A RESOLUTION

To declare the existence of an emergency with respect to the need to authorize payments incurred in the amounts of $16,596,598.30 under voided Contract No. DCKA-2009-C-0140 with Alta Bicycle Share, Inc. for the services and equipment received by the District for the Capital Bikeshare program.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Capital Bikeshare Program Payment Authorization Emergency Declaration Resolution of 2012".

Sec. 2. (a) There exists an immediate need to authorize payments for services and equipment rendered by Alta Bicycle Share, Inc. ("Alta") and received by the District Department of Transportation ("DDOT") under voided Contract No. DCKA-2009-C-0140 for the Capital Bikeshare program.

(b) On May 20, 2010, DDOT entered into a contract with Alta to establish and operate a Bikeshare program throughout the District. The contract authorized Alta to retain certain revenue from the Bikeshare program as a portion of its payments under the contract.

(c) On May 19, 2011, DDOT exercised the first option year of the contract, and on May 18, 2012, DDOT exercised the second and current option year of the contract. Neither option year included the revenue payment provision.

(d) Since its inception, the District's Bikeshare program has become one of the premier bike sharing systems in the country. Currently there are 128 stations with 1275 bikes, 22,200 annual members and 247,000 daily members, all of who take 3,360,000 bicycle trips each year. (e) On December 12, 2012, however, the Office of the Attorney General determined that the contract with Alta was void *ab initio* as a result of the revenue payment provision in the base year contract, stating that that provision constituted a violation of anti-deficiency laws.

(e) Because the base year contract was determined to be void *ab initio*, the option year contracts were also determined to be void.

(f) Under the base year contract, DDOT made payments to Alta in the total amount of $6,464,470.64 for the purchase of equipment and the operation of the Bikeshare program.

(g) Under the first year option contract, DDOT made payments to Alta in the total amount of $4,405,968.56 for the purchase of equipment and the operation of the Bikeshare program.

(h) Under the current year option contract, DDOT has made payments to Alta in the total amount of $551,601.00 for the purchase of equipment and the operation of the Bikeshare program. In addition, DDOT has received invoices from Alta for the purchase of equipment and the operation of the Bikeshare program in the total amount of $4,013,773.04, which have not yet been paid.

(i) Council authorization is necessary to compensate Alta for services and goods provided since execution of the contract, to ratify the payments already made to Alta under the

base year and option year contracts, and to authorize payment to Alta in the amount of the outstanding invoices under the current option year contract.

(j) Without this authorization, Alta cannot be paid fully for services and goods provided. In addition, the District's failure to timely make full payment to Alta for the goods provided and services rendered could result in a lapse in the operation of the Bikeshare program, which would create a significant disruption in transportation options for District residents.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Capital Bikeshare Program Payment Authorization Emergency Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.