


M E M O

Alameda Corridor Transportation Authority

To: Governing Board

Meeting Date: June 1, 2023

From: Michael C. Leue, Chief Executive Officer 

Subject: Approve Annual Contract Change Orders 79 and 60 and the Extension of Agreement No. C0027 with the Alameda Corridor Engineering Team for 1 year and compensation not to exceed \$2,734,568

Recommendation:

Approve the following Change Orders (COs) and Agreement extension, and authorize the Chief Executive Officer or his designee 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 FY24 in the aggregate amount of \$2,734,568 allocated as follows: \$2,558,568 for ACTA Support (Change Order No. 79 as presented in Transmittal 1) and \$176,000 for the SR-47 Project (Change Order No. 60 as presented in Transmittal 2);
2. Extend the term of the First Amended Agreement No. C0027 for one additional year through June 30, 2024 (via Change Orders Nos. 79 and 60); and
3. Authorize the Chief Executive Officer or his designee to reallocate the FY24 funding between the ACTA Support and SR-47 Project budgets during the fiscal year provided the approved aggregate total compensation 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 approved one-year extensions to the ACET contract. In April 2023, the Board approved the inclusion of ACET in the FY24 Budget. The proposed FY23-24 ACET budget includes specialized technical services provided by subconsultants through the ACET contract.

During the height of corridor construction, approximately Fiscal Year 2000/01, ACET staffing was as high as approximately 170 full-time equivalent (FTE) positions. By FY07, ACTA's needs for ACET staffing significantly reduced to 16 FTE positions where it remained relatively constant through FY10. By FY16, ACTA's needs for ACET staffing gradually reduced further to 5 FTE positions. Excluding subconsultant needs, ACET's current FTE positions remains at 5.

As an alternative to the services provided by the ACET consortium of engineering firms, ACTA staff will start to transition to contracts with engineering firms selected through an upcoming RFP process. Therefore, the need for ACET services will vary during the next fiscal year. It is expected that certain services provided by ACET will be reduced during the second half of the fiscal year as other engineering contracts are brought forward, as approved by the Governing Board, and tasks are transitioned away from ACET.

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, CWO Change Orders were also presented and approved for the PCH Project, but this is no longer required due to project completion.

The original FY23 CWO aggregate amount approved by the Board in June 2022 was \$2,519,985. It included \$2,238,977 for ACTA Support and \$281,008 for the SR-47 Project. Subsequently, ACTA issued a Board-approved reduction of \$47,000 to the ACTA Support CWO. A final FY23 closeout CO for both CWOs will be brought to the Board for approval in the Fall of 2023.

In FY24, the ACTA Support CWO ACET Cumulative Contract Values (Transmittal 3) would be funded by the Administrative Operating Budget that is paid from one of two sources of ACTA revenue, namely outside agency pass-through projects, or the M&O Budget paid directly by the railroads or through the Reserve Account. The SR-47 Project CWO is a separate outside agency project funded entirely from Caltrans sources. Note that for outside agency pass-through projects, LAIF funds are used to initially pay for costs, which are reimbursed by the requesting outside agency.

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 FY24 budget for this item is \$668,994 which is 38.9% more than the FY23 budget of \$481,595. 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 and Non-Rail or Capital Costs)

This item supports rail maintenance and is directly reimbursed by the Railroads. **The FY24 budgeted amount is \$963,227**, which is 68.6% more than the FY23 budget of \$571,293.

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, and other general support.

The proposed FY24 allocation for this item is \$926,347, which is 21.9% less than the original FY23 budget of \$1,186,089. 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 \$2,558,568**.

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

The proposed FY24 budget for the SR-47 Project CWO is \$176,000 (Segment 1 only, as Segment 2 is on indefinite hold), which is 37.4% less than the FY23 budget of \$281,008. It includes final design support, design support during construction, and ROW/utility support during construction for the SR-47 Project as detailed below.

A. 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 final ROW Acquisition Phase and the final payment for the Phase II relocation of the Gas Intake facility by the City of Long Beach and Southern California Gas. Caltrans' completed all construction in February 2021; final construction items, including one utility relocation, will extend to late-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 FY24 ACET CWOs are approved, the not-to-exceed total contract value will be increased by \$2,734,568 from \$253,849,109 to \$256,583,677 exclusive of the budget for the Dominguez Channel Oil Release EPA Matter.

Budget Impact:

The aggregate CWO amount of \$2,734,568 is included in the FY24 Program Budget. Sources include \$176,000 in Caltrans funds for SR-47 shown in the Operating Budget as an Expense for Public Benefit; \$963,227 in Railroad M&O funds paid directly by the Railroads or from the Reserve Account; and \$1,595,341 from ACTA revenue sources, or LAIF funds for pass-thru projects which are fully reimbursed from the requesting party.

Co-General Counsel:

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

Transmittal:

Transmittal 1 - Change Order No. 79 to ACET Agreement No. C0027

Transmittal 2 - Change Order No. 60 to ACET Agreement No. C0027

Transmittal 3 - CWO FY24 ACET Cumulative Contract Values