

MARION COUNTY CONVENTION
AND RECREATIONAL FACILITIES AUTHORITY

Minutes of Meeting
Monday, September 14, 2009
Indiana Convention Center, Room 102

The Marion County Convention and Recreational Facilities Authority (the "Authority" or "MCCRFA") met in a Joint Meeting with the Capital Improvement Board of Managers of Marion County, Indiana, on Monday, September 14, 2009 in Room 102 of the Indiana Convention Center.

Present were the following members: Dr. Jacqueline S. Greenwood, President, Raju Chinthala, Vice President, and Dollyne P. Sherman, Secretary/Treasurer.

Others present included Bryan Collins, Counsel to the Authority and the Capital Improvement Board of Managers of Marion County, Indiana ("CIB"), Robert T. Grand, CIB President, Patrick J. Early, CIB Vice President, Ann Lathrop, CIB Treasurer, Douglas R. Brown, CIB Secretary, and members Robert E. Cockrum, Dorothy A. Henry, Craig Huse, Jay K. Potesta, John D. Short, and Donald P. Welsh, Ex-Officio, Barney Levengood, Executive Director, CIB, Dixie Gough, Controller, CIB, W. Tobin McClamroch, CIB General Counsel, Bingham McHale LLP, Warren Wilkinson, ICVA, Deron Kintner, Indianapolis Bond Bank, Nick Elliott, Barnes & Thornburg LLP, Kim Nicely, IATSE, Local No. 30, Jack Woodside, ICCLOS, Phil Ray, Omni Severin Indianapolis and Hotel/Motel Association, Scott Gould, Denison Parking, Inc., Curt Fritsch, CRT Financial Group, and members of the media.

The minutes of January 29th 2009 were presented. Upon a motion by Ms. Sherman, which was seconded by Mr. Chinthala, the minutes were approved as presented.


Ann Lathrop, Treasurer of the CIB, presented a Financial Update to Authority and CIB members, a copy of which is hereto attached as a part of these Minutes. The Authority was advised concerning the CIB's work over the past year on its financial plan including dealing a requirement to provide additional bond reserves as a result of a credit decline of MBIA (a Bond Insurer of the CIB and MCCRFA).

Dr. Greenwood, MCCRFA President, asked for a motion from the Authority for approval of the Resolution, a copy of which is hereto attached as a part of these Minutes. Upon a motion by Ms. Sherman, which was seconded by Mr. Chinthala, the Resolution was approved.

Upon adoption of the Financing Resolution, and with no further matters, comments or questions to come before the Authority at this time, Dr. Greenwood called for an adjournment, upon a motion by Ms. Sherman, which was seconded by Dr. Greenwood, the Authority meeting was declared adjourned.



Dr. Jacqueline S. Greenwood, President
MARION COUNTY CONVENTION
AND RECREATIONAL FACILITIES
AUTHORITY



Dollyne P. Sherman, Secretary/Treasurer
MARION COUNTY CONVENTION
AND RECREATIONAL FACILITIES
AUTHORITY

**Capital Improvement Board
Financial Update
September 14, 2009**

Agenda

- Debt Service Reserve (Motion needed)
- Treasurer Loan
- Audit Status
- FY 10 Budget

Debt Service Reserve

• **AMBAC/MBIA Surety Policies - \$26.3 M (Sept 9, 2009)**

- Served notice in September 2008 by Bank of New York (BNY).
- Both AMBAC and MBIA had fallen below the required rating for bond insurers requiring cash funding of debt service reserve funds.
- Impacts three debt issues:
 - 1995 Senior Bonds (Victory Field), AMBAC Bond Insurer - \$976K needed.
 - 1997 Subordinate Bonds (Conseco Fieldhouse and Virginia Avenue Garage), MBIA Bond Insurer - \$21 million needed.
 - 1999 Subordinate Bonds (RCA Dome and Indiana Convention Center), MBIA Bond Insurer - \$4.4 million needed.

• **Status**

- 1995 Senior Bonds (Victory Field), AMBAC Bond Insurer - \$976K needed.
- Cash funded Reserve on September 9, 2009

Debt Service Reserve

- **AMBAC/MBIA Surety Policies - \$26.3 M (Sept 9, 2009)**

- **Status**

- 1997 Subordinate Bonds (Conseco Fieldhouse and Virginia Avenue Garage), MBIA Bond Insurer - \$21 million needed.
- 1999 Subordinate Bonds (RCA Dome and Indiana Convention Center), MBIA Bond Insurer - \$4.4 million needed.
- Received extension from BNY until the end of September to complete cashless funding options with the State.
- Currently working with the Indianapolis Local Public Improvement Bond Bank, Indiana Finance Authority (IFA), MBIA (bond insurer), and BNY (Trustee) to complete an agreement for the IFA to provide a Credit Facility to the CIB eliminating the immediate need for cash funding.
- **Motion Needed for both CIB and MCCRFA**

Treasurer Loan

- Loan with Treasurer of State
 - Working with Treasurer of State (TOS) on the terms of the loan.
- Terms
 - Last suggested rate was 6.25%
 - Bullet maturity at the end of 10 years
 - Interest payments beginning in 2013.
 - Current discussion is for 2009 only.
- Targeting no later than September 21st for draft documents to be prepared with a closing no later than October 31st.

Audit Status

- Additional field work was conducted the first two weeks of September to determine if the "going concern" can be changed on the 2008 Financial Statements.
- The recommendation from the team performing the field work is now with the National review partner.
- If updated financials are produced, they will be issued concurrently with the IFA Agreements.

2010 Budget

- City County Council reviewed the CIB budget on Thursday, September 3rd.
- City County Council will vote (and presumably approve) the CIB budget out of committee on Thursday, September 16th.
- Final Council approval will be made on Monday, September 21st.

Questions

RESOLUTION

RESOLUTION OF THE MARION COUNTY CONVENTION AND RECREATIONAL FACILITIES AUTHORITY RELATING TO FINANCING MATTERS

WHEREAS, the Capital Improvement Board of Managers of Marion County, Indiana (the "*Board*") has been created under and pursuant to Indiana Code 36-10-9, as amended from time to time (the "*Act*"), for the purpose of financing capital improvements and to manage and operate such improvements in the manner set forth in the Act; and

WHEREAS, the Marion County Convention and Recreational Facilities Authority (the "*Authority*") has been created pursuant to Indiana Code 36-10-9.1 as a separate body, corporate and politic, and as an instrumentality of Marion County, Indiana (the "*County*"), to finance facilities for lease to the Board; and

WHEREAS, on January 8, 1998, the Authority issued its Excise Taxes Lease Rental Revenue Subordinate Bonds, Series 1997A and Series 1997B (Taxable) (respectively, the "*1997A Subordinate Bonds*" and "*1997B Subordinate Bonds*," and collectively, the "*1997 Subordinate Bonds*"), dated December 1, 1997, pursuant to a certain Trust Indenture II, dated December 1, 1997 (as later amended and supplemented, the "*1997 Subordinate Indenture*"), between the Authority and The Bank of New York Mellon Trust Company, N.A. ("*Trustee*"), as trustee, pursuant to which the aggregate principal amount (including the original issued amount of Capital Appreciation Bonds in lieu of their Accreted Values) outstanding as of June 1, 2009 was \$197,783,455 and such 1997A Subordinate Bonds and 1997B Subordinate Bonds will finally mature on June 1, 2027 and June 1, 2010, respectively; and

WHEREAS, the purpose of the issuance of the 1997 Subordinate Bonds was to finance the costs of the facilities known as Conseco Fieldhouse and the Virginia Avenue Parking Garage and to lease such improvements to the Board pursuant to a certain lease agreement with the Authority (the "*Subordinate Lease*"); and

WHEREAS, the 1997 Subordinate Indenture established accounts in a Debt Service Reserve Fund II to secure (a) the 1997A Subordinate Bonds with a Reserve Requirement in the amount of \$18,796,148.56 (the "*1997A Reserve Requirement*") and (b) the 1997B Subordinate Bonds with a Reserve Requirement in the amount of \$2,154,000 (the "*1997B Reserve Requirement*"), which requirements were initially met with two separate Surety Bonds (each a "*Surety*") issued by MBIA Insurance Corporation (as and inclusive of any reinsurer, the "*Bond Insurer*"); and

WHEREAS, the capitalized terms used in this Resolution but not defined herein when related to the 1997 Subordinate Bonds or the 1997 Subordinate Indenture are to have the meanings ascribed to them in the 1997 Subordinate Indenture; and

WHEREAS, on September 9, 2008, the Trustee gave notice under the 1997 Subordinate Indenture to the Authority (a) to the effect that the Bond Insurer failed to meet the rating requirements thereunder and (b) requesting a deposit of cash or a substitute Credit Facility meeting such 1997 Subordinate Indenture requirements in an amount sufficient to restore such

amount held thereunder to the 1997A Reserve Requirement and the 1997B Reserve Requirement (each respectively, the applicable "Reserve Requirement") within one year; and

WHEREAS, the Subordinate Lease requires the Board to pay additional rent to the Authority to restore the applicable Reserve Requirement; and

WHEREAS, the Authority desires to authorize actions hereunder as may be necessary or convenient to avoid an event of default under the 1997 Subordinate Indenture resulting from a deposit having not been made under such 1997 Subordinate Indenture by September 9, 2009 (the "Reserve Related Actions") including (a) causing a Credit Facility to be provided by the Indiana Finance Authority (the "IFA") to the Trustee that would be sufficient to meet the 1997A Reserve Requirement and the 1997B Reserve Requirement (the "IFA Facility") and (b) all other actions as are herein authorized; and

WHEREAS, in order to obtain the IFA Facility, the Authority desires to make certain findings and authorize necessary or desirable actions including entering into the following agreements substantially in the form attached to this Resolution (and taking any other actions to qualify such as a Credit Facility under the 1997 Subordinate Indenture or as may be necessary or desirable related to carrying out the purposes of this Resolution): (a) a Debt Service Reserve Fund Replenishment Agreement by and among the Board, the Authority and the IFA to meet the 1997A Reserve Requirement and the 1997B Reserve Requirement under the 1997 Subordinate Indenture (the "IFA Agreement") and (b) a Promise to Request Appropriation Agreement by and among the Board, the Authority, the IFA and The Indianapolis Local Public Improvement Bond Bank (the "Bond Bank") related to the IFA Agreement (the "Bond Bank Agreement" and such Bond Bank Agreement together with the IFA Agreement, collectively, the "Reserve Related Agreements"); and

WHEREAS, in addition to the foregoing, if any such event of default occurs under the 1997 Subordinate Indenture, the Authority desires to authorize actions hereunder as may be necessary or convenient to eliminate or otherwise mitigate its effects thereunder (any such action, including entering into the Reserve Related Agreements, collectively, the "Reserve Related Actions"); and

NOW, THEREFORE, BE IT RESOLVED, by the Marion County Convention and Recreational Facilities Authority, as follows:

Section 1. (a) The foregoing recitals are incorporated into this resolution by this reference.

(b) In connection with entering into the Reserve Related Agreements (and thereby meeting the 1997A Reserve Requirement and the 1997B Reserve Requirement under the 1997 Subordinate Indenture), the Authority hereby finds and determines based upon current facts and circumstances as follows:

- (i) the 1997 Subordinate Indenture provides that a Credit Provider for a Credit Facility must have debt obligations that are rated in one of the two highest Rating Categories by Standard & Poor's ("S&P") and Moody's Investor Service ("Moody's"), and by

Fitch Ratings ("*Fitch*"), but only if Fitch (i) is then rating obligations of the Credit Provider and (ii) is also a Rating Agency with respect to the 1997 Subordinate Bonds; and

- (ii) debt obligations of the IFA possess the requisite Rating Categories assigned by the Rating Agencies to allow the IFA to serve as a Credit Provider for the Debt Service Reserve Fund Credit Facility under the 1997 Subordinate Indenture, based upon and supported by either or both of the following findings: (i) the IFA has certain currently outstanding obligations (other than the IFA Agreement) that are rated in one of the two highest Rating Categories by S&P, Moody's and Fitch and/or (ii) in the event a Rating Agency's rating practice permits it to rate obligations under a specific agreement such as the IFA Agreement (and in connection with entering into the IFA Agreement, such a rating is issued), then any Officer's finding that any such Rating Agency has issued a rating regarding the IFA's obligations under the IFA Agreement that is in one of its two highest Rating Categories; and
- (iii) the IFA Agreement is in a form of a comparable instrument to a letter of credit, surety bond, liquidity facility or insurance policy; and
- (iv) the Bond Insurer has confirmed that the terms of the respective Surety Bonds and the related Insurance Agreement provided by the 1997 Bond Insurer will remain in full force and effect, notwithstanding the delivery of the IFA Agreement;

that the IFA Agreement, when entered into, will constitute a Credit Facility under the 1997 Subordinate Indenture. Additionally, based upon the foregoing findings (i) through (iv) and other facts and circumstances, the Authority hereby finds and determines that it is not to the prejudice of the owners of the 1997 Subordinate Bonds to so conclude that the IFA Agreement, when entered into, will constitute a Credit Facility under the 1997 Subordinate Indenture and, accordingly, if and to the extent any Officer should determine it would be beneficial to enter into a supplement to the 1997 Subordinate Indenture to so clarify any provision of the 1997 Subordinate Indenture, the Authority further finds and determines that such a supplement to the 1997 Subordinate Indenture would not be to the prejudice of the owners of the 1997 Subordinate Bonds. The forms of the Reserve Related Agreements presented to the Authority at this meeting are hereby approved in their substantially final forms.

Section 2. The Authority hereby further finds that it is in the best interests of the Authority to cause any or all of the following Reserve Related Actions to occur to restore any applicable Reserve Requirement or otherwise avoid an event of default under the 1997 Subordinate Indentures (or if any such event of default occurs, to eliminate or otherwise mitigate its effect):

- (a) Undertaking and completing actions necessary or desirable to structure and secure the IFA Facility, including without limitation, to enter into the IFA Agreement and Bond Bank Agreement;
- (b) Entering into such further or additional agreements or arrangements with one or more Credit Providers that with respect to the 1997 Subordinate Indenture may provide a

substitute or additional Credit Facility under such 1997 Subordinate Indenture regardless of the credit rating of such provider;

- (c) Transferring any available funds of the Authority to meet all or a portion of the 1997A Reserve Requirement and the 1997B Reserve Requirement under the 1997 Subordinate Indenture, to avoid certain aspects of financial distress and thereby prevent or mitigate default in the payment of the 1997 Subordinate Bonds of the Authority;
- (d) Entering into any amendments to the IFA Agreement, the Subordinate Lease, and the 1997 Subordinate Indenture; and/or
- (e) In connection with any of the foregoing or otherwise, negotiating and obtaining any consents, waivers or other concession actions that may be granted by the Trustee or the Bond Insurer (and pay any fee or expense related thereto) and taking any other action that would be in furtherance of restoring any applicable Reserve Requirement or otherwise avoiding any such event of default (or if any such event of default occurs, to eliminate or otherwise mitigate its effect).
- (f) Undertaking and completing any actions necessary or desirable to acknowledge, confirm and carry out the inclusion as additional rent under the Subordinate Lease of any amounts owed to (i) the Bond Insurer under any Surety or related agreement or (ii) the IFA under the IFA Agreement.

Section 3. Each of the President, Vice President, Secretary and Treasurer of the Authority (each an "Officer") are hereby authorized and directed to cause any Reserve Related Actions to be undertaken and completed without further authorization or approval from the Authority's board including to (a) pay any fee or expense related thereto, (b) effect transfers of funds on-hand related thereto, (c) engage special counsel and (d) execute and deliver the Reserve Related Agreements in substantially the forms presented at this meeting with such changes in form or substance as any such Officer shall approve, such approval to be conclusively evidenced by the execution thereof.

Section 4. Any of the Officers are, and each of them is (individually rather than collectively), hereby authorized and directed to take all such actions and to take all such further actions and to execute all notes, certifications, agreements, security pledges and instruments as are desirable to carry out the transactions contemplated by this Resolution (including any amendments or supplements to the Reserve Related Agreements, the Subordinate Lease and the 1997 Subordinate Indenture), in such forms as any Officer executing the same shall deem proper, to be conclusively evidenced by the execution thereof.

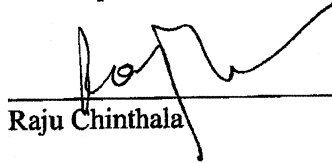
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ADOPTED this 14th day of September, 2009.

MARION COUNTY CONVENTION AND
RECREATIONAL FACILITIES AUTHORITY



Dr. Jacqueline Greenwood



Raju Chinthala



Dollyne Sherman