




Board Date: 7/23/2009
Time: 10:30 A.M.

Central Florida Regional Transportation Authority
455 N. Garland Ave.
2nd Floor Conference Room
Orlando, FL 32801






As a courtesy to others, please silence all electronic devices during the meeting.

1. Call to Order

2. Approval of Minutes

-  Minutes from the May 28, 2009 Audit Committee Meeting Pg. 2

3. Audit Agenda Items

- A.  Update on Funding Partner Presentation and Proposed Funding Agreements with the Funding Partners Pg. 6
- B.  Update on LYNX' Investment Policy Pg. 7
- C.  Update on Federal Transit Administration Procurement System Review Pg. 8
- D.  Update on Fuel Situation with J H Williams Oil Company, Inc. Pg. 9
- E.  Review of LYNX' Revised Transit Station License Agreement for the Shelter/Amenities Program Pg. 10

5. Information Items

(For Review Purposes Only - No action required)

- I.  LYNX 12 Month Rolling Calendar Pg. 20

LYNX
Central Florida Regional Transportation Authority
Audit Committee Meeting Minutes

PLACE: **LYNX Central Station**
 455 N. Garland Avenue
 Conference Room, 2nd Floor
 Orlando, FL 32801

DATE: **May 28, 2009**

TIME: **10:40 a.m.**

Members in Attendance:

Seminole County Commissioner, Carlton Henley, Chair
Osceola County Commissioner, Brandon Arrington
FDOT District 5 Secretary, Noranne Downs, Secretary
Orange County, Carla Johnson, Assistant to the Director, Growth Management
City of Orlando, F.J. Flynn, Division Manager, Transportation Planning

Members Absent:

1. Call to Order

The Chairman, Commissioner Carlton Henley, called the meeting to order at 10:40 a.m.

2. Approval of Minutes

Motion was made and seconded to approve the Minutes of the April 22, 2009 Audit Committee meeting. The motion passed unanimously.

Motion was made and seconded to approve the Minutes of the April 17, 2009 Audit Committee Workshop. The motion passed unanimously.

3. Audit Agenda Items

A. Overview of Proposed Investment Policy Discussions

The Chairman recognized Bert Francis, Chief Financial Officer, for presentation.

Mr. Francis noted that staff is requesting the Audit Committee form an Investment Committee. Staff suggested the Investment Committee be comprised of LYNX'

investment advisors, Burgess Chambers, an Audit Committee member, and Mr. Francis. The Investment Committee along with LYNX staff would review and make recommendations for revisions to the Investment Policy and bring the recommendations back to the Audit Committee.

The Audit Committee requested staff to proceed with preparing a proposed Investment Policy and to bring it back to the Committee. At that time, the Audit Committee will make recommendation for the structure of the Investment Committee.

B. Presentation on the Annual Financial Audit and Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ending September 30, 2009

The Chairman recognized Bert Francis, Chief Financial Officer, who introduced Carrie Cross, Audit Manager, Cherry, Bakeart & Holland, LLP, for presentation.

Prior to Ms. Cross' presentation, Mr. Francis noted that due to the budgeting time frame LYNX experienced this year, LYNX requested an extension of the deadline to submit the CAFR from March 31, to May 31, 2009 for approval and consideration of the Excellence in Achievement Award.

Ms. Cross reported that Cherry, Bakeart & Holland performed the audit of the basic financial statements in accordance with government auditing standards. A "clean" opinion was issued and there were no significant deficiencies or material weaknesses based on the statements.

Additionally, a single audit was conducted on the federal and state grant awards and issued a clean opinion on the programs with a finding related to compliance with sampling of passenger miles.

The Chairman asked staff what steps have been taken to correct the finding. Edward Johnson, LYNX, Chief Administrative Officer, reported that procedures have been implemented. Buses with Automated Passenger Counters (APC) are assigned by block and trip and data is sent to the Division of Planning weekly to ensure the buses were assigned to the correct blocks and the data was collected. In addition, staff conducts manual checks and the data collected is compared to the APC data.

Ms. Cross noted that a Management Letter was issued which includes recommendations for strengthening systems. Management Letter comments included two comments pertaining to IT and were contained in the prior year's report. They are in the process of being implemented in phases. An additional comment was included which recommends a Steering Committee to discuss business strategies in relation to IT systems.

Without objection, the Audit Committee will recommend acceptance of the Annual Financial Audit and Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ending September 30, 2008.

C. Presentation on Florida Transportation Commission – 2008 Transportation Authority Monitoring & Oversight

The Chairman recognized Edward Johnson, Chief Administrative Officer, for presentation.

Mr. Johnson introduced Rich Gallard, Florida Transportation Commission (FTC) to provide an overview of the FTC's responsibilities and LYNX' 2008 performance standards.

Mr. Gallard noted that the FTC's oversight role was expanded by the passage of HB985 in 2007. Their role encompasses the monitoring and oversight of 15 transportation authorities created under Florida Statute Chapters 343 and 348. The Commission has adopted performance measures and objectives, operating indicators and governance criteria to assess the overall responsiveness in meeting customer responsibilities. The FTC is responsible for monitoring seven active toll authorities and two active transit authorities. The transit authorities are LYNX and Tri-Rail.

LYNX met or exceeded half of the applicable objectives established by the Commission and there were no instances of noncompliance with applicable laws or regulations in the areas of ethics, conflicts of interest, public records, open meetings, bond compliance and other governance criteria established by the Commission.

D. Overview of LYNX Fuel Contract

The Chairman recognized Pat Christiansen, LYNX General Counsel, for presentation.

In August 2008, LYNX purchased fuel futures contracts from J.H. Williams ("Williams") Oil Company for the months of October 2008 through March 2009. These contracts were executed and the fuel delivered and paid for by LYNX.

Williams has asserted that in October 2008, LYNX agreed to purchase six contracts each month for the months of April through September 2009 (a total of 36 contracts). There was nothing in writing from LYNX that confirmed any such purchase from Williams and LYNX staff denies that it made any such order and asserts that it could not use that much fuel each month. In October 2008 when Williams purchased these fuel contracts, the price was \$2.93 per gallon. At the time the fuel would have been delivered in April, 2009, the fuel price was \$1.50 per gallon. For the total 36 contracts in dispute, the difference between the price in October 2008 and April 2009 is approximately \$2,500,000.

LYNX staff, along with the Board Chairman, has met with the Williams representatives and is attempting to resolve this matter although LYNX has indicated that it asserts that it has no liability for the purchase of the fuel.

In an effort to work out a resolution of this matter, staff and Williams have discussed a concept whereby LYNX would take down the 36 contracts over a longer period of time, possibly into fiscal year 2010, and for LYNX to perhaps fix its fuel costs for the remainder of FY2010 at this time.

Staff will request authorization to negotiate a possible settlement with Williams and, with the concurrence and approval of the Board Chairman, for the CEO to then execute a settlement agreement with Williams.

Without objection, the Audit Committee will recommend authorization to staff to negotiate revisions to contracts and purchase issues with JH Williams Oil Company and, with the concurrence and approval of the Board Chairman, for the CEO to execute a settlement agreement with Williams.

4. Review of Board Package

The Chairman recognized Linda Watson, Chief Executive Officer, to provide an overview of items that will come before the Board.

1. Ms. Watson reported that a survey had been conducted of the Board members and LYNX staff regarding the potential for changing the Audit Committee and Board meetings to an every-other-month schedule. The Audit Committee and Board will not meet June 25th, August 27th, and October 22nd. The Audit Committee and Board will meet on July 23, September 24th and December 10th.
2. Ms. Watson noted that a "Blue Sheet" item has been added to the Agenda: Authorization to negotiate Revisions to Contracts and Purchase Issues with J.H. Williams Oil Company for Fuel Delivery

Discussion ensued regarding the Consent Agenda item wherein staff is requesting authorization to award a contract to the Center for Alternative Fuels, Engines and emissions (CAFEE) at the University of West Virginia for assistance in the bio-diesel fleet emission and greenhouse gas demonstration project.

Motion was made and seconded to adjourn. The Motion passed.

The meeting adjourned at 11:42 a.m.

Audit Committee Agenda Item #3.A

To: LYNX Board of Directors

From: Bert Francis
CHIEF FINANCIAL OFFICER
Blanche Sherman
(Technical Contact)

Phone: 407.841.2279 ext: 6047

Item Name: Update on Funding Partner Presentation and Proposed Funding Agreements with the Funding Partners

Date: 7/23/2009

Bert Francis, LYNX Chief Financial Officer, will give an update on the budget presentation to Orange County presented on July 22, 2009. Staff will also give an update on the proposed funding agreements with the funding partners for FY2010.

Audit Committee Agenda Item #3.B

To: LYNX Board of Directors

From: Bert Francis
CHIEF FINANCIAL OFFICER
Blanche Sherman
(Technical Contact)

Phone: 407.841.2279 ext: 6047

Item Name: Update on LYNX' Investment Policy

Date: 7/23/2009

LYNX Chief Financial Officer, Bert Francis will provide a brief update on the status of the proposed Investment Policy.

Audit Committee Agenda Item #3.C

To: LYNX Board of Directors

From: Bert Francis
CHIEF FINANCIAL OFFICER
Rich Bannon
(Technical Contact)

Phone: 407.841.2279 ext: 6047

Item Name: Update on Federal Transit Administration Procurement System Review

Date: 7/23/2009

The Federal Transit Administration (FTA) contracted with Calyptus Consulting Group, Inc. to perform a follow-up review of the Procurement System used by LYNX in the expenditure of grant funds. The Procurement System Review (PSR) process uses a standardize approach, interview guides, checklists, and reporting framework. This process was applied to the review of LYNX in an abbreviated format because it was a follow-up to the 2006 procurement review, and only those procurement system elements deficient during that review were assessed.

Bert Francis, LYNX Chief Financial Officer, presented the results of the review as well as corrective actions being taken by LYNX to the Board of Directors on January 22, 2009. Mr. Francis will present an update to the Audit Committee on the current status of the review.

Audit Committee Agenda Item #3.D

To: LYNX Board of Directors

From: Bert Francis
CHIEF FINANCIAL OFFICER
Rich Bannon
(Technical Contact)

Phone: 407.841.2279 ext: 6047

Item Name: Update on Fuel Situation with J H Williams Oil Company, Inc.

Date: 7/23/2009

LYNX Chief Financial Officer, Bert Francis will provide an update on the status of the fuel situation with J H Williams Oil Company, Inc.

Audit Committee Agenda Item #3.E

To: LYNX Board of Directors

From: **Edward Johnson**
CHIEF ADMINISTRATIVE OFFICER
Tony Walter
(Technical Contact)
Rich Bannon
(Technical Contact)
Jeff Reine
(Technical Contact)

Phone: 407.841.2279 ext: 6058

Item Name: Review of the Revised Transit Station License Agreement for the LYNX Shelter/Amenities Program

Date: 7/23/2009

Pat Christiansen, LYNX General Counsel, will discuss with the Audit Committee the proposed changes to the Transit License Agreement for the Shelter/Amenities Program. LYNX, as transit provider for Central Florida, provides shelters throughout the service area for our customers. These transit shelters, whether located on private or public property are a part of the LYNX image and service. In order to ensure the shelters are accessible, maintained and guarantee the maximum useful life of the shelters, LYNX executes Transit Station License Agreements that allow LYNX access and use of property for the provision of transit service. A copy of the current revised Transit License Agreement as modified and updated by legal counsel, is attached.

The majority of the modifications to the agreement is minor in nature and are typified by formatting and semantics. With respect to content, the following changes were made:

1. Latitude is given to LYNX for the type of shelter that is used. The new agreement states that: The Transit Station shall be comparable to other transit stations currently used by LYNX or as may be modified or used by LYNX from time to time
2. LYNX has a specific provision that allows for the removal of a shelter in the event that service is terminated to the shelter location site.
3. Since LYNX is entitled to the benefit of sovereign immunity under the laws of the State of Florida, references to insurance and indemnification were removed.

4. With respect to the warranties and representations, LYNX is able to request sufficient title if necessary prior to the installation of a shelter.
5. Clarification is provided that although this Agreement is denominated as a "license", it is deemed to be irrevocable by the Licensor and therefore is in the nature of an easement granting to LYNX the right to use the Transit Site
6. Provisions that changes can be made to this agreement by both parties but that all changes must be made in writing and dutifully approved.

The use by LYNX staff of the form of agreement attached hereto with the following notations:

1. The form of the agreement is generally a ten (10) year agreement, although this agreement may vary depending on negotiations with the particular property owner.
2. LYNX generally does not pay any monies for the obtaining of the license other than perhaps a minimum amount.
3. Very often, a property owner will want changes or modifications to the agreement, at which time Staff will discuss this matter with legal counsel and utilize legal counsel for modifying the agreement.

The approval requested from the Board of Directors' is for the general form of agreement attached hereto but also for LYNX staff, with modifications as approved by legal counsel, to further modify the agreement from time to time if required, but further providing that LYNX does not pay to any property owner more than a nominal amount for the obtaining of said license. In such case, LYNX staff would be authorized to then proceed forward with the license agreement without further Board approval.

The authority requested is for the Chief Executive Officer to execute the form of the license agreement from time to time and if he/she so delegates, for that authority also to go to the Chief Administrative Officer, Chief Financial Officer and Chief Operating Officer.

Any fiscal impact with the execution of this Transit License Agreement shall be within the policies and procedures as set forth and approved by the Board of Directors.

TRANSIT STATION LICENSE AGREEMENT

LYNX AGREEMENT NUMBER _____

THIS TRANSIT STATION LICENSE AGREEMENT (this “**Agreement**”) is entered into as of this _____ day of _____, 20____, by and between

_____ (“**Licensor**”).

and

CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY, d/b/a **LYNX**, a body politic and corporate, created by Part II, Chapter 343, Florida Statutes, whose address is 455 North Garland Avenue, Orlando, Florida (“**LYNX**” or “**LYNX**”).

WITNESSTH

WHEREAS, LYNX operates a public transit system that transports the public throughout the Central Florida area; and

WHEREAS, it is critical to the success of the public transit system that passengers have safe and convenient locations to wait for and to board LYNX vehicles; and

WHEREAS, it is beneficial to Licensor and their officials, employees, agents and guests that vehicles operated by LYNX pick-up and drop-off passengers at a transit site located on its property described herein; and

WHEREAS, the parties agree that it is in their mutual best interests to place a transportation facility at the specified site for use as a transit station for LYNX vehicles, which will provide facilities for the embarking and disembarking of passengers to and from LYNX vehicles that are safe, convenient, accessible and comfortable for passengers on LYNX vehicles.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties, Licensor and LYNX hereby agree as follows:

Grant of License. Licensor hereby grants LYNX a license (the “**License**”) to enter upon the real property located in Orange County, Florida, more particularly described and delineated by the site plan attached hereto as **Exhibit “A”** and made a part hereof (the “**Transit Site**”) for the sole and limited purpose of installing, operating and repairing a public transit station, subject to all of the terms and conditions provided for herein. Licensor agrees LYNX may install and use on the Transit Site a facility for passengers of LYNX vehicles which consists of one or more trash receptacles, benches, signs, passenger waiting shelters, and such other items as may be used by LYNX in its public transit system (collectively, the “**Transit Station**”).

Installation of Transit Station by LYNX. LYNX shall at its expense provide all the materials and labor for the construction of the Transit Station on the Transit Site. LYNX shall retain ownership of such Transit Station. The Transit Station shall be comparable to other transit stations currently used by LYNX or as may be modified or used by LYNX from time to time.

Term. This Agreement shall commence on the date first written above for a term of ten (10) years (the “**Term**”) and shall, subject to the right of termination hereinafter set forth, automatically renew thereafter on a yearly basis. Notwithstanding the foregoing sentence for the term of this Agreement, this Agreement may be terminated by LYNX at any time by giving ninety (90) written days notice to the Licensee that based upon LYNX's public transit system and utilization, the Transit Station is no longer needed, and, in such case, this Agreement will terminate at the end of said ninety (90) days. Upon termination of this Agreement, LYNX shall remove the Transit Station and all of LYNX's equipment at the Transit Site and shall return the Transit Site to substantially the condition existing prior to the installation of the Transit Station.

Damage to the Transit Station. Licensor shall be responsible for day-to-day normal and customary maintenance of the Transit Station, including without limitation, washing the Transit Station from time to time and picking up trash on the Transit Station on a regular basis, but excluding paint and graffiti removal. LYNX shall be responsible for repair of any damage to the Transit Station or Transit Site, except for any damage which may be caused by Licensor or and its agents, in which case the repair shall be undertaken by the Licensor. Such repair will be commenced within three (3) days after Licensor is notified by LYNX, in writing, of such damage.

Sovereign Immunity. The parties are aware and understand that the LYNX is a governmental body created by the Florida Legislature and, as such, is entitled to the benefit of sovereign immunity under the laws of the State of Florida. Nothing contained in this Agreement shall be deemed to be a waiver by the LYNX of any of its rights under said sovereign immunity.

Licensor acknowledges that under the principle of sovereign immunity, LYNX is nonetheless liable for its tortious acts only up to the amounts of \$100,000/\$200,000 as specifically provided in Section 768.28, Florida Statutes, or such other amount as may be specified in the future through any statutory modification of said statute.

Advertising. LYNX may place or permit placement of any advertising materials or public notices similar to those customarily placed on or in transit stations within the LYNX system on the exterior or interior of the Transit Station. LYNX shall have the right to retain all amounts generated by such advertising.

Security. Licensor shall not be responsible for providing security for the Transit Site or for any persons using the Transit Station.

No Partnership. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

Warranties and Representations. Licensor does hereby represent and warrant to LYNX that as of the date of this Agreement to the best of Licensor's knowledge:

Licensor has title to the Transit Site, and the legal description attached hereto is correct and accurate.

There are no encumbrances on the Transit Site that could adversely affect the License or the Transit Station.

Upon request by LYNX, Licensor shall furnish current title evidence to LYNX.

Notices. Any notice, request, demand, approval, consent or other communication which Licensor or LYNX may be required or permitted to give to the other party shall be in writing and shall be mailed or hand delivered to the other party at the addresses set forth below:

If to Licensor:

Attention: _____
Telephone No.: _____
Telecopy No.: _____
Email address: _____

With a copy to:

Attention: _____
Telephone No.: _____
Telecopy No.: _____
Email address: _____

If to LYNX:

LYNX
455 North Garland Avenue
Orlando, Florida 32801-1518
Attention: Chief Administrative Officer
Telephone No.: _____
Telecopy No.: _____
Email address: _____

With a copy to:

Attention: _____
Telephone No.: _____
Telecopy No.: _____
Email address: _____

or to such other address as either party shall have designated by notice to the other pursuant to this paragraph. The time of the rendition of such notice shall be one of the following: (i) two (2) days after same is deposited in an official United States Post Office with postage prepaid, and with certified or registered mail, return receipt requested; (ii) the date of when same is hand delivered; or (iii) the date delivered by overnight courier with confirmation of delivery required.

Miscellaneous.

Status of License. Although this Agreement is denominated as a "license", it is deemed to be irrevocable by the Licensor and therefore is in the nature of an easement granting to LYNX the right to use the Transit Site.

Authorization. Each of Licensor and LYNX hereby represent and warrant to the other that as of the date of this Agreement, the undersigned is duly authorized to execute this Agreement on behalf of Licensor or LYNX, respectively.

Choice of Law; Venue. This Agreement and the provisions contained herein shall be construed, controlled and interpreted in accordance with the laws of the State of Florida. Venue for any dispute arising as a result of this Agreement shall be Orange County, Florida.

Attorneys Fees. In connection with any legal proceedings arising out of this Agreement, the prevailing party shall be entitled to recover its costs, expenses, attorney and paralegal fees, including without limitation, those incurred at trial and in any administrative, arbitration, mediation, bankruptcy or appellate proceedings.

Time of the Essence. Time is of the essence of this Agreement.

Severability. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining provisions.

Interpretation of Agreement. This Agreement shall be interpreted without giving effect to which party may have drafted this Agreement.

Complete Agreement. This Agreement constitutes the complete agreement between the parties as to the matters set forth herein and may not be amended or modified except in a writing signed by the party to be charged. The foregoing provision itself may not be modified orally; specifically, the parties are aware and understand that LYNX, as a public body is only bound by

agreements actually signed by the proper authorized persons on behalf of LYNX. No person with LYNX has any "apparent authority".

[Signatures Begin on Following Page]

AGREED TO by the parties hereto as of the date first above written.

Signed, sealed and delivered
in the presence of:

"LICENSOR"

(Signature of Witness)

By: _____
(Signature of Authorized Official)

(Name of Witness)

(Print Name and Title of Person Signing)

(Signature of Witness)

Date: _____

(Name of Witness)

As to "Licensor"

"LYNX"

**CENTRAL FLORIDA REGIONAL
TRANSPORTATION AUTHORITY**

(Signature of Witness)

By: _____
Name: _____
Title: _____

(Name of Witness)

Date: _____

(Signature of Witness)

(Name of Witness)

As to "LYNX"

Approved as to Form:

This Contract is approved as to form only for execution by LYNX and this approval is not to be relied upon by the Contractor for any purpose.

AKERMAN SENTERFITT

By: _____

Name: _____

Title: LYNX General Counsel

Exhibit "A"

LEGAL DESCRIPTION OF TRANSIT SITE

Audit Committee Information Item #.I

To: LYNX Board of Directors

From: Bert Francis
CHIEF FINANCIAL OFFICER
Rich Bannon
(Technical Contact)

Phone: 407.841.2279 ext: 6047

Item Name: LYNX 12 Month Rolling Calendar

Date: 7/23/2009

September 2009

- Authorization to execute local funding agreements
- Annual Board of Directors' selection of officers
- Adoption of the Title VI Program
- Authorization to execute agreement between LYNX and VOTRAN for the Link 200
- Acceptance of the Chief Executive Officer's (CEO) annual appraisal
- Contract #06-001 Authorization to exercise the third option year with Akerman Senterfitt for Federal Lobbying Consulting Services
- Authorization to submit annual FTA Certifications
- Authorization to Implement December 6, 2009 Fixed Route Service Changes

December 2009

- No Activity

January 2010

- No Activity

February 2010

- Adoption of LYNX' FY2010 Legislative Priorities

March 2010

- Authorization to Accept Year-end Financial Audit

April 2010

- Preliminary Review of FY2011 Proposed Budget
- Authorization to submit FDOT Service Development Grant(s) Application(s)

May 2010

- Work Session on Transit Development Plan (TDP)