



Metro

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

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REVISED
FINANCE AND BUDGET COMMITTEE
JULY 20, 2011

SUBJECT: FEDERAL LOAN FOR CRENSHAW/LAX TRANSIT CORRIDOR

ACTION: ADOPT A RESOLUTION AUTHORIZING FORMATION OF A NONPROFIT MUTUAL-BENEFIT CORPORATION CORPORATIONS, INCLUDING FOR THE CRENSHAW PROJECT TO RECEIVE A FEDERAL LOAN

RECOMMENDATION

Adopt a resolution, Attachment A, authorizing the MTA to form a California nonprofit mutual benefit corporation ("Corporation") that will serve as the conduit borrower of a \$546 million Transportation Infrastructure Finance and Innovation Act ("TIFIA") loan once the loan is applied for and approved by the USDOT and by the MTA Board, and authorize formation of California nonprofit corporations from time to time to support financing for MTA other projects in the future.

RATIONALE

By having the Corporation as the conduit borrower for the loan and having MTA secure the loan payments to the Corporation on a subordinate level below our current and any future Measure R sales tax liens, we will preserve capacity to issue a greater amount of lower cost senior lien bonds in the future.

The TIFIA program also allows us to backload the repayment of the loan, which will leave more Measure R revenues available to fund projects during the middle years of the Measure R sales tax collection period.

BACKGROUND

In October 2010, we were notified that we had been selected to receive a \$20 million TIGER II TIFIA subsidy to support our request for a \$546 million TIFIA loan for the Crenshaw Project. Since that time we have been in contact with the TIFIA Office and the Federal Transit Administration ("FTA") to set out the path forward. During these discussions the TIFIA staff confirmed that the proposed conduit borrower structure would meet their requirements.

The request to form a California nonprofit mutual benefit corporation with the MTA Board as the Corporation's board and MTA's current executive staff as the

Corporation's staff, is being made at this time to ensure we will have this key component of our financing strategy available as we move toward the loan application process. This resolution only authorizes formation of the Corporation and does not authorize the loan or commit us to any course of action. Authorization to execute the loan documents will be requested when the loan terms are substantially finalized in Fall 2011 or Winter 2012.

The further request to form nonprofit corporations that will support the financing needs of other capital projects is intended to streamline the financing process. Any corporations formed pursuant to this authorization will be implemented to achieve similar financing purposes, will have the MTA Board as the sole member and will not expose the MTA or its directors to additional liability as a result of the corporation's existence. The Board will be notified when a new corporation is formed.

Additional information requested by the Committee at its June 2011 meeting is included in Attachment B.

FINANCIAL IMPACT

Approval of this action has no financial impact.

Impact on Enterprise Fund Bus and Rail Operations Budget

There will be no impact from formation of the Corporation.

ALTERNATIVES

Alternative types of legal entities were evaluated, such as use of a public benefit corporation, a public-private partnership and joint powers authority ("JPA"), but are not recommended because they add complexity, exposure to tort liabilities of partners and/or State Attorney General oversight. Although the nonprofit mutual benefit corporation lacks the immunities from tort enjoyed by municipal governments, exposure is limited to a de minimus level given the limited activities and relationships of this ~~corporation~~ the Corporation, including the fact that it will have no contracts except with MTA, the only governmental authorities involved in the TIFIA loan transaction will be MTA and USDOT, and the ~~corporation~~ Corporation will have no employees.

A choice to not use a special entity such as the Corporation would cause us to consume \$546 million of generally lower cost financing capacity in our highly rated, AAA/Aa2, Measure R senior bond lien, should the loan move forward. We would additionally lose the benefit of TIFIA's flexibility of repayment and more favorable business terms that are incompatible with our senior lien trust agreement.

NEXT STEPS

- Form a California nonprofit mutual benefit corporation

- Obtain Board authorization for CEO to execute application documents
- Submit final TIFIA loan application
- Negotiate loan terms and conditions
- Obtain MTA Board's and the Corporation Board's approvals to execute loan documents
- Finalize Corporation funding agreement

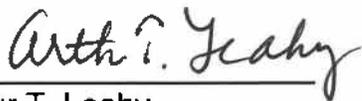
ATTACHMENT

- A. Authorizing resolution to form a California nonprofit mutual benefit ~~corporation~~corporations
- B. Responses to questions from June Finance and Budget Committee Meeting

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Terry Matsumoto
Chief Financial Services Officer and Treasurer



Arthur T. Leahy
Chief Executive Officer

**RESOLUTION OF THE LOS ANGELES COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY AUTHORIZING THE FORMATION OF A NONPROFIT
MUTUAL BENEFIT CORPORATION ~~CORPORATIONS~~ TO ASSIST WITH THE FINANCING
OF THE CRENSHAW/LAX TRANSIT CORRIDOR PROJECT LACMTA CAPITAL PROJECTS**

WHEREAS, THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (the "LACMTA"), as successor to the Los Angeles County Transportation Commission (the "Commission"), is authorized, under Chapter 5 of Division 12 of the California Public Utilities Code (the "Act"), to borrow funds to finance and refinance the acquisition, construction or rehabilitation of facilities to be used as part of a countywide transportation system; and

WHEREAS, LACMTA, by Ordinance No. 08-01 approved by over two-thirds of the voters in November, 2008 (the "Measure R Sales Tax Ordinance"), imposed a 1/2 of 1% retail transactions and use tax in the Los Angeles County, the proceeds of the tax to be used for transit and other transportation purposes as set forth in the Measure R Sales Tax Ordinance (the "Measure R Sales Tax"), and

WHEREAS, the revenues received by the LACMTA from the imposition of the Measure R Sales Tax are, by statute, directed to be used for transit and other transportation purposes, including the construction of the Crenshaw Transit Corridor Project, also known as the "Crenshaw/Los Angeles International Airport (LAX) Transit Corridor Project"; and

WHEREAS, in order to facilitate financing of the Crenshaw Transit Corridor Project, the LACMTA desires to form a California nonprofit mutual benefit corporation (the "Crenshaw Project Corporation"); and

WHEREAS, the LACMTA Board would ~~appoint~~ serve as the board of directors of the Crenshaw Project Corporation; and

WHEREAS, the Project facilities are still under discussion, and once determined, the LACMTA must complete the environmental assessment, the Board and the Federal Transit Administration will consider the environmental report for the Project, and if approved, may approve the Project itself ("Project Approval"); and

WHEREAS, LACMTA is working to obtain financing for the Crenshaw Transit Corridor Project, and with Project Approval, will be applying for a United States Department of Transportation ("USDOT") Transportation Infrastructure Finance and Innovation Act ("TIFIA") secured (direct) loan expected to be in the amount of \$545.9 million ("TIFIA Loan"). The Crenshaw Project Corporation would be the Borrower of the TIFIA Loan. The Crenshaw Project Corporation, as the Borrower of the TIFIA Loan, would draw down loan funds, disburse same to LACMTA as received, and repay the TIFIA Loan; and

WHEREAS, the LACMTA intends to enter into a "Funding Agreement" with the Crenshaw Project Corporation providing for the funding of all obligations of the Crenshaw Project Corporation under the TIFIA Loan, if and after USDOT selects the Project for the TIFIA Loan following Project Approval, and the Board approves the TIFIA Loan transaction and the Funding Agreement; and

WHEREAS, the LACMTA believes there may be future borrowing or financing opportunities for the Crenshaw Transit Corridor Project as well as other LACMTA capital projects. LACMTA desires to authorize the LACMTA Chief Executive Officer to form other California nonprofit corporations as necessary or desirable to facilitate borrowings or financings for these LACMTA capital projects subject to the conditions set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, AS FOLLOWS:

1. 1.—Crenshaw Project Corporation Authorized. The LACMTA has the power and authority to contract, plan, develop, finance, design, construct, borrow money and issue bonds for transit and transportation purposes and establish, manage, operate and maintain auditing and accounting programs and is hereby authorized to form the Crenshaw Project Corporation as a California nonprofit mutual benefit corporation, with the LACMTA as the sole member thereof.

2. 2.—Designated Officer Delegation of Authority. For the purposes of financing the Project in part by securing the TIFIA Loan, and the payment of certain costs related thereto, the LACMTA hereby authorizes the Chair of the LACMTA, any Vice Chair of the LACMTA, the Chief Executive Officer (“CEO”) of the LACMTA, the Chief Financial Services Officer of the LACMTA, any Treasurer of the LACMTA, any Assistant Treasurer of the LACMTA, or any such officer serving in an acting or interim capacity, and any written designee of any of them (each a “Designated Officer”), acting in accordance with this Section 2, to take any action for the formation of the Crenshaw Project Corporation, and execute any agreements, certificates and other instruments that may be required in order to carry out the authority conferred herein or the provisions of the Articles of Incorporation and the Bylaws of the Crenshaw Project Corporation (“Crenshaw Project Corporation Documents”).

3. Further Actions. Each of the Designated Officers is hereby severally authorized to amend, supplement or otherwise modify the Crenshaw Project Corporation Documents at any time and from time to time as provided in any manner the Crenshaw Project Corporation Documents which is determined to be necessary or desirable by such designated officer, for and on behalf of the LACMTA, and for and on behalf of the Crenshaw Project Corporation through the LACMTA as sole member thereof, upon consultation with the General Counsel, the execution of such amendment, supplement or other modification being conclusive evidence of LACMTA's approval thereof.

4. Delegation of Authority to Form Non-Profit Corporations as Necessary or Desirable to Facilitate Borrowings or Financings for LACMTA Capital Projects. The LACMTA hereby authorizes the CEO to form nonprofit corporations that are necessary or desirable to facilitate borrowings or financings for LACMTA capital projects. Such nonprofit corporations shall be formed for purposes similar to those of the Crenshaw Project Corporation (such as to keep loan obligations separate from bond indentures), shall have the LACMTA as its sole member and the LACMTA Board, existing from time to time, shall be the board of the nonprofit corporation. The CEO shall provide the LACMTA Board with notice when a nonprofit corporation is formed under the authority provided herein. A Designated Officer is hereby authorized to take any action for the formation of the nonprofit corporation formed under the authority provided herein, and execute any agreements, certificates and other instruments that may be required in order to carry out the authority conferred herein. As provided in the Bylaws, each of the Designated Officers is also hereby authorized to amend, supplement or otherwise

modify the nonprofit corporation governing documents at any time and from time to time as determined to be necessary or desirable by such Designated Officer, for and on behalf of the LACMTA, and for and on behalf of the nonprofit corporation through the LACMTA as sole member thereof, upon consultation with the General Counsel, the execution of such amendment, supplement or other modification being conclusive evidence of LACMTA's approval thereof

5. Continuing Authority of Designated Officers. The authority of any individual serving as a Designated Officer under this Resolution by a written designation signed by the Chair of the LACMTA, any Vice Chair of the LACMTA, the CEO, the Chief Financial Services Officer, any Treasurer, or any Assistant Treasurer shall remain valid notwithstanding the fact that the individual officer of the LACMTA signing such designation thereafter ceases to be an officer of the LACMTA, unless such designation specifically provides otherwise.

5-6. Severability. The provisions of this Resolution are hereby declared to be severable, and, if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereof.

6-7. Effective Date. This Resolution shall be effective upon adoption.

CERTIFICATION

The undersigned, duly qualified and acting as Board Secretary of the Los Angeles County Metropolitan Transportation Authority, certifies that the foregoing is a true and correct copy of the Resolution adopted at a legally convened meeting of the Board of Directors of the Los Angeles County Metropolitan Transportation Authority held on June __, 2011.

LACMTA Board Secretary

DATED: _____

Responses to Questions from June Finance and Budget Committee Meeting

	Question	Loan Through Corporation	Advantage of Corporation Compared to MTA Direct
1.	What is purpose for forming the corporation?	Use of the corporation protects Measure R from an unfavorable TIFIA loan term.	Yes.
2.	Are TIFIA loan rates better than MTA's bond rates?	TIFIA rates are about the same after considering the more favorable terms depending on market conditions. As of June 23, 2011, we believe that TIFIA rate would be less.	Same.
3.	What are the more favorable terms?	TIFIA interest is charged only on the outstanding loan balance rather than the full amount of the loan at closing. TIFIA allows back end loading of principal repayments that free up Measure R cash to directly fund projects in the early years of the loan.	Same.
4.	Who are the directors?	Full MTA Board.	Same.
5.	Who are staff / employees?	Corporation will have no employees. MTA staff will perform all necessary work.	Same.
6.	Any liabilities from corporation?	No liabilities result from use of the Corporation.	Same.
7.	Any liabilities from loan?	Corporation is legally responsible to repay the loan, not MTA.	Yes.
8.	Will the Corporation's directors have liability?	MTA insurance covers Corporation's directors.	Same.
9.	Liability potential from partners to Corporation?	No, there no other parties to the Corporation.	Same.
10.	How much money is saved by using the Corporation?	None.	Same.
11.	Will any salaries or compensation be paid?	No.	Same.

	Question	Loan Through Corporation	Advantage of Corporation Compared to MTA Direct
12.	Who is responsible for project overruns?	MTA.	Same
13.	Is the Corporation a way to increase future Measure R debt?	No, allows MTA to retain full Measure R bonding capacity.	Yes.
14.	Could corporation be used for other borrowing?	Yes, with MTA Board approval.	Same.
15.	What other governments have used these entities?	LA County maintains two conduit issuing entities, LAC Public Works Financing Authority and LAC Capital Asset Leasing Corporation. City of LA uses the Municipal Improvement Corporation. Denver RTD, Chicago RTA and WMATA use them.	NA.