

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LOS ANGELES APPROVING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE BY THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY OF ITS ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY SENIOR LIEN REVENUE REFUNDING BONDS AND AUTHORIZING SUCH OTHER ACTIONS AS ARE NECESSARY TO ASSIST THE AUTHORITY IN THE ISSUANCE OF SUCH REFUNDING BONDS AND MAKING A DETERMINATION RELATING THERETO

WHEREAS, pursuant to the provisions of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, as amended (the “*Joint Powers Act*”), the City of Los Angeles and the City of Long Beach (together, the “*Members*”) entered into that certain Amended and Restated Joint Exercise of Powers Agreement dated as of December 18, 1996 (the “*Agreement*”), creating the Alameda Corridor Transportation Authority (previously known as the Consolidated Transportation Corridor Joint Powers Authority) (the “*Authority*”), a public entity separate and apart from the Members; and

WHEREAS, the Authority previously issued \$494,893,616.80 initial principal amount of its Alameda Corridor Transportation Authority Tax-Exempt Senior Lien Revenue Bonds, Series 1999A (the “*Series 1999A Bonds*”); and

WHEREAS, the Series 1999A Bonds include Current Interest Bonds (the “*Series 1999A Current Interest Bonds*”), of which \$288,940,000 aggregate principal amount are outstanding as of the date hereof and subject to redemption, at the option of the Authority, at a price of par plus accrued interest; and

WHEREAS, in addition to the Series 1999A Current Interest Bonds, the Authority has previously issued and will have outstanding as of December 31, 2012, \$787,733,910 aggregate principal amount or accreted value of other senior lien bonds and \$998,186,627 aggregate principal amount or accreted value of first subordinate lien bonds (collectively, with the outstanding Series 1999A Current Interest Bonds, the “*ACTA Obligations*”); and

WHEREAS, the Authority intends to issue its senior lien revenue refunding bonds (the “*Refunding Bonds*”) for the purpose of (i) refunding all or a portion of the outstanding principal amount of the Series 1999A Current Interest Bonds, and (ii) to pay costs of issuing the Refunding Bonds, including any premiums with respect to bond insurance and/or a debt service reserve surety policy for the Refunding Bonds; and

WHEREAS, the City of Los Angeles (the “*City*”), acting by and through its Board of Harbor Commissioners (the “*Board*”), entered into the Alameda Corridor Use and Operating Agreement, dated as of October 12, 1998, as amended (the “*Use and Operating Agreement*”), by and among the Authority, the City, acting by and through the Board, the City of Long Beach, acting by and through its Board of Harbor Commissioners (the “*POLB*”), Union Pacific Railroad Company, and BNSF Railway Company (formerly known as The Burlington Northern and Santa Fe Railway Company); and

WHEREAS, the Use and Operating Agreement provides that if during any calendar year the debt service on the ACTA Obligations and certain other bond related amounts are not paid in full (the “**Required Annual Payment**”), the City, acting by and through the Board, and POLB will advance to the Authority, from any legally available source, funds (“**Shortfall Advances**”) sufficient to pay a portion of the debt service on the ACTA Obligations and certain other bond related amounts to the extent the Authority’s use fees and container charges are insufficient; and

WHEREAS, the contingent obligation of the City, acting by and through the Board, to pay the Shortfall Advances in any calendar year is limited to paying 20% of the Required Annual Payment due each year; and

WHEREAS, the current total contingent obligation of the City, acting by and through the Board, to pay Shortfall Advances under the Use and Operating Agreement is approximately \$814 million and its projected obligation to pay Shortfall Advances, after taking into account projected use fees and container charges, is approximately \$10 million in total from fiscal years 2014 through 2022; and

WHEREAS, the Authority’s plan of finance with respect to the Refunding Bonds (the “Plan of Finance”) includes the option of obtaining bond insurance on all or a portion of the Refunding Bonds, and the purchase of a debt service reserve surety policy, in lieu of using bond proceeds to fund a debt service reserve fund for the Refunding Bonds, from a surety provider with a credit rating of at least “A” or better from at least one nationally recognized rating agency, for the purpose of achieving present value debt service savings; and

WHEREAS, it is anticipated that the issuance of the Refunding Bonds will generate for the Authority present value debt service savings and may reduce the Board’s exposure to paying Shortfall Advances in the future; and

WHEREAS, in order to assist the Authority with the issuance of the Refunding Bonds, there has been presented to this Board the following documents:

(a) a form of Continuing Disclosure Certificate (the “**Continuing Disclosure Certificate**”) to be executed and delivered by the City, acting by and through the Board;

(b) a form of Letter of Representation (the “**Letter of Representation**”) to be executed and delivered by the City, acting by and through the Board, which will set forth various representations of the Board covering various matters requested by the underwriters of the Refunding Bonds; and

(c) a form of the disclosure concerning the finances and operations of the Port of Los Angeles and the Harbor Department of the City of Los Angeles (the “**Harbor Department**”) to be contained in the preliminary official statement and final official statement, that will be prepared and distributed in connection with the issuance and sale of the Refunding Bonds; and

(d) a form of Non-Assignment Agreement (the “**Non-Assignment Agreement**”) that may be executed and delivered by the City, acting by and through the

Board, if one is required by the provider of any bond insurance or debt service reserve surety policy on the Refunding Bonds;

WHEREAS, neither the payment of the principal of the ACTA Obligations or the Refunding Bonds nor the interest thereon shall constitute a debt, liability, or obligation of the City, but shall constitute a limited contractual obligation of the City, acting by and through the Board, to pay such Shortfall Advances;

NOW, THEREFORE, be it resolved by the Board of Harbor Commissioners of the City of Los Angeles, as follows:

Section 1. Continuing Disclosure Certificate and the Letter of Representation.

The form, terms and provisions of the Continuing Disclosure Certificate and the Letter of Representation are in all respects approved, the Deputy General Manager, Finance and Administration (commonly referred to within the Harbor Department as the Deputy Executive Director, Finance and Administration) and/or the Chief Financial Officer (each an “*Authorized Officer*”), or their respective designees, any one or more thereof, are hereby authorized, empowered and directed to execute, acknowledge and deliver the Continuing Disclosure Certificate and the Letter of Representation, including counterparts thereof, in the name and on behalf of the Board. The Continuing Disclosure Certificate and the Letter of Representation, as executed and delivered, shall be in substantially the forms now before this Board and hereby approved, with such changes and revisions therein as shall be approved by the Authorized Officer executing the same and the City Attorney of the City of Los Angeles, California (the “*City Attorney*”); the execution thereof by an Authorized Officer shall constitute conclusive evidence of the Board’s approval of any and all changes or revisions therein from the form of the Continuing Disclosure Certificate and the Letter of Representation now before this Board; and from and after the execution and delivery of the Continuing Disclosure Certificate, the officers, agents and employees of the Harbor Department are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Continuing Disclosure Certificate.

The Board hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate.

Section 2. Disclosure Relating to Port of Los Angeles and the Harbor Department.

The disclosure relating to the Port of Los Angeles and the Harbor Department to be contained in the preliminary official statement and the final official statement with respect to the Refunding Bonds in substantially the form now before this Board is hereby approved, with such changes thereto as the City Attorney and an Authorized Officer or an Authorized Officer’s designee may require or approve, and the execution of the Letter of Representation by an Authorized Officer shall constitute conclusive evidence of the Board’s approval of any all changes or revisions therein from the form of the disclosure now before this Board.

Section 3. Additional Authorizations.

Each Authorized Officer and all officers, agents and employees of the Harbor Department, for and on behalf of the Board, are hereby authorized and directed to do any and all things necessary to assist the Authority in the issuance of the Refunding Bonds. Each Authorized Officer and all other officers, agents and employees

of the Harbor Department are further authorized and directed, for and on behalf of the Board, to execute all papers, documents and certificates that may be required in order to carry out the authority conferred by this Resolution, including, without limitation, entering into agreements and providing certificates which may be required by the provider of any bond insurance or debt service reserve surety policy for the Refunding Bonds (including, but not limited to, the Non-Assignment Agreement, if one is required by the provider of any bond insurance or debt service reserve surety policy for the Refunding Bonds, which shall be substantially in the form now before this Board and hereby approved), provided any such agreement or certificate shall not impose any new financial obligations on the City or the Board. All actions heretofore taken by each Authorized Officer and by all officers, agents and employees of the Harbor Department, for and on behalf of the Board, in connection with or related to the issuance and sale of the Refunding Bonds and in connection with the authorization, execution and delivery of, and performance of obligations under, the Use and Operating Agreement, and in connection with the authorization and performance of obligations under the Agreement, are hereby approved, confirmed and ratified.

Section 4. Severability of Invalid Provisions. If any one or more of the provisions contained in this Resolution shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Resolution and such invalidity, illegality or unenforceability shall not affect any other provision of this Resolution, and this Resolution shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 5. Section Headings and References; Interpretation. The headings or titles of the several Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Resolution.

All references herein to “Sections” and other subdivisions are to the corresponding Sections or subdivisions of this Resolution; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Resolution as a whole and not to any particular Section or subdivision hereof; and words of the masculine gender shall mean and include words of the feminine and neuter genders.

Section 6. Governing Law. This Resolution shall be construed and governed in accordance with the laws of the State of California.

Section 7. Effective Date of Resolution. This Resolution shall be effective in the manner and at the time set forth in Section 245 of the City Charter.

[Remainder of page intentionally left blank.]

I HEREBY CERTIFY that the foregoing Resolution was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting held _____, 2012.

By: _____
KORLA TONDREAULT, Board Secretary

APPROVED AS TO FORM AND LEGALITY

_____, 2012
CARMEN A. TRUTANICH, City Attorney

By: _____
KENNETH F. MATTFELD, Deputy

SECRETARY'S CERTIFICATION

I, _____, Secretary of the Board of Harbor Commissioners of the City of Los Angeles, State of California, do hereby certify the foregoing to be a full, true and correct copy of the original Resolution No. _____ adopted by the Board of Harbor Commissioners of the City of Los Angeles on _____, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Harbor Department of the City of Los Angeles, California, this _____, 2012.

Secretary, Board of Harbor Commissioners of
the City of Los Angeles