

LEGAL MEMORANDUM
PRIVILEGED AND CONFIDENTIAL

To: DUSPA Finance Committee Meeting – July 6 Meeting
From: Bookhardt & O’Toole
Date: July 6, 2010
Re: Summary of Financing Resolution

Below is a summary of the above referenced resolution.

The “Financing Resolution” is a resolution of the DUSPA Board that is typically required by lenders. The resolution performs various functions, including: (1) authorizing the execution and delivery of the TIFIA Loan Agreement among DUSPA, the U.S. Department of Transportation acting through the Federal Transit Authority, and the Regional Transportation District (RTD); (2) authorizing the execution and delivery of the RRIF Loan Agreement among DUSPA, the U.S. Department of Transportation acting through the Administrator of the Federal Railroad Administration and (3) negotiating and approving documents and related actions and delivering all documents and taking all actions required in connection with the closing of the TIFIA and RRIF loans.

The Financing Resolution lists and ratifies documents and related actions that have previously been taken with respect to agreements that have been approved by the Board in substantially final form, and which will be at the time of closing, in final form. The Financing Resolution also lists those documents that will be presented to the Board in substantially final form for approval just prior to closing. These documents include items such as the Master Trust Indenture, the loan agreements and exhibits to the loan agreements.

The Financing Resolution lays out the Board’s delegation of authority to its officers, namely, the President, to take such steps as she deems necessary to implement the financing for the Project and the closing of the loans, and to execute the loan documents and any other necessary documents. This is especially helpful because we will be moving at a rapid clip and time will be of the essence in completing the execution process. The President, Vice President and Secretary are authorized, empowered and directed to do all acts and things required or provided by the loan documents and any other ancillary or related documents or certificates that require such action.

ACTION NEEDED: Discussion item only. Action to be taken by the full board at a meeting of the Board of Directors.

**RESOLUTION OF THE BOARD OF DIRECTORS
of the
DENVER UNION STATION PROJECT AUTHORITY**

AUTHORIZING THE EXECUTION AND DELIVERY OF THE TIFIA LOAN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION, ACTING BY AND THROUGH THE FEDERAL HIGHWAY ADMINISTRATION AND THE REGIONAL TRANSPORTATION DISTRICT AND THE RRIF LOAN AGREEMENT WITH THE UNITED STATES OF AMERICA, REPRESENTED BY THE SECRETARY OF TRANSPORTATION ACTING THROUGH THE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMINISTRATION AND THE REGIONAL TRANSPORTATION DISTRICT INCLUDING COMPLETING VARIOUS TRANSACTIONS, AND NEGOTIATING AND APPROVING DOCUMENTS AND ACTIONS RELATED THERETO AND EXECUTING AND DELIVERING ALL DOCUMENTS REQUIRED IN CONNECTION THEREWITH

WHEREAS, the Denver Union Station Project Authority (“Authority”) is a nonprofit corporation created and existing under the Colorado Revised Nonprofit Corporation Act (the “Act”), Articles 121 through 137 of Title 7 of the Colorado Revised Statutes, as amended, its Articles of Incorporation and Ordinance No. 334, Series of 2008, adopted by the City Council of the City and County of Denver, Colorado (“City”), on July 3, 2008 (the “Ordinance”); and

WHEREAS, the Act, the Authority’s Articles of Incorporation and the Ordinance authorize the Authority to finance the cost of designing, constructing, equipping, renovating, operating, maintaining, and financing the redevelopment of Denver Union Station and its surrounding environs as a multi-modal transportation center to serve as a future hub for several transportation modes in the City’s metropolitan area (the “Project”); and

WHEREAS, in furtherance of the Project, the Authority applied for Federal credit assistance from the United States Department of Transportation (USDOT) in order to secure a loan under the Transportation Infrastructure and Innovation Act, 23 U.S.C. §§ 601-609 (the “TIFIA Loan”) and a subordinate Railroad Rehabilitation and Improvement Financing (RRIF) Program loan from the Federal Railroad Administration (FRA) pursuant to section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976, and 45 U.S.C. §§ 821-823 (the “RRIF Loan” and together with the TIFIA Loan, the “USDOT Loans”) for the purpose of financing the development of transit facilities and other certain elements of the Project; and

WHEREAS, the Authority has been awarded both USDOT Loans and is in the process of negotiating and finalizing the terms of the USDOT Loans; and

WHEREAS, in order to close the USDOT Loans, the Authority has applied for an assessment and a rating from Fitch Ratings Inc. (“Fitch”); and

WHEREAS, the Board of Directors of the Authority has previously authorized the execution and delivery of the substantially final forms of (a) that certain Agreement between the

State of Colorado for the use and benefit of the Department of Transportation, the Authority, and the Regional Transportation District (the “RTD”) dated April 6, 2010; (b) the Denver Union Station Tax Increment Area Pledge Agreement among the Denver Downtown Development Authority, the Authority and Zions First National Bank, as Trustee (the “Trustee”) dated as of [June __], 2010; (c) the Contingent Commitment and Services Agreement among the City and County of Denver, Colorado, the Authority and the Trustee dated February 9, 2010; (d) the Design-Build Agreement by and between the Authority, Kiewit Western Co. and for acknowledgement and acceptance purposes RTD dated April 30, 2009; (e) Amendment No.1 to Design Build Agreement dated April 30, 2009; (f) the DUSPA/City Project Coordination Agreement by and between the Authority and the City dated April 30, 2009; (g) the DUSPA/RTD Initial Funding, Reimbursement and Project Coordination Agreement by and between the Authority and RTD dated April 30, 2009; (h) the First Amendment to DUSPA/RTD Initial Funding, Reimbursement and Project Coordination Agreement dated June 8, 2010; (i) the Second Amendment to the DUSPA/RTD Initial Funding, Reimbursement and Project Coordination Agreement dated _____, 2010; (j) DUS Project Mill Levy Pledge Agreement by and among the Authority, DUS Metropolitan District No.1, DUS Metropolitan District No. 2, DUS Metropolitan District No. 3 and the Trustee dated as of June 22, 2010; (k) the Denver Union Station Project Authority Services Agreement (Denver Union Station) dated as of April 14, 2009 by and between the Authority and the City; and (l) the Loan Agreement between the Authority and RTD dated March 5, 2009. The documents listed in (a) – (l) above are collectively referred to herein as the “Authorized Documents”; and

WHEREAS, there have been presented to the Board of Directors of the Authority (1) the form of the Master Trust Indenture, Funding, Coordination and Compliance Agreement by and among the Authority, RTD, the United States of America, represented by the Secretary of Transportation acting through the Administrator of the Federal Highway Administration, the United States of America, represented by the Secretary of Transportation acting through the Administrator of the Federal Railroad Administration and the Trustee dated as of July 1, 2010 (the “Master Trust Indenture”); (2) the form of the TIFIA Loan Agreement by and among the Authority, RTD and the United States Department of Transportation, acting by and through the Federal Highway Administration dated as of July 1, 2010 (the “TIFIA Loan Agreement”); (3) the form of the Loan Agreement by and among, the United States of America, represented by the Secretary of Transportation acting through the Administrator of the Federal Railroad Administration, the Authority and RTD dated as of July 1, 2010 (the “RRIF Loan Agreement”); (4) the form of First Supplemental Trust Indenture by and among the Authority, RTD, the United States Department of Transportation, acting by and through the Federal Highway Administration, the United States of America, represented by the Secretary of Transportation acting through the Administrator of the Federal Railroad Administration and the Trustee dated as of July 1, 2010 (the “First Supplemental Indenture”); (5) the form of the Second Supplemental Trust Indenture by and among the Authority, RTD, the United States Department of Transportation, acting by and through the Federal Highway Administration, the United States of America, represented by the Secretary of Transportation acting through the Administrator of the Federal Railroad Administration and the Trustee dated as of July 1, 2010 (the “Second Supplemental Indenture”); (6) the form of the TIFIA Senior Obligation (Note); (7) the form of the RRIF Subordinate Obligation (Note); (8) the form of the United States Department of Transportation Federal Transit Administration Compliance Agreement; (9) the form of

DUSPA/RTD Funding Agreement by and between the Authority and RTD dated July 1, 2010; (10) Amendment No. 2 to Design Build Agreement dated ____, 2010; and (11) the RTD Bond. The documents listed in (1) – (10) above are collectively referred to herein as the “Loan Documents”; and

WHEREAS, in connection with the closing of the USDOT Loans, the Board of Directors of the Authority (the “Board”) desires to authorize the execution and delivery of the documents necessary and desirable to advance the closing process for the USDOT Loans, to undertake the transactions described above, to authorize any actions necessary to close the transaction, and to ratify certain actions previously taken; and

WHEREAS, the Board wishes to delegate to the President of the Board, the authority to execute and deliver certain documents and to do and perform other acts and things necessary or, in her reasonable discretion, useful or desirable to effect the closing of the USDOT Loans.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

1. All actions not inconsistent with the provisions of this Resolution heretofore taken by any of the officials of the Authority and the efforts of the Authority directed toward the closing of the USDOT Loans and the completion of the Project transactions contemplated in connection therewith, including, without limitation, the preparation and transmittal of all required notices, all supporting and any other documentation with respect to the USDOT Loans, shall be, and the same hereby are, ratified, approved, and confirmed.

2. The President of the Board is hereby authorized to take such steps as she deems necessary to implement the financing for the Project in accordance with the Act, the Authority’s Articles of Incorporation and the Ordinance, as amended from time to time, including coordinating and interfacing with the City, RTD, Colorado Department of Transportation (“CDOT”), the Denver Regional Council of Governments, the United States of America represented by the Secretary of Transportation acting through the Administrator of the Federal Highway Administration, the United States of America, represented by the Secretary of Transportation acting through the Administrator of the Federal Railroad Administration and other parties necessary to prepare the essential financing documents for the closing of the USDOT Loans, at such times as she determines appropriate, and taking such other and further steps as she shall deem necessary and appropriate.

3. The President of the Board is hereby authorized to take all action which she deems necessary or reasonably required in conformity with the Act, the Authority, the Articles and the Ordinance, as may be amended from time to time, to accomplish the transactions contemplated by this Resolution and any other documents referenced herein, and for carrying out, giving effect to and consummating the transactions contemplated by the same, including, without limitation, the execution and delivery of Loan Documents with such changes, additions, deletions, and modifications thereto as are not inconsistent with this Resolution, memoranda, certificates or other documents required to be delivered in connection with the execution and delivery of the USDOT Loans, including any documents required by Fitch for the completion of

the rating process, and execution and delivery of the other documents or certificates referenced herein and therein.

4. [The Master Trust Indenture, the First Supplemental Indenture, the Second Supplemental Indenture, the TIFIA Loan Agreement and the RRIF Loan Agreement shall be executed and delivered pursuant to the Supplemental Public Securities Act, title 11, article 57, part 2, Colorado Revised Statutes, as amended (the "Supplemental Act"), the provisions of which Supplemental Act are hereby elected, to the extent not inconsistent herewith or with the Indenture. – Dave and Anastasia to match language with opinion]

5. The President and Vice President of the Board and each of them without the other is hereby authorized to execute, either by manual or facsimile signature, the Loan Documents and any other documents or certificates contemplated thereby in connection with the closing of the USDOT Loans and the Secretary of the Board is hereby authorized to attest the same either by manual, electronic or facsimile signature.

6. The President and Vice President and the Secretary of the Board are hereby severally authorized, empowered and directed to do all acts and things required or provided for by the Loan Documents and any other documents or certificates contemplated thereby and to execute, either by manual, electronic or facsimile signature, and deliver all such additional certificates, instruments, agreements and documents, pay all such reasonable fees, charges and expenses and to do all such further acts and things as may be necessary, or in the reasonable discretion of the person acting, desirable and proper to effect the purposes of this Resolution and to cause compliance by the Authority with all the terms, covenants and provisions of the Loan Documents and any other documents contemplated thereby if any, binding upon the Authority.

7. All covenants, stipulations, promises, agreements and obligations of the Authority contained in this Resolution shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and not of any director, member, officer or employee of the Authority in his or her individual capacity, and no recourse shall be had for the payment of the principal of or interest on the USDOT Loans or any other obligations of the Authority or for any claim based thereon or on this resolution, either jointly or severally, against any director, member, officer or employee of the Authority.

RESOLVED by the Board of Directors of the Denver Union Station Project Authority, at a regular meeting this ___ day of _____ 2010.

DENVER UNION STATION
PROJECT AUTHORITY

By: _____
President, Board of Directors

ATTEST:

By: _____
Secretary