


M · E · M · O

Alameda Corridor Transportation Authority

September 10, 2020

To:	Governing Board
From:	Michael C. Leue, Chief Executive Officer 
Subject:	<i>Approval of the Seventh Amendment to the Alameda Corridor Dispatching Agreement, for a Term Extension of up to Six Months to April 14, 2021 (APPROVAL)</i>

Recommendation:

Approve the Seventh Amendment to the Alameda Corridor Dispatching Agreement and Authorize the Chief Executive Officer to execute the amendment, extending the term of the Alameda Corridor Dispatching Agreement between ACTA, the BNSF Railway Company (BNSF), and Union Pacific Railroad Company (UP), for up to six months through April 14, 2021. Absent this extension, the agreement will expire on October 14, 2020.

Discussion:

The Amended and Restated Use and Operating Agreement (UOA) requires that the Port of Long Beach and Port of Los Angeles as owners of the Alameda Corridor property (referred to collectively in the UOA as “Owner”) and BNSF and UP (collectively the “Railroads”), through the process of Mutual Agreement set forth in the UOA, select a Corridor Dispatcher, and that ACTA endeavor to enter into an agreement with the selected entity on the business terms specified by the Owner and Railroads.

The existing Dispatching Agreement (Agreement) between ACTA and the Railroads has been in place since 2002 and will expire on October 14, 2020. The services provided under the Agreement are mostly paid for directly by the Railroads. The original term of the Agreement was five years, as approved by the former Operating Committee (OC), and was extended twice with OC approval for an additional 10 years via two amendments through April 14, 2017. Since that time, additional amendments to extend the term of the Agreement have been approved by the Ports and Railroads through Mutual Agreement and subsequently executed by ACTA and the Railroads.

In March 2020, the Ports and Railroads approved extending the Agreement six months through October 14, 2020 via Notice of Mutual Agreement (NMA) 2020-2, and the Governing Board authorized executing the Sixth Amendment to the Agreement on March 12, 2020. In August 2020, the Ports and Railroads approved another six-month extension of the Agreement through April 14, 2020 via NMA 2020-3, or when a revised agreement is approved through the Mutual Agreement process, whichever is sooner.



ACTA Governing Board approval to execute the Seventh Amendment for an extension is hereby requested, extending the current Agreement until such time as either a new agreement is approved and executed, or through April 14, 2021, whichever is earlier. Approval of a new agreement will be the subject of a future NMA to the Ports and Railroads, and a future Board approval request to execute the new agreement if approved by the Ports and Railroads. The Seventh Amendment to the existing Agreement is attached (Transmittal 1).

Budget Impact:

There is no budget impact to either the approved FY20 ACTA Program Budget or the approved 2020/2021 Operations and Maintenance Budgets.

Co-General Counsel Review:

ACTA's Co-General Counsel has reviewed and approved the Seventh Amendment as to form.

Transmittal:

Transmittal 1 - Seventh Amendment to the Alameda Corridor Dispatching Agreement