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Alameda Corridor Transportation Authority

June 10, 2021

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| To: | Governing Board |
| From: | Michael C. Leue, Chief Executive Officer  |
| Subject: | <i>Approve Annual Contract Change Orders 55 and 73 and the Extension of Agreement No. C0027 with Alameda Corridor Engineering Team (APPROVAL)</i> |

Recommendation:

Approve the following Change Orders (COs) and Agreement extension, and authorize the Chief Executive Officer or Chief Financial Officer to execute said items and reallocate funding amounts as discussed herein:

1. Approve two Change Orders (COs) to First Amended Agreement No. C0027 with the Alameda Corridor Engineering Team (ACET) for FY22 in the aggregate amount of \$2,443,773 allocated as follows: \$2,008,089 for ACTA Support (Change Order No. 73 as presented in Transmittal 1) and \$435,684 for the SR-47 Project (Change Order No. 55 as presented in Transmittal 2);
2. Extend the term of the First Amended Agreement No. C0027 for one additional year through June 30, 2022 (via Change Orders Nos. 73 and 55); and
3. Authorize the Chief Executive Officer or Chief Financial Officer to reallocate the FY22 funding between the ACTA Support and SR-47 Project budgets during the fiscal year provided the approved aggregate total amount is not exceeded.

Discussion:

In February 2014, the Board expressed its preference to extend the ACET contract on a year-by-year basis until ACTA's unfinished capital support obligations are complete. For each subsequent fiscal year, the Board has reaffirmed its preference for one-year extensions. In March 2021, the Board approved the inclusion of ACET in the FY22 Budget.

ACET staff was as high as approximately 170 full time equivalent (FTE) positions in FY00 at the height of corridor construction. ACET staff size was significantly reduced to 16 by FY07 and remained relatively constant through FY10. ACET staffing was gradually reduced to 5 FTEs by FY16. The number of FY22 FTE positions remains at 5, excluding subconsultants.



The ACET budget also includes specialized technical services provided by subconsultants through the ACET contract. The proposed number of ACET positions may increase if additional ACTA project development tasks are identified during the fiscal year, in which case Governing Board approval for such Change Orders would be sought at the appropriate time.

The Amended Agreement with ACET, effective January 1, 1996, requires that an annual Contract Work Order (CWO), in the form of a Change Order (CO), be submitted to the Governing Board for approval prior to the beginning of each fiscal year on July 1. For budget purposes, separate COs are required for the ACTA Support CWO and the SR-47 Project CWO. In prior years, there were also CWO Change Orders presented and approved for the PCH Project, but this is no longer required due to project completion.

In FY22, the ACTA Support CWO will be funded by the Administrative Operating Budget that is paid from ACTA revenue, and the M&O Budget that is paid directly by the railroads or through the Reserve Account. The SR-47 Project CWO is funded entirely from Caltrans sources.

The original FY21 CWO aggregate amount approved by the Board in June 2020 was \$2,389,909. It included \$1,880,048 for ACTA Support and \$509,861 for the SR-47 Project. A final FY21 closeout CO for both CWOs will be brought to the Board for approval in September or November 2021.

The proposed FY22 aggregate budget for both CWOs is \$2,443,773, as presented in Transmittal 3, which is 2.3% more than the FY21 budget of \$2,389,909. Note that the CWO amount does not include the budget for the Dominguez Channel Oil Release EPA Matter. The ACTA Support CWO and SR-47 Project CWO are described in more detail below.

1. ACTA SUPPORT CWO (Operating)

The ACTA Support CWO covers the following three areas:

A. Base Program Closeout (Operating, previously Capital)

This effort includes:

- Transferring ACTA-acquired property to the ports, municipalities and others;
- Concluding utility replacement rights agreements, licenses, franchises, and easements.

The proposed FY22 budget for this item is \$387,616 which is 6.3% more than the FY21 budget of **\$364,821**. This item is charged to the Administrative Operating Budget and paid from ACTA Use Fees and Container Charges.

B. Maintenance and Operations (Direct Railroad Cost)

This item supports rail maintenance and is directly reimbursed by the Railroads. The FY22 budgeted amount is \$568,052, which is 12.9% more than the FY21 budget of \$503,078.

C. ACTA General Administrative Support (Operating)

This effort includes general ACTA technical and administrative support and staff augmentation for other ongoing ACTA activities including:

- Computer and network systems support;
- Grant reimbursement, contract administration, planning, environmental coordination, document control, graphics, accounts payable, and other general support.

The proposed FY22 allocation for this item is \$1,052,423, which is 4.0% more than the FY21 budget of **\$1,012,149**. This item is charged to the Administrative Operating Budget and paid from ACTA Use Fees and Container Charges.

The aggregate total for the three parts of the ACTA Support CWO is \$2,008,089.

2. SR-47 PROJECT CWO (Public Benefit Project only)

The proposed FY22 budget for the SR-47 Project CWO is \$435,684 (Segment 1 only, as Segment 2 is on indefinite hold), which is 14.5% less than the FY21 budget of \$509,861. It includes final design support, design support during construction, and ROW/utility support during construction for the SR-47 Project as detailed below.

SR-47 Project Background:

Through four separate agreements with Caltrans, the SR-47 Project progressed in four phases: The Feasibility Phase, the Environmental Document Phase, the Final Design and ROW Phase, and the Construction Phase.

All Project phases are now complete except the Construction Phase. Caltrans' current estimate for substantial completion of construction is May 2022; final construction items, including some utilities, will extend to end of 2023; and administrative close-out will occur in 2024. ACTA will continue to provide the required services through two separate Cooperative Agreements between the parties through that date to complete project close-out tasks.

If the FY22 ACET CWOs are approved, the not-to-exceed total contract value will be increased by \$2,443,773 from \$249,362,698 to \$251,806,471 exclusive of the budget for the Dominguez Channel Oil Release EPA Matter.

Budget Impact:

The \$2,443,773 aggregate CWO amount is included in the FY22 Program Budget. Sources include \$435,684 in Caltrans funds for SR-47 shown in the Operating Budget as an Expense for Public Benefit; \$568,052 in Railroad M&O funds paid directly by the Railroads or from the Reserve Account; and \$1,440,037 from ACTA revenue sources in the Operating Budget.

Co-General Counsel:

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

Transmittals:

Transmittal 1 - Change Order No. 73 to ACET Agreement No. C0027

Transmittal 2 - Change Order No. 55 to ACET Agreement No. C0027

Transmittal 3 - CWO FY22 ACET Cumulative Contract Values