

Date: July 22, 2009
W.I.: 1254
Referred by: BATA Oversight

ABSTRACT

BATA Resolution No. 89

This resolution authorizes the taking of various actions in connection with the Authority's outstanding bonds and bank liquidity facilities, the issuance of bonds to finance Authority projects, and the related bond and disclosure documents.

Discussion of this action is contained in the Executive Director's accompanying memorandum.

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BAY AREA TOLL AUTHORITY
RESOLUTION NO. 89

WHEREAS, the Bay Area Toll Authority (the "Authority"), has issued bonds ("outstanding bonds") pursuant to applicable law and a Master Indenture, as amended and supplemented (the "Indenture"), between the Authority and Union Bank of California, N.A. ("Union Bank"), as trustee;

WHEREAS, bank standby bond purchase commitments providing liquidity support for the remarketing of outstanding bonds have expired or are scheduled to expire in 2009 and 2011, and the Authority has decided to restructure and replace certain of those commitments, remarket or refund bonds that will no longer be supported by bank standby bond purchase commitments as long-term fixed interest rate bonds, and remarket bonds that will continue to be supported by bank standby bond purchase commitments as variable rate demand bonds;

WHEREAS, the Authority plans to use its funds to pay costs of the Authority's seismic retrofit program and capital improvement projects and the Authority intends to issue additional bonds ("additional bonds") to fund costs of the Authority's seismic retrofit program and other Authority capital improvement projects and to reimburse the Authority for its prior payment of such costs, and the federal American Recovery and Reinvestment Act of 2009 permits the Authority to issue the additional bonds in the form of "build America bonds" bearing federally taxable interest and, upon satisfaction of certain criteria, to receive an interest subsidy payment from the federal government;

WHEREAS, applicable law and the Indenture permit the Authority to issue its additional bonds pursuant to a subordinate indenture, and the Authority has decided to authorize the issuance of the additional bonds as subordinate bonds ("subordinate bonds") under a new indenture (the "Subordinate Indenture") or, alternatively, as additional bonds under the Indenture;

WHEREAS, in order to facilitate and increase the efficiency of selling and remarketing the Authority's bonds, there has been prepared and presented to the Authority a proposed form of information statement relating to the Authority and its bonds; now, therefore, be it

RESOLVED, that the Authority finds that the foregoing recitals are true and correct and, be it further

RESOLVED, that the Authority hereby authorizes the issuance, from time to time until December 31, 2009, of additional bonds in the aggregate principal amount of up to \$1.3 billion as fixed interest rate bonds (with interest either federally taxable or federally tax-exempt) in one or more series, in accordance with the Indenture or the Subordinate Indenture, to:

- (1) fund the seismic retrofit program and other Authority capital improvement projects and to reimburse the Authority for its prior payment of such costs;
 - (2) fund the reserve fund contribution requirement of the Indenture and the Subordinate Indenture; and
 - (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 fund sureties entered into in connection with the additional bonds) shall not exceed 2% of the aggregate principal amount of the additional bonds issued,
- it being intended that this authorization replaces the authorization of additional bonds in Resolution No. 85, 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 6.25% 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 a supplemental indenture to the Indenture or Subordinate Indenture; and be it further

RESOLVED, that the Executive Director and the Chief Financial Officer, and each of them, (each, an "Authorized Representative") be and hereby is authorized to select a trustee to serve as trustee under the Subordinate Indenture and to enter into the Subordinate Indenture with the trustee in substantially the form presented to this meeting, with such additions thereto or changes therein 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 to be conclusively evidenced by the execution and delivery of the Subordinate Indenture; and be it further

RESOLVED, that each Authorized Representative be and hereby is authorized to enter into a supplemental indenture to the Indenture requiring the Authority to pay funds from the Bay Area Toll Account to the trustee under the Indenture for transfer to the trustee under the Subordinate Indenture (after the payment of senior bond debt service and Parity Obligations (as defined in the Indenture)) in order to provide for the payment of obligations under the Subordinate Indenture and, if the Authorized Representative so elects, treating the interest subsidy payments on any build America bonds as revenue pledged to pay debt service on bonds of the Authority, which supplemental indenture shall be in such form as the Authorized Representative executing the same, with the advice of General Counsel to the Authority and Bond Counsel, approves (approval to be conclusively evidenced by the execution and delivery of the supplemental indenture); and be it further

RESOLVED, that in the event the additional bonds are issued pursuant to the Indenture, the Authority hereby determines pursuant to Section 3.01(B)(1) of the Indenture (terms used in this clause that are defined in the Indenture have the meaning herein assigned therein) and based on the calculations attached hereto in Attachment A to this Resolution, and incorporated herein as though set forth at length, 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 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 pursuant to the Indenture 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 outstanding bonds, refunding bonds, and additional 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 Authority's 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 outstanding bonds:

- (1) executing new, extended or amended liquidity agreements to support outstanding bonds that an Authorized Representative determines are or will be variable rate demand bonds;
- (2) converting or refunding all other outstanding bonds that are currently variable rate demand bonds or term mode bonds to fixed interest rate bonds (or another interest rate mode or modes, including new interest rate modes not currently found in the Authority's Indenture), provided that if refunding bonds are so issued, 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 6.25%), terms of redemption, and other terms of each series of additional bonds shall be as provided in a supplemental indenture to the Indenture or Subordinate Indenture and the aggregate costs of issuance of the refunding bonds (including the underwriters' discount but excluding the costs of any reserve fund sureties entered into in connection with the refunding bonds) shall not exceed 2% of the aggregate principal amount of the refunding bonds issued; and

- (3) terminating or reducing the Authority's bank standby bond purchase commitments and entering into new or amended arrangements with liquidity providers, underwriters, and remarketing agents with respect to the Authority's outstanding bonds that the Authorized Representative determines will be 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, 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 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 subordinate bonds 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 the Authority's subordinate 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 subordinate 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 hedge the Authority's exposure to interest rate risk on all or any portion of its subordinate bonds by means of 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; and
- (2) provided, that all such contracts and arrangements 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, 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 be it further

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

BAY AREA TOLL AUTHORITY

Bill Dodd, 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 July 22, 2009.

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BAY AREA TOLL AUTHORITY
Additional Bonds Test calculation for proposed \$1.3 billion of new bonds
100% Tax Exempt Fixed Rate Bonds

	(000's)	Fiscal Year 2008 Audited Results	Debt Service and Coverage Calculations
A Toll Revenues		\$477,377	
B Interest Income		\$116,134	
C Other Operating Revenues		<u>\$14,309</u>	
D REVENUE (A + B + C)		\$607,820	
E Category A Operating Expenses		\$30,271	
F NET REVENUE (D - E)		\$577,549	
Maximum Annual Debt Service as of 7/1/09 (occurs in the Fiscal Year ending June 30, 2032)			\$267,713
G Maximum Annual Debt Service after \$1.3 billion of fixed rate bonds issued in 2009 at 6.25%			\$378,033
H Debt Service Coverage (F / G)			1.53

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BAY AREA TOLL AUTHORITY
Additional Bonds Test calculation for proposed \$1.3 billion of new bonds
Build America Bonds - Gross Scenario (assumes Federal Subsidy is treated as REVENUES)

	Fiscal Year 2008 Audited Results	Debt Service and Coverage Calculations
	(000's)	
A Toll Revenues	\$477,377	
B Interest Income	\$116,134	
C Other Operating Revenues	<u>\$14,309</u>	
D Build America Bonds Federal Subsidy	\$38,675 ⁽¹⁾	
E REVENUE (A + B + C + D)	\$646,495	
F Category A Operating Expenses	\$30,271	
G NET REVENUE (E - F)	\$616,224	
Maximum Annual Debt Service as of 7/1/09 (occurs in the Fiscal Year ending June 30, 2032)		\$267,713
H Maximum Annual Debt Service after \$1.3 billion of fixed rate bonds issued in 2009 ⁽²⁾		\$386,978
I Debt Service Coverage (G / H)		1.59

(1) 35% of Build America Bonds interest cost

(2) \$1.3 billion of taxable bonds at 8.50% at 40 years