

Date: April 22, 2009
W.I.: 1251
Referred by: BATA Oversight

ABSTRACT

BATA Resolution No. 85

This resolution authorizes the publication of an information statement relating to the Authority and its bonds, the taking of various actions in connection with the Authority's outstanding variable rate demand bonds, and the issuance of bonds to finance Authority projects, the related bond and disclosure documents, and all necessary actions in connection therewith.

Discussion of this action is contained in the Executive Director's memorandum dated April 1, 2009.

Date: April 22, 2009
W.I.: 1251
Referred by: BATA Oversight

RE: Authorizations Concerning Bay Area Toll Authority San Francisco Bay Area Toll Bridge Revenue Bonds

BAY AREA TOLL AUTHORITY
RESOLUTION NO. 85

WHEREAS, the Bay Area Toll Authority (the “Authority”), has issued its Toll Bridge Revenue Bonds (the “Bonds”) pursuant to the Master Indenture, as amended and supplemented (the “Indenture”), between the Authority and Union Bank of California, N.A. (“Union Bank”), as trustee;

WHEREAS, the Authority’s existing plan of finance contemplates the issuance of additional Bonds (“Additional Bonds”) to provide additional funding for the seismic retrofit program and other Authority projects and, in order to minimize debt service associated with such Additional Bonds, provide more efficient access to the capital markets and maximize benefits to the Authority, the Authority finds it desirable to authorize the sale and delivery of such Additional Bonds in one or more Series from time to time;

WHEREAS, the federal American Recovery and Reinvestment Act of 2009 (the “ARRA”) permits the Authority to issue additional Bonds in the form of taxable “Build America” Bonds and, upon satisfaction of certain criteria, to receive an interest subsidy payment from the federal government;

WHEREAS, in order to provide flexibility to the Authority in taking advantage of the new options afforded by the ARRA, the Authority finds it desirable to authorize the sale and delivery of such additional bonds as “Build America” bonds and as Additional Bonds on a parity with the Bonds outstanding under the Indenture;

WHEREAS, the Authority currently has outstanding variable rate demand Bonds the payment of which is supported by standby bond purchase agreements provided by various banks;

WHEREAS, certain of the standby bond purchase agreements will expire during calendar year 2009;

WHEREAS, recent developments in the global credit markets have resulted in decreased availability of liquidity support for variable rate demand obligations such as the Bonds on favorable financial terms, and, in order to minimize debt service and other fees associated with the Authority's outstanding variable rate demand Bonds and maximize benefits to the Authority, it is desirable for the Authority to pursue a strategy or combination of strategies with respect to such Bonds as further outlined herein;

WHEREAS, in order to facilitate and increase the efficiency of the offering and sale of the Additional Bonds and the remarketing of outstanding Bonds, there has been prepared and presented to the Authority a proposed form of information statement relating to the Authority and its Bonds (the "Information Statement");

WHEREAS, there has been prepared and presented to the Authority a proposed form of supplement to the information statement that is to be used together with the Information Statement in connection with the offering of the Additional Bonds and that can be adapted for the reoffering of variable rate demand Bonds converted to another interest rate mode or modes; now, therefore, be it

RESOLVED, that the Authority finds that the foregoing recitals are true and correct and that capitalized terms used in this Resolution that are defined in the Indenture shall have the meanings herein that are assigned to such terms therein; and, be it further

RESOLVED, that the Authority hereby authorizes the issuance, from time to time, of Additional Bonds as fixed interest rate Bonds (with interest either federally taxable or federally tax-exempt) in one or more Series in accordance with the Indenture, in an aggregate principal amount not to exceed \$1.2 billion, to:

- (1) fund the seismic retrofit program and other Authority projects;

- (2) increase the amount in the Reserve Fund as necessary to meet the requirements of the Indenture;
- (3) pay costs of issuance of the Additional Bonds, provided that the aggregate costs of issuance of the Additional Bonds (including the underwriters' discount but excluding the costs of any Reserve Facilities entered into in connection with the Additional Bonds) shall not exceed 2% of the aggregate principal amount of the Additional Bonds issued; and
- (4) pay any interest rate swap-related or other costs, fees or payments as are determined to be necessary or desirable by the Executive Director or the Chief Financial Officer in carrying out the purposes of this Resolution;

provided, however, that the Additional Bonds authorized hereby shall not be issued after December 31, 2009 without further authorization by the Authority; and be it further

RESOLVED, that subject to the foregoing, the series designations, dates, maturity date or dates (not to exceed 40 years from their date of issuance), interest rate or rates (with a true interest cost of not to exceed 6% with respect to tax-exempt Bonds or 8.5% with respect to taxable Bonds), terms of redemption, and other terms of each series of Additional Bonds shall be as provided in the applicable Supplemental Indenture as finally executed, and the Supplemental Indenture may include amendments to the Indenture making provision for the interest subsidy payments on any Build America Bonds and permitting the interest subsidy payments for Build America Bonds to be credited against the interest payable on Build America Bonds for purposes of the additional bonds test in the Indenture; and be it further

RESOLVED, that pursuant to Section 3.01(B)(1) of the Indenture, the Authority hereby determines in connection with the issuance of the Additional Bonds authorized by this Resolution that the ratio of (A) Net Revenue for the most recent Fiscal Year for which audited financial statements are available, to (B) Maximum Annual Debt Service on the Bonds (and Parity Obligations), including the Additional Bonds (and related Parity Obligations) authorized hereby, will not be less than 1.50:1, and the Authority hereby directs the Executive Director, the Chief Financial Officer or another Authorized Representative (as defined in the Indenture) (each, an "Authorized Representative") to update this calculation as of the actual date of sale of each Series of

the Additional Bonds and in the actual amount being sold and to proceed with the sale only if the aforesaid ratio is not less than 1.50:1 as of said date of sale; and be it further

RESOLVED, that the Authority hereby:

- (1) approves the form of Information Statement presented to this meeting (in substantially the form so presented) and authorizes an Authorized Representative to publish, post or disseminate the Information Statement with such changes therein as are approved by such Authorized Representative;
- (2) authorizes the use of the Information Statement, as amended or supplemented from time to time hereafter by supplements approved by an Authorized Representative to disclose the terms of the Bonds offered or remarketed thereby and any material information that the Authorized Representative determines should be included therein, which Information Statement as so amended or supplemented shall be the Authority's reoffering circular or official statement (and deemed final by an Authorized Representative on behalf of the Authority for purposes of compliance with Securities and Exchange Commission Rule 15c2-12);
- (3) authorizes the distribution of each such reoffering circular or official statement as is so approved by such Authorized Representative; and
- (4) authorizes underwriters and broker dealers to distribute copies of each such reoffering circular or official statement to persons purchasing the Additional Bonds and reoffered Bonds; and be it further

RESOLVED, that the Authority hereby authorizes any one or more of the following strategies to be pursued by the Authority with respect to the existing variable rate demand Bonds:

- (1) executing new, extended or amended liquidity agreements to support the variable rate demand Bonds;
- (2) converting the variable rate demand Bonds to another interest rate mode or modes, including new interest rate modes not currently found in the Authority's Indenture;
- (3) amending, restructuring, or terminating, including replacing or entering into one or more novations with respect to, existing swap agreements related to the variable rate demand Bonds and entering into new interest rate swap agreements to hedge the Authority's

exposure to interest rate risk on Additional Bonds and converted variable rate demand Bonds; and

(4) entering into new or amended arrangements with liquidity and credit providers, underwriters, and remarketing agents with respect to the variable rate demand Bonds;

and be it further

RESOLVED, that, in order to facilitate any of the actions authorized hereby with respect to the Authority's variable rate demand Bonds, the Authority hereby authorizes each of the Authorized Representatives to purchase, for and on behalf of the Authority, variable rate demand Bonds at a price equal to the principal amount of such Bonds (plus accrued interest) on a date or dates selected by the Authority; and be it further

RESOLVED, that the Authority hereby authorizes an Authorized Representative to select the parties to and execute and deliver (and the Secretary is authorized to countersign, if necessary) each of the documents that is necessary or appropriate to effect each of the transactions contemplated hereby, including, without limitation, Supplemental Indentures, standby bond purchase agreements, municipal bond insurance agreements, official statements, reoffering circulars, purchase contracts, remarketing agreements, and continuing disclosure agreements (collectively called the "Bond Documents") in substantially the forms approved hereby or executed by the Authority in the past, as applicable, with such additions thereto or changes therein or in such other form as the Authorized Representative executing the same, with the advice of General Counsel to the Authority and Orrick, Herrington & Sutcliffe LLP, bond counsel to the Authority ("Bond Counsel"), may require or approve, the approval of such additions or changes or the approval of such other form to be conclusively evidenced by the execution and delivery of each Bond Document; and be it further

RESOLVED, that, because the Authority's cost of funds to pay interest on Bonds heretofore and hereafter issued will be affected by changes in interest rates, each Authorized Representative is hereby authorized, for and on behalf of the Authority, to select counterparties for and prepare, enter into, and perform contracts and arrangements permitted by California Government Code Sections 5920 through 5923 in connection with or incidental to the issuance or carrying of Bonds,

and the Authority hereby finds and determines that such contracts and arrangements are designed to reduce the amount or duration of payment, currency, rate, spread, or similar risk or result in a lower cost of borrowing when used in combination with the issuance or remarketing of Bonds or to enhance the relationship between risk and return with respect to the investment or program of investment in connection with, or incidental to, the contract or arrangement which is to be entered into, and the Authorized Representative is hereby authorized:

- (1) to amend, restructure or terminate, including to replace or enter into one or more novations with respect to, existing swap agreements related to the variable rate demand Bonds;
- (2) to hedge the Authority's exposure to interest rate risk on all or any portion of the Additional Bonds or the Bonds by means of new interest rate swap agreements that obligate the Authority to make variable payments to swap counterparties, provided the resulting variable payment obligations of the Authority shall not exceed a contractual ceiling (which may be based on an index) approved by an Authorized Representative;
- (3) provided, that all such contracts and arrangements referred to in (1) and (2) above shall be entered into in accordance with the Authority's Debt Policy, as amended from time to time, after giving due consideration for the creditworthiness of the counterparties, and in accordance with previously-approved forms of swap documentation as guidelines for documentation, with such changes in swap documentation as shall be approved by an Authorized Representative;
- (4) provided further, that each such contract or arrangement shall be a Qualified Swap Agreement if the Authority has received a Rating Confirmation from each Rating Agency with respect thereto and if the Authorized Representative determines, for and on behalf of the Authority, that (a) the notional amount of the contract or arrangement does not exceed the principal amount of the related series of Bonds of the Authority or portion thereof as applicable (and in making such a determination, the Authorized Representative is hereby directed to calculate notional amounts as net amounts by taking into account and giving effect to all contracts and arrangements referred to above and rounding amounts as necessary to establish that each such agreement is a Qualified Swap Agreement) and (b) the contract or arrangement is intended to place the Bonds on the interest rate basis desired by the Authority, that payments (other than payments of fees

and expenses and termination payments, which shall be Subordinate Obligations) thereunder shall be payable from Revenue on a parity with the payment of Bonds, and that the contract or arrangement is designed to reduce the amount or duration of payment, rate, spread, or similar risk or result in a lower cost of borrowing when used in combination with the issuance or conversion of Bonds of the Authority; and be it further

RESOLVED, that the Chair of the Authority, the Vice Chair of the Authority, the Executive Director, the Chief Financial Officer, and other appropriate officers of the Authority, be and they are hereby authorized and directed, jointly and severally, for and in the name and on behalf of the Authority, to execute and deliver any and all certificates, documents, amendments, instructions, orders, representations and requests, and to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, to effectuate the actions that the Authority has approved in this Resolution or in prior resolutions related to the Bonds and to carry out, consummate and perform the duties of the Authority set forth in the Bond Documents and all other documents executed in connection with the Bonds; and be it further

RESOLVED, that this Resolution shall take effect from and after its adoption.

BAY AREA TOLL AUTHORITY

Scott Haggerty, Chair

The above resolution was entered into by the Bay Area Toll Authority at a regular meeting of the Authority held in Oakland, California, on April 22, 2009.