



Niagara Frontier Transportation Authority
Serving Buffalo Niagara

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181 Ellicott Street
Buffalo, New York 14203
716-855-7300
Fax: 716-855-7657
TDD: 855-7650
www.nfta.com

August 22, 2011

Mr. Robert M. Graber
Clerk
Erie County Legislature
25 Delaware Avenue
Buffalo, New York 14202

Re: NFTA Board Minutes

Dear Mr. Graber:

Enclosed, for your information and files, please find a copy of the Minutes from the Niagara Frontier Transportation Authority's Board Meeting held on July 25, 2011.

Very truly yours,

A handwritten signature in black ink, appearing to read "DJS", written over a horizontal line.

David J. State
General Counsel

DJS:lf

Enclosure

**NIAGARA FRONTIER TRANSPORTATION AUTHORITY
NIAGARA FRONTIER TRANSIT METRO SYSTEM, INC.
REGULAR BOARD MEETING
JULY 25, 2011
MINUTES**

1.
 - A. **CALL TO ORDER**
 - B. **APPROVAL OF MINUTES (June 20, 2011)**
 - C. **EXECUTIVE DIRECTOR'S REPORT**

2. **NFTA CORPORATE REPORT**
 - A. Audit and Governance Committee Report (Henry Sloma)
 - B. Consolidated Financial (Debbie Leous)
 - C. Human Resources Committee Report (Adam Perry)
 - D. Corporate Resolutions (Kim Minkel)
 1. Authorization for Agreement, First Niagara Bank, NA, to Establish a Line of Credit, NFT Metro and NFTA for Metro Capital Projects
 2. Procurement of Vehicle Fuels
 3. Authorization for Settlement, Deborah Abgott v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc. and Robert A. Balcom

3. **AVIATION BUSINESS GROUP REPORT**
 - A. Aviation Committee Report (Carmen Grantto)
 - B. Financial Update (Bill Vanecek)
 - C. Business Update (Bill Vanecek)
 - D. Aviation Resolutions (Kim Minkel)
 1. BNIA Residential Noise Compatibility Program, FFY 2011-1, S&L Specialty Contracting, Project No. 15BG1010
 2. BNIA Residential Noise Compatibility Program, FFY 2011-2, Porter Building & Supply, Project No. 15BG1011
 3. Runway 10L/28R Mill and Overlay, PB Americas, Inc., Project No. 31NA1001, NFIA
 4. Residential Noise Compatibility Program, Supplemental Agreement No. 6, C&S Engineers, Inc., Project No. 31BG0210, BNIA

4. **SURFACE TRANSPORTATION BUSINESS GROUP REPORT**

- A. Surface Transportation Committee Report (Eunice Lewin)
- B. Financial Update (Tom George)
- C. Business Update (Tom George)
- D. Surface Transportation Resolutions (Kim Minkel)
 - 1. Fastner & Pad Replacement – Phase 7, Amsted Rail Co., Project No. 25LU0905, LRRT
 - 2. Authorization for Maintenance Agreement, Trapeze Software Group, Inc., Software Support Services
 - 3. No Cost Transfer of the Theater Station to the City of Buffalo
 - 4. Authorization for Agreement, Gray Manufacturing Industries, Car 110 Repair, LRRT

5. **PROPERTY RISK/MANAGEMENT GROUP REPORT**

- A. Property/Risk Management Committee Report (Peter Demakos)
- B. Financial Update (Dave State)
- C. Business Update (Dave State)
- D. Property Development Resolutions (Kim Minkel)
 - 1. Authorization for Environmental Easement, New York State Department of Environmental Conservation, Greenway Nature Trail
 - 2. Ratification of License Agreement, Great Lakes Water Sport Institute Inc., Adaptive Water Skiing Class, NFTA Boat Harbor

6. **GENERAL COUNSEL'S REPORT (David State)**

7. **EXECUTIVE SESSION -**

8. **ADJOURNMENT**

1. CALL TO ORDER

A. Meeting Called to Order

Acting Chairman Sloma called the meeting to order at approximately 12:37 p.m.

B. Approval of Minutes of the NFTA Board Meeting held on June 20, 2011

It was moved by Commissioner Demakos, seconded by Commissioner Helfer, that the Minutes of the June 20, 2011, Regular Meeting of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc., be accepted and approved.

AYES: SLOMA, DEMAOKOS, CREHAN, CROCE, GRANTO, HELFER, HUGHES, PERRY, ZEMSKY

NOES: NONE

- 2. NFTA CORPORATE REPORT**
 - A. Audit and Governance Committee Report (Henry Sloma)
 - B. Consolidated Financial (Debbie Leous)
 - C. Human Resources Committee Report (Adam Perry)
 - D. Corporate Resolutions (Kim Minkel)

Corporate Resolutions

- i. Niagara Frontier Transportation Authority, Acceptance of Corporate Resolutions 2. D. (1) through 2. D. (3)
1. Authorization for Agreement, First Niagara Bank, NA, to Establish a Line of Credit, NFT Metro and NFTA for Metro Capital Projects
2. Procurement of Vehicle Fuels
3. Authorization for Settlement, Deborah Abgott v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc. and Robert A. Balcom

CORPORATE:

2. C. (i) **Niagara Frontier Transportation Authority, Acceptance
of Corporate Resolutions 2. D. (1) through 2. D. (3)**

The Executive Director advised that Items 2. D. (1) through 2. D. (3) have been discussed with the Board of Commissioners of the NFTA, and the Board is unanimously in favor of all subject Resolutions.

Whereupon, it was moved by Commissioner Grant, seconded by Commissioner Croce, that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 2. D. (1) through 2. D. (3) and dated July 25, 2011 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: SLOMA, DEMAKOS, CREHAN, CROCE, GRANTO, HELFER, HUGHES, PERRY*, ZEMSKY

ABSTENTION: [*Item 2. C. (1) and Item 2. C. (2)]

NOES: NONE

ADOPTED

CORPORATE:

2. C. (1) **Authorization for Agreement, First Niagara Bank, NA, to Establish a Line of Credit, NFTA Metro and NFTA for Metro Capital Projects**

RECOMMENDATION: The Audit and Governance Committee has reviewed this item and recommends that the Board authorize the short-term financing through a line of credit up to \$16,001,750 with First Niagara Bank, NA (Bank) to provide funding for NFTA Metro operations and capital procurements. The line of credit is necessary to bridge a timing gap between operational needs and the receipt of NFTA Metro State Operating Assistance and State Dedicated Transit Funding from New York State.

INFORMATION: In the past, there have been times when New York State funding has been delayed either in whole or in part due to economic conditions.

Total New York State Operating Assistance for Fiscal Year 2011/2012 that is currently in the New York State budget for the NFTA totals \$ 42,007,000 and the new State Dedicated Transit funding we anticipate is \$5,500,000 that will be used for Metro Capital Projects. In determining how much funding may be at risk to be delayed, we estimated the worst case to be the delay of one quarter of Operating Assistance payments and the full amount of the State Dedicated Transit funding. This totals \$16,001,750.

In order to meet this need, the NFTA solicited proposals from qualified financial institutions to provide short-term financing through a line of credit or otherwise. Two proposals were received from First Niagara Bank, NA, and M & T Bank. They were evaluated by the selection team based on cost, experience and capabilities in providing the short-term financing, terms and conditions for the financing and quality of service and depth of resources. The selection team consisted of the CFO, Manager of Financial Planning and Analysis and the Manager of Procurement.

First Niagara Bank, NA received the highest evaluation based upon the proposed costs, as outlined in the attached sheet. First Niagara Bank, NA proposed a Line of Credit that would be secured by the pledge of the revenues from the State Operating Assistance and anticipated State Dedicated Transit Funding with a term of one (1) year. The floating rate would be equal to one (1) month LIBOR Rate plus 1.45% per annum with a floor of 1.45%. If closing were as of the date of the receipt of the proposal, it would have been approximately 1.64 %. The repayment schedule would be monthly interest payments with principal due at maturity. There will be no facility or unused line fees. The origination fee is \$1,500 and the maximum amount of the Bank's legal fees is \$1,500.

Under this credit facility, NFT Metro and NFTA would pledge repayment upon receipt of the State funding. Draws on the Line of Credit would be subject to Bank approval and we would be required to submit annual and quarterly financial statements to the Bank.

The Board will be notified on a monthly basis regarding the status of the line of credit.

FUNDING: Funding for the principal is being provided for by New York State Operating Assistance and State Dedicated Transit Funding and the interest will be funded by NFT Metro operations.

“RESOLVED, that the Board hereby authorizes an Agreement with First Niagara Bank, NA to establish a line of credit for operating and certain capital needs at NFT Metro; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman be and hereby are authorized to execute an Agreement with First Niagara Bank, NA to establish a line of credit, and

BE IT FURTHER RESOLVED, that said Agreement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel.”

RFP 4098
Line of Credit

7/6/2011

RFP DOCUMENTS REQUIRED (Completed by Procurement)	M & T	First Niagara
Non-Collusive Cert	X	X
Disclosure of Prior Non-rep Determinations	X	X
Cover Letter	X	X
Description of services	X	X
Firm, Mgmt & Staff Qualifications	X	X
Resumes	X	X
References	X	X
Itemized Cost Proposal	X	X
SELECTION CRITERIA (Rate on a scale of 1 - 10, with 10 being the highest)		
(Completed by Team)	Team Consensus	
Cost 50%	6.20	10.00
Technical - T & C's of the financing, quality of service, depth of resources 30%	9.00	9.00
Qualifications and experience 20%	9.00	9.00
Total	7.60	9.50
COST		
Interest Rate	one month LIBOR +185 bps	one month LIBOR +1.45%
Atty fee	\$5,500	\$1,500
Org fee	\$0	\$1,500
Filing and recording	\$1,000	\$0
Total fees	\$6,500	\$3,000

CORPORATE:

2. C. (2) Procurement of Vehicle Fuels

RECOMMENDATION: The Audit and Governance Committee has reviewed this item and recommends that the NFTA procure its requirements for vehicle fuels from NOCO Energy Corp., for #2 Ultra Low Sulfur Diesel, 87 Octane Gasoline, 91 Octane Gasoline, Biodiesel, Ethanol and optional Diesel Fuel Additives for the initial period of 9/1/11 through 8/31/14, with the option to extend the agreement for up to two additional one-year periods, at the discretion of the NFTA. The estimated annual cost of fuel is approximately \$8,200,000, based on current prices.

INFORMATION: #2 Ultra Low Sulfur Diesel is used to operate buses and paratransit vehicles. 87 Octane gasoline is used by all divisions to operate revenue and non-revenue vehicles and 91 Octane gasoline is used by the Boat Harbor.

Although not currently used, biodiesel and ethanol were included in the RFP to provide flexibility, as necessary, to meet Federal and State requirements. These fuels will be blended with diesel fuel and gasoline, when required and/or when beneficial to the Authority.

Optional diesel fuel additives were included. The cold filter plugging point (CFPP) additive is required for operability during winter weather. The carbon particle additive prevents the formation of carbon particles that clog various engine and emissions components. The use of this additive will improve engine and emission systems performance and longevity.

For diesel fuel and gasoline, proponents were requested to propose a differential cost per gallon added to, or subtracted from, the average price as posted weekly in the Buffalo Journal of Commerce. For ethanol, proponents were requested to bid a differential cost per gallon added to, or subtracted from, the average price the previous days Platts New York Barge Mean Posting. For biodiesel, proponents were requested to bid the cost differential added to, or subtracted from, the posted price (per pound) of soybean oil, as published daily in the Wall Street Journal, multiplied by \$7.6465 (to arrive at a per gallon price).

The RFP includes a provision enabling the NFTA to request the supplier to lock in prices and/or pre-pay and store, for a specific quantity of fuel and length of time.

Proposals were evaluated by the selection team, which included the Manager of Bus Maintenance, Equipment Engineer and Procurement Manager, based on qualifications and experience, compliance with technical specifications, and cost. Two responsive proposals were received (see evaluation sheet attached).

FUNDING: The funding for these purchases has been included in the operating budgets of NFTA and Metro.

“RESOLVED, that the Board hereby authorizes the procurement of vehicle fuels from NOCO Energy Corp., for #2 Ultra Low Sulfur Diesel, 87 Octane Gasoline, 91 Octane Gasoline, Biodiesel, Ethanol and optional Diesel Fuel Additives for the initial period of 9/1/11 through 8/31/14, with the option to extend the agreement for up to two additional one year periods, at the discretion of the NFTA. The estimated annual cost of fuel is approximately \$8,200,000, based on current prices; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby are authorized to execute Agreements for the procurement of vehicle fuels, with terms and conditions as set forth above and as negotiated; and

BE IT FURTHER RESOLVED, that said Agreement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and she is hereby authorized to make payments upon the terms of the Agreements upon certification by the Business Centers that such payments are in order.”

**RFP 4095
DIESEL FUEL AND GASOLINE**

RFP DOCUMENTS REQUIRED (Completed by Procurement)	NOCO ENERGY Tonawanda, NY		GRIFFITH ENERGY Rochester, NY		T.P.S. SUPPLY Silvercreek, NY
Non-Collusive Cert	x		x		x
Disclosure of Prior Non-responsibility	x		x		x
Form ST-220	x		x		x
Lobbying Cert	x		x		x
Cover Letter	x		x		x
Description of services	x		x		x
Mgmt & Staff Qualifications	x		x		x
Resumes	x		x		x
References	x		x		x
Technical Info	x		x		Not responsive
Contingency Plan	x		x		Not responsive
Info re: lock-in and storage	x		x		Not responsive
Itemized Cost Proposal	x		x		x
SELECTION CRITERIA (Rate on a scale of 1 - 10, with 10 being the highest)					
(Completed by Team) Team Consensus					
Qualifications and experience 40%	9.00		9.00		Not responsive
Compliance with technical specs 30%	9.00		9.00		
Cost 30%	10.00		4.92		
RATING	9.30		7.78		
COST					
Year 1	Differential/ gal		Differential/ gal		Differential/ gal
#2, ULSD (2,300,000 gal/yr)	-\$0.0056	-\$12,880.00	\$0.0250	\$57,500.00	\$0.0622
87 Octane (315,000 gal/yr)	\$0.0361	\$11,371.50	\$0.0800	\$25,200.00	Not responsive
91 Octane (80,000 gal/yr)	\$0.0361	\$2,888.00	\$0.0700	\$5,600.00	Not responsive
		\$1,379.50		\$88,300.00	
Optional:					
B100 Biodiesel (20,000 gal/yr)	\$0.7100	\$14,200.00	\$0.2500	\$5,000.00	Not responsive
Ethanol (2,400 gal/yr)	\$0.1475	\$354.00	\$0.0800	\$192.00	Not responsive
		\$14,554.00		\$5,192.00	
	TOTAL	\$15,933.50	TOTAL	\$93,492.00	
Optional additives:	\$/gal		\$/gal		\$/gal
CFPP Additive (766,666 gal/yr)	\$0.0120	\$9,108.00	\$0.0300	\$22,770.00	\$0.0300
Carbon Particle Additive (2,300,000 gal/yr)	\$0.0210	\$48,300.00	\$0.0250	\$57,500.00	\$0.0300
	TOTAL	\$57,408.00	TOTAL	\$80,270.00	
Year 2					
Year 2	Differential/ gal		Differential/ gal		Differential/ gal
#2, ULSD	-\$0.0006	-\$1,380.00	\$0.0290	\$66,700.00	\$0.0672
87 Octane	\$0.0375	\$11,812.50	\$0.0850	\$26,775.00	Not responsive
91 Octane	\$0.0375	\$3,000.00	\$0.0750	\$6,000.00	Not responsive
		\$13,432.50		\$99,475.00	
Optional:					
B100 Biodiesel	\$0.7100	\$14,200.00	\$0.2600	\$5,200.00	Not responsive
Ethanol	\$0.1534	\$368.16	\$0.0850	\$204.00	Not responsive
		\$14,568.16		\$5,404.00	
	TOTAL	\$28,000.66	TOTAL	\$104,879.00	

**RFP 4095
DIESEL FUEL AND GASOLINE**

Optional additives:	\$/gal		\$/gal		\$/gal
CFPP Additive	\$0.0125	\$9,487.50	\$0.0350	\$26,565.00	\$0.0350
Carbon Particle Additive	\$0.0221	\$50,830.00	\$0.0250	\$57,500.00	\$0.0350
	TOTAL	\$60,317.50	TOTAL	\$84,065.00	
Year 3	Differential/ gal		Differential/ gal		Differential/ gal
#2, ULSD	\$0.0036	\$8,280.00	\$0.0350	\$80,500.00	\$0.0722
87 Octane	\$0.0391	\$12,316.50	\$0.0900	\$28,350.00	Not responsive
91 Octane	\$0.0391	\$3,128.00	\$0.0800	\$6,400.00	Not responsive
		\$23,724.50		\$115,250.00	
Optional:					
B100 Biodiesel	\$0.7100	\$14,200.00	\$0.2700	\$5,400.00	Not responsive
Ethanol	\$0.1595	\$382.80	\$0.0900	\$216.00	Not responsive
		\$14,582.80		\$5,616.00	
	TOTAL	\$38,307.30	TOTAL	\$120,866.00	
Optional additives:	\$/gal		\$/gal		\$/gal
CFPP Additive	\$0.0130	\$9,867.00	\$0.0400	\$30,360.00	\$0.0400
Carbon Particle Additive	\$0.0232	\$53,360.00	\$0.0350	\$80,500.00	\$0.0400
	TOTAL	\$63,227.00	TOTAL	\$110,860.00	
Year 4	Differential/ gal		Differential/ gal		Differential/ gal
#2, ULSD	\$0.0066	\$15,180.00	\$0.0410	\$94,300.00	Not responsive
87 Octane	\$0.0406	\$12,789.00	\$0.0950	\$29,925.00	Not responsive
91 Octane	\$0.0406	\$3,248.00	\$0.0850	\$6,800.00	Not responsive
		\$31,217.00		\$131,025.00	
Optional:					
B100 Biodiesel	\$0.7400	\$14,800.00	\$0.2800	\$5,600.00	Not responsive
Ethanol	\$0.1659	\$398.16	\$0.0950	\$228.00	Not responsive
		\$15,198.16		\$5,828.00	
	TOTAL	\$46,415.16	TOTAL	\$136,853.00	
Optional additives:	\$/gal		\$/gal		\$/gal
CFPP Additive	\$0.0135	\$10,246.50	\$0.0450	\$34,155.00	Not responsive
Carbon Particle Additive	\$0.0243	\$55,890.00	\$0.0350	\$80,500.00	Not responsive
	TOTAL	\$66,136.50	TOTAL	\$114,655.00	
Year 5	Differential/ gal		Differential/ gal		Differential/ gal
#2, ULSD	\$0.0096	\$22,080.00	\$0.0490	\$112,700.00	Not responsive
87 Octane	\$0.0422	\$13,293.00	\$0.1000	\$31,500.00	Not responsive
91 Octane	\$0.0422	\$3,376.00	\$0.0900	\$7,200.00	Not responsive
		\$38,749.00		\$151,400.00	
Optional:					
B100 Biodiesel	\$0.7700	\$15,400.00	\$0.2900	\$5,800.00	Not responsive
Ethanol	\$0.1726	\$414.24	\$0.1000	\$240.00	Not responsive
		\$15,814.24		\$6,040.00	
	TOTAL	\$54,563.24	TOTAL	\$157,440.00	
Optional additives:	\$/gal		\$/gal		\$/gal
CFPP Additive	\$0.0140	\$10,626.00	\$0.0500	\$37,950.00	Not responsive
Carbon Particle Additive	\$0.0255	\$58,650.00	\$0.0400	\$92,000.00	Not responsive
	TOTAL	\$69,276.00	TOTAL	\$129,950.00	
Total Fuel Differential Cost		\$183,219.86		\$613,530.00	
Total Additive Cost		\$316,365.00		\$519,800.00	
TOTAL		\$499,584.86		\$1,133,330.00	

CORPORATE:

2. C. (3) **Authorization for Settlement, Deborah Abgott v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc., and Robert M. Balcom**

RECOMMENDATION: The Audit and Governance Committee has reviewed this item and recommends that the Board authorize payment of the settlement amount of \$375,000 in the matter of Deborah Abgott v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc. and Robert M. Balcom.

INFORMATION: This action arises out of a motor vehicle accident that occurred on August 26, 2008 at 11:20 a.m. on Elmwood Avenue, at the intersection of Tracy Street, in the City of Buffalo. The plaintiff, then 55-year-old Deborah Abgott, testified at deposition that she was seat belted and traveling south on Elmwood Avenue when she pulled over mid-block and stopped at the west curb to avoid a tailgater. She allowed three cars to pass her, put her left directional on and moved into traffic. She testified that she had traveled four to five car lengths and was in the middle of the intersection when a bus struck the driver side of her 1992 Subaru. The vehicle sustained scraping damage from the front door down the side and the driver side windows shattered.

The bus operator testified at deposition that he was traveling north on Elmwood and stopped to make a left turn on a green light onto Tracy. He was into the turn when a green Subaru sped off from the curb headed south on Elmwood. The two vehicles collided in the intersection, with the point of impact being the left front corner of the bus and the left side of the Subaru. The Subaru sustained \$4,245.80 in damage and was a total loss.

Several witnesses on the bus reported that the plaintiff was speeding and attempted to beat the bus through the intersection. A witness driving behind the bus reported that the plaintiff was already in the intersection when the bus commenced its left turn. The bus was an older model, 9500 series, that was not equipped with a video surveillance system.

Over the next two days the plaintiff experienced pain in her neck, right arm, right hand, right leg and right knee. She indicated that her right leg pain resolved after two weeks of massage and physical therapy. Her chief complaints consisted of right cervical radicular pain and headaches. She initially treated with her family physician who ordered a cervical spine MRI study. The MRI conducted on September 4, 2008 revealed significant arthritic changes in her cervical spine. She started physical therapy on December 1, 2008, which she alleged did not help her. Her symptoms persisted. She had another course of physical therapy beginning April, 2009, which made her complaints worse. On June 23, 2009, her treating orthopedic surgeon performed a C5-C6, C6-C7 anterior cervical discectomy and fusion. Six months after her fusion, she continued to experience "24-7" pain. She underwent two more courses of physical therapy in September, 2009 and March, 2010. Her complaints plateaued as general discomfort affecting the right side of her neck, numbness affecting her right hand and daily headaches. Her orthopedic surgeon reported that one of her fusions failed and recommended a revision of her surgery.

Ms. Abgott alleges that she no longer can lift heavy objects, cannot do any of her yard work, cannot use her right hand repetitively to chop food, no longer hikes or goes cross country skiing and has limited ability to shop. She was retired at the time of the accident; therefore, there is no lost wage component to her claim.

Ms. Abgott underwent an independent medical examination with a neurologist at our request on September 30, 2010. Her past history revealed no prior motor vehicle accidents involving injury to her neck or head. She was thrown off a horse in 1997 and in the summer of 1993 had an episode in which her right hand became weak and she began dropping things. She treated with her family physician who sent her for a cervical MRI. The MRI in 2003 showed severe diffuse degenerative changes that did not differ significantly from that of the 2008 MRI. She underwent another pre-accident MRI in 2007. Although she was diagnosed with cervical degenerative spinal disease and underwent physical therapy and massage therapy, the plaintiff alleges that she never suffered from neck pain prior to the August 2008 accident.

The physician who examined Ms. Abgott on our behalf reported that she sustained a cervical strain and a right cervical radiculopathy as a result of the August 26, 2008 accident. The basis of the radiculopathy was nerve root inflammation as a result of the sudden jarring event of the accident. The physician further opined and reported that the June 23, 2009 surgery was necessitated by the accident. Although the plaintiff had significant preexisting degenerative arthritic changes, the medical records and history she related indicated that she was keeping her prior cervical symptoms in check with conservative treatment. In addition, the neurologist opined that her surgical intervention was suboptimal and that she is a candidate for future surgery. As of the date of the report, the plaintiff was diagnosed with a moderate disability.

This case was originally scheduled for a jury trial in New York Supreme Court before the Honorable Donna Siwek, commencing June 27, 2011. Plaintiff's counsel disclosed that she retained a rehabilitation expert and an economist to testify regarding the medical treatment, services and equipment necessary for the plaintiff to maximize her future medical and rehabilitative potential. The experts valued these services, treatment and equipment at over \$600,000. Both parties retained accident reconstructionists to testify at trial. The experts offered contrary opinions with respect to the liability issue.

Plaintiff's counsel made an initial settlement demand of \$950,000, which included a claim for past and future pain and suffering and the future cost of medical care and treatment. Over the course of several pre-trial conferences, we were able to come to an agreement to settle this matter for \$375,000, subject to Board approval.

FUNDING: Provided by NFT Metro System, Inc. through Self-Insurance Reserves.

“RESOLVED, that the Board hereby authorizes payment of the settlement amount of \$375,000 in the matter concerning the accident which occurred on August 26, 2008; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee, and/or the Chairman be and hereby are authorized to execute such payments as necessary to resolve the matter of Deborah Abgott v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc. and Robert M. Balcom, said authorization providing for payments in the not-to-exceed amount of \$375,000; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and she is hereby authorized to make payments under said agreement upon certification by the General Counsel, that such payments are in order.”

3. AVIATION BUSINESS GROUP REPORT

- A. Aviation Committee Report (Carmen Grant)
- B. Financial Update (Bill Vanecek)
- C. Business Update (Bill Vanecek)
- D. Resolutions (Kimberley Minkel)

Aviation Resolutions

- i. Niagara Frontier Transportation Authority, Acceptance of Aviation Resolutions 3. D. (1) through 3. D. (4)

1. Residential Noise Compatibility Program, FFY 2011-1, S&L Specialty Contracting, Project No. 15BG1010, BNIA
2. Residential Noise Compatibility Program, FFY 2011-2, Porter Building & Supply, Project No. 15BG1011, BNIA
3. Runway 10L/28R Mill and Overlay, PB Americas, Inc., Project No. 31NA1001, NFIA
4. Residential Noise Compatibility Program, Supplemental Agreement No. 6, C&S Engineers, Inc., Project No. 31BG0210, BNIA

AVIATION:

3. D. (i) Niagara Frontier Transportation Authority, Acceptance of Aviation Resolutions 3. D. (1) through 3. D. (4)

The Executive Director advised that Items 3. D. (1) through 3. D. (4) have been discussed with the Board of Commissioners of the NFTA, and the Board is unanimously in favor of all subject Resolutions.

Whereupon, it was moved by Commissioner Hughes, seconded by Commissioner Demakos, that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 3. D. (1) through 3. D. (4) and dated July 25, 2011 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: SLOMA, DEMAKOS, CREHAN, CROCE, GRANTO, HELFER, HUGHES, PERRY, ZEMSKY

NOES: NONE

ADOPTED

AVIATION:

3. D. (1) **Residential Noise Compatibility Program, FFY 2011-1, S&L Specialty Contracting, Project No. 15BG1010, BNIA**

RECOMMENDATION: The Aviation Committee has reviewed this item and recommends that the Board award, contingent upon the execution of an FAA grant, the subject construction contract to S & L Specialty Contracting, Inc., for the total bid amount of \$2,238,000.00.

INFORMATION: The FAA-approved Part 150 Noise Compatibility Study establishes recommendation for mitigating aircraft noise in the vicinity of the airport. This project provides for alterations and modifications to 75 existing privately owned and occupied residences of various types and sizes. The overall objective of the Residential Sound Installation Program is to achieve quantitative noise reductions in selected homes most affected by aircraft operations. The work includes, but is not limited to; replacement of existing windows and doors, door weather-stripping, mechanical and electrical modifications, and related items for achieving interior protection against aircraft noise intrusion.

The project was publically advertised in accordance with the NFTA Procurement Guidelines. Two (2) contractors submitted bids as follows:

Contractor	Amount Bid
Engineer's Estimate	\$2,398,143.00
S & L Specialty Contracting, Inc. Syracuse, NY Jim Leana, President	\$2,238,000.00
Porter Building & Supply, LLC Wayne, MI James Porter, President	\$2,381,000.00

It has been determined that the low bidder, S & L Specialty Contracting, Inc., has the knowledge, understanding, and ability to successfully accomplish the project work.

The NFTA Affirmative Action/EEO office has been briefed on the bid results and concurs with the recommendation for Board approval.

FUNDING: Funding will be provided through a future FAA grant distributed as follows:

FAA	80%	\$1,790,400.00
NYSDOT	10%	\$ 223,800.00
PFC	10%	\$ 223,800.00
		<hr/>
TOTAL		\$2,238,000.00

“RESOLVED, that the Board awards the subject construction contract to S&L Specialty Contracting, Inc. for a total bid amount of \$2,238,000.00, as described hereinabove; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby are authorized to execute an Agreement with S&L Specialty Contracting, Inc. for the lump sum amount of \$2,238,000.00, with terms and conditions as set forth above and as negotiated; and

BE IT FURTHER RESOLVED, that said Agreement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and she is hereby authorized to make payments upon the terms of the Agreement upon certification by the Director, Engineering, that such payments are in order.”

AVIATION:

3. D. (2) **Residential Noise Compatibility Program, FFY 2011-2, Porter Building & Supply, LLC Project No. 15BG1011, BNIA**

RECOMMENDATION: The Aviation Committee has reviewed this item and recommends that the Board award, contingent upon the execution of an FAA grant, the subject construction contract to Porter Building & Supply, LLC, for the total bid amount of \$2,310,000.00.

INFORMATION: The FAA-approved Part 150 Noise Compatibility Study establishes recommendation for mitigating aircraft noise in the vicinity of the airport. This project provides for alterations and modifications to 74 existing privately owned and occupied residences of various types and sizes and the rectory building of the Our Lady Hope of Christians Roman Catholic Church. The overall objective of the Residential Sound Installation Program is to achieve quantitative noise reductions in selected homes most affected by aircraft operations. The work includes, but is not limited to; replacement of existing windows and doors, door weather-stripping, mechanical and electrical modifications, and related items for achieving interior protection against aircraft noise intrusion.

The project was publically advertised in accordance with the NFTA Procurement Guidelines. Two (2) contractors submitted bids as follows:

Contractor	Amount Bid
Engineer's Estimate	\$2,366,665.00
Porter Building & Supply, LLC Wayne, MI James Porter, President	\$2,310,000.00
S & L Specialty Contracting, Inc. Syracuse, NY Jim Leana, President	\$2,347,000.00

It has been determined that the low bidder, Porter Building & Supply, LLC, has the knowledge, understanding, and ability to successfully accomplish the project work.

The NFTA Affirmative Action/EEO office has been briefed on the bid results.

FUNDING: Funding will be provided through a future FAA grant distributed as follows:

FAA	80%	\$1,848,000.00
NYS DOT	10%	\$ 231,000.00
PFC	10%	\$ 231,000.00
	TOTAL	<u>\$2,310,000.00</u>

“RESOLVED, that the Board awards the subject construction contract to Porter Building & Supply, LLC for a total bid amount of \$2,310,000.00, as described hereinabove; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby are authorized to execute an Agreement with Porter Building & Supply, LLC for the lump sum amount of \$2,310,000.00, with terms and conditions as set forth above and as negotiated; and

BE IT FURTHER RESOLVED, that said Agreement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and she is hereby authorized to make payments upon the terms of the Agreement upon certification by the Director, Engineering, that such payments are in order.”

AVIATION:

3. D. (3) **Runway 10L/28R Mill and Overlay, PB Americas, Inc.,
Project No. 31NA1001, NFIA**

RECOMMENDATION: The Aviation Committee has reviewed this item and recommends that the Board award the subject design services contract to PB Americas, Inc. (Parsons Brinkerhoff) for the lump sum amount of \$1,375,649.00.

INFORMATION: Consultant services will provide for the design of the rehabilitation of the Niagara Falls International Airport's main runway, 10L/28R. The project will address the projected expiration of pavement life identified in the 2005 Pavement Management Study. Design will incorporate provisions for the growing aircraft fleet mix into the current traffic distribution providing for a twenty-year pavement design life. Consultant services include pavement design, runway and taxiway lighting design, an evaluation of the 28R approach instrument landing systems, evaluation and rehabilitation of the pavement under drain system, design of the pavement markings, aircraft traffic forecasting, and the coordination and development of a construction safety and phasing plan.

The Consultant Selection Process began by publically soliciting Requests for Proposals pursuant to the NFTA Procurement Guidelines. The Request for Proposals solicited design services, construction monitoring services, and design support services during construction. Technical proposals were received on May 26, 2011 with presentations to the Consultant Selection Committee on June 14, 2011. Staff will conduct negotiations and request Board approval for construction monitoring services and design support services at a later date.

The Consultant Selection Committee consisted of the Manager of Design, Manager of Construction, Acting Director of HSEQ, Manager, Aviation Business Development and Operations, Airport Manager, Senior Transportation Planner, Project Manager, and Resident Engineer. The committee, after evaluation of the technical proposals and presentations, ranked the respondents based on experience and technical qualifications in the following descending order of selection:

PB Americas, Inc, Buffalo, New York Mark Tytko Area Manager
Hatch Mott MacDonald Buffalo, New York James R. Walsh, P.E. Senior Vice President

DiDonato Associates, P.E., P.C. Buffalo, New York John DiDonato, P.E. Senior Vice President
Clough Harbor & Associates Buffalo, New York Gregory T. Topping, P.E. Vice President
C&S Companies Buffalo, New York Mark Petranchuk Vice President
Urban Engineers of New York, P.C. Buffalo, New York Edward M. D'Alba, P.E. President

The PB Americas Inc. team subconsultant participants include Roy D. McQueen and Associates, Ravi Engineering & Land Surveyors, SJB/Empire Geo Services, Locating Logistics, and Kandey Company.

Contract negotiation results:

Engineers Estimate	\$1,306,867
Initial Cost Proposal	\$1,471,979
Negotiated Cost Proposal	\$1,375,649

Roy D. McQueen and Associates, Ravi Engineering & Land Surveyors, and Locating Logistics are proposed to provide for 17% DBE participation. The EEO/Diversity office has been briefed of the proposed DBE participation.

FUNDING: Funding is shared between a 2011 FAA Airport Improvement Plan (66.7%) design grant and US Military (33.3%) funding. The contract award is pending subject execution of the FAA grant.

Military Funding 33.3%	\$	458,091.11
FAA 95% of remaining 66.7%	\$	871,679.99
NYSDOT 2.5% of remaining 66.7%	\$	22,938.95
NFTA 2.5% of remaining 66.7%	\$	22,938.95

“RESOLVED, that the Board awards the subject design services contract to PB Americas, Inc. for a total lump sum amount of \$1,375,649.00, as described hereinabove; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby are authorized to execute an Agreement with PB Americas, Inc. for the lump sum amount of \$1,375,649.00, with terms and conditions as set forth above and as negotiated; and

BE IT FURTHER RESOLVED, that said Agreement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and she is hereby authorized to make payments upon the terms of the Agreement upon certification by the Director, Engineering, that such payments are in order.”

AVIATION:

3. D. (4) **Residential Noise Compatibility Program, Supplemental Agreement No. 6, C&S Engineers, Inc. Project No. 31BG0210, BNIA**

RECOMMENDATION: The Aviation Committee has reviewed this item and recommends that the Board award, contingent upon the execution of an FAA grant, Supplemental Agreement No. 6 to C&S Engineers, Inc. for design and construction monitoring services associated with home noise attenuation under the Part 150 Noise Compatibility Program (NCP). Supplement 6 consists of a Phase 10a lump sum amount for design of \$1,182,458 and a Phase 10b cost plus fixed fee not to exceed amount for construction monitoring of \$611,483. The total cost for Supplemental Agreement No. 6 is \$1,793,941.

INFORMATION: The NCP has been established based upon the recommendations documented in the Part 150 Noise Compatibility Study as approved by the FAA on April 7, 2006. The NCP includes home noise attenuation construction and associated design, administration and construction monitoring services. The consultant services contract associated with the NCP is with C&S Engineers, Inc., to provide complete project management for the NCP.

Per the FAA, new individual grants shall be established every Federal Fiscal Year, (FFY), for each year of the 10-year program. Each year of the NCP is contingent upon the availability of FAA Airport Improvement Program and PFC funding.

Board approval for Phases 1 and 2 was granted in August 2006; for Phases 3 through 5 in May and July 2007 and modified in May 2008; Phase 6 in July 2008, Phase 7 and Phase 8a in March 2009 and Phases 8b, 9a and 9b in March 2010. The total contract cost to date including this supplement is \$10,267,383.

Phase 10a of Supplement No 6 provides for noise attenuation design and administrative services for 150 parcels. Phase 10b provides for construction monitoring services for noise attenuation construction of 149 parcels.

Results of the Negotiations are as follows:

Supplement Phase	Engineers Estimate	Negotiated Amount
Phase 10a	\$1,222,274.00	\$ 1,182,458.00
Phase 10b	\$ 612,364.00	\$ 611,483.00
TOTAL	\$1,834,638.00	\$ 1,793,941.00

FUNDING: Funding for the consultant services will be provided through a future FAA grant distributed as follows:

FAA	80%	\$1,435,152.80
NYSDOT	10%	\$ 179,394.10
PFC	10%	\$ 179,394.10
	TOTAL	\$1,793,941.00

“RESOLVED, that the Board awards the subject Supplemental Agreement No. 6 to C&S Engineers, Inc., contingent upon the execution of a FAA grant, for a lump sum amount for design of \$1,182,458 and a cost plus fixed fee not-to-exceed amount for construction monitoring of \$611,483, for a total cost for Supplemental Agreement No. 6 of \$1,793,941, as described hereinabove; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby are authorized to execute an Agreement with C&S Engineers, Inc. a lump sum amount for design of \$1,182,458 and a cost plus fixed fee not to exceed amount for construction monitoring of \$611,483, for a total cost for Supplemental Agreement No. 6 of \$1,793,941, with terms and conditions as set forth above and as negotiated; and

BE IT FURTHER RESOLVED, that said Agreement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and she is hereby authorized to make payments upon the terms of the Agreement upon certification by the Director, Engineering, that such payments are in order.”

4. **SURFACE TRANSPORTATION BUSINESS GROUP REPORT**
 - A. Surface Transportation Committee Report (Eunice Lewin)
 - B. Financial Update (Tom George)
 - C. Business Update (Tom George)
 - D. Resolutions (Kimberley Minkel)

Surface Transportation Resolutions

- i. Niagara Frontier Transportation Authority, Acceptance of Surface Transportation Resolutions 4. D. (1) through 4. D. (4)
1. Fastner & Pad Replacement – Phase 7, Amsted Rail Co., Project No. 25LU0905, LRRT
2. Authorization for Maintenance Agreement, Trapeze Software Group, Inc., Software Support Services
3. No Cost Transfer of the Theater Station to the City of Buffalo
4. Authorization for Agreement, Gray Manufacturing Industries, Car 110 Repair, LRRT

SURFACE:

4. D. (i) **Niagara Frontier Transportation Authority, Acceptance of
Surface Transportation Resolutions 4. D. (1) through 4. D. (4)**

The Executive Director advised that Items 4. D. (1) through 4. D. (4) have been discussed with the Board of Commissioners of the NFTA, and the Board is unanimously in favor of all subject Resolutions.

Whereupon, it was moved by Commissioner Granto, seconded by Commissioner Perry, that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 4. D. (1) through 4. D. (4) and dated July 25, 2011 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: SLOMA, DEMAKOS, CREHAN, CROCE, GRANTO, HELFER, HUGHES,
PERRY, ZEMSKY

NOES: NONE

ADOPTED

SURFACE:

4. D. (1) **Fastner & Pad Replacement – Phase 7, Amsted Rail Co., Project No. 25LU0905, LRRT**

RECOMMENDATION: The Surface Transportation Committee has reviewed this item and recommends that the Board approve Change Order No. 1 as a \$198,986.00 increase to Amsted Rail Company, Inc. Contract No. 25LU0905, for the purchase of additional 1,850 rail fastener assemblies. This will result in an amended material supply contract value of \$585,446.00.

INFORMATION: In December 2010, the Board awarded Amsted Rail Company, Inc. (formerly known as Advanced Track Products, Inc.) the material supply contract for 3,500 rail fastener assemblies as part of the LRRT – Fastener & Pad Replacement Phase 6 Project. This contract has a 0.5% increase per month escalation clause effective September 2011 for additional purchases. This purchase will avoid the escalation costs as well as any schedule delays for delivery of the 1,850 fasteners and pads for the Phase 7 project.

Costs for this purchase will be included in the Phase 7 project. This project is intended to install the 3,500 rail fastener assemblies from the Phase 6 contract and to include the purchase and installation of the 1,850 additional rail fastener assemblies.

The LRRT system has several different types of rail fastener assemblies due to changes in design. End of useful life failures are occurring with the existing rail fastener assemblies and some types are labor intensive to replace. The project goal is to provide the LRRT with low maintenance rail fastener assemblies that will become the system's standard. Installation of the rail fastener assemblies is scheduled to begin in 2011.

FUNDING: The total amount of this Change Order No. 1 will be a \$198,986.00 increase thereby increasing the total amount of the Contract from the current amount of \$386,460.00 to the amended amount of \$585,446.00.

Change Order No. 1 cost will be assigned to the LRRT – Fastener & Pad Replacement Phase 7 project account. Grant funding and the project account number are pending FTA grant approval.

FTA, 80%	\$159,188.80
NYSDOT, 10%	\$ 19,898.60
88-C, 10%	<u>\$ 19,898.60</u>
Total	\$198,986.00

“RESOLVED, that the Board hereby authorizes Change Order No. 1 as a \$198,986.00 increase to Amsted Rail Company, Inc. Contract No. 25LU0905, for the purchase of additional 1,850 rail fastener assemblies, which will result in an amended material supply contract value of \$585,446.00; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman be and hereby are authorized to execute Change Order No. 1, and

BE IT FURTHER RESOLVED, that said Change Order shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and she is hereby authorized to make payments upon the terms of the Change Order upon certification by the Director, Engineering, that such payments are in order.”

SURFACE:

4. D. (2) **Authorization for Maintenance Agreement, Trapeze Software Group, Inc., Software Support Services**

RECOMMENDATION: The Surface Transportation Committee has reviewed this item and recommends that the Board authorize renewal of the Trapeze Software Group, Inc. Annual Maintenance Agreement in the amount of \$63,682. This annual maintenance expenditure provides support services for two software products.

INFORMATION: The NFTA currently utilizes Trapeze Software for the ATIS Trip Planner (Automated Transit Information System). Annual maintenance of this product is in the amount of \$53,225.00. This system consists of the following modules:

- 24-hour, 7 days a week support via phone, e-mail, fax, and web;
- Access to the Trapeze Customer Care website;
- Online tracking of support requests and the status of reported issues;
- Access to standard documentation and version release notes;
- Online training courses to update and/or enhance skills;
- Access to online knowledge base;
- Quarterly user forums, along with software upgrades at least four to six times per year;
- Participation in the Trapeze Certification Program.

Paratransit currently utilizes Trapeze Software Pass Mon, which interfaces with Mobile Data Terminals (MDT) for up to 34 vehicles. Annual Maintenance of this product is in the amount of \$10,457 which has been prorated for 10 months to gain a common date for fiscal year end. Trapeze Software Pass is utilized for booking up to 586 trips per day. Services include:

- 24-hour, 7 days a week support via phone, email, fax and web;
- Customer Care Web Site;
- Online tracking of support requests and the status of reported issues;
- Access to standard documentation and version release notes;
- Online training courses;
- Product upgrades for life;
- Participation in the Trapeze Certification program;
- Access to online knowledge base;
- Trapeze Times newsletter;
- Quarterly User forums for Trapeze products;
- Invitation to annual multi-day user training conference;
- Invitation to regional training workshops.

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In an effort to maintain efficient operating systems and be able to access standard documentation and version release notes, online training courses, and product upgrades, the NFTA maintains a Maintenance Agreement with this vendor, Trapeze Software Group, Inc. This Maintenance Agreement is renewable every year that the NFTA continues to use the Pas Mon and ATIS Trip Plan Systems.

FUNDING: Funding is provided for in the FYE 2011-2012 operating budget.

“RESOLVED, that the Board hereby authorizes the renewal of the Trapeze Software Group, Inc. Annual Maintenance Agreement in the amount of \$63,682, which provides support services for three software products; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby are authorized to execute the Annual Maintenance Agreement with Trapeze Software Group, Inc., with the terms and conditions as set forth above and as negotiated; and

BE IT FURTHER RESOLVED, that said Agreement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and she is hereby authorized to make payments upon the terms of the Agreement upon certification by the Director, Surface Transportation that such payments are in order.”

SURFACE:

4. D. (3) **No Cost Transfer of the Theater Station to the City of Buffalo**

RECOMMENDATION: The Surface Transportation Committee has reviewed this item and recommends that the Board approve the no cost transfer of the Light Rail Rapid Transit (LRRT) Theater Station to the City of Buffalo and its removal from service. The transfer and removal of the station is related to the Main Street Multi-Modal Access and Revitalization Project (Cars on Main Street) and will have no adverse effect on the LRRT System. Federal Transit Administration (FTA) Region II has requested a supporting NFTA Board resolution prior to its approval of the no cost transfer.

INFORMATION: The Cars on Main Street Project will reopen the 1.2-mile Main Street pedestrian mall to two-way vehicular traffic, sharing the existing LRRT track bed. Phase One of the Cars on Main Street Project involves the 600 block on Main Street. As proposed, the City of Buffalo will also invest approximately \$1.5 million in the LRRT, with approximately \$380,000 dedicated to needed track bed repairs. Removal of the existing Theater Station, located on the 600 block of Main Street, is necessary to facilitate safe implementation of this project. The project will route traffic around the LRRT portal to prevent vehicular access.

The location of the existing Theater Station would interfere with the proposed traffic route and create logistical issues. In order to retain the Theater Station, and safely route vehicular traffic around the portal, the station would need to be relocated farther south. In this new location, the Theater Station would be approximately 320 feet from the existing Fountain Plaza Station. It would not be efficient nor cost effective to maintain stations so close to each other.

LRRT passengers, including individuals with disabilities, will continue to have access to the Theater Historic District via the Fountain Plaza Station, and improved signalized pedestrian crosswalks with Americans with Disabilities Act compliant features. After the removal, individuals that previously accessed the Theater Station walk an additional 546 feet to reach the Fountain Plaza Station.

The Theater Station will be over 26 years old, with remaining value of approximately \$253,158, at the proposed April 2012 removal date. The NFTA would need to invest approximately \$150,000 in repairs to maintain usability without major rehabilitation. Transfer of this asset at no cost would alleviate the obligation to invest significant funds into an asset nearing the end of its useful life. In addition, the NFTA will benefit from an approximate investment of \$1.5 million in LRRT improvements, associated with Cars on Main Street, allowing future FTA funds to be dedicated to other safety critical projects.

FUNDING: No funding is required.

“RESOLVED, that the Board hereby authorizes a no cost transfer of the Theater Station to the City of Buffalo; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman be and hereby are authorized to effectuate this transfer in any way necessary, and

BE IT FURTHER RESOLVED, that said transfer shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel.”

SURFACE:

4. D. (4) Authorization for Agreement, Gray Manufacturing Industries,
Car 110 Repair, LRRT

RECOMMENDATION: The Surface Transportation Committee has reviewed this item and recommends that the Board authorize the agreement with Gray Manufacturing Industries (GMI) for the repair of Car 110 for the negotiated amount of \$338,838.00.

INFORMATION: NFTA LRV Car 110 was involved in a collision on August 8, 2008 within the NFTA's Yard & Shop facility. This collision rendered Car 110 inoperable. As part of the insurance claim, a series of inspections were conducted to determine the extent of damage. Delaware Car Company, located in Wilmington, Delaware, provided a Car 110 repair insurance claim estimate of \$861,000, and Transportation & Transit Associates, LLC, of Bath, New York, provided a repair insurance claim estimate of \$1,109,719.00.

Although the necessary repairs are outside of the scope of the NFTA's LRV rebuild contract with ABI, the NFTA and ABI had numerous discussions regarding having ABI repair Car 110 pursuant to a change order, since ABI would be doing the rebuild on the car in any event. Car 110 was sent to ABI in March 2010 for a scope evaluation and proposed cost estimate. Following months of scope negotiations with NFTA Engineering, ABI recently concluded that they do not have the appropriate resources to complete this work.

The intent of the Car 110 exigency repair is to return Car 110 to a condition where it can be turned over to ABI as part of the LRV rebuild contract's 4-car float. Based on ABI's current schedule, Car 110 must be repaired and released to ABI in September 2011. If this is not accomplished, the NFTA will be required to remove a 5th vehicle from NFTA's LRRT operations and release it to ABI to be compliant with the NFTA/ABI LRV rebuild contract. Removing a 5th vehicle from NFTA LRRT operations will significantly impact revenue service and reduce the ability to perform necessary maintenance.

Delaware Car Company has indicated that due to their heavy work load, they would not be able to provide a firm price or begin the work for at least one year.

The NFTA negotiated a contract for Car 110 repair work with Gray Manufacturing Industries (GMI), located in Hornell, NY, for a price of \$338,838.00. NFTA staff selected GMI for this work due to GMI's extensive knowledge of the NFTA's LRV fleet (knowledge gained as a subcontractor to ABI), GMI's close proximity to ABI's rebuild activity centralized in Dansville, NY, and GMI's negotiated price.

FUNDING: Funding for the repairs will be made using reimbursements from the Car 110 insurance settlement.

“RESOLVED, that the Board authorizes an Agreement with Gray Manufacturing Industries (GMI) for the repair of Car 110 on an exigency basis for a total negotiated amount of \$338,838.00, as described hereinabove; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby are authorized to execute an Agreement with Gray Manufacturing Industries (GMI) for the negotiated amount of \$338,838.00, with terms and conditions as set forth above and as negotiated; and

BE IT FURTHER RESOLVED, that said Agreement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer be and she is hereby authorized to make payments upon the terms of the Agreement upon certification by the Director, Engineering, that such payments are in order.”

5. PROPERTY/RISK MANAGEMENT GROUP REPORT

- A. Property/Risk Management Committee Report
- B. Financial Update
- C. Business Update
- D. Resolutions

Property/Risk Management Resolutions

- i. Niagara Frontier Transportation Authority, Acceptance of Property Resolutions 5. D. (1) through 5. D. (2)
1. Authorization for Environmental Easement, New York State Department of Environmental Conservation, Greenway Nature Trail
2. Ratification of License Agreement, Great Lakes Water Sport Institute, Inc., Adaptive Water Skiing Class, NFTA Boat Harbor

PROPERTY:

5. D. (i) **Niagara Frontier Transportation Authority,**
Acceptance of Property Resolutions 5. D. (1) and 5. D. (2)

The Executive Director advised that Items 5. D. (1) and 5. D. (2) have been discussed with the Board of Commissioners of the NFTA, and the Board is unanimously in favor of all subject Resolutions.

Whereupon, it was moved by Commissioner Helfer, seconded by Commissioner Grant, that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 5. D. (1) and 5. D. (2) and dated July 25, 2011 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: SLOMA, DEMAKOS, CREHAN, CROCE, GRANTO, HELFER, HUGHES,
PERRY, ZEMSKY

NOES: NONE

ADOPTED

PROPERTY:

5. D. (1) **Authorization for Environmental Easement, New York State Department of Environmental Conservation, Greenway Nature Trail**

RECOMMENDATION: The Property/Risk Management Committee has reviewed this item and recommends that the Board authorize an Environmental Easement for the Greenway Nature Trail as required by the New York State Department of Environmental Conservation (“DEC”).

INFORMATION: Funding for the construction of the Greenway Nature Trail was provided pursuant to the DEC’s Environmental Restoration Program (ERP), which provides grants to local governments to reimburse cleanup activities. ERP grants cover up to 90 percent of on-site eligible costs and 100 percent of off-site eligible costs for site investigation and remediation activities. DEC provided \$12.1 million in ERP funding to NFTA for the cleanup project, with additional funding secured by Congressman Higgins through federal highway programs.

The DEC requires, as a condition of the receipt of funding pursuant to the ERP, that the NFTA execute an Environmental Easement covering the 15.83-acre Greenway Nature Trail Parcel. The purpose of the Easement is to convey to the DEC real property rights and interests that will run with the land in perpetuity in order to encourage the reuse and redevelopment of the Parcel at a level that has been determined to be safe and to ensure the restriction of future uses of the Parcel that would be inconsistent with this purpose. The Parcel will be permitted to be used for restricted commercial use and may not be used for vegetable gardens and farming. The NFTA is required to comply with a Site Management Plan which provides engineering and institutional controls in the form of site restrictions, including not using the Parcel for any use other than restricted commercial use and not disturbing the remaining contaminated material except in accordance with the provisions of the Site Management Plan.

The Easement specifically permits the NFTA to transfer the Parcel, subject and subordinate to the Easement.

FUNDING: No funding is necessary.

“RESOLVED, that the Board hereby authorizes an Environmental Easement covering the Greenway Nature Trail, as described hereinabove; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby are authorized to execute an Environmental Easement with the terms and conditions as set forth above and as negotiated; and

BE IT FURTHER RESOLVED, that said Environmental Easement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel.”

PROPERTY:

5. D. (2) **Ratification of License Agreement, Great Lakes Water Sport Institute Inc., Adaptive Water Skiing Class, NFTA Boat Harbor**

RECOMMENDATION: The Property/Risk Management Committee has reviewed this item and recommends that the Board ratify a License Agreement with Great Lakes Water Sport Institute Inc., for three adaptive water skiing clinics at Gallagher Beach.

INFORMATION: Great Lakes Water Sport Institute Institute is a New York not-for-profit corporation that offers classes to teach individuals who might not normally have a chance to water ski due to disabilities or other issues. The classes are scheduled for July 24, August 21 and September 4, 2011. Great Lakes indicated that the classes were originally scheduled to be conducted on the former Power Authority property, but that venue is not currently available.

Great Lakes Water Sport Institute Inc. will be required to provide all appropriate insurance coverages. No additional operating costs will be incurred by the NFTA.

FUNDING: No funding is necessary.

“RESOLVED, that the Board hereby ratifies a License Agreement with Great Lakes Water Sport Institute Inc. for the provision of adaptive water skiing clinics at Gallagher Beach; and

BE IT FURTHER RESOLVED, that said License Agreement shall include such terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel.”