COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Pierce R. Homer
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Agenda item #7

RESOLUTION
OF THE
COMMONWEALTH TRANSPORTATION BOARD

April 17, 2008

MOTION

Made By: Mr. White Seconded By: Mr. Bowie Action: Motion Carried, Unanimously

AUTHORIZING THE ISSUANCE AND SALE OF
COMMONWEALTH OF VIRGINIA
TRANSPORTATION CAPITAL PROJECTS REVENUE BONDS, SERIES 2008

WHEREAS, pursuant to the State Revenue Bond Act (the "State Revenue Bond Act"), Sections 33.1-267 *et seq*. of the Code of Virginia of 1950, as amended (the "Virginia Code"), the Commonwealth Transportation Board (the "Board") has the power to issue revenue bonds to finance the costs of transportation projects authorized by the General Assembly of Virginia (the "General Assembly"), including any financing costs or other financing expenses related to such bonds;

WHEREAS, pursuant to the Commonwealth Transportation Capital Projects Bond Act of 2007, enactment clause 2 of Chapter 896 of the Acts of the General Assembly of the Commonwealth of Virginia, 2007 Regular Session, as amended (the "Act"), the Board is authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of the State Revenue Bond Act, revenue obligations of the Commonwealth of Virginia (the "Commonwealth") to be designated "Commonwealth of Virginia Transportation Capital Projects Revenue Bonds, Series ….." (the "Bonds") at one or more times in an aggregate principal amount not to exceed $3,000,000,000, after all costs, provided that the aggregate principal amount issued in any one fiscal year shall not exceed $300,000,000, excluding any refunding bonds; if the aggregate principal amount issued in any fiscal year is less than $300,000,000, then the amount by which such issuance is less than $300,000,000 may be issued in any subsequent fiscal year in addition to the $300,000,000 authorized in the subsequent fiscal year;

WHEREAS, Section 33.1-269 of the Virginia Code provides that the Bonds shall be secured, subject to their appropriation by the General Assembly, (i) from the revenues deposited

into the Priority Transportation Fund created under Section 33.1-23.03:8 of the Virginia Code (the "Fund"), (ii) to the extent required, from revenues legally available from the Transportation Trust Fund, and (iii) to the extent required, from any other legally available funds;

WHEREAS, the Board proposes to issue a series of Bonds (the "2008 Bonds") for the purposes authorized under and in accordance with the provisions of the Act; and

WHEREAS, the following documents that provide for the issuance and the sale of the 2008 Bonds, which shall be filed with the records of the Board, have been prepared by bond counsel to the Board ("Bond Counsel") and the staff of the Virginia Department of Transportation (the "Department") at the direction of the Board and have been presented at this meeting in substantially final form:

(1) a Master Indenture of Trust (the "Master Indenture"), dated as of June 1, 2008, between the Board and Wells Fargo Bank, National Association, as trustee (the "Trustee");

(2) a First Supplemental Indenture of Trust, dated as of June 1, 2008, between the Board and the Trustee (the "First Supplement" and, together with the Master Indenture, the "Indenture");

(3) a Preliminary Official Statement of the Board relating to the offering for sale of the 2008 Bonds (the "Preliminary Official Statement");

(4) a Continuing Disclosure Agreement of the Board relating to the obligations of the Board to disclose certain information on an ongoing basis in connection with the 2008 Bonds (the "Continuing Disclosure Agreement"); and

(5) a Payment Agreement, dated as of June 1, 2008, among the Board, the Treasury Board of the Commonwealth of Virginia (the "Treasury Board"), and the Secretary of Finance of the Commonwealth of Virginia (the "Payment Agreement").

NOW THEREFORE, BE IT RESOLVED BY THE COMMONWEALTH TRANSPORTATION BOARD:

1. Authorization of the 2008 Bonds. The Board determines that it is in the best interest of the Commonwealth and the Board for the Board (i) to enter into the Master Indenture to provide for the issuance of the Bonds from time to time, (ii) to issue the 2008 Bonds for the purposes authorized under and in accordance with the provisions of the Act and the Indenture, and (iii) to sell the 2008 Bonds. The aggregate principal amount of the 2008 Bonds shall not exceed $300,000,000, the final maturity date of the 2008 Bonds shall not exceed 25 years from their date of issuance, and the aggregate true interest cost of the Bonds shall not exceed the maximum true interest cost approved by the Treasury Board, which is empowered pursuant to Section 2.2-2416(7) of the Virginia Code to approve the terms and structure of all proposed bond issues by state agencies, boards or authorities where debt service payments are expected by such agency, board or authority to be made, in whole or in part, directly or indirectly, from appropriations of the

Commonwealth. The Board expects the debt service payments to be made from appropriations of the Commonwealth.

2. Limited Obligations. The 2008 Bonds shall be limited obligations of the Board and the Commonwealth, payable from and secured by a pledge of the Revenues (as defined in the Indenture) and amounts in certain funds established pursuant to the Indenture. Nothing in this Resolution or the 2008 Bonds shall be deemed to create or constitute a debt or a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.

3. Determination of Details of the 2008 Bonds. The Board authorizes the Chairman of the Board, subject to the criteria set forth in paragraph 1 of this Resolution, to determine the details of the 2008 Bonds, including, without limitation, the aggregate principal amount, the maturity schedule, the interest rates, the redemption provisions, the sale date, the sale price and the reoffering prices.

4. Sale of the 2008 Bonds. The Chairman is authorized to sell the 2008 Bonds pursuant to a competitive sale and to prepare, publish and distribute a Notice of Sale in connection therewith (the "Notice of Sale"), provided that the Notice of Sale may not be published or distributed prior to the approval of the 2008 Bonds by resolution of the Treasury Board. Alternatively, if determined by the Chairman to be in the best interest of the Commonwealth, the Board authorizes the Chairman to solicit and consider proposals for a negotiated sale of the 2008 Bonds and to negotiate the terms of such sale. The Chairman is authorized to execute and deliver a purchase contract or an agreement reflecting such proposal, provided that no such purchase contract or agreement may be executed prior to approval of the terms and structure of the 2008 Bonds by resolution of the Treasury Board.

5. Preliminary Official Statement. The Board approves the Preliminary Official Statement in the substantially final form presented at this meeting. The Board authorizes and directs the Chairman, in collaboration with the staff of the Department and the Board's financial advisor (the "Financial Advisor"), to prepare the final form of the Preliminary Official Statement with such completions, omissions, insertions, and changes as are necessary or desirable to effect the issuance and sale of the 2008 Bonds, as the Chairman may approve. The Board authorizes the Chairman to deem the Preliminary Official Statement to be final for purposes of Securities and Exchange Commission Rule 15c2-12 (the "Rule") and to approve the distribution thereof, provided that the Preliminary Official Statement may not be distributed prior to approval of the terms and structure of the 2008 Bonds by resolution of the Treasury Board.

6. Official Statement. The Board authorizes and directs the Chairman, in collaboration with Bond Counsel, the Department staff and the Financial Advisor, to complete the Preliminary Official Statement as an official statement in final form (the "Official Statement") in order to reflect the provisions of the winning bid or the executed purchase contract, as appropriate, for the purchase and sale of the 2008 Bonds. The Board authorizes and directs the Chairman to execute the Official Statement, which execution shall constitute conclusive evidence of the approval of the Official Statement

by the Chairman on behalf of the Board and that it has been deemed final within the meaning of the Rule. The Board authorizes and directs the Department staff to arrange for delivery to the winning bidders or underwriters, as appropriate, within seven business days after the date thereof, a sufficient number of copies of the Official Statement for the winning bidders or underwriters to distribute to each potential investor requesting a copy and to each person to whom the winning bidders or underwriters initially sell the 2008 Bonds. The Board authorizes and approves the distribution by the winning bidders or underwriters of the Official Statement as executed by the Chairman.

7. Financing Documents. The Board approves each of the Master Indenture, the First Supplement, and the Payment Agreement in their respective substantially final forms presented at this meeting. The Board authorizes and directs the Chairman to prepare, execute, and deliver the final forms of the Master Indenture, the First Supplement, and the Payment Agreement with such completions, omissions, insertions, and changes as are necessary or desirable to effect the issuance and sale of the 2008 Bonds, including without limitation changes to the dated dates thereof, as the Chairman may approve. Execution and delivery of the Master Indenture, the First Supplement, and the Payment Agreement shall constitute conclusive evidence of the approval of such documents by the Chairman on behalf of the Board.

8. Execution and Delivery of the 2008 Bonds. The Board authorizes and directs the Chairman and the Secretary of the Board (the "Secretary") to have the 2008 Bonds prepared and to execute the 2008 Bonds in accordance with the Indenture, to deliver the 2008 Bonds to the Trustee for authentication, and to cause the 2008 Bonds so executed and authenticated to be delivered to or for the account of the winning bidders or underwriters upon payment of the purchase price of the 2008 Bonds, all in accordance with the Notice of Sale or executed purchase contract, as appropriate. Execution and delivery by the Chairman and the Secretary of the 2008 Bonds shall constitute conclusive evidence of the approval of the 2008 Bonds by the Chairman and the Secretary on behalf of the Board.

9. Continuing Disclosure. The Board approves the Continuing Disclosure Agreement in the substantially final form presented at this meeting. The Board covenants to undertake ongoing disclosure and to provide "annual financial information" and "material event notices" for the benefit of holders of the 2008 Bonds and to assist the winning bidders or the underwriters, as appropriate, in complying with the Rule, all in accordance with the Continuing Disclosure Agreement. The Board authorizes and directs the Chairman to prepare, execute, and deliver the final form of the Continuing Disclosure Agreement, with such completions, omissions, insertions, and changes as are necessary or desirable to effect the issuance and sale of the 2008 Bonds, as the Chairman may approve. The Chief Financial Officer of the Department is designated as the Dissemination Agent under the Continuing Disclosure Agreement. Execution and delivery by the Chairman of the Continuing Disclosure Agreement shall constitute conclusive evidence of the approval of the Continuing Disclosure Agreement by the Chairman on behalf of the Board.

10. Authorization of Further Action. The Board authorizes the Department staff (i) to request the Treasury Board to approve the terms and structure of the 2008 Bonds in accordance with Section 2.2-2416(7) of the Virginia Code and the Act, (ii) to request the Governor of the Commonwealth to approve issuance of the 2008 Bonds in accordance with the Act, (iii) if determined by Department staff to be cost beneficial, to procure and negotiate a contract with a credit facility provider to issue a credit facility with respect to some or all of the 2008 Bonds and to execute such contract, together with any other documents related to such credit facility, and (iv) to collaborate with the staff of the Department of the Treasury of the Commonwealth or the State Treasurer to procure and to negotiate investments and investment contracts for any of the proceeds of the 2008 Bonds. The Board further authorizes the Chairman to execute and deliver all documents and certificates and to take all such further action as he may consider necessary or desirable in connection with the issuance and sale of the 2008 Bonds, including, without limitation, execution and delivery of a document (i) setting forth the expected use and investment of the proceeds of the 2008 Bonds to show that such expected use and investment will not violate the provisions of Section 148 of the Internal Revenue Code of 1986, as amended (the "Tax Code"), and the Treasury Regulations promulgated thereunder and applicable to "arbitrage bonds" (as defined in the Tax Code) and (ii) providing for the rebate of any "arbitrage rebate amounts" (as defined in the Tax Code) earned on the investment of the proceeds of the 2008 Bonds to the United States. The Chairman is further authorized to make on behalf of the Board such elections under the Tax Code and the applicable Treasury Regulations with respect to the 2008 Bonds as the Chairman may deem to be in the best interests of the Commonwealth and the Board, in consultation with Bond Counsel and the Financial Advisor.

11. Authorizations and Directions to Certain Officers. Any authorization or direction to the Chairman or to the Secretary under this Resolution shall also be deemed to be an authorization or a direction to the Vice-Chairman or to an Assistant Secretary, respectively, the Commonwealth Transportation Commissioner, and any officer or employee of the Board or the Department designated for such purpose by the Chairman or the Secretary.

12. Acknowledgment of Pending Litigation. The Board hereby acknowledges that it is aware of the lawsuit filed in the Circuit Court of the City of Richmond, *Jost v. Commonwealth*, Case Number 760CL07003858-00, which may, among other things, delay approval of the terms and structure of the 2008 Bonds by the Treasury Board and the issuance and sale of the 2008 Bonds.

13. Effective Date. This Resolution shall be effective immediately.

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