

6264

I N S E N A T E

January 9, 2014

Introduced by Sen. BALL -- 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.

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

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

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

LBD01412-02-3

1 2. "PUBLIC ENTITY" MEANS THE STATE, THE FEDERAL GOVERNMENT, ANY OTHER
2 STATE, ANY BI-STATE AUTHORITY OR COMMISSION, ANY MULTI-STATE AUTHORITY
3 OR COMMISSION, ANY MULTI-NATIONAL AUTHORITY OR COMMISSION, ANY NATION,
4 ANY PROVINCE, OR ANY AGENCY, COMMISSION, PUBLIC AUTHORITY, PUBLIC BENE-
5 FIT CORPORATION, POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF, OR ANY
6 OTHER GOVERNMENTAL ENTITY, OR ANY COMBINATION OF ANY OF THE FOREGOING.

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

19 4. "TRANSPORTATION INFRASTRUCTURE AGREEMENT" SHALL MEAN ANY AGREEMENT
20 ENTERED INTO BY THE COMMISSIONER PURSUANT TO SECTION FIVE HUNDRED ONE OF
21 THIS ARTICLE.

22 5. "TRANSPORTATION INFRASTRUCTURE PROJECT" SHALL MEAN THE PLANNING,
23 ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL ANALYSIS, CONSTRUCTION,
24 RECONSTRUCTION, RESTORATION, REHABILITATION, ESTABLISHMENT, IMPROVEMENT,
25 RENOVATION, EXTENSION, REPAIR, MANAGEMENT, OPERATION, MAINTENANCE,
26 DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION INFRASTRUCTURE.

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

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

38 1. ACCEPT, IN ACCORDANCE WITH THE STATE FINANCE LAW AND THE PUBLIC
39 OFFICERS LAW, ANY APPROPRIATION, GRANT OR OFFER OF FUNDS OR PROPERTY OR
40 OTHER FORMS OF ASSISTANCE FOR THE PURPOSES OF THIS ARTICLE FROM ANY
41 PUBLIC AND/OR PRIVATE ENTITY AND COMPLY WITH THE TERMS AND CONDITIONS
42 THEREOF;

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

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

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

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

7 S 502. TRANSPORTATION INFRASTRUCTURE PROJECTS. 1. TRANSPORTATION
8 INFRASTRUCTURE PROJECTS PROVIDED PURSUANT TO A TRANSPORTATION INFRA-
9 STRUCTURE AGREEMENT SHALL NOT BE SUBJECT TO THE PROVISIONS OF ANY LOCAL
10 LAW, LAND USE REVIEW REQUIREMENTS, REAL PROPERTY TAX OR ANY OTHER LOCAL
11 TAX.

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

47 S 503. COST ANALYSIS. PRIOR TO ANY SOLICITATION OF PROPOSALS MADE
48 PURSUANT TO SECTION NINE HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW, THE
49 COMMISSIONER SHALL CONDUCT A STUDY AND ISSUE A REPORT WHICH SHALL DETAIL
50 THE RISK ADJUSTED ESTIMATED LIFE OF PROJECT COST FOR THE PROPOSED TRANS-
51 PORTATION INFRASTRUCTURE PROJECT WERE THE DEPARTMENT TO UNDERTAKE SUCH
52 PROJECT THROUGH TRADITIONAL MEANS OF PROCUREMENT AND FINANCING.

53 S 504. PREPARATION OF PRELIMINARY SOLICITATIONS. NOTWITHSTANDING ANY
54 PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER IS AUTHORIZED TO
55 PREPARE PRELIMINARY SOLICITATIONS FOR THE PROVISION OF TRANSPORTATION
56 INFRASTRUCTURE PROJECTS. SUCH A SOLICITATION SHALL SET FORTH THE

1 PROPOSED PARAMETERS FOR THE TRANSPORTATION INFRASTRUCTURE PROJECT AND
2 SHALL BE SUBJECT TO APPROVAL OF THE BOARD PURSUANT TO SECTION NINE
3 HUNDRED THIRTY-ONE OF THE EXECUTIVE LAW.

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

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

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

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

20 (D) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT, CONSTRUCTION,
21 IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPORTATION INFRA-
22 STRUCTURE PROJECT;

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

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

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

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

36 2. NOTHING IN THIS ARTICLE SHALL BE DEEMED TO LIMIT THE APPLICABILITY
37 OF EXISTING POWERS AND AUTHORITY OF THE COMMISSIONER OR TO REQUIRE THE
38 COMMISSIONER TO ADVANCE ANY PROJECT THROUGH THE PROVISIONS OF THIS ARTI-
39 CLE.

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

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

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

55 6. PROJECTS UNDERTAKEN BY THE COMMISSIONER PURSUANT TO THIS ARTICLE
56 SHALL BE SUBJECT TO THE REQUIREMENTS OF ARTICLE EIGHT OF THE ENVIRON-

MENTAL CONSERVATION LAW, AND, WHERE APPLICABLE, THE REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL POLICY ACT.

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:

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;

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

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.

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.

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.

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

1 REMAINING TWO, ONE EACH SHALL BE FROM EACH OF THE TWO MAJOR POLITICAL
2 PARTIES; (B) TWO SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF THE
3 TEMPORARY PRESIDENT OF THE SENATE; (C) TWO SHALL BE APPOINTED ON THE
4 WRITTEN RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY; (D) ONE SHALL BE
5 APPOINTED ON THE WRITTEN RECOMMENDATION OF THE MINORITY LEADER OF THE
6 SENATE; AND (E) ONE SHALL BE APPOINTED ON THE WRITTEN RECOMMENDATION OF
7 THE MINORITY LEADER OF THE ASSEMBLY.

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

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

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

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

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

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

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

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

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

44 S 931. POWERS AND DUTIES. 1. SOLICITATION OF PROPOSALS. THE BOARD MAY
45 APPROVE AND PUBLICLY SOLICIT A PRELIMINARY PROPOSAL ADVANCED PURSUANT TO
46 SECTION FIVE HUNDRED FOUR OF THE TRANSPORTATION LAW OR SUBDIVISION FOUR
47 OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW, OR
48 MAY PUBLICLY SOLICIT OTHER PROPOSALS FROM PUBLIC AND/OR PRIVATE ENTITIES
49 FOR TRANSPORTATION INFRASTRUCTURE PROJECTS AS DEFINED IN SUBDIVISION SIX
50 OF SECTION FIVE HUNDRED OF THE TRANSPORTATION LAW, SUBDIVISION ONE OF
51 SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW OR
52 SUBDIVISION ONE OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC
53 AUTHORITIES LAW.

54 2. APPROVAL OF BEST VALUE PROPOSALS. (A) THE BOARD MAY APPROVE A
55 PROPOSAL PRELIMINARILY ACCEPTED PURSUANT TO SECTION FIVE HUNDRED FIVE OF
56 THE TRANSPORTATION LAW, SUBDIVISION FIVE OF SECTION THREE HUNDRED EIGHT-

Y-NINE OF THE PUBLIC AUTHORITIES LAW, SUBDIVISION FIVE OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC AUTHORITIES LAW, OR ANY OTHER PROPOSAL PROPERLY SUBMITTED IN RESPONSE TO A SOLICITATION MADE PURSUANT TO SUBDIVISION ONE OF THIS SECTION IF THE BOARD DETERMINES THAT SUCH PROPOSAL PRESENTS 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 STATE AND OF ANY AFFECTED 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 BY THE BOARD IN THE SOLICITATION MADE PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

(B) THE BOARD SHALL NOT APPROVE 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 THE TRANSPORTATION LAW, SUBDIVISION THREE OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW OR SUBDIVISION THREE OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC AUTHORITIES LAW.

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

3. APPROVAL OF TRANSPORTATION INFRASTRUCTURE AGREEMENTS. BOARD APPROVAL SHALL BE REQUIRED OF ANY TRANSPORTATION INFRASTRUCTURE AGREEMENT TO BE ENTERED INTO PURSUANT TO SECTION FIVE HUNDRED ONE OF THE TRANSPORTATION LAW, SUBDIVISION TWO OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW, OR SUBDIVISION TWO OF SECTION FIVE HUNDRED FORTY-THREE OF THE PUBLIC AUTHORITIES LAW.

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

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

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

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

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

(IV) DETAILS ON ANY AMENDMENTS TO EXISTING TRANSPORTATION INFRASTRUCTURE AGREEMENTS DURING THE REPORTING PERIOD;

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

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

(B) THE ANNUAL REPORT MAY ADDITIONALLY INCLUDE ANY RECOMMENDATIONS FOR LEGISLATION RELATED TO TRANSPORTATION INFRASTRUCTURE PROJECT DEVELOPMENT.

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

S 389. 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 THE THRUWAY SYSTEM AS DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THIS TITLE AND THE PROVISIONS FOR THE MOVEMENT OF PEOPLE, VEHICLES, GOODS OR INFORMATION ON, BY OR THROUGH THE USE OF THE THRUWAY SYSTEM 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

1 CONDITIONS AS THE AUTHORITY DEEMS APPROPRIATE AND SUBJECT TO THE
2 APPROVAL OF THE DIRECTOR OF BUDGET AND THE BOARD, AND IN ACCORDANCE WITH
3 SECTION ONE HUNDRED TWELVE OF THE STATE FINANCE LAW, WITH PUBLIC AND/OR
4 PRIVATE ENTITIES TO PROVIDE FOR, OR IN SUPPORT OF, OR ASSOCIATED WITH
5 TRANSPORTATION INFRASTRUCTURE PROJECTS. IN FURTHERANCE OF SUCH AGREE-
6 MENTS, THE AUTHORITY MAY:

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

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

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

21 (D) FINANCE ALL OR ANY PART OF THE COSTS TO THE AUTHORITY OR TO ANY
22 PUBLIC AND/OR PRIVATE ENTITY OF ANY TRANSPORTATION INFRASTRUCTURE
23 PROJECT, INCLUDING FINANCING THROUGH OR ACCOMPANIED BY ONE OR MORE LEAS-
24 ES OR CONCESSIONS OF SUCH PROJECT OR ANY PART THEREOF BY OR TO SUCH
25 ENTITY OR ENTITIES AND/OR BY OR TO THE AUTHORITY OR ANY OF ITS SUBSID-
26 IARIES OR AFFILIATES;

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

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

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

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

53 5. (A) AFTER A SOLICITATION MADE PURSUANT TO SECTION NINE HUNDRED
54 THIRTY-ONE OF THE EXECUTIVE LAW, THE AUTHORITY SHALL REVIEW ALL PROPER
55 PROPOSALS AND MAY PRELIMINARILY ACCEPT AND ADVANCE TO THE BOARD FOR
56 APPROVAL THE PROPOSAL THAT IS DETERMINED BY THE AUTHORITY TO BE THE BEST

1 VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE
2 LAW CONSIDERING THE FOLLOWING:

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

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

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

12 (IV) THE FEASIBILITY OF THE FINANCING OF THE DEVELOPMENT,
13 CONSTRUCTION, IMPLEMENTATION AND/OR OPERATION OF THE PROPOSED TRANSPOR-
14 TATION INFRASTRUCTURE PROJECT;

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

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

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

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

28 (B) NOTHING IN THIS SECTION SHALL BE DEEMED TO: (I) LIMIT THE AUTHOR-
29 ITY'S EXISTING POWERS AND AUTHORITY; (II) REQUIRE THE AUTHORITY TO
30 ACCEPT ANY PROJECT THROUGH THE PROVISIONS OF THIS SECTION; (III) REQUIRE
31 THE AUTHORITY TO ENTER INTO ANY AGREEMENTS PURSUANT TO THIS SECTION; OR
32 (IV) REQUIRE THE AUTHORITY TO TAKE ANY ACTION THAT WOULD CONTRADICT OR
33 IMPAIR ANY EXISTING AUTHORITY CONTRACT OR AGREEMENT WITH ITS BONDHOLDERS
34 OR OTHER ENTITIES.

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

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

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

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

53 (A) THE PLANNING, ACQUISITION, DESIGN, ENGINEERING, ENVIRONMENTAL
54 ANALYSIS, CONSTRUCTION, RECONSTRUCTION, RESTORATION, REHABILITATION,
55 ESTABLISHMENT, IMPROVEMENT, RENOVATION, EXTENSION, REPAIR, MANAGEMENT,
56 OPERATION, MAINTENANCE, DEVELOPMENT AND/OR FINANCING OF TRANSPORTATION

1 FACILITIES AND THE PROVISION OF TRANSPORTATION INFRASTRUCTURE BY A
2 SINGLE PUBLIC OR PRIVATE ENTITY OR COMBINATION OF PUBLIC AND PRIVATE
3 ENTITIES;

4 (B) THE ALLOCATION OF RESPONSIBILITY AND TIMING FOR SPECIFIC PROJECT
5 ELEMENTS, REVENUE-SHARING ARRANGEMENTS, ALLOCATION OF FINANCIAL RESPON-
6 SIBILITY FOR COST OVERRUNS, ALLOCATION OF DEVELOPMENT COSTS, INSURANCE
7 OR SURETY REQUIREMENTS, LIABILITY FOR NON-PERFORMANCE, STANDARDS AND
8 INCENTIVES FOR PERFORMANCE, DEFAULT, TERMINATION, BUY-BACK, RENEGOTI-
9 ATION OR AMENDMENT CLAUSES, INSPECTION CLAUSES, FINANCIAL REPORTING,
10 ACCOUNTING AND AUDITING STANDARDS, ENVIRONMENTAL PERFORMANCE STANDARDS,
11 ANY OTHER RIGHTS AND DUTIES;

12 (C) THE IMPOSITION BY THE AUTHORITY, OR THE ESTABLISHMENT BY THE
13 PUBLIC AND/OR PRIVATE ENTITY WITH WHICH THE AUTHORITY CONTRACTS PURSUANT
14 TO THIS SECTION, OF USER FEES AND THE PLEDGE OF ALL OR ANY PORTION THER-
15 EOF IN CONNECTION WITH ANY FINANCING THEREON CONSISTENT WITH PARAGRAPH
16 (F) OF SUBDIVISION TWO OF THIS SECTION AND EXISTING CONTRACTS OR RESOL-
17 UTIONS RELATING THERETO; AND

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

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

25 9. IN THE EVENT A PUBLIC OR PRIVATE ENTITY DEFAULTS ON ITS OBLIGATIONS
26 UNDER A TRANSPORTATION INFRASTRUCTURE AGREEMENT ENTERED INTO PURSUANT TO
27 SUBDIVISION TWO OF THIS SECTION, THE AUTHORITY WITH BOARD APPROVAL IS
28 HEREBY AUTHORIZED BUT NOT REQUIRED TO ACQUIRE ALL OR ANY PORTION OF ANY
29 TRANSPORTATION INFRASTRUCTURE CONSTRUCTED OR UNDER CONSTRUCTION OR
30 DEVELOPMENT BY OR IN CONJUNCTION WITH SUCH PUBLIC OR PRIVATE ENTITY,
31 WITH ANY DAMAGES SUFFERED TO THE AUTHORITY AS A RESULT OF SUCH DEFAULT
32 BEING AN OFFSET TO THE COMPENSATION PROVIDED FOR THE ACQUISITION OF THE
33 TRANSPORTATION INFRASTRUCTURE. THE AUTHORITY MAY ALSO TERMINATE THE
34 TRANSPORTATION INFRASTRUCTURE AGREEMENT AND EXERCISE ANY OTHER RIGHTS OR
35 REMEDIES WHICH MAY BE AVAILABLE TO IT AT LAW OR IN EQUITY. IN THE EVENT
36 OF SUCH ACQUISITION AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE
37 CONTRARY, THE AUTHORITY IS HEREBY AUTHORIZED, BUT NOT REQUIRED, TO OPER-
38 ATE AND MAINTAIN THE TRANSPORTATION INFRASTRUCTURE, INCLUDING THE IMPO-
39 SITION AND COLLECTION OF APPLICABLE USER FEES.

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

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

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

52 11. NOTHING IN THIS SECTION OR IN A TRANSPORTATION INFRASTRUCTURE
53 AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION SHALL BE DEEMED TO
54 ENLARGE, DIMINISH OR AFFECT THE AUTHORITY, IF ANY, OTHERWISE POSSESSED
55 BY THE AUTHORITY TO TAKE ACTION THAT WOULD IMPACT THE DEBT CAPACITY OF
56 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 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 BY THE AUTHORITY. ANY SUCH INTEREST IN TRANS-
26 PORTATION INFRASTRUCTURE SO ACQUIRED SHALL BE DEEMED TO HAVE BEEN
27 ACQUIRED BY THE AUTHORITY OR AT THE AUTHORITY'S REQUEST PURSUANT TO THIS
28 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 SECTION
39 FIVE HUNDRED TWENTY-NINE OF THIS TITLE, ON SUCH TERMS AND CONDITIONS AS
40 THE AUTHORITY DEEMS APPROPRIATE, TO ACQUIRE PROPERTY REQUIRED FOR TRANS-
41 PORTATION INFRASTRUCTURE PROJECTS; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53 (D) THE AUTHORITY IS HEREBY AUTHORIZED TO PROMULGATE ANY RULES AND
54 REGULATIONS DEEMED NECESSARY OR DESIRABLE FOR THE IMPLEMENTATION OF THIS
55 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 IMPLE-

1 MENTATION OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENTS ENTERED INTO
2 PURSUANT TO SUBDIVISION TWO OF THIS SECTION; AND

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

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

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

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

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

23 (C) IN OPERATING THE TRANSPORTATION INFRASTRUCTURE, THE PRIVATE ENTITY
24 MAY PURSUANT TO A TRANSPORTATION INFRASTRUCTURE AGREEMENT MAKE CLASSI-
25 FICATIONS ACCORDING TO REASONABLE CATEGORIES FOR ASSESSMENT OF USER FEES
26 PROVIDED SUCH PRIVATE ENTITY GETS NECESSARY APPROVAL IN ACCORDANCE WITH
27 THE TERMS OF THE TRANSPORTATION INFRASTRUCTURE AGREEMENT.

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

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

37 S 6. This act shall take effect immediately.