



Niagara Frontier Transportation Authority
Serving Buffalo Niagara

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

November 21, 2013

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 Regular Meeting held on October 24, 2013.

Very truly yours,

A handwritten signature in blue ink, appearing to read "David J. State", 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, 2013 12:30 PM
 MINUTES**

1. REGULAR BOARD MEETING - October 24, 2013- AGENDA	
A. CALL TO ORDER	3
B. APPROVAL OF MINUTES (September 26, 2013)	
C. EXECUTIVE DIRECTOR'S REPORT	4
2. NFTA CORPORATE REPORT	5
A. Audit and Governance Committee Report (Howard Zemsky)	
B. Consolidated Financial (Debbie Leous)	
C. Corporate Resolutions (Kim Minkel)	
1) Authorization for Agreement, Hair Testing, NFTA	8
2) Authorization of NYSDOT Mass Transportation Capital Project Agreement, Contract No. K006695, Supplemental Agreement No. 8	11
3) Authorization for Settlement, Tekeste Bekele v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc. and Juan Galarza.	12
3. AVIATION BUSINESS GROUP REPORT	15
A. Aviation Committee Report (Bill Vanecek)	
B. Financial Update (Bill Vanecek)	
C. Business Update (Bill Vanecek)	
D. Aviation Resolutions (Kim Minkel)	
1) Authorization for Procurement, Street Sweeper, BNIA	18
2) Authorization for Agreement, Aviation Strategic Plan, BNIA and NFIA	19
4. SURFACE TRANSPORTATION BUSINESS GROUP REPORT	21
A. Surface Transportation Committee Report (Bonita Durand)	
B. Financial Update (Tom George)	
C. Business Update (Tom George)	
D. Surface Transportation Resolutions (Kim Minkel)	
1) Authorization for Change Order No. 1, Premier Modular Railroad Crossing, Inc., Embedded Rail Replacement, Precast Panels, LRRT	24
2) Authorization for Agreement, IBI Group, Inc., Passenger Information System, Metro	26
3) Authorization for Agreement, Catenary and Insulator Replacement Phase I, LRRT	28
4) Authorization for Supplemental Agreement No. 2, Shepard Bros., Procurement of Paratransit Vehicles, Metro	30
5) Authorization for Use & Occupancy Permits, New York State, Right-Of-Ways, Metro	31
5. PROPERTY RISK/MANAGEMENT GROUP REPORT	33
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 Lease Agreement, World Dental Supply, Inc., 247 Cayuga Road	36
2) Authorization for License Agreement, New York State Department of Transportation, Boat Harbor	37
3) Authorization for Lease Agreement, Della Gray d/b/a Turner Scott Recovery, 247 Cayuga Road	38
4) Authorization for Right of Entry Agreement, Erie Canal Harbor Development Corporation and State Parks, Access for Testing, Boat Harbor and Outer Harbor	39
6. GENERAL COUNSEL'S REPORT (David State)	
7. EXECUTIVE SESSION	
8. ADJOURNMENT	40

1. **CALL TO ORDER**

A. **Meeting Called to Order**

Chairman Zemsky called the meeting to order at approximately 12:32 p.m.

B. **Approval of Minutes of the NFTA Regular Board Meeting held on September 26, 2013**

It was moved by Commissioner Sloma, seconded by Commissioner Durand, that the Minutes of the September 26, 2013, Regular Board Meeting of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc., be accepted and approved.

**AYES: ZEMSKY, SLOMA, DEMAKOS, ANSARI, DURAND,
HUGHES**

NOES: NONE

D. Executive Director's Report:

Executive Director Kimberley Minkel advised the Board that staff would present a balanced budget ending FYE 2015 at the November Board Meeting. She is meeting with the Western New York Delegation to brief them on the Alternative Analysis and FTA Financial Assessment to give them a better picture of NFTA finances and request their help and advocacy securing increased STOA funding. She also advised the Board that the new Chief Information Officer, John Oborn, will begin employment on Monday.

2. NFTA CORPORATE REPORT

- A. Audit and Governance Committee Report (Howard Zemsky)
- B. Consolidated Financial (Debbie Leous)
- C. Corporate Resolutions (Kim Minkel)

Corporate Resolutions

- i. Niagara Frontier Transportation Authority, Acceptance of Corporate Resolutions 2. C. (1) through 2. C. (3)
 1. Authorization for Agreement, Psychemedics Corporation, Hair Testing, NFTA
 2. Authorization of NYSDOT Mass Transportation Capital Project Agreement, Contract No. K006695, Supplemental Agreement No. 8
 3. Authorization for Settlement, Tekeste Bekele v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc. and Juan Galarza.

CORPORATE:

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

The Executive Director advised that Items 2. C. (1) through 2. C. (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 Demakos, seconded by Commissioner Durand, that the following Resolution be adopted:

“**RESOLVED**, that the Resolutions of the Niagara Frontier Transportation Authority, identified as numbers 2. C. (1) through 2. C. (3) and dated October 24, 2013 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: ZEMSKY, SLOMA, DEMAKOS, ANSARI, DURAND, HUGHES

NOES: NONE

ADOPTED

CORPORATE:

2. C. (1) **Authorization for Agreement, Psychemedics Corporation, Hair Testing, NFTA**

RECOMMENDATION: Staff recommends that the Board authorize a three (3) year agreement with the option to renew for two additional one year terms to Psychemedics Corporation for hair testing services.

INFORMATION: Hair testing is used by NFTA Medical Department for a post offer screen for the potential use of illegal drugs or potential unauthorized drug use of prescription medications. Hair testing provides a superior method of screening due to the ability to detect up to a three month history of potential drug use as compared to 1-3 days detections for most drugs when urine screening is utilized.

The NFTA issued a Request for Proposal (RFP) No. 4325 for the provision of hair testing for the use of drugs. The NFTA received proposals from three prospective service providers. A selection committee, which included representatives from Human Resources, NFTA's Medical and Procurement Departments, evaluated the proposals based on criteria included in the RFP, which considered compliance with technical specification, qualifications and experiences, and cost. The estimated costs were as follows:

Estimated No. of Tests per Year	Cost per Test	Total
300	\$37.00	\$11,100.00
300	\$37.00	\$11,100.00
300	\$37.00	\$11,100.00
300	\$37.00	\$11,100.00
300	\$37.00	\$11,100.00
		\$55,500.00 (5 year total)

Psychemedics Corp. is currently providing Hair Testing for the NFTA.

FUNDING: Funding for this Agreement is included in the Authority's Operating Budget.

“RESOLVED, that the Board hereby authorizes an Agreement with Psychemedics Corporation for post offer hair testing services at a cost of approximately \$55,500.00; 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 Psychemedics Corporation for the total amount of approximately \$55,500.00; 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 Agreement upon certification by the Director, Human Resources, that such payments are in order.”

BID/RFP # 4325 - HAIR TESTING LAB

RFP DOCUMENTS REQUIRED (Completed by Procurement)	OMEGA LABORATORIES Mogadore, OH	PSYCHEMEDICS CORP. Dallas, TX	DSI MEDICAL SERVICES, INC. Warminster, PA
Cover Letter	X	X	X
Description of services	X	X	X
Firm, Mgmt & Staff Qualifications	X	X	X
References	X	X	X
Itemized Cost Proposal	X	X	X
Non-Collusive Cert	X	X	X
Disclosure of Prior Non-Rep	X	X	X
Determinatins	X	X	X
Bidder's/Proposer's Affirmation & Certification	X	X	X
Contact Information	X	X	X
SELECTION CRITERIA (Completed by Team)			
Compliance with technical specifications 40%	9	10	5
Cost 40%	10.00	9.05	7.79
Qualifications & Experience 20%	6	10	6
TOTAL	8.80	9.62	6.32
COST			
	Estimated No. of Tests Per Year	Estimated No. of Tests Per Year	Estimated No. of Tests Per Year
YEAR 1	300	300	300
YEAR 2	300	300	300
YEAR 3	300	300	300
YEAR 4	300	300	300
YEAR 5	300	300	300
TOTAL			
	Cost per Test	Cost per Test	Cost per Test
YEAR 1	\$33.50	\$37.00	\$43.00
YEAR 2	\$33.50	\$37.00	\$43.00
YEAR 3	\$33.50	\$37.00	\$43.00
YEAR 4	\$33.50	\$37.00	\$43.00
YEAR 5	\$33.50	\$37.00	\$43.00
TOTAL			
	Total	Total	Total
YEAR 1	\$10,050.00	\$11,100.00	\$12,900.00
YEAR 2	\$10,050.00	\$11,100.00	\$12,900.00
YEAR 3	\$10,050.00	\$11,100.00	\$12,900.00
YEAR 4	\$10,050.00	\$11,100.00	\$12,900.00
YEAR 5	\$10,050.00	\$11,100.00	\$12,900.00
TOTAL	\$50,250.00	\$55,500.00	\$64,500.00

CORPORATE:

2. C. (2) **Authorization of NYSDOT Mass Transportation Capital Project Agreement, Contract No. K006695, Supplemental Agreement No. 8**

RECOMMENDATION: Staff recommends that the Board authorize the execution of New York State Department of Transportation (NYSDOT) Mass Transportation Capital Project Agreement, Contract No. K006695 Supplemental Agreement No. 8 in the amount of \$2,750,000.

INFORMATION: NYSDOT Mass Transportation Capital Project Agreement, Contract No. K006695 Supplemental Agreement No. 8 consists of PIN No. 5822.27, which will provide 100% State Dedicated Funding – Year 12 (SFY 2007-2008) for the Railcar Rebuild project in State Grant SDF-12-NFT-01.

FUNDING: Funding for this project is structured as follows:

NYSDOT Mass Transportation Agreement, Contract N. K006695 Supplemental Agreement No. 8

<i>PIN</i>	<i>Project Description</i>	<i>Total Amount</i>	<i>State Share</i>
5822.27	Rail Car Rebuild	\$ 2,750,000	\$ 2,750,000
Totals		\$ 2,750,000	\$ 2,750,000

“RESOLVED, that the Board authorizes the New York State Department of Transportation Capital Project Agreement, Contract K006695, Supplemental No. 8 for projects as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman be authorized to execute the New York State Department of Transportation Capital Project Agreement, Contract K006695, Supplemental No. 8 as described above; 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.”

CORPORATE:

2. D. (3) **Authorization for Settlement, Tekeste Bekele v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc. and Juan Galarza.**

RECOMMENDATION: Staff recommends that the Board authorize payment of the settlement amount of \$485,000 in the matter of Tekeste Bekele v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc. and Juan Galarza.

INFORMATION: This action arises out of a motor vehicle accident that occurred on November 5, 2010, at approximately 11:50 a.m., on Kenmore Avenue in the City of Buffalo. The Plaintiff, then 53 year old Tekeste Bekele, was the seat belted operator of a 2005 Ford Explorer who was stopped awaiting a right turn into a shopping plaza driveway, with his turn signal illuminated, when he was struck in the rear by an outbound #5 Niagara route Metro bus. The bus was equipped with a digital video surveillance system, which captured and recorded the accident in question.

The bus operator testified at deposition that when he saw the Explorer's brake lights and turn signal go on, he began to brake and continued to brake, but the bus was not coming to a stop. The video revealed that he steadily slowed the bus to 21.9 m.p.h. and then the speed of the bus suddenly dropped to 7.4 m.p.h. at the time of impact. There was minimal damage to the rear bumper cover and trailer hitch assembly. Metro reimbursed the Plaintiff's insurance carrier \$922.97 for the property damage.

The bus operator further testified that he had not expected the brakes to perform as they did and advised that he was aware that other operators had made complaint(s) about the brakes in the 2700 series buses. The brakes on Metro bus #2709 passed both pre-trip and post-trip inspections and the maintenance records were up to date and in order. The Mechanical Department was unable to duplicate the problem on this bus, nor the other 2700 bus for which there was a complaint.

The Plaintiff is a refugee from Ethiopia who was granted political asylum in the United States in 1999. He became a U.S. citizen shortly after his arrival. His native language is Amharic and the use of an interpreter was necessary for the deposition. The language barrier, as evidenced during the deposition, and as referenced in the history of his various medical records, was marked. The Plaintiff had been continuously employed full time as a paper printer at PermiClip since 1999. His employment records revealed that he had a good attendance record and work ethic. At the time of the accident, he earned \$10.50 per hour.

Mr. Bekele testified he was on a lunch break at the time of accident and returned to work to complete his shift. He sought treatment two days later from his primary care physician, at which time he presented with neck and low back complaints. Due to ongoing complaints, his primary care physician referred him to an orthopedic surgeon on February 7, 2011. His surgeon interpreted the MRI conducted on January 6, 2011 as revealing a moderate central L4-5 disc herniation with an associated annular tear and a moderate L5-S1 disc bulge, slightly more asymmetric to the left with evidence of a left posterior lateral annular tear.

After an unsuccessful course of physical therapy and chiropractic treatment, the Plaintiff underwent an anterior lumbar fusion at L4-5, L5-S1 on November 16, 2011. This procedure required the insertion of PEEK cages at L4-5 and L5-S1, locked in place with separate titanium cages and screws. The Plaintiff's surgeon also performed a second procedure, a posterior arthrodesis across L4, L5 and S1, with posterior segmental instrumentation using pedicle screws and rods.

The Plaintiff has not returned to work since the surgery and continues to complain of residual pain in his lower back. According to his surgeon, his lumbar range of motion continues to be limited. As a result, he recently opined that Mr. Bekele is temporarily and totally disabled as a result of the November 5, 2010 collision and cannot return to work. He further opined that the November 5, 2010 accident was the competent producing cause of the Plaintiff's chronic and ongoing injuries and related symptoms, as well as the surgery performed on November 16, 2011.

Tekeste Bekele underwent an independent medical examination at our behest on May 3, 2012. Our expert reviewed the MRI scan and CT scan of the lumbar spine, which he opined showed age appropriate degenerative changes that were mild in nature. He reported that there was no objective or subjective evidence to relate any of these changes to a minor motor vehicle accident such as evidenced by the video. In conclusion, he opined that Tekeste Bekele suffered no injury or impairment as a result of the November 5, 2010 accident and further noted that he required no surgery, therapy, medications, imaging or treatment as a result of the November 5, 2010 accident.

Plaintiff's initial settlement demand was \$2,200,000. In light of the widely divergent expert medical opinions, we agreed to a referral of this matter to the Court's Alternate Dispute Resolution program for further discussion. Numerous and protracted settlement negotiations resulted in an agreement to settle this case for a total of \$485,000, subject to Board approval. The matter was scheduled for jury selection on November 8, 2013, with the trial to commence immediately thereafter in New York State Supreme Court.

FUNDING: Provided by NFTA, through Self-Insurance Reserves.

“**RESOLVED**, that the Board hereby authorizes payment of the settlement amount of \$485,000 in the matter concerning the accident which occurred on November 5, 2010; 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 Tekeste Bekele v. Niagara Frontier Transportation Authority, Niagara Frontier Transit Metro System, Inc. and Juan Galarza, said authorization providing for payments in the not-to-exceed amount of \$485,000; 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. (2)
1. Authorization for Procurement, Tennant Sales and Service Company, Street Sweeper, BNIA
2. Authorization for Agreement, The Louis Berger Group, Inc., Aviation Strategic Plan, BNIA and NFIA

AVIATION:

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

The Executive Director advised that Items 3. D. (1) through 3. 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 Sloma, seconded by Commissioner Ansari, 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. (2) and dated October 24, 2013 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: ZEMSKY, SLOMA, DEMAKOS, ANSARI, DURAND, HUGHES

NOES: NONE

ADOPTED

AVIATION:

3. D. (1) **Authorization for Procurement, Tennant Sales and Service Company, Street Sweeper, BNIA**

RECOMMENDATION: Staff recommends that the Board approve the procurement of a street sweeper vehicle from Tennant Sales and Service Company, Minneapolis, Minnesota at a cost of \$166,947.19.

INFORMATION: BNIA airfield staff is responsible for maintaining and cleaning all ramps and roadways on both airside and landside. A street sweeper is used to remove grit and debris on roads and ramps which results in prolonging pavement life and also provides a safe environment for aircraft operations. The current street sweeper was purchased in 1991 has exceeded its useful life.

Staff issued Bid No. 4348 in accordance with NFTA procurement guidelines and two bids were received. Staff determined only one proposal from Tennant Sales and Service Company was deemed to be responsive since the other bid failed to meet minimum technical specifications required. The Internal Audit Department conducted a review for the proposed cost and determined the bid totaling \$166,947.19 was reasonable in comparison to current market prices.

FUNDING: Funding is provided by 100% Airport Development Funds.

“RESOLVED, that the Board hereby authorizes the procurement of a street sweeper from Tennant Sales and Service Company to be used at the Buffalo Niagara International Airport at a cost of \$166,947.19, as described above; and

BE IT FURTHER RESOLVED, that the Manager, Procurement, be and she is hereby authorized to issue a Purchase Order to Tennant Sales and Service Company for the procurement of a street sweeper to be used at the Buffalo Niagara International Airport as described hereinabove; and

BE IT FURTHER RESOLVED, that said Purchase 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 Purchase Order upon certification by the Director, Aviation, that such payments are in order.”

AVIATION:

3. D. (2) **Authorization for Agreement, The Louis Berger Group, Inc., Aviation Strategic Plan, BNIA and NFIA**

RECOMMENDATION: Staff recommends that the Board approve the completion of an Aviation Strategic Plan that leverages the assets and advantages of the Buffalo Niagara International Airport (BNIA) and the Niagara Falls International Airport (NFIA) to maximize the economic benefit for Western New York. The negotiated cost of the strategic plan is \$248,692.

INFORMATION: BNIA and NFIA serve as gateways to Western New York with approximately 160,000 annual flight operations and 5.7 million annual passengers including approximately 40% of passengers who reside in Canada.

NFTA seeks to complete an Aviation Group Strategic Plan to maximize the economic impact to the Western New York region by identifying opportunities to improve business and leisure travel as well as air cargo development at BNIA/NFIA. The study will utilize aviation activity forecasts and land use alternative plans developed in the 2012 BNIA Master Plan and the ongoing 2013 NFIA Master Plan. The plan will start in November 2013 and is anticipated to be completed in July 2014. The scope will encompass:

- Data collection, review and synopsis
- Stakeholder engagement
- Review of business conditions and activities
- Canadian market analysis
- Management engagement and strategic plan development.

In accordance with NFTA Procurement guidelines, staff issued Request for Qualifications No. 4328 to obtain the strategic assessment plan. Proposals were received from:

- The Louis Berger Group, Albany, N.Y.
- Infrastructure Management Group, Bethesda, Md.
- Steve Baldwin Associates, Albany, N.Y.
- Landrum & Brown, Inc., Cincinnati, Ohio

The NFTA Evaluation Team consisting of members from Aviation Management, Aviation Marketing, NFTA Legal Department, and the NFTA Procurement Department evaluated the proposals based upon criteria including direct applicable experience, effectiveness of previously issued business plans, qualifications/credentials, responsiveness to NFTA deadlines and familiarity with airport issues in both the United States and Canada. The team concluded the Louis Berger Group, Albany, New York was the most qualified organization to perform the analysis.

Upon completion of the selection, staff negotiated a cost totaling \$248,692 which includes approximately 1,800 hours of consultant resources as well as travel/lodging expenses.

FUNDING: Funding will be provided in the BNIA/NFIA operating budgets.

“RESOLVED, that the Board hereby authorizes an Agreement with The Louis Berger Group, Inc. for the completion of an Aviation Strategic Plan for the Buffalo Niagara International Airport and the Niagara Falls International Airport at a cost of \$248,692.00 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 The Louis Berger Group, Inc. for the completion of an Aviation Strategic Plan as described above; 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 Agreement upon certification by the Director, Aviation, 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 Change Order No. 1, Premier Modular Railroad Crossing, Inc., Embedded Rail Replacement, Precast Panels, LRRT
- 2. Authorization for Agreement, IBI Group, Inc., Passenger Information System, Metro
- 3. Authorization for Agreement, Ferguson Electric Construction Co. Inc., Catenary and Insulator Replacement Phase I, LRRT
- 4. Authorization for Supplemental Agreement No. 2, Shepard Bros., Procurement of Paratransit Vehicles, Metro
- 5. Authorization for Use & Occupancy Permits, New York State, Right-Of-Ways, Metro

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 Durand, seconded by Commissioner Demakos, 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, 2013 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: ZEMSKY, SLOMA, DEMAKOS, ANSARI, DURAND, HUGHES

NOES: NONE

ADOPTED

SURFACE:

4. D. (1) Authorization for Change Order No. 1, Premier Modular Railroad Crossing, Inc., Embedded Rail Replacement, Precast Panels, LRRT

RECOMMENDATION: Staff recommends that the Board approve Change Order No. 1 as an \$874,312 increase to the Premier Modular Railroad Crossing, Inc. precast concrete panel procurement Contract No. 24LA1305. This will result in an amended contract value of \$1,679,642.00.

INFORMATION: This change order results from the implementation of an option in the subject Contract to provide additional precast concrete panels. They are to be used to replace the trackbed in the 500 Block of Main Street. The initial procurement was for precast panels that were installed on the 600 Block of Main Street.

The City of Buffalo is currently proceeding with construction of the Traffic on Main Street Project in the 500 Block. The existing concrete trackbed in the 500 Block has areas of severe cracks and deterioration. In addition, the height of the rail head in this area is now at the minimum allowable thickness. The rail and trackbed replacement will be coordinated with the City of Buffalo project to provide savings to the NFTA project. In addition, the concurrent work will minimize shutdown and single tracking requirements, as well as disruption to the LRRT service and passengers.

The change order will provide the precast concrete panel system for the embedded rails on the 500 Block of Main Street. These panels will be the rail support structure and riding surface for vehicle traffic in this section of Main Street. The installation of the precast concrete panel system and the replacement of the rails will be handled under a separate contract.

The precast panel system supplier selection was conducted pursuant to FTA/NFTA procurement guidelines and was authorized by the Board in March, 2013. The contract allowed for the exercise of an option, subject to negotiated adjustments for material cost escalation, for purchase and delivery of up to an additional 2190 feet of precast panels to ensure the consistency of construction for the mall. Staff exercised this option with the results of the negotiation as follows:

	Initial Proposal	Negotiated Cost
Engineer's Estimate	\$900,457.00	\$900,457.00
Premier Modular Railroad Crossings, Inc.	\$880,910.00	\$874,312.00

The EEO/Diversity Development office has been advised Premiere Modular Railroad proposes 17% DBE participation.

FUNDING: Funding is provided through a pending FTA grant distributed within account code 120000000-3209-2-9339 as follows:

FTA	80%	\$699,449.60
NYSDOT	10%	\$87,431.20
88c	10%	\$87,431.20
	Total	\$874,312.00

“RESOLVED, that the Board hereby authorizes Change Order No. 1 as described hereinabove; 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 as described hereinabove; and

BE IT FURTHER RESOLVED, that said Change Order No. 1 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 No. 1 upon certification by the Director, Engineering, that such payments are in order.”

SURFACE:

4. D. (2) **Authorization for Agreement, IBI Group, Inc., Passenger Information System, Metro**

RECOMMENDATION: Staff recommends that the Board award the subject software development and implementation project to the term consultant, IBI Group, for the lump sum amount of \$170,920.00.

INFORMATION: The project goal is to improve customer service with the implementation of a web based passenger information system. This system will supplement the real time arrival signs by providing a non-proprietary interface and data integration system for real time bus and rail information over the web and at remote sign locations. The Apps will be available to the public at no cost. They will be available through the following:

- Web Browser
- Smart Phone Applications (App)
- Tablet Applications (App).

The system will operate on a Transit Data Cloud (TDC), supported by redundant data servers. It will communicate to the NFTA's Intelligent Transportation System (ITS) equipment, using industry standard protocols. This will eliminate fees associated with operating proprietary systems.

The NFTA will own the software developed and requisite hardware for this project and will have the right to modify the software as the need arises, thereby eliminating licensing fees and legal issues associated with modifying proprietary software packages.

The IBI Group possesses extensive experience in Information Technology and Intelligent Transportation Systems. The scope of work and cost proposal from IBI Group was reviewed with the Business Center. All parties were in agreement with the project and the final negotiated lump sum cost shown below.

	Initial Proposal	Negotiated Cost
Engineer's Estimate	\$172,034.00	\$172,034.00
IBI Group	\$179,468.48	\$170,920.00

FUNDING: Funding source for this project is provided in Account 12-0000000-3107-2-3420 and is as follows:

FTA	80%	\$136,736.00
NYS	10%	\$17,092.00
NFTA	10%	\$17,092.00
Total		\$170,920.00

“RESOLVED, that the Board hereby authorizes an Agreement with IBI Group for the implementation of a web-based passenger information system, as described above and for a cost of \$170,920.00; 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 IBI Group, Inc. for the total amount of \$170,920.00; 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 Agreement upon certification by the Director, Engineering, that such payments are in order.”

SURFACE:

4. D. (3) Authorization for Agreement, Ferguson Electric Construction Co., Inc., Catenary and Insulator Replacement Phase I, LRRT

RECOMMENDATION: Staff recommends that the Board award the subject Phase I construction contract to Ferguson Electric Construction Co., Inc. for a lump sum total bid amount of \$567,000.00.

INFORMATION: The scope of work for this multi phase project is to replace the inbound and outbound Overhead Contact System (OCS) for the six and half mile Light Rail Rapid Transit service line. The OCS was installed as part of the original LRRT construction. The contact wire has worn significantly in five locations. There is the potential for extended LRRT service disruptions in the event of a failure.

The work for Phase 1 of this project will include installation of NFTA furnished overhead contact wire, insulators, and hanger supports to replace 18,722 linear feet of catenary contact wire at the five locations identified. Future phases of this work will be bid as stand alone projects.

This project was publicly advertised in accordance with NFTA Procurement Guidelines. Five sets of contract documents were distributed to potential prime bidders with two responding as follows:

Company	Total Bid Amount of Bid
Engineer's Estimate	\$586,971.68
Ferguson Electric Buffalo, NY Angelo A. Veanes, President	\$567,000.00
O'Connell Electric Co. Victor, NY 14564 Victor E. Salerno, CEO	\$595,418.00

It has been determined that the low bidder, Ferguson Electric, Inc., has the knowledge, understanding, and ability to successfully accomplish the work for this project.

Three of the five plan holders that did not bid on the project were not located in Western New York. They felt that the project was not large enough and that it would be difficult to compete with local contractors.

The NFTA Affirmative Action/EEO office has been briefed on the bid results and concurs with the recommendation for Board approval. The Contractor will perform all the work with their forces, and as a result, there is no DBE participation for this contract.

FUNDING: Funding for construction will be supported through Account No. 12-0000000-3188-2-9322.

FTA	80%	\$453,600.00
NYS DOT	10%	\$56,700.00
NFTA	10%	\$56,700.00
	Total	\$567,000.00

“RESOLVED, that the Board hereby authorizes an Agreement with Ferguson Electric Construction Co., Inc., for Phase I of the Catenary and Insulator Replacement project for a cost of \$567,000.00; 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 Ferguson Electric Construction Co., Inc. for a cost of \$567,000.00; 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 Agreement upon certification by the Director, Engineering, that such payments are in order.”

SURFACE:

4. D. (4) **Authorization for Supplemental Agreement No. 2, Shepard Bros., Procurement of Paratransit Vehicles, Metro**

RECOMMENDATION: Staff recommends that the Board authorize Supplemental Agreement No. 2 with Shepard Bros. of Canandaigua, New York, to purchase ten paratransit vehicles at a not-to-exceed cost of \$1,044,123.10.

INFORMATION: The requested vehicles will replace a like number of vehicles that were purchased in 2006 and that have exceeded their useful lives.

If required, this procurement contains a provision to convert these vehicles from gasoline to compressed natural gas.

This procurement was solicited per the NFTA Procurement Guidelines and was previously approved by the Board on February 27, 2012.

FUNDING: Funding will be provided as follows:

<u>Cost</u>	<u>Source</u>
\$ 835,298.48	FTA
\$ 104,412.31	NYS DOT
<u>\$ 104,412.31</u>	NFTA
\$1,044,123.10	

“RESOLVED, that the Board hereby authorizes Supplemental Agreement No. 2 with Shepard Bros., for the procurement of ten paratransit vehicles at a not-to-exceed cost of \$1,044,123.10; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby authorized to execute Supplemental Agreement No. 2 with Shepard Bros. for the procurement of ten paratransit vehicles to be used as described hereinabove; and

BE IT FURTHER RESOLVED, that said Supplemental Agreement No. 2 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 Supplemental Agreement No. 2 upon certification by the Director, Surface Transportation, that such payments are in order.”

SURFACE:

4. D. (5) **Authorization for Use & Occupancy Permits, New York State, Right-Of-Ways, Metro**

RECOMMENDATION: Staff recommends that the Board authorize the execution of Use and Occupancy Permits for use of certain State right-of-ways as described in Permits for Use of State-Owned Property as follows:

Permit No. 50381 – Canopy Encroachment at NFTA Transportation Center;

Permit No. 50723 – Access Road to Metro Yard;

Permit No. 50901 – Park & Ride Lot in Williamsville.

INFORMATION: The Authority has permits from the State of New York to use State-owned properties at various locations which have expired and require renewal. The permits provide access to:

Permit No. 50381 - North Side of North Division Street between Ellicott and Oak Streets. The canopy extending from the MTC over the North Division sidewalk encroaches upon the NYSDOT right of way for which this permit allows.

Permit No. 50723 - Metro South Park Yard/Shop Under Skyway Bridge. Access to the west end of the LRRY Yard and Shop Facility requires egress across a portion of the NYSDOT Skyway right of way for which this permit allows.

Permit No 50901 - S/W Corner Main Street and Union Road. Provides ability to access and use NYDOT right of way for park and ride facility in the area of the southwest corner of Union Road and Main Street in Williamsville.

All three permits are \$1.00 payment waived and no billing will be involved. The NFTA has been under contract for access to these areas since 1977.

FUNDING: No funding is required.

“RESOLVED, that the Board hereby authorizes Use & Occupancy Permit Nos. 50381; 50723 and 50901 with the State of New York for the right-of-ways as described above; and

BE IT FURTHER RESOLVED, that the Executive Director, her designee and/or the Chairman, be and hereby authorized to execute Use & Occupancy Permit Nos. 50381; 50723 and 50901 for the right-of-ways as described hereinabove; and

BE IT FURTHER RESOLVED, that said Use & Occupancy Permits shall include such additional terms, conditions and safeguards to the Authority as deemed appropriate by the General Counsel”

SURFACE 4. D. (5)

- 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. (4)
1. Authorization for Lease Agreement, World Dental Supply, Inc., 247 Cayuga Road
2. Authorization for License Agreement, New York State Department of Transportation, Boat Harbor
3. Authorization for Lease Agreement, Della Gray d/b/a Turner Scott Recovery, 247 Cayuga Road
4. Authorization for Right of Entry Agreement, Erie Canal Harbor Development Corporation and State Parks, Access for Testing, Boat Harbor and Outer Harbor

PROPERTY:

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

The Executive Director advised that Items 5. D. (1) through 5. 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 Sloma, seconded by Commissioner Durand, 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. (4) and dated October 24, 2013 as set forth herein, be and hereby are accepted and approved in their entirety.”

AYES: ZEMSKY, SLOMA, DEMAKOS, ANSARI, DURAND, HUGHES

NOES: NONE

ADOPTED

PROPERTY:

5. D. (1) **Authorization for Lease Agreement, World Dental Supply, Inc., 247 Cayuga Road**

RECOMMENDATION: Staff recommends that the Board authorize a Lease Agreement with World Dental Supply, Inc. (George Samoel, President) for warehouse space at 247 Cayuga Road.

INFORMATION: World Dental Supply has been a tenant at this location for three years. They would like to continue their lease for one more year. This leased area is open, unfinished warehouse space and is classified C--. This lease is for 1,400 square feet at a rental rate of \$3.09 per square foot, or \$4,326 per year. The rent is fully gross and the premises are being leased as is. The term is for one year commencing November 1, 2013 and expiring October 31, 2014.

FUNDING: No funding is necessary.

“RESOLVED, that the Board hereby authorizes a Lease Agreement with World Dental Supply, Inc., for use of space at 247 Cayuga Road 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 Lease Agreement with World Dental Supply, Inc., with terms and conditions as set forth above and as negotiated; and

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

PROPERTY:

5. D. (2) **Authorization for License Agreement, New York State Department of Transportation, Boat Harbor**

RECOMMENDATION: Staff recommends that the Board authorize a License Agreement with the New York State Department of Transportation (NYSDOT) to permit the erection of a snow fence at the Boat Harbor.

INFORMATION: Blowing snow has been an issue for vehicle traffic along Fuhrmann Boulevard in the winter. NYSDOT has requested that the NFTA permit NYSDOT to install a six-foot high snow fence utilizing the existing wooden guard rail between Parking Lots A and B and the multi-use path.

The snow fence will be installed at no cost to the NFTA and the NFTA will be held harmless from any and all liabilities connected with the snow fence. NYSDOT has agreed to take the fence down by April 15, 2014.

FUNDING: No funding is necessary.

“RESOLVED, that the Board hereby authorizes a License Agreement with the New York State Department of Transportation for installation of a snow fence at the NFTA Boat Harbor 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 with the New York State Department of Transportation with terms and conditions as set forth above and as negotiated; and

BE IT FURTHER RESOLVED, that the Board authorizes the Executive Director to execute future License Agreements permitting the erection of a fence at the Boat Harbor with the New York State Department of Transportation if there is no material change to the terms authorized by the Board in this resolution; 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.”

PROPERTY:

5. D. (3) **Authorization for Lease Agreement, Della Gray d/b/a Turner Scott Recovery, 247 Cayuga Road**

RECOMMENDATION: Staff recommends that the Board authorize a Lease Agreement with Della Gray d/b/a Turner Scott Recovery for office space at 247 Cayuga Road.

INFORMATION: Turner Scott Recovery is a collection agency in need of office space. This lease is for 168 square feet of C+ rated space at 247 Cayuga Road. The lease term is one year beginning November 1, 2013 at a rental rate of \$11 per square foot, or \$1,848 for the year.

FUNDING: No funding is necessary.

“RESOLVED, that the Board hereby authorizes a Lease Agreement with Della Gray d/b/a Turner Scott Recovery, for use of space at 247 Cayuga Road 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 Lease Agreement with Della Gray d/b/a Turner Scott Recovery, with terms and conditions as set forth above and as negotiated; and

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

PROPERTY:

5. D. (4) **Authorization for Right of Entry Agreement, Erie Canal Harbor Development Corporation and State Parks, Access for Testing, Boat Harbor and Outer Harbor**

RECOMMENDATION: Staff recommends that the Board ratify a Right of Entry Agreement with the Erie Canal Harbor Development Corporation (“ECHDC”) and New York State Office of Parks, Recreation & Historic Preservation (Parks) to permit testing for environmental and other permitting issues.

INFORMATION: The involved agencies are anxious to operate Gallagher Beach next year but must complete their due diligence within the next couple of months to review operational alternatives. In order to accommodate this schedule Parks’ consultants need to have access to the property no later than October 21, 2013. Since it is anticipated that ECHDC will be the owner of the Boat Harbor (with Parks acting as the Boat Harbor operator) ECHDC will be a signatory to the Agreement and will indemnify the NFTA for any claims that may result from the testing, with the one exception of any claims for cleanup of a preexisting environmental or geological condition that ECHDC and/or Parks has not exacerbated and for which they gave immediate notice to the NFTA upon discovery. ECHDC will also have the right pursuant to this Agreement to conduct testing on the Outer Harbor site.

The term of the Agreement will be October 21, 2013 to April 15, 2014. All of ECHDC’s and Parks’ consultants/contractors will provide insurance coverage to the NFTA at levels set by the Risk Management Department. Any areas disturbed by testing will be restored the same day.

FUNDING: No funding is necessary.

“**RESOLVED**, that the Board hereby ratifies a Right of Entry Agreement with the Erie Canal Harbor Development Corporation and State Parks as described hereinabove; and

BE IT FURTHER RESOLVED, that the execution of the Right of Entry Agreement with Erie Canal Harbor Development Corporation and State Parks with terms and conditions as set forth above and as negotiated by the Executive Director, is hereby ratified.”

6. General Counsel Report - None

7. Executive Session

At approximately 12:58 p.m., it was moved by Commissioner Demakos, seconded by Commissioner Sloma, that the Commissioners convene in Executive Session to discuss matters regarding contract negotiations.

Following discussion, at approximately 1:25 p.m., it was moved by Commissioner Sloma, seconded by Commissioner Durand, that the Executive Session be adjourned and that the Board resume the Regular Session.

**AYES: ZEMSKY, SLOMA, DEMAKOS, ANSARI, DURAND,
HUGHES**

NOES: NONE

8. Adjournment

At approximately 1:26 p.m., the Chairman indicated that there was no further business coming before the Board, whereupon it was moved by Commissioner Sloma, seconded by Commissioner Durand, and unanimously approved that the Regular Meeting of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc. be adjourned.

**AYES: ZEMSKY, SLOMA, DEMAKOS, ANSARI, DURAND,
HUGHES**

NOES: NONE