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Alameda Corridor Transportation Authority

September 9, 2021

To:	Governing Board
From:	Michael C. Leue, Chief Executive Officer 
Subject:	<i>APPROVAL of the Ninth Amendment to the Alameda Corridor Dispatching Agreement for a Term Extension of up to Six Months to April 14, 2022</i>

Recommendation:

Approve the Ninth Amendment to the Alameda Corridor Dispatching Agreement and Authorize the Chief Executive Officer to execute the proposed amendment. The amendment will extend 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, 2022. Absent this extension, the agreement will expire on October 14, 2021.

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, 2021. The services provided under the Agreement are paid for directly by the Railroads. The original term of the Agreement was five years, as approved by the former Operating Committee (OC), and 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 October 14, 2021, have been approved by the Ports and Railroads through Mutual Agreement, approved by the ACTA Governing Board, and subsequently executed by ACTA and the Railroads.

The Ninth Amendment to the Agreement will extend the term of the Agreement between ACTA, BNSF and UP for up to six months through April 14, 2022. Through Notice of Mutual Agreement No. 2021-3, the Ports and Railroads are currently reviewing the Ninth Amendment and are expected to approve the request for a six-month extension of the Agreement prior to the Agreement’s October 14, 2021, expiration date. Approval of the Ninth Amendment by the



ACTA Governing Board is requested prior to approval by the Railroads and Ports so that it may be signed by all parties prior to the expiration date of October 14, 2021, which is also the date of the next regularly scheduled ACTA Governing Board meeting.

ACTA Governing Board approval of the Ninth Amendment is hereby requested, in order to extend the current Agreement until such time as either a new agreement is approved and executed, or through April 14, 2022, whichever is earlier. The new dispatch agreement will be the subject of a future Notice of Mutual Agreement to the Ports and Railroads, as well as presented for Governing Board review and approval. The Ninth Amendment to the existing Agreement is attached as Transmittal 1.

Budget Impact:

There is no budget impact to either the approved FY22 ACTA Program Budget or the approved 2021 Operations and Maintenance Budget.

Co-General Counsel Review:

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

Transmittal:

Transmittal 1 - Ninth Amendment to the Alameda Corridor Dispatching Agreement