



Niagara Frontier Transportation Authority
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November 28, 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, is a copy of the Minutes from the Niagara Frontier Transportation Authority's Board Meeting held on October 24, 2011.

Very truly yours,

A handwritten signature in black ink, appearing to read "DJS", is 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
OCTOBER 24, 2011
MINUTES**

1.
 - A. **CALL TO ORDER**
 - B. **APPROVAL OF MINUTES (September 26, 2011)**
 - C. **EXECUTIVE DIRECTOR'S REPORT**

2. **NFTA CORPORATE REPORT**
 - A. Audit and Governance Committee Report (Peter Demakos)
 - B. Consolidated Financial (Debbie Leous)
 - C. Human Resources Committee Report (Adam Perry)
 - D. Corporate Resolutions (Kim Minkel)
 1. Authorization for Maintenance Agreement, Mincom, Inc., Software Support Services
 2. Authorization for Lease Agreement, AIX Server, SANS and Tape Library System
 3. Authorization for Request for New York State Deficit Reduction Assistance
 4. Authorization for Settlement, Judith A. Tulett and Robert C. Tulett v. Niagara Frontier Transportation Authority

3. **AVIATION BUSINESS GROUP REPORT**
 - A. Aviation Committee Report (Carmen Grant)
 - B. Financial Update (Bill Vanecek)
 - C. Business Update (Bill Vanecek)
 - D. Aviation Resolutions (Kim Minkel)
 1. Acceptance of Bid, Patrick Construction, LLC, Baggage Handling Area Restrooms, BNIA
 2. Procurement of Spreader/Sander Vehicle, Navistar, Inc., BNIA
 3. Authorization for License Agreement, Ground Support Operators, NFIA
 4. Authorization for Approval, Change Order #1, Accadia Site Contracting, Inc., Runway 6-24 Safety Area Improvements, NFIA

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. Authorization for Supplemental Agreement, GBNRTC
 2. Authorization for Agreement, PTV Nustats, Regional Public Transit Survey, GBNRTC

3. Authorization for Agreement, Knorr Brake Corporation, Procurement of Brake Rotor and Hubs
4. Acceptance of Bid, Allied Building Products, Corp., Procurement of Tactile Strips, Rub-Rails and Hardware
5. Acceptance of Bids, NOCO Distribution, Superior Lubricants, Procurement of Synthetic Gear Oil and Synthetic Transmission Fluid

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 to Negotiate Easement, Tonawanda Rails-To-Trails Project, County of Erie
 2. Authorization for Lease Agreement, Integrated Deicing Services, LLC, 247 Cayuga Road

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

7. **EXECUTIVE SESSION -**

8. **ADJOURNMENT**

1. **CALL TO ORDER**

A. **Meeting Called to Order**

Commissioner Demakos called the meeting to order at approximately 12:32 p.m.

Commissioner Demakos asked the Board for a unanimous consent to serve as the Chairman Pro Tem for the meeting of October 24, 2011 in the absence of Acting Chairman Sloma. There were no objections, thus it was agreed that Commissioner Demakos would serve as the Chairman Pro Tem for the October 24, 2011 Board Meeting.

B. **Approval of Minutes of the NFTA Board Meeting held on September 26, 2011**

It was moved by Commissioner Croce, seconded by Commissioner Zemsky, that the Minutes of the September 26, 2011 Regular Meeting of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc., be accepted and approved.

AYES: DEMAKOS, LEWIN, CROCE, GRANTO, HELFER, HUGHES, PERRY, ZEMSKY

NOES: NONE

2. NFTA CORPORATE REPORT

- A. Audit and Governance Committee Report (Peter Demakos)
- 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. (4)
1. Authorization for Maintenance Agreement, Mincom, Inc., Software Support Services
2. Authorization for Lease Agreement, AIX Server, SANS and Tape Library System
3. Authorization for Request for New York State Deficit Reduction Assistance
4. Authorization for Settlement, Judith A. Tulett and Robert C. Tulett v. Niagara Frontier Transportation Authority

CORPORATE:

2. D. (i) **Niagara Frontier Transportation Authority, Acceptance
of Corporate Resolutions 2. D. (1) through 2. D. (4)**

The Executive Director advised that Items 2. D. (1) through 2. 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 Lewin, 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. (4) and dated October 24, 2011 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: DEMAKOS, LEWIN, CROCE, GRANTO, HELFER, HUGHES, PERRY, ZEMSKY

NOES: NONE

ADOPTED

CORPORATE:

2. D. (1) **Authorization for Maintenance Agreement, Mincom, Inc., Software Support Services**

RECOMMENDATION: The Audit and Governance Committee has reviewed this item and recommends that the Board authorize renewal of the Mincom, Inc., Annual Maintenance Agreement, in the amount of \$98,962.90.

INFORMATION: The NFTA currently uses the Mincom Maintenance Information Management System (MIMS) as its Enterprise Asset Management application to support our business activities. This system consists of the following modules:

- Maintenance/Work Orders
- Purchasing
- Inventory
- General Ledger
- Accounts Receivable
- Account Payable
- Capital Appropriation
- Fixed Assets

In an effort to maintain an efficient operating system and to be entitled to new version releases and fixes, the NFTA maintains a Maintenance Agreement with the vendor, Mincom, Inc. This Maintenance Agreement is renewable every year that the NFTA continues to use the MIMS system.

FUNDING: Funding is provided for in the FYE 12 operating budget.

“RESOLVED, that the Board hereby authorizes renewal of the Maintenance Agreement with Mincom, Inc. in the amount of \$98,962.90; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman be and hereby are authorized to execute the Maintenance Agreement in an amount of \$98,962.90 with Mincom, Inc., for the provision of software support services as described hereinabove for a one-year period; 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 under said Agreement, upon certification by the Manager, MIS, that such payments are in order.”

CORPORATE:

2. D. (2) **Authorization for Lease Agreement, AIX Server, SANS and Tape Library System**

RECOMMENDATION: The Audit and Governance Committee has reviewed this item and recommends that the Board authorize the lease of (1) one AIX Power 740 Server Hardware and Software for the Authority's Host System, (1) Storage Area Network Device, (1) Tape Library Backup System, and Remarketed Servicelite. IBM Credit, LLC Financing will finance the leasing of hardware and software under New York State Contract No. CMS1083 for a total amount to be financed of \$261,124.99. The total amount of the lease with interest for the 48 months will be \$273,990.24. The equipment will be procured through IBM Corporation an authorized vendor, Onx Enterprise Solutions, 123 MacIntosh Drive, Rochester, New York 14626.

INFORMATION: The current lease is due to expire November 30, 2011 and must be renewed. The current server host our two major business applications Lawson HR Payroll and Ellipse. In May this server will also host our Lotus Notes Domino application, thereby eliminating the current lease for the AS400 that host that application.

The Storage Area Network (SANS) Device will serve as a data recovery device for all servers allowing for the replication of data. One benefit of a SANS is that it allows for a quick and easy replacement of faulty servers with little disruption to daily operations.

Tape Library Backup System provides high performance backup and restoration of data, and instantaneous file access capability. The Tape Library Backup system works in conjunction with the SANS.

The monthly leasing cost for equipment and software is \$5,708.15, the cost per item is as follows:

- Power 740 Server Hardware and Software is \$2,052.03 monthly; the total lease amount is \$98,497.44, for a period of (4) four years with interest.
- Storage Area Network Device is \$1,041.24 monthly; the total lease amount is \$49,979.52, for a period of (4) four years with interest.
- Tape Library Backup System is \$1,232.74 monthly; the total lease amount is \$59,170.56, for a period of (4) four years with interest.
- Remarketed Servicelite is \$1,382.14 monthly; the total lease amount is \$66,342.72, for a period of (4) four years with interest.

The total lease amount to be financed is \$261,124.99 for a period of (4) four years. The lease includes a Software Maintenance Service for all equipment. The Authority would enter into a "Fair Market Value" lease that gives the Authority the opportunity to lease newer technology at the end of the lease period.

FUNDING: Funding is provided for in the FYE 12 operating budget.

"RESOLVED, that the Board hereby authorizes the lease of one AIX Power 740 Server Hardware and Software for the Authority's Host System, one storage Area Network Device, and one Tape Library Backup System and Remarketed Servicelite through an IBM Corporation authorized vendor, Onx Enterprise Solutions in Rochester, New York, as set forth above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman be and hereby are authorized to execute the Lease Agreement in an amount of \$261,124.99 with IBM Credit, LLC, for the provision of the procurement of equipment as described hereinabove; 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 under said Agreement, upon certification by the Manager, MIS, that such payments are in order."

CORPORATE:

2. D. (3) **Authorization for Request for New York State Deficit Reduction Assistance**

RECOMMENDATION: The Board of Commissioners requests that the State of New York provide \$10 million in deficit reduction funds to the Niagara Frontier Transportation Authority (NFTA) as part of the 2012 – 2013 state budget. The NFTA now faces a \$15 million deficit and needs greater state assistance to complete a balanced budget.

INFORMATION: The NFTA's budget deficit is caused by converging fiscal constraints outside of the Authority's control. The state's economic climate has significantly decreased the NFTA's annual state transit operating assistance (STOA) while at the same time adversely impacting health care insurance costs, workers compensation costs, and mortgage recording tax levels. The NFTA's current STOA level is \$4.3 million less than the amount proposed in the 2008-2009 executive budget.

While dedicated funding sources are decreasing, responsibilities and needs are steadily increasing. The NFTA is New York State's second largest transit provider, and the only upstate entity with a light rail system. The NFTA serves over 27 million annual Metro passengers, operates two growing airports, manages 2,000 acres of real estate in Erie and Niagara Counties, as well as the state's largest boat marina. The cost of these comprehensive services, and maintenance of an aging transit fleet, simply exceeds the current level of revenues and assistance received at every level of government.

The NFTA has taken extensive steps to cut costs and increase revenues in each business center, saving over \$10 million since 2009, the same year that STOA reductions began. However, internal measures alone will not erase the deficit. An immediate increase in state assistance, in addition to further cost savings and generation of new revenues, is needed to balance the Authority's 2012 – 2013 budget.

The Board believes that increased NFTA investment will assist New York State through these difficult financial times. The NFTA employs over 1,600 people, connects millions of people to employment, and links the local Western New York economy to the rest of the country and the world. Elimination of this deficit, and dedication of higher transportation revenues in the future, is needed to sustain the NFTA's services and its positive impact on the region and the entire state.

FUNDING: No funding is required.

“RESOLVED, that the Board hereby requests that the State of New York provide \$10 million in deficit reduction funds to the Niagara Frontier Transportation Authority (NFTA) as part of the 2012 – 2013 state budget.

CORPORATE:

2. D. (4) **Authorization for Settlement, Judith A. Tulett and Robert C. Tulett v. Niagara Frontier Transportation Authority**

RECOMMENDATION: The Audit and Governance Committee has reviewed this item and recommends that the Board authorize payment of the settlement amount of \$105,000 in the matter of Judith A. Tulett and Robert C. Tulett v. Niagara Frontier Transportation Authority.

INFORMATION: This case arises out of a fall down that occurred on January 18, 2006 at approximately 8:20 a.m. on a two consist of Metro rail cars #104 and #122, as they traveled inbound at Lafayette Station.

The rail operator testified at deposition that as he was pulling into the Lafayette Station, the train unexpectedly went into emergency brake. He reported the incident to Control and noted that this had occurred three times during his shift that day. The operator testified that when the train goes into emergency brake, it stops suddenly. The Train Controller's Log revealed that the same consist of cars unexpectedly went into emergency brake twice the day before. The Mechanical Department was unable to determine the cause of the malfunction.

Sixty seven year old Judith Tulett testified at deposition that she boarded the train at the University Station and was en route to work on the morning in question. She stood up as the train approached the Lafayette Station, in anticipation of getting off. She was holding a vertical stanchion with her left hand. Ms. Tulett testified that the train jerked suddenly and she was jerked backward and thrown into the lap of another passenger. In doing so, she struck the metal partition near the seat and injured her left shoulder, knee, hip, leg and low back. After standing back up, the train jerked a second time. The video downloaded from the interior rail car camera confirmed the events as reported by Ms. Tulett.

Ms. Tulett reported to work and her husband picked her up an hour later to take her to her primary care physician. She contacted Metro after seeing her doctor, to report that she had been injured on the train. Ms. Tulett's primary care physician referred her to an orthopedic surgeon for continued treatment for her left shoulder and knees. An MRI of the left shoulder revealed a rotator cuff tear. She subsequently underwent left shoulder rotator cuff reconstruction in January of 2007 and underwent a course of physical therapy. Although she continues to complain of bilateral knee pain, an MRI was negative for meniscal tear. Ms. Tulett was previously diagnosed with rheumatoid arthritis, for which she is actively treating. Ms. Tulett's lumbar complaints date back to 1999. Two prior lumbosacral MRI studies revealed multilevel degenerative changes and multilevel disc herniations. The neurosurgeon with whom she has been treating has recommended surgical intervention for the low back by way of an L2 through L5 decompressive lumbar laminectomy.

An orthopedic surgeon conducted an independent medical examination of Judith Tulett at our behest on November 18, 2010. The physician reported that Ms. Tulett did sustain a causally related left shoulder rotator cuff tear that required surgical reconstruction. He reported that she has made good progress since the surgery. Regarding the bilateral knee symptomatology, he reported that there was a mild aggravation of her pre-existing arthritis. The plaintiff was also examined by a neurologist at our behest on January 4, 2011, relative to her low back complaints. The neurologist reported that Ms. Tulett sustained a lumbosacral strain as a result of the incident in question. In his opinion there was no objective evidence that she sustained a recurrent lumbar disc herniation or an exacerbation of a prior lumbar disc herniation.

At the time of the accident, Ms. Tulett was employed as a receptionist at a law firm. She alleged lost time from work due to doctors' appointments and illness related to side effects from medications she was prescribed for her injuries. She was ultimately terminated on September 18, 2006. She continued to look for work, but was unsuccessful, and underwent shoulder surgery in January of 2007, which rendered her unable to work until March 16, 2007, at which time her doctor released her to return to work. In October of 2007, she finally secured another position, but at a much lower rate of pay than she was previously earning. In total, Ms. Tulett alleged lost earnings of over \$40,000. In addition, she made a claim for past and future pain and suffering and medical expenses.

A jury trial is scheduled to begin on November 29, 2011 in New York Supreme Court before the Honorable Deborah Chimes. Plaintiff's counsel initially demanded \$275,000 to settle this case. After several pre-trial conferences, the parties reached an agreement to settle this matter for \$105,000, 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 \$105,000 in the matter concerning the accident which occurred on January 18, 2006; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee, and/or the Chairman be and hereby are authorized to execute such documents as necessary to resolve the matter of Judith A. Tulett and Robert C. Tulett v. Niagara Frontier Transportation Authority, said authorization providing for payments in the not-to-exceed amount of \$105,000; 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
- B. Financial Update
- C. Business Update
- D. Resolutions

Aviation Resolutions

- i. Niagara Frontier Transportation Authority, Acceptance of Aviation Resolutions 3. D. (1) through 3. D. (4)
1. Acceptance of Bid, Patrick Construction, LLC, Baggage Handling Area Restrooms, BNIA
2. Procurement of Spreader/Sander Vehicle, Navistar, Inc., BNIA
3. Authorization for License Agreement, Ground Support Operators, NFIA
4. Authorization for Approval, Change Order #1, Accadia Site Contracting, Inc., Runway 6-24 Safety Area Improvements, NFIA

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 Croce, seconded by Commissioner Perry, 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 October 24, 2011 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: DEMAKOS, LEWIN, CROCE, GRANTO, HELFER, HUGHES, PERRY, ZEMSKY

NOES: NONE

ADOPTED

AVIATION:

3. D. (1) **Acceptance of Bid, Patrick Construction, LLC, Baggage Handling Area Restrooms, BNIA**

RECOMMENDATION: The Aviation Committee has reviewed this item and recommends that the Board award the subject construction contract to Patrick Construction, LLC for a lump sum total bid amount of \$93,700.00.

INFORMATION: The project objective is to install two restrooms, 1-male and 1-female, in the baggage handling area at the Buffalo Niagara International Airport (BNIA) terminal. The restrooms will be constructed in the unused portion of the fire pump room adjacent to the baggage handling area. This will provide access for BNIA Employees and Tenants to restrooms within the airport security area.

This project was publicly advertised in accordance with NFTA Procurement Guidelines. Eleven (11) sets of contract documents were distributed to potential prime bidders with seven (7) responding as follows:

Company	Total Bid Amount of Bid
Engineer's Estimate	\$127,916.00
Patrick Construction, LLC East Amherst, NY Paul M. Bliss, President	\$93,700.00
Miller Enterprises, Inc. Buffalo, NY Wesley A. Miller, President	\$101,000.00
Trason Development Corp. Hamburg, NY Tracy Hirsch, President	\$106,108.00
Wilsandra Construction Co., Inc. Buffalo, NY Garth C. Truckenbrod, Vice President	\$107,769.00
The Pike Co., Inc. Rochester, NY Patrick J. Rogers, Vice President	\$116,995.00
S&W Contracting of WNY Inc. Buffalo, NY Shandra Spicer, President	\$124,436.00
Concept Construction Corp. Elma, NY B. Michael Shevlin, President	\$127,370.00

It has been determined that the low bidder, Patrick Construction, LLC, has the knowledge, understanding, and ability to successfully accomplish the project work.

Follow-up interviews were held with the other prime bidders, who did not submit a bid. The following is a summary of their responses for not bidding:

- The company's current workload did not coincide with the project schedule.
- Did not have a bid bond in place at the time of the bid.
- The project was considered too small.

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

FUNDING: Funding for construction is found in Account No. 12-0000000-3188-2-2439 as follows:

100%	PFC Funds	\$93,700.00
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“RESOLVED, that the Board awards the subject bid to Patrick Construction, LLC, for a total lump sum amount of \$93,700.00, 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 Patrick Construction, LLC, for the lump sum amount of \$93,700.00, 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) Procurement of Spreader/Sander Vehicle, Navistar, Inc., BNIA

RECOMMENDATION: The Aviation Committee has reviewed this item and recommends that the Board approve the procurement of a spreader/sander vehicle from Navistar Inc., Albany, N.Y. The vehicle is available under NYS Contract Award #PC62176 at a cost of \$123,040.30.

INFORMATION: BNIA airfield staff are responsible for providing a safe environment for aircraft pursuant to Federal Aviation Regulation Part 139, Certification of Operation. Use of a spreader/sander vehicle is an integral component to maintaining the safety of the runways by application of sand/grit during winter operations. This vehicle will replace a spreader/sander vehicle purchased in 1983 which has exceeded its useful life.

Staff recommends the procurement of a 2012 International Workstar spreader/sander vehicle with hydraulic accessories from Navistar Inc., Albany, N.Y. The vehicle is available under NYS Contract Award #PC62176 at a cost of \$123,040.30.

FUNDING: Funding is provided 100% through Passenger Facilities Charges.

“RESOLVED, that the Board hereby authorizes the procurement of a spreader/sander vehicle from Navistar Inc., as described hereinabove; and

BE IT FURTHER RESOLVED, that the Manager, Procurement, be and she is hereby authorized to issue a Purchase Order to Navistar, Inc. for the purchase of a spreader/sander vehicle in the amount of \$123,040.30 under NYS Contract No. PC62176 to be used as described hereinabove; and

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

AVIATION:

3. D. (3) **Authorization for License Agreement, Ground Support Operators, NFIA**

RECOMMENDATION: The Aviation Committee has reviewed this item and recommends that the Board authorize a standard License Agreement for the provision of ground support services to air carriers at Niagara Falls International Airport (NFIA) for terms of one year at a rate of 5% of gross revenues generated for the provision of the services.

INFORMATION: The NFIA Minimum Standards and Qualifications (MSAQ), establish uniform operating rules and regulations to cover various airside business activities at NFIA. The MSAQ also defines the categories of aviation service providers, sets forth the services that each category is required and/or permitted to provide, and describes the locations upon which the provision of such services are authorized. The MSAQ requires service providers to enter into an agreement with the NFTA that sets the fees to be paid to the NFTA, the insurance requirements and other operational requirements. The ground support operators will be required to pay the NFTA 5% of gross revenues generated from the provision of services at NFIA. The 5% fee is consistent with the fee imposed upon the fixed base operator for provision of ground support services. With the entry of new airlines at NFIA, the NFTA has received requests from ground support operators seeking authorization to provide services at NFIA.

FUNDING: No funding is required.

“RESOLVED, that the Board hereby authorizes a standard License Agreement for the provision of ground support services to air carriers at Niagara Falls International Airport (NFIA) for the term of one year at a rate of 5% of gross revenues generated for the provision of the services, 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 a License Agreement for the purposes stated above with terms and conditions as set forth above and as negotiated; 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.”

AVIATION:

3. D. (4) Authorization for Approval, Change Order No. 1, Accadia Site Contracting, Inc., Runway 6-24 Safety Area Improvements, NFIA

RECOMMENDATION: The Aviation Committee has reviewed this item and recommends that the Board approve Change Order No. 1 as a net zero increase to Accadia Site Contracting, Inc.'s NFTA Contract No. 12NA0502, Runway 6-24 Safety Improvements at the Niagara Falls International Airport. This will result in no change to the original construction contract value of \$8,712,406.92.

INFORMATION: Change Order No. 1 provides for the following unit price bid quantity adjustments to Project No. 12NA0502 to reflect actual installed quantities. The Engineer made all field measurements and quantity calculations.

Item No.	Description	Unit	Unit Price	Revised Quantity	Previous Approved Quantity	Quantity Change	Amended Amount	Amount Change
12200	Field Change Allowance	LS	\$950,000.00	.851	1.00	(.149)	\$808,350.32	(\$141,649.69)
331116-5.1	12" Ductile Iron Waterline	LF	\$100.00	562.00	560.00	2.00	\$56,200.00	\$200.00
33116-5.4	New Waterline Survey Marker Installation	EA	\$700.00	6	5	1	\$4,200.00	\$700.00
203.21	Select Structural Fill	CY	\$50.00	152.79	50	102.79	\$7,639.50	\$5,139.50
209.200401	Turf Reinforcement Mat	SY	\$3.50	13,943.59	9,000.00	4,943.59	\$48,802.57	\$17,302.57
210.30101	Removal & Disposal of ACM Pipe	LF	\$75.00	403.00	250.00	153.00	\$30,225.00	\$11,475.00
615.03040001	Controlling Invasive Species by Digging	SY	\$20.00	678.00	500.00	178.00	\$13,560.00	3,560.00
P-151-5.2	Tree Removal Stumps Cut Flush	EA	\$800.00	5	4	1	\$4,000.00	\$800.00
P-152-4.2	Embankment In Place	CY	\$27.00	15,865.37	15,000.00	865.37	\$428,364.99	\$23,364.99
P-152-4.8	Rock Removal	CY	\$20.00	1,919.35	850.00	1,069.35	\$38,387.00	\$21,387.00
P-152-4.10	Off Site Borrow (NCCC)	CY	\$11.50	1,025.28	970.00	55.28	\$11,790.72	635.72
L-108-5.6	Remove Existing Cable In Conduit	LF	\$4.00	2,936.00	1,280.00	1,656.00	\$11,744.00	\$6,624.00
L-135-5.1	Directional Boring	LF	\$34.00	600.00	550.00	50.00	\$20,400.00	\$1,700.00
							TOTAL	\$(48,760.91)

Change Order No. 1 also provides for the recommended contract modifications listed below. Costs for these modifications are in accordance with Article 22 – Extra Work and Article 24 – Payment for Agreed Prices of the Contract General Conditions. All costs for these Proposed Change Orders (PCO's) incorporate New York State Prevailing Wage Rates and standard, Material, and Equipment prices as verified by the Engineer. In addition, interim unit price Bid Item quantity adjustments are required.

PCO No. 1 Sanitary Sewer Fittings **ADD \$2,178.56**

The connection between the new sanitary sewer line and the existing line servicing the U.S.A.F.R. base required additional fittings not detailed in the contract documents. The cost reflects all time and materials necessary to provide, install, and test the fittings.

PCO No. 2 MALSR Light Bar Cans **ADD \$1,142.66**

In order to utilize the existing MALSR bar fixture and snow plow rings, the specified 12" inch junction cans needed to be upsized to 15" cans for alignment purposes. The cost reflects all labor and material necessary to install the 15" cans.

PCO No. 3 Revision to Sign # 711 **ADD \$937.25**

New sign No. 711 was incorrectly depicted in the contract documents, with the directional arrow designation reversed. The cost reflects replacement of the sign panel with the correct directional arrow.

PCO No. 4 Junction Cans **ADD \$14,835.00**

The existing junction cans are in a condition that will not allow for new conduit / cable to be installed. The cost reflects all materials and labor necessary to install fifteen junction cans at various locations throughout the project.

PCO No. 5 Bulletin No. 002 **ADD \$21,500.25**

The bulletin incorporates additional drainage piping adjacent to Taxiway D from drainage Structure ST-23 to an existing manhole. The work consisted of the replacement of the existing drainage pipe which was deteriorated and blocked. The cost reflects all labor and material necessary to remove the existing pipe, install, and connect the new 15" reinforced concrete pipe.

PCO No. 6 Extra Cost Associated with Contaminated Material Removal **ADD \$8,167.19**

During construction the contractor unearthed drums which contained contaminated material. After testing the material, the reports indicated that the drums and the contents should be transported to certified waste facility. The cost reflects the testing, staging, and transportation of the drums with their contents.

FUNDING: The net cost of Change Order No. 1 results in no change to the original bid amount and the current contract amount of \$8,712,406.92.

"RESOLVED, that the Board hereby authorizes Change Order No. 1 to the Agreement with Accadia Site Contracting, Inc. for the Runway 6-24 Safety Area Improvements at Niagara Falls International Airport; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby authorized to execute Change Order No. 1 to the Agreement with Accadia Site Contracting, Inc. with no increase in cost for the Runway 6-24 Safety Area Improvements at the Niagara Falls International Airport as stated hereinabove and as negotiated; and

BE IT FURTHER RESOLVED, that said Change Order shall include such additional 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 under said Change Order upon certification by the Director, Engineering, that such payments are in order.”

- 4. SURFACE TRANSPORTATION BUSINESS GROUP REPORT**
- A. Surface Transportation Committee Report
 - B. Financial Update
 - C. Business Update
 - D. Resolutions

Surface Transportation Resolutions

- i. Niagara Frontier Transportation Authority, Acceptance of Surface Transportation Resolutions 4. D. (1) through 4. D. (5)
1. Authorization for Supplemental Agreement, GBNRTC
2. Authorization for Agreement, PTV Nustats, Regional Public Transit Survey, GBNRTC
3. Authorization for Agreement, Knorr Brake Corporation, Procurement of Brake Rotor and Hubs
4. Acceptance of Bid, Allied Building Products, Corp., Procurement of Tactile Strips, Rub-Rails and Hardware
5. Acceptance of Bids, NOCO Distribution, Superior Lubricants, Procurement of Synthetic Gear Oil and Synthetic Transmission Fluid

SURFACE:

4. D. (i) **Niagara Frontier Transportation Authority, Acceptance of
Surface Transportation Resolutions 4. D. (1) through 4. D. (5)**

The Executive Director advised that Items 4. D. (1) through 4. D. (5) 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 Hughes, 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. (5) and dated October 24, 2011 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: DEMAKOS, LEWIN, CROCE, GRANTO, HELFER, HUGHES, PERRY*, ZEMSKY

ABSTENTION: [*Item 4. D. (5)]

NOES: NONE

ADOPTED

SURFACE:

4. D. (1) **Authorization for Supplemental Agreement, Cambridge Systematics, Inc., GBNRTC**

RECOMMENDATION: The Surface Committee has reviewed this item and recommends that the Board authorize a Supplemental Agreement with Cambridge Systematics, Inc., in an amount not to exceed \$98,900.

INFORMATION: The Greater Buffalo-Niagara Regional Transportation Council is the designated Metropolitan Planning Organization (MPO) and is responsible for conducting a coordinated multimodal transportation planning process in the Buffalo-Niagara region. A substantial number of studies and work initiatives are included in the work program for the GBNRTC and member agencies. These include studies of regionwide, corridor, and more localized impacts to the region's transportation system. Ability to respond to these study needs is dependant on effective deployment of GBNRTC modeling tools such as the regional TransCAD travel model, operational simulation capabilities in TransModeler, and TRANSIMS. On March 23, 2009 the Board approved an Agreement with Cambridge Systematics, Inc., for the provision of these types of services. Cost changes to the contract have been realized for data importation, network development and editing and more detailed training on model deployment. In addition, due to issues with intersection logic in the Mesoscopic Model software, CS was directed to table the Mesoscopic Model for this phase of the project and go directly to microsimulation. In order to maintain the same performance measures and capabilities, specifically vehicle re-routing and impacts to the local arterials, the microsimulation model required expansion and a much more labor-intensive calibration effort than anticipated.

FUNDING: Funding for this effort has been made available to GBNRTC from Federal PL funds. As host agency, GBNRTC contracts are administered by NFTA.

“RESOLVED, that the Board hereby authorizes a Supplemental Agreement with Cambridge Systematics, Inc., for the cost change to major corridor studies and System Operations Contract as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby authorized to execute a Supplemental Agreement with Cambridge Systematics, Inc. in an amount not-to-exceed \$98,900.00, as stated hereinabove and as negotiated; and

BE IT FURTHER RESOLVED, that said Supplemental Agreement shall include such additional 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 under said Change Order upon certification by the Director, Engineering, that such payments are in order.”

SURFACE:

4. D. (2) **Authorization for Agreement, PTV Nustats, Regional Public Transit Survey, GBNRTC**

RECOMMENDATION: The Surface Committee has reviewed this item and recommends that the Board authorize an agreement with PTV Nustats, in an amount not to exceed \$250,000 to conduct the GBNRTC Regional Public Transit Survey.

INFORMATION: The Greater Buffalo-Niagara Regional Transportation Council (GBNRTC) is the regional decision making forum designated by the Governor to cooperatively develop transportation plans for the Erie and Niagara Counties of Upstate New York. The Council's primary focus is on formulating regional transportation policy, planning for future transportation development, and programming transportation facilities and services based on regional travel needs. As requested by NFTA, the overall objective of this study is to conduct a comprehensive Origin/Destination (O/D) study regarding the fixed-route travel patterns of current patrons within the NFTA Metro service area.

This information will serve a variety of purposes. Uses include, but are not limited to the calibration and validation of ridership models, demographic analysis of current patrons, market share assessment, use of various fare media and transfer activity and support of Title VI analyses. This information, when coupled with historical O/D data can provide an assessment of service area demographic shifts and trends as well as identifying untapped market areas.

A procurement process was initiated consistent with NFTA requirements. The GBNRTC and NFTA staffs jointly developed a request for proposals (RFP). Five proposals were received, these proposals were from Cambridge Systematics, ETC Institute, Hatch Mott MacDonald, PTV Nustats and Resource Systems Group. The Rating Committee, comprised of GBNRTC, NFTA and NYSDOT staffs met on Friday October 7, 2011 to review and recommend a preferred consultant. Consultant ratings were as follows:

<u>FIRM</u>	<u>PROPOSAL REVIEW TOTAL</u>
PTV Nustats	98
Resource Systems Group	86
ETC Institute	74
Cambridge Systematics	61
Hatch Mott MacDonald	49

FUNDING: It is appropriate for the NFTA to enter into an agreement on behalf of the GBNRTC as it serves as the disbursing agent for all GBNRTC planning monies. Consultant funds for this planning activity were included in the 2010-2012 Unified Planning Work Program and approved by the GBNRTC Policy Committee. Funding for this effort has been made available from Federal transportation planning funds attributable to GBNRTC.

“RESOLVED, that the Board hereby authorizes an Agreement with PTV Nustats to conduct the GBNRTC Regional Public Transit Survey at a cost of \$250,000 as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and are hereby authorized to execute an Agreement with PTV Nustats for the sum of \$250,000 to conduct the GBNRTC Regional Public Transit Survey ; and

BE IT FURTHER RESOLVED, that said Agreement shall include such additional 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 under said Change Order upon certification by the Director, Engineering, that such payments are in order.”

SURFACE:

4. D. (3) **Authorization for Agreement, Knorr Brake Corporation,
Procurement of Brake Rotor and Hubs**

RECOMMENDATION: The Surface Committee has reviewed this item and recommends that the Board approve a waiver of the New York State Buy America requirement to purchase steel products from U.S. manufacturers.

INFORMATION: Last month the Board approved this sole source purchase for spare parts. Knorr Brake Corporation provided the current brake system for the Railcar vehicles and maintains patent rights to their brake system designs. The existing brake rotor and hub design is obsolete and no longer available. The friction rings, hubs and replacement parts will be a direct replacement, and are currently being installed on the rebuild Railcar trucks.

Staff requests that the Board also approve a waiver of the New York State Buy America requirement to purchase steel products from U.S. manufacturers on the grounds that this purchase is a sole source, safety sensitive and proprietary to Knorr Brake Corp.

FUNDING: This procurement is funded 100% - 88C.

“RESOLVED, that the Board authorizes the waiver of the New York State Buy America requirement.”

SURFACE:

4. D. (4) **Acceptance of Bid, Allied Building Products, Corp., Procurement of Tactile Strips, Rub-Rails and Hardware**

RECOMMENDATION: The Surface Committee has reviewed this item and recommends that the Board award bid number 4109 to Allied Building Products, Corp. from Cheektowaga New York for a total amount of \$57,392.00.

INFORMATION: The purpose for this American Disability Act (ADA) transit enhancement project is twofold. First, it will broaden the tactile strips to cover all of the Metro rail stations, not just those identified as ADA key stations. Additionally, it will update the older style tactile strips to meet the latest ADA standards. Secondly, by adding a one inch rub-rail to the underground stations platforms the gap will be reduced between the Light Rail Vehicle and the platform edge to conform to the updated ADA regulation that allows a maximum gap of three inches. These safety improvements will benefit not just the disabled community but all of the Metro Rail patrons. Three responses were received for bid number 4109. Allied Building Products Corp. was the lowest bidder as shown below:

Vendors	Manufacturer	Bid Amount
1) Allied Building Products, Corp., Cheektowaga, NY	Access Tile	\$57,392.00
2) Engineered Plastics, Inc., Williamsville, NY	ADA Solutions	\$60,559.50
3) ADA Solutions, Inc., North Chelmsford, MA	ADA Solutions	\$66,967.50

FUNDING: This procurement will be funded as follows: 80% FTA Grant, 10% NYS, and 10% NFTA funds.

“RESOLVED, that the Board awards the subject bid to Allied Building Products, Corp., for a total lump sum amount of \$57,392.00, 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 Allied Building Products, Corp., for the lump sum amount of \$57,392.00, 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.”

SURFACE:

4. D. (5) **Acceptance of Bids, NOCO Distribution, Superior Lubricants,
Procurement of Synthetic Gear Oil and Synthetic Transmission Fluid**

RECOMMENDATION: The Surface Committee has reviewed this item and recommends the Board approve the lowest responsive bids submitted by NOCO Distribution for the provision of synthetic gear oil and Superior Lubricants for the provision of synthetic transmission fluid. The total cost is estimated at \$85,669.65 for the period October 30, 2011 through September 30, 2012.

INFORMATION: Bus Maintenance requires synthetic gear oil and synthetic transmission fluid to maintain the gearing and transmissions system on various heavy duty transit buses within the authority's fleet in accordance with the manufacturer's warranty specification. The bid specifications were publicly advertised in accordance with NFTA Procurement Guidelines.

See the attached bid analysis for details.

FUNDING: Funding for this procurement is budgeted in 2011/2012 Inventory Account Number 2-00-0000-184-0010.

“RESOLVED, that the Board awards the subject bids to NOCO Distribution and Superior Lubricants Co., pursuant to the attached spreadsheet for a total sum amount of \$85,669.65, 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 NOCO Distribution and Superior Lubricants Co., for the combined sum amount of \$85,669.65, 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 Manager, Procurement, that such payments are in order.”

BID ANALYSIS

BID NUMBER: 4099 Bid For: Synthetic Automatic Transmission Fluid Bid For: Synthetic Gear Oil 80W-140 Department: Metro Inventory Open Date: June 30, 2911		VENDORS			
		Kenworth of Buffalo 100 Commerce Drive Buffalo, NY 14218	NOCO Distribution 2440 Sheridan Drive Tonawanda, NY 14150	Superior Lubricants Co. 32 Ward Road No. Tonawanda, NY 14120	American Lubricants 619 Bailey Avenue Buffalo, NY 14206
ITEM #	Gallons	Price/gallon	Price/gallon	Price/gallon	Price/gallon
Synthetic Automatic Transmission Fluid	2310	Non Responsive	Non Responsive	\$29.950	\$30.99
Total Amount Bid				\$69,184.50	\$71,586.90
Synthetic Gear Oil 80W-140	825	Non Responsive	\$19.98	\$21.66	\$29.70
Total Amount Bid			\$16,485.15	\$17,869.50	\$24,502.50

- 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/Risk Management Resolutions 5. D. (1) through 5. D. (2)
1. Authorization to Negotiate Easement, Tonawanda Rails-To-Trails Project, County of Erie
2. Authorization of Lease Agreement, Integrated Deicing Services, LLC, 247 Cayuga Road

PROPERTY:

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

The Executive Director advised that Items 5. D. (1) through 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 Lewin, 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) through 5. D. (2) and dated October 24, 2011 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: DEMAKOS, LEWIN, CROCE, GRANTO, HELFER, HUGHES, PERRY, ZEMSKY

NOES: NONE

ADOPTED

PROPERTY:

5. D. (1) **Authorization to Negotiate Easement, Tonawanda Rails-To-Trails Project, County of Erie**

RECOMMENDATION: The Property/Risk Management Committee has reviewed this item and recommends that the Board authorize staff to commence negotiation of an Easement with the County of Erie that would permit the construction of a rails-to-trails project on the NFTA's Tonawanda right-of-way.

INFORMATION: Erie County is the project sponsor for a federally funded project in the amount of \$2.695 million for the design and construction of a 4.75 mile bicycle/pedestrian trail along the NFTA's railroad right-of-way property running from Kenmore Avenue in the Town of Tonawanda to East Niagara Street in the City of Tonawanda.

Initially NFTA staff requested that the easement for the trail be placed along either side of the right-of-way, so as not to interfere with potential rail expansion. The County determined that this course of action would double the cost of construction, compromise the quality of the trail and result in the project not moving forward. NFTA staff then asked for the right to demolish the trail in the event the right-of-way was needed for a rail project. The New York State Department of Transportation, the administration of the federal funds for the project, stated at first that the easement had to be permanent but later stated the easement could be for 20 years. The County has since informed staff that the County is willing to go forward with a ten year easement coupled with a ten year renewal, with the renewal term subject to the NFTA's right to terminate in the event the right-of-way is needed for transit use.

The Tonawanda right-of-way was listed in the NFTA's 2010 Strategic Assessment Update as a corridor with no immediate opportunity for major transit investment but a potential candidate to be monitored for the future. Any rail extension project would take at least ten years from the start of application for funding to completion of construction. The County anticipates that completion of design will take place within two years. Staff is proposing that the easement be provided at no cost to the County of Erie but that the County indemnify the NFTA for the use of the right-of-way and agree to maintain the right-of-way in this section, which will save the NFTA approximately \$5,000 per year. The initial ten year term will commence October 24, 2011.

This project has generated a significant amount of community support and government support, in particular from the Town of Tonawanda and the City of Tonawanda. In addition, there is a chance the federal funding will be lost to the community if the project does not move forward.

FUNDING: No funding is necessary.

“RESOLVED, that the Board hereby authorizes the negotiation of an Easement with the County of Erie for construction of a bicycle/pedestrian path on the Niagara Frontier Transportation Authority's Tonawanda right-of-way property; and

BE IT FURTHER RESOLVED, that staff will present the Board with the terms of the negotiated Easement for the Board's approval."

PROPERTY:

5. D. (2) **Authorization Lease Amendment, Integrated Deicing Services, LLC,
247 Cayuga Road**

RECOMMENDATION: The Property/Risk Management Committee has reviewed this item and recommends that the Board authorize a lease amendment with Integrated Deicing Services LLC for additional office space at 247 Cayuga Road.

INFORMATION: Integrated Deicing has been leasing office space at 247 Cayuga Road since 2009 to support the deicing services they provide to airlines at Buffalo Niagara International Airport. They are currently leasing 541 square feet and have requested an additional 231 square feet for a total of 772 square feet. All other terms and conditions of the current lease, including a rental rate of \$9.27 per square foot and an expiration date of August 31, 2013, will remain the same.

FUNDING: No funding is necessary.

“RESOLVED, that the Board hereby authorizes a Lease Amendment with Integrated Deicing Services, LLC. for approximately 231 additional square feet of space at 247 Cayuga Road, as described hereinabove; and

BE IT FURTHER RESOLVED, that the Executive Director, his designee and/or the Chairman, be and hereby are authorized to execute a Lease Amendment with Integrated Deicing for 231 additional square feet of space with terms and conditions as set forth above and as negotiated; and

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

6. General Counsel Report – Written
7. Executive Session -
8. Adjournment

At approximately 12:55 p.m., the Chairman indicated that there was no further business coming before the Board, whereupon it was moved by Commissioner Perry, seconded by Commissioner Zemsky, and unanimously approved that the Regular Meeting of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc. be adjourned.

AYES: DEMAKOS, LEWIN, CROCE, GRANTO, HELFER, HUGHES, PERRY,
ZEMSKY

NOES: NONE