, TO OPER-
7 ATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE, INCLUDING THE IMPO-
8 SITION AND COLLECTION OF APPLICABLE USER FEES.

9 10. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY, THE AUTHOR-
10 ITY, THROUGH TRANSPORTATION INFRASTRUCTURE AGREEMENTS MAY:

11 (A) TAKE ANY ACTION TO OBTAIN FEDERAL, STATE OR LOCAL ASSISTANCE FOR A
12 TRANSPORTATION INFRASTRUCTURE PROJECT THAT SERVES THE PUBLIC PURPOSE OF
13 THIS CHAPTER AND MAY ENTER INTO ANY CONTRACTS REQUIRED TO RECEIVE SUCH
14 FEDERAL ASSISTANCE. THE AUTHORITY MAY USE SUCH ASSISTANCE FOR THE IMPE-
15 MENTATION OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO
16 PURSUANT TO SUBDIVISION TWO OF THIS SECTION; AND

17 (B) AGREE TO MAKE GRANTS OR LOANS OR OTHER FORMS OF ASSISTANCE FOR THE
18 DEVELOPMENT AND/OR OPERATION OF THE TRANSPORTATION INFRASTRUCTURE
19 PROJECT FROM TIME TO TIME FROM AMOUNTS RECEIVED FROM THE FEDERAL, STATE,
20 OR LOCAL GOVERNMENT, OR ANY AGENCY OR INSTRUMENTALITY THEREOF.

21 11. NOTHING IN THIS SECTION OR IN A TRANSPORTATION INFRASTRUCTURE
22 AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION SHALL BE DEEMED TO
23 ENLARGE, DIMINISH OR AFFECT THE AUTHORITY, IF ANY, OTHERWISE POSSESSED
24 BY THE AUTHORITY TO TAKE ACTION THAT WOULD IMPACT THE DEBT CAPACITY OF
25 THE STATE OR ANY OTHER PUBLIC ENTITY.

26 12. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY:

27 (A) THE PRIVATE ENTITY SHALL HAVE ALL POWER ALLOWED BY LAW GENERALLY
28 TO A PRIVATE ENTITY HAVING THE SAME FORM OF ORGANIZATION AS THE PRIVATE
29 ENTITY AND SHALL HAVE THE POWER TO DEVELOP AND/OR OPERATE THE TRANSPOR-
30 TATION INFRASTRUCTURE AND IMPOSE USER FEES PURSUANT TO A TRANSPORTATION
31 INFRASTRUCTURE AGREEMENT CONSISTENT WITH PARAGRAPH (F) OF SUBDIVISION
32 TWO OF THIS SECTION AND/OR ENTER INTO SERVICE CONTRACTS OR OTHER AGREE-
33 MENTS IN CONNECTION WITH THE USE THEREOF.

34 (B) THE PRIVATE ENTITY MAY LEASE OR ACQUIRE ANY OTHER RIGHT TO USE OR
35 DEVELOP AND/OR OPERATE THE TRANSPORTATION INFRASTRUCTURE CONSISTENT WITH
36 PARAGRAPH (C) OF SUBDIVISION SIX OF THIS SECTION; AND

37 (C) IN OPERATING THE TRANSPORTATION INFRASTRUCTURE, THE PRIVATE ENTITY
38 MAY PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAKE CLASSI-
39 FICATIONS ACCORDING TO REASONABLE CATEGORIES FOR ASSESSMENT OF USER FEES
40 PROVIDED SUCH PRIVATE ENTITY GETS NECESSARY APPROVAL IN ACCORDANCE WITH
41 THE TERMS OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENT.

42 13. ANY REQUEST FOR PROPOSAL OR AGREEMENT ENTERED PURSUANT TO THIS
43 SECTION SHALL MAKE PROVISION FOR THE PROTECTION OF INTERESTS AND RIGHTS
44 IN INTELLECTUAL PROPERTY AND TRADE SECRETS AND INFORMATION OTHERWISE
45 PROTECTED BY STATE OR FEDERAL LAW.

46 14. IF ANY CLAUSE OR PROVISION OF THIS SECTION SHALL BE DETERMINED TO
47 BE UNCONSTITUTIONAL OR BE INEFFECTIVE IN WHOLE OR IN PART, TO THE EXTENT
48 THAT IT IS NOT UNCONSTITUTIONAL OR INEFFECTIVE, IT SHALL BE VALID AND
49 EFFECTIVE AND NO OTHER CLAUSE OR PROVISION SHALL, ON ACCOUNT THEREOF, BE
50 DEEMED INVALID OR INEFFECTIVE.

51 S 6. This act shall take effect immediately.