ITEM NO.  SUBJECT: Resolution in accordance with Sections 5.15 and 5.09 of the 1998 Indenture of Trust dated as of July 1, 1998 with TD Bank, N.A. as Trustee to adopt an Annual Budget of the Delaware River Port Authority for the 2009 Fiscal Year

COMMITTEE: Finance

COMMITTEE MEETING DATE: November 19, 2008

BOARD ACTION DATE: December 10, 2008

PROPOSAL: That the Board of Commissioners adopts an Annual Budget in accordance with Section 5.15 of the 1998 Indenture of Trust dated as of July 1, 1998 with TD Bank, N.A., as successor Trustee by acquisition, to Commerce Bank, N.A.

PURPOSE: To fulfill the requirements pursuant to Section 5.15 of the 1998 Indenture of Trust dated as of July 1, 1998 with TD Bank, N.A. as Trustee.

BACKGROUND: Section 5.15 of the 1998 Indenture of Trust dated as of July 1, 1998 with TD Bank, N.A. as Trustee (1998 Indenture), as approved by the Board of Commissioners of the Delaware River Port Authority (Authority), provides in pertinent part:

(a) The Authority covenants that on or before December 31 in each Fiscal Year it will adopt a final budget (Annual Budget) for the ensuing Fiscal Year of (i) Operating Expenses, (ii) the PATCO Subsidy, (iii) the amount to be deposited to the credit of the 1998 Maintenance Reserve Fund and (iv) the estimated amounts to be deposited into (a) the 1998 Debt Service Fund, (b) the 1998 Debt Service Reserve Fund, and (c) the 1998 Rebate Fund and (v) the amounts to be deposited in any fund established under the General Bond Resolution or the 1995 Indenture (such budget being herein referred to as the Annual Budget. Each Annual Budget shall also contain the Authority's projections for Revenues for the ensuing Fiscal Year demonstrating compliance with the covenant as to Facility Charges as set forth in Section 5.09 of the 1998 Indenture. On or before December 31 in each Fiscal Year the Authority shall file a copy of the Annual Budget for the ensuing Fiscal Year with the Trustee.

The attached 2009 Annual Budget provides the amount of funds
Resolution in accordance with Sections 5.15 and 5.09 of the 1998 Indenture of Trust dated as of July 1, 1998 with TD Bank, N.A. as Trustee to adopt an Annual Budget of the Delaware River Port Authority for the 2009 Fiscal Year.

required for each component, (i) through (v), of paragraph (a) of Section 5.15 of the 1998 Indenture and in addition provides revenue projections required to demonstrate compliance with the covenant as to Facility Charges set forth in Section 5.09 of the 1998 Indenture. The following provides a summary of the determination of each component of the Annual Budget and the determination of compliance with Section 5.09 of the 1998 Indenture.

(i) Operating Expenses:

As defined in the 1998 Indenture, Operating Expenses generally consist of all current expenses under Generally Accepted Accounting Principles (GAAP) in respect of the operation, maintenance and repair of or to the Facilities, properly attributable to the facilities except for non-cash items of expense and, as defined, exclude any costs of Capital Additions, any provision for interest, depreciation or amortization, and any expenses relating to the Rapid Transit System (PATCO).

In accordance with the above, estimated 2009 Operating Expenses, as of December 31, 2008, include the following:

(a) 2009 DRPA Operating Budget in the amount of $83,091,000 (Includes E-ZPass Customer Service Center Expenses).
(b) 2009 One Port Center Operating Expenses in the amount of $2,311,000 (Includes 2009 OPC operating budget plus 2009 Redevelopment Payment to City of Camden).
(c) 2009 Biennial Inspection Expense in the amount of $0. (The Biennial Inspection expense provides for engineering inspections of DRPA’s bridge and transit system facilities which are required under the bond indenture.

2009 Operating Expenses totaling $85,402,000 are included in the 2009 Annual Budget.

(ii) PATCO Subsidy:

As defined in the 1998 Indenture, the PATCO Subsidy generally includes (a) the amount of any operating subsidy paid or payable by the Authority to or for the account of PATCO with respect to the
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Rapid Transit System, plus (b) the amount of rent and other payment obligations paid or payable by the Authority under the Locust Street Subway Lease, including payments into the Community Impact Fund.

The Authority's operating subsidy to PATCO for 2009 is estimated to be $21,347,000 (Estimated PATCO operating revenues of $23,798,000 less 2009 PATCO Operating Budget expenses of $45,145,000). Under the terms of the Locust Street Subway Lease, amended December 12, 1995, the Authority will pay, in 2009, approximately $2,983,000 to the City of Philadelphia and $500,000 in Community Impact Funds.

The PATCO Subsidy (including the payments under the Locust Street Subway Lease) is estimated to be $24,830,000 in 2009 and such funds are included in the 2009 Annual Budget.

(iii) Amount to be deposited to the 1998 Maintenance Reserve Fund:

In accordance with the terms of the 1998 Indenture, the Authority is not required to deposit any funds to the credit of the 1998 Maintenance Reserve Fund until the Defeasance of the 1995 Indenture. With the defeasance of the 1995 Revenue Bonds, the 1995 Maintenance Reserve Fund has been closed and any balance has been transferred to the 1998 Maintenance Reserve Fund. No deposits are required for 2009.

(iv) Amounts to be deposited to

(a) 1998 Debt Service Fund:

In accordance with the terms of the 1998 Indenture the amount of $2,487,000 representing debt service payments on the 1998 Revenue Refunding Bonds, is required to be deposited to the Debt Service Fund for the 2009 Fiscal Year and such amount is included in the 2009 Annual Budget.

(b) 1998 Debt Service Reserve Fund:

In accordance with the terms of the 1998 Indenture, the 1998 Debt Service Reserve Fund is required to be funded at all times in an amount equal to the 1998 Debt Service Reserve Requirement. The
1998 Debt Service Reserve Fund was funded in an amount equal to the 1998 Debt Service Reserve Requirement from the proceeds of the 1998 Bond issue, and no further monies are required to be deposited in 2009.

(c) 1998 Rebate Fund:

In accordance with Section 6.07 of the 1998 Indenture no deposits are expected to be made to the 1998 Account or the 1999 Account of the 1998 Rebate Fund for the 2009 Fiscal Year.

(d) 1999 Debt Service Account of the 1998 Debt Service Fund:

In accordance with the terms of the 1998 Indenture the amount of $39,634,000 representing debt service payments on the 1999 Revenue Refunding Bonds, is required to be deposited in the 1999 Account of the Debt Service Fund for the 2009 Fiscal Year and such amount is included in the 2009 Annual Budget.

(e) 2008 Debt Service Account of the 1998 Debt Service Fund:

With the issuance of the 2008 Revenue Refunding Bonds in July 2008, a deposit has been made to the Debt Service Reserve Fund for these bonds. In accordance with the terms of the 1998 Indenture the amount of $30,951,000 representing estimated debt service payments on the 2008 Revenue Refunding Bonds and net payments to the swap counterparty on the 1995 Revenue Bond swap, are required to be deposited in the 2008 Account of the Debt Service Fund for the 2009 Fiscal Year and such amount is included in the 2009 Annual Budget.

(v) Deposit to Funds established under the 1995 Indenture

With the defeasance of the 1995 Indenture no debt service payments are required for the fiscal year 2009 and beyond.

Projection of Revenues for 2009 Demonstrating Compliance With The
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Covenant As To Facility Charges Set Forth In Section 5.09 of the 1998 Indenture:

Section 5.09 Maintenance of Facility Charges, paragraph (a), provides in pertinent part:

(a) The Authority covenants that it shall fix, charge and collect such Facility Charges with respect to the Facilities as shall be required in order that, in each Fiscal Year, Net Revenues shall at least equal the Net Revenue Requirement for such Fiscal Year.

Net Revenues for the Fiscal Year 2009 are projected to be $164,431,000 and the Net Revenue Requirement at 105% is projected to be $102,797,000. For 2009 Net Revenues are therefore projected to at least equal the Net Revenue Requirement in compliance with Section 2.01 of the Second Supplement to the 1998 Indenture of Trust dated July 1, 1998 with TD Bank, N.A. as Trustee.

SUMMARY: Amount: N/A
Source of Funds: N/A
Capital Project #: N/A
Operating Budget: N/A
Master Plan Status: N/A
Other Fund Sources: N/A
Duration of Contract: N/A
Other Parties Involved: N/A
DRPA-08-098
Finance Committee: November 19, 2008
Board Date: December 10, 2008
Resolution in accordance with Sections 5.15 and 5.09 of the 1998 Indenture of Trust dated as of July 1, 1998 with TD Bank, N.A. as Trustee to adopt an Annual Budget of the Delaware River Port Authority for the 2009 Fiscal Year

RESOLUTION

RESOLVED: That the accompanying 2009 Annual Budget, as defined in the 1998 Indenture of Trust dated as of July 1, 1998 with TD Bank, N.A. as Trustee between the Delaware River Port Authority, is hereby adopted and be it further

RESOLVED: That the adoption of this Budget is deemed and intended to satisfy the requirements of Sections 5.15 and 5.09 of the 1998 Indenture of Trust

RESOLVED: The Chair, Vice Chair and the Chief Executive Officer must approve and are hereby authorized to approve and execute all necessary agreements, contracts, or other documents on behalf of the DRPA. If such agreements, contracts, or other documents have been approved by the Chair, Vice Chair and Chief Executive Officer and if thereafter either the Chair or Vice Chair is absent or unavailable, the remaining Officer may execute the said document(s) on behalf of DRPA along with the Chief Executive Officer. If both the Chair and Vice Chair are absent or unavailable, and if it is necessary to execute the said document(s) while they are absent or unavailable, then the Chief Executive Officer shall execute such documents on behalf of DRPA.

SUMMARY: Amount: N/A
Source of Funds: N/A
Capital Project #: N/A
Operating Budget: N/A
Master Plan Status: N/A
Other Fund Sources: N/A
Duration of Contract: N/A
Other Parties Involved: N/A

JTH: nf
Finance