

# Staff Summary

<b>Subject</b> Approval of the refunding of outstanding Build America Bonds	<b>Date</b> May 22, 2024
<b>Department</b> Finance	<b>Vendor Name</b> N/A
<b>Department Head Name</b> Kevin Willens, Chief Financial Officer	<b>Contract Number</b>
<b>Department Head Signature</b>	<b>Contract Manager Name</b>
<b>Project Manager Name</b> Olga Chernat, Deputy Chief, Financial Services	<b>Table of Contents Ref #</b>

Board Action						Internal Approvals			
Order	To	Date	Approval	Info	Other	Order	Approval	Order	Approval
1	Finance Comm.	5/20	X			1	Legal		
2	Board	5/22	X			2	Chief of Staff		

## PURPOSE:

The MTA Finance Department is seeking MTA and TBTA Board approval for the potential refunding of all or a portion of its outstanding Build America Bonds with tax-exempt debt if the MTA Chief Financial Officer (CFO) determines such refunding or refundings to be in the MTA’s financial interest. Due to the unique economics and risks of these outstanding Build America Bonds, Board approval for these refundings is sought because the net present value savings requirement of the MTA and TBTA Bond and Other Debt Obligations Refunding Policy (adopted December 2018) may not be met at the time of execution of the refundings. Staff has made no final decisions with respect to these potential refundings, which are partially dependent on market conditions acceptable to MTA at the time of sale.

## DISCUSSION:

MTA and TBTA currently have \$3.73 billion of outstanding Build America Bonds (“BABs”). BABs were created by the American Recovery and Reinvestment Act of 2009 (“ARRA”) and issued between April 2009 and December 2010. Under the ARRA, MTA and TBTA were taxable bonds entitled to receive cash subsidy payments from the federal government equal to 35% of the interest payable on the BABs. However, the Budget Control Act of 2011 (“BCA”) became law in 2011 and required automatic reductions of certain federal government spending through “sequestration.” Consequently, the 35% cash subsidy payments on the BABs have been significantly reduced since 2013 through federal budget sequestration increasing the net effective interest cost of the taxable BABs. Under current law, BABs cash subsidy payments from the federal government remain subject to additional sequestration through federal fiscal year 2030.

Pursuant to the terms of the applicable bond resolutions, the BABs are subject to an extraordinary optional redemption in the event that an “extraordinary event” has occurred. Based on MTA staff review and outside legal advice, a material adverse change to certain sections of the Internal Revenue Code which resulted in the decrease in the cash subsidy payments to MTA and TBTA caused by sequestration constitutes an “extraordinary event.” Exercising the extraordinary optional redemption provision to redeem outstanding BABs allows MTA and TBTA to refund the BABs at a lower cost to MTA and TBTA than the non-extraordinary optional redemption alternative.

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## **ALTERNATIVES:**

The Board could determine that staff seek specific approval prior to each BABs refunding transaction in advance of undertaking each refunding. However, due to market volatility which would impact the economics of these refundings, this alternative is not advised. Delegating the timing and execution of the BABs refundings to staff would be consistent with standard Board authorization and delegation for regular refunding transactions.

## **RECOMMENDATION:**

The MTA and TBTA Boards to authorize refunding of outstanding BABs with tax-exempt debt at the discretion of the CFO.