

**REFUNDING ISSUE — BOOK-ENTRY ONLY**

*In the opinion of Bond Counsel, based upon an analysis of existing law and assuming continued compliance by the Commonwealth with the Internal Revenue Code of 1986, as amended, interest on the 2003A Refunding Notes is excluded from gross income for federal income tax purposes and is not an item of tax preference for the purpose of computing the federal alternative minimum tax imposed on individuals and corporations, although interest on the 2003A Refunding Notes will be taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed upon certain corporations. In the opinion of Bond Counsel, interest on the 2003A Refunding Notes is exempt from Massachusetts personal income taxes, and the 2003A Refunding Notes are exempt from Massachusetts personal property taxes. For federal and Massachusetts tax purposes, interest includes original issue discount. See "TAX EXEMPTION" herein.*



**\$408,015,000**

**THE COMMONWEALTH OF MASSACHUSETTS  
Special Obligation Refunding Notes  
(Federal Highway Grant Anticipation Note Program)  
2003 Series A**

**Dated: Date of Delivery**

**Due: As shown on the inside cover**

*The Special Obligation Refunding Notes (Federal Highway Grant Anticipation Note Program), 2003 Series A (the "2003A Refunding Notes") are being issued by The Commonwealth of Massachusetts (the "Commonwealth") pursuant to Section 53A of Chapter 29 of the Massachusetts General Laws and a Trust Agreement dated as of June 1, 1998, as amended and supplemented to the date hereof (the "Trust Agreement"), by and between the Commonwealth and U.S. Bank National Association, Boston, Massachusetts, as successor trustee (the "Trustee").*

As more fully described herein, the 2003A Refunding Notes are special limited obligations of the Commonwealth, initially payable solely from the Escrow Account held under the Escrow Agreement, each as defined herein. On December 15, 2008 and December 15, 2010, respectively, upon and subject to funds in the Escrow Account being applied on each such date to effect the refundings contemplated hereby, first a portion and then the remainder of the 2003A Refunding Notes will cease to be payable from the Escrow Account and will become payable from and secured solely by a pledge of the Pledged Funds, as defined herein, all rights to receive Pledged Funds, and all Funds and Accounts, other than the Rebate Fund, held under the Trust Agreement, on a parity with the other outstanding notes secured by the Trust Agreement. The Escrow Account will contain invested proceeds of the 2003A Refunding Notes. The Pledged Funds are reimbursements received or to be received by the Commonwealth from the federal government pursuant to the Federal-Aid Highway Program, any other monies from time to time deposited in the Federal Highway Grant Anticipation Trust Fund of the Commonwealth, and, in certain limited circumstances, a portion of the proceeds of the Commonwealth's gasoline excise tax and certain other monies described herein. **THE 2003A REFUNDING NOTES SHALL BE PAYABLE SOLELY FROM THE ESCROW ACCOUNT OR THE PLEDGED FUNDS AS DESCRIBED HEREIN. THE 2003A REFUNDING NOTES ARE NOT A GENERAL OBLIGATION OF THE COMMONWEALTH AND THE FULL FAITH AND CREDIT OF THE COMMONWEALTH IS NOT PLEDGED TO THE PAYMENT OF THE 2003A REFUNDING NOTES.** See "SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE ESCROW AGREEMENT" and "SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT" herein.

The 2003A Refunding Notes will be issued only as fully registered notes, registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). Purchases of beneficial interests in the 2003A Refunding Notes will be made in book-entry form in denominations of \$5,000 principal amount or whole multiples thereof. Purchasers will not be entitled to receive physical delivery of the 2003A Refunding Notes.

Principal and interest on the 2003A Refunding Notes (with interest accruing from the dated date and payable on December 15, 2003 and thereafter on June 15 and December 15 of each year) will be payable to DTC by the Trustee. So long as DTC or its nominee remains the registered owner, disbursements of such payments to DTC Participants, as defined herein, are the responsibility of DTC and disbursements of such payments to the purchasers of the 2003A Refunding Notes are the responsibility of DTC Participants, as described herein. The 2003A Refunding Notes are not subject to optional redemption prior to stated maturity but are subject to special mandatory redemption as described herein. The scheduled payment of principal of and interest on the 2003A Refunding Notes when due will be guaranteed under an insurance policy to be issued concurrently with the delivery of the 2003A Refunding Notes by FINANCIAL SECURITY ASSURANCE INC.



The 2003A Refunding Notes are offered, subject to prior sale, when, as and if issued by the Commonwealth and accepted by the Underwriters, and to the approval of legality of the 2003A Refunding Notes and certain other matters by Ropes & Gray LLP, Boston, Massachusetts, Bond Counsel. Certain legal matters will be passed upon for the Underwriters by their counsel, Brown Rudnick Berlack Israels LLP, Boston, Massachusetts. It is expected that the 2003A Refunding Notes will be available for delivery to DTC in New York, New York, or its custodial agent on or about July 16, 2003.

**Merrill Lynch & Co.**

**Bear, Stearns & Co. Inc.  
JPMorgan**

**Citigroup  
Lehman Brothers**

**Goldman, Sachs & Co.  
UBS Financial Services Inc.**

**Advest, Inc.  
Corby Capital Markets, Inc.  
Janney Montgomery Scott Inc.  
Prudential Securities  
Raymond James & Associates, Inc.**

**A.G. Edwards & Sons, Inc.  
Fahnestock & Co. Inc  
Mellon Financial Markets, LLC  
Quick & Reilly, Inc.  
RBC Dain Rauscher Inc.  
Wachovia Bank, National Association**

**CIBC World Markets  
First Albany Corporation  
Morgan Stanley  
Ramirez & Co., Inc.  
State Street Global Markets, LLC**

# THE COMMONWEALTH OF MASSACHUSETTS

**\$408,015,000**  
**Special Obligation Refunding Notes**  
**(Federal Highway Grant Anticipation Note Program)**  
**2003 Series A**

**Dated: Date of Delivery**

**Due: December 15, as shown below**

<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
2009	\$14,300,000	5.00%	2.51%	114.664%
2010	62,390,000	5.00	2.79	114.706
2011	65,890,000	5.00	2.99	114.852
2012	39,940,000	5.00	3.13	115.143
2013	125,060,000	5.00	3.25	115.353
2014	100,435,000	5.00	3.39	115.130

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE 2003A REFUNDING NOTES AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

Other than with respect to information concerning Financial Security Assurance Inc. ("Financial Security") contained under the heading "BOND INSURANCE" and in Exhibit E – Specimen Municipal Bond Insurance Policy, none of the information in this Official Statement has been supplied or verified by Financial Security and Financial Security makes no representation or warranty, express or implied, as to (i) the accuracy or completeness of such information; (ii) the validity of the 2003A Refunding Notes; or (iii) the tax exempt status of the interest on the 2003A Refunding Notes.

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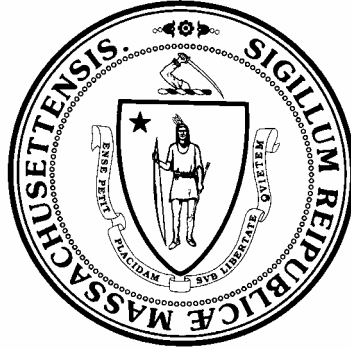
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The information in this Official Statement has been obtained from the Commonwealth and other sources considered to be reliable. All estimates and assumptions contained herein are believed to be reliable, but no representation is made that such estimates or assumptions are correct or will be realized. No dealer, broker, salesman or other person has been authorized by the Commonwealth or the Underwriters to give any information or to make any representation with respect to the 2003A Refunding Notes, other than those contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. The information and expressions of opinion herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Commonwealth since the date hereof. This Official Statement does not constitute an offer to sell or a solicitation of any offer to buy, nor shall there be any sale of the 2003A Refunding Notes, by any person, in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their respective responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

This Official Statement contains forecasts, projections and estimates that are based on current expectations but are not intended as representations of fact or guarantees of results. If and when included in this Official Statement, the words “expects,” “forecasts,” “projects,” “intends,” “anticipates,” “estimates” and analogous expressions are intended to identify forward-looking statements as defined in the Securities Act of 1933, as amended, and any such statements inherently are subject to a variety of risks and uncertainties that could cause actual results to differ materially from those projected. These forward-looking statements speak only as of the date of this Official Statement. The Commonwealth disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein to reflect any change in the Commonwealth’s expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.

THE COMMONWEALTH OF MASSACHUSETTS



CONSTITUTIONAL OFFICERS

W. Mitt Romney..... Governor  
Kerry Healey ..... Lieutenant Governor  
William F. Galvin..... Secretary of the Commonwealth  
Thomas F. Reilly ..... Attorney General  
Timothy P. Cahill..... Treasurer and Receiver-General  
A. Joseph DeNucci ..... Auditor

LEGISLATIVE OFFICERS

Robert E. Travaglini..... President of the Senate  
Thomas M. Finneran ..... Speaker of the House

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## SUMMARY OF TERMS

*The following is qualified in its entirety by reference to the information appearing elsewhere in this Official Statement. Terms used in this summary and not defined herein are defined in "APPENDIX A: SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT."*

Issuer .....	The Commonwealth of Massachusetts (the "Commonwealth") acting pursuant to Section 53A of Chapter 29 of the Massachusetts General Laws and Sections 9 through 10D of Chapter 11 of the Acts of 1997, as amended by Chapters 121 and 235 of the Acts of 1998 (the "Act").
Securities Offered.....	Special Obligation Refunding Notes (Federal Highway Grant Anticipation Note Program), 2003 Series A (the "2003A Refunding Notes") to be issued pursuant to an Escrow Agreement dated as of June 19, 2003 (the "Escrow Agreement") by and between the Commonwealth and U.S. Bank National Association and pursuant to a Trust Agreement by and between the Commonwealth and the Trustee dated as of June 1, 1998 as supplemented and amended by a First Supplemental Trust Agreement of even date therewith, by a Second Supplemental Trust Agreement dated as of November 1, 1998, by a Third Supplemental Trust Agreement dated as of November 1, 2000 and as further supplemented and amended by a Fourth Supplemental Trust Agreement dated as of June 19, 2003 (as so supplemented and amended and as further supplemented and amended from time to time, the "Trust Agreement").
Purpose of Issue .....	The proceeds of the 2003A Refunding Notes are being issued to refund certain of the Commonwealth's 1998 Series A Federal Highway Grant Anticipation Notes (the "1998A Notes"), 1998 Series B Federal Highway Grant Anticipation Notes (the "1998B Notes") and 2000 Series A Federal Highway Grant Anticipation Notes (the "2000A Notes") (the 1998A Notes, 1998B Notes and 2000A Notes, together, being the "Prior Notes"). The Prior Notes to be refunded by the 2003A Refunding Notes are identified in Appendix B (the "Refunded Notes"). The 1998A Notes and 1998B Notes to be refunded will be redeemed on December 15, 2008 (the "2008 Refunded Notes") and the 2000A Notes to be refunded will be redeemed on December 15, 2010 (the "2010 Refunded Notes"), each upon the occurrence of certain conditions described herein under the heading "THE 2003A REFUNDING NOTES—Plan of Refunding."
Trustee.....	U.S. Bank National Association, Boston, Massachusetts, successor Trustee to State Street Bank and Trust Company.
Not General Obligations.....	The 2003A Refunding Notes are not general obligations of the Commonwealth. The full faith and credit of the Commonwealth is not pledged to the payment of the 2003A Refunding Notes.
Security and Sources of Payment for the 2003A Refunding Notes .....	Initially, the principal of and interest on the 2003A Refunding Notes will be secured solely by and payable solely from the Escrow Account (defined below). On December 15, 2008 (the "First Crossover Date"), upon and subject to the redemption on that date of the 2008 Refunded Notes, a portion of the 2003A Refunding Notes

(to be designated by the Commonwealth) shall no longer be secured by or payable from the Escrow Account and will be payable solely from the Pledged Funds (described below). On December 15, 2010 (the “Second Crossover Date” and, together with the First Crossover Date, the “Crossover Dates”), upon and subject to the redemption on that date of the 2010 Refunded Notes, the remainder of the 2003A Refunding Notes shall no longer be payable from the Escrow Account and will be payable solely from the Pledged Funds.

Escrow Account ..... The proceeds of the 2003A Refunding Notes will be deposited pursuant to the Escrow Agreement in an escrow account (including investments therein and investment earnings thereon, the “Escrow Account”). The Escrow Account will be used to pay interest on all of the 2003A Refunding Notes until the First Crossover Date. On that date, a portion of the Escrow Account will be applied to pay the principal of and redemption premium on the 2008 Refunded Notes (or, if the conditions to the issuance of Refunding Notes to redeem the 2008 Refunded Notes under the Trust Agreement are not met on the First Crossover Date, to the special mandatory redemption of a portion of the 2003A Refunding Notes). The portion of the Escrow Account remaining after the First Crossover Date will be used to pay interest until the Second Crossover Date on those 2003A Refunding Notes which remain payable from the Escrow Account. On the Second Crossover Date, the Escrow Account will be applied to pay the principal of the 2010 Refunded Notes (or, if the conditions to the issuance of Refunding Notes to redeem the 2010 Refunded Notes under the Trust Agreement are not met on the Second Crossover Date, to the special mandatory redemption of the 2003A Refunding Notes which remain payable from the Escrow Account).

Pursuant to the Escrow Agreement, proceeds of the 2003A Refunding Notes deposited in the Escrow Account shall be applied immediately upon receipt to purchase non-callable direct obligations of, or obligations the payment of the principal and interest on which are unconditionally guaranteed by, the United States of America, obligations of certain federal agencies specified in Section 49 of Chapter 29 of the Massachusetts General Laws or of any agency or corporation which has been created pursuant to an act of Congress of the United States as an agency or instrumentality of the United States of America, bank time deposits or certificates of deposit that are secured by such obligations, repurchase agreements with banks in respect of any such obligations or advance-refunded or defeased bonds that are secured by such obligations (the “Escrow Obligations”) and to funding, if needed, a cash deposit in such account. The Escrow Agreement will require that maturing principal of and interest on the Escrow Obligations, plus any initial cash deposit, be held in trust in such account and paid to the Commonwealth solely for the payment of interest on the 2003A Refunding Notes until the applicable Crossover Date and principal of and redemption premium, if any, on the Refunded Notes (or, if the conditions to the issuance of Refunding Notes under the Trust Agreement are not met on either Crossover Date, the redemption price of the 2003A Refunding Notes required to be redeemed on that date). See “SECURITY AND SOURCES OF PAYMENT FOR THE



2003A REFUNDING NOTES UNDER THE ESCROW AGREEMENT.”

According to the report described in “VERIFICATION OF MATHEMATICAL COMPUTATIONS,” the Escrow Obligations will mature at such times and earn interest in such amounts that will produce sufficient monies, together with any initial cash deposit, to pay interest on the 2003A Refunding Notes from the issuance date thereof up to and including the Crossover Dates and on each Crossover Date either to redeem Refunded Notes or, if special mandatory redemption of 2003A Refunding Notes is required, to redeem 2003A Refunding Notes.

Pledged Funds ..... Upon and subject to the occurrence of the redemption of the 2008 Refunded Notes on the First Crossover Date, the principal of and interest on a portion of the 2003A Refunding Notes (to be designated by the Commonwealth) will become limited-recourse obligations of the Commonwealth under the Trust Agreement. Such 2003A Refunding Notes then will no longer be payable from the Escrow Account but thereafter will be payable solely from and secured by the following (collectively, the “Pledged Funds”):

(a) all reimbursements and other federal assistance (“Federal Highway Reimbursements”) that the Commonwealth from time to time shall receive with respect to federally-aided highway construction projects under or in accordance with Title 23 of the United States Code or any successor program established under federal law (the “Federal-Aid Highway Program”);

(b) any other monies from time to time deposited in the Federal Highway Grant Anticipation Note Trust Fund of the Commonwealth established by Section 10 of the Act (the “GAN Trust Fund”);

(c) all amounts from time to time credited to the GAN Trust Fund (excluding the Project Fund established therein) and to the funds and accounts (excluding the Rebate Fund) established under the Trust Agreement;

(d) any amounts payable to the Commonwealth by a Hedge Provider pursuant to a Qualified Hedge Agreement relating to the Notes; and

(e) upon the occurrence and during the continuation of a True-Up Condition, the Alternative Revenues (each as described below).

Upon and subject to the occurrence of the redemption of the 2010 Refunded Notes on the Second Crossover Date, the remaining 2003A Refunding Notes will become obligations of the Commonwealth under the Trust Agreement, payable solely from and secured by the Pledged Funds. See “SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT.”

Federal Highway Reimbursements..... Under the Federal-Aid Highway Program, Federal Highway Reimbursements are paid to the Commonwealth from revenues collected by the United States Treasury on certain federal taxes on gasoline, tire sales, truck sales and other items and deposited into the federal Highway Trust Fund for distribution, subject to Congressional appropriation, to the states in accordance with the federal highway aid programs established initially by the Federal-Aid Highway Act of 1956 and continued under successor statutes. See “THE FEDERAL-AID HIGHWAY PROGRAM.” Application of Federal Highway Reimbursements to pay principal of and interest on the 2003A Refunding Notes when due is not subject to appropriation by the Massachusetts Legislature. See “COMMONWEALTH PARTICIPATION IN THE FEDERAL-AID HIGHWAY PROGRAM.”

Flow of Federal Highway Reimbursements ..... All Federal Highway Reimbursements are required under the Trust Agreement to be deposited by the Treasurer and Receiver-General of the Commonwealth (the “State Treasurer”) within two business days after receipt by the Commonwealth into the GAN Trust Fund. On or before October 10 of each federal fiscal year (“FFY”) the State Treasurer, with the written concurrence of the Secretary of Administration and Finance and the Secretary of Transportation and Construction (collectively, the “Secretaries”), will deliver to the Trustee a statement (the “Statement of Available Revenues”) setting forth, among other matters, the amount of Federal Highway Reimbursements expected to be received by the Commonwealth during such FFY and the amount of Trust Agreement Obligations expected to be due and payable during the next succeeding FFY and the ratio of such amounts (the “Debt Service Coverage Ratio”).

If the projected Debt Service Coverage Ratio is equal to or greater than 120%, then Federal Highway Reimbursements sufficient to pay debt service on the Notes and other obligations of the Commonwealth under the Trust Agreement (collectively, the “Trust Agreement Obligations”) will be retained by the Trustee commencing not later than one year before the applicable June 15 or December 15 payment date, as more fully described in “SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT—Flow of Federal Highway Reimbursements.” However, (1) if on October 1 of any FFY, and so long as, no Statement of Available Revenues shall have been filed with the Trustee for such FFY or (2) in the event that for any FFY the Statement of Available Revenues shall project that the Debt Service Coverage Ratio shall be less than 120%, then all Federal Highway Reimbursements received by the Commonwealth shall be retained by the Trustee until all Trust Agreement Obligations due and payable in the next succeeding FFY shall have been provided for. In addition, so long as any Event of Default under the Trust Agreement shall have occurred and be continuing no Pledged Funds shall be released from the lien of the Trust Agreement. See “SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT —Flow of Federal Highway Reimbursements.”

True-Up Condition ..... Not later than December 15 in each FFY, the State Treasurer will determine and certify (a) the aggregate amount appropriated nationwide from the federal Highway Trust Fund, for the purposes of carrying out the provisions of Title 23 of the United States Code with respect to federal-aid highways, for the current FFY and (b) the Debt Service Coverage Ratio for the Commonwealth’s following state fiscal year (“SFY”). If both the amount described in (a) above is less than \$17.1 billion and the Debt Service Coverage Ratio described in (b) above is less than 120%, then such combination of conditions shall constitute a “True-Up Condition.”

If a True-Up Condition shall occur, the Act requires the Governor of the Commonwealth to include in the proposed operating budget of the Commonwealth to be submitted to the Legislature for said following SFY a recommendation to appropriate an amount equal to the Trust Agreement Obligations due in the following SFY minus the amount of Pledged Funds expected to be available to pay such Trust Agreement Obligations. See “SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT—Pledge of Alternative Revenues.”

Pledge of Alternative Revenues ..... In the event of a True-Up Condition, the Pledged Funds also will include the Alternative Revenues, consisting of ten cents (\$0.10) per gallon of the Commonwealth’s gasoline excise tax imposed under Chapter 64A of the Massachusetts General Laws and credited to the Commonwealth’s Highway Fund. Application of Alternative Revenues to pay the principal of and interest on the Notes and other Trust Agreement Obligations will be subject to appropriation by the Massachusetts Legislature. See “SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT—Pledge of Alternative Revenues” and “THE ALTERNATIVE REVENUES.”

Perfection and Priority of Lien on Pledged Funds.... The Act provides that the lien of the Trust Agreement on the Pledged Funds will be perfected by filing the Trust Agreement in the records of the State Treasurer. The Trust Agreement has been so filed and in the opinion of Ropes & Gray LLP, Bond Counsel, the lien of such Pledged Funds securing the Trust Agreement Obligations is valid and binding as against all persons or entities of any kind having claims of any kind in tort, contract or otherwise, irrespective of whether such persons or entities have notice thereof. Bond Counsel is further of the opinion that neither the Commonwealth nor the GAN Trust Fund is eligible to seek protection from creditors under Title 11 of the United States Code. The lien of the Trust Agreement on the Federal Highway Reimbursements is limited to such monies when received by the Commonwealth and does not include a pledge of the right to receive such reimbursements or other assistance from the federal government. No person or entity, other than the Commonwealth, will be entitled to assert any claim against the federal government with respect to such reimbursements or other assistance.

Additional Notes ..... The 2003A Refunding Notes will constitute an additional issuance of Notes by the Commonwealth under the Act only upon the occurrence of the redemption of the Refunded Notes, in part on the First Crossover Date and the remainder on the Second Crossover Date. On

June 30, 1998 the Commonwealth issued the 1998A Notes in the principal amount of \$600,000,000, yielding aggregate net proceeds of approximately \$580,000,000, on December 3, 1998 the Commonwealth issued its 1998B Notes in the principal amount of \$321,720,000, yielding aggregate net proceeds of approximately \$320,000,000 and on November 30, 2000, the Commonwealth issued its 2000A Notes in the principal amount of \$577,605,000, yielding aggregate net proceeds of approximately \$600,000,000. The Act authorizes the issuance of securities yielding aggregate net proceeds of up to \$1.500 billion (excluding proceeds of Refunding Notes). The inclusion of each 2003A Refunding Notes as Notes under the Trust Agreement upon each redemption of Refunded Notes on the Crossover Dates will not cause the amount of Outstanding Notes to exceed the amount of Notes currently authorized by the Act. No legislation is pending that would increase the authorized amount of the Notes. Additional Refunding Notes may be issued without further legislative action. Subject to the foregoing, subordinate securities also may be issued.

The Trust Agreement provides that no additional Notes (except Refunding Notes) may be issued unless, after giving effect to the issuance of such additional Notes and the defeasance of any Notes to be defeased simultaneously with such issuance, certain conditions are met. These conditions include the requirement either (i) that the principal and interest payable on the Notes on any June 15 or December 15 (and, if applicable, during the six-month period ending on such date) shall not exceed \$108 million (excluding additions to accreted value not payable in cash) or (ii) that each Rating Agency shall have confirmed that its credit rating then in effect with respect to the Outstanding Notes will not be withdrawn or reduced on account of the issuance of the additional Notes. See “SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT—Limitations on Issuance of Additional Notes.”

Commonwealth Covenants..... As authorized by the Act, the Trust Agreement contains covenants of the Commonwealth with the holders of the Notes that, so long as any Notes shall remain outstanding or any Trust Agreement Obligations shall remain unpaid:

(a) Federal Highway Reimbursements shall not be diverted from the purposes identified in the Act or the Trust Agreement (except as provided in the Trust Agreement), nor shall the trusts with which the Federal Highway Reimbursements are impressed under the Act and the Trust Agreement be broken, and the pledge and dedication in trust of the Federal Highway Reimbursements shall continue unimpaired and unabrogated;

(b) Except to the extent otherwise required by applicable federal law or regulations, the Commonwealth will not cause or permit the Commonwealth’s Advance Construction Balance under the Federal-Aid Highway Program as of any date of calculation to be less than the principal amount of Notes Outstanding as of such date, taking into account the principal amount of Notes, if any, to be paid, defeased or redeemed as a result of the conversion on such date of a

portion of the Advance Construction Balance to Obligation Authority under the Federal-Aid Highway Program. The term “Advance Construction Balance” for purposes of this covenant does not include any portion thereof related to the CA/T Project and identified in the most recent finance plan for the CA/T Project filed by the Commonwealth from time to time with the Federal Highway Administration as expected to be unavailable for conversion to Obligation Authority as a result of any applicable federal law limiting the aggregate amount of federal funding for the CA/T Project. See “SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT—Advance Construction Balance Covenant” and “COMMONWEALTH PARTICIPATION IN THE FEDERAL-AID HIGHWAY PROGRAM – Federal Limit on Funding for the CA/T Project”;

(c) In any SFY with respect to which a True-Up Condition has occurred and is continuing, unless and until an appropriation has been made or an amount is otherwise made available which is sufficient to pay the Trust Agreement Obligations due during such SFY, none of the Alternative Revenues shall be applied to any use other than the payment of such Trust Agreement Obligations;

(d) Until the State Treasurer, after consultation with the Secretaries, determines that available funds in the GAN Trust Fund and in the Funds and Accounts established under the Trust Agreement will be sufficient to pay all Trust Agreement Obligations, the rate of the Commonwealth gasoline excise tax shall not be reduced below the sum of ten cents (\$0.10) per gallon plus any amount thereof pledged for the payment of special obligation bonds of the Commonwealth pursuant to Section 20 of Chapter 29 of the Massachusetts General Laws; and

(e) At least ten cents (\$0.10) per gallon of the Commonwealth gasoline excise tax shall remain free and clear of any superior or equal pledge, lien, charge or encumbrance thereon or with respect thereto (other than the lien of the Trust Agreement) and shall remain credited to the Highway Fund of the Commonwealth, except as permitted by the Trust Agreement; provided, however, that any such funds shall be available for appropriation in any SFY for any other lawful purpose unless the State Treasurer shall have certified that a True-Up Condition has occurred and is continuing.

Special Mandatory Redemption ..... In the event that on the First Crossover Date, the Commonwealth fails to meet any of the conditions established under the Trust Agreement for the redemption of the 2008 Refunded Notes or the pledge of Pledged Funds to the portion of the 2003A Refunding Notes which otherwise would have been payable from and secured by the Pledged Funds on and after the First Crossover Date, such portion of the 2003A Refunding Notes shall be subject to special mandatory redemption on December 15, 2008 at a price of par, plus accrued interest to the date of redemption. In the event that on the Second Crossover Date, the Commonwealth fails to meet any of the conditions under the Trust Agreement for the redemption of the 2010 Refunded Notes or the pledge of Pledged Funds to the portion of the 2003A Refunding Notes which remained secured by the Escrow

Account following the First Crossover Date, such portion of the 2003A Refunding Notes shall be subject to special mandatory redemption on December 15, 2010 at a price of par, plus accrued interest to the date of redemption. See “THE 2003A REFUNDING NOTES—Redemption.”

Optional Redemption .....	The 2003A Refunding Notes are not subject to optional redemption prior to maturity.
Interest and Principal.....	Interest on the 2003A Refunding Notes will accrue from their dated date at the rates set forth on the inside cover page hereof. Interest on the 2003A Refunding Notes will be payable semiannually on June 15 and December 15, commencing on December 15, 2003. Principal of the 2003A Refunding Notes will be due as shown on the inside cover page.
Municipal Bond Insurance .....	Payment when due of the principal of and interest on the 2003A Refunding Notes will be guaranteed by a municipal bond insurance policy to be issued by Financial Security Assurance Inc. See “BOND INSURANCE.”
Tax Exemption.....	In the opinion of Bond Counsel, under existing law and assuming continued compliance by the Commonwealth with the Internal Revenue Code of 1986, as amended, interest on the 2003A Refunding Notes is excluded from gross income for federal income tax purposes and is not an item of tax preference for the purpose of computing the federal alternative minimum tax imposed on individuals and corporations, although interest on the 2003A Refunding Notes is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed upon certain corporations. In the opinion of Bond Counsel, the interest on the 2003A Refunding Notes is exempt from Massachusetts personal income taxes, and the 2003A Refunding Notes are exempt from Massachusetts personal property taxes. For federal and Massachusetts tax purposes, interest includes original issue discount. See “TAX EXEMPTION.”
Ratings.....	The 2003A Refunding Notes have been rated “AAA” by Fitch Ratings and “Aaa” by Moody’s Investors Service, Inc. Such ratings reflect only the respective views of such organizations, and an explanation of the significance of such ratings may be obtained from the rating agency furnishing the same. There is no assurance that a rating will continue for any given period of time or that a rating will not be revised or withdrawn entirely by any or all of such rating agencies, if, in its or their judgment, circumstances so warrant. Any downward revision or withdrawal of a rating could have an adverse effect on the market prices of the 2003A Refunding Notes.

## OFFICIAL STATEMENT

**\$408,015,000**

**THE COMMONWEALTH OF MASSACHUSETTS  
Special Obligation Refunding Notes  
(Federal Highway Grant Anticipation Note Program)  
2003 Series A**

### INTRODUCTION

This Official Statement, including the cover pages and the Appendices hereto, provides certain information in connection with the issuance by The Commonwealth of Massachusetts (the “Commonwealth”), pursuant to Section 53A of Chapter 29 of the Massachusetts General Laws, of \$408,015,000 of its Special Obligation Refunding Notes, 2003 Series A (the “2003A Refunding Notes”). The 2003A Refunding Notes will be issued and payable under an Escrow Agreement dated as of June 19, 2003 (the “Escrow Agreement”) by and between the Commonwealth and U.S. Bank National Association, as escrow agent (the “Escrow Agent”) and under the Trust Agreement dated as of June 1, 1998 by and between the Commonwealth and U.S. Bank National Association, as successor trustee (the “Trustee”), as supplemented and amended by the First Supplemental Trust Agreement dated as of June 1, 1998, by the Second Supplemental Trust Agreement dated as of November 1, 1998, by the Third Supplemental Trust Agreement dated as of November 1, 2000 and by the Fourth Supplemental Trust Agreement dated as of June 19, 2003 (as so supplemented and amended and as further supplemented and amended from time to time, the “Trust Agreement”).

#### General

The 2003A Refunding Notes are being issued to refund certain of the Commonwealth’s 1998 Series A Federal Highway Grant Anticipation Notes (the “1998A Notes”), 1998 Series B Federal Highway Grant Anticipation Notes (the “1998B Notes”) and 2000 Series A Federal Highway Grant Anticipation Notes (the “2000A Notes”) (the 1998A Notes, 1998B Notes and 2000A Notes, together, being the “Prior Notes”). The Prior Notes to be refunded by the 2003A Refunding Notes are identified in Appendix B (the “Refunded Notes”). The 1998A Notes and 1998B Notes to be refunded will be redeemed as of December 15, 2008 (the “2008 Refunded Notes”) and the 2000A Notes to be refunded will be redeemed as of December 15, 2010 (the “2010 Refunded Notes”), each upon the occurrence of certain conditions described herein under the heading “THE 2003A REFUNDING NOTES—Plan of Refunding.” The Prior Notes were issued pursuant to Sections 9 through 10D of Chapter 11 of the Acts of 1997, as amended by Chapters 121 and 235 of the Acts of 1998 (the “Act”). The Prior Notes, together with the 2003A Refunding Notes (when secured by the Pledged Funds as described herein) and any additional notes hereafter issued under the Act or on a parity with the Prior Notes, are referred to, collectively, as the “Notes.”

The proceeds of the 2003A Refunding Notes will be deposited in an escrow account to be held by the Escrow Agent under the Escrow Agreement. The monies in the escrow account (including investments thereof and investment earnings thereon, the “Escrow Account”) will be invested in obligations issued by the United States government or one or more of its agencies or instrumentalities, and the Escrow Account will be used to pay interest when due on all of the 2003A Refunding Notes through December 15, 2008, to pay interest when due on the portion of the 2003A Refunding Notes remaining payable from the Escrow Account from December 15, 2008 through December 15, 2010, to pay the principal of and redemption premium, if any, on the 2008 Refunded Notes on December 15, 2008 and to pay the principal of the 2010 Refunded Notes on December 15, 2010 (subject to the special mandatory redemption provisions of the 2003A Refunding Notes). The Refunded Notes will remain “Outstanding” under the Trust Agreement until they are redeemed. No 2003A Refunding Notes will be “Outstanding” under the Trust Agreement until and unless the Escrow Account is used to pay the principal of and the redemption premium, if any, on the Refunded Notes.

## **The Federal Highway Grant Anticipation Note Program**

The Act authorizes the issuance of up to \$1.500 billion (measured in net proceeds to the Commonwealth) in Federal Highway Grant Anticipation Notes to finance a portion of the costs of construction of the Central Artery/Ted Williams Tunnel Project (the "CA/T Project"). The entire authorized amount has been issued, subject to the issuance of refunding notes. The CA/T Project is a major construction project being undertaken by the Commonwealth, involving the depression of a portion of Interstate 93 in downtown Boston, Massachusetts and the construction of a new tunnel under Boston Harbor. Including costs for the Commonwealth's state fiscal year ("SFY") 2003, an estimated \$2.169 billion remains to be paid of the CA/T Project's total expected cost of \$14.625 billion, including contingencies, through its substantial completion, which is expected in SFY 2005. The Prior Notes financed \$1.500 billion of project costs.

The Notes issued under the Trust Agreement, including the 2003A Refunding Notes when secured by the Pledged Funds as described herein, are payable solely from the Pledged Funds (as defined below). The 2003A Refunding Notes are not general obligations of the Commonwealth, and the full faith and credit of the Commonwealth is not pledged to the payment of principal of, and interest on, the 2003A Refunding Notes.

Payment of the principal of, and interest on, the Notes will be made from monies received by the Commonwealth from the federal government under existing and future federal highway construction assistance programs until paid at maturity. All such assistance received by the Commonwealth will be collected for the benefit of the Noteholders in a trust fund established under the Act and, to the extent needed for such purpose, will be retained in trust to provide for debt service on the Notes. Application of such funds to the payment of principal of and interest on the Notes is permitted under federal law and may be made without legislative appropriation under Massachusetts law. Neither the Commonwealth nor the trust fund established to secure the Notes is eligible for bankruptcy protection.

If on December 15, 2008 (the "First Crossover Date") the conditions imposed by the Trust Agreement to the issuance of Refunding Notes to redeem the 2008 Refunded Notes are met, then the Escrow Account will be used to pay the principal of and the redemption premium on the 2008 Refunded Notes on December 15, 2008 and a portion of the 2003A Refunding Notes (to be designated by the Commonwealth) will cease to be payable from the Escrow Account and will become payable solely from Pledged Funds under the Trust Agreement. From that time forward, payment of principal and interest on such portion of the 2003A Refunding Notes will be made from monies received by the Commonwealth from the federal government under existing and future federal highway construction assistance programs. If on December 15, 2010 (the "Second Crossover Date" and, together with the First Crossover Date, the "Crossover Dates") the conditions imposed by the Trust Agreement to the issuance of Refunding Notes to redeem the 2010 Refunded Notes are met, then the Escrow Account will be used to pay the principal of the 2010 Refunded Notes on December 15, 2010, and the remainder of the 2003A Refunding Notes will cease to be payable from the Escrow Account and will become payable solely from the Pledged Funds under the Trust Agreement. If the conditions imposed by the Trust Agreement to the issuance of Refunding Notes to redeem the Refunded Notes on their respective Crossover Dates are not met on such dates, then the Escrow Account will be used on such dates to redeem 2003A Refunding Notes as described herein.

Federal highway construction assistance is paid to all states including the Commonwealth through the Federal-Aid Highway Program, hereinafter defined, from revenues collected by the United States Treasury from certain federal taxes on gasoline, tire sales and other items, which revenues are deposited into the federal Highway Trust Fund. Distribution of assistance from such Fund is subject to periodic authorization and annual appropriation by the United States Congress. Since such assistance was established by the Federal-Aid Highway Act of 1956, the Federal-Aid Highway Program has been reauthorized 15 times in various forms at generally increasing funding levels. Actual payments to states have continued without interruption since 1956. The most recent reauthorization, the Transportation Equity Act for the 21st Century, was enacted in 1998. As amended to date, this legislation is referred to as "TEA 21".

TEA 21 will expire at the end of federal fiscal year ("FFY") 2003, on September 30, 2003. There are a number of reauthorization proposals in the United States Congress, none of which have yet been enacted. It is unknown whether reauthorizing legislation will be enacted by the beginning of FFY 2004. The Federal Highway Administration has issued interim guidance to the Commonwealth containing estimates of future federal highway funding for planning and programming purposes in the absence of new federal-aid highway legislation.



The planning estimates provided in guidance from the Federal Highway Administration are based on the administration's proposed six-year transportation reauthorization bill. This proposed bill, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, referred to as "SAFETEA," assumes that funding levels for FFY 2004 and thereafter will be similar to those that were authorized by Congress for FFY 2003 under TEA 21. SAFETEA includes a national six-year funding total of approximately \$247 billion for both highways and transit, including approximately \$192 billion for highways. For Massachusetts, the apportionment is projected to be approximately \$504 million in FFY 2004, increasing to approximately \$590 million in FFY 2009. Obligation Authority in each year will likely be somewhat less than the total amount of apportionment for that year.

As one condition to the issuance of Notes under the Trust Agreement, the Commonwealth must certify that projected maximum debt service on the Notes will not exceed \$216 million per year, or \$108 million in any six-month period (or, if such certification cannot be made, each Rating Agency must have confirmed that its credit rating then in effect with respect to the Outstanding Notes will not be withdrawn or reduced on account of the issuance of additional Notes). Between SFY 1986 and SFY 2002, both inclusive, the Commonwealth received an average of \$536.1 million per year through the Federal-Aid Highway Program. TEA 21, which authorized funding levels for states for the period of six federal fiscal years ("FFYs") commencing FFY 1998 and ending FFY 2003, provides an average of approximately \$533.8 million per year in federal assistance for Massachusetts. Since FFY 1982, all Federal-Aid Highway Program authorization acts have included so-called equity provisions which provide that there will be apportioned to each state a certain minimum percentage (historically 85%) of the federal transportation-related user taxes collected in that state and paid into the federal Highway Trust Fund. TEA 21 included such a provision and set the minimum percentage at 90.5% of a state's proportional share of apportioned programs, based on the state's percentage contribution to total Highway Trust Fund receipts. The Federal Highway Administration estimates that such user taxes collected in Massachusetts for the Federal-Aid Highway Program were \$533.7 million in FFY 2002, the most recent year for which such information is available. Continued authorizations at the TEA 21 level and continued application of such equity provisions, each of which will be subject to Congressional action, would ensure that annual apportionments of federal highway assistance to Massachusetts would substantially exceed the maximum annual debt service on the Notes.

Federal highway construction assistance is paid to all states including the Commonwealth on a reimbursement basis. Access to all of the amounts of available federal highway assistance for Massachusetts will depend, in part, on its continued spending on federally-eligible projects. The Commonwealth expects that, as a result of its extensive statewide road and bridge program and the continuing needs of the CA/T Project, it will have sufficient federally eligible project expenditures to be able to utilize all the federal highway assistance made available to it.

In addition, largely as a result of the CA/T Project, the Commonwealth has made extensive use of Advance Construction ("A/C") status under the Federal-Aid Highway Program. By utilizing A/C status, the Commonwealth may pre-qualify projects and expenditures thereon for federal reimbursement, subject only to the availability of future federal assistance. As of May 31, 2003, Massachusetts had an estimated \$2.601 billion in planned costs so qualified, which, when spent, should ensure that it will be able to draw down future federal assistance when available. This A/C balance includes approximately \$1.795 billion related to the CA/T Project and approximately \$806.2 million attributable to other projects. Of the CA/T Project portion, approximately \$42.6 million currently exceeds the statutory limitation on federal contributions to the CA/T Project and accordingly cannot be drawn down under current law. See "COMMONWEALTH PARTICIPATION IN THE FEDERAL-AID HIGHWAY PROGRAM – Federal Limit on Funding for the CA/T Project." The Commonwealth has covenanted under the Trust Agreement to maintain an A/C balance at least equal to the principal amount of Notes Outstanding to help ensure that it will be able to draw down federal funds to meet debt service funding requirements.

Moreover, the Commonwealth will, under a limited circumstance involving the elimination or substantial reduction of national funding for the Federal-Aid Highway Program, dedicate a portion of its state gasoline excise tax receipts equal to ten cents (\$0.10) per gallon to the payment of debt service on the Notes. During SFY 2002 such receipts totaled approximately \$279.2 million. Payment of debt service on the Notes from such excise tax proceeds would require appropriation by the Massachusetts Legislature; however, in the event that such limited circumstance occurs, such receipts will not be available for any other purpose until the Massachusetts Legislature makes an adequate appropriation for debt service or other funds are made available for such purpose.

**THE ABOVE SUMMARY IS INTENDED ONLY AS A GENERAL INTRODUCTION TO THE 2003A REFUNDING NOTES AND DOES NOT PURPORT TO BE COMPREHENSIVE OR DEFINITIVE. FOR MORE INFORMATION CONCERNING THE 2003A REFUNDING NOTES AND THE SPECIFIC PLEDGES AND OTHER PROVISIONS OF THE ESCROW AGREEMENT AND THE TRUST AGREEMENT AND DESCRIPTIONS OF THE FEDERAL-AID HIGHWAY PROGRAM AND THE COMMONWEALTH'S PARTICIPATION THEREIN, PROSPECTIVE PURCHASERS OF THE 2003A REFUNDING NOTES SHOULD EXAMINE THE ENTIRETY OF THIS OFFICIAL STATEMENT.**

### **Purpose and Content of Official Statement**

This Official Statement describes the terms and use of the proceeds of, and security for, the 2003A Refunding Notes. This introduction is subject in all respects to the additional information contained in this Official Statement, including Appendices A through E. Attached hereto as Appendix A is a summary of certain provisions of the Trust Agreement. Terms used in this Official Statement and not defined herein are defined in Appendix A. Appendix B attached hereto contains a Table of Refunded Notes. Appendix C attached hereto contains the proposed form of legal opinion of Bond Counsel with respect to the 2003A Refunding Notes. Appendix D attached hereto contains the proposed form of the Commonwealth's continuing disclosure undertaking to be included in the 2003A Refunding Notes to facilitate compliance by the Underwriters with the requirements of paragraph (b)(5) of Rule 15c2-12 of the Securities and Exchange Commission. See "CONTINUING DISCLOSURE." Appendix E attached hereto contains a specimen municipal bond insurance policy to be issued concurrently with the 2003A Refunding Notes. See "BOND INSURANCE." All descriptions of documents contained in this Official Statement are only summaries and are qualified in their entirety by reference to each such document.

## **THE 2003A REFUNDING NOTES**

### **General**

The 2003A Refunding Notes will be dated the date of delivery and will bear interest from such date payable semiannually on June 15 and December 15 of each year, commencing December 15, 2003 (each an "Interest Payment Date"), until the principal amount is paid. The 2003A Refunding Notes will mature on the dates and in the years and in the aggregate principal amounts, and shall bear interest at the rates per annum (calculated on the basis of a 360-day year of twelve 30-day months), as set forth on the inside cover page of this Official Statement. The Commonwealth will act as paying agent with respect to the 2003A Refunding Notes until they become subject to the Trust Agreement as described herein. Thereafter, the Trustee will act as paying agent with respect to the 2003A Refunding Notes subject to the Trust Agreement. In such capacity, the Commonwealth or Trustee, as applicable, is sometimes referred to herein as the "Paying Agent".

*Book-Entry-Only System.* The 2003A Refunding Notes will be issued by means of a book-entry-only system, with one note certificate for each maturity immobilized at The Depository Trust Company, New York, New York. The certificates will not be available for distribution to the public and will evidence ownership of the 2003A Refunding Notes in principal amounts of \$5,000, or whole multiples thereof. Transfers of ownership will be effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Interest and principal due on the 2003A Refunding Notes will be paid to DTC or its nominee as registered owner of the 2003A Refunding Notes. The record date for payments on account of the 2003A Refunding Notes will be the last business day of the month preceding each June 15 and December 15. As long as the book-entry-only system remains in effect, DTC or its nominee will be recognized as the owner of the 2003A Refunding Notes for all purposes, including notices and voting. The Commonwealth will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. See "BOOK-ENTRY-ONLY SYSTEM."

### **Redemption**

*Optional Redemption.* The 2003A Refunding Notes will not be subject to redemption prior to their stated maturity except pursuant to special mandatory redemption as described below.

*Special Mandatory Redemption.* In the event that the Commonwealth fails to meet any of the conditions established in the Trust Agreement for the delivery of Refunding Notes as of December 15, 2008, \$254,990,000 principal amount of the 2003A Refunding Notes will be subject to special mandatory redemption on such date, and in the event that

the Commonwealth fails to meet any of such conditions as of December 15, 2010, the remaining \$153,025,000 principal amount of the 2003A Refunding Notes will be subject to special mandatory redemption on such date. In each case the redemption price will be 100% of the principal amount of such 2003A Refunding Notes to be redeemed, plus accrued interest to the redemption date. See “Plan of Refunding” below.

*Notice of Redemption.* The Commonwealth shall give notice of redemption to the owners of the 2003A Refunding Notes not less than 30 days prior to the date fixed for redemption, but only in the event that it is expected that any condition of refunding will not be satisfied as of the redemption date. So long as the book-entry-only system remains in effect for the 2003A Refunding Notes, notices of redemption will be mailed by the Commonwealth only to DTC or its nominee. Any failure on the part of DTC, any DTC Participant, as defined herein, or any nominee of a Beneficial Owner, as defined herein, of any 2003A Refunding Notes (having received notice from a DTC Participant or otherwise) to notify the Beneficial Owner so affected, shall not affect the validity of the redemption.

On the specified redemption date, all 2003A Refunding Notes called for redemption shall cease to bear interest, provided the Commonwealth has monies on hand to pay such redemption in full.

*Selection for Redemption.* In the event of a special mandatory redemption of 2003A Refunding Notes in part on December 15, 2008, the particular maturities and principal amounts within each maturity of the 2003A Refunding Notes to be redeemed will be designated by the Commonwealth. So long as the book-entry-only system remains in effect for such 2003A Refunding Notes, the particular 2003A Refunding Notes or portions of 2003A Refunding Notes of a particular maturity to be redeemed will be selected by DTC by lot. If the book-entry-only system no longer remains in effect for the 2003A Refunding Notes, selection for redemption of less than all of any one maturity of the 2003A Refunding Notes will be made by the Commonwealth by lot in such manner as in its discretion it shall deem appropriate and fair. For purposes of selection by lot within a maturity, each \$5,000 of principal amount of a 2003A Refunding Note will be considered a separate 2003A Refunding Note.

## **Plan of Refunding**

The 2003A Refunding Notes are being issued pursuant to the provisions of Section 53A of Chapter 29 of the Massachusetts General Laws and the Trust Agreement for the purpose of refunding the Refunded Notes listed in Appendix B on the Crossover Dates. The Refunded Notes will not be defeased upon the issuance of the 2003A Refunding Notes and will remain “Outstanding” under the Trust Agreement until actually paid at maturity or redeemed.

The Commonwealth, upon the delivery of the 2003A Refunding Notes, will enter into the Escrow Agreement with the Escrow Agent. The Escrow Agreement will provide for the deposit of the net proceeds of the 2003A Refunding Notes with the Escrow Agent in the Escrow Account, to be applied immediately upon receipt to purchase non-callable direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America, obligations of certain federal agencies specified in Section 49 of Chapter 29 of the Massachusetts General Laws or of any agency or corporation which has been created pursuant to an act of Congress of the United States as an agency or instrumentality of the United States of America, bank time deposits or certificates of deposit that are secured by such obligations, repurchase agreements with banks in respect of any such obligations or advance-refunded or defeased bonds that are secured by such obligations (the “Escrow Obligations”) and to fund, if needed, a cash deposit in such account. The Escrow Agreement will require that maturing principal of and interest on the Escrow Obligations held under such Escrow Agreement, plus any initial cash deposit, be held in trust in such account and paid to the Commonwealth solely to pay interest when due on all of the 2003A Refunding Notes through the First Crossover Date, to pay interest when due on the portion of the 2003A Refunding Notes remaining payable from the Escrow Account from the First Crossover Date through the Second Crossover Date, and to pay the principal of and redemption premium, if any, due on the Refunded Notes on each Crossover Date (subject to the special mandatory redemption provisions of the 2003A Refunding Notes). According to the report described in “VERIFICATION OF MATHEMATICAL COMPUTATIONS,” the Escrow Obligations held under the Escrow Agreement will mature at such times and earn interest in such amounts that, together with any initial cash deposit, they will produce sufficient monies to make such payments on the 2003A Refunding Notes and on the Refunded Notes.

In the event that the Commonwealth fails on either Crossover Date to meet any of the conditions established in Section 207(b) of the Trust Agreement for the delivery of Refunding Notes on such date, the Refunded Notes will not be redeemed on such Crossover Date and, instead, the applicable portion of 2003A Refunding Notes will be redeemed with

monies from the Escrow Account. Immediately following such special mandatory redemption of 2003A Refunding Notes on either Crossover Date, monies remaining in the Escrow Account that would have been used for the redemption of the applicable Refunded Notes on such Crossover Date had all of the conditions in Section 207(b) been met will be transferred to the Trustee for the defeasance of certain Prior Notes in accordance with the terms of the Escrow Agreement. All conditions specified under Section 207(b) of the Trust Agreement that are applicable to the 2003A Refunding Notes will be satisfied as of the initial issuance of the 2003A Refunding Notes, except delivery to the Trustee on each Crossover Date of the following:

(1) A certificate of an Authorized Officer of the Commonwealth stating that, as of such Crossover Date, no Event of Default has occurred and is then continuing.

(2) A certificate of an Authorized Officer of the Commonwealth to the effect that the Debt Service Requirement to be due and payable during any semi-annual period ending on December 15 or June 15 with respect to the Outstanding Notes plus the 2003A Refunding Notes to become subject to the Trust Agreement on such Crossover Date does not exceed the Maximum Semi-Annual Debt Service or a Rating Confirmation if such Adjusted Note Debt Service Requirement does exceed Maximum Annual Debt Service.

(3) Monies sufficient to effect payment on the Crossover Date of the Refunded Notes to be refunded on such date.

(4) Irrevocable instructions to give notice of redemption of the Refunded Notes to be refunded on such Crossover Date.

(5) A favorable opinion of Bond Counsel dated the Crossover Date.

See “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT—Refunding Notes.” In connection with the delivery of the 2003A Refunding Notes, the Treasurer and Receiver-General of the Commonwealth (the “State Treasurer”) will certify that the matters required to be certified as described in paragraphs (1) and (2) are true as of the delivery date, the Verification Agent will deliver its report described in “VERIFICATION OF MATHEMATICAL COMPUTATIONS” and Bond Counsel will deliver its opinion to the effect that, subject to conditions (1) through (4) being met on such redemption date, Bond Counsel will be in a position to issue the opinion required by Section 207(b). The report of the Verification Agent described in “VERIFICATION OF MATHEMATICAL COMPUTATIONS” also states that the Escrow Account will be sufficient, on each of the Crossover Dates, to redeem the applicable portion of the 2003A Refunding Notes at par plus accrued interest, in the event that such refundings do not occur on either or both of the Crossover Dates.

### **Transfer**

So long as Cede & Co., as nominee for DTC, is the holder of record of the 2003A Refunding Notes, beneficial ownership interests in the 2003A Refunding Notes may be transferred only through a Direct Participant or Indirect Participant, as defined herein, and recorded on the book-entry system operated by DTC. In the event the book-entry-only system is discontinued, 2003A Refunding Note certificates will be delivered to the Beneficial Owners, which shall be transferable only upon the register for the 2003A Refunding Notes maintained by the Paying Agent. Thereafter, the 2003A Refunding Notes, upon surrender thereof at the Boston office of the Paying Agent with a written instrument of transfer satisfactory to the Paying Agent, duly executed by the holder thereof or such holder’s duly authorized attorney, may be exchanged for an equal aggregate principal amount of 2003A Refunding Notes of the same maturity and of authorized denominations.

In all cases in which the privilege of exchanging or transferring 2003A Refunding Notes is exercised, the Commonwealth shall execute the 2003A Refunding Notes and (if the Trust Agreement applies) the Trustee shall authenticate and deliver the 2003A Refunding Notes in accordance with the provisions of the Trust Agreement. For every such exchange or transfer of 2003A Refunding Notes, the Paying Agent may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. The Paying Agent shall not be required to make any such exchange or transfer of 2003A Refunding Notes during the 20 days next preceding

an interest or principal payment date or during the pendency of any call for redemption of 2003A Refunding Notes in whole or in part.

#### **SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE ESCROW AGREEMENT**

The 2003A Refunding Notes are not general obligations of the Commonwealth and the full faith and credit of the Commonwealth is not pledged to the payment of the 2003A Refunding Notes.

The proceeds of the 2003A Refunding Notes will be deposited pursuant to the Escrow Agreement in the Escrow Account. The Escrow Account will be used to pay interest on the 2003A Refunding Notes until the First Crossover Date and on that date will be applied to pay the principal of and redemption premium on the 2008 Refunded Notes (or, if the conditions to such refunding under the Trust Agreement are not met on the First Crossover Date, to the special mandatory redemption of \$254,990,000 of the 2003A Refunding Notes and to the Trustee in the amount of \$11,584,350 for defeasance of Prior Notes in accordance with the terms of the Escrow Agreement). The Escrow Account remaining after the First Crossover Date will be used to pay interest until the Second Crossover Date on the 2003A Refunding Notes not secured by the Pledged Funds and on the Second Crossover Date will be applied to pay the principal of the 2010 Refunded Notes (or, if the conditions to such refunding are not met on the Second Crossover Date, to the special mandatory redemption of \$153,025,000 of the 2003A Refunding Notes not secured by the Pledged Funds and to the Trustee in the amount of \$1,380,000 for defeasance of Prior Notes in accordance with the terms of the Escrow Agreement).

Pursuant to the Escrow Agreement, the proceeds of the 2003A Refunding Notes deposited in the Escrow Account shall be applied immediately upon receipt to purchase non-callable direct obligations of, or obligations the payment of the principal and interest on which are unconditionally guaranteed by, the United States of America, obligations of certain federal agencies specified in Section 49 of Chapter 29 of the Massachusetts General Laws or of any agency or corporation which has been created pursuant to an act of Congress of the United States as an agency or instrumentality of the United States of America, bank time deposits or certificates of deposit that are secured by such obligations, repurchase agreements with banks in respect of any such obligations or advance-refunded or defeased bonds that are secured by such obligations (the "Escrow Obligations") and to funding, if needed, a cash deposit in such account. The Escrow Agreement will require that maturing principal of and interest on the Escrow Obligations, plus any initial cash deposit, be held in trust in such account and paid to the Commonwealth solely to pay interest when due on all of the 2003A Refunding Notes through the First Crossover Date, to pay interest when due on the portion of the 2003A Refunding Notes remaining payable from the Escrow Account from the First Crossover Date through the Second Crossover Date and to pay on each Crossover Date either the principal of and redemption premium, if any, due on the Refunded Notes on such Crossover Date, or, if applicable, the redemption price of the 2003A Refunding Notes subject to special mandatory redemption on such Crossover Date.

Until December 15, 2008, all of the 2003A Refunding Notes shall be payable solely from the Escrow Account. On December 15, 2008, \$254,990,000 of the 2003A Refunding Notes will become Notes under the Trust Agreement and will cease being secured by or payable from the Escrow Account (or, if the refunding conditions are not met, will be subject to special mandatory redemption on that date).

Until December 15, 2010, all of the remaining \$153,025,000 of the 2003A Refunding Notes that did not become secured under the Trust Agreement (or were not redeemed) on December 15, 2008 will remain payable solely from the Escrow Account. On December 15, 2010, such remaining 2003A Refunding Notes will become Notes under the Trust Agreement and will cease being secured by or payable from the Escrow Account (or, if the refunding conditions are not met, will be subject to special mandatory redemption on that date).

Application of the Escrow Account under the Escrow Agreement to pay interest and, if applicable, the redemption price of the 2003A Refunding Notes will not be subject to appropriation by the Massachusetts Legislature.

According to the report described in "VERIFICATION OF MATHEMATICAL COMPUTATIONS," the Escrow Obligations will mature at such times and earn interest in such amounts that, together with any initial cash deposit, will produce sufficient monies to pay interest on the 2003A Refunding Notes as described above and on the Crossover Dates to

redeem either the Refunded Notes, or, in the case of a special mandatory redemption of the 2003A Refunding Notes, the 2003A Refunding Notes.

## **SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT**

### **General**

As described above, upon the redemption of the 2008 Refunded Notes on the First Crossover Date, \$254,990,000 aggregate principal amount of the 2003A Refunding Notes will become subject to and entitled to the benefits of the Trust Agreement. The particular maturities and principal amounts within each maturity of the 2003A Refunding Notes to be so affected by the First Crossover Date will be designated by the Commonwealth. So long as the book-entry-only system remains in effect for such 2003A Refunding Notes, the particular 2003A Refunding Notes or portions of 2003A Refunding Notes of a particular maturity to become secured by the Pledged Funds on the First Crossover Date will be selected by DTC by lot. If the book-entry-only system no longer remains in effect for the 2003A Refunding Notes, selection of less than all of any one maturity of the 2003A Refunding Notes to become secured by the Pledged Funds on the First Crossover Date will be made by the Commonwealth by lot in such manner as in its discretion it shall deem appropriate and fair. For purposes of selection by lot within a maturity, each \$5,000 of principal amount of a 2003A Refunding Note will be considered a separate 2003A Refunding Note. Upon the redemption of the 2010 Refunded Notes on the Second Crossover Date, the remaining 2003A Refunding Notes will become subject to and entitled to the benefits of the Trust Agreement.

The principal of and premium, if any, and interest on the Notes, including the Refunded Notes until such times as they are redeemed and including the applicable portions of the 2003A Refunding Notes after the redemption of the 2008 Refunded Notes and the 2010 Refunded Notes, respectively, and other obligations of the Commonwealth from time to time owing under the Trust Agreement (collectively, the "Trust Agreement Obligations") are secured by a pledge of, and payable solely from, the following (collectively, the "Pledged Funds"):

(a) all reimbursements and other federal assistance ("Federal Highway Reimbursements") that the Commonwealth from time to time shall receive with respect to federally-aided highway construction projects under or in accordance with Title 23 of the United States Code or any successor program established under federal law (the "Federal-Aid Highway Program") and any other monies from time to time deposited in the Federal Highway Grant Anticipation Note Trust Fund of the Commonwealth established by Section 10 of the Act ("GAN Trust Fund");

(b) all amounts from time to time credited to the GAN Trust Fund (excluding the Project Fund) and to the Funds and Accounts established under the Trust Agreement (excluding the Rebate Fund);

(c) any amounts payable to the Commonwealth by a Hedge Provider pursuant to a Qualified Hedge Agreement relating to the Notes; and

(d) upon the occurrence and during the continuation of a True-Up Condition (defined below) the receipts derived by the Commonwealth from that portion of the excise tax imposed on gasoline (other than aviation fuel) by Chapter 64A of the Massachusetts General Laws as amended from time to time (the "Commonwealth gasoline excise tax") and credited to the Commonwealth's Highway Fund equal to ten cents (\$0.10) per gallon (the "Alternative Revenues").

As indicated above, the Alternative Revenues will be included in the Pledged Funds only during the continuation of a True-Up Condition. See "Pledge of Alternative Revenues" below.

The 2003A Refunding Notes and the other Trust Agreement Obligations are not general obligations of the Commonwealth, and the full faith and credit of the Commonwealth is not pledged to the payment of the 2003A Refunding Notes or the other Trust Agreement Obligations. The Commonwealth is not obligated to make any payments with respect to the 2003A Refunding Notes or the other Trust Agreement Obligations except as specified in the 2003A Refunding Notes and in the Trust Agreement, and the Commonwealth is not obligated to impose any taxes to satisfy the 2003A Refunding Notes or the other Trust Agreement Obligations.

The Act provides that the lien of the Trust Agreement on the Pledged Funds will be perfected by filing the Trust Agreement in the records of the State Treasurer. The Trust Agreement has been so filed. In the opinion of Bond Counsel, as the result of such filing the lien of the Trust Agreement is valid and binding as against all persons or entities of any kind having claims of any kind in tort, contract or otherwise, irrespective of whether such persons or entities have notice thereof. At the option of the Commonwealth and without Noteholder consent, a subordinate lien on all or a portion of the Pledged Funds may be given to secure the reimbursement obligation of the Commonwealth relating to a Reserve Credit Facility or to secure securities subordinate to the Notes.

The lien of the Trust Agreement on the Federal Highway Reimbursements is limited to such monies when received by the Commonwealth and does not include a pledge of the right to receive such reimbursements or other assistance from the federal government. No person or entity, other than the Commonwealth, will be entitled to assert any claim against the federal government with respect to such reimbursements or other assistance.

As required by the Act, the Trust Agreement contains a covenant to the effect that on and after July 1, 2002, except to the extent necessary to pay Trust Agreement Obligations due and payable in any SFY (as originally scheduled), no more than fifty percent (50%), or such other percentage as may be permitted by Massachusetts law, of the amount apportioned by law to the Commonwealth in any FFY with respect to the Federal-Aid Highway Program shall be applied in the SFY ending on June 30 of such FFY or in the SFY commencing on July 1st of such FFY to the payment of Trust Agreement Obligations, including without limitation, the payment, redemption or defeasance prior to maturity of the principal of and interest on Notes Outstanding. Any such use of Federal Highway Reimbursements also requires the concurrence of the Secretary of Administration and Finance and the Secretary of Transportation and Construction (collectively, the "Secretaries"). This provision limits the amount of Federal Highway Reimbursements that may be available in any year for any optional redemption or defeasance of Notes, although the percentage limitation may be modified or eliminated by future action of the Massachusetts Legislature without Noteholder consent. Moreover, the Commonwealth makes no representation as to the likelihood of any optional redemption or defeasance of the Notes or that it will not utilize other available funds, if any, for such purposes.

The Commonwealth has waived its sovereign immunity and consented to be sued on contractual obligations, including the 2003A Refunding Notes and the Trust Agreement, and all claims with respect thereto. The application of the Pledged Funds other than the Alternative Revenues to satisfy the Trust Agreement Obligations, including satisfaction of any judgment enforcing the Trust Agreement Obligations, will not be subject to appropriation by the Massachusetts Legislature. However, application of the Alternative Revenues to pay Trust Agreement Obligations will require appropriation, and certain other Pledged Funds (excluding Federal Highway Reimbursements) may be made available from time to time as the result of legislative appropriations, although the Commonwealth is not obligated to appropriate any such funds. Enforcement of a claim for payment of the Trust Agreement Obligations may also be subject to the provisions of federal or state statutes, if any, hereafter enacted extending the time for payment or imposing other constraints upon enforcement, insofar as the same may be constitutionally applied.

Neither the Commonwealth nor the GAN Trust Fund is eligible for protection from its creditors pursuant to Title 11 of the United States Code.

### **Funds and Accounts**

The GAN Trust Fund is established by the Act. The Trust Agreement establishes within the GAN Trust Fund a Revenue Account and a Project Fund. The Revenue Account is held and administered by the Trustee and constitutes part of the security for the Notes. The Act provides that all Federal Highway Reimbursements, any other funds hereafter appropriated to the GAN Trust Fund, and investment earnings thereon and on the proceeds of the Notes issued pursuant to the Trust Agreement shall be held by the State Treasurer or designee as trustee of the GAN Trust Fund and not on account of the Commonwealth and, as further set forth in the Act, may be expended without further appropriation for payment of Trust Agreement Obligations. The Act further provides that such funds are impressed with a trust for the benefit of the owners of the Notes authorized by the Act, including the 2003A Refunding Notes after redemption of the Refunded Notes.

Pursuant to the Trust Agreement, all Federal Highway Reimbursements received by the Commonwealth are required to be deposited within two business days of receipt by the Commonwealth into the Revenue Account. Also deposited into the Revenue Account will be such additional funds (other than Alternative Revenues), if any, as may from

time to time be appropriated by the Massachusetts Legislature to the GAN Trust Fund for the payment of principal of, and interest on, the Notes and other Trust Agreement Obligations.

The Trust Agreement also establishes the following Funds and Accounts, which are separate from the GAN Trust Fund:

- (i) Redemption Fund;
- (ii) Debt Service Fund, including a June 15 Debt Service Payment Account, a December 15 Debt Service Payment Account and a Defeasance Account;
- (iii) Alternative Revenues Fund, including a Reserve Account and a Debt Service Liquidity Account;
- (iv) Note Related Costs Fund; and
- (v) Rebate Fund.

All these Funds and Accounts are held and administered by the Trustee. All these Funds and Accounts are included in the Pledged Funds securing the Trust Agreement Obligations, except for the Rebate Fund and except that any Alternative Revenues contained therein are available only during the continuation of a True-Up Condition provided the Massachusetts Legislature appropriates such funds for that purpose. Monies and securities held in the Rebate Fund are not available to pay the Trust Agreement Obligations and do not constitute security therefor.

The *Redemption Fund* provides a depository for any funds, including Pledged Funds, not otherwise required by the Trust Agreement to be deposited or applied with respect to the Notes, so that such funds may be used for the purposes of purchasing or optionally redeeming Notes. Such use of Federal Highway Reimbursements without appropriation is limited by a provision of the Act described above. See “General.” In the event of a deficiency in the Debt Service Fund, any funds held in the Redemption Fund, other than monies held for Notes with respect to which a notice of redemption has been given, shall be transferred to the applicable Account of the Debt Service Fund to the extent necessary to make up such deficiency.

The *Debt Service Fund* contains two accounts, the June 15 Debt Service Account and the December 15 Debt Service Account, for the accumulation of Pledged Funds for the purpose of paying scheduled principal and interest on the Notes when due. Deposits to such Accounts are to be made as described below in “Flow of Federal Highway Reimbursements” and “Pledge of Alternative Revenues.” The Debt Service Fund also contains a Defeasance Account for the retention of funds and securities held for the purpose of paying defeased Notes.

The *Alternative Revenues Fund* contains a Reserve Account for the receipt and retention of Alternative Revenues during the continuation of a True-Up Condition, which shall be transferred to the Debt Service Fund or to the State Treasurer as described below in “Pledge of Alternative Revenues.” The Debt Service Liquidity Account of the Alternative Revenues Fund holds funds and securities and/or a Reserve Credit Facility maintained to satisfy the Debt Service Liquidity Account Requirement as a debt service reserve for the Notes. Amounts in the Debt Service Liquidity Account are available, if needed, solely in the event that a True-Up Condition shall have occurred and be continuing.

The *Note Related Costs Fund* holds Pledged Funds to be used to pay fees, costs and other amounts included in the Trust Agreement Obligations, other than debt service on the Notes. Funds held in the Note Related Costs Fund are available to pay debt service on the Notes in the event of a deficiency in the Debt Service Fund.

The *Rebate Fund* holds amounts, if any, payable by the Commonwealth to the United States Treasury with respect to the Notes pursuant to the arbitrage rebate requirements of Section 148 of the Internal Revenue Code of 1986, as amended. Amounts deposited in the Rebate Fund are not included in the Pledged Funds and are not available to pay debt service on the Notes.



## Flow of Federal Highway Reimbursements

The Trust Agreement provides that on or before October 10 of each FFY (or, if such day is not a business day, the next succeeding business day) the State Treasurer, with the written concurrence of the Secretaries, will deliver to the Trustee a statement (the "Statement of Available Revenues") setting forth (1) the amount of Federal Highway Reimbursements expected to be received by the Commonwealth during such FFY, (2) any deficiency in any Funds and Accounts with respect to Trust Agreement Obligations due and payable in such FFY and (3) the amount of Trust Agreement Obligations then expected to be due and payable during the following FFY. In the event that the Statement of Available Revenues identifies any deficiency described in clause (2), then notwithstanding any other provision of the Trust Agreement, all Federal Highway Reimbursements received thereafter shall be applied first to satisfy such deficiency, and for the purposes of the remaining flow of funds, the Expected Federal Highway Reimbursements (as defined below) shall be net of the amount of such deficiency (whether or not such deficiency has been satisfied).

The Statement of Available Revenues will project the ratio of (a) the amount of Federal Highway Reimbursements expected to be received during the current FFY (the "Expected Federal Highway Reimbursements") to (b) the scheduled payments of principal and interest due with respect to the Notes during the next succeeding FFY plus the other Trust Agreement Obligations expected to be payable during the next succeeding FFY (the amount in (b) being sometimes referred to as the "Following Year Scheduled Obligations" and such ratio being sometimes referred to as the "Debt Service Coverage Ratio").

If the projected Debt Service Coverage Ratio is equal to or greater than 120%, then

(i) commencing on the later of October 10 of such FFY and the date of delivery of the Statement of Available Revenues and continuing until the earlier of December 15 of such FFY and the date on which the difference between the Expected Federal Highway Reimbursements minus the amount of Federal Highway Reimbursements received by the Commonwealth to date in such FFY shall equal 120% of the Following Year Scheduled Obligations, Federal Highway Reimbursements received by the Commonwealth shall be paid to the State Treasurer from the Revenue Account free and clear of the lien of the Trust Agreement,

(ii) commencing on the earlier of December 15 of such FFY and the date on which the difference between the Expected Federal Highway Reimbursements minus the amount of Federal Highway Reimbursements received by the Commonwealth to date in such FFY shall equal 120% of the Following Year Scheduled Obligations, all Federal Highway Reimbursements received by the Commonwealth shall be transferred from the Revenue Account first, to the December 15 Debt Service Account of the Debt Service Fund, second, to the Note Related Costs Fund, third, to the Rebate Fund and fourth, to the Debt Service Liquidity Account, if and as applicable, until the date on which all Following Year Scheduled Obligations payable on or prior to December 15 of the next succeeding FFY shall have been provided for,

(iii) from such date through the earlier of June 14 of such FFY and the date on which the difference between the Expected Federal Highway Reimbursements minus the amount of Federal Highway Reimbursements received by the Commonwealth to date in such FFY shall equal 120% of the Following Year Scheduled Obligations payable after December 15 of the next succeeding FFY, all Federal Highway Reimbursements received by the Commonwealth shall be paid to the State Treasurer from the Revenue Account free and clear of the lien of the Trust Agreement,

(iv) commencing on the earlier of June 15 of such FFY and the date on which the difference between the Expected Federal Highway Reimbursements minus the amount of Federal Highway Reimbursements received by the Commonwealth to date in such FFY shall equal 120% of the Following Year Scheduled Obligations payable after December 15 of the next succeeding FFY, all Federal Highway Reimbursements received by the Commonwealth shall be transferred from the Revenue Account first, to the June 15 Debt Service Account of the Debt Service Fund, second, to the Note Related Costs Fund, third, to the Rebate Fund and fourth, to the Debt Service Liquidity Account, if and as applicable, until the date on which all Following Year Scheduled Obligations payable after December 15 of the next succeeding FFY shall have been provided for, and

(v) from such date through September 30 of such FFY all Federal Highway Reimbursements received by the Commonwealth shall be paid to the State Treasurer from the Revenue Account free and clear of the lien of the Trust Agreement.

In the event that at any time during any FFY, the State Treasurer, with the written concurrence of the Secretaries, shall determine that the Expected Federal Highway Reimbursements for such FFY will be materially different from the amount initially projected, the State Treasurer shall notify the Trustee of the revised amount of Expected Federal Highway Reimbursements and the distribution of Federal Highway Reimbursements described above thenceforth shall be made in accordance with such revised amount.

Notwithstanding the foregoing, (1) if on October 1 of any FFY, and, so long as no Statement of Available Revenues shall have been filed with the Trustee for such FFY or (2) in the event that for any FFY the Statement of Available Revenues shall project that the Debt Service Coverage Ratio shall be less than 120%, then all Federal Highway Reimbursements received by the Commonwealth shall be paid from the Revenue Account into the December 15 Debt Service Account, the June 15 Debt Service Account and the Note Related Costs Fund, the Rebate Fund and the Debt Service Liquidity Account, if and as applicable, until all Following Year Scheduled Obligations shall have been provided for.

In addition, so long as any Event of Default under the Trust Agreement shall have occurred and be continuing, no Pledged Funds shall be transferred to the Commonwealth and released from the lien of the Trust Agreement.

Although not required to do so by the Trust Agreement, the Massachusetts Legislature has appropriated funds sufficient for the payment of interest due on the 1998A Notes, the 1998B Notes and the 2000A Notes through SFY 2003. Such funds will be transferred to the Trustee for deposit in the Debt Service Fund as needed to meet debt service requirements under the Trust Agreement, in lieu of the application of Federal Highway Reimbursements.

The Statement of Available Revenues for FFY 2003 was executed by the State Treasurer, with the concurrence of the Secretaries, and delivered to the Trustee on October 10, 2002. This Statement certified expected Federal Highway Reimbursements for FFY 2003 of \$452,179,200 and projected no deficiencies in any Funds and Accounts with respect to Trust Agreement Obligations due and payable in FFY 2003.

In the Act and the Trust Agreement, the Commonwealth covenants for the benefit of the Noteholders that, so long as any Notes shall remain outstanding or any Trust Agreement Obligations shall remain unpaid, Federal Highway Reimbursements shall not be diverted from the purposes identified in the Act or the Trust Agreement (except as provided in the Trust Agreement), nor shall the trusts with which the Federal Highway Reimbursements are impressed under the Act and the Trust Agreement be broken, and the pledge and dedication in trust of the Federal Highway Reimbursements shall continue unimpaired and unabrogated.

See APPENDIX A—"SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT—Revenue Account" and "—Covenants as to Pledged Funds and Federal Highway Grant Anticipation Note Trust Fund."

#### **Advance Construction Balance Covenant**

Pursuant to the procedures followed by the Federal Highway Administration (the "FHWA") in the administration of the Federal-Aid Highway Program, the Commonwealth may designate eligible highway construction projects for "Advance Construction" status. The aggregate amount so designated with respect to the Commonwealth and not yet converted into Obligation Authority constitutes the Commonwealth's "Advance Construction Balance." Unless otherwise limited by federal law, the Commonwealth may at any time, provided sufficient Obligation Authority is then available, convert any portion of its Advance Construction Balance to Obligation Authority. The Commonwealth would then be entitled to immediate reimbursement of the federal share of amounts actually expended by the Commonwealth with respect to projects allocable to the Advance Construction Balance. The Commonwealth would be reimbursed for subsequent expenditures on such projects in the usual fashion. See "THE FEDERAL-AID HIGHWAY PROGRAM—Operations" and "COMMONWEALTH PARTICIPATION IN THE FEDERAL-AID HIGHWAY PROGRAM." Under the Trust Agreement, the Commonwealth has covenanted that, except to the extent otherwise required by applicable federal law or regulations, it will not cause or permit its Advance Construction Balance at any date to be less than the principal amount of

Notes outstanding as of such date, after taking into account the principal amount of Notes, if any, to be paid, defeased or redeemed as the result of the conversion on such date of a portion of the Advance Construction Balance to Obligation Authority and taking into account any funds then on deposit in the Debt Service Fund and Redemption Fund to be applied to pay the principal of any Notes then outstanding, as certified by the State Treasurer to the Trustee at the time of such conversion. For the purpose of this covenant, the term "Advance Construction Balance" shall not include any portion thereof related to the CA/T Project and identified in the then most recent finance plan for the CA/T Project filed from time to time by the Commonwealth with the FHWA as expected to be unavailable for conversion to Obligation Authority as a result of any applicable federal law limiting the aggregate amount of federal funding for the CA/T Project. Approximately \$42.6 million of Advance Construction related to the CA/T Project exceeds the \$8.473 billion limit on federal funding of the CA/T Project recently enacted and, so long as such excess condition or such limitation remains in effect, it will be excluded in calculating compliance with this covenant. As of the date of this Official Statement, the Commonwealth is not aware of any other applicable federal law or regulation that would restrict Commonwealth compliance with this covenant. See "COMMONWEALTH PARTICIPATION IN THE FEDERAL-AID HIGHWAY PROGRAM – Federal Limit on Funding for the CA/T Project."

By the concurrence of the Secretary of Transportation and Construction to the Trust Agreement, the Executive Office of Transportation and Construction, acting on behalf of itself and the Massachusetts Highway Department, covenants that it shall not cause or permit the Advance Construction Balance to be converted to Obligation Authority without the prior written concurrence of the Secretary of Administration and Finance and the State Treasurer; provided, however, that such concurrence is not required unless, after giving effect to such conversion, the portion of the remaining Advance Construction Balance that relates solely to projects under the Federal-Aid Highway Program on which the Commonwealth has already, as of the date of such conversion, paid or advanced funds and with respect to which the Commonwealth would be entitled to immediate reimbursement from the federal government if such portion of the Advance Construction Balance could be converted to Obligation Authority, would be an amount at least equal to (a) the principal amount of Notes outstanding, without taking into account any payment, redemption or defeasance of Notes as a result of such conversion, less (b) the amount, if any, then held in the Project Fund to pay costs of the CA/T Project. At the time of any conversion of the Advance Construction Balance that requires the concurrence of the Secretary of Administration and Finance and the State Treasurer, the State Treasurer shall deliver to the Trustee a certificate specifying the amount of the conversion and the amount, if any, of Federal Highway Reimbursements related thereto to be applied to the payment, redemption or defeasance of any portion of the principal of the Notes outstanding, and, if applicable, the redemption date or effective date of defeasance of any Notes outstanding. At the time of transfer of any of such Federal Highway Reimbursements to the Trustee, the State Treasurer will instruct the Trustee to deposit such Federal Highway Reimbursements directly into the applicable Debt Service Account, Redemption Fund or Defeasance Account.

### **Pledge of Alternative Revenues**

Not later than December 15 in each FFY, the State Treasurer, after consultation with the Secretaries, will determine and certify (a) the aggregate amount appropriated by law from the federal Highway Trust Fund for the purposes of carrying out the provisions of Title 23 of the United States Code with respect to federal-aid highway projects nationwide for the current FFY and (b) the Debt Service Coverage Ratio for the following SFY. If both the amount described in (a) above is less than \$17.1 billion and the Debt Service Coverage Ratio described in (b) above is less than 120%, then such combination of conditions shall constitute a "True-Up Condition." The figure of \$17.1 billion is equal to 75% of the revenues received by the federal government in the Highway Account of the federal Highway Trust Fund for FFY 1996.

If a True-Up Condition shall have occurred, the Act requires the Governor of the Commonwealth to include in the proposed operating budget of the Commonwealth to be submitted to the Legislature (generally in January) for such succeeding SFY a recommendation to appropriate an amount equal to the Trust Agreement Obligations to be due in such succeeding SFY less the sum of (x) the amount of any available funds on deposit in the GAN Trust Fund, the Debt Service Fund and the Note Related Costs Fund as of the date of such certification, minus (y) the portion of such amount expected to be expended prior to the beginning of such succeeding SFY on Trust Agreement Obligations due in the current SFY plus (z) any amount of Federal Highway Reimbursements expected to be received prior to the beginning of such succeeding SFY that will not be expended prior to the beginning of said SFY. At any time prior to the enactment of the budget of the Commonwealth with respect to such succeeding SFY, the State Treasurer, after consultation with the Secretaries, may report to the Governor and the Legislature changed circumstances that are material to the amount being recommended for appropriation.

If a True-Up Condition shall have occurred in any SFY, then (i) commencing in January of such SFY the Alternative Revenues received by the Commonwealth shall be deposited with the Trustee in the Reserve Account of the Alternative Revenues Fund until the amount in the Reserve Account shall equal the sum of (A) the December 15 Debt Service Requirement in the following SFY (less any amount available for such purpose on deposit in the December 15 Debt Service Account) and (B) all Trust Agreement Obligations to be due and payable prior to December 15 in the following SFY (less any amounts available for such purpose on deposit in the Note Related Costs Fund, the Rebate Fund and the Debt Service Liquidity Account) and (ii) commencing with July of the next following SFY the Alternative Revenues received by the Commonwealth shall be deposited with the Trustee in the Reserve Account; provided that notwithstanding any provision of the Trust Agreement to the contrary, in the event that the Trustee shall hold an amount under the Trust Agreement during any SFY at least equal to the Trust Agreement Obligations due and payable during such SFY, which amount is available for paying such Trust Agreement Obligations without any further appropriation or other legislative approval, then the State Treasurer shall no longer be required to pay Alternative Revenues to the Trustee with respect to the remainder of such SFY. *Alternative Revenues will be included in the Pledged Funds only upon the occurrence and continuation of a True-Up Condition and will not be available to pay Trust Agreement Obligations if Federal Highway Reimbursements are insufficient for such purpose under circumstances that do not involve a True-Up Condition or if the Massachusetts Legislature does not appropriate the Alternative Revenues for such purpose.* The Massachusetts Legislature may, but is under no obligation to, from time to time appropriate Alternative Revenues or other funds for the purpose of paying Trust Agreement Obligations. See "THE ALTERNATIVE REVENUES."

Alternative Revenues so deposited into the Reserve Account, to the extent appropriated for payment of Trust Agreement Obligations in such SFY, shall be transferred to the Debt Service Fund and other Funds and Accounts under the Trust Agreement for the payment of such Trust Agreement Obligations. Amounts remaining in the Reserve Account after all such Trust Agreement Obligations have been provided for shall be transferred to the State Treasurer free and clear of the lien of the Trust Agreement.

In the event that funds other than Alternative Revenues are appropriated for the payment in full of such Trust Agreement Obligations and are received by the Trustee and deposited in the appropriate Funds and Accounts maintained under the Trust Agreement, the Alternative Revenues thereafter shall be released to the State Treasurer free and clear of the lien of the Trust Agreement.

So long as any Notes shall be outstanding, there shall be maintained in the Debt Service Liquidity Account an amount equal to ten percent (10%) of the maximum aggregate amount of scheduled payments of principal and interest becoming due in any SFY on all Notes then outstanding; provided that the amount funded from proceeds of the Notes in any event shall not exceed 125% of the average annual aggregate amount of scheduled payments of principal and interest becoming due in any SFY on all Notes then outstanding. At the option of the Commonwealth, such requirement may be satisfied by a Reserve Credit Facility. So long as any True-Up Condition shall have occurred and be continuing, amounts in the Debt Service Liquidity Account shall be available to pay Trust Agreement Obligations when due and shall be drawn upon for such purpose in the event of any deficiency in the amount available for such purpose in the Debt Service Fund, the Notes Related Costs Fund and the Redemption Fund.

The Commonwealth has covenanted in the Trust Agreement that, so long as any Notes shall remain outstanding or any Trust Agreement Obligations shall remain unpaid:

(a) in any SFY with respect to which a True-Up Condition has occurred and is continuing, unless and until an appropriation has been made or an amount is otherwise made available that is sufficient to pay the Trust Agreement Obligations due during said SFY, none of the Alternative Revenues shall be applied to any use other than the payment of such Trust Agreement Obligations;

(b) until the State Treasurer, after consultation with the Secretaries, determines that available funds in the GAN Trust Fund and in the Funds and Accounts established under the Trust Agreement will be sufficient to pay all Trust Agreement Obligations, the rate of the Commonwealth gasoline excise tax shall not be reduced below the sum of ten cents (\$0.10) per gallon plus any amount thereof pledged for the payment of special obligation bonds of the Commonwealth pursuant to Section 20 of Chapter 29 of the Massachusetts General Laws; and

(c) at least ten cents (\$0.10) per gallon of the Commonwealth gasoline excise tax shall remain free and clear of any superior or equal pledge, lien, charge or encumbrance thereon or with respect thereto (other than the lien of the Trust Agreement) and shall remain credited to the Highway Fund of the Commonwealth so designated under Section 34 of Chapter 90 of the Massachusetts General Laws, except as permitted by the Trust Agreement; provided, however, that any such funds shall be available for appropriation in any SFY for any other lawful purpose unless the State Treasurer shall have certified that a True-Up Condition has occurred and is continuing.

The Trust Agreement provides that any provision of the Act creating covenants with Noteholders shall be deemed a covenant with the Noteholders only to the extent expressly provided in, and as limited by, the Trust Agreement.

### **Limitations on Issuance of Additional Notes**

Under the Trust Agreement, subject to conditions stated therein and in the Act, additional Notes may be issued on a parity basis with the 1998A Notes, the 1998B Notes and the 2000A Notes for the purpose of providing for the costs of the CA/T Project and refunding Outstanding Notes. The Act provides that Notes are to be issued by the State Treasurer at the request of the Governor of the Commonwealth and that the amortization of each series of Notes shall be as determined by the State Treasurer with the concurrence of the Secretaries. The Trust Agreement provides that no additional Notes, except refunding Notes, may be issued unless, after giving effect to the issuance of such additional Notes and the defeasance of any Notes to be defeased simultaneously with such issuance, (a) no Event of Default will exist under the Trust Agreement; (b) either (i) principal and interest payable on the Notes on any June 15 or December 15 (and, if applicable, during the six-month period ending on such date) shall not exceed \$108.0 million (excluding additions to accreted value not payable in cash) or (ii) each Rating Agency must have confirmed that its credit rating then in effect with respect to the Outstanding Notes will not be withdrawn or reduced on account of the additional Notes; (c) Federal Highway Reimbursements expected to be received by the Commonwealth during the remainder of the FFY in which such additional Notes are issued (excluding any portion of such Federal Highway Reimbursements required to be set aside to pay debt service on Notes already Outstanding) will equal or exceed 120% of the Trust Agreement Obligations due with respect to such additional Notes in the next succeeding FFY (minus any portion of such Trust Agreement Obligations as shall be provided for by the proceeds of such additional Notes or any other available amounts deposited with the Trustee for such purpose); (d) either (i) the aggregate net proceeds of the proposed additional Notes and the Notes previously issued (excluding refunding Notes) will not exceed \$1.500 billion or (ii) the Outstanding Notes and proposed additional Notes will retain the existing credit ratings of the Outstanding Notes; and (e) the Commonwealth is in compliance with its covenant concerning the Advance Construction Balance. See “SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT—Advance Construction Balance Covenant.” The debt service requirements on variable rate Notes for the purposes of clauses (b) and (c) above will be calculated using the higher of (1) the then-current rate on the BMA Municipal Bond Index<sup>TM</sup> and (2) three percent (3%) per annum, plus in each case 150 basis points.

Regarding the condition identified in clause (d) of the preceding paragraph, the aggregate net proceeds of the Notes have reached \$1.500 billion. As a result, the condition identified in clause (d) may be satisfied with respect to future issues of additional Notes (other than refunding Notes) only by obtaining the confirmation of credit ratings described in subclause (ii) of clause (d). In addition, no such additional Notes (other than refunding Notes) may be issued unless the Act is amended to increase or eliminate the limitation on the authorized amount of Notes. While no amendment of the Act currently is contemplated, this limitation may be increased or eliminated by subsequent legislation without the consent of the holders of the Notes. See “COMMONWEALTH PARTICIPATION IN THE FEDERAL-AID HIGHWAY PROGRAM – Federal Limit on Funding for the CA/T Project.”

It is also a condition to the issuance of any additional Notes (other than Refunding Notes) that all interest and principal, if any, payable thereon during the FFY in which such additional Notes are issued shall be provided for from portions of the proceeds of such additional Notes or by other available funds deposited with the Trustee as of the date of issuance of such additional Notes.

The Commonwealth may issue Notes for the purpose of refunding Outstanding Notes without regard to the conditions specified above, so long as, after giving effect to the issuance of such refunding Notes and the defeasance of any Notes to be refunded from the proceeds thereof (a) no Event of Default shall exist under the Trust Agreement and (b) either (i) principal and interest payable on the Notes on any June 15 or December 15 (and, if applicable, during the six-month period ending on such date) shall not exceed \$108.0 million (excluding additions to accreted value not payable in cash) or

(ii) each Rating Agency must have confirmed that its credit rating then in effect with respect to the Outstanding Notes will not be withdrawn or reduced on account of the additional Notes. Compliance with the foregoing conditions in connection with the issuance of any series of Notes will be evidenced by a certificate of the State Treasurer provided to the Trustee.

The Trust Agreement permits the issuance of subordinate securities secured by a subordinate pledge of the Pledged Funds provided that the issuance of such subordinate securities will not cause a reduction of any existing credit rating of any Outstanding Note. For the purposes of the Trust Agreement and this Official Statement, no such subordinate securities are included in the term “Notes”.

### **THE FEDERAL-AID HIGHWAY PROGRAM**

The proceeds of the Prior Notes were used by the Commonwealth to finance a portion of the costs of the CA/T Project. The principal source of repayment and security for the Prior Notes has been payments received by the Commonwealth from the federal government under the Federal-Aid Highway Program, pursuant to which the federal government reimburses states for the federal share of approved highway projects. At such time as the Escrow Account is used to pay the principal of and the redemption premium, if any, on the 2008 Refunded Notes, certain of 2003A Refunding Notes will become payable solely from payments received by the Commonwealth from the federal government under the Federal-Aid Highway Program and other Pledged Funds, and at such time as the Escrow Account is used to pay the principal of and the redemption premium, if any, on the 2010 Refunded Notes, the remainder of the 2003A Refunding Notes will become payable solely from payments received by the Commonwealth from the federal government under the Federal-Aid Highway Program and other Pledged Funds.

Certain Federal-Aid Highway Program features or requirements are explained or further defined where they appear below but are introduced here for reference:

- *The federal Highway Trust Fund (the “HTF”)*: The HTF is a dedicated federal fund with dedicated revenues held in trust for reimbursement of expenditures by the states for costs of eligible transportation projects, including highway projects.
- *Authorization*: “Authorization” is the process by which Congress authorizes the expenditure of federal revenues on federal programs. For the Federal-Aid Highway Program, authorization historically has been, and continues to be, provided on a multi-year basis. This, together with the availability of HTF revenues and future HTF collections permits states more certainty in planning long-term highway projects.
- *Apportionment*: For each FFY, the FHWA apportions the authorized funding among the states according to formulas that are established in authorizing statutes. The distribution of federal funds that do not have a statutory formula is called “allocation” rather than “apportionment.”
- *Obligation Authority*: “Obligation” is the commitment of the federal government to pay, through reimbursements to a state, its share of the eligible expenditures on an approved project. The amount of such federal revenues that a state can obligate in a given FFY is called its “Obligation Authority.”
- *Advance Construction*: The Advance Construction procedure allows states to commence eligible projects without first having to obligate the federal government’s share of expenditures. Thus, states may begin a project before amassing all of the Obligation Authority needed to cover the federal government’s share.
- *Partial conversion of Advance Construction*: Under partial conversion of Advance Construction, in a given year a state may convert A/C to Obligation Authority and thus be eligible for reimbursement for a portion of the federal share of an Advance Construction project in that or in a subsequent FFY. This removes any requirement for the state to wait for reimbursements until the full amount of Obligation Authority needed for the entire project is available.

These features of the Federal-Aid Highway Program work in a complementary fashion to provide a regular flow of federal reimbursements over the years to state highway projects. The participation of the Commonwealth in such

reimbursements, and the role of such participation in providing payment and security for the Notes, is discussed in “COMMONWEALTH PARTICIPATION IN THE FEDERAL-AID HIGHWAY PROGRAM.”

It should be noted that the terms and conditions of participation in the Federal-Aid Highway Program as described herein are subject to change at the discretion of Congress, and there can be no assurance that the laws and regulations now governing the Federal-Aid Highway Program will not be changed in the future in a manner that may adversely affect the ability of the Commonwealth to receive adequate Federal Highway Reimbursements to pay the 2003A Refunding Notes and other Trust Agreement Obligations.

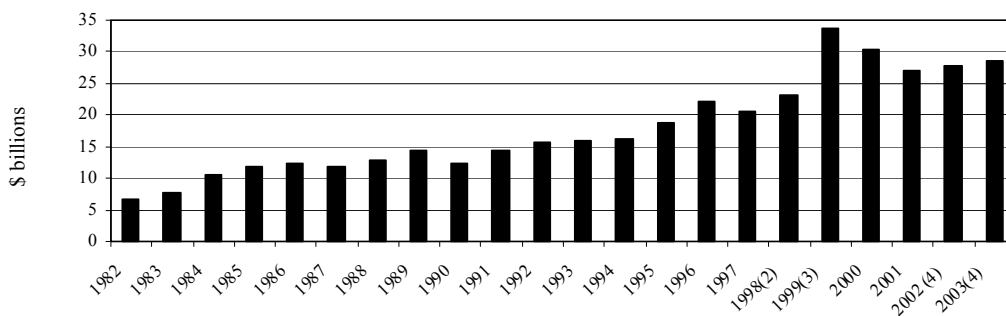
**Federal Highway Trust Fund**

The FHWA administers payments to states under the Federal-Aid Highway Program through the HTF. Funded by collection of federally-imposed motor vehicle user fees, primarily fuel taxes, the HTF is a dedicated fund with dedicated revenues that are held in trust for reimbursement of the states’ cost of transportation projects, including highway projects. The HTF presently contains the Highway Account and a Mass Transit Account. The Highway Account receives approximately 84% of gasoline tax revenues and 88% of diesel fuel tax revenues, with the remaining share of such revenues deposited in the Mass Transit Account. Using revenues in the Highway Account of the HTF, the FHWA reimburses states for expenditures related to approved highway projects. The FHWA distributes these revenues to states based on apportionment and allocation rules prescribed by federal law.

Current law requires that the cash balance of the Highway Account of the HTF, plus projected revenues for the next two years, must suffice to repay all unpaid authorizations before any additional apportionments of revenues can be made from the HTF. As a result, and unlike most federal programs, the flow of federal funding to states for highway projects does not depend on timely appropriation of revenues by Congress.

Federal gasoline excise taxes are the largest revenue source for the HTF. The majority of these tax revenues, including 15.4 cents per gallon out of the current 18.4 cents per gallon tax, go to the Highway Account. The following table shows annual and projected HTF collections in the Highway Account for the period FFY 1982 to FFY 2003.

**Payments into the Highway Account of the Highway Trust Fund <sup>(1)</sup>  
Federal Fiscal Years 1982-2003 (in billions)**



SOURCE: FFY 1982-2001, FHWA, Highway Statistics (2001) Table FE-210; FFY 2002-2003, U.S. Treasury Notice PO-3085 (May 9, 2002).

- (1) Exclusive of Interest Earnings
- (2) Reflects the redirection of 03.44 cents of the Gas Tax from deficit reduction to the Highway Account of the HTF.
- (3) FHWA estimates that \$5.0 billion in FFY 1998 receipts were not received until FFY 1999 due to the Tax Payer Relief Act of 1997. Accordingly, adjusted FFY 1998 receipts would be \$28.1 billion and adjusted FFY 1999 receipts would be \$28.7 billion.
- (4) Estimated.

*The HTF Balance.* Since 1956, the Highway Account of the HTF has accumulated a surplus of revenues because more revenues have been generated for the account through collections and interest income than have been distributed to

states under the Federal-Aid Highway Program. TEA 21 established an opening balance of \$8.5 billion for the Highway Account of the HTF, effective October 1, 1998. The HTF is required under current federal law to maintain a positive balance to ensure that prior commitments for federal revenues can be met. This requirement allows states the flexibility to earn and receive reimbursement revenues for up to four years after federal funds first were obligated.

*Reauthorization of HTF Collections.* Collection of HTF taxes (“HTF collections”), like the Federal-Aid Highway Program itself, must periodically be reauthorized by Congress. Historically, the HTF and its constituent taxes have been authorized to operate for limited periods of time. Originally, the HTF was authorized through June 1972; it has been reauthorized several times. Most recently, TEA 21 authorized HTF collections through FFY 2005.

## **History**

The modern Federal-Aid Highway Program originated in the Federal-Aid Highway Act of 1956. The Federal-Aid Highway Program initially was established as a pay-as-you-go system, meaning that costs of constructing and maintaining the system were to be borne primarily by its users, who would pay a federally-imposed tax on motor fuels. Federal user fees were to provide 90% of the cost of construction, with the remainder paid for by the states.

The Federal-Aid Highway Act of 1956 was the first of a long series of authorizing statutes for the Federal-Aid Highway Program. Extensions of the act were passed in 1958, 1959, 1960, 1961, 1962, 1964, 1966, 1968, 1970, 1973, 1974 and 1976; in each case the statute was known simply as the Federal-Aid Highway Act. The 1965 Highway Beautification Act made minor additions and changes to the program, as did the Highway Safety Act of 1973. The 1978 Surface Transportation Act and the Federal-Aid Highway Act of 1981 were also primarily extensions of existing authority. TEA 21 and its immediate predecessor, the Intermodal Surface Transportation Efficiency Act of 1991 (“ISTEA”), are the most recent multi-year authorizing statutes.

The 1982 Surface Transportation Assistance Act (“STAA”) made notable changes to the Federal-Aid Highway Program, and began the modern multi-year (*i.e.*, four or more years) authorizing process. STAA also guaranteed each state a minimum 85% return on the money paid in by highway users of the state. Such “equity provisions” have continued in all subsequent authorizing legislation to date, and operate to compensate so-called “donor states,” whose historic highway funding levels have been below their collections for the HTF.

In 1991, ISTEA broadened the focus of the Federal-Aid Highway Program, changed its structure significantly and created several new funding categories. ISTEA also gave state and local governments far greater flexibility in determining their transportation infrastructure priorities, whether transit or highways, and for the first time allowed significant flexibility to redirect federal revenues among programs. ISTEA also authorized innovative approaches to federal-aid highway funding, including the use of private sector funding sources for transportation improvements. Innovative financing procedures were authorized and encouraged, and states were authorized to augment federal revenues with alternate sources of revenues.

The National Highway System Designation Act of 1995 (the “NHS Act”) designated the National Highway System to include the Interstate System as well as other roads important to the nation’s economy, defense, and mobility. The NHS Act made several changes affecting the financing of federal-aid highway projects, including Advance Construction procedures:

- Standard federal highway financing practices require states to have sufficient Obligation Authority before they begin a highway project. If a state has many projects or a particularly large project, they may be unable to provide enough Obligation Authority to get federal approval to begin specific projects. To avoid delays in projects that are eligible for federal funding, the FHWA may approve Advance Construction (“A/C”) for a project if the state can provide 100% of the costs up-front.
- Under Advance Construction procedures prior to the NHS Act, only when a state had amassed sufficient Obligation Authority to cover the federal share of a project’s total costs could it convert the project from Advance Construction to Obligation Authority and be reimbursed for the federal share. The NHS Act removed the requirement that states must amass Obligation Authority equal to the full federal share before reimbursement could occur. Partial conversion now allows a state to be reimbursed for a portion of the



federal share of the project's total costs as Obligation Authority becomes available each year and costs are expended.

*TEA 21.* TEA 21, which became law on June 9, 1998 and was amended on July 22, 1998, extended the authorization of the Federal-Aid Highway Program through FFY 2003. According to the FHWA, under TEA 21 average annual apportionments for highway aid to the states for FFY 1998 through FFY 2003, after redistribution of minimum guarantee funds, and in accordance with the RABA (hereinafter defined) provision of TEA 21, which adjusted annual highway funding levels to reflect anticipated changes in HTF receipts, are approximately \$28.5 billion, as indicated in the table below (which shows figures by FFY and in billions of dollars):

1998	1999	2000	2001	2002	2003	Average
\$23.8	\$28.2	\$29.5	\$29.5	\$30.0	\$30.6	\$28.5

Source: Federal Highway Administration website.

TEA 21 increased equity protections by assuring each state at least 90.5% of its proportional share of apportioned programs, based on its percentage contribution to HTF receipts, which were reauthorized through FFY 2005. TEA 21 also includes a provision known as Revenue Aligned Budget Authority ("RABA") which requires that HTF revenues be spent on transportation-related improvements, rather than allowed to accumulate into large surpluses. To this end, TEA 21 set yearly minimum guaranteed funding levels for the authorization period, which are based on annual HTF revenues.

TEA 21 also provided that interest will no longer accrue on funds in the Highway Account and that as of October 1, 1998 (the start of FFY 1999), the opening balance of the Highway Account of HTF would be set at \$8.5 billion. According to the FHWA Office of Fiscal Services, this amendment reduced the HTF balance by approximately \$7 billion, but will not affect the solvency of the HTF because actual annual funding levels will be based on the previous year's HTF revenues.

TEA 21 will expire at the end of FFY 2003. There are a number of reauthorization proposals in the United States Congress, none of which have yet been enacted. It is unknown whether reauthorizing legislation will be enacted by the beginning of FFY 2004. The Federal Highway Administration has issued interim guidance to the Commonwealth containing estimates of future federal highway funding for planning and programming purposes in the absence of new federal-aid highway legislation based on the administration's proposed six-year transportation reauthorization bill, SAFETEA. SAFETEA assumes that funding levels for FFY 2004 and thereafter will be similar to those that were authorized by Congress for FFY 2003 under TEA 21. SAFETEA includes a national six-year funding total of approximately \$247 billion for both highways and transit, including approximately \$201 billion for highways. The projected apportionments for highway aid to the states from FFY 2004 through FFY 2009 under the SAFETEA proposal appear in the table below.

**Estimated Annual Apportionments Under SAFETEA Proposal(1)  
Federal Fiscal Years 2004-2009 (in billions)**

2004	2005	2006	2007	2008	2009	Average
\$31.1	\$32.1	\$33.1	\$34.1	\$35.0	\$35.8	\$33.5

Source: Federal Highway Administration website.

(1) Information in this table is estimated, subject to change, based on projections for SAFETEA proposal. SAFETEA has not been enacted by Congress. It is unknown whether SAFETEA or any other federal highway funding legislation will be enacted. Funding levels under other legislative proposals, if enacted, may differ from those amounts shown above.

All the reauthorization proposals currently being discussed by Congress call for higher funding levels than those proposed by the administration in SAFETEA. A recent House proposal included overall funding of approximately \$254 billion and a recent Senate proposal called overall funding of approximately \$311 billion, including approximately \$255 billion for highways. A recent budget compromise proposal includes \$233 billion for highways and \$50 billion for transit, totaling approximately \$283 billion.

## Operations

The present Federal-Aid Highway Program continues to reimburse a large percentage of state expenditures for approved highway projects. The financial assurance provided by the Federal-Aid Highway Program is unusual among federal programs in that:

- The Federal-Aid Highway Program is based on dedicated revenues, from a user-tax source, deposited in a dedicated trust fund (the HTF);
- The budget and contract authority of the FHWA is established by a multi-year authorization act rather than annually through appropriation acts; and
- Contract authority is not at risk during the annual appropriations process (as budget authority is in most other federal programs).

The process for reimbursing state expenditures may be summarized in three steps: authorization, obligation and program implementation. The authorization step is the most critical step in establishing overall spending authority for federal highway funding. Authorizing legislation extends the life of the Federal-Aid Highway Program and the collections that fund the HTF, sets Federal-Aid Highway Program objectives and provides formulas for determining the distribution or apportionment of available resources among the states. The existence of the dedicated revenues in the Highway Account of the HTF and the existence of multi-year contract authorizations are designed to help to make available a predictable and uninterrupted flow of reimbursements to the states. The risk of contract authority lapsing between authorizing acts is minimal since sufficient unobligated balances generally exist that cover gaps in coverage between multi-year reauthorization acts.

The second step, obligation, is the process through which states make use of, or “obligate,” the contract authority that has been apportioned or allocated to them in the authorization process (Step 1). Congress typically limits the amount of Obligation Authority that states may use annually. To whatever extent that a state’s Obligation Authority is set below its authorization, the unobligated balance for that state is increased. These unobligated balances provide available funds, from which the FHWA allows states to draw, when there is a lapse period between authorization acts. But under current law the unobligated balances do not otherwise entitle the states to additional funds.

The third step, program implementation, leads to actual receipt of federal funds by states. Federal-Aid Highway Program implementation methods vary state-by-state. States are permitted to make use of Advance Construction—A/C—and partial conversion of Advance Construction in order to obligate varying amounts of federal funds to an eligible project from FFY to FFY, depending on how much of the state’s Obligation Authority is available from the Federal-Aid Highway Program and is desired for such use by the state.

### *Step 1: Authorization*

The first step, and the most crucial in financing the Federal-Aid Highway Program, is the multi-year, authorizing legislation. Such highway authorization acts:

- Establish the taxes that fund the HTF and extend their life (reauthorization);
- Establish the specific programs and procedures through which states receive federal financial assistance for their highway programs; and
- Set upper limits on funding for specific programs and for the overall Federal-Aid Highway Program.

*Multi-year Authorization Acts.* As noted earlier, the Federal-Aid Highway Program since 1982 has been periodically reauthorized on a multi-year basis by authorization acts, through which Congress influences the level of federal involvement in state highway program activities. Annual appropriations acts then establish any limits on the amount of federal funds that the FHWA may obligate to states in a given year.

*Budget and Contract Authority.* All federal programs require budget and contract authority before revenues may be committed and spent. Normally this authority is provided through a two-step process, with authorizing legislation describing the purposes for a specific program and setting a proposed level of spending, and appropriations acts providing the budget authority or legal ability to spend federal revenues. Appropriations are often for a lower amount than that set by authorizations. The Federal-Aid Highway Program combines these two steps, with authorizing legislation providing the United States Secretary of Transportation with contract authority or the legal ability to enter into binding contracts with state transportation departments (“DOTs”) and other bodies specified in the Federal-Aid Highway Program.

Contract authority provides state DOTs with assurance about the level of future federal revenues that will be available. This, in turn, makes it easier and more cost-effective to plan and execute multi-year construction projects. As a result of contract authority and the collection of user taxes into the dedicated HTF, the formal appropriation by Congress of revenues on an annual basis generally has been non-controversial. Constraints arising from the annual appropriation process are described in Step 2 below.

*Lapsing of Authorization.* All federal programs must be authorized through enacted legislation that defines the programs and establishes maximum funding levels, and for most programs annual appropriations acts are necessary in order to create budget authority. Indeed, for most federal domestic discretionary programs, a lapsed authorization may have little or no effect on a program, so long as revenues are appropriated. For the Federal-Aid Highway Program, the consequences of lapsed authorization caused when Congress fails to enact reauthorization legislation are somewhat different. While Congress may pass interim legislation, the existence of contract authority and a dedicated revenue stream means that the FHWA usually can continue to provide Obligation Authority by administrative action.

Though recent federal surface transportation legislation has authorized the Federal-Aid Highway Act for four to six years at a time, there occasionally have been periods in which the previous authorizing legislation had expired and the future legislation had yet to be enacted. In such circumstances, Congress and/or the FHWA have found ways to avoid disruptions to state highway programs and, more importantly, have been able to maintain the flow of federal revenues to states in each instance. Two mechanisms in particular have kept revenues flowing:

- Access to Unobligated Balances: The 1987 Surface Transportation and Uniform Relocation Assistance Act (“STURAA”) expired on September 30, 1991 and ISTEA was not enacted until December 18, 1991. The FHWA was able to act administratively to keep federal-aid funding flowing because states could use their unobligated balances to provide Contract Authority to use new Obligation Authority.
- Short-Term Authorization: ISTEA expired on September 30, 1997 and until approval of TEA 21 on June 9, 1998, no new long-term authorization legislation was enacted. Despite the lack of long-term authorizing legislation, states were provided an upper limit on Obligation Authority through passage of an appropriations act plus access to their unobligated balances. On November 13, 1997 Congress passed the Surface Transportation Extension Act of 1997 (“STEA”), which provided a six-month authorization for highway funding and established a limit on the amount of new Obligation Authority states can use at funding levels equal to about a quarter of FFY 1997 authorization levels.

From October 1, 1997, the expiration of ISTEA, through November 13, 1997, the passage of the STEA authorization, the FHWA was able to continue funding the Federal-Aid Highway Program through use of large unobligated balances (unused contract authority) in the Federal-Aid Highway Program. Since most states have unobligated balances of at least half their normal annual Obligation Authority levels and an authorization act need not be in place for the FHWA to give states new Obligation Authority, states were able to spend down prior unfunded federal apportionments (contract authority) with newly allocated Obligation Authority. The lack of an enacted authorization act during this period did not pose a threat to the continued flow of revenues, because dedicated highway user fees continued to flow into the HTF. (See Step 2, below, for further explanation of Obligation Authority and unobligated balances.)

*Annual Distributions.* For most components of the Federal-Aid Highway Program, the authorization acts set the distribution of spending authority among states. The primary methods used to distribute authorized federal highway revenues are “apportionment” and “allocation”:

- Apportionments. The contract authority created by authorization acts such as ISTEA or TEA 21 is distributed annually among the 50 states, the District of Columbia, and Puerto Rico using a process called apportionment of revenues. Apportionments indicate the maximum amount of contract authority that each state can expend for eligible projects in specific programs. For each FFY, the FHWA has responsibility for apportioning authorized funding for the various programs among the states according to formulas established in the authorizing statute. Annual apportionments are generally made on the first day of the federal fiscal year, which is October 1.
- Allocations. While most highway revenues are distributed to states through apportionments, some funding categories do not contain legislatively-mandated apportionment formulas. Distribution of revenues where there are no statutory formulas is called “allocation” or “discretionary allocation”. In most cases, allocated federal funding is divided among states using criteria determined administratively by the federal Department of Transportation or as provided in a statute, often through competitive grant procedures.

Apportionment formulas have been designed historically to ensure distribution of federal revenues among states according to program needs, but are also increasingly intended to provide states a share of total HTF expenditures relatively close to their payments into the HTF.

Since FFY 1991, each annual aggregate apportionment has exceeded \$15 billion. (Source: The FHWA, Highway Statistics, Table FA-4.) The FHWA estimates that Highway Account income over the six-year period FFY 1998-2003 will be \$170.5 billion; combined with the opening balance under TEA 21 of \$8.5 billion, this would yield resources of \$179.0 billion for the Federal-Aid Highway Program. TEA 21 currently authorizes an annual average of approximately \$28.5 billion for FFY 1998 through FFY 2003.

*Availability of Federal Highway Revenues.* Federal-aid highway revenues are available to states for use for more than one year. Their availability does not terminate at the end of the FFY, as is the case with many other federal programs. Consequently, when new apportionments or allocations are made, the amounts are added to a state’s unused apportionments and allocations from the previous FFY. Should a state fail to *obligate* (commit to spend) a year’s apportionments and allocations within the period of availability specified for a given program, however, the authority to obligate any remaining amount lapses—that is, it is no longer available except for a few programs which receive indefinite, or “no-year” Obligation Authority.

*Matching Requirements.* With a few exceptions, the federal government does not pay for the entire cost of construction or improvement of federal-aid highways. Federal reimbursements are typically matched with state and/or local government revenues to account for the necessary dollars to complete the project. The maximum federal share is specified in the legislation authorizing the program. Most projects have an 80% federal share while Interstate Construction and Maintenance projects typically have been funded with a 90% federal share.

### *Step 2: Obligation*

The second step of the federal-aid funding process occurs when revenues that have been authorized by legislation, and either apportioned or allocated to individual states, are obligated for a specific purpose. As noted in the previous section, Congress uses annual appropriations acts to control actual annual obligation of funds in the HTF. Appropriations acts limit the amount of federal money that actually will be obligated and thus ultimately spent, and these annual amounts may be less than the authorized amount. This ceiling on the amount of contract authority that states may use is called the “annual obligation limit.”

*Obligation* is the commitment of the federal government to pay, through reimbursement to a state, the federal government’s share of an approved project’s eligible costs. This process is important to the states because it allows states to award contracts with assurance that the federal government will reimburse its share of incurred costs. From the federal perspective, obligations made are the outlays the federal government has committed to make from the HTF in the future. Because of the close relationship between obligations and outlays, Congress and the FHWA play a strong role in determining how much federal funding can be obligated by individual states through two primary processes:

- Appropriations acts; and
- Distribution of Obligation Authority.

*Appropriations Acts.* Congressional appropriations committees use the amount of federal-aid highway revenues that states can obligate in a given year, called “Obligation Authority”, as a means of balancing the annual level of highway spending with other federal budgetary priorities. This is accomplished through the establishment of an annual obligation limitation in the annual Department of Transportation and Related Agency Appropriations Act. The annual obligation limitation can be less than the level of funding authorized for the same year, although the creation of budgetary firewalls and RABA in TEA 21 substantially limited the amount of HTF revenues that can be used for non-highway purposes.

*Distribution of Obligation Authority.* The obligation limitation is the amount of authorized funding that Congress allows states collectively to obligate in an individual year. Under TEA 21, the annual obligation limitation now includes two elements – a large portion protected by firewalls and tied to projected HTF receipts through RABA (roughly 90% of total annual contract authority), and a smaller portion that competes with other discretionary budget priorities for funding (less than 10% of total annual contract authority). Beginning in FY 2000, the level of Obligation Authority protected by firewalls is established each year as the guaranteed obligation limitation in TEA 21, adjusted by the difference between HTF revenue estimates made for TEA 21 and new Department of Treasury projections. Additional, discretionary Obligation Authority is determined when annual appropriations bills are developed and is counted under Congress’ annual spending cap, which is the amount of federal dollars that can be spent on all domestic, non-entitlement programs in a given year. The combined total may still be below the authorized annual level, and serves as a limit on the total obligations in that particular year.

Once Congress establishes an overall obligation limitation, the FHWA distributes Obligation Authority to states proportionately to each state’s share of apportioned and allocated revenues to include minimum guarantee allocations that bring donor states up to the minimum 90.5% funding level. The actual ratio of Obligation Authority to apportionments and allocations may vary from state to state because some federal-aid programs are exempt from the obligation limitation. Once each state’s Obligation Authority is set, states then submit requests to the FHWA to obligate revenues representing the federal share of specific projects throughout the years. (A further description of this process is included in Step 3.) As a state obligates revenues, its balance of Obligation Authority is commensurately reduced, although additional Obligation Authority may be received (e.g., via re-allocation from other states).

A state’s Obligation Authority (unlike its apportionments and allocations of authorized funding) must be used before the end of the FFY for which it is made available; if not, it will be distributed to other states. The FHWA closely monitors each state’s plans for use of Obligation Authority. In mid-summer, the FHWA collects any Obligation Authority from states that do not plan to obligate all of their available Obligation Authority before the end of the FFY, and redistributes it to other states that can obligate the revenues. This reallocation of Obligation Authority is known as the August redistribution.

*Unobligated Balances.* Because congressional authorization of federal-aid highway revenues represents a commitment to make all authorized revenues available to states for highway purposes, any shortfall between the limit on Obligation Authority created through the annual appropriations process and the amount of contract authority apportioned and allocated to states does not disappear. Instead, the difference between obligation limitations and authorization levels creates what are known as “unobligated balances.”

Although most federal-aid apportionments lapse after four years, this rarely happens with apportioned highway revenues because old apportionments are always spent before new apportionments. That is, when a state receives new apportionments and Obligation Authority at the beginning of an FFY, obligations are first made against remaining prior year apportionments plus allocation until these are depleted. The net effect of this process, in conjunction with the year-to-year establishment of obligation limitations, has been that states have amassed considerable unobligated balances.

As explained in Step 1, above, unobligated balances permit the Federal-Aid Highway Program to continue to fund state highway projects during periods in which Congress fails to enact a reauthorization law before the expiration of the previous authorization period. In such periods, the unobligated balances allow states to continue to fund their programs for several months, or even longer, after an authorization act has expired.

### *Step 3: Program Implementation*

The third and final step in the overall federal-aid highway funding process—program implementation—occurs after authorized revenues have been distributed to states, and after states have had the opportunity to obligate those revenues. Once federal-aid highway revenues have been authorized and obligated, states must have developed highway programs that describe, at a project-by-project level, exactly how federal reimbursements will be earned. The process of developing and implementing state highway programs has three broad stages:

- Budgeting;
- Planning and programming; and
- Fiscal management and reimbursement.

Each stage helps to ensure that states develop programs which match funding availability, and that the FHWA is able to distribute federal reimbursements to states in a timely manner.

*Budgeting.* Budgetary information about availability of funding is crucial to the development of state highway programs. Projected state and federal funding levels are used to budget transportation needs. Consequently, state transportation budget officials track the availability of funding and develop forecasts of future state and federal revenues. States must estimate the availability of short and long-term state and federal funding in order to plan their highway programs. They use this information as a guide during long-range planning, and as a strict constraint on short-term programming. In Massachusetts, the Executive Office of Transportation and Construction’s (“EOTC”) Capital Expenditure and Program Office (“CEPO”) and the Massachusetts Highway Department’s (“MassHighway”) Bureau of Transportation Planning and Development (“BTPD”) have primary responsibility for budgeting.

*Planning and Programming.* The budget process—particularly the identification of available funding—provides the context for transportation planning and programming. The long-range planning process provides a perspective of anticipated project needs regionally across the state. Transportation Improvement Programs (“TIPs”) follow on from long-range plans and provide a detailed outline of projects that are proposed for implementation in a time-frame of two to six years. CEPO and BTPD coordinate transportation planning and programming activities for EOTC and MassHighway. At the state level, MassHighway, the Massachusetts Port Authority and the Massachusetts Turnpike Authority prepare plans. At the federal level, state and local highway plans are reviewed by U.S. Environmental Protection Agency (“EPA”) and the FHWA.

As a condition for receiving federal reimbursements for transportation programs, states must develop comprehensive transportation plans that are based on anticipated long-term state and federal funding levels for Federal-Aid Highway Program categories. States and urban areas must satisfy these federal requirements in order to remain eligible for federal reimbursements, and specific projects are not eligible unless they are either directly identified in a long-range plan or consistent with policies and objectives identified in long-range plans. Current federal law requires states to develop long-range transportation plans (“LRPs”) that identify long-range state policies, objectives and goals, while using realistic projections of available future state and federal funding.

The long-range planning requirements are followed in Massachusetts in both a state and a regional planning process. In 1995, Massachusetts released its 25-year long-range plan, titled *Accessing the Future*. This document identifies the Commonwealth’s transportation policies, goals and initiatives through 2020, based on anticipated levels of state and federal transportation funding, and is not intended to provide a project-by-project description of the state’s future transportation investments. The plan was prepared by the EOTC and BTPD, in coordination with several agencies and organizations including the FHWA, the Executive Office of Environmental Affairs and the Massachusetts Association of Regional Planning Authorities (“MARPA”).

Current federal law also requires that short-term planning and programming must be conducted at least every two years through the development of a TIP for each metropolitan area. Among other requirements, each TIP must include, for each project, the estimated project cost and amount of federal revenues proposed to be obligated during each year. Each draft TIP is submitted to the regional Transportation Advisory Group, a citizen panel established to coordinate public

review of the TIP. Once formally approved in a public meeting, the TIPs are signed by the EOTC Secretary. The TIPs are then combined into the State Transportation Improvement Plan (“STIP”), which also includes projects from regions outside a state’s metropolitan areas. The STIP lists all projects proposed for funding with federal revenues for a period of at least three years. The STIP is then submitted to the FHWA for approval.

The Massachusetts STIP is developed annually, and covers a five-year period. STIP development is coordinated by CEPO and BTPD. Initially, CEPO and BTPD project available state and federal funding for the next five years, based on anticipated federal apportionments and anticipated state transportation funding. This total is then reduced to account for regionally significant projects and programs. After such needs have been determined, formulas established by MARPA are applied to the remaining balance in order to calculate programming targets for each Regional Planning Association. Only after this process is complete can a project formally be considered part of the Commonwealth’s transportation funding plan. Massachusetts intends to reduce the duration of the STIP to four years in SFY 2004 and to three years in SFY 2005.

*Fiscal Management and Federal Highway Reimbursements.* Once budgeting, planning and programming are complete, projects move into a fiscal management phase. This fiscal management process is the third element of the implementation step in the overall federal highway funding process. A state-led fiscal management system—conducted in accordance with FHWA requirements—is used to determine exactly how much federal funding will be received for each project, to obtain final FHWA authorization before projects are implemented, and to ensure timely federal reimbursement of state expenditures on contractor costs. In Massachusetts, these activities are coordinated by CEPO and performed by the Office of Fiscal Operations within MassHighway.

States must follow federal fiscal management procedures as they implement projects that have passed through the approval and programming processes. These fiscal management procedures ensure that the FHWA and states are able to manage the process efficiently, from project authorization to actual payment of Federal Highway Reimbursements to the state.

In the traditional approach, a state simply obligates the full federal share of available funding at the beginning of the project, concurrent with project authorization. The first step in the fiscal management process begins when a state requests authorization to use federal funding on a project. The project sponsor (e.g., MassHighway) submits plans, specifications and estimates (“PS&Es”) for a project to the FHWA division office, and requests that the FHWA approve the use of federal funding for the appropriate federal share of the project. The project must be in the STIP and the PS&Es must identify the category of federal funding that will be used.

The FHWA evaluates the PS&Es to ensure that the project is eligible for federal funding and meets a variety of federal requirements (e.g., design standards). Provided that all requirements are satisfied, the FHWA authorizes federal participation in the project, and obligates the federal share of project costs. By obligating the revenues, the FHWA makes a commitment to reimburse the state for the federal share of eligible project costs. It sets aside the appropriate amount of that state’s Obligation Authority, and also sets aside an equivalent amount of apportioned revenues by program (or programs). Accordingly, the state must have sufficient Obligation Authority to cover the level of federal participation it is requesting.

Once authorization for a project has been obtained, the state advertises the project and receives bids. Based on actual costs identified in bids, the state awards the contract to the lowest qualified bidder and submits a request to the FHWA asking for any necessary adjustments to federal obligations for the project. If approved, the amounts agreed to are included in a project agreement which identifies the revenues that will be encumbered by the state (formally applied against the state’s resources), and the amount that will be reimbursed by the federal government.

Construction begins, and contractors submit bills to the state as work is completed. A state pays its contractor’s bills with cash from the state treasury; the state bills the FHWA electronically for the federal share of completed work for which payment has been made; and the FHWA makes payment to the state via electronic transfer. This FHWA reimbursement to the state liquidates its obligation for the federal share of the costs incurred to that point. As project work continues and state expenditures are reported to the FHWA, federal reimbursements are made, generally on a weekly basis. In Massachusetts, reimbursement requests are submitted weekly and reimbursements are made by wire transfer generally within four days. The Commonwealth’s system and management in general, and the CA/T Project expenditures in particular, are highly automated, leading to a routine, weekly flow of Federal Highway Reimbursements based on actual spending on approved projects.

Innovative variations on this fiscal management approach include Advance Construction and partial conversion of Advance Construction. These variations complement one another to provide a state with additional flexibility in managing its Obligation Authority and cash.

The *Advance Construction* approach for authorizing projects allows states to finance projects that are eligible for federal aid without obligating the federal share of costs at the outset of the project. This allows states to begin a project before amassing all of the Obligation Authority needed to cover the federal share of that project. As with the traditional approach, the state submits PS&Es to the FHWA and requests project authorization. Under A/C, however, the FHWA is asked to authorize the project without obligating federal revenues. As a result, the state will cover the entire cost of the project and later may request the obligation of revenues, when sufficient Obligation Authority is available and is desired by the state. Further, the state may then take credit for state expenditures, made from project approval to that date, as a basis for earning reimbursements.

Once the FHWA authorizes a project for federal assistance, the state follows the same procedure to advertise a project, to award the contract, and to reconcile the level of state and federal funding required. The state may request that the FHWA convert its Advance Construction amount to an obligation at any time, provided the state has sufficient Obligation Authority. This conversion of A/C to Obligation Authority must occur in order for the state to be reimbursed for the federal share of the project. The state can convert Advance Construction to Obligation Authority long after state expenditures are made.

Under *partial conversion of Advance Construction*, moreover, a state follows the steps to apply for Advance Construction but converts, obligates, and receives reimbursement for only a portion of its funding of an Advance Construction project in a given year. This removes any requirement to wait until the full amount of Obligation Authority is available. The state can thus obligate varying amounts for the project's eligible cost in each year, depending on how much of the state's Obligation Authority is available and desired by the state.

States are required to use a detailed accounting system to track project expenditures and reimbursements. In addition, a federal system tracks payments to states. The fiscal management group within MassHighway has day-to-day responsibility for paying CA/T Project bills and for securing prompt reimbursement for the federal share of those bills. A computer-based project accounting, reporting and billing system is used to track encumbrances and expenditures for all projects, including highway projects, administered by the Commonwealth. This system is called the Massachusetts Management Accounting and Reporting System ("MMARS"). Within MMARS, an initial encumbrance for each project is established, based on the total amount of revenues specified in the project agreement. As the project is implemented, MMARS is used to track all expenditures by the Commonwealth to pay contractors. MMARS tracks remaining encumbrance amounts and project expenditures to date.

A sub-system of MMARS called the Project Accounting and Reporting System ("PARS"), is used to track Federal-Aid Highway projects for which the Commonwealth must seek reimbursement for revenues it expends. PARS generates federal billing information, and tracks the federal and Commonwealth sources of funding for Federal-Aid Highway projects in detail. PARS is a centralized, automated project accounting, tracking, cost projection and federal-aid billing system that is fully integrated with the MMARS accounting system. The federal-aid billing capabilities of PARS are designed specifically for the needs of MassHighway, while satisfying the cost accumulation and billing requirements of the FHWA.

### **COMMONWEALTH PARTICIPATION IN THE FEDERAL-AID HIGHWAY PROGRAM**

The flow of Federal Highway Reimbursements into the GAN Trust Fund, and the resulting ability to meet the debt service requirements on the 2003A Refunding Notes after the occurrence of the redemption of the 2008 Refunded Notes and the 2010 Refunded Notes, will depend on several factors, most notably, the amount of funding provided to Massachusetts by the federal government under the Federal-Aid Highway Program and the Commonwealth's ability to use such funding. The sections below summarize the recent history of funding levels provided to the Commonwealth under the Federal-Aid Highway Program, the Commonwealth's use of such funding, and the anticipated funding levels that will be made available to Massachusetts under TEA 21. In addition, certain other information is provided regarding federal equity provisions and the Commonwealth's potential ability to utilize future available funding.



## Funding History

*Role of Obligation Authority (“OA”).* As noted in the previous section, the culmination of the federal authorization and appropriation process for the Federal-Aid Highway Program is the provision of OA to a state. OA, which is apportioned to states on an annual basis, sets the upper limit on the federal government’s commitment to pay, through reimbursements, its share of eligible expenditures on approved projects. Thus, current year OA plus prior years’ OA obligated but not yet expended determines the maximum amount of federal highway assistance that a state may receive under the Federal-Aid Highway Program. Although annual OA is not a direct representation of the amount of reimbursements a state will receive under the Federal-Aid Highway Program in a given year (e.g., due to lags in spending), OA levels will determine over time the amount of reimbursements that a state may receive.

*OA Provided to Massachusetts.* Since the advent of the multi-year federal authorization acts in 1982, Massachusetts has received substantial funding through the Federal-Aid Highway Program. The table below details the amount of OA made available to the Commonwealth from FFY 1985 through FFY 2003 and the amount of such OA actually obligated by the Commonwealth. As shown, the amount of annual OA provided to Massachusetts under the Federal-Aid Highway Program averaged \$634.0 million per year during this period. The amount of OA made available varied substantially, ranging between \$300 million and \$500 million from FFY 1985 through FFY 1989, between \$700 million and more than \$1 billion from FFY 1990 through FFY 1995 and between \$500 million and \$700 million from FFY 1995 through FFY 1999. The amount of OA in FFY 2003 is estimated at \$533.4 million. The relatively generous levels in the middle period resulted, in large part, from targeted aid for the completion of the Interstate Highway System, for which the CA/T Project was eligible. As discussed previously, the emphasis of the Federal-Aid Highway Program has since moved away from providing funding for interstate completion and toward improvement of the existing Interstate and National Highway Systems. As a result and as indicated by more recent experience, the funding levels available to Massachusetts between FFY 1991 and FFY 1995 are not indicative of future levels.

### The Commonwealth of Massachusetts History of OA, OA Use and Reimbursements Received (in millions)

Federal Fiscal Year	Formula OA	Non-Formula OA <sup>(1)</sup>	Total	Actual Obligations	Reimbursements Received <sup>(2)</sup>
1985	\$307.5	\$0.0	\$307.5	\$207.5	\$160.7
1986	282.5	0.0	282.5	208.2	118.6
1987	506.0	0.0	506.0	230.0	245.5
1988	459.8	0.0	459.8	342.8	253.4
1989	317.6	0.0	317.6	170.6	194.1
1990	860.2	0.0	860.2	418.7	274.8
1991	1,091.4	0.0	1,091.4	1,091.4	555.5
1992	687.6	45.6	733.2	733.2	734.1
1993	889.8	54.4	944.2	944.2	947.4
1994	984.5	55.5	1,040.0	1,040.0	953.5
1995	718.8	36.9	755.7	755.7	878.7
1996	696.0	33.9	729.9	729.9	1,019.0
1997	672.5	41.7	714.2	714.2	878.0
1998	534.6	44.7	579.3	579.3	581.2
1999	377.9	149.7	527.6	527.6	486.9
2000	385.4	96.0	481.4	481.4	484.4
2001	417.2	101.7	518.9	518.9	458.9
2002	462.6	99.5	562.1	562.1	426.0
2003(3)	449.8	83.6	533.4	533.4	N/A
Average	\$584.3	\$44.4	\$628.7	\$567.8	\$536.1

SOURCES: Massachusetts Capital Expenditure and Program Office (CEPO) and Massachusetts Office of the Comptroller.

- (1) Includes amounts attributable to Redistribution, Minimum Guarantee, High Priority Funds and 1999 Omnibus Reconciliation Act (\$100.0 million in 1999 only).
- (2) Represents amounts received in the state fiscal year ending nine months after the federal fiscal year shown. Average Reimbursements Received are exclusive of FFY 2003 estimate.
- (3) Estimated.

*Use of OA.* As the chart shows, Massachusetts has not always obligated the entire amount of OA apportioned to it. In particular, from FFY 1985 through FFY 1990, actual obligations were substantially below the amount of OA provided to the Commonwealth. At the time this occurred, Commonwealth officials believed, partly due to an HTF surplus, that future federal highway reauthorization acts likely would permit states to access unused OA to augment their future annual apportionments. No such authorization provision, however, was ever enacted. Since FFY 1991 the Commonwealth has used virtually all of the OA provided by the federal government, including redistribution/bonuses of OA resulting from under-utilization in other states. This is, in large part, the result of funding requirements for the CA/T Project.

*Reimbursements.* As the chart above also shows, the amount of Federal Highway Reimbursements received by the Commonwealth has averaged \$536.1 million per year since 1985. As noted, cash reimbursements tend to lag behind the commitment of OA. Reimbursements received by the Commonwealth during the period shown tend to track the use of OA, albeit on a delayed basis, in that they were lower from 1985 through 1990, and then increased significantly when the Commonwealth's OA began to grow in 1991 and significant spending on the CA/T Project began.

*TEA 21.* The total OA which Massachusetts expects to receive during the TEA 21 period (FFY 1998 through 2003), not including any future redistribution funds, is \$3.203 billion, for an annual average of \$533.9 million. The following chart shows the Massachusetts figures by FFY and in millions of dollars:

**TEA-21 Apportionments  
(in millions)**

Federal Fiscal Year	1998(1)	1999(2)	2000	2001	2002	2003	Total	Average(5)
Apportionments—Formula	\$600.9	\$431.1	\$446.7	\$481.4	\$495.8	\$435.2	\$2,852.1	\$491.4
Minimum Guarantee	28.2	33.7	49.7	49.6	36.8	27.1	225.1	39.6
High Priority	24.3	33.1	41.9	39.4	41.9	41.7	222.3	36.1
1999 Omnibus Reconciliation Act	-	100.0	-	-	-	-	100.0	20.0
Total Apportionments(3)	\$653.4	\$597.9	\$538.3	\$570.4	\$575.5	\$504.0	\$3,489.5	\$587.1
Obligation Authority(4)	\$579.3	\$527.6	\$481.4	\$518.9	\$562.1	\$533.4	\$3,202.7	\$533.9

SOURCE: Massachusetts CEPO.

- (1) Apportionments and OA include STEA funds of \$221 million.
- (2) Apportionments and OA include \$100 million from the 1999 Omnibus Appropriations Act.
- (3) Apportionments in FFY 2001, FFY 2002 and FFY 2003 reflect \$7.9 million, \$3.8 million and \$7.5 million, respectively, in penalties for failing to pass Repeat Offender and Open Container Legislation.
- (4) Includes actual FFY 1998, 1999, 2000, 2001 and 2002 and estimated FFY 2003.
- (5) Average excludes estimated FFY 2003.

While the Commonwealth believes that sufficient Federal Highway Reimbursements will be received during the term of the 2003A Refunding Notes to pay the principal of and interest due on the Prior Notes, and to pay the principal of, interest when due on the 2003A Refunding Notes on and after December 15, 2008, as well as all other Trust Agreement Obligations, various factors beyond the control of the Commonwealth may affect its ability to do so, including, without limitation, subsequent reauthorizations of TEA 21, federal budgetary limitations and other possible changes in the Federal-Aid Highway Program that cannot now be anticipated. See "THE FEDERAL-AID HIGHWAY PROGRAM—History."

*Equity Provisions.* Since FFY 1982, all Federal-Aid Highway Program authorization acts have included so-called equity provisions which assure states that they will receive a certain minimum percentage of the federal transportation related user taxes collected in that state and paid into the Highway Account of the HTF. Historically that minimum level has been 85%. TEA 21 includes such a provision and sets the percentage at 90.5% of their proportional share of apportioned programs, based on the state's percentage contribution to HTF receipts through FFY 2003. In FFY 1998-2002,

collections in Massachusetts for the Highway Account of the HTF averaged approximately \$530.2 million per year. A proportional share equal to 90.5% of the Commonwealth's estimated FFY 2002 contributions would total approximately \$483.0 million.

If future Federal-Aid Highway Program authorization acts provide funding levels for Massachusetts similar to those authorized under TEA 21, such assistance, if fully utilized, would substantially exceed the anticipated maximum annual debt service on the Notes of \$216.0 million per year. Similarly, if the equity provisions noted above remain in place, the level of Massachusetts contributions into the Highway Account of the HTF should ensure that funding provided to Massachusetts under the Federal-Aid Highway Program would exceed the debt service requirements of the Notes. However, future funding and the continuance of the equity provisions will be subject to future Congressional action, and there can be no assurance as to the level of such funding or the continuation of the equity provisions.

### **Future Utilization of Federal Highway Assistance**

Under the Federal-Aid Highway Program, as projects are approved by the FHWA, the aggregate dollar amount of each state contract relating thereto is obligated against the remaining annual amount of OA still available to that state. The state then pays the amounts owed under each contract as the work progresses and receives reimbursement from the federal government for the federal share of the total costs. The aggregate amount of reimbursements received by a state in any year is not necessarily equal to the state's apportionment for such year. Many projects and contracts extend over a number of years; the aggregate amount made available to a state in any one year, if fully obligated, may be received as reimbursement over a longer period of time relating to the actual pace of construction. The Commonwealth expects that, as a result of its extensive statewide road and bridge program and the continuing needs of the CA/T Project, it will have sufficient federally-eligible project expenditures to be able to utilize all the federal highway assistance that will be made available to the state.

In addition, largely as a result of the CA/T Project, the Commonwealth has made extensive use of Advance Construction status under the Federal-Aid Highway Program. By utilizing A/C status, the Commonwealth may pre-qualify projects and expenditures thereon for federal reimbursement, subject to the availability of future OA and the continued inclusion of the relevant projects on the STIP. The Commonwealth estimates that as of May 31, 2003, \$2.601 billion in Commonwealth project costs (including costs of the CA/T Project and of other Massachusetts projects) were so qualified. (Approximately \$42.6 million of that figure consists of CA/T Project expenditures exceeding the recently imposed limit on federal funds that may be expended in the CA/T Project.) Such costs, when spent, should ensure that the Commonwealth will be able to draw down future federal reimbursements when available. In connection with the Note program, the Commonwealth covenants to maintain an A/C Balance at least equal to the principal amount of Notes Outstanding, to help ensure that it will be able to draw down federal funds to meet debt service funding requirements. See "SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT—Advance Construction Balance Covenant."

### **Federal Limit on Funding for the CA/T Project**

The Massachusetts Turnpike Authority currently estimates that the CA/T Project will cost \$14.625 billion to complete (including contingencies). Federal authorities have taken a number of actions to increase federal control and to limit federal liability with respect to the project, including:

- (i) limiting federal funding for the CA/T Project to \$8.473 billion;
- (ii) mandating that the Commonwealth maintain a balanced statewide road and bridge program of at least \$400 million per year for projects other than the CA/T Project during SFY 2001 through SFY 2005;
- (iii) requiring continued compliance with the provisions of a recently executed partnership agreement that delineates the responsibilities of the various parties involved in the management and oversight of the CA/T Project;
- (iv) expanding and enhancing the review of the CA/T Project's annual finance plan; and
- (v) withholding the obligation of federal funds and all project approvals for the CA/T Project in each federal fiscal year until the annual finance plan is approved.

These provisions were codified in the appropriations act for the Department of Transportation for FFY 2001, which became law on October 23, 2000. The appropriations act further provides that failure by the Commonwealth to

comply with (ii) or (iii) above would require federal administrators to withhold obligations of federal funds and project approvals for the CA/T Project so long as any such failure continued.

The appropriations act includes a specific exception for the repayment of the Notes. It provides that, notwithstanding whether or not the Commonwealth has complied with the enhanced oversight provisions, the federal government will allow the Commonwealth to convert A/C balances to OA and otherwise make available federal funds to the Commonwealth to the extent necessary for the repayment of the principal amount of the Notes, so long as the provision of such funds would not exceed the \$8.473 billion limit on federal participation in the CA/T Project.

The provisions of the appropriations act apply to the CA/T Project and do not affect the Commonwealth's ability to access the Federal-Aid Highway Program for other projects. In this connection, the appropriations act expressly provides that any federal funds withheld from the CA/T Project as a result of non-compliance with the new requirements would still be available to the Commonwealth for other projects.

The federal requirements included in the appropriations act are consistent with the transportation policy of the Commonwealth, and the Commonwealth does not expect that they should or will present any obstacle to the completion of the CA/T Project or the Commonwealth's utilization of the Federal-Aid Highway Program. Based on this position, the extent and viability of the Commonwealth's statewide highway improvement program and other factors, the Commonwealth anticipates that the new federal requirements will not result in any reduction of the amount of federal highway aid that will be paid to the Commonwealth currently or in future years.

#### **THE ALTERNATIVE REVENUES**

If a True-Up Condition shall occur and be continuing, the Trust Agreement requires the State Treasurer to transfer the Alternative Revenues to the Trustee for deposit into the Reserve Account of the Alternative Revenues Fund. See "SECURITY AND SOURCES OF PAYMENT FOR THE 2003A REFUNDING NOTES UNDER THE TRUST AGREEMENT—Pledge of Alternative Revenues." However, under current law the Alternative Revenues may not be applied to the payment of the Trust Agreement Obligations unless appropriated for such purpose by the Massachusetts Legislature.

The Alternative Revenues consist of the receipts derived from ten cents (\$0.10) per gallon of the Commonwealth gasoline excise tax imposed under Chapter 64A of the Massachusetts General Laws ("Chapter 64A") and credited to the Highway Fund of the Commonwealth. The Commonwealth gasoline excise tax is imposed on sales of gasoline by distributors. Chapter 64A, as amended in July 2000, sets the rate of tax per gallon at 21 cents (\$0.21).

Under current law, 83.61% of the Commonwealth gasoline excise tax is credited to the Commonwealth's Highway Fund. Calculated as a percentage of the tax rate of 21 cents per gallon, the amount so credited will equal 17.55 cents per gallon. Of this amount, 6.86 cents per gallon are pledged to secure certain special obligation bonds of the Commonwealth previously issued under Section 20 of Chapter 29 of the Massachusetts General Laws. The remainder, that is, 10.69 cents per gallon, is unencumbered, except for the conditional lien on ten cents per gallon of this amount imposed by the Act and the Trust Agreement as security for the Notes.

On a semiannual basis, collection of Alternative Revenues (that is, a portion equal to ten cents per gallon of the Commonwealth gasoline excise tax collections) during the period July 1, 1989 through December 31, 2002 were as follows:

Six-Month Period Ending	Amount	Six-Month Period Ending	Amount
December 31, 1989	\$125,620,419	December 31, 1996	\$129,542,061
June 30, 1990	120,802,100	June 30, 1997	125,620,466
December 31, 1990	123,671,256	December 31, 1997	132,847,378
June 30, 1991	111,596,957	June 30, 1998	127,644,849
December 31, 1991	118,484,873	December 31, 1998	135,776,180
June 30, 1992	114,518,247	June 30, 1999	132,108,619
December 31, 1992	122,014,532	December 31, 1999	139,701,697
June 30, 1993	117,567,045	June 30, 2000	133,194,122
December 31, 1993	121,951,317	December 31, 2000	140,846,617
June 30, 1994	117,577,452	June 30, 2001	134,315,950
December 31, 1994	124,506,607	December 31, 2001	142,504,848
June 30, 1995	119,999,097	June 30, 2002	136,732,921
December 31, 1995	131,187,212	December 31, 2002	144,968,938
June 30, 1996	122,108,239		

SOURCES: Executive Office for Administration and Finance, Office of the State Treasurer and Receiver-General.

The Commonwealth gasoline excise tax collected in each calendar month is credited to the appropriate Commonwealth fund or account, including the Commonwealth's Highway Fund, in the early part of the following calendar month.

In the Act and the Trust Agreement, the Commonwealth has covenanted with respect to the Alternative Revenues as follows:

- (a) in any SFY with respect to which a True-Up Condition has occurred and is continuing, unless and until an appropriation has been made or an amount is otherwise made available which is sufficient to pay the Trust Agreement Obligations due during such SFY, none of the Alternative Revenues shall be applied to any use other than the payment of Trust Agreement Obligations;
- (b) until the State Treasurer, after consultation with the Secretaries, determines that available funds in the GAN Trust Fund, the Debt Service Fund and the Note Related Costs Fund will be sufficient to pay all Trust Agreement Obligations, the rate of the Commonwealth gasoline excise tax shall not be reduced below the sum of ten cents (\$0.10) per gallon plus any amount thereof pledged for the payment of special obligation bonds of the Commonwealth pursuant to Section 20 of Chapter 29 of the Massachusetts General Laws; and
- (c) at least ten cents (\$0.10) of the Commonwealth gasoline excise tax shall remain free and clear of any superior or equal pledge, lien, charge or encumbrance thereon or with respect thereto (other than the lien of the Trust Agreement) and shall remain credited to the Highway Fund of the Commonwealth so designated under Section 34 of Chapter 90 of the Massachusetts General Laws, except as permitted by the Trust Agreement; provided, however, that any such funds shall be available for appropriation in any SFY for any other lawful purpose unless the State Treasurer shall have certified that a True-Up Condition has occurred and is continuing.

The Trust Agreement provides that any provision of the Act creating covenants with Noteholders shall be deemed a covenant with the Noteholders only to the extent expressly provided in, and limited by, the Trust Agreement.

### COMMONWEALTH PARTICIPANTS

The State Treasurer may issue Special Obligation Refunding Notes at the request of the Governor pursuant to Section 53A of Chapter 29 of the Massachusetts General Laws. The giving of the certifications required to determine the management of Federal Highway Reimbursements and the existence of and actions in the event of the occurrence of a True-Up Condition is to be done by the State Treasurer with the written concurrence of and/or after consultation with the Secretaries. Brief descriptions of the general responsibilities of these officials follow.

*State Treasurer.* The State Treasurer has four primary statutory responsibilities: (i) the collection of all state revenues (other than small amounts of funds held by certain agencies); (ii) the management of both short-term and long-term investments of Commonwealth funds (other than the state employee and teacher pension funds), including all cash receipts; (iii) the disbursement of Commonwealth monies and oversight of reconciliation of the state's accounts; and (iv) the issuance of all debt obligations of the Commonwealth, including notes, commercial paper and long-term bonds.

*Secretary of Administration and Finance.* The Secretary of Administration and Finance acts as the Governor's chief fiscal officer and administers the Executive Office for Administration and Finance. The activities of this Executive Office fall within five broad categories: (i) administrative and fiscal supervision, including supervision of the implementation of the Commonwealth's budget and monitoring of all agency expenditures during the fiscal year; (ii) enforcement of the Commonwealth's tax laws and collection of tax revenues through the Department of Revenue for remittance to the State Treasurer; (iii) human resource management, including administration of the state personnel system, civil service system and employee benefit programs, and negotiations of collective bargaining agreements with certain of the Commonwealth's public employee unions; (iv) capital facilities management, including coordinating and overseeing the construction, management and leasing of all state facilities; and (v) administration of general services, including information technology services.

*Secretary of Transportation and Construction.* The Secretary of Transportation and Construction administers the EOTC, which is the coordinating state agency for the Federal-Aid Highway Program and includes MassHighway. EOTC has contracted management responsibility with respect to the construction of the CA/T Project to the Massachusetts Turnpike Authority, which under current law eventually will own and operate most components of the CA/T Project.

## DEBT SERVICE REQUIREMENTS

The following table sets forth the principal of and interest to be paid from the Trust and the Escrow Account on the Notes, taking into account the refunding of the Refunded Notes on the Crossover Dates:

	TRUST		Aggregate Debt Service from Trust	ESCROW ACCOUNT
	Prior Notes	2003A Refunding Notes		2003A Refunding Notes
December 15, 2003	\$37,411,200	--	\$37,411,200	\$8,443,644
June 15, 2004	37,411,200	--	37,411,200	10,200,375
December 15, 2004	37,411,200	--	37,411,200	10,200,375
June 15, 2005	37,411,200	--	37,411,200	10,200,375
December 15, 2005	95,656,200	--	95,656,200	10,200,375
June 15, 2006	95,654,975	--	95,654,975	10,200,375
December 15, 2006	95,655,103	--	95,655,103	10,200,375
June 15, 2007	95,656,179	--	95,656,179	10,200,375
December 15, 2007	95,655,581	--	95,655,581	10,200,375
June 15, 2008	95,652,522	--	95,652,522	10,200,375
December 15, 2008	95,652,247	--	95,652,247	10,200,375
June 15, 2009	88,734,719	\$6,374,750	95,109,469	3,825,625
December 15, 2009	72,762,197	20,674,750	93,436,947	3,825,625
June 15, 2010	89,142,897	6,017,250	95,160,147	3,825,625
December 15, 2010	59,668,588	68,407,250	128,075,838	3,825,625
June 15, 2011	51,623,625	8,283,125	59,906,750	--
December 15, 2011	52,710,397	74,173,125	126,883,522	--
June 15, 2012	53,847,341	6,635,875	60,483,216	--
December 15, 2012	59,505,166	46,575,875	106,081,041	--
June 15, 2013	75,118,928	5,637,375	80,756,303	--
December 15, 2013	43,124,225	130,697,375	173,821,600	--
June 15, 2014	10,505,000	2,510,875	13,015,875	--
December 15, 2014	36,945,000	102,945,875	139,890,875	--
June 15, 2015	<u>46,945,000</u>	<u>--</u>	<u>46,945,000</u>	<u>--</u>
<b>Totals</b>	\$1,559,860,690	\$478,933,500	\$2,038,794,188	\$125,749,894

## **BOND INSURANCE**

### **Bond Insurance Policy**

Concurrently with the issuance of the 2003A Refunding Notes, Financial Security Assurance Inc. (“Financial Security”) will issue its municipal bond insurance policy (the “Policy”) for the 2003A Refunding Notes. The Policy guarantees the scheduled payment of principal of and interest on the 2003A Refunding Notes when due as set forth in the form of the Policy included as Appendix E to this Official Statement.

The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### **Financial Security Assurance Inc.**

Financial Security is a New York domiciled insurance company and a wholly owned subsidiary of Financial Security Assurance Holdings Ltd. (“Holdings”). Holdings is an indirect subsidiary of Dexia, S.A., a publicly held Belgian corporation. Dexia, S.A., through its bank subsidiaries, is primarily engaged in the business of public finance in France, Belgium and other European countries. No shareholder of Holdings or Financial Security is liable for the obligations of Financial Security.

As of March 31, 2003, Financial Security’s total policyholders’ surplus and contingency reserves were approximately \$1,932,647,000 and its total unearned premium reserve was approximately \$1,077,095,000 in accordance with statutory accounting practices. As of March 31, 2003, Financial Security’s total shareholders’ equity was approximately \$2,043,103,000 and its total net unearned premium reserve was approximately \$904,700,000 in accordance with generally accepted accounting principles.

The financial statements included as exhibits to the annual and quarterly reports filed by Holdings with the Securities and Exchange Commission are hereby incorporated herein by reference. Also incorporated herein by reference are any such financial statements so filed from the date of this Official Statement until the termination of the offering of the 2003A Refunding Notes. Copies of materials incorporated by reference will be provided upon request to Financial Security Assurance Inc.: 350 Park Avenue, New York, New York 10022, Attention: Communications Department (telephone (212) 826-0100).

The Policy does not protect investors against changes in market value of the 2003A Refunding Notes, which market value may be impaired as a result of changes in prevailing interest rates, changes in applicable ratings or other causes. Financial Security makes no representation regarding the 2003A Refunding Notes or the advisability of investing in the 2003A Refunding Notes. Financial Security makes no representation regarding the Official Statement, nor has it participated in the preparation thereof, except that Financial Security has provided to the Commonwealth the information presented under this caption for inclusion in the Official Statement.

## **BOOK-ENTRY-ONLY SYSTEM**

The Depository Trust Company, New York, New York, will act as securities depository for the 2003A Refunding Notes. The 2003A Refunding Notes will initially be issued exclusively in book-entry form and one or more fully registered 2003A Refunding Notes for each maturity set forth on the inside cover page hereof, each in the aggregate principal amount of 2003A Refunding Notes having such maturity and bearing interest the same rate, will be deposited with DTC.

DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds securities that its participants (the “DTC Participants”) deposit with DTC. DTC also facilitates the settlement among DTC Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in accounts of the DTC Participants, thereby eliminating the need for physical movement of securities certificates. DTC Participants include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is owned by a number of the DTC Participants and by the New York Stock Exchange, Inc., the



American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as banks, securities brokers and dealers, and trust companies that clear through or maintain a custodial relationship with a DTC Participant, either directly or indirectly (the "Indirect Participants"). The rules applicable to DTC and the DTC Participants are on file with the Securities and Exchange Commission.

Purchases of 2003A Refunding Notes under the DTC system must be made by or through DTC Participants, which will receive a credit for the 2003A Refunding Notes in the records of DTC. The ownership interest of each actual purchaser of each 2003A Refunding Note (the "Beneficial Owner") is in turn to be recorded on the DTC Participants' and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations of their purchase providing details of the 2003A Refunding Notes acquired, as well as periodic statements of their holdings, from the DTC Participant or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2003A Refunding Notes will be accomplished by entries made on the books of DTC Participants acting on behalf of the Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the 2003A Refunding Notes, except in the event that use of the book-entry system for the 2003A Refunding Notes is discontinued.

To facilitate subsequent transfers, all 2003A Refunding Notes deposited by DTC Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of the 2003A Refunding Notes with DTC and their registration in the name of Cede & Co. effect no change in Beneficial Ownership. DTC has no knowledge of the actual Beneficial Owners of the 2003A Refunding Notes; DTC's records reflect only the identity of the DTC Participants to whose accounts such 2003A Refunding Notes are credited, which may or may not be the Beneficial Owners. The DTC Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to DTC Participants, by DTC Participants to Indirect Participants and by DTC Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to Cede & Co. If less than all of the 2003A Refunding Notes within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each DTC Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to the 2003A Refunding Notes. Under its usual procedures, DTC mails an omnibus proxy to the Commonwealth as soon as possible after the record date. The omnibus proxy assigns Cede & Co.'s voting rights to those DTC Participants having the 2003A Refunding Notes credited to their accounts on the record date (identified in a listing attached to the omnibus proxy).

**THE COMMONWEALTH WILL NOT HAVE ANY RESPONSIBILITY OR OBLIGATION TO THE DTC PARTICIPANTS, THE INDIRECT PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR BY ANY DTC PARTICIPANT OR INDIRECT PARTICIPANT, THE PAYMENT OF, OR THE PROVIDING OF NOTICE TO, THE DTC PARTICIPANTS, THE INDIRECT PARTICIPANTS OR THE BENEFICIAL OWNERS, OR WITH RESPECT TO ANY OTHER ACTION TAKEN BY DTC AS OWNER OF 2003A REFUNDING NOTES.**

Beneficial Owners of the 2003A Refunding Notes will not receive or have the right to receive physical delivery of such 2003A Refunding Notes, and will not be or be considered to be owners thereof. So long as Cede & Co. is the registered owner of the 2003A Refunding Notes, as nominee of DTC, references herein to the holders or registered owners of the 2003A Refunding Notes shall mean Cede & Co. and shall not mean the Beneficial Owners of the 2003A Refunding Notes, except as otherwise expressly provided herein.

DTC may discontinue providing its services as securities depository with respect to the 2003A Refunding Notes at any time by giving reasonable notice to the Commonwealth. Under such circumstances, unless a substitute depository is retained by the Commonwealth, 2003A Refunding Notes will be delivered and registered as designated by the Beneficial Owners. The Beneficial Owner, upon registration of 2003A Refunding Notes held in the Beneficial Owner's name, will become the Noteholder.

The Commonwealth may determine that continuation of the system of book-entry transfers through DTC (or a successor depository) is not in the best interest of the Beneficial Owners. In such event, 2003A Refunding Notes will be delivered and registered as designated by the Beneficial Owners.

The principal of and interest and premium on the 2003A Refunding Notes will be paid to DTC or its nominee, Cede & Co., as registered owner of the 2003A Refunding Notes. Upon receipt of monies, DTC's practice is to credit the accounts of the DTC Participants on the payable date in accordance with their respective holdings shown on the records of DTC unless DTC has reason to believe it will not receive payment on the payable date. Payments by DTC Participants and Indirect Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is now the case with municipal securities held for the accounts of customers in bearer form or registered in "street name", and will be the responsibility of such DTC Participant or Indirect Participant and not DTC or the Commonwealth, subject to any statutory and regulatory requirements as may be in effect from time to time. Payment of the principal and interest and premium on the 2003A Refunding Notes to DTC is the responsibility of the Commonwealth; disbursement of such payments to DTC Participants and Indirect Participants shall be the responsibility of DTC; and disbursement of such payments to Beneficial Owners shall be the responsibility of the DTC Participants and the Indirect Participants.

The Commonwealth cannot give any assurances that DTC Participants or others will distribute payments of principal of and interest on the 2003A Refunding Notes paid to DTC or its nominee, as the registered owner, to the Beneficial Owners, or that they will do so on a timely basis or that DTC will serve and act in a manner described in this document.

**THE INFORMATION IN THIS SECTION CONCERNING DTC AND DTC'S BOOK-ENTRY SYSTEM HAS BEEN OBTAINED FROM SOURCES THAT THE COMMONWEALTH BELIEVES TO BE RELIABLE, BUT THE COMMONWEALTH TAKES NO RESPONSIBILITY FOR THE ACCURACY THEREOF.**

#### LITIGATION

No litigation is pending or, to the knowledge of the Attorney General of the Commonwealth threatened against or affecting the Commonwealth seeking to restrain or enjoin the execution and delivery of the Trust Agreement or the issuance, sale or delivery of the 2003A Refunding Notes or in any way contesting or affecting the validity of the 2003A Refunding Notes, the right of the Commonwealth to receive Federal Highway Reimbursements or to collect the Alternative Revenues or the pledge of the Pledged Funds to secure any of the Notes as provided in the Trust Agreement or the pledge of the Escrow Account to secure the 2003A Refunding Notes and the Refunded Notes as provided in the Escrow Agreement.

#### TAX EXEMPTION

Bond Counsel is of the opinion that, based on an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, compliance with certain covenants, interest on the 2003A Refunding Notes is excluded from gross income for federal income tax purposes and is not an item of tax preference for the purpose of computing the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code of 1986, as amended (the "Code"); it should be noted, however, that the interest on the 2003A Refunding Notes is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes). Bond Counsel has not opined as to other federal tax consequences, if any, resulting from holding the 2003A Refunding Notes.

The Code imposes certain requirements and restrictions on the use, expenditure and investment of proceeds of state and local governmental obligations, including the 2003A Refunding Notes, and a requirement for payment to the federal government (called a "rebate") of certain proceeds derived from the investment thereof. Failure to comply with the Code's requirements subsequent to the issuance of the 2003A Refunding Notes could cause interest on the 2003A Refunding Notes to become included in gross income for federal income tax purposes retroactive to the date of their issuance. On or before delivery of the 2003A Refunding Notes to the original purchasers, the Commonwealth will provide covenants or certificates evidencing that it will take all lawful action necessary to comply with those provisions of the Code that, except for such compliance, would affect adversely the excludability of interest of the 2003A Refunding Notes from gross income for federal income tax purposes. Bond Counsel's opinion with respect to the federal income tax treatment of interest on the 2003A Refunding Notes is conditioned upon such compliance. Bond counsel has not undertaken to

determine (or to inform any current bond holder, prospective purchaser or other person) whether any action taken or failed to be taken or events occurring or failing to occur after the date of issuance of the 2003 Refunding Notes may adversely affect the value of, or tax status of interest on, the 2003A Refunding Notes. Further, no assurance can be given that pending or future legislation, including amendments to the Code, if enacted into law, or any regulatory or administrative developments with respect to existing laws, will not adversely affect the value of, or the tax status of interest on, the 2003A Refunding Notes. Prospective purchasers of the 2003A Refunding Notes are urged to consult their own tax advisors with respect to any proposed changes to the federal income tax laws that may affect the acquisition, holding or disposition of the 2003A Refunding Notes.

Prospective purchasers of the 2003A Refunding Notes should also be aware that the Code denies a deduction for interest on indebtedness incurred or continued to purchase or carry the 2003A Refunding Notes, or, in the case of a financial institution, for that portion of the owner's interest expense allocated to interest on the 2003A Refunding Notes. Interest on the 2003A Refunding Notes earned by insurance companies or allocable to certain dividends received by such companies may increase the taxable income of those companies as calculated under Subchapter L of the Code. In addition, interest on the 2003A Refunding Notes earned by certain corporations could be subject to the foreign branch profits tax imposed by Section 884 of the Code, and may be included in passive investment income subject to federal income taxation under Section 1375 of the Code applicable to certain S corporations. The Code also requires recipients of certain social security and railroad retirement benefits to take into account receipts and accruals of interest on the 2003A Refunding Notes in determining the portion of such benefits that are included in gross income and receipt of investment income, including interest on the 2003A Refunding Notes, may disqualify the recipient thereof from obtaining the earned income credit under Section 32(i) of the Code.

In the opinion of Bond Counsel, interest on the 2003A Refunding Notes is exempt from Massachusetts personal income taxes, and the 2003A Refunding Notes are exempt from Massachusetts personal property taxes. Bond Counsel has not opined as to other Massachusetts tax consequences arising with respect to the 2003A Refunding Notes. Prospective purchasers should be aware, however, that the 2003A Refunding Notes are included in the measure of Massachusetts estate and inheritance taxes, and the 2003A Refunding Notes and the interest thereon are included in the measure of Massachusetts corporate excise and franchise taxes. Bond Counsel has not opined as to the taxability of the 2003A Refunding Notes or the income therefrom under the laws of any state other than Massachusetts.

For federal and Massachusetts tax purposes, interest includes original issue discount, which with respect to a 2003A Refunding Note is equal to the excess, if any, of the stated redemption price at maturity of such 2003A Refunding Note over the initial offering price thereof to the public, excluding underwriters and other intermediaries, at which price a substantial amount of all substantially identical 2003A Refunding Notes were sold. Original issue discount accrues over the term of a 2003A Refunding Note in accordance with Section 1272 of the Code. Purchasers of 2003A Refunding Notes should consult their own tax advisers with respect to the computation of original issue discount on such accruals of interest during the period in which any such 2003A Refunding Note is held.

The excess, if any, of the tax basis of the 2003A Refunding Notes to a purchaser (other than a purchaser who holds such 2003A Refunding Notes as inventory, stock in trade or for sale to customers in the ordinary course of business) over the amount payable at maturity is "bond premium." For federal income tax purposes, bond premium is amortized over the term of such 2003A Refunding Notes, is not deductible and reduces the purchaser's adjusted tax basis. 2003A Refunding Notes purchasers should consult their tax advisors with respect to the tax consequences of bond premium.

On the date of delivery of the 2003A Refunding Notes, the original purchasers will be furnished with an opinion of Bond Counsel substantially in the form attached hereto as APPENDIX C—"FORM OF OPINION OF BOND COUNSEL."

## **RATINGS**

The 2003A Refunding Notes have been assigned ratings by Fitch Ratings ("Fitch") and Moody's Investors Service, Inc. ("Moody's"). The ratings assigned by Fitch are "AAA" for the 2003A Refunding Notes. The ratings assigned by Moody's are "Aaa" for the 2003A Refunding Notes. These ratings take into account that scheduled payment of principal of and interest on the 2003A Refunding Notes when due will be guaranteed under an insurance policy to be issued by Financial Security. See "BOND INSURANCE." Underlying ratings on the 2003A Refunding Notes assigned by Fitch and Moody's are "AA" and "Aa3", respectively.

A security rating should be evaluated independently of similar ratings of different types of securities. A rating is not a recommendation to buy, sell or hold securities. Such ratings reflect only the respective views of such organizations, and an explanation of the significance of such ratings may be obtained from the rating agency furnishing the same. There is no assurance that a rating will continue for any given period of time or that a rating will not be revised or withdrawn entirely by any or all of such rating agencies, if, in its or their judgment, circumstances so warrant. Any downward revision or withdrawal of a rating could have an adverse effect on the market prices of the 2003A Refunding Notes.

#### **CERTAIN LEGAL MATTERS**

The unqualified approving opinion as to the legality of the 2003A Refunding Notes will be rendered by Ropes & Gray LLP, Boston, Massachusetts, Bond Counsel to the State Treasurer. The proposed form of such opinion of Bond Counsel is attached to this Official Statement as Appendix C. Certain legal matters will be passed upon for the Underwriters by their counsel, Brown Rudnick Berlack Israels LLP, Boston, Massachusetts.

#### **UNDERWRITING**

The 2003A Refunding Notes are being purchased by the Underwriters, for whom Merrill Lynch & Co. is acting as Representative. The Underwriters have agreed, subject to certain conditions, to purchase all of the 2003A Refunding Notes from the Commonwealth at a discount from the initial public offering prices or yields set forth on the inside cover page hereof equal to approximately 0.5158% of the aggregate principal amount of the 2003A Refunding Notes. The Underwriters have agreed to reoffer such 2003A Refunding Notes at public offering prices not higher than or at yields not lower than those set forth on the inside cover page of this Official Statement. The Underwriters are obligated to purchase all such 2003A Refunding Notes, if any are purchased, the obligation to make such purchase being subject to certain terms and conditions set forth in the Purchase Contract, the approval of certain legal matters by counsel and certain other conditions. Such 2003A Refunding Notes may be offered and sold by the Underwriters to certain dealers (including dealers depositing such 2003A Refunding Notes in unit investment trusts or mutual funds, some of which may be managed by the Underwriters) and certain dealer banks and banks acting as agents at prices lower (or yields higher) than the public offering prices (or yields) set forth on the inside cover page of this Official Statement. Subsequent to such initial public offering, the Underwriters may change the public offering prices (or yields) as they may deem necessary in connection with the offering of such 2003A Refunding Notes.

#### **VERIFICATION OF MATHEMATICAL COMPUTATIONS**

Causey Demgen & Moore Inc., independent Certified Public Accountants, will verify the mathematical accuracy of the computations of (a) the adequacy of the forecasted receipts of principal and interest on the Escrow Obligations to pay interest on the 2003A Refunding Notes until December 15, 2008 or December 15, 2010, as applicable, and to redeem the Refunded Notes (or, if applicable, the 2003A Refunding Notes) on such dates, and (b) the yields on the 2003A Refunding Notes and the Escrow Obligations purchased with a portion of the proceeds of the sale of the 2003A Refunding Notes based on schedules provided by Merrill Lynch & Co. Such verification will be used in part by Ropes & Gray LLP, Bond Counsel, in concluding that the 2003A Refunding Notes are not arbitrage bonds within the meaning of the Code. Causey Demgen & Moore Inc. has restricted its procedures to verify the mathematical accuracy of certain computations and has not made any study or evaluation of the assumptions and information upon which the computations are based and, accordingly, has not expressed an opinion on the data used, the reasonableness of the assumptions, or the achievability of the forecasted outcome.

#### **CONTINUING DISCLOSURE**

In order to assist the Underwriters in complying with paragraph (b)(5) of Rule 15c2-12 of the Securities and Exchange Commission, the Commonwealth will undertake in the 2003A Refunding Notes to publish annual reports and notices of certain events. This undertaking is set forth in Appendix D hereto.

#### **MISCELLANEOUS**

Any provisions of the Escrow Agreement, the Trust Agreement, the constitution of the Commonwealth, general and special laws and other documents set forth or referred to in this Official Statement are only summarized, and such summaries do not purport to be complete statements of any of such provisions. Only the actual text of such provisions can be relied upon for completeness and accuracy.

All estimates and assumptions in this Official Statement have been made on the best information available and are believed to be reliable, but no representations whatsoever are made that such estimates and assumptions are correct. So far as any statements in this Official Statement involve any matters of opinion, whether or not expressly so stated, they are intended merely as such and not as representations of fact. The various tables may not add due to rounding of figures.

The information, estimates and assumptions and expressions of opinion in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale made pursuant to this Official Statement shall, under any circumstances, create any implication that there has been no change in the affairs of the Commonwealth or its agencies, authorities or political subdivisions since the date of this Official Statement, except as expressly stated.

#### **AVAILABILITY OF OTHER INFORMATION**

Questions regarding this Official Statement should be directed to Jeffrey S. Stearns, Deputy Treasurer, Office of the Treasurer and Receiver-General, One Ashburton Place, Twelfth Floor, Boston, Massachusetts 02108, telephone (617) 367-3900, or Timothy Murphy, Director of Capital Planning and Operations, Executive Office for Administration and Finance, State House, Room 272, Boston, Massachusetts 02133, telephone (617) 727-2040. Questions regarding legal matters relating to this Official Statement should be directed to Lawrence D. Bragg, III, Ropes & Gray LLP, One International Place, Boston, Massachusetts 02110, telephone (617) 951-7000.

#### **THE COMMONWEALTH OF MASSACHUSETTS**

By /s/ Timothy P. Cahill  
Timothy P. Cahill  
*Treasurer and Receiver-General*

By /s/ Eric A. Kriss  
Eric A. Kriss  
*Secretary of Administration and Finance*

June 19, 2003

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**SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT**

The Trust Agreement contains terms and conditions relating to the issuance and sale of Federal Highway Grant Anticipation Notes under it, including various covenants and security provisions, certain of which are summarized below. For purposes of this summary, all references to “Notes” shall refer to the Federal Highway Grant Anticipation Notes including the 2003A Refunding Notes. This summary does not purport to be comprehensive or definitive and is subject to all of the provisions of the Trust Agreement, to which reference is hereby made. Copies of the Trust Agreement are available from Ropes & Gray LLP, One International Place, Boston, Massachusetts 02110, Attn: Lawrence D. Bragg, III, Bond Counsel to the Commonwealth.

**Definitions**

The following is a summary of certain terms used in the Trust Agreement, in this Appendix A and otherwise used in this Official Statement.

“1998A Notes” shall mean The Commonwealth of Massachusetts Federal Highway Grant Anticipation Notes, 1998 Series A, issued on June 30, 1998 in the original principal amount of \$600,000,000.

“1998A Policy” shall mean the municipal bond insurance policy issued by MBIA insuring the payment when due of the principal of and interest on the Insured 1998A Notes as provided.

“1998B Notes” shall mean The Commonwealth of Massachusetts Federal Highway Grant Anticipation Notes, 1998 Series B, issued on December 3, 1998 in the original principal amount of \$321,720,000.

“2000A Notes” shall mean The Commonwealth of Massachusetts Federal Highway Grant Anticipation Notes, issued on November 30, 2000 in the original principal amount of \$577,605,000.

“2000A Policy” means the municipal bond insurance policy issued by FSA guaranteeing the scheduled payment of principal of and interest on the Insured 2000A Notes when due.

“Act” shall mean the provisions of Section 9 through 10D of Chapter 11 of the Acts of 1997, as amended by Chapter 121 of the Acts of 1998, as further amended by Chapter 235 of the Acts of 1998, in effect as of the date of the Trust Agreement.

“Accreted Value” shall mean with respect to any Notes that are Capital Appreciation Notes, an amount equal to the principal amount of such Capital Appreciation Notes (determined on the basis of the initial principal amount per \$5,000 at maturity thereof) plus the amount assuming compounding (as set forth in the Applicable Supplemental Trust Agreement) of earnings which would be produced on the investment of such initial amount, beginning on the dated date of such Capital Appreciation Notes and ending at the maturity date thereof, at a yield which, if produced until maturity, will produce \$5,000 at maturity.

“Additional Notes” shall mean Notes of the Commonwealth issued pursuant to the Trust Agreement other than the Initial Notes.

“Additional Pledged Funds” shall mean any moneys or funds pledged by the Commonwealth for the purpose of further securing the payment of all Trust Agreement Obligations.

“Adjusted Note Debt Service Requirement” shall mean, for any period for which such calculation shall be made in connection with the issuance of Additional Notes or in connection with the issuance of Refunding Notes, aggregate Note Debt Service Requirement on Notes Outstanding during such period, taking into account the following adjustment:

- (i) with respect to Variable Rate Notes, the aggregate Note Debt Service Requirement thereon shall be determined based upon an interest rate equal to the Assumed Rate, calculated as of such date of determination; provided, however, if the Commonwealth (1) enters into a Qualified Hedge Agreement with a Hedge Provider requiring the Commonwealth to pay a fixed interest rate or providing for a maximum interest rate on a notional amount, and (2) has made a determination that such Qualified Hedge Agreement was entered into for the purpose of providing substitute interest payments or limiting the potential increase in the interest rate for a particular maturity of Notes in a principal amount equal to the notional amount of the Qualified Hedge Agreement, then during the term of such Qualified Hedge Agreement and so long as the Hedge Provider under such Qualified Hedge Agreement is not in default under such Qualified Hedge Agreement, the interest rate on such Notes shall be determined as if such Notes bore interest at the fixed interest rate or maximum interest rate, as the case may be, payable by the Commonwealth under such Qualified Hedge Agreement;
- (ii) with respect to Fixed Rate Notes, if the Commonwealth (1) enters into a Qualified Hedge Agreement with a Hedge Provider requiring the Commonwealth to pay a variable interest rate on a notional amount and (2) has made a determination that such Qualified Hedge Agreement was entered into for the purpose of providing substitute interest payments for a particular maturity of Notes in a principal amount equal to the notional amount of the Qualified Hedge Agreement, then during the term of such Qualified Hedge Agreement and so long as the Hedge Provider under such Qualified Hedge Agreement is not in default under such Qualified Hedge Agreement, the interest rate on such Notes shall be determined as if such Notes bore interest at the Assumed Hedge Rate;
- (iii) with respect to Tender Notes, the aggregate Note Debt Service Requirement thereon shall not include amounts payable upon mandatory or optional tender, but shall be deemed to include all periodic Note Related Costs and other payments to the provider of any Liquidity Facility, and shall not be based upon the terms of any Reimbursement Obligation to such provider except to the extent and for periods during which Note Related Costs and other payments are required to be made pursuant to such Reimbursement Obligation due to such provider advancing funds;
- (iv) with respect to Notes that have Credit Enhancement, the aggregate Note Debt Service Requirement thereon shall be deemed to include all periodic Note Related Costs and other payments to the provider of the Credit Enhancement, but shall not be based upon the terms of any Reimbursement Obligation to such provider except to the extent and for periods during which Note Related Costs and other payments are required to be made pursuant to such Reimbursement Obligation due to such provider advancing funds; and
- (v) the amount of any investment earnings and return of principal or projected investment earnings and projected return of principal, as the case may be, allocable to amounts in the Debt Service Liquidity Account shall be deducted from the Adjusted Note Debt Service Requirement for the applicable period.

“Advance Construction Balance” shall mean, as of any date of calculation, the aggregate dollar amount of the portion of federal funds referenced in all Federal-Aid Letters of Approval/Authorization and Project Agreements under the Federal Highway Construction Program between the Commonwealth and the Federal Highway Administration and designated as “advance construction” or “AC”, provided, however, that “Advance Construction Balance” shall not include any portion thereof related to the CA/T Project and identified in the then most recent finance plan for the CA/T Project filed by the Commonwealth with the Federal Highway Administration as expected to be unavailable for conversion to Obligation Authority as a result of any applicable federal law limiting the aggregate amount of federal funding for the CA/T Project.

“Advance Refunded Municipal Bonds” shall mean any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (i) which are not callable at the option of the obligor or otherwise prior to maturity or as which irrevocable notice has been given by the obligor to call such bonds or obligations on the date specified in the notice, (ii) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or Government Obligations



which is sufficient to pay interest and redemption when due, principal of and redemption premium, if any, on the bonds or other obligations described in this definition on the maturity date or dates thereof or on the redemption date or dates, as appropriate.

“Alternative Revenues” shall mean the receipts credited to the Highway Fund and derived from that portion of the Gasoline Tax equal to ten cents (\$0.10) per gallon, which amount shall not include any amount of such tax pledged to the payment of special obligation bonds of the Commonwealth pursuant to Section 20 of Chapter 29 of the General Laws, as amended from time to time.

“Applicable Supplemental Trust Agreement” shall mean with respect to any Series of Notes, the Supplemental Trust Agreement authorizing such Series of Notes.

“Appreciated Value” shall mean with respect to Notes that are Deferred Income Notes until the Interest Commencement Date thereon, an amount equal to the principal amount of such Deferred Income Note (determined on the basis of the initial principal amount per \$5,000 at the Interest Commencement Date thereof) plus the amount, assuming compounding (as set forth in the Applicable Supplemental Trust Agreement) of earnings which would be produced as the investment of such initial amount, beginning on the dated date of such Deferred Income Note and ending on the Interest Commencement Date, at a yield which, if produced until the Interest Commencement Date, will produce \$5,000 at the Interest Commencement Date.

“Assumed Rate” shall mean, with respect to any Variable Rate Notes, the BMA Index or 3%, whichever is higher, plus 1.50%, or such other rate as may be provided in any Applicable Supplemental Trust Agreement.

“Authorized Officer” shall mean the State Treasurer or any designee thereof and, when used in reference to an act or document, shall also mean any other person authorized by law to perform such act or sign such document.

“BMA Index” shall mean the “BMA Municipal Bond Index”<sup>TM</sup> published from time to time by the Bond Market Association based upon weekly yield evaluations at par of tax-exempt state and local government bonds or if such index is no longer published, a comparable index as selected by the remarketing agent with respect to the affected Variable Rates Notes subject to receipt of a Rating Confirmation.

“Bond Counsel” shall mean any lawyer or firm of lawyers nationally recognized in the field of municipal finance and selected by the State Treasurer.

“Capital Appreciation Notes” shall mean any Notes as to which interest is payable only at the maturity or prior redemption thereof.

“CA/T Project” shall mean the Central Artery/Ted Williams Tunnel Project, undertaken by the Commonwealth and managed on behalf of The Commonwealth by the Massachusetts Turnpike Authority.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Commissioner of Revenue” shall mean the Commissioner of Revenue of the Commonwealth or Deputy Commissioner or designee acting in the Commissioner's stead.

“Commonwealth Fiscal Year” shall mean the period beginning on July 1 of any calendar year and ending on June 30 of the succeeding calendar year or such other period of twelve consecutive calendar months as may be provided by law as the fiscal year of the Commonwealth.

“Comptroller” shall mean the Comptroller of the Commonwealth or any Deputy Comptroller or Assistant to the Comptroller or to the extent permitted by law, any designee acting in the Comptroller's stead.

“Costs of Issuance” shall mean all items of expense directly or indirectly payable or reimbursable by or to the Commonwealth and related to the authorization, sale and issuance of Notes, including but not limited to printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the

Fiduciaries, legal fees and charges, fees and disbursements of consultants and professionals, costs and expenses of refunding, fees, expenses and other amounts payable to any underwriters of the Notes, accrued interest payable upon the initial investment of the proceeds of Notes, fees and expenses payable in connection with any Credit Enhancement, Liquidity Facility or Reserve Credit Facility, fees and expenses payable in connection with any remarketing agreements or interest rate indexing agreements payable in connection with the original issuance of the Notes and any other cost, charge or fee payable in connection with the original issuance of Notes.

“Credit Enhancement” shall mean any agreement, including but not limited to a policy of bond insurance, surety bond, irrevocable letter of credit, credit agreement, credit facility or guaranty arrangement with a bank, trust company, insurance company, surety company, pension fund or other financial institution that provides increased credit on or security for any Series (or portion thereof) of Notes and, to the extent authorized by a Supplemental Trust Agreement, may include a Reserve Credit Facility.

“Debt Service Account” shall mean either the June 15 Debt Service Account or December 15 Debt Service Account or both, as the context requires.

“Debt Service Coverage Ratio” shall mean the ratio of the amount of Federal Highway Reimbursements expected to be available in any Federal Fiscal Year to pay Trust Agreement Obligations due in the Commonwealth Fiscal Year commencing on July 1 in such Federal Fiscal Year to the amount of Trust Agreement Obligations due in said Commonwealth Fiscal Year, expressed as a percentage.

“Debt Service Liquidity Account Requirement” shall mean, as of any particular date of computation, ten percent (10%) of the maximum aggregate amount of Principal Installments and interest becoming due in the current or any future Commonwealth Fiscal Year on all Notes Outstanding, using the Assumed Rate for any Variable Rate Notes (or any Reimbursement Obligations issued in a connection therewith which are deemed to be Notes pursuant to the Trust Agreement), less, in any such Commonwealth Fiscal Year, any amounts received as payment of accrued interest from the sale of any Notes which amounts are deposited in the Debt Service Fund, provided, however, that the amount held in the Debt Service Liquidity Account and funded with proceeds of Notes shall not exceed one hundred twenty-five percent (125%) of the average annual aggregate amount of a Principal Installments and interest becoming due in any Commonwealth Fiscal Year on all Notes Outstanding; using the Assumed Rate for any Variable Rate Notes (or any Reimbursement Obligations issued in connection therewith which are deemed to be Notes pursuant to the Trust Agreement).

“December 15 Debt Service Requirement” shall mean with respect to any period ending on December 15, the Note Debt Service Requirement with respect to all Notes then Outstanding on such December 15.

“Defeasance Obligations” shall mean Government Obligations and Advance Refunded Municipal Bonds.

“Federal Fiscal Year” shall mean the period beginning on October 1 of any calendar year and ending on September 30 of the succeeding calendar year or such other period of twelve consecutive calendar months as may be provided by law as the fiscal year of the United States.

“Federal Highway Construction Program” shall mean all federally aided highway construction projects undertaken by the Commonwealth at any time prior to or after (so long as any Notes remain Outstanding) the date of execution of the Trust Agreement as part of the Commonwealth's program of transportation development and improvements.

“Federal Highway Grant Anticipation Note Trust Fund” shall mean the Federal Highway Grant Anticipation Note Trust Fund established by Section 10 of the Act.

“Federal Highway Reimbursements” shall mean all federal highway construction reimbursements and any other federal highway assistance received from time to time by the Commonwealth with respect to the Federal Highway Construction Program under or in accordance with Title 23 of the United States Code or any successor program established under federal law.

“Fiduciary” shall mean the Trustee or any Paying Agent.

“FSA” means Financial Security Assurance Inc., a New York stock insurance company, or any successor thereto or assignee thereof.

“Funded Debt Service Liquidity Account Requirement” shall mean, as of any particular date of computation, an amount equal to the Debt Service Liquidity Account Requirement less the stated and unpaid amounts of all Reserve Credit Facilities. The Funded Debt Service Liquidity Account Requirement shall, to the extent authorized by a Supplemental Trust Agreement, include any amount required to reimburse any provider of a Reserve Credit Facility upon any drawing of amounts thereunder.

“Gasoline Tax” shall mean the excise imposed on fuel (other than aviation fuel) by the provisions of Chapter 64A of the Massachusetts General Laws, as amended from time to time.

“Government Obligations” shall mean:

- (i) non-callable direct obligations of the United States of America, non-callable and non-prepayable direct federal agency obligations the timely payment of principal of and interest on which are fully and unconditionally guaranteed by the United States of America, non-callable direct obligations of the United States of America which have been stripped by the United States Treasury itself or by any Federal Reserve Bank (not including “CATS,” “TIGRS” and “TRS” unless the Commonwealth obtains Rating Confirmation with respect thereto) and the interest components of REFCORP bonds for which the underlying bond is non-callable (or non-callable before the due date of such interest component) for which separation of principal and interest is made by request to the Federal Reserve Bank of New York in book-entry form, and shall exclude investments in mutual funds and unit investment trusts;
- (ii) obligations timely maturing and bearing interest (but only to the extent that the full faith and credit of the United States of America are pledged to the timely payment thereof); and
- (iii) certificates evidencing ownership of the right to the payment of the principal of or interest on obligations described in clause (ii), provided that such obligations are held in the custody of a bank or trust company satisfactory to the Trustee in a segregated trust account in the trust department separate from the general assets of such custodian.

“Governor” shall mean the Governor of the Commonwealth or the Lieutenant Governor of the Commonwealth at any time under the laws of the Commonwealth the Lieutenant Governor is permitted to act in the Governor's stead.

“Hedge Provider” shall mean the counterparty with whom the Commonwealth enters into a Qualified Hedge Agreement.

“Highway Fund” shall mean the Highway Fund of the Commonwealth so designated by Section 34 of Chapter 90 of the General Laws, as amended, or any other fund or account of the Commonwealth or any agency thereof created in replacement thereof.

“Initial Notes” shall mean the 1998A Notes.

“Insured 1998A Notes” shall mean the 1998A Notes maturing on December, 15, 2007 and June 15, 2013 and bearing interest at a rate of 5.5% per annum.

“Insured 2000A Notes” shall mean the 2000A Notes maturing on: (a) December 15, 2007 and bearing interest at the rate of 4.60% per annum; (b) December 15, 2012 and bearing interest at the rate of 5.75% per annum; and (c) December 15, 2013 and bearing interest at the rates of 5.00% and 5.75% per annum, respectively.

“June 15 Debt Service Requirement” shall mean with respect to any period ending on June 15, the Note Debt Service Requirement with respect to all Notes then Outstanding on such June 15.

“Liquidity Facility” shall mean any agreement with a bank, trust company, insurance company, surety, company, pension fund or financial institution under which it agrees to purchase Tender Notes.

“Maximum Semi-Annual Debt Service” shall mean \$108 million.

“MBIA” shall mean MBIA Insurance Corporation, as bond insurer with respect to the Insured 1998A Notes.

“Note Payment Date” shall mean with respect to Notes, other than Variable Rate Notes, each December 15 and June 15, commencing December 15, 1998 with respect to the 1998A Notes, June 15, 1999 with respect to the 1998B Notes, and June 15, 2001 with respect to the 2000A Notes, and with respect to Variable Rate Notes, the first business day of each month commencing with the first month following the date of issuance of such Variable Rate Notes or otherwise as specified in the Applicable Supplemental Trust Agreement for such Variable Rate Notes.

“Noteholder” or “Holder,” when used with reference to Notes, shall mean the Registered Owner of the Notes from time to time as shown on the register for a particular Series of Notes held by the Paying Agent for such Series of Notes.

“Note Debt Service Requirement” shall mean, for any period of calculation, or with respect to any date, the aggregate of the interest, principal amount, and Sinking Fund Payments due or to become due other than by reason of redemption or tender for purchase at the option of the Commonwealth or the registered owner of any Notes on all Notes Outstanding during such period or on such date; provided, however, for purposes of this definition, the scheduled principal and interest portions of the Accreted Value of Capital Appreciation Notes and the Appreciated Value of Deferred Income Notes becoming due at maturity or by virtue of Sinking Fund Payments shall be included in the calculations of accrued and unpaid and accruing interest or Principal Installments only during the period in or date on which such amounts become due for payment, unless otherwise provided in the Applicable Supplemental Trust Agreement authorizing such Capital Appreciation Notes or Deferred Income Notes.

“Note Related Costs” shall mean all costs, fees and expenses of the Commonwealth incurred or related to any Liquidity Facility, Credit Enhancement, Reserve Credit Facility, any remarketing or other secondary market transactions, any fees of Bond Counsel, attorneys, financial advisors, Fiduciaries, remarketing agents, rebate consultants, accountants and others, retained by the Commonwealth in connection with a Series, and any other fees, charges and expenses that may be lawfully incurred by the Commonwealth to a provider of any Credit Enhancement, Liquidity Facility or Reserve Credit Facility, other than amounts paid as the Costs of Issuance for a Series, to repay or reimburse any amounts paid by such provider due to a payment under such Credit Enhancement, Liquidity Facility or Reserve Credit Facility and any interest on such repayment obligation unless any such amount constitutes a Note Debt Service Requirement for such Series.

“Notes” shall mean any of the Notes of the Commonwealth authenticated and delivered under the Trust Agreement.

“Obligation Authority” shall mean the annual limitation on the amount of eligible costs under Title 23 of the United States Code that the Commonwealth may obligate with respect to the Federal Highway Construction Program during a given Federal Fiscal Year, as specified in annual Federal appropriations acts.

“Outstanding,” when used with reference to Notes, shall mean as of a particular date, all Notes theretofore and thereupon being authenticated and delivered except (i) any Note cancelled by the Commonwealth or a Fiduciary at or before said date, (ii) any Note in lieu of or in substitution for which another Note shall have been authenticated and delivered and (iii) Notes deemed to have been paid as described under “Defeasance”.

“Paying Agent” shall mean any paying agent or co-paying agent for Notes of any Series.

“Permitted Investments” shall mean and include any of the following, if and to the extent the same are at the time legal for investment of Commonwealth funds:

- (i) Government Obligations;
- (ii) direct obligations of, or obligations guaranteed as to timely payment of principal and interest by, FHLMC, Fannie Mae or the Federal Farm Credit System;
- (iii) demand and time deposits in or certificates of deposit of, or bankers' acceptances issued by any bank or trust company, savings and loan association or savings bank, if such deposits or instruments are rated in one of the two highest Rating Categories by any Rating Agency then maintaining a rating on any Notes Outstanding and the long-term unsecured debt obligations of the institution holding the related account are rated in one of the two highest Rating Categories by any Rating Agency then maintaining a rating on any Notes Outstanding;
- (iv) general obligations of, or obligations guaranteed by, any state of the United States or the District of Columbia rated in one of the two highest long-term Rating Categories by any Rating Agency then maintaining a rating on any Notes Outstanding;
- (v) commercial or finance company paper (including both non-interest-bearing discount obligations and interest bearing obligations payable on demand or on a specified date not more than one year after the date of issuance thereof) that is rated in one of the two highest Rating Categories by any Rating Agency then maintaining a rating on any Notes Outstanding;
- (vi) repurchase obligations with respect to any security described in clause (i) or (ii) above entered into with a broker/dealer, depository institution or trust company (acting as principal) meeting the rating standards described in clause (iii) above;
- (vii) securities bearing interest or sold at a discount that are issued by any corporation incorporated under the laws of the United States of America or any state thereof and rated in one of the two highest Rating Categories by any Rating Agency then maintaining a rating on any Notes Outstanding at the time of such investment or contractual commitment providing for such investment; provided, however, that securities issued by any such corporation will not be Permitted Investments to the extent that investment therein would cause the then outstanding principal amount of securities issued by such corporation that are then held to exceed 20% of the aggregate principal amount of all Permitted Investments then held;
- (viii) units of taxable money market funds which funds are regulated investment companies and seek to maintain a constant net asset value per share and have been rated in one of the two highest Rating Categories by any Rating Agency then maintaining a rating on any Notes Outstanding;
- (ix) investment agreements or guaranteed investment contracts rated, or with any financial institution whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated, at the time such agreement or contract is entered into, in one of the two highest Rating Categories for comparable types of obligations by any Rating Agency then maintaining a rating on any Notes Outstanding;
- (x) investment agreements with a corporation whose principal business is to enter into such agreements if (a) such corporation and the investment agreements of such corporation are each rated in one of the two highest Rating Categories by any Rating Agency then maintaining a rating on any Notes Outstanding and (b) the Commonwealth has an option to terminate each agreement in the event that such rating is downgraded below such two highest Rating Categories; or
- (xi) any agreement providing for the purchase by the Commonwealth or the Trustee of Permitted Investments described above from a financial institution at the time of execution of the agreement,

from time to time during the term of the agreement or any combination thereof in exchange for valuable consideration from the financial institution, which consideration may be (a) payable at the time of execution of the agreement, from time to time during the term of the agreement or any combination thereof, (b) expressed in terms of a yield to the Commonwealth or the Trustee on the purchase of such Permitted Investments, (c) an agreement by the financial institution to purchase the Permitted Investments at a price specified in the agreement, or (d) in such other form as the Commonwealth or the Trustee and the financial institution may agree; provided that a specific written agreement governs the transactions;

provided that no Permitted Investment may (a) evidence the right to receive only interest with respect to the obligations underlying such instrument or (b) be purchased at a price greater than par if such instrument may be prepaid or called at a price less than its purchase price prior to its stated maturity.

“Pledged Revenues” shall mean all Federal Highway Reimbursements received by the Commonwealth and any other moneys deposited to or held for the credit of the Federal Highway Grant Anticipation Note Trust Fund (other than in the Project Fund) so long as any Notes remain Outstanding.

“Principal Installment” shall mean, as of any particular date of computation and with respect to Notes of a particular Series, an amount of money equal to the aggregate of (i) the principal amount of Outstanding Notes of said Series which mature on a single future date, reduced by the aggregate principal amount of such Outstanding Notes which would at or before said future date be retired by reason of the payment when due and application in accordance with the Trust Agreement of Sinking Fund Payments payable at or before said future date for the retirement of such Outstanding Notes, plus (ii) the amount of any Sinking Fund Payment payable on said future date for the retirement of any Outstanding Notes of said Series.

“Qualified Hedge Agreement” shall mean an interest rate exchange or similar agreement between the Commonwealth and a Hedge Provider relating to the Notes and based upon a notional amount, where (i)(a) the Hedge Provider, or the person who guarantees the obligation of the Hedge Provider to make any payments due to the Commonwealth, has unsecured long-term obligations rated, or (b) the hedge agreement itself is rated, in each case as of the date the hedge agreement is entered into, by any Rating Agency then maintaining a rating on the Notes Outstanding in one of the two highest Rating Categories of any such Rating Agency then maintaining a rating on the Notes Outstanding but in no event lower than the Rating Category designated by such Rating Agency for the Notes Outstanding subject to such hedge agreement or (ii) the Commonwealth receives a Rating Confirmation with respect to entering into such agreement.

“Rating Agency” shall mean any of Duff & Phelps Credit Rating Co.; Fitch IBCA, Inc. and Moody's Investors Service, Inc. and their respective successors or assigns.

“Rating Categories” shall mean rating categories as published by a Rating Agency in its written compilations of ratings and any written supplement or amendment thereto and any such Rating Category shall be determined on the generic rating without regard to any modifiers and, unless otherwise specified or in an Applicable Supplemental Trust Agreement, shall be long term ratings.

“Rating Confirmation” means evidence that no Note rating then in effect from a Rating Agency will be withdrawn or reduced solely as a result of an action to be taken under the Trust Agreement.

“Rebate Fund Requirement” shall mean, as of any date of calculation, an amount equal to the aggregate of the amounts, if any, calculated in accordance with each Applicable Supplemental Trust Agreement authorizing the issuance of a Series of Tax Exempt Notes as the amount required to be maintained in the Rebate Fund with respect to such Notes.

“Refunding Notes” shall mean any of the Notes authorized by the Trust Agreement.

“Registered Owner” or “Owners” shall mean the registered owner of a Note of a particular Series of Notes as shown on the register for such Series of Notes.

“Reimbursement Obligation” shall have the meaning given such term in the Trust Agreement.

“Reserve Credit Facility” shall mean one or more of the following:

- (i) an irrevocable, unconditional and unexpired letter of credit or other financial commitment issued by a banking institution the unsecured long-term obligations of which are rated in one of the two highest Rating Categories by any Rating Agency then maintaining a rating on the Notes Outstanding or, if any such Rating Agency does not maintain a rating on such banking institution, it shall provide a Rating Confirmation, or
- (ii) an irrevocable and unconditional policy or policies of insurance in full force and effect and issued by a municipal bond insurer having a rating in one of the two highest Rating Categories from any Rating Agency then maintaining a rating on the Notes Outstanding, or, if any such Rating Agency does not maintain a rating on such insurer, it shall provide a Rating Confirmation,

in each case providing for the payment of sums for the payment of Principal Installments and interest on Notes in the manner provided under the Trust Agreement.

“Secretaries” shall mean collectively the Secretary of Administration and Finance and the Secretary of Transportation and Construction.

“Secretary of Administration and Finance” shall mean the Secretary of the Executive Office for Administration and Finance of the Commonwealth or any designee acting in the Secretary's stead.

“Secretary of Transportation and Construction” shall mean the Secretary of the Executive Office of Transportation and Construction of the Commonwealth or any designee acting in the Secretary's stead.

“Series” when used with respect to less than all of the Notes, shall mean such Notes designated as a Series of Notes pursuant to a Supplemental Trust Agreement.

“Sinking Fund Payment” shall mean, as of any particular date of computation and with respect to Notes of a particular Series, the amount of money required by any Supplemental Trust Agreement to be paid by the Commonwealth on a single future date for the retirement of any Outstanding Notes of said Series which mature after said future date, but does not include any amount payable by the Commonwealth by reason of the redemption of Notes at the election of the Commonwealth.

“State Treasurer” shall mean the Treasurer and Receiver-General of the Commonwealth or any Deputy Treasurer of the Commonwealth acting on the State Treasurer's behalf.

“Supplemental Trust Agreement” shall mean any Trust Agreement of the Commonwealth amending or supplementing the Trust Agreement adopted and becoming effective in accordance with the terms of the Trust Agreement.

“Tax Exempt Notes” shall mean any Notes accompanied by a Bond Counsel's opinion upon the original issuance thereof that the interest on such Notes is not includable in the gross income of the holder thereof for Federal income tax purposes.

“Trust Agreement Obligations” shall mean, with respect to any period or date of calculation, the sum of the Note Debt Service Requirement during such period or on such date, plus all Note Related Costs due or to become due during such period or on such date, plus required deposits, if any, to the Rebate Fund and Debt Service Liquidity Account during such period or on such date.

“Trustee” shall mean the trustee appointed in accordance with the Trust Agreement, and its successor or successors and any other corporation which may at anytime be substituted in its place pursuant to the Trust Agreement.

## **The Pledge**

There are pledged for the payment of principal and Redemption Price of and interest on the Notes (i) the Pledged Revenues, (ii) all moneys, securities and Reserve Credit Facilities and any investment earnings with respect thereto, in all Funds and Accounts established by or pursuant to the Trust Agreement other than the Project Fund and the Rebate Fund, (iii) any amounts payable to the Commonwealth by a Hedge Provider pursuant to a Qualified Hedge Agreement, and (iv) solely upon the occurrence and during the continuation of a True-up Condition, the Alternative Revenues (collectively, the “Pledged Funds”). The full faith and credit of the Commonwealth has not been pledged to the payment of the Notes.

The Commonwealth may in any Supplemental Trust Agreement pledge any Additional Pledged Funds or portions thereof which the Commonwealth may lawfully pledge to the payment of amounts due under the Trust Agreement. From and after the date of such Supplemental, Trust Agreement such amounts shall be deemed part of the Pledged Funds under the Trust Agreement.

## **Trust Agreement to Constitute Contract**

The Trust Agreement constitutes a contract between the Commonwealth and the registered owners from time to time of the Notes, and the pledge made therein and the covenants and agreements therein set forth to be performed by or on behalf of the Commonwealth shall be for the equal benefit, protection and security of the registered owners of any and all of the Notes, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Notes over any other thereof, except as otherwise expressly, provided in or permitted by the Trust Agreement.

## **Authorization of Notes**

The Commonwealth is authorized to issue one or more Series of Notes under the Trust Agreement, which Notes may be issued without limitation as to amount except as provided in the Trust Agreement with respect to Additional Notes or as limited by law. The Notes maybe issued as Fixed Rate Notes, Variable Rate Notes, Tender Notes, Capital Appreciation Notes, Deferred Income Notes or Discount Notes, or any combination thereof.

The Commonwealth may issue Notes (“Variable Rate Notes”) which provide for a variable, adjustable, convertible or other similar rates of interest, not fixed as to percentage at the date of issue for the term thereof. Any Variable Rate Notes shall bear a ceiling (the “Variable Rate Ceiling”) on the interest payable thereunder.

The Commonwealth may provide that any Series of Notes may include an option exercisable by the registered owners thereof to have such Notes (“Tender Notes”) either repurchased or redeemed prior to the maturity thereof. Any Tender Notes must be secured at all times by a Liquidity Facility providing for the repurchase or payment of any tender price of Tender Notes which have not been remarketed upon tender of such Notes and any accrued and unpaid interest due on such Notes upon the tender date thereof. The provider of any such Liquidity Facility shall have a rating on its short term obligations within the highest Rating Category from any Rating Agency then maintaining a rating on the Notes Outstanding.

The Commonwealth may issue Notes (“Discount Notes”) which either bear a zero stated rate of interest or bear a stated rate of interest such that such Notes are sold at a price less than the aggregate principal amount thereof in order to provide such yield thereon as deemed appropriate and desirable thereon by the Commonwealth. The Commonwealth may provide for the determination of the “principal amount” and “interest” payable on such Notes. The 1998A Notes maturing on December 15, 2014 and June 15, 2015 are Discount Notes and bear a zero stated rate of interest. For all purposes under the Trust Agreement, the principal amount of such 1998A Notes shall be \$36,680,000 and \$36,680,000 respectively, less any portion thereof no longer Outstanding. The 1998B Notes maturing on June 15, 2012 are Discount Notes and bear a zero stated rate of interest. For all purposes under the Trust Agreement, the principal amount of such 1998B Notes shall be \$16,555,000 less any portion thereof no longer outstanding.



## **Additional Notes**

One or more Series of Additional Notes may be issued for the purpose of (i) paying costs of the CA/T Project, (ii) the making of deposits in the Debt Service Fund and the Debt Service Liquidity Account, (iii) the payment of the Costs of Issuance of such Notes, or (iv) any combination of the foregoing.

Additional Notes may be issued only upon the delivery, among other items, of the following:

- (i) A Bond Counsel's opinion with respect to the validity of the Additional Notes and the enforceability of the pledge under the Trust Agreement;
- (ii) A certificate of an Authorized Officer to the effect that the Adjusted Note Debt Service Requirement to be due and payable during any semi-annual period and ending on December 15 or June 15 with respect to the Outstanding Notes plus the Additional Notes does not exceed the Maximum Semi-Annual Debt Service or a Rating Confirmation if such Adjusted Note Debt Service Requirement does exceed Maximum Semi-Annual Debt Service;
- (iii) A certificate of an Authorized Officer with respect to the interest to be due on the Additional Notes to substantially the following effect:
  - (A) that the amount of Federal Highway Reimbursements expected to be received from the date of issuance of the Additional Notes to the end of the then current Federal Fiscal Year and to be retained in the Revenue Account for the purposes of paying Debt Service on such Additional Notes will be at least equal to 120% of the Trust Agreement Obligations to be due and payable with respect to the Additional Notes during the next succeeding Federal Fiscal Year, other than any portion of such Trust Agreement Obligations to be paid from proceeds of the Additional Notes or other available amounts deposited with the Trustee for such purpose; and
  - (B) that the Trustee shall have on deposit on the date of issuance of such Additional Notes, either from a portion of the proceeds of such Additional Notes or from other amounts available for such purpose, an amount sufficient to pay the Note Debt Service Requirement payable with respect to the Additional Notes during the remainder of the Federal Fiscal Year in which the Additional Notes are issued;
- (iv) A certificate of an Authorized Officer to the effect that the aggregate net proceeds received by the Commonwealth with respect to all Notes previously issued, other than any Refunding Notes, plus the net proceeds of the Additional Notes does not exceed \$1,500,000,000, or if such aggregate net proceeds do exceed \$1,500,000,000, a Rating Confirmation; and
- (v) A certificate of an Authorized Officer setting forth the Advance Construction Balance as of a date within 30 days of the date of issuance of the Additional Notes and further to the effect that the Commonwealth is in compliance with its covenant pertaining to the Advance Construction Balance.

## **Refunding Notes**

One or more Series of Refunding Notes may be issued for the purpose of refunding all or any part of the Notes of one or more Series Outstanding upon delivery, among other items, of the following:

- (i) An opinion of Bond Counsel as described above under "Additional Notes";
- (ii) A certificate of an Authorized Officer to the effect that the Adjusted Note Debt Service Requirement to be due and payable during any semi-annual period ending December 15 or June 15 with respect to the Outstanding Notes plus the Refunding Notes does not exceed the Maximum

Semi-Annual Debt Service or a Rating Confirmation if such Adjusted Note Debt Service Requirement does exceed Maximum Semi-Annual Debt Service; and

- (iii) An amount of money or Defeasance Obligations sufficient to effect payment at maturity or redemption of the Notes to be refunded.

### **Creation of Liens; Other Indebtedness**

Except as otherwise expressly provided in the Trust Agreement, the Commonwealth may not issue any Notes, notes or other evidences of indebtedness, other than the Notes, secured by a pledge of or other lien on the Pledged Funds or any other moneys, securities and funds held or set aside by the Commonwealth or by the Fiduciaries under the Trust Agreement, and shall not otherwise create or cause to be created any lien or charge on such Pledged Funds, moneys, securities and funds. The Trust Agreement permits the issuance of other indebtedness secured by a subordinate lien on Pledged Funds, and other indebtedness secured by a lien on that portion of the Gasoline Tax or any other amounts not included as Pledged Funds.

### **Credit Enhancement Liquidity Facilities**

The Commonwealth may obtain or cause to be obtained Credit Enhancement or a Liquidity Facility providing for payment of all or a portion of the principal, premium, or interest due or to become due on such Notes or providing for the purchase of such Notes or a portion thereof. In connection therewith the Commonwealth may agree with the issuer of such Credit Enhancement or Liquidity Facility to reimburse such issuer directly for amounts paid under the terms of such Credit Enhancement or Liquidity Facility, together with interest thereon. Such reimbursement obligation maybe subject to a lien on Pledged Funds on a parity with the lien created under the Trust Agreement.

### **Qualified Hedge Agreements**

The Commonwealth may from time to time enter into Qualified Hedge Agreements with a Hedge Provider with respect to all or a portion of the Notes of any Series Outstanding. The obligations of the Commonwealth thereunder may be secured by a pledge of the Pledged Funds; provided, however, that such security shall be expressly subordinate to the security for the Notes Outstanding.

Any amounts paid to the Commonwealth pursuant to a Qualified Hedge Agreement shall be deposited in the Revenue Account. Any amounts payable by the Commonwealth under a Qualified Hedge Agreement may be payable from any amounts lawfully available to the State Treasurer for such purpose. Upon the issuance of any Additional Notes or Refunding Notes, the Authorized Officer shall set an interest rate (the "Assumed Hedge Rate") which the Authorized Officer reasonably determines will be the average interest rate which will be payable for the next succeeding twelve consecutive months on the notional amount under any Qualified Hedge Agreement establishing a variable interest rate for Fixed Rate Notes.

### **Establishment of Funds and Accounts**

The following funds and accounts shall be established and shall be held by the Trustee:

- (i) Redemption Fund;
- (ii) Debt Service Fund;
  - (A) June 15 Debt Service Payment Account;
  - (B) December 15 Debt Service Payment Account; and
  - (C) Defeasance Account

- (iii) Alternative Revenues Fund;
  - (A) Reserve Account; and
  - (B) Debt Service Liquidity Account
- (iv) Note Related Costs Fund; and
- (v) Rebate Fund.

Such funds, except the Rebate Fund, are subject to the pledge created under the Trust Agreement.

The State Treasurer shall establish a Revenue Account to be maintained as part of the Federal Highway Grant Anticipation Note Trust Fund and to be held by the Trustee so long as Notes shall remain Outstanding which Account shall be subject to the pledge created under the Trust Agreement. The State Treasurer shall establish the Project Fund to be maintained as part of the Federal Highway Grant Anticipation Note Trust Fund and to be held by the State Treasurer so long as Notes shall remain Outstanding, which Fund shall not be subject to the pledge created by the Trust Agreement.

### **Project Fund**

Except as otherwise provided in the Applicable Supplemental Trust Agreement, the State Treasurer shall deposit in the Project Fund the amounts, if any, provided in such Applicable Supplemental Trust Agreement as necessary to pay the Costs of Issuance of such Series and to pay costs of the CA/T Project financed by such Series.

Such amounts shall be applied by the State Treasurer to the payment of the Costs of Issuance of the related Series of Notes, to the extent authorized by an Applicable Supplemental Trust Agreement and otherwise authorized by law and to pay the costs of the CA/T Project for which such Notes have been issued. The State Treasurer may allocate such amounts held to pay the costs of the CA/T Project in accordance with the provisions thereof and the provisions of applicable law. Investment earnings received by the State Treasurer on any proceeds of Notes shall be promptly transferred to the Trustee for deposit in the Revenue Account.

### **Revenue Account**

The State Treasurer shall deliver to Trustee within two business days of receipt, commencing with the date of issuance of the Initial Notes, Pledged Revenues collected by the Commonwealth. Immediately upon receipt thereof, the Trustee shall deposit in the Revenue Account all Pledged Revenues paid to the Commonwealth and any other moneys deposited with or paid to the Trustee for application in accordance with the Trust Agreement.

On or before October 10 of each Federal Fiscal Year (or the next following business day), the State Treasurer, with the written concurrence of the Secretaries, shall deliver to the Trustee a statement of available revenues with respect to said Federal Fiscal Year (the "Statement of Available Revenues"), which shall set forth the amount of Federal Highway Reimbursements expected to be received by the Commonwealth during such Federal Fiscal Year and shall be based upon such information as the State Treasurer shall deem relevant, including without limitation, information obtained from the Executive Office for Administration and Finance and the Executive Office of Transportation and Construction. The Statement of Available Revenues shall set forth (i) the amount of Federal Highway Reimbursements expected to be received by the Commonwealth for the then current Federal Fiscal Year, (ii) any deficiency in any Funds and Accounts with respect to Trust Agreement Obligations due and payable in the then current Federal Fiscal Year, and (iii) the Trust Agreement Obligations then expected to be due and payable during the following Federal Fiscal Year. The statement of Trust Agreement Obligations shall set forth separate amounts for the Note Debt Service Requirement, the aggregate Note Related Costs expected to be due and payable during such period and deposits, if any, to the Rebate Fund and Debt Service Liquidity Account. The State Treasurer, with the written concurrence of the Secretaries, shall from time to time promptly deliver to the Trustee a revised Statement of Available Revenues upon receipt of notice or knowledge of any changed circumstance that would, in the judgment of the State Treasurer, materially change the prior Statement of Available Revenues.

Notwithstanding any other provision of the Trust Agreement to the contrary, if the Statement of Available Revenues includes any deficiency in any Fund or Account with respect to Trust Agreement Obligations due and payable in the then current Federal Fiscal Year, all Federal Highway Reimbursements received from and after the date of such Statement of Available Revenues shall be applied first to satisfy any such deficiency. For purposes of the Trust Agreement, the amount of Federal Highway Reimbursements expected to be received by the Commonwealth for any Federal Fiscal Year shall be net of the amount of any deficiency (whether or not such deficiency has been satisfied) set forth in a Statement of Available Revenues.

If the Statement of Available Revenues projects that (i) the amount of Federal Highway Reimbursements expected to be received by the Commonwealth during the current Federal Fiscal Year shall be equal to or greater than one hundred twenty percent (120%) of the Trust Agreement Obligations due during the following Federal Fiscal Year, then the Trustee shall, at the direction of the State Treasurer, transfer to the State Treasurer, Federal Highway Reimbursements received by it during the period beginning on the later of October 10 and the date of delivery of the Statement of Available Revenues and ending on the earlier of December 15 and the date on which the difference between the amount of Federal Highway Reimbursements expected to be received by the Commonwealth during the then current Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, minus the amount of Federal Highway Reimbursements received by the Commonwealth to date in such Federal Fiscal Year shall equal 120% of the Trust Agreement Obligations due in the following Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, in the amounts and at the times specified, for application as permitted by law, free and clear of the lien of the Trust Agreement.

If the certification described in the immediately preceding paragraph has been given, commencing on the earlier of the December 15 following delivery of such certification and the date on which the difference between the amount of Federal Highway Reimbursements expected to be received by the Commonwealth during the then current Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, minus the amount of Federal Highway Reimbursements received by the Commonwealth to date in such Federal Fiscal Year shall equal 120% of the Trust Agreement Obligations due in the following Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, the Trustee shall then transfer all Federal Highway Reimbursements received by it from the Revenue Account first to the December 15 Debt Service Account until the amount therein shall equal the December 15 Debt Service Requirement in such following Federal Fiscal Year and second, in the following order, to the Note Related Costs Fund, the Rebate Fund and the Debt Service Liquidity Account, until the date on which all Trust Agreement Obligations to be due and payable on or prior to December 15 in the following Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, shall have been provided for. From and after such date until the earlier of the following June 14 of such Federal Fiscal Year and the date on which the difference between the Federal Highway Reimbursements expected to be received by the Commonwealth during the then current Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, minus the amount of Federal Highway Reimbursements received by the Commonwealth to date in such Federal Fiscal Year, shall equal 120% of the Trust Agreement Obligations payable after December 15 of the next succeeding Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, the Trustee shall, at the direction of the State Treasurer, transfer Federal Highway Reimbursements received by it during such period to the State Treasurer, in the amounts and at the times specified, for application as permitted by law, free and clear of the lien of the Trust Agreement. Commencing on the earlier of the June 15 following delivery of such certification and the date on which the difference between the Federal Highway Reimbursements expected to be received by the Commonwealth during the then current Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, minus the amount of Federal Highway Reimbursements received by the Commonwealth to date in such Federal Fiscal Year, shall equal 120% of the Trust Agreement Obligations payable after December 15 of the next succeeding Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, the Trustee shall then transfer all Federal Highway Reimbursements received by it from the Revenue Account first to the June 15 Debt Service Account until the amount therein shall equal the June 15 Debt Service Requirement in such following Federal Fiscal Year and second, in the following order, to the Note Related Costs Fund, the Rebate Fund and the Debt Service Liquidity Account, until the date on which all Trust Agreement Obligations to be due and payable in the following Federal Fiscal Year shall have been provided for. From and after such date until the following September 30, the Trustee shall, at the direction of the State Treasurer, transfer Federal

Highway Reimbursements received by it during such period to the State Treasurer, in the amounts and at the times specified, for application as permitted by law, free and clear of the lien of the Trust Agreement.

If the Statement of Available Revenues projects that the amount of Federal Highway Reimbursements expected to be received by the Commonwealth during the current Federal Fiscal Year shall be less than one hundred twenty percent (120%) of the Trust Agreement Obligations due during the following Federal Fiscal Year, then the Trustee shall transfer all Federal Highway Reimbursements received by it thereafter from the Revenue Account first to the December 15 Debt Service Account until the amount therein shall equal the December, 15 Debt Service Requirement, second, to the June 15 Debt Service Account until the amount therein shall equal the June 15 Debt Service Requirement and third, in the following order, to the Note Related Costs Fund, and the Rebate Fund and the Debt Service Liquidity Account, until the date on which all Trust Agreement Obligations to be due and payable in the following Federal Fiscal Year, as set forth in the most recent Statement of Available Revenues delivered to the Trustee, shall have been provided for.

Notwithstanding the foregoing, if on October 1 of any Federal Fiscal Year and so long as the Trustee shall not have received any certification required to be delivered to it with respect to such Federal Fiscal Year, the Trustee shall retain all Federal Highway Reimbursements until such time as the required certification is delivered, at which time the Trustee may transfer amounts then held by it in accordance with such certification as if such certification had been delivered at the required time. In addition, during the continuance of an Event of Default, the Trustee shall retain all Pledged Revenues until such time as the Event of Default is cured or waived, at which time the Trustee may transfer amounts then held by it as permitted by the Trust Agreement as if such Event of Default had not occurred.

Notwithstanding anything in the Trust Agreement to the contrary, if on any December 15 or June 15 the Trustee holds funds in the Revenue Account and the amount then held in the December 15 Debt Service Account or the June 15 Debt Service Account, as applicable, is less than the December 15 Debt Service Requirement or the June 15 Debt Service Requirement, as applicable, the Trustee shall immediately transfer all or any portion of the balance then held first, in the Revenue Account and second, in the other Debt Service Account, to the applicable Debt Service Account in order to cause the balance therein to equal the December 15 Debt Service Requirement or June 15 Debt Service Requirement, as applicable.

At any time the State Treasurer, with the written concurrence of the Secretaries, may direct the Trustee to transfer an amount of Federal Highway Reimbursements and any other available funds then on deposit in the Revenue Account and otherwise available to be transferred to the State Treasurer free and clear of the lien of the Trust Agreement, to the Redemption Fund or the Defeasance Account for the purpose of redeeming or defeasing the principal amount of Notes Outstanding as set forth in said certificate, provided, however, that on and after July 1, 2002, except to the extent necessary to pay Trust Agreement Obligations due and payable in any Commonwealth Fiscal Year, no more than fifty percent (50%), or such other percentage as may be permitted by law, of the amount apportioned by law to the Commonwealth in any Federal Fiscal Year with respect to the Federal Highway Construction Program shall be applied in the Commonwealth Fiscal Year ending on June 30 of such Federal Fiscal Year or in the Commonwealth's Fiscal Year, commencing on July 1st of such Federal Fiscal Year to the payment of Trust Agreement Obligations, including without limitation, the payment or defeasance prior to maturity of the principal of and interest on Notes Outstanding. Except in connection with the redemption or defeasance of any Notes as a result of the conversion of a portion of the Advance Construction Balance, any transfer of Federal Highway Reimbursements to either the Redemption Fund or Defeasance Account shall be revocable by the State Treasurer until the later of (i) June 20 of the Commonwealth Fiscal Year in which such transfer was made and (ii) the date on which the State Treasurer shall deliver to the Trustee a notice of redemption or defeasance specifying the principal amount of Notes to be redeemed or defeased and, if applicable, the redemption date of such Notes (the "Notice of Redemption or Defeasance"), at which time such transfer shall be irrevocable.

The Trustee is authorized to accept at any time from the State Treasurer, in addition to Pledged Funds, any other moneys certified by the State Treasurer to be lawfully available for carrying out or satisfying any purpose under the Trust Agreement. The Trustee shall deposit such moneys in the Fund or Account, as the State Treasurer may direct, and, provided no Event of Default shall then be occurring under the Trust Agreement and the amounts then held in the Debt Service Accounts, the Debt Service Liquidity Account, the Rebate Fund and the Note Related Costs Fund are at least equal to the applicable amounts then specified in the Trust Agreement, the Trustee shall

transfer such amount as the State Treasurer may direct, but not in excess of the amount received from the State Treasurer, to the State Treasurer, for application as permitted by law, free and clear of the lien of the Trust Agreement.

### **Debt Service Fund**

The Trustee shall pay out of the applicable Debt Service Account in the Debt Service Fund to the respective Paying Agents for any Notes (i) the amount required for the interest and Principal Installments payable on the interest payment date and (ii) the amount required for the payment of interest and Redemption Price on the Notes then to be redeemed. If the amount accumulated in the applicable Debt Service Account in the Debt Service Fund is insufficient to make the payment due from such Account for either of the purposes specified above, the Trustee shall transfer any available amount in the other Debt Service Account to the extent necessary to make up the deficiency. Amounts accumulated in the applicable Debt Service Account in the Debt Service Fund with respect to any Sinking Fund Payment (together with amounts accumulated therein with respect to interest on the Notes for which such Sinking Fund Payment was established) may be applied prior to the forty-fifth (45th) day preceding the due date of Such Sinking Fund Payment to (i) the purchase of Notes of the Series and maturity for which such Sinking Fund Payment was established, at prices not exceeding the applicable sinking fund Redemption Price plus interest on such Notes to the first date on which such Notes could be redeemed (or in the case of a Sinking Fund Payment due on the maturity date, the principal amount thereof plus interest to such date), such purchases to be made in such manner as the State Treasurer shall arrange, or (ii) the redemption of such Notes then redeemable by their terms. The applicable Redemption Price or principal amount (in the case of maturing Notes) of any Notes so purchased or redeemed shall be deemed to constitute part of the applicable Debt Service Account in the Debt Service Fund until such Sinking Fund Payment date for the purpose of calculating the amount of such Fund.

In satisfaction, in whole or in part of any amount required to be paid into the Debt Service Fund which is attributable to a Sinking Fund Payment, there maybe delivered on behalf of the Commonwealth to the Trustee Notes of the Series and maturity entitled to such payment. All Notes so delivered to the Trustee in satisfaction of a - Sinking Fund Payment shall reduce the amount thereof by the amount of the aggregate of the sinking fund Redemption Prices of such Notes.

### **Redemption Fund**

The Commonwealth may deposit in the Redemption Fund any moneys, including Pledged Funds, not otherwise required by the Trust Agreement to be otherwise deposited or applied. If at any time the amount on deposit and available therefor in the Debt Service Fund is insufficient to pay the principal and Redemption Price of and interest on the Notes then due, the Trustee shall withdraw from the Redemption Fund and deposit in the applicable Debt Service Account in the Debt Service Fund the amount necessary to meet the deficiency (other than amounts held therein for the redemption of Notes for which a notice of redemption shall have been given). Subject to the foregoing, amounts in the Redemption Fund may be applied by the Commonwealth to the redemption of Notes at prices not exceeding the applicable Redemption Prices (plus accrued interest) had such Notes been redeemed (or, if not then subject to redemption, at the applicable Redemption Prices when next subject to redemption), such purchase to be paid for by the Trustee at such times and in such manner as arranged and directed by an Authorized Officer.

### **Alternative Revenues**

Not later than December 15 of each year, the State Treasurer, after consultation with the Secretaries, shall certify to the Governor, the Speaker of the House, the President of the Senate and the Trustee (i) the aggregate amount appropriated by law from the Federal Highway Trust Fund for the purposes of carrying out the provisions of Title 23 of the United States Code with respect to federal-aid highways for the then current Federal Fiscal Year and (ii) the projected Debt Service Coverage Ratio for the following Commonwealth Fiscal Year. If (i) the amount of federal appropriations so certified is less than \$17.1 billion and (ii) such projected Debt Service Coverage Ratio is less than 120% (the combination of the conditions specified in clauses (i) and (ii), while both such conditions persist, is referred to as a "True-Up Condition"), the Governor shall include in the operating budget to be submitted to the General Court in accordance with Section 7H of Chapter 29 of the General Laws a recommendation to appropriate an amount equal to the Trust Agreement Obligations to be due in said Commonwealth Fiscal Year, less

the sum of (x) the amount of any available funds on deposit in the Federal Highway Grant Anticipation Note Trust Fund, the Debt Service Fund and the Note Related Costs Fund as of the date of the certification of the State Treasurer, minus (y) the portion of such amounts expected to be expended prior to the beginning of said Commonwealth Fiscal Year on Trust Agreement Obligations due in the current Commonwealth Fiscal Year, plus (z) any amount of Federal Highway Reimbursements expected to be received prior to the beginning of said Commonwealth Fiscal Year that will not be expended prior to the beginning of said Commonwealth Fiscal Year.

At any time prior to the enactment of the General Appropriation Act, the State Treasurer shall, if necessary, after consultation with the Secretaries, supplement the certification referenced in the immediately preceding paragraph to reflect any changed circumstances known to the State Treasurer with respect to the amount of Federal Highway Reimbursements expected to be available to pay Trust Agreement Obligations in the applicable Commonwealth Fiscal Year. Such certification shall be made promptly after the State Treasurer becomes aware of changed circumstances that are material to such amount.

If the certifications specified in the two immediately preceding paragraphs were given and indicated a need for an appropriation of funds by the General Court, then (i) commencing in the January following delivery of such certification the Alternative Revenues received by the Commonwealth shall be deposited with the Trustee in the Reserve Account promptly upon receipt by the Commonwealth until the amount in the Reserve Account shall equal the sum of (A) the December 15 Debt Service Requirement in the following Commonwealth Fiscal Year (less any amount available for such purpose on deposit in the December 15 Debt Service Account) and (B) all Trust Agreement Obligations to be due and payable prior to December 15 in the following Commonwealth Fiscal Year (less any amounts available for such purpose on deposit in the Note Related Costs Fund, the Rebate Fund and the Debt Service Liquidity Account) and (ii) commencing with the July following delivery of such certification the Alternative Revenues received by the Commonwealth shall be deposited with the Trustee in the Reserve Account promptly upon receipt by the Commonwealth and applied thereafter as provided under the heading "Alternative Revenues Fund" below; provided that notwithstanding any provision of the Trust Agreement to the contrary, in the event the Trustee holds an amount under the Trust Agreement during any Commonwealth Fiscal Year at least equal to the Trust Agreement Obligations due and payable during such Commonwealth Fiscal Year, which amount is available for paying such Trust Agreement Obligations without any further appropriation or other legislative approval, the State Treasurer shall no longer be required to pay Alternative Revenues to the Trustee during the remainder of such Commonwealth Fiscal Year except as provided in clause (i) above pursuant to a certification given under either of the two preceding paragraphs in such Commonwealth Fiscal Year.

Notwithstanding the foregoing provisions to the contrary, in the event an appropriation is enacted into law with respect to any Commonwealth Fiscal Year from any available funds of an amount sufficient, together with other available funds in the Federal Highway Grant Anticipation Note Trust Fund as of the end of the immediately preceding Commonwealth Fiscal Year to pay the Trust Agreement Obligations due and payable during said Commonwealth Fiscal Year, the State Treasurer may, to the extent permitted under the Trust Agreement, deposit the amount of such appropriation with the Trustee and direct the Trustee to transfer all or any portion of the Alternative Revenues then on deposit in the Reserve Account in the Alternative Revenues Fund to the State Treasurer for credit to the Highway Fund to be applied as provided by law; provided that no such transfer shall be made unless and until the amount then held by the Trustee under the Trust Agreement is sufficient to pay all Trust Agreement Obligations during said Commonwealth Fiscal Year.

### **Alternative Revenues Fund**

If Alternative Revenues are required to be deposited with the Trustee, the Commissioner of Revenue shall deliver to the Trustee within eight (8) business days after the end of each month, commencing with the end of December or July, as the case may be, in the applicable Commonwealth Fiscal Year, a certificate stating the amount of Alternative Revenue collected by the Commonwealth during such month. Such amount (or, if applicable in the case of deposits to be made under clause (i) of the third paragraph under the heading "Alternative Revenues" above, such lesser amount as shall be required to be deposited with the Trustee pursuant thereto) shall be paid by the State Treasurer to the Trustee within two (2) business days thereafter from amounts credited to the Highway Fund and deposited by the Trustee in the Reserve Account and applied as set forth below.

If Alternative Revenues are required to be deposited with the Trustee, and so long as the Act or other applicable law shall require that the expenditure of Alternative Revenues is subject to appropriation for the purposes described below, at the beginning of each Commonwealth Fiscal Year after the adoption of the operating budget for the Commonwealth for such Commonwealth Fiscal Year, the Secretary of Administration and Finance and the State Treasurer shall certify to the Trustee the amount appropriated for such Fiscal Year for payment of the following amounts:

- (i) the Note Debt Service Requirement for such Fiscal Year;
- (ii) that portion of the Debt Service Liquidity Account Requirement, if any, to be funded during such Commonwealth Fiscal Year;
- (ii) the Note Related Costs, if any, for such Fiscal Year; and
- (iv) the Rebate Fund Requirement, if any, for such Fiscal Year.

If amounts are appropriated for such purposes as an aggregate sum, such sum shall be allocated in the order set forth above for the amounts set forth above and such certificate shall set forth such allocation. To the extent additional amounts are appropriated during a Commonwealth Fiscal Year for any such purpose, the Secretary of Administration and Finance and the State Treasurer shall also certify to the Trustee the amount of any such supplemental appropriation. The aggregate amounts appropriated for each such purpose shall be referred to as an "Appropriated Amount" for such purpose.

If Alternative Revenues are required to be deposited with the Trustee, then on or before the September 30 following the commencement of such deposits the Trustee shall transfer from amounts available in the Reserve Account to the following Funds and in the following order:

- (i) To the December 15 Debt Service Account, an amount which together with other amounts on deposit in such Account, will equal the December 15 Debt Service Account Requirement for the next succeeding December 15; provided, however, that the aggregate amount deposited therein with respect to December 15 in any Commonwealth Fiscal Year shall not exceed the Appropriated Amount during such Commonwealth Fiscal Year for such purpose unless the State Treasurer shall certify to the Trustee that deposits of such amount shall not then be subject to appropriation;
- (ii) To the June 15 Debt Service Account an amount which together with other amounts on deposit in such Account, will equal the June 15 Debt Service Requirement for the next succeeding June 15; provided, however, that the aggregate amount deposited therein with respect to June 15 in any Commonwealth Fiscal Year shall not exceed the Appropriated Amount during such Commonwealth Fiscal Year for such purpose unless the State Treasurer shall certify to the Trustee that deposits of such amounts shall not then be subject to appropriation;
- (iii) To the Debt Service Liquidity Account, an amount equal to any amount necessary to cause the amount on deposit therein to equal the Funded Debt Service Liquidity Account Requirement for such Commonwealth Fiscal Year; provided that the aggregate amount deposited in the Debt Service Liquidity Account with respect to any Commonwealth Fiscal Year shall not exceed the Appropriated Amount during such Commonwealth Fiscal Year for such purpose unless the State Treasurer shall certify in writing to the Trustee that any deposits of any such amounts shall not be subject to appropriation;
- (iv) To the Note Related Costs Fund, at such times and in such amounts, if any, as determined by the State Treasurer or otherwise set forth in an Applicable Supplemental Trust Agreement as necessary to pay Note Related Costs for such Commonwealth Fiscal Year; provided, however, that the aggregate amount deposited therein with respect to any Commonwealth Fiscal Year shall not exceed the Appropriated Amount during such Commonwealth Fiscal Year unless the State



Treasurer shall certify to the Trustee that deposits of such amounts shall not then be subject to appropriation; and

- (v) To the Rebate Fund, the amount of the Rebate Fund Requirement, if any, for such Commonwealth Fiscal Year; determined in accordance with an Applicable Supplemental Trust Agreement; provided, however, that the aggregate amount deposited therein with respect to any Commonwealth Fiscal Year shall not exceed the Appropriated Amount during such Commonwealth Fiscal Year unless the State Treasurer shall certify to the Trustee that deposits of such amounts shall not then be subject to appropriation.

Upon deposit of the amounts described above and so long as there shall be Appropriated Amounts sufficient to pay the amounts set forth in subparagraphs (i) and (ii) above (if such appropriations shall be required by the Act or other provisions of law), the balance on deposit in the Reserve Account (less any amounts required to be deposited under subparagraphs (iii), (iv), and (v) above for which there are not sufficient Appropriated Amounts) shall be transferred by the Trustee on the last business day of each month to the State Treasurer free and clear of the lien hereof and may be thereupon applied to any purpose permitted by law; provided, however, that amounts deposited in the Reserve Account pursuant to clause (i) of the third paragraph under the heading "Alternative Revenues" above may not be so transferred unless the sufficient Appropriated Amounts required by this sentence are with respect to the Commonwealth Fiscal Year following the January in which such deposits commenced.

If at any time after Alternative Revenues are required to be deposited with the Trustee, the amounts on deposit and available therefor in the Debt Service Fund, the Note Related Costs Fund or the Redemption Fund are insufficient to pay the principal, the Redemption Price of, and interest on the Notes then due, the Trustee shall withdraw from the Debt Service Liquidity Account and deposit in the applicable Debt Service Account in the Debt Service Fund the amount necessary meet the deficiency. Amounts so withdrawn from the Debt Service Liquidity Account shall be derived, first, from cash or Permitted Investments on deposit therein and, second, from draws or demands on Reserve Credit Facilities held as a part thereof upon the terms and conditions set forth in any such Reserve Credit Facility or as set forth in the Applicable Supplemental Trust Agreement setting forth such Reserve Credit Facility. If the Trustee shall draw on any cash or Permitted Investments and Reserve Credit Facilities in the Debt Service Liquidity Account, any amounts paid to the Trustee to replenish the amounts drawn shall be paid first pro rata to the providers of the Reserve Credit Facilities as authorized under a Supplemental Trust Agreement and, second, shall be deposited therein as a cash deposit.

If on any interest payment date, the amount on deposit in the Debt Service Liquidity Account is in excess of the Funded Debt Service Liquidity Account Requirement (calculated as of such interest payment date after the Payment of the amount due on such date for the interest and Principal Installments on all Notes Outstanding), the Trustee shall transfer such excess from the Debt Service Liquidity Account to the State Treasurer free and clear of the lien of the Trust Agreement and such amount may be thereupon applied to any purpose permitted by law.

Whenever the Trustee shall determine that the amount of cash and Permitted Investments on deposit in the Debt Service Liquidity Account, together with all other funds available for the purpose, is equal to or in excess of the Redemption Price of all Notes Outstanding, the Trustee, at the direction of an Authorized Officer, shall transfer the balance of such cash and Permitted Investments from the Debt Service Liquidity Account to the Redemption Fund in connection with the redemption all Notes Outstanding.

At any time, the Trustee shall, upon the written direction of an Authorized Officer, transfer any amount in the Debt Service Liquidity Account to the Note Related Costs Fund in exchange for one or more Reserve Credit Facilities with aggregate stated and unpaid amounts not less than the amount so transferred.

Notwithstanding any provision in the Trust Agreement to the contrary, in no event shall Alternative Revenues be applied in any Commonwealth Fiscal Year to any purpose specified in the Trust Agreement in excess of the Appropriated Amount for such purpose during such Fiscal Year, unless the State Treasurer shall certify in writing to the Trustee that any such application shall not be subject to appropriation.

## **Note Related Costs Fund**

The amount on deposit and available in the Note Related Costs Fund shall be applied by the Trustee to the payment of Note Related Costs at the times and in the amounts as directed from time to time by an Authorized Officer.

If at any time the amount on deposit and available therefor in the Debt Service Fund is insufficient to pay the principal and Redemption Price of and interest on the Notes then due, the Trustee shall withdraw from the Note Related Costs Fund after withdrawal of amounts described above, and deposit in the applicable Debt Service Account in the Debt Service Fund the amount necessary to meet such deficiency; provided, however, that the aggregate of such amount deposited therein from Alternative Revenues shall not in any Commonwealth Fiscal Year, together with all other amounts deposit therein during such Commonwealth Fiscal Year, exceed the Appropriated Amount for the purpose of paying the principal and Redemption Price of and interest due on the Notes Outstanding during such Commonwealth Fiscal Year.

Upon the certification of an Authorized Officer and all Fiduciaries that all Note Related Costs have been paid, any balance in the Note Related Costs Fund shall be paid by the Trustee to the State Treasurer free and clear of the lien created under the Trust Agreement and such amounts shall be applied to any purposes permitted by law.

## **Investments**

Except as otherwise described below under “Defeasance,” money held for the credit of any Fund or Account under the Trust Agreement shall be invested in Permitted Investments which shall mature or be redeemable at the option of the holder thereof on such dates and in such amounts as maybe necessary to provide moneys to meet the payments required to be made from such Funds and Accounts. Amounts on deposit in the Debt Service Fund, the Debt Service Reserve Fund or the Reserve Account may only be invested in Permitted Investments of the type described in subparagraphs (i), (ii), (iii), (iv), (vi), (vii), (ix) or (xi) of the definition of Permitted Investments. Amounts on deposit in the Debt Service Liquidity Account or the Reserve Account may not be invested in any such Permitted Investments which mature or are otherwise not redeemable at the option of the holder after the next succeeding Note Payment Date following the purchase thereof. Any income from Permitted Investments may be transferred to the Rebate Fund to the extent required by an Applicable Supplemental Trust Agreement.

In computing the amount in any Fund or Account for any purpose, Permitted Investments shall be valued at amortized cost. Unless otherwise provided in the Trust Agreement, Permitted Investments in any fund or account thereunder, shall be valued at least once in each Commonwealth Fiscal Year on the last day thereof. Notwithstanding the foregoing, Permitted Investments in the Debt Service Liquidity Account shall be valued at amortized cost for all purpose of the Trust Agreement unless and until a withdrawal from such Account shall be required, in which event such investments shall thereafter be valued at amortized cost or market, whichever is lower, until the balance in such Account, on the basis of such valuation, shall equal the Funded Debt Service Liquidity Account Requirement.

## **Powers as to Notes and Pledge**

The Commonwealth represents in the Trust Agreement that it is duly authorized under the Act and all applicable laws to create and issue Notes thereunder and to enter into the Trust Agreement and to pledge the Pledged Funds in the manner and to the extent therein provided. The Commonwealth covenants that the Pledged Funds are and will be free and clear of any pledge, lien, charge or encumbrance thereon with respect thereto prior to, or of equal rank with, the pledge created by the Trust Agreement. The Commonwealth agrees at all times, to the extent permitted by law, to defend, preserve and protect the pledge of the Pledged Funds and all rights of the Noteholders under the Trust Agreement against all claims and demands of all persons whomsoever.

## **Extension of Payment of Notes**

The Commonwealth agrees not to directly or indirectly extend or assent to the extension of the maturity of any of the Notes or the time of payment of claims for interest by the purchase or funding of such Notes or claims for

interest or by any other arrangement and in case the maturity of any of the Notes or the time for payment of any such claims for interest shall be extended, such Notes or claims for interest shall not be entitled, in case of any default under the Trust Agreement to the benefit of the Trust Agreement or to any payment out of any assets of the Commonwealth or the funds (except funds held in trust for the payment of particular Notes or claims for interest pursuant to the Trust Agreement) held by the Fiduciaries, except subject to the prior payment of the principal of all Notes issued and Outstanding the maturity of which has not been extended and of such portion of the accrued interest on the Notes as shall not be represented by such extended claims for interest. The Commonwealth may issue Refunding Notes and such issuance shall not be deemed to constitute an extension of maturity of Notes.

### **Covenants as to Pledged Funds and Federal Highway Grant Anticipation Note Trust Fund**

In accordance with Section 10D of the Act, so long as any Notes shall remain Outstanding, and so long as any Trust Agreement Obligations shall remain unpaid, the Commonwealth covenants that (i) Federal Highway Reimbursements shall not be diverted from the purposes identified in the Act and in the Trust Agreement (except as provided in the Trust Agreement) nor shall the trusts with which they are impressed be broken, and the pledge and dedication in trust of such funds shall continue unimpaired and unabrogated, (ii) in any Commonwealth Fiscal Year with respect to which the certifications referenced in the trust Agreement were given and indicated a need for an appropriation of funds by the General Court, unless and until such an appropriation has been made or an amount is otherwise made available which is sufficient to pay the Trust Agreement obligations due during said Commonwealth Fiscal Year, no receipts derived from the portion of the Gasoline Tax equal to ten cents (\$0.10) per gallon, other than any amount of such tax pledged to the payment of special obligation bonds of the Commonwealth pursuant to Section 20 of Chapter 29 of the General Laws, shall be applied to any use other than the payment of such Trust Agreement Obligations, (iii) until the State Treasurer, after consultation with the Secretary of Administration and Finance and the Secretary of Transportation and Construction, determines that available funds in the Federal Highway Grant Anticipation Note Trust Fund and all Funds and Accounts established under the Trust Agreement, as of the date of such determination, will be sufficient to pay all Trust Agreement Obligations with respect to such Notes, the rate of the Gasoline Tax shall not be reduced below the sum of ten cents per gallon plus any amount pledged to the payment of special obligation bonds of the Commonwealth pursuant to Section 20 of Chapter 29 of the General Laws and (iv) at least ten cents of said Gasoline Tax shall remain free and clear of any superior or equal pledge, lien, charge or encumbrance thereon or with respect thereto (other than the pledge securing the Trust Agreement Obligations) and shall remain credited to the Highway Fund, except as permitted by the Trust Agreement; provided, however, that any such funds shall be available for appropriation in any Commonwealth Fiscal Year for any other lawful purpose unless the State Treasurer shall have provided the certification specified in Section 10C of the Act and the Trust Agreement to the effect that a True-Up Condition shall be in effect.

### **Advance Construction Balance**

The Commonwealth covenants that, except to the extent otherwise required by applicable federal law or regulations, so long as any Notes remain Outstanding, it will not cause or permit the Advance Construction Balance, as of any date of calculation, to be less than the principal amount of Notes Outstanding as of such date, after taking into account the principal amount of Notes, if any, to be paid, defeased or redeemed as a result of the conversion on such date of a portion of the Advance Construction Balance to Obligation Authority and taking into account any funds then on deposit in the Debt Service Fund and Redemption Fund to be applied to pay the principal of any Notes then Outstanding, as certified by the State Treasurer to the Trustee at the time of such conversion. The Executive Office of Transportation and Construction, acting on behalf of itself and the Massachusetts Highway Department, covenants that it shall not cause or permit the Advance Construction Balance to be converted to Obligation Authority without the prior written concurrence of the Secretary of Administration and Finance and the State Treasurer, provided, however, that such concurrence shall not be required if the portion of the remaining Advance Construction Balance that relates solely to projects under the Federal Highway Construction Program on which the Commonwealth has already, as of the date of such conversion, paid or advanced funds and with respect to which the Commonwealth would be entitled to immediate reimbursement from the Federal government if such portion of the Advance Construction Balance could be converted to Obligation Authority, is at least equal to the principal amount of Notes Outstanding, without taking into account any payment, redemption or defeasance of Notes as a result of such conversion, less the amount then held in the Project Fund to pay costs of the CA/T Project. At the time of any conversion of the Advance Construction Balance that requires such concurrence of the Secretary of Administration and Finance and the State Treasurer, the State Treasurer shall deliver to the Trustee a certificate specifying the

amount of the conversion and the amount, if any of Federal Highway Reimbursements related thereto to be applied to the payment, redemption or defeasance of any portion of the principal of the Notes Outstanding, and, if applicable, the redemption date or effective date of defeasance of any Notes Outstanding. At the time of transfer of the Federal Highway Reimbursements related to the conversion of the Advance Construction Balance to the Trustee, the State Treasurer shall identify the Federal Highway Reimbursements as such, and direct the Trustee to deposit the Federal Highway Reimbursements into the applicable Debt Service Account, Redemption Fund or Defeasance Account, and the Trustee is authorized to accept and follow such directions.

### **Tax Covenants; Rebate Fund**

The Commonwealth shall take, or require to be taken, such action as may from time to time be required to assure the continued exclusion of interest on any Series of Tax Exempt Notes from the federal gross income of holders of any Series of Tax Exempt Notes. The Commonwealth shall not permit the investment or application of the proceeds of any Series of Tax Exempt Notes, including any funds considered proceeds within the meaning of Section 148 of the Code, to be used to acquire any investment property the acquisition of which, would cause such indebtedness to be “arbitrage bonds” within the meaning of said Section 148. The Commonwealth shall establish within the Rebate Fund a separate account within the Rebate Fund for such Series and may provide in the Applicable Supplemental Trust Agreement for the deposits of amounts therein to pay “rebate” on the investment of amounts under the Trust Agreement in accordance with Section 148(f) of the Code. Funds on deposit in the Rebate Fund shall be applied as set forth in the Applicable Supplemental Trust Agreement. The Rebate Fund and the amounts on deposit therein shall not be deemed Pledged Funds under the Trust Agreement.

### **Limitation on Covenants**

Notwithstanding any provision of the Trust Agreement to the contrary, any provisions of the Act creating covenants with Noteholders shall be deemed a covenant with the Noteholders only to the extent expressly provided and as limited by the Trust Agreement.

### **Bond Insurance on Insured 1998A Notes**

Notwithstanding anything in the Trust Agreement to the contrary, for so long as the 1998A Policy shall be in full force and effect and provided that MBIA shall not have defaulted and is not continuing to default in its obligations under the 1998A Policy:

(a) MBIA shall be deemed to be the sole owner of all Insured 1998A Notes for all purposes of the provisions of the Trust Agreement relating to default by the Commonwealth and actions for protection of the Holders of the 1998A Notes, and

(b) MBIA shall be deemed to be the sole owner of Insured 1998A Notes at all times for the purpose of giving consent and direction when consent of the Holders of the Insured 1998A Notes is required by the Trust Agreement, other than for the purpose of making amendments which pursuant to the Trust Agreement require the unanimous written consent of the affected Holders of the Insured 1998A Notes.

### **Bond Insurance on Insured 2000A Notes**

Notwithstanding anything in the Trust Agreement to the contrary, for so long as the 2000A Policy shall be in full force and effect and provided that FSA shall not have defaulted and is not continuing to default in its obligations under the 2000A Policy, FSA shall be deemed to be the sole holders of the Insured 2000A Notes for the purposes of (a) exercising any voting right or privilege or taking any other action that the holders of the Insured 2000A Notes are entitled to take pursuant to the Trust Agreement and (b) giving any consent or direction when consent of the Insured 2000A Noteholders is required by the Trust Agreement, other than for the purpose of making amendments which pursuant to the Trust Agreement require the unanimous written consent of the affected Holders of the Insured 2000A Notes.

No modification, amendment or supplement to the Trust Agreement, the Third Supplemental Trust Agreement or any other document executed in connection with the issuance of the Insured 2000A Notes which would materially adversely affect FSA or its rights or which would require consent of the Insured 2000A Noteholders may become effective except upon obtaining the prior written consent of FSA.

### **Events of Default**

One or more of the following events shall constitute an Event of Default under the Trust Agreement:

- (i) if default shall be made in the payment of the principal or Redemption Price of any Note when due, whether at maturity or by call for mandatory redemption or redemption or purchase at the option of the Commonwealth or any registered owner, or otherwise, or in the payment of any Sinking Fund Payment when due; or
- (ii) if default shall be made in the payment of any installment of interest on any Note when due; or
- (iii) if default shall be made by Commonwealth in the performance or observance of the covenants, agreements and conditions on its part described under the first paragraph of “Covenants as to Pledged Funds and Federal Highway Grant Anticipation Note Trust Fund” above; or
- (iv) if default shall be made by the Commonwealth in the performance or observance of any other of the covenants, agreements or conditions on its part provided in the Trust Agreement or in the Notes and such default shall continue for a period of thirty (30) days after written notice thereof shall be given to the Commonwealth by the Trustee or given to the Commonwealth and the Trustee by the registered owners of a majority in principal amount of the Notes Outstanding; provided that if such default cannot be remedied within such thirty (30) day period, it shall not constitute an Event of Default under the Trust Agreement if corrective action is instituted by the Commonwealth within such period and diligently pursued until the default is remedied.

### **Application of Revenues and Other Moneys after Default**

During the continuance of an Event of Default, the Trustee shall apply the moneys, securities and funds held by the Trustee, including any Pledged Funds and the income therefrom, to the fullest extent permitted by law, as follows and in the following order;

- (i) to the payment of the reasonable and proper charges and expenses of the Fiduciaries and of any counsel selected by a Fiduciary;
- (ii) to the payment of the interest and principal amount or Redemption Price then due on the Notes, as follows:
- (iii) unless the principal amount of all of the Notes shall have become due and payable,

First: To the payment to the persons entitled thereto of all installments of interest then due in the order in which such installments came due, and, if the amount available shall not be sufficient to pay in full all installments that came due at the same time, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal amount or Redemption Price of any Notes which shall become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Notes due on any date, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference; and

- (iv) if the principal of all the Notes shall have become due and payable, to the payment of the principal amount and interest then due and unpaid upon the Notes without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Note over any other Note, ratably, according to the amounts due respectively for principal amount and interest, to the persons entitled thereto, without any discrimination or preference;
- (v) To the payment of any person entitled to the payment of any Note Related Cost ratably in accordance with the amount of such Note Related Costs, provided that any payment by the Trustee of Alternative Revenues shall not exceed the Appropriated Amount for such purpose during the then current Commonwealth Fiscal Year, unless the State Treasurer shall certify to the Trustee that payment of such amount shall not then be subject to appropriation.

To the proceeds of any Credit Enhancement or Liquidity Facility shall be applied by the Trustee in the manner provided in the Supplemental Trust Agreement authorizing such Credit Enhancement or Liquidity Facility.

### **Proceedings Brought by Trustee**

If an Event of Default shall happen and shall not have been remedied, then and in every such case, the Trustee may proceed to protect and enforce its rights and the rights of the registered owners of the Notes under the Trust Agreement by a suit or suits in equity or at law. The registered owners of a majority in principal amount of the Notes Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, provided that the Trustee, shall have the right to decline to follow any such direction if the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability or be unjustly prejudicial to the Noteholders not parties to such direction.

Regardless of the happening of an Event of Default, the Trustee shall have power to, but unless requested in writing by the registered owners of a majority in principal amount of the Notes then Outstanding and furnished with reasonable security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings as it may deem necessary or expedient to prevent any impairment of the security under the Trust Agreement, or necessary or expedient to preserve or protect its interest and the interests of the Noteholders.

Nothing contained in the Trust Agreement is intended to preclude the Trustee upon the occurrence of an Event of Default thereunder from asserting any and all remedies it may have at law or equity with respect to the Pledged Funds and other amounts held as security thereunder, including asserting any rights it may have as Trustee thereunder as a secured party with respect to all security granted thereunder notwithstanding any requirements contained in the Trust Agreement with respect to Appropriated Amounts.

### **Restriction on Noteholders' Action**

No registered owner of any Note shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of the Trust Agreement or for any remedy under the Trust Agreement, unless such registered owner shall have previously given to the Trustee written notice of the happening of any Event of Default and the registered owners of at least twenty-five percent (25%) in principal amount of Notes then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity, to exercise the powers granted in the Trust Agreement in its own name, and unless such registered owners shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred thereby, and the Trustee shall have refused to comply with such request within a reasonable time.

### **No Right of Acceleration**

Neither the Noteholders nor the Trustee shall have any right to accelerate the payment of principal or interest due on any Notes Outstanding upon the occurrence of any Event of Default.

## **Responsibility of Fiduciaries**

The duties and obligations of the Fiduciaries shall be determined by the express provisions of the Trust Agreement. No Fiduciary shall be under any responsibility or duty with respect to the issuance of the Notes for value or the application of the proceeds thereof or the application of any moneys paid to the Commonwealth or any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect thereof or to advance any of its own moneys, unless properly indemnified. No Fiduciary shall be liable in connection with the performance of its duties under the Trust Agreement except for its own negligence or bad faith nor shall any Fiduciary be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by the Trust Agreement.

## **Compensation**

The Commonwealth shall pay to each Fiduciary from time to time reasonable compensation for all services rendered under the Trust Agreement, including reasonable expenses, charges, counsel fees and other disbursements. To the extent permitted by law, the Commonwealth shall indemnify and save each Fiduciary harmless against any liabilities which it may incur in the exercise and performance of its powers and duties thereunder, and which are not due to its negligence or bad faith.

## **Resignation of Trustee**

The Trustee may at any time resign and be discharged of the duties and obligations created by the Trust Agreement by giving not less than sixty (60) days' written notice to the State Treasurer and giving not less than thirty (30) days' written notice to each Noteholder and Paying Agent specifying the date when such resignation shall make effect, and such resignation shall take effect upon the day specified in such notice provided a successor shall have been appointed, unless previously a successor shall have been appointed by the State Treasurer or the Noteholders as provided in the Trust Agreement, in which event such resignation shall take effect immediately on the appointment of such successor.

## **Removal of Trustee**

The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee, and signed by the registered owners of a majority in principal amount of the Notes then Outstanding or their attorneys-in-fact duly authorized, excluding any Notes held by or for the account of the Commonwealth. Except during the existence of an Event of Default, the State Treasurer may remove the Trustee at any time for cause or upon not less than ninety (90) days prior written notice to the Trustee for such other reason as shall be determined in the sole discretion of the State Treasurer.

## **Appointment of Successor Trustee**

In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankruptcy or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, a successor may be appointed by the registered owners of a majority in principal amount of the Notes then Outstanding, excluding any Notes held by or on the account of the Commonwealth. Pending such appointment, the State Treasurer by a written instrument signed by an Authorized Officer and delivered to the predecessor Trustee shall forthwith appoint a Trustee to fill such vacancy until a successor Trustee shall be appointed by the Noteholders. Any Trustee appointed in succession to the Trustee shall be a bank or trust company organized under the laws of any state, or a national banking association having a capital and surplus aggregating at least fifty million dollars (\$50,000,000), if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all duties imposed upon it by the Trust Agreement.

## **Supplemental Trust Agreement Effect upon Filing**

The State Treasurer, with the written concurrence of the Secretaries, and the Trustee may at any time and from time to time enter into supplements or amendments to the Trust Agreement for any one or more of the following purposes:

- (i) to cure any ambiguity, inconsistency or formal defect or omission in the Trust Agreement;
- (ii) to close the Trust Agreement against, or provide limitations and restrictions contained in the Trust Agreement on, the original issuance of Notes;
- (iii) to add to the covenants and agreements of the Commonwealth contained in the Trust Agreement other covenants and agreements thereafter to be observed for the purpose of further securing the Notes;
- (iv) to surrender any right, power or privilege reserved to or conferred upon the Commonwealth by the Trust Agreement;
- (v) to authorize Notes of a Series and, in connection therewith, specify and determine any matters and things relative to such Notes not contrary to or inconsistent with the Trust Agreement;
- (vi) to authorize any Credit Enhancement, Liquidity Facility, or Reserve Credit Facility;
- (vii) to exercise any provision in the Trust Agreement or to make such determinations thereunder as expressly provided therein to be exercised or determined in a Supplemental Trust Agreement;
- (viii) to confirm, as further assurance, any pledge under and the subjection to any lien or pledge created or to be created by the Trust Agreement of the Pledged Funds;
- (ix) in connection with any change in the Commonwealth Fiscal Year or Federal Fiscal Year; to amend or supplement the appropriate provisions of the Trust Agreement to reflect such change in a manner consistent, as nearly as practicable, with the original provisions of the Trust Agreement, as amended to the date of the Supplemental Trust Agreement implementing the amendment or supplement; and
- (x) for any other purpose, provided that such Supplemental Trust Agreement does not prejudice in any material respect the rights of the registered owner of any Note Outstanding at the date such Supplemental Trust Agreement becomes effective.

## **Powers of Amendment**

Any modification or amendment of the Notes or of the Trust Agreement may be made by a Supplemental Trust Agreement, with the written consent (i) of the registered owners of at least a majority in the principal amount of all Notes Outstanding at the time such consent is given, or (ii) in case less than all of the several Series of Note then Outstanding are affected by the modification or amendment, of the registered owners of at least a majority in principal amount of the Notes of each Series so affected and Outstanding at the time such consent is given, and (iii) in case the modification or amendment changes the amount or date of any Sinking Fund Payment, of 100% of the registered owners of the Notes of the particular Series and maturity entitled to such Sinking Fund Payment Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Notes of any specified like Series and maturity remain Outstanding, the vote or consent of the registered owners of such Notes shall not be required and such Notes shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Notes; and provided, further, that no such modification or amendment shall permit a change in the terms of redemption or maturity of the principal amount of any Outstanding Note or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or the rate of interest thereon or the method for determining such rate or terms of any



Credit Enhancement or Liquidity Facility relating to a Note without the consent of the registered owner of such Note, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto, or shall reduce the percentages of the principal amount of Notes the consent of which is required to effect any such modification or amendment.

## **Defeasance**

If the Commonwealth shall pay or cause to be paid, or there shall otherwise be paid, to the registered owners of the Notes then Outstanding, the principal amount and interest and Redemption Price, if any, to become due thereon, at the times and in the manner stipulated therein and in the Trust Agreement and if no Note Related Costs then due and payable remain unpaid or payment of any such Costs has been provided for, then the pledge of the Pledged Funds and any other moneys and securities pledged by the Trust Agreement and all other rights granted by the Trust Agreement shall be discharged and satisfied.

Notes or interest installments for the payment or redemption of which moneys shall be held by the Fiduciaries, whether at or prior to the maturity or the redemption date of such Notes, shall be deemed to have been paid if (i) in case any of said Notes are to be redeemed on any date prior to their maturity, an Authorized Officer shall have given to the Trustee irrevocable instructions to provide notice of redemption on said date of such Notes, (ii) there shall have been deposited with the Trustee in the Defeasance Account either moneys in an amount which shall be sufficient, or Defeasance Obligations not subject to redemption or otherwise called for redemption for which amounts have been placed in escrow, in each case the principal of and interest on which when due will provide moneys which, together with any other deposited amounts, shall be sufficient, as certified by a firm of independent public accountants, to pay when due the principal amount or Redemption Price, if applicable, and interest due and to become due on said Notes on and prior to the redemption date or maturity date thereof, as the case may be. Any cash received from the principal or interest payments on such Defeasance Obligations deposited with the Trustee, if not then needed for such purpose, may, to the extent practicable, be reinvested in Defeasance Obligations or, in lieu of such reinvestment at the time of receipt, the Commonwealth may direct the Trustee to enter into one or more forward purchase agreements providing for the purchase of Defeasance Obligations at future dates, as provided in the Trust Agreement.

For purposes of determining whether Variable Rate Notes shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of moneys, or Defeasance Obligations and moneys, if any, the interest to come due on such Variable Rate Notes on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the Variable Rate Ceiling if in effect with respect to such Notes.

Tender Notes shall be deemed to have been paid only if, in addition to satisfying the requirements described above, there shall have been deposited with the Trustee moneys in an amount which shall be sufficient to pay when due the maximum amount of principal of and premium, if any, and interest on such Notes which could become payable to the registered owners of such Notes upon the exercise of any options provided to the registered owners of such Notes; provided, however, that if, at the time a deposit is made with the Trustee pursuant to the provisions above, the options originally exercisable by the registered owners of Tender Notes are no longer exercisable, such Notes shall not be considered Tender Notes.

## **Unclaimed Funds**

Any moneys held by the Fiduciary in trust for the payment and discharge of any Notes which remain unclaimed for the applicable escheat period after the date when such Notes have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or for the applicable escheat period after the date of deposit of such moneys if deposited with the Fiduciary after the said date when such Notes become due and payable, shall be paid to the Commonwealth as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Noteholders shall look only to the Commonwealth for the payment of such Notes.

**No Recourse on the Notes**

No recourse shall be had for the payment of the principal or Redemption Price or the interest on the Notes or for any claim based thereon or on the Trust Agreement against any official, agent, representative or employee of the Commonwealth or any person executing the Notes. No official, agent, representative or employee of the Commonwealth shall be held personally liable to any purchaser or holder of any Note under or upon such Note, or under or upon the Trust Agreement or any Supplemental Trust Agreement relating to Notes, or, to the extent permitted by law, because of the sale or issuance or attempted sale or issuance of Notes, or because of any act or omission in connection with the investment or management of the Pledged Funds, funds or moneys of the Commonwealth, or otherwise in connection with the management of its affairs, excepting solely for things willfully done or omitted to be done with an intent to defraud.

**TABLE OF REFUNDED NOTES**

The Notes of the Commonwealth to be refunded with the proceeds of the 2003A Refunding Notes are described below.

Federal Highway Grant Anticipation Notes, 1998 Series A to be redeemed on December 15, 2008 at a call price of 101%:

<u>Maturity Date</u>	<u>Amount</u>	<u>Coupon</u>
December 15, 2010	\$29,475,000	5.25%
June 15, 2011	33,855,000	5.25
December 15, 2011	33,655,000	5.25
June 15, 2012	33,400,000	5.25
June 15, 2013	13,830,000	5.25
June 15, 2014	35,695,000	5.50

Federal Highway Grant Anticipation Notes, 1998 Series B to be redeemed on December 15, 2008 at a call price of 101%:

<u>Maturity Date</u>	<u>Amount</u>	<u>Coupon</u>
December 15, 2009	\$15,970,000	5.125%
December 15, 2013	18,790,000	5.125
June 15, 2014	9,270,000	5.125
December 15, 2014	19,745,000	5.125
June 15, 2015	20,250,000	5.125

Federal Highway Grant Anticipation Notes, 2000 Series A to be redeemed on December 15, 2010 at a call price of 100%:

<u>Maturity Date</u>	<u>Amount</u>	<u>Coupon</u>
December 15, 2012	\$28,620,000	5.75%
December 15, 2013	27,400,000	5.75
June 15, 2014	35,110,000	5.75
December 15, 2014	36,120,000	5.75
June 15, 2015	27,155,000	5.75

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**[Proposed Form of Opinion of Bond Counsel]**

[Date of Delivery]

The Honorable Timothy P. Cahill  
Treasurer and Receiver-General  
The Commonwealth of Massachusetts  
State House - Room 227  
Boston, Massachusetts 02133

Re: The Commonwealth of Massachusetts \$408,015,000 Special Obligation Refunding Notes (Federal Highway Grant Anticipation Note Program), 2003 Series A (the "Notes")

Dear Treasurer Cahill:

We have served as bond counsel to The Commonwealth of Massachusetts (the "Commonwealth") in connection with the issuance of the Notes. In that capacity, we have examined a record of proceedings relating to the Notes. We also have examined such provisions of applicable law and such other documents as we have deemed necessary in order to render this opinion, including the Escrow Agreement dated as of June 19, 2003 (the "Escrow Agreement") by and between the Commonwealth and U.S. Bank National Association, as escrow agent (in such capacity, the "Escrow Agent") and the Trust Agreement dated as of June 1, 1998 by and between the Commonwealth and U.S. Bank National Association, as successor trustee (in such capacity, the "Trustee"), as supplemented and amended by a First Supplemental Trust Agreement of even date therewith, by a Second Supplemental Trust Agreement dated as of November 1, 1998, by a Third Supplemental Trust Agreement dated as of November 1, 2000 and by a Fourth Supplemental Trust Agreement dated as of June 19, 2003 (as so supplemented and amended, the "Trust Agreement").

The Notes are being issued under Section 53A of Chapter 29 of the Massachusetts General Laws to refund certain of the Federal Highway Grant Anticipation Notes, 1998 Series A, 1998 Series B and 2000 Series A of the Commonwealth previously issued under the Trust Agreement. Initially, the Notes will be secured solely under the Escrow Agreement and payable solely from the escrow account maintained under the Escrow Agreement. On December 15, 2008 a portion of the Notes and on December 15, 2010 the remainder of the Notes, assuming that the applicable conditions under the Trust Agreement are satisfied, will become secured and payable as parity notes under the Trust Agreement and will no longer be secured under the Escrow Agreement.

The Notes mature and bear interest and are subject to mandatory redemption at such times, in such amounts, at such prices and upon such terms and conditions as are set forth in the Notes.

The Notes are being issued by means of a book-entry system, with certificates immobilized at or on behalf of The Depository Trust Company, New York, New York ("DTC"), and are not available for distribution to the public, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. We have examined one of the Notes, as executed.

Capitalized terms used herein, unless otherwise specified, shall have the meanings set forth in the Notes.

In rendering our opinion, we have relied upon certain covenants of the Commonwealth and upon certifications and representations of fact made by certain officials of the Commonwealth.

We express no opinion as to laws other than the laws of the Commonwealth and the United States of America as in effect on the date hereof.

Based upon the foregoing, we are of the opinion that, under existing law:

1. The Commonwealth has the right and power under the provisions of Section 53A of Chapter 29 of the Massachusetts General Laws to enter into the Escrow Agreement, and the Escrow Agreement has been duly and lawfully executed on behalf of the Commonwealth by the State Treasurer. The Escrow Agreement is in full force and effect and is valid and binding upon the Commonwealth and enforceable in accordance with its terms, and no other authorization of the Escrow Agreement is required. The Notes are entitled to the benefits of the Escrow Agreement in accordance with the terms of the Escrow Agreement.

2. The Commonwealth has the right and power under the provisions of Section 9 through 10D of Chapter 11 of the Acts of 1997, as amended by Chapters 121 and 135 of the Acts of 1998 (the "Act"), to enter into the Trust Agreement; and the Trust Agreement has been duly and lawfully executed on behalf of the Commonwealth by the State Treasurer with the concurrence of the Secretary of Administration and Finance and the Secretary of Transportation and Construction. The Trust Agreement is in full force and effect and is valid and binding upon the Commonwealth and enforceable in accordance with its terms, and no other authorization for the Trust Agreement is required. The Trust Agreement creates a valid pledge which it purports to create in the manner and to the extent provided therein.

3. The Notes have been duly authorized by the Commonwealth, and the form of the Note which we have examined and the form of its execution are regular and proper.

4. The Notes are legal and valid special obligations of the Commonwealth, enforceable in accordance with their terms. Upon satisfaction, on December 15, 2008 and December 15, 2010, as applicable, of the conditions set forth in Section 207(b) of the Trust Agreement, the Notes will become entitled to the benefits of the Act and the Trust Agreement and enforceable in accordance with the terms of the Trust Agreement. It should be noted, however, that the Notes are not general obligations of the Commonwealth, and the full faith and credit of the Commonwealth are not pledged to the payment of the principal of and interest on the Notes.

5. Interest on the Notes is not included in gross income for federal income tax purposes and such interest is not an item of tax preference for the purpose of computing the alternative minimum tax imposed on individuals and corporations; however, such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations, and such interest is included in the measure of certain other taxes imposed on corporations and in the measure of income of certain recipients of Social Security and Railroad Retirement benefits for the purpose of determining whether such benefits shall be included in the taxable income of such recipients. We call your attention to certain requirements of the Internal Revenue Code of 1986, as amended (the "Code"), relating to the use, expenditure and investment of the proceeds of the Notes. Failure by the Commonwealth to comply with such requirements subsequent to the issuance of the Notes may cause interest on the Notes to become subject to federal income taxation retroactive to the date of their issuance. The Commonwealth has provided covenants or certificates evidencing that it will take lawful action necessary to comply with those provisions of the Code that, except for such compliance, would affect adversely the excludability of interest on the Notes from gross income for federal income tax purposes. We express no opinion with respect to other federal tax consequences arising with respect to the Notes.

6. Interest on the Notes is exempt from Massachusetts personal income taxes, and the Notes are exempt from Massachusetts personal property taxes. We express no opinion with respect to other Massachusetts tax consequences arising with respect to the Notes or as to the taxability of the Notes or the income therefrom under the laws of any state other than Massachusetts.

7. For federal and Massachusetts tax purposes, interest includes original issue discount, which with respect to a Note is equal to the excess, if any, of the stated redemption price at maturity of such Note over the initial offering price thereof to the public, excluding underwriters and other intermediaries, at which price a substantial amount of all Notes with the same maturity was sold. Original issue discount accrues actuarially over the term of a Note.

It is to be understood that the rights of the holders of the Notes and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights hereafter enacted to the extent constitutionally applicable and that enforcement of such rights may also be subject to general principles of equity, regardless of whether applied in proceedings in equity or at law.

Very truly yours,

Ropes & Gray LLP

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Commonwealth of Massachusetts

Special Obligation Refunding Notes  
(Federal Highway Grant Anticipation Note Program)  
2003 Series A

Continuing Disclosure Undertaking

On behalf of the Commonwealth, the Treasurer and Receiver-General of the Commonwealth hereby undertakes for the benefit of the owners of the Special Obligation Refunding Notes (Federal Highway Grant Anticipation Note Program), 2003 Series A (the “2003A Refunding Notes”) to provide to each nationally recognized municipal securities information repository (each, a “NRMSIR”) within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”) and to the state information depository for the Commonwealth, if any (the “SID”), within the meaning of the Rule, no later than 270 days after the end of each fiscal year of the Commonwealth, (i) the annual financial information described below relating to such fiscal year, together with audited financial statements of the Commonwealth for such fiscal year if audited financial statements are then available, provided, however, that if audit financial statements of the Commonwealth are not then available, such audited financial statements shall be delivered to each NRMSIR and the SID when they become available (but in no event later than 350 days after the end of such fiscal year) or (ii) notice of the Commonwealth’s failure, if any, to provide any such information. The annual financial information to be provided as aforesaid shall include financial information and operating data, in each case updated through the last day of such fiscal year unless otherwise noted, relating to the following information contained in the Commonwealth’s Official Statement dated June 19, 2003 (the “Official Statement”) relating to the Commonwealth’s 2003A Refunding Notes, and in each case substantially in the same level of detail as is found in the referenced section of the Official Statement:

Financial Information and Operating Data Category	Reference to Official Statement For Level of Detail
1. Advance Construction Balance as of end of prior Commonwealth Fiscal Year	THE FEDERAL-AID HIGHWAY PROGRAM – Operations – Step 3: Program Implementation – Fiscal Management and Federal Highway Reimbursements
2. Summary presentation of actual Gasoline Tax receipts on a ten-year comparative basis, concluding with the prior Commonwealth Fiscal Year	THE ALTERNATIVE REVENUES

Any or all of the items listed above may be included by reference to other documents, including official statements pertaining to debt issued by the Commonwealth, which have been submitted to each NRMSIR. If the document incorporated by reference is a Final Official Statement within the meaning of the Rule, it will also be available from the Municipal Securities Rulemaking Board (“MSRB”). The Commonwealth’s annual financial statements for each fiscal year shall consist of (i) combined financial statements prepared in accordance with a basis of accounting that demonstrates compliance with the Massachusetts General Laws and other applicable state finance laws, if any, in effect from time to time including separately stated information with respect to the Federal Highway Grant Anticipation Note Trust Fund and (ii) general purpose financial statements prepared in accordance with generally accepted accounting principles in effect from time to time. Such financial statements shall be audited by a firm of certified public accountants appointed by the Commonwealth.

On behalf of the Commonwealth, the Treasurer and Receiver-General of the Commonwealth hereby further undertakes for the benefit of the owners of the 2003A Refunding Notes to provide in a timely manner to the MSRB and to the SID notice of any of the following events with respect to the 2003A Refunding Note, if material:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults;

- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions or events affecting the tax-exempt status of the 2003A Refunding Notes;
- (vii) modifications to rights of Noteholders;
- (viii) giving of notice of optional redemption of 2003A Refunding Notes;
- (ix) defeasances;
- (x) release, substitution or sale of property securing repayment of the 2003A Refunding Notes;
- (xi) rating changes; and
- (xii) the occurrence of a True-Up Condition (as defined in the Trust Agreement).

Nothing herein shall preclude the Commonwealth from disseminating any information in addition to that required hereunder. If the Commonwealth disseminates any such additional information, nothing herein shall obligate the Commonwealth to update such information or include it in any future materials disseminated.

To the extent permitted by law, the foregoing provisions of this 2003A Refunding Note related to the above-described undertakings to provide information shall be enforceable against the Commonwealth in accordance with the terms thereof by any owner of a 2003A Refunding Note, including any beneficial owner acting as a third-party beneficiary (upon proof of its status as a beneficial owner reasonably satisfactory to the Treasurer and Receiver-General). To the extent permitted by law, any such owner shall have the right, for the equal benefit and protection of all owners of 2003A Refunding Notes, by mandamus or other suit or proceeding at law or in equity, to enforce its rights against the Commonwealth and to compel the Commonwealth and any of its officer, agents or employees to perform and carry out their duties under the foregoing provisions as aforesaid. The failure to comply with the above-described undertakings shall not constitute an Event of Default under the Trust Agreement, and the sole remedy in connection with such undertakings shall be limited to an action to compel specific performance of the obligations of the Commonwealth in connection with such undertakings and shall not include any rights to monetary damages. The Commonwealth's obligations in respect of such undertaking shall terminate if no 2003A Refunding Notes remain Outstanding or if the provisions of the Rule concerning continuing disclosure are no longer effective, whichever occurs first. The provisions of this 2003A Refunding Note relating to such undertakings may be amended by the Treasurer and Receiver-General of the Commonwealth, without the consent of, or notice to, any owners of the 2003A Refunding Notes, (a) to comply with or conform to the provisions of the Rule or any amendments thereto or authoritative interpretations thereof by the Securities and Exchange Commission or its staff (whether required or optional), (b) to add a dissemination agent for the information required to be provided by such undertakings and to make any necessary or desirable provisions with respect thereto, (c) to add to the covenants of the Commonwealth for the benefit of the owners of 2003A Refunding Notes, (d) to modify the contents, presentation and format of the annual financial information from time to time as a result of a change in circumstances that arises from a change in legal requirements, or (e) to otherwise modify the undertakings in a manner consistent with the provisions of state legislation establishing the SID or otherwise responding to the requirements of the Rule concerning continuing disclosure; provided, however, that in the case of any amendment pursuant to clause (d) or (e), (i) the undertaking, as amended, would have complied with the requirements of the Rule at the time of the offering of the 2003A Refunding Notes, after taking into account any amendments or authoritative interpretations of the Rule, as well as any changes in circumstances, and (ii) the amendment does not materially impair the interests of the owners of the 2003A Refunding Notes, as determined either by a party unaffiliated with the Commonwealth (such as Commonwealth disclosure counsel or Commonwealth bond counsel) or by the vote or consent of owners of a majority in outstanding principal amount of the 2003A Refunding Notes affected thereby at or prior to the time of such amendment.



MUNICIPAL BOND INSURANCE POLICY

ISSUER:

BONDS:

Policy No.: -N

Effective Date:

Premium:

FINANCIAL SECURITY ASSURANCE INC. ("Financial Security"), for consideration received, hereby UNCONDITIONALLY AND IRREVOCABLY agrees to pay to the trustee (the "Trustee") or paying agent (the "Paying Agent") (as set forth in the documentation providing for the issuance of and securing the Bonds) for the Bonds, for the benefit of the Owners or, at the election of Financial Security, directly to each Owner, subject only to the terms of this Policy (which includes each endorsement hereto), that portion of the principal of and interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

On the later of the day on which such principal and interest becomes Due for Payment or the Business Day next following the Business Day on which Financial Security shall have received Notice of Nonpayment, Financial Security will disburse to or for the benefit of each Owner of a Bond the face amount of principal of and interest on the Bond that is then Due for Payment but is then unpaid by reason of Nonpayment by the Issuer, but only upon receipt by Financial Security, in a form reasonably satisfactory to it, of (a) evidence of the Owner's right to receive payment of the principal or interest then Due for Payment and (b) evidence, including any appropriate instruments of assignment, that all of the Owner's rights with respect to payment of such principal or interest that is Due for Payment shall thereupon vest in Financial Security. A Notice of Nonpayment will be deemed received on a given Business Day if it is received prior to 1:00 pm (New York time) on such Business Day; otherwise, it will be deemed received on the next Business Day. If any Notice of Nonpayment received by Financial Security is incomplete, it shall be deemed not to have been received by Financial Security for purposes of the preceding sentence and Financial Security shall promptly so advise the Trustee, Paying Agent or Owner, as appropriate, who may submit an amended Notice of Nonpayment. Upon disbursement in respect of a Bond, Financial Security shall become the owner of the Bond, any appurtenant coupon to the Bond or right to receipt of payment of principal of or interest on the Bond and shall be fully subrogated to the rights of the Owner, including the Owner's right to receive payments under the Bond, to the extent of any payment by Financial Security hereunder. Payment by Financial Security to the Trustee or Paying Agent for the benefit of the Owners shall, to the extent thereof, discharge the obligation of Financial Security under this Policy.

Except to the extent expressly modified by an endorsement hereto, the following terms shall have the meanings specified for all purposes of this Policy. "Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York or the Insurer's Fiscal Agent are authorized or required by law or executive order to remain closed. "Due for Payment" means (a) when referring to the principal of a Bond, payable on the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund redemption and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity unless Financial Security shall elect, in its sole discretion, to pay such principal due upon such acceleration together with any accrued interest to the date of acceleration and (b) when referring to interest on a Bond, payable on the stated date for payment of interest. "Nonpayment" means, in respect of a Bond, the failure of the Issuer to have provided sufficient funds to the Trustee or, if there is no Trustee, to the Paying Agent for payment in full of all principal and interest that is Due for Payment on such Bond. "Nonpayment" shall also include, in respect of a Bond, any payment of principal or interest that is Due for Payment made to an Owner by or on behalf of the Issuer which has been recovered from such Owner pursuant to the

United States Bankruptcy Code by a trustee in bankruptcy in accordance with a final, nonappealable order of a court having competent jurisdiction. "Notice" means telephonic or teletyped notice, subsequently confirmed in a signed writing, or written notice by registered or certified mail, from an Owner, the Trustee or the Paying Agent to Financial Security which notice shall specify (a) the person or entity making the claim, (b) the Policy Number, (c) the claimed amount and (d) the date such claimed amount became Due for Payment. "Owner" means, in respect of a Bond, the person or entity who, at the time of Nonpayment, is entitled under the terms of such Bond to payment thereof, except that "Owner" shall not include the Issuer or any person or entity whose direct or indirect obligation constitutes the underlying security for the Bonds.

Financial Security may appoint a fiscal agent (the "Insurer's Fiscal Agent") for purposes of this Policy by giving written notice to the Trustee and the Paying Agent, specifying the name and notice address of the Insurer's Fiscal Agent. From and after the date of receipt of such notice by the Trustee and the Paying Agent, (a) copies of all notices required to be delivered to Financial Security pursuant to this Policy shall be simultaneously delivered to the Insurer's Fiscal Agent and to Financial Security and shall not be deemed received until received by both and (b) all payments required to be made by Financial Security under this Policy may be made directly by Financial Security or by the Insurer's Fiscal Agent on behalf of Financial Security. The Insurer's Fiscal Agent is the agent of Financial Security only and the Insurer's Fiscal Agent shall in no event be liable to any Owner for any act of the Insurer's Fiscal Agent or any failure of Financial Security to deposit or cause to be deposited sufficient funds to make payments due under this Policy.

To the fullest extent permitted by applicable law, Financial Security agrees not to assert, and hereby waives, only for the benefit of each Owner, all rights (whether by counterclaim, setoff or otherwise) and defenses (including, without limitation, the defense of fraud, whether acquired by subrogation, assignment or otherwise) to the extent that such rights and defenses may be available to Financial Security to avoid payment of its obligations under this Policy in accordance with the express provisions of this Policy.

This Policy sets forth in full the undertaking of Financial Security, and shall not be modified, altered or affected by any other agreement or instrument, including any modification or amendment thereto. Except to the extent expressly modified by an endorsement hereto, (a) any premium paid in respect of this Policy is nonrefundable for any reason whatsoever, including payment, or provision being made for payment, of the Bonds prior to maturity and (b) this Policy may not be canceled or revoked. THIS POLICY IS NOT COVERED BY THE PROPERTY CASUALTY INSURANCE SECURITY FUND SPECIFIED IN ARTICLE 76 OF THE NEW YORK INSURANCE LAW.

In witness whereof, FINANCIAL SECURITY ASSURANCE INC. has caused this Policy to be executed on its behalf by its Authorized Officer.

[Countersignature]

FINANCIAL SECURITY ASSURANCE INC.

By \_\_\_\_\_

By \_\_\_\_\_  
Authorized Officer

A subsidiary of Financial Security Assurance Holdings Ltd.  
350 Park Avenue, New York, N.Y. 10022-6022

(212) 826-0100

Form 500NY (5/90)