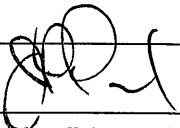


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Alameda Corridor Transportation Authority

March 12, 2020

To:	Governing Board
From:	James P. Preusch, Interim Chief Executive Officer 
Subject:	<i>Approval of a Sixth Amendment to the Alameda Corridor Dispatching Agreement for a Term Extension up to October 14, 2020 (APPROVAL)</i>

Recommendation:

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

Discussion:

The Amended and Restated Use and Operating Agreement (UOA) requires that the Owner (Ports) and Railroads, through Mutual Agreement, select the Corridor Dispatcher, and that ACTA endeavor to enter into an agreement with the selected entity on the business terms specified by the Owner (Ports) and Railroads.

The existing Dispatching Agreement (Agreement) between ACTA and the Railroads has been in place since 2002 and will expire on April 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, through April 14, 2019, have been approved by the Ports and Railroads through Mutual Agreement and subsequently executed by ACTA and the Railroads. An extension through April 14, 2020 via a 5th Amendment was approved by the Ports and Railroads in March 2019 through NMA 2019-2, and the Board authorized executing the 5th Amendment April 11, 2019.

The parties will enter into either a new agreement or an amendment to address the operating committee issues and will: 1) remove language concerning the former Operating Committee, 2) replace the approval process with that contained in the UOA, and 3) update certain other provisions.



In February 2020, the Port of Long Beach Harbor Commission, the Port of Los Angeles Harbor Commission, and the Union Pacific Railroad approved the term extension of up to one year, to April 14, 2021 through the Notice of Mutual Agreement (NMA) 2020-2. BNSF Railway Company is willing to execute a Sixth Amendment of up to six months.

ACTA Governing Board approval to execute the Sixth Amendment for an interim extension is hereby requested, until such time as the either a new agreement or an amendment is approved and executed, or through October 14, 2020, whichever is earlier. Approval of either a new agreement or an amendment will be the subject of a future Notice of Mutual Agreement to the Ports and Railroads, and a future Board approval request to execute if approved by the Ports and Railroads. The Sixth 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 Operations and Maintenance Budget.

Co-General Counsel Review:

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

Transmittal:

Transmittal 1 - Sixth Amendment to Dispatching Agreement