

- LBD11455-04-1

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

27 6. "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 7. "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 LIMITATION UPON THE SOVEREIGN IMMUNITY OF THE STATE OR ANY INSTRUMENTALITY THEREOF.

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

3 6. PROJECTS UNDERTAKEN BY THE COMMISSIONER 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.

4 S 507. AGREEMENTS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER, THROUGH TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE, MAY PROVIDE FOR:

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

6 2. 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; AND

7 3. 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 S 508. REVENUES. ANY DEPARTMENT 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 S 509. CONDEMNATION AND OPERATION IN THE EVENT OF A DEFAULT. IN THE EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS UNDER A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THIS ARTICLE, THE COMMISSIONER WITH BOARD APPROVAL IS HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE, IN THE NAME OF THE PEOPLE OF THE STATE, ALL OR ANY PORTION OF ANY TRANSPORTATION INFRASTRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION BY SUCH PUBLIC OR PRIVATE ENTITY, WITH ANY DAMAGES SUFFERED TO THE STATE AS A RESULT OF SUCH DEFAULT BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION OF THE TRANSPORTATION INFRASTRUCTURE. THE COMMISSIONER, WITH BOARD APPROVAL, MAY ALSO TERMINATE THE TRANSPORTATION INFRASTRUCTURE AGREEMENT AND EXERCISE ANY OTHER RIGHTS OR REMEDIES WHICH MAY BE AVAILABLE TO THE DEPARTMENT AT LAW OR IN EQUITY. IN THE EVENT OF SUCH ACQUISITION AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT IS HEREBY AUTHORIZED, BUT IS NOT REQUIRED, TO OPERATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE.

10 S 510. FEDERAL, STATE AND LOCAL ASSISTANCE. 1. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER, IN RELATION TO TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO PURSUANT TO 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, SUBDIVISION ONE OF SECTION THREE HUNDRED EIGHTY-EIGHT OF THE PUBLIC AUTHORITIES LAW OR SUBDIVISION ONE OF SECTION TWELVE HUNDRED SEVENTY-I 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

1 SECTION FIVE HUNDRED FOUR OF THE TRANSPORTATION LAW, SUBDIVISION FOUR OF
2 SECTION THREE HUNDRED EIGHTY-EIGHT OF THE PUBLIC AUTHORITIES LAW, OR
3 SUBDIVISION FOUR OF SECTION TWELVE HUNDRED SEVENTY-I OF SUCH LAW, OR MAY
4 PUBLICLY SOLICIT OTHER PROPOSALS FROM PUBLIC AND/OR PRIVATE ENTITIES FOR
5 TRANSPORTATION INFRASTRUCTURE PROJECTS AS DEFINED IN SUBDIVISION SIX OF
6 SECTION FIVE HUNDRED OF THE TRANSPORTATION LAW, SUBDIVISION ONE OF
7 SECTION THREE HUNDRED EIGHTY-EIGHT OF THE PUBLIC AUTHORITIES LAW, SUBDI-
8 VISION ONE OF SECTION TWELVE HUNDRED SEVENTY-I OF SUCH LAW OR SUBDIVI-
9 SION ONE OF SECTION FIVE HUNDRED FORTY-THREE OF SUCH LAW.

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

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

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

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

29 (IV) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT,
30 CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPOR-
31 TATION INFRASTRUCTURE PROJECT;

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

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

38 (B) THE BOARD SHALL NOT APPROVE ANY PROPOSAL UNLESS THE AGGREGATE LIFE
39 OF PROJECT COST FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT IS LESS
40 THAN THE ESTIMATE PROVIDED IN THE COST ANALYSIS MADE PURSUANT TO SECTION
41 FIVE HUNDRED THREE OF THE TRANSPORTATION LAW, SUBDIVISION THREE OF
42 SECTION THREE HUNDRED EIGHTY-EIGHT, SUBDIVISION THREE OF SECTION TWELVE
43 HUNDRED SEVENTY-I OF SUCH LAW OR SUBDIVISION THREE OF SECTION FIVE
44 HUNDRED FORTY-THREE OF SUCH LAW.

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

49 3. APPROVAL OF TRANSPORTATION INFRASTRUCTURE AGREEMENTS. BOARD
50 APPROVAL SHALL BE REQUIRED OF ANY TRANSPORTATION INFRASTRUCTURE AGREE-
51 MENT TO BE ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THE
52 TRANSPORTATION LAW, SUBDIVISION TWO OF SECTION THREE HUNDRED
53 EIGHTY-EIGHT, SUBDIVISION TWO OF SECTION TWELVE HUNDRED SEVENTY-I, OR
54 SUBDIVISION TWO OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC
55 AUTHORITIES LAW.

1 4. APPROVAL OF ACQUISITION OF ALL OR PART OF TRANSPORTATION INFRAS-
2 TRUCTURE. BOARD APPROVAL SHALL BE REQUIRED FOR THE ACQUISITION OF ALL OR
3 ANY PART OF ANY TRANSPORTATION INFRASTRUCTURE PURSUANT TO SECTION FIVE
4 HUNDRED TEN OF THE TRANSPORTATION LAW, SUBDIVISION NINE OF SECTION THREE
5 HUNDRED EIGHTY-EIGHT OF THE PUBLIC AUTHORITIES LAW OR SUBDIVISION TEN OF
6 SECTION TWELVE HUNDRED SEVENTY-I OF SUCH LAW.

7 5. ANNUAL REPORT. THE BOARD SHALL PREPARE AN ANNUAL REPORT AND SHALL
8 SUBMIT SUCH REPORT ON OR BEFORE JANUARY THIRTY-FIRST OF EACH YEAR TO THE
9 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
10 ASSEMBLY AND THE CHAIRS OF THE SENATE AND ASSEMBLY TRANSPORTATION
11 COMMITTEES. (A) THE ANNUAL REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED
12 TO:

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

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

17 (III) DETAILS ON THE PROGRESS OF ONGOING TRANSPORTATION INFRASTRUCTURE
18 PROJECT AGREEMENT NEGOTIATIONS;

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

21 (V) DETAILS OF ON-GOING TRANSPORTATION INFRASTRUCTURE PROJECTS,
22 INCLUDING BUT NOT LIMITED TO THE MEETING OR FAILURE TO MEET ANY TIME
23 DEADLINES, THE ACHIEVEMENT OR FAILURE TO ACHIEVE ANY PERFORMANCE GOALS,
24 ANY COST OVERRUNS, ANY DEFAULT AND ANY OTHER INFORMATION PERTINENT TO
25 THE PROJECT'S ONGOING OPERATION; AND

26 (VI) AN ACCOUNTING OF ANY REVENUES AND EXPENDITURES ASSOCIATED WITH
27 ONGOING TRANSPORTATION INFRASTRUCTURE PROJECTS DURING THE REPORTING
28 PERIOD.

29 (B) THE ANNUAL REPORT MAY ADDITIONALLY INCLUDE ANY RECOMMENDATIONS FOR
30 LEGISLATION RELATED TO TRANSPORTATION INFRASTRUCTURE PROJECT DEVELOP-
31 MENT.

32 S 4. The public authorities law is amended by adding a new section 388
33 to read as follows:

34 S 388. INNOVATIVE INFRASTRUCTURE DEVELOPMENT. NOTWITHSTANDING ANY
35 OTHER PROVISIONS OF LAW TO THE CONTRARY:

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

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

41 (B) "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER
42 STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY
43 OR COMMISSION, ANY MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION,
44 ANY PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENE-
45 FIT CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY
46 OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF THE FOREGOING.

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

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

55 (E) "TRANSPORTATION INFRASTRUCTURE PROJECT" SHALL MEAN THE PLANNING,
56 ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION,

1 RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT,
2 RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE,
3 DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE, INCLUD-
4 ING, BUT NOT LIMITED TO, AGREEMENTS RELATING TO THE DISTRIBUTION OF FARE
5 AND TOLL PAYMENT MEDIA AND ELECTRONIC PAYMENT DEVICES, AND THE ESTAB-
6 LISHMENT AND COLLECTION OF USER FEES, PURSUANT TO ONE OR MORE TRANSPOR-
7 TATION INFRASTRUCTURE AGREEMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (IV) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT,
29 CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPOR-
30 TATION INFRASTRUCTURE PROJECT;

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

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

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

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

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

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

1 A SUPER-MAJORITY OF THE BOARD PURSUANT TO ARTICLE FORTY-THREE OF THE
2 EXECUTIVE LAW.

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

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

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

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

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

28 (C) THE IMPOSITION BY THE AUTHORITY, OR THE ESTABLISHMENT BY THE
29 PUBLIC AND/OR PRIVATE ENTITY WITH WHICH THE AUTHORITY CONTRACTS PURSUANT
30 TO THIS SECTION, OF USER FEES AND THE PLEDGE OF ALL OR ANY PORTION THER-
31 EOF IN CONNECTION WITH ANY FINANCING THEREON CONSISTENT WITH PARAGRAPH
32 (F) OF SUBDIVISION TWO OF THIS SECTION AND EXISTING CONTRACTS OR RESOL-
33 UTIONS RELATING THERETO; AND

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

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

41 9. IN THE EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS
42 UNDER A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO
43 SUBDIVISION TWO OF THIS SECTION, THE AUTHORITY WITH BOARD APPROVAL IS
44 HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE ALL OR ANY PORTION OF ANY
45 TRANSPORTATION INFRASTRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION OR
46 DEVELOPMENT BY OR IN CONJUNCTION WITH SUCH PUBLIC OR PRIVATE ENTITY,
47 WITH ANY DAMAGES SUFFERED TO THE AUTHORITY AS A RESULT OF SUCH DEFAULT
48 BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION OF THE
49 TRANSPORTATION INFRASTRUCTURE. THE AUTHORITY MAY ALSO TERMINATE THE
50 TRANSPORTATION INFRASTRUCTURE AGREEMENT AND EXERCISE ANY OTHER RIGHTS OR
51 REMEDIES WHICH MAY BE AVAILABLE TO IT AT LAW OR IN EQUITY. IN THE EVENT
52 OF SUCH ACQUISITION AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE
53 CONTRARY, THE AUTHORITY IS HEREBY AUTHORIZED, BUT NOT REQUIRED, TO OPER-
54 ATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE, INCLUDING THE IMPO-
55 SITION AND COLLECTION OF APPLICABLE USER FEES.

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

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

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

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

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

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

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

29 (C) IN OPERATING THE TRANSPORTATION INFRASTRUCTURE, THE PRIVATE ENTITY
30 MAY PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAKE CLASSI-
31 FICATIONS ACCORDING TO REASONABLE CATEGORIES FOR ASSESSMENT OF USER FEES
32 PROVIDED SUCH PRIVATE ENTITY GETS NECESSARY APPROVAL IN ACCORDANCE WITH
33 THE TERMS OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENT.

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

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

43 S 5. The public authorities law is amended by adding a new section
44 1270-i to read as follows:

45 S 1270-I. INNOVATIVE INFRASTRUCTURE DEVELOPMENT. NOTWITHSTANDING ANY
46 OTHER PROVISIONS OF LAW TO THE CONTRARY:

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

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

52 (B) "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER
53 STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY
54 OR COMMISSION, MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION, ANY
55 PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENEFIT

CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF ANY OF THE FOREGOING;

(C) "TRANSPORTATION INFRASTRUCTURE" SHALL MEAN ANY TRANSPORTATION FACILITY AS SET FORTH IN SUBDIVISION SEVENTEEN OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS TITLE AND SHALL INCLUDE, IN ADDITION, ANY PROJECT AUTHORIZED BY SUBDIVISION NINE OF SECTION FIVE HUNDRED FIFTY-THREE OF THIS CHAPTER AND ANY RELATED SERVICES, INCLUDING, BUT NOT LIMITED TO, THE PROVISIONS FOR THE MOVEMENT OF PEOPLE, VEHICLES, GOODS OR INFORMATION ON, BY OR THROUGH THE USE OF TRANSPORTATION FACILITIES AS SET FORTH IN SUBDIVISION SEVENTEEN OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS TITLE OR ANY PROJECT AUTHORIZED BY SUBDIVISION NINE OF SECTION FIVE HUNDRED FIFTY-THREE OF THIS CHAPTER, 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 SETTING, COLLECTION AND SETTLEMENT OF USER FEES PURSUANT TO ONE OR MORE TRANSPORTATION INFRASTRUCTURE AGREEMENTS;

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

(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, IN ADDITION TO ITS OTHER RIGHTS AND POWERS NOT INCONSISTENT WITH THE PROVISIONS OF THIS SECTION, ON BEHALF OF ITSELF AND/OR ANY OF ITS SUBSIDIARIES AND AFFILIATES, 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 ARTICLE FROM ANY PUBLIC AND/OR PRIVATE ENTITY AND COMPLY WITH THE TERMS AND CONDITIONS THEREOF;

(B) ACCEPT, PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT, ANY PROPERTY (OR ANY INTEREST THEREIN), INCLUDING, BUT NOT LIMITED TO, ANY SUCH INTERESTS IN TRANSPORTATION INFRASTRUCTURE AND ANY PROPERTY TRANSFERRED FROM THE CITY OF NEW YORK, ACTING BY ITS MAYOR ALONE, NEEDED OR USEFUL FOR OR IN CONNECTION WITH ANY TRANSPORTATION INFRASTRUCTURE PROJECT;

(C) ISSUE ITS NOTES OR BONDS, INCLUDING NOTES AND BONDS ISSUED PURSUANT TO SECTION TWELVE HUNDRED SEVENTY-D OF THIS TITLE, TO FINANCE ALL OR ANY PART OF THE COSTS OF ANY TRANSPORTATION INFRASTRUCTURE PROJECT;

(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 ANY OF ITS POWERS OR AUTHORITY OR THE POWER AND AUTHORITY OF ANY OF ITS SUBSIDIARIES AND AFFILIATES IN FURTHERANCE OF THE PURPOSES OF THIS SECTION;

(F) UTILIZE THE AUTHORITY'S EMINENT DOMAIN POWERS, PURSUANT TO THE EMINENT DOMAIN PROCEDURE LAW, ON SUCH TERMS AND CONDITIONS AS THE AUTHORITY DEEMS APPROPRIATE, TO ACQUIRE PROPERTY REQUIRED FOR TRANSPORTATION INFRASTRUCTURE PROJECTS; AND

(G) 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. FOR ANY PART OF A TRANSPORTATION INFRASTRUCTURE PROJECT LOCATED WITHIN THE CITY OF NEW YORK, NEITHER THE PROVISIONS OF SECTION ONE HUNDRED NINETY-SEVEN-C OF THE NEW YORK CITY CHARTER, RELATING TO A UNIFORM LAND USE REVIEW PROCEDURE, NOR THE PROVISIONS OF ANY OTHER LOCAL LAW OF THE CITY OF NEW YORK OF LIKE OR SIMILAR TENOR OR IMPORT SHALL APPLY TO THE ACQUISITION OF ANY REAL PROPERTY (OR ANY INTEREST THEREIN) FOR THE PURPOSES OF ANY TRANSPORTATION INFRASTRUCTURE PROJECT BY THE AUTHORITY OR ITS DESIGNEE THEN OWNED BY THE CITY NOR TO THE TRANSFER TO THE AUTHORITY OR ITS DESIGNEE FOR SUCH PURPOSES OF THE RIGHT OF USE, OCCUPANCY, CONTROL OR POSSESSION OF ANY REAL PROPERTY (OR INTEREST THEREIN), WHETHER PRESENTLY OWNED OR HEREAFTER ACQUIRED BY THE CITY; PROVIDED IN EACH SUCH CASE, HOWEVER, THAT IF AT THE TIME OF SUCH PROPOSED ACQUISITION OR TRANSFER THE REAL PROPERTY WHICH IS THE SUBJECT OF SUCH ACQUISITION OR TRANSFER IS NOT THEN BEING UTILIZED FOR A TRANSIT OR TRANSPORTATION PURPOSE OR IS NOT AN INSUBSTANTIAL ADDITION TO SUCH PROPERTY CONTIGUOUS THERETO;

(A) THE AUTHORITY SHALL, UNLESS A SUBMISSION WITH RESPECT TO SUCH PROPERTY HAS PREVIOUSLY BEEN MADE AND APPROVED AS HEREIN PROVIDED, SUBMIT TO THE COMMUNITY BOARD FOR THE COMMUNITY DISTRICT IN WHICH SUCH PROPERTY IS LOCATED, DATA WITH RESPECT TO THE PROPOSED USE OF SUCH PROPERTY AND TO THE DESIGN OF ANY FACILITY PROPOSED TO BE CONSTRUCTED THEREON;

(B) SUCH COMMUNITY BOARD SHALL INFORM THE CITY COUNCIL OF THE CITY OF NEW YORK, WITH COPIES TO THE CITY PLANNING COMMISSION OF THE CITY OF NEW YORK AND THE AUTHORITY, OF ITS VIEWS AND RECOMMENDATIONS WITH RESPECT THERETO WITHIN FORTY-FIVE DAYS OF SUCH SUBMISSION, AND IF THE COMMUNITY BOARD SHALL FAIL TO SO INFORM THE CITY COUNCIL WITHIN SUCH PERIOD IT SHALL BE DEEMED TO HAVE RECOMMENDED THE PROPOSAL; AND

(C) THE CITY COUNCIL SHALL, WITHIN FORTY-FIVE DAYS OF THE RECOMMENDATION OF THE COMMUNITY BOARD, APPROVE OR DISAPPROVE SUCH ACQUISITION OR TRANSFER, AND IF THE CITY COUNCIL SHALL FAIL TO ACT WITHIN SUCH PERIOD IT SHALL BE DEEMED TO HAVE APPROVED THE SAME.

(D) EACH TRANSPORTATION INFRASTRUCTURE PROJECT SHALL BE CONSIDERED TO BE A FACILITY, OPERATION OR PROPERTY OF THE AUTHORITY FOR PURPOSES OF ALL OF THE PROVISIONS OF THIS TITLE, INCLUDING, BUT NOT LIMITED TO, THE SPECIAL TREATMENT OF SUCH FACILITIES, OPERATIONS AND PROPERTIES UNDER SUBDIVISIONS EIGHT, ELEVEN AND TWELVE OF SECTION TWELVE HUNDRED SIXTY-SIX OF THIS TITLE AND THE EXEMPTIONS SET FORTH IN SECTION TWELVE HUNDRED SEVENTY-FIVE OF THIS TITLE. A TRANSPORTATION INFRASTRUCTURE PROJECT SHALL NOT BE CONSIDERED A TRANSIT PROJECT FOR PURPOSES OF THIS TITLE.

6. (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 TRANSPORTATION SYSTEM 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.

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

(B) NOTHING IN THIS SECTION SHALL BE DEEMED TO:

(1) SUPERSEDE OR LIMIT THE APPLICABILITY OF THE AUTHORITY'S EXISTING POWERS AND AUTHORITY;

(2) REQUIRE THE AUTHORITY TO ACCEPT ANY PROJECT THROUGH THE PROVISIONS OF THIS SECTION;

(3) REQUIRE THE AUTHORITY TO ENTER INTO ANY AGREEMENTS HEREUNDER; OR

(4) REQUIRE THE AUTHORITY TO TAKE ANY ACTION THAT WOULD CONTRADICT OR IMPACT AN EXISTING AUTHORITY CONTRACT OR AGREEMENT WITH ITS BONDHOLDERS.

(C) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY MAY CONVEY AN INTEREST IN PROPERTY, IN WHICH THE AUTHORITY OR ANY OF ITS AFFILIATES OR SUBSIDIARIES HAS AN INTEREST TO A PUBLIC AND/OR PRIVATE ENTITY PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE AGREEMENT, PROVIDED HOWEVER THAT NO SUCH INTEREST SHALL BE A FEE SIMPLE ABSOLUTE AND ANY CONVEYANCE OF AN INTEREST IN PROPERTY IN EXCESS OF THIRTY-FIVE YEARS SHALL REQUIRE APPROVAL OF A SUPER-MAJORITY OF THE BOARD.

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

8. 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 INFRASTRUCTURE PROJECTS 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 ESTABLISHMENT, LEVY AND COLLECTION OF USER FEES AND THE PLEDGE OF ALL OR ANY PORTION THEREOF IN CONNECTION WITH ANY FINANCING THEREON CONSISTENT WITH PARAGRAPH (G) OF SUBDIVISION TWO OF THIS SECTION AND EXISTING CONTRACTS OR RESOLUTIONS RELATING THERETO AS THE AUTHORITY MAY DEEM NECESSARY, CONVENIENT OR DESIRABLE; AND

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

9. 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 IN THE DEVELOPMENT OF TRANSPORTATION INFRASTRUCTURE.

10. IN THE EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS UNDER A TRANSPORTATION INFRASTRUCTURE AGREEMENT, THE AUTHORITY WITH BOARD APPROVAL IS HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE ALL OR ANY PORTION OF ANY TRANSPORTATION INFRASTRUCTURE PROJECT CONSTRUCTED 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 PROJECT. 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 OPER-

1 ATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE INCLUDING THE IMPOSI-
2 TION AND COLLECTION OF APPLICABLE USER FEES.

3 11. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE PUBLIC
4 ENTITY, THROUGH TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO
5 PURSUANT TO SUBDIVISION TWO OF THIS SECTION, MAY:

6 (A) TAKE ANY ACTION TO OBTAIN FEDERAL, STATE OR LOCAL ASSISTANCE FOR A
7 TRANSPORTATION INFRASTRUCTURE PROJECT THAT SERVES THE PUBLIC PURPOSE OF
8 THIS SECTION AND MAY ENTER INTO ANY CONTRACTS REQUIRED TO RECEIVE SUCH
9 FEDERAL ASSISTANCE; AND

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

14 12. NOTHING IN THIS SECTION OR IN A TRANSPORTATION INFRASTRUCTURE
15 AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION SHALL BE DEEMED TO
16 ENLARGE, DIMINISH OR AFFECT THE AUTHORITY, IF ANY, OTHERWISE POSSESSED
17 BY THE RESPONSIBLE PUBLIC ENTITY TO TAKE ACTION THAT WOULD IMPACT THE
18 DEBT CAPACITY OF THE STATE OR THE AFFECTED JURISDICTIONS.

19 13. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY:

20 (A) THE PRIVATE ENTITY SHALL HAVE ALL POWER ALLOWED BY LAW GENERALLY
21 TO A PRIVATE ENTITY HAVING THE SAME FORM OF ORGANIZATION AS THE PRIVATE
22 ENTITY AND SHALL HAVE THE POWER TO DEVELOP AND/OR OPERATE THE TRANSPOR-
23 TATION INFRASTRUCTURE AND IMPOSE USER FEES PURSUANT TO A TRANSPORTATION
24 INFRASTRUCTURE AGREEMENT CONSISTENT WITH PARAGRAPH (G) OF SUBDIVISION
25 TWO OF THIS SECTION AND/OR ENTER INTO SERVICE CONTRACTS IN CONNECTION
26 WITH THE USE THEREOF. NO USER FEES MAY BE IMPOSED BY THE PRIVATE ENTITY
27 EXCEPT AS CONSISTENT WITH THIS SECTION;

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

31 (C) IN OPERATING THE TRANSPORTATION INFRASTRUCTURE, THE PRIVATE ENTITY
32 MAY PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAKE CLASSI-
33 FICATIONS ACCORDING TO REASONABLE CATEGORIES FOR ASSESSMENT OF USER FEES
34 PROVIDED SUCH ENTITY GETS NECESSARY APPROVAL IN ACCORDANCE WITH THE
35 TERMS OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENT.

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

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

45 S 6. The public authorities law is amended by adding a new section
46 543 to read as follows:

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

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

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

54 (B) "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER
55 STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY
56 OR COMMISSION, ANY MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION,

1 ANY PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENE-
2 FIT CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY
3 OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF THE FOREGOING.

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

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

12 (E) "TRANSPORTATION INFRASTRUCTURE PROJECT" SHALL MEAN THE PLANNING,
13 ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION,
14 RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT,
15 RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE,
16 DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE, INCLUD-
17 ING, BUT NOT LIMITED TO, AGREEMENTS RELATING TO THE DISTRIBUTION OF FARE
18 AND TOLL PAYMENT MEDIA AND ELECTRONIC PAYMENT DEVICES, AND THE ESTAB-
19 LISHMENT AND COLLECTION OF USER FEES, PURSUANT TO ONE OR MORE TRANSPOR-
20 TATION INFRASTRUCTURE AGREEMENT.

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

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

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

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

41 (B) ACCEPT, PURSUANT TO THE TERMS OF A TRANSPORTATION INFRASTRUCTURE
42 AGREEMENT, PROPERTY OR ANY INTEREST THEREIN AND TRANSPORTATION INFRAS-
43 TRUCTURE TO BE MAINTAINED BY THE AUTHORITY. ANY SUCH INTEREST IN TRANS-
44 PORTATION INFRASTRUCTURE SO ACQUIRED SHALL BE DEEMED TO HAVE BEEN
45 ACQUIRED BY THE AUTHORITY OR AT THE AUTHORITY'S REQUEST PURSUANT TO THIS
46 TITLE;

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

50 (D) FINANCE ALL OR ANY PART OF THE COSTS TO THE AUTHORITY OR TO ANY
51 PUBLIC AND/OR PRIVATE ENTITY OF ANY TRANSPORTATION INFRASTRUCTURE
52 PROJECT, INCLUDING FINANCING THROUGH OR ACCOMPANIED BY ONE OR MORE LEAS-
53 ES OR CONCESSIONS OF SUCH PROJECT OR ANY PART THEREOF BY OR TO SUCH
54 ENTITY OR ENTITIES AND/OR BY OR TO THE AUTHORITY OR ANY OF ITS SUBSID-
55 IARIES 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) REQUIRE THE AUTHORITY TO TAKE ANY ACTION THAT WOULD CONTRADICT OR IMPAIR ANY EXISTING AUTHORITY CONTRACT OR AGREEMENT WITH ITS BONDHOLDERS OR OTHER ENTITIES.

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

1 HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE ALL OR ANY PORTION OF ANY
2 TRANSPORTATION INFRASTRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION OR
3 DEVELOPMENT BY OR IN CONJUNCTION WITH SUCH PUBLIC OR PRIVATE ENTITY,
4 WITH ANY DAMAGES SUFFERED TO THE AUTHORITY AS A RESULT OF SUCH DEFAULT
5 BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION OF THE
6 TRANSPORTATION INFRASTRUCTURE. THE AUTHORITY MAY ALSO TERMINATE THE
7 TRANSPORTATION INFRASTRUCTURE AGREEMENT AND EXERCISE ANY OTHER RIGHTS OR
8 REMEDIES WHICH MAY BE AVAILABLE TO IT AT LAW OR IN EQUITY. IN THE EVENT
9 OF SUCH ACQUISITION AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE
10 CONTRARY, THE AUTHORITY IS HEREBY AUTHORIZED, BUT NOT REQUIRED, TO OPER-
11 ATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE, INCLUDING THE IMPO-
12 SITION AND COLLECTION OF APPLICABLE USER FEES.

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

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

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

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

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

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

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

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

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

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

55 S 7. This act shall take effect immediately.