

RESOLUTION NO. 2009-103

AUTHORIZING THE ISSUANCE OF TAXABLE BOND ANTICIPATION NOTES, SERIES 2009A FOR THE PURPOSE OF REIMBURSING THE AUTHORITY FOR A PORTION OF THE COSTS OF CAPITAL IMPROVEMENTS INCLUDING THE AUTHORITY'S HEAVY RAIL VEHICLE OVERHAUL, LIGHT RAIL VEHICLE OVERHAUL, 55TH STREET STATION REHABILITATION, WESTLAKE PARK-N-RIDE, STEPHANIE TUBBS JONES TRANSIT CENTER, WATERFRONT LINE TRACK, WOODHILL STATION REHABILITATION AND RED LINE TRACK REHABILITATION IN A PRINCIPAL AMOUNT NOT TO EXCEED \$8,000,000 AND MATTERS RELATED TO SUCH SERIES 2009A NOTES

WHEREAS, this Board of Trustees has heretofore determined the necessity of making certain capital improvements to this Greater Cleveland Regional Transit Authority's (the "Authority") transportation system including capital improvements including the Authority's heavy rail vehicle overhaul, light rail vehicle overhaul, 55th Street Station rehabilitation, Westlake Park-n-Ride, Stephanie Tubbs Jones Transit Center, Waterfront Line track, Woodhill Station rehabilitation and Red Line Track rehabilitation (collectively, the "Series 2009A Project") and desires to reimburse itself for expenditures incurred to finance a portion of the Series 2009A Project in an amount not to exceed \$8,000,000 by issuing taxable bond anticipation notes of the Authority (the "Series 2009A Notes"); and

WHEREAS, the Secretary-Treasurer of this Authority has heretofore estimated that the life of the improvements constituting the Series 2009A Project is at least five (5) years and has certified that the maximum maturity of the Bonds issued therefore is twenty-five (25) years and the maximum maturity of the notes issued in anticipation of such bonds is ten years; and

WHEREAS, Chapter 306 of the Ohio Revised Code authorizes the Authority to apply for and accept grants and loans from the United States or the State of Ohio (the "State") for various purposes; and

WHEREAS, the Authority is expected to receive certain grant awards from the United States for various purposes (the "Grant Award"), including the Series 2009A Project; and

WHEREAS, the Authority has made expenditures before the Grant Award is received; and

WHEREAS, this Board of Trustees pledges the legally available revenues of this Authority and the Grant Award (together, the "Revenues") to be the source of payment of debt service charges on such Series 2009A Notes.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That it is necessary to issue and sell the Series 2009A Notes of this Authority to be designated "Taxable Bond Anticipation Notes, Series 2009A" in an aggregate principal sum not to exceed \$8,000,000, for the purpose of reimbursing the Authority for expenditures previously incurred to pay a portion of the cost of the Series 2009A Project, and to include "financing costs" as defined in Section 133.01 of the Ohio Revised Code, related to the issuance of the Series 2009A Notes under authority of and pursuant to the general laws of the State of Ohio particularly Chapters 306 and 133 of the Ohio Revised Code.

Section 2. That the Series 2009A Notes shall be issued for the purposes aforesaid. The Series 2009A Notes shall (i) be dated as determined by the Secretary-Treasurer; (ii) be in a principal amount determined by the Secretary-Treasurer but not exceeding the maximum amount set forth in Section 1 hereof; (iii) be numbered from R-1, upwards in order of issuance; (iv) be of the denominations of \$5,000 and any integral multiple thereof, provided that each Series 2009A Note shall be of a maturity as determined by the Underwriter (as defined herein) and approved by the Secretary-Treasurer pursuant to the Certificate of Award, but not to exceed 6 months from the closing date of the Series 2009A Notes; (v) mature on the dates and in the amounts determined by the Secretary-Treasurer; and (vi) bear interest at the rate or rates per annum determined by the Secretary-Treasurer, provided that the average interest rate payable by this Authority over the life of the Series 2009A Notes shall not exceed four percent (4%) per annum.

Section 3. The determinations made by the Secretary-Treasurer pursuant to this Resolution shall be made without further action of this Board of Trustees, shall be set forth in a Certificate of Award signed by the Secretary-Treasurer, and shall be conclusive.

The Series 2009A Notes shall not be callable for redemption.

Pending preparation of definitive Series 2009A Notes, any Series 2009A Notes may be initially delivered in temporary form exchangeable for definitive Series 2009A Notes when such definitive Series 2009A Notes are ready for delivery. The temporary Series 2009A Notes may be printed, lithographed or typewritten and may contain such reference to any of the provisions of this resolution as may be appropriate. The Paying Agent and Registrar shall execute every temporary Series 2009A Note upon the same conditions and in substantially the same manner as definitive Series 2009A Notes. If the Paying Agent and Registrar delivers temporary Series 2009A Notes, it shall execute and furnish definitive Series 2009A Notes at the earliest practicable time, and thereupon, the temporary Series 2009A Notes shall be surrendered for cancellation at the principal office of the Paying Agent and Registrar, and the Paying Agent and Registrar shall deliver in exchange for such temporary Series 2009A Notes an equal aggregate principal amount of definitive Series 2009A Notes. Until so exchanged, the temporary Series 2009A Notes shall be entitled to the same benefits under this resolution as definitive Series 2009A Notes delivered pursuant hereto.

It is hereby determined by this Board of Trustees that the issuance of the Series 2009A Notes provided herein, including without limitation, the redemption provisions set forth above, are in the best interests of the Authority.

Section 4. That the Series 2009A Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Resolution. The Series 2009A Notes shall be in fully registered form without coupons, shall be signed by the President of this Board of Trustees or his designee and by the Secretary-Treasurer of this Authority, provided that any or all such signatures may be facsimile signatures and shall bear the manual authenticating signature of an authorized representative of a bank or trust company determined by the Secretary-Treasurer of this Authority, as the paying agent, registrar and transfer agent (the "Paying Agent and Registrar") for the Series 2009A Notes.

The Series 2009A Notes shall be transferable by the registered holder thereof in person or by his attorney duly authorized in writing at the principal office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar or an office of the Paying Agent and Registrar as designated by the Paying Agent and Registrar or by wire transfer made at the request of a holder of at least \$1,000,000 aggregate principal amount of Series 2009A Notes. Upon such transfer, a new Series 2009A Note or Series 2009A Notes of authorized denominations of the same maturity and for the same aggregate principal amount shall be issued to the transferee in exchange therefore.

The Authority and the Paying Agent and Registrar may deem and treat the registered holders of the Series 2009A Notes as the absolute owners thereof for all purposes, and any notice shall affect neither the Authority nor the Paying Agent and Registrar to the contrary.

Section 5. That such Series 2009A Notes shall be sold at not less than par (or as otherwise provided for in the Certificate of Award) and accrued interest by the Secretary-Treasurer of this Authority to National City Bank (the "Underwriter") in accordance with its offer to purchase which the Secretary-Treasurer is hereby authorized to accept without further action of this Board of Trustees, and the proceeds from such sale, except any accrued interest thereon, shall be used for the purpose aforesaid and for no other purpose, and for which purpose such proceeds are hereby appropriated.

Section 6. Anything in this Resolution, the Series 2009A Note or any other agreement or instrument to the contrary notwithstanding, neither this Resolution, the Series 2009A Notes, or any other agreement or document, shall represent or constitute a debt or pledge of the faith and credit of the taxing power of the Authority, the State of Ohio or any other political subdivision and each Series 2009A Note shall contain on the face thereof a statement to that effect. The Series 2009A Notes are secured solely by a pledge of the Revenues of the Authority. Nothing herein shall be deemed to prohibit the Authority, of its own volition, from using, to the extent it may be lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Resolution or the Series 2009A Notes.

Section 7. The Series 2009A Notes shall further be secured by the covenant of the Authority to maintain such rental, fees, rates, charges or Revenues as will produce revenues sufficient to meet costs operating and maintaining the Authority, to meet the interest, principal, and other requirements of the Series 2009A Notes.

Section 8. That for purposes of this Resolution, the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Series 2009A Notes may be transferred only through a book entry, and (ii) physical Series 2009A Note certificates in fully registered form are issued only to the Depository or its nominee as registered owner, with the Series 2009A Notes "immobilized" to the custody of the Depository, and the book entry maintained by others than this Authority is the record that identifies the owners of beneficial interests in those Series 2009A Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its Participants or otherwise, a book entry system to record ownership of beneficial interests in Series 2009A Notes or principal and interest, and to effect transfers of Series 2009A Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

All or any portion of the Series 2009A Notes may be initially issued to a Depository for use in a book entry system, and the provisions of this Section shall apply to such Series 2009A Notes, notwithstanding any other provision of this Resolution. If and as long as a book entry system is utilized with respect to any of such Series 2009A Notes: (i) there shall be one or more Series 2009A Notes of each maturity; (ii) those Series 2009A Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners of Series 2009A Notes in book entry form shall have no right to receive Series 2009A Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Series 2009A Notes in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (v) the Series 2009A Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by this Authority. Debt service charges on Series 2009A Notes in book entry form registered in the name of a Depository or its nominee shall be payable in the manner provided in this Authority’s agreement with the Depository to the Depository or its authorized representative (i) in the case of interest, on each interest payment date, and (ii) in all other cases, upon presentation and surrender of Series 2009A Notes as provided in this Resolution.

The Paying Agent and Registrar may, with the approval of this Authority, enter into an agreement with the beneficial owner or registered owner of any Series 2009A Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Series 2009A Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Resolution, without prior presentation or surrender of the Series 2009A Note, upon any conditions which shall be satisfactory to the Paying Agent and Registrar and to this Authority. That payment in any event shall be made to the person who is the registered owner of that Series 2009A Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Paying Agent and Registrar shall furnish a copy of each of those agreements, certified to be correct by the Paying Agent and Registrar, to other paying agents for Series 2009A Notes and to this Authority. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Resolution.

The Secretary-Treasurer of this Authority is authorized and directed without further action of this Board of Trustees to execute, acknowledge and deliver, in the name of and on behalf of this Authority, a letter agreement among this Authority, the Paying Agent and Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Series 2009A Notes to the Depository for use in a book entry system.

If any Depository determines not to continue to act as Depository for the Series 2009A Notes for use in a book entry system, this Authority and the Paying Agent and Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this Resolution. If this Authority and the Paying Agent and Registrar do not or are unable to do so, this Authority and the Paying Agent and Registrar, after the Paying Agent and Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Series 2009A Notes from the Depository and authenticate and deliver Series 2009A Note certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Series 2009A Notes), if the event is not the result of action or inaction by this Authority or the Paying Agent and Registrar, of those persons requesting such issuance.

In the event the book-entry only system is discontinued, principal of and any redemption premium on the Series 2009A Notes will be payable when due to the registered owners thereof upon presentation and surrender thereof at the principal corporate trust office of the Paying Agent and Registrar or an office of any Paying Agent and Registrar or by wire transfer made at the request of a holder of at least \$1,000,000 aggregate principal amount of Series 2009A Notes; interest thereon will be payable when due by the Paying Agent and Registrar by check or draft, mailed or delivered on the Interest Payment Date to the registered owner at the address shown for the Paying Agent and Registrar as of the last day of the calendar month preceding the Interest Payment Date or at an office of any Paying Agent and Registrar or by wire transfer made at the request of a holder of at least \$1,000,000 aggregate principal amount of Series 2009A Notes; and the Series 2009A Notes will be exchangeable for the Series 2009A Notes of authorized denominations, and transferable, at the office of the Paying Agent and Registrar without charge (except taxes or other governmental fees). No transfer or exchange of the Series 2009A Notes may be required to be made (i) between the fifteenth (15th) day preceding the mailing of a notice of redemption and the date of such mailing or (ii) of any Series 2009A Note selected for redemption (in whole or in part).

Section 9. That the President of the Board of Trustees or his designee, the General Manager/Secretary-Treasurer and the Deputy General Manager of Finance & Administration of this Authority are hereby authorized without further action of this Board of Trustees to execute and deliver (i) an agreement for the sale of such Series 2009A Notes with the Underwriter thereof, (ii) an agreement with the Paying Agent and Registrar (if any) for its services as paying agent, registrar and transfer agent for the Series 2009A Notes and (iii) any additional documents as shall be deemed necessary or appropriate in furtherance of the issuance of the Series 2009A Notes and the carrying out of the transactions authorized by this Resolution or contemplated by the instruments referred to in this Resolution, in each case in such form as such officer may approve, the execution thereof by such officer to be conclusive evidence of such authorization and approval.

Section 10. That it is found and determined that all formal actions of this Board of Trustees concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board of Trustees, and that all deliberations of this Board of Trustees and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 11. That this Resolution shall become effective immediately upon its adoption.

Adopted: December 15, 2009



President

Attest:



CEO, General Manager/Secretary-Treasurer



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: AUTHORIZING THE ISSUANCE OF TAXABLE BOND ANTICIPATION NOTES, IN THE AMOUNT OF \$8,000,000.	Resolution No.: 2009-103
	Date: December 10, 2009
	Initiator: Finance & Administration
ACTION REQUEST: X Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

- 1.0 PURPOSE/SCOPE: This action will authorize the issuance of Taxable Bond Anticipation Notes in an amount not to exceed \$8,000,000, for the purpose of reimbursing the Authority for costs incurred for grant eligible capital expenditures. These funds will be used to reimburse the operating fund for expenses incurred for preventative maintenance, which is an allowable grant expense.
- 2.0 DESCRIPTION/JUSTIFICATION: The sale of the Taxable Bond Anticipation Notes, Series 2009A will involve the issuance of taxable bond anticipation notes in an amount sufficient to reimburse the Authority for local advances to pay for grant eligible capital expenditures. These advances were needed due to the delay of receipt of a number of capital grants. The notes will be issued for 90 days and earn interest at a rate not to exceed four percent (4%) per annum.
- 3.0 PROCUREMENT BACKGROUND: The Authority previously approved Resolution 2006-181, which authorized banking services with National City Bank.
- 4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: Does not apply.
- 5.0 POLICY IMPACT: The notes will be issued within the constraints of the Greater Cleveland Regional Transit Authority's Financial and Debt Policies.
- 6.0 ECONOMIC IMPACT: The notes will be payable in 90 days from the date of issuance with the principal being paid with anticipated grant receipts and the interest expense being paid out of the General Fund. The financing costs are estimated at \$150,000.
- 7.0 ALTERNATIVES: Rejection of this resolution may cause the Authority to be unable to meet daily cash flow requirements.
- 8.0 RECOMMENDATION: It is recommended that this resolution be adopted authorizing the issuance of Taxable Bond Anticipation Notes.
- 9.0 ATTACHMENTS: None.

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.

CEO, General Manager/Secretary-Treasurer