



DATE: MARCH 29, 2012

FROM: DEBT & TREASURY

SUBJECT: RESOLUTION NO. _____ APPROVAL OF A SEVEN-YEAR SURETY AGREEMENT AMONG THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, THE CITY OF LOS ANGELES HARBOR DEPARTMENT ACTING BY AND THROUGH ITS BOARD OF HARBOR COMMISSIONERS, THE CITY OF LONG BEACH, ACTING BY AND THROUGH ITS BOARD OF HARBOR COMMISSIONERS, AND U.S. BANK NATIONAL ASSOCIATION

SUMMARY:

Staff recommends the approval of a seven-year Surety Agreement among the Alameda Corridor Transportation Authority (ACTA), the City of Los Angeles Harbor Department (Harbor Department), acting by and through its Board of Harbor Commissioners (Board), the City of Long Beach, acting by and through its Board of Harbor Commissioners (Port of Long Beach) and U.S. Bank National Association (Trustee). Pursuant to the Surety Agreement, both the Harbor Department and the Port of Long Beach would act as a surety provider, provided that ACTA's Governing Board has approved the loan documents and authorized the transaction. ACTA is currently in the final stages of obtaining a loan from the United States of America, represented by the Secretary of Transportation, acting through the Administrator of the Federal Railroad Administration (FRA) that will require the FRA to purchase from ACTA its Taxable Senior Lien Revenue Refunding Bonds, Series 2012 (Series 2012 Bonds).

As a precondition to the issuance of the Series 2012 Bonds by ACTA, ACTA needs to fund a debt service reserve fund for the Series 2012 Bonds. The FRA will not permit the debt service reserve fund to be funded from proceeds of the Series 2012 Bonds. The Harbor Department and the Port of Long Beach have agreed to enter into the Surety Agreement as the alternative solution to funding the debt service reserve requirement for the Series 2012 Bonds.

By acting as a surety provider, the Harbor Department along with the Port of Long Beach will serve as the funding source for ACTA's debt service reserve requirement. By entering into the Surety Agreement, the two ports will facilitate the closure of the FRA loan and thereby reduce their future possible shortfall liabilities. This recommendation requires the approval of the Los Angeles City Council (City Council), since the surety Agreement involves a private institution, US Bank.

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RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the seven-year Surety Agreement that allows the Harbor Department to act as a surety provider to Alameda Corridor Transportation Authority (ACTA), subject to approval of the Federal Railroad Administration loan and approval by ACTA's Governing Board;
2. Authorize the Executive Director to execute and the Board Secretary to attest to the Surety Agreement;
3. Adopt Resolution No. _____; and,
4. Direct the Board Secretary to forward the Resolution and the Surety Agreement to the City Council for approval in accordance with Charter Section 373 and Los Angeles Administrative Code Section 10.5 (a).

DISCUSSION:

Background – In March 2010, ACTA began the process of applying to the FRA for a loan under the Railroad Rehabilitation and Improvement Financing (RRIF) program for the purpose of refinancing a portion of its outstanding bonds. The FRA has since approved ACTA for a loan, which will be in the form of newly issued Taxable Senior Lien Revenue Refunding Bonds, Series 2012 (the Series 2012 Bonds), in the amount of \$83.7 million. This refinancing of a portion of ACTA's debt reduces the projected shortfall advance requirements for both the Harbor Department and the Port of Long Beach.

On March 8, 2012, ACTA's Governing Board approved the loan documents and authorized the transaction to be advanced to the Harbor Commissions of Los Angeles and Long Beach, and then to the Los Angeles City Council for consideration and approval of the Surety Agreement. The City Council needs to approve the Surety Agreement, since a private institution, US Bank, is involved. ACTA's Governing Board authorized staff to execute the documents and close the RRIF loan transaction.

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As a precondition to issuing the Series 2012 Bonds, ACTA is required to fund a debt service reserve account. The debt service reserve account requirement can be satisfied with a cash deposit or a surety agreement deposited with the Trustee. Proceeds of the FRA loan may not be used to fund the debt reserve account requirement. Both the Harbor Department and the Port of Long Beach are being asked by ACTA to provide a surety, in the form of the Surety Agreement, for a period of seven years. Moneys on deposit in the Series 2012 Bond debt service reserve account serve as additional security for the Series 2012 Bonds in the event there is a shortfall in ACTA revenues to pay the principal and interest on the Series 2012 Bonds. Under the Surety Agreement, both San Pedro Bay ports are agreeing to make debt service payments on the Series 2012 Bonds in the event there is a shortfall in ACTA revenues for a period of seven years until ACTA fully funds its debt service reserve funds.

Section 2.01(a) of the Surety Agreement specifies that "the total liability of each Surety Provider . . . is limited to \$3.6 million and the total aggregate liability for both Surety Providers shall not exceed \$7.2 million" (Transmittal 1). The maximum combined \$7.2 million guarantee is reduced by approximately \$1.03 million per year in each year of the term, as ACTA makes annual cash deposits into the debt service reserve fund for the Series 2012 Bonds. The Surety Agreement terminates and the obligation of the Surety Providers is eliminated after ACTA's debt service reserve fund balance reaches \$7.2 million in cash.

By ACTA obtaining the RRIF loan and the Harbor Department acting as one of the surety providers, the Harbor Department has reduced its potential maximum liability for providing shortfall advances in those instances when ACTA is unable to pay its debt. The Harbor Department has already provided \$2.95 million in a shortfall advance to ACTA during fiscal year 2012. With the approval of the transaction, the shortfall advance requirement, for fiscal years 2013-2023, is projected to be approximately \$53 million total for the Harbor Department and the Port of Long Beach. Without the RRIF loan the amount would be approximately \$121 million.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a Surety Agreement with ACTA. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

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ECONOMIC BENEFITS:

Approval of the proposed recommendations will have no direct job impact in the five-county region.

FINANCIAL IMPACT:

Approval of these three recommendations reduces the Harbor Department's potential shortfall advance liability from an estimated \$60 million to \$26.5 million over the next ten fiscal years. There are no fees charged by the two ports for providing the surety.

CITY ATTORNEY:

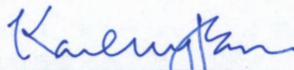
The Surety Agreement has been reviewed by the City Attorney and approved as to form and legality.

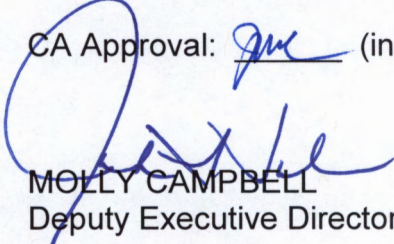
TRANSMITTAL:

1. Surety Agreement

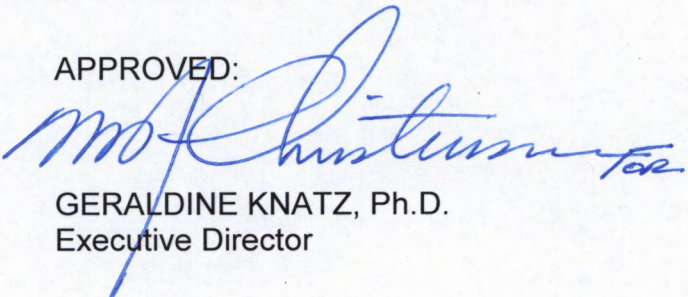
FIS Approval: KP (initials)

CA Approval: MC (initials)


KARL K. Y. PAN
Chief Financial Officer


MOLLY CAMPBELL
Deputy Executive Director

APPROVED:


GERALDINE KNATZ, Ph.D.
Executive Director

Authors: Sajadian/Warlick
DT 12016 FY 2011-2012