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Alameda Corridor Transportation Authority

June 16, 2022

To:	Governing Board
From:	Kevin L. Scott, Chief Financial Officer 
Subject:	<i>2022/2023 Revenue Refunding Bonds – Approval of Certain Documents for the Issuance of 2022 and 2023 Revenue Refunding Bonds and a Tender of Certain Previously Issued bonds (APPROVAL)</i>

Recommendation:

Adopt the Resolution of the Governing Board of the Alameda Corridor Transportation Authority.
This Resolution:

- 1) Approves and authorizes the issuance and sale of Alameda Corridor Transportation Authority Tax-Exempt Senior Lien Revenue Refunding Bonds, Series 2022A (the “Series 2022A Bonds”), Taxable Senior Lien Revenue Refunding Bonds, Series 2022B (the “Series 2022B Bonds”), and Tax-Exempt Second Subordinate Lien Revenue Refunding Bonds, Series 2022C (the “Series 2022C Bonds,” and collectively, the “Series 2022 Bonds”); and Tax-Exempt Senior Lien Revenue Refunding Bonds, Series 2023A (the “Series 2023A Bonds,” and together with the Series 2022 Bonds, the “Series 2022/2023 Bonds”); and
- 2) Authorizes a cash tender offer and/or exchange offer to holders of ACTA’s Tax-Exempt Senior Lien Revenue Bonds, Series 1999A, to holders of certain of ACTA’s Taxable Senior Lien Revenue Bonds, Series 1999C, and to holders of ACTA’s Tax-Exempt Second Subordinate Lien Revenue Refunding Bonds, Series 2016B; and
- 3) Authorizes (i) the execution and delivery of the Twelfth Supplemental Trust Indenture providing the terms of the Series 2022A Bonds; (ii) the execution and delivery of the Thirteenth Supplemental Trust Indenture providing the terms of the Series 2022B Bonds; (iii) the execution and delivery of the Fourteenth Supplemental Trust Indenture providing the terms of the Series 2022C Bonds; (iv) the execution and delivery of the Fifteenth Supplemental Trust Indenture providing the terms of the Series 2023A Bonds; (v) the preparation and distribution of a Preliminary Official Statement and a Final Official Statement relating to the sale of the Series 2022 Bonds and a Preliminary Official Statement, Final Official Statement, and Supplemental Final Official Statement relating to the sale of the Series 2023A Bonds; (vi) the execution and delivery of one or more Bond Purchase Agreements for the Series 2022/2023 Bonds, one or more Continuing Disclosure Certificates related to the Series 2022/2023 Bonds, and contracts for credit enhancement relating to the Series 2022/2023 Bonds; (vii) execution and delivery of the Dealer Manager Agreement and certain related documents; and (viii) the escrow of funds for the future redemption or payment at maturity of certain of ACTA’s outstanding Taxable Senior Lien Revenue Bonds, Series 1999C and Tax-Exempt Senior Lien Revenue Refunding Bonds Series 2013A, and (ix) the execution and delivery of related documents and notices; and



4) Authorizes the Chief Executive Officer or the Chief Financial Officer, or their respective designees, acting individually, to take such other actions as are necessary or desirable in connection with the tender and exchange offers, the issuance of the Series 2022/2023 Bonds, and the necessary escrow arrangements, including payment of Costs of Issuance and any amendments to the 2000 Forward Delivery Agreement as may be necessary or appropriate in connection with the changes to ACTA's debt service obligations in connection with the refinancing.

Discussion:

Since the COVID-19 crisis, San Pedro Bay Port TEU volume has grown significantly. However, ACTA Use Fee and Container Charge Revenues have not and are not forecasted to keep pace with growth in ACTA debt service payments. As a result, ACTA staff is proposing to restructure ACTA's outstanding debt in order to more closely align debt service payments with projected revenues and to reduce the need for potential future Port Shortfall Advances. Staff proposes a two-phase plan of finance. Phase 1 will be executed in 2022 and 2023 and to address shortfalls of revenue to expenses in the near term, 2022 through 2025. Phase 1 includes the defeasance of certain ACTA bonds and an offer to tender or exchange certain outstanding ACTA bonds to lower the cost of both the Phase 1 and Phase 2 transactions. Phase 2 is anticipated to occur in 2026 and would address shortfalls between 2026 and 2037. With regard to Phase 1 in 2022 and 2023, ACTA staff proposes to issue:

- Series 2022A Bonds to refund the 2022 maturity of the Series 2013A Bonds and to exchange for, or fund the purchase of, tendered Series 1999A Bonds;
- Series 2022B Bonds to refund the 2022 maturity of the Series 1999C Bonds and a portion of the 2029 maturity of the Series 1999C Bonds, and to exchange for, or fund the purchase of, tendered Series 1999C Bonds;
- Series 2022C Bonds to exchange for, or fund the purchase of, tendered Series 2016B Bonds and
- Series 2023A Bonds to refund all remaining 2013A bonds, maturing on or after October 1, 2023.

Costs of the transaction such as, but not limited to, insurance, transaction fees, information and tender agent fees, verification agent fees, rating agency fees, bond, tax and disclosure counsel, financial advisory fees, offering document preparation and closing will be funded from proceeds of the transaction. Total costs of the base case refunding of the 2022 maturity of the Series 2013A Bonds, the 2022 maturity of the Series 1999C Bonds and a portion of the 2029 maturity of the Series 1999C Bonds and all remaining 2013A bonds, maturing on or after October 1, 2023 are anticipated to be approximately \$2.45 million excluding bond insurance and surety fees, tender/exchange fees and underwriting charges and expenses.

Principal 2022/2023 Bond Transaction Documents

There are a number of transaction documents related to the Series 2022/2023 Bond financings which are attached in substantially final form for consideration by ACTA's Governing Board as follows:

- Governing Board Resolution for 2022/2023 Bonds (Transmittal 1): Approves and authorizes the issuance and sale of the Series 2022/2023 Bonds in an aggregate principal

amount not to exceed \$2.6 billion; Approves and authorizes the tender and exchange offer with respect to the Series 1999A Bonds, the Series 1999C Bonds, and the Series 2016B Bonds; Approves the forms of the primary financing documents and delegates to the CEO and CFO, or their designees, the ability to execute and deliver such documents with such changes as the CEO and CFO, or their designees, shall require or approve and such other ancillary documents necessary or desirable in connection with the transaction; Authorizes municipal bond insurance and debt service reserve surety policies for the Series 2022/2023 Bonds; Authorizes (a) the defeasance of the October 1, 2022 maturity of the Series 2013A Bonds and certain of the Series 1999C Bonds, (b) paying the purchase price for tendered Series 1999A Bonds and Series 2013A Bonds, if any (or the Series 2022A Bonds may be exchanged for Series 1999A Bonds or Series 2013A Bonds), (c) paying the purchase price for tendered Series 1999C Bonds, if any (or the Series 2022B Bonds may be exchanged for Series 1999C Bonds), (d) paying the purchase price for the Tendered Series 2016B Bonds, if any (or the Series 2022C Bonds may be exchanged for Series 2016B Bonds), and (d) refunding with the proceeds of the Series 2023A Bonds the Series 2013A Bonds maturing after October 1, 2023; Sets an outside limit for the true interest cost of the Series 2022/2023 Bonds to 8% and a maximum underwriters' discount of 0.7% of the aggregate par amount of the Series 2022/2023 Bonds. The maximum Dealer Manager fee will not exceed 0.4% of the aggregate par amount of the bonds, including the Series 1999A, Series 1999C, Series 2013A, and Series 2016B Bonds, that are offered for tender or exchange and accepted by the Authority, plus out-of-pocket expenses.

- 2022 Dealer Manager Agreement (Exhibit B-1): Provides for the terms, conditions and compensation for the Dealer Managers, JP Morgan and RBC, in the execution of the tender or exchange of outstanding bonds, including the Series 1999A, Series 1999C, Series 2013A, and Series 2016B Bonds.
- 12th Supplemental Trust Indenture (Exhibit C-1): Authorizes the issuance of ACTA's Series 2022A Bonds which will be senior lien bonds under ACTA's existing Master Trust Indenture; the Series 2022A Bonds are expected to (a) defease to their maturity the October 1, 2022 maturity of the Series 2013A Bonds, (b) pay the purchase price for tendered Series 1999A Bonds and Series 2013A bonds, if any (or the Series 2022A Bonds may be exchanged for Series 1999A or Series 2013A Bonds). The 12th Supplement contemplates that, subject to market conditions, a debt service reserve surety may be provided by a bond insurer.
- 13th Supplemental Trust Indenture (Exhibit C-2): Authorizes the issuance of ACTA's Series 2022B Bonds which will be senior lien bonds under ACTA's existing Master Trust Indenture; the Series 2022B Bonds are expected to be used to (a) defease to their maturity the October 1, 2022 maturity of the Series 1999C Bonds and to their sinking fund redemption dates a portion of the October 1, 2029 maturity of the 1999C Bonds, and (b), pay the purchase price for tendered Series 1999C Bonds, if any (or the Series 2022B Bonds may be exchanged for Series 1999C Bonds). The 13th Supplement also contemplates that, subject to market conditions, a debt service reserve surety may be provided by a bond insurer.
- 14th Supplemental Trust Indenture (Exhibit C-3): Authorizes the issuance of ACTA's Series 2022C Bonds which will be second subordinate lien bonds under ACTA's existing Master Trust Indenture; the Series 2022C Bonds are expected to be used to pay the purchase price for the Tendered Series 2016B Bonds, if any (or the Series 2022C Bonds may be exchanged for Series 2016B Bonds) The 14th Supplement also contemplates that,

subject to market conditions, a debt service reserve surety may be provided by a bond insurer. Depending on the results of the tender and exchange process with respect to the Series 2016B Bonds, the Series 2022C Bonds may not be issued.

- 15th Supplemental Trust Indenture (Exhibit C-4): Authorizes the issuance of ACTA's Series 2023A Bonds - Forward Delivery which will be senior lien bonds under ACTA's existing Master Trust Indenture; the Series 2023A Bonds will be used to refund the 2013A Bonds not tendered or exchanged and maturing on or after October 1, 2023. The 15th Supplement also contemplates that, subject to market conditions, a debt service reserve surety may be provided by a bond insurer.
- 2022/2023 Bond Purchase Agreements (Exhibits D-1 and D-2): Provide for the sale and distribution of the Series 2022 Bonds and the sale and forward delivery of the Series 2023A Bonds by the underwriters designated therein; Designates J.P. Morgan Securities, LLC as lead underwriter.
- 2022/2023 Preliminary Official Statement and Final Official Statements (Exhibits E-1 and E-2): Discloses to investors the terms of the 2022/2023 Bonds and other material information concerning ACTA's Bonds and the Alameda Corridor Project, including the Ports' and Railroads' obligations under the Use and Operating Agreement and other relevant documents.
- Escrow Agreement (Exhibit F): Provide for the establishment and funding of escrow accounts for the purpose of defeasing the applicable Series 1999C Bonds and Series 2013A Bonds. Requires the execution of escrow purchases by the selected escrow bidding agent and the delivery of verification reports by an independent certified public accountant verifying that the amounts deposited in the escrow accounts (and earnings thereon) will be sufficient to defease the applicable Series 2022/2023 Bonds upon redemption or maturity, as applicable.
- Continuing Disclosure Certificates (Exhibit G): Provides that ACTA, and each Port, will provide certain financial and operating information to bondholders annually in accordance with SEC Rule 15c2-12. Similar agreements will be entered into by BNSF and UP.

Schedule

By the June 16, 2022 meeting of ACTA's Governing Board, and assuming approval of the Resolution, the Harbor Commissions of each Port will have considered approval of a Resolution, Letter of Representation, and Continuing Disclosure Certificate in connection with the restructuring transaction. In addition, ACTA and its consultants will have met with rating agencies, negotiated terms for bond insurance and a debt service reserve fund surety, if applicable, and taken other actions set forth in the Resolution with respect to the offering and sale of the Series 2022/2023 Bonds. The tender and exchange offer will most likely occur in mid-June through mid-July 2022. The Series 2022/2023 Bond sale is currently scheduled for the week of July 17 with closing before the end of July 2022, and the settlement for the Series 2023A Bonds, which will be Forward Delivery Bonds, is scheduled for July 2023.

Budget Impact:

No budget appropriation is necessary at this time.

Co-General Counsel:

ACTA's Co-General Counsel has reviewed and approved as to form the proposed Resolution, and the Dealer Agreement, Bond Purchase Agreements, Escrow Agreement and Continuing Disclosure Certificates subject to final completion of these documents as authorized in the Resolution.

Transmittals

Transmittal 1: Board Resolution

- Exhibit A: Good Faith Estimate
- Exhibit B-1: Form of Dealer Manager Agreement
- Exhibit B-2: Invitation to Tender or Exchange Bonds
- Exhibit C-1: Form of 12th Supplemental Trust Indenture
- Exhibit C-2: Form of 13th Supplemental Trust Indenture
- Exhibit C-3: Form of 14th Supplemental Trust Indenture
- Exhibit C-4: Form of 15th Supplemental Trust Indenture
- Exhibit D-1 Form of Bond Purchase Agreement
- Exhibit D-2: Form of Bond Purchase Agreement (Forward Delivery)
- Exhibit E-1: Form of Preliminary Official Statement
- Exhibit E-2: Form of Preliminary Official Statement (Forward Delivery)
- Exhibit F: Form of Escrow Agreement
- Exhibit G: Form of Continuing Disclosure Certificate