



A G E N D A

REGULAR MEETING

Governing Board of the Alameda Corridor Transportation Authority

Meeting Date:	June 1, 2023
Time:	10:00 A.M.
Location:	Long Beach City College Liberal Arts Campus Board Room 4901 East Carson Street, Building T1100 Long Beach, CA 90808

The public can attend the meeting in person or view the meeting online via Zoom. No Public Comments will be accepted via Zoom.

Zoom access information below:

<https://us02web.zoom.us/j/5622477111>

Meeting ID: 562 247 7111

Passcode: boardmtg

Public Comments about Agenda Items can be made in person during the live meeting at the meeting location or submitted via email.

Email: PublicComment@acta.org

Sender's name and contact information are appreciated.

A. ROLL CALL

B. OPENING STATEMENT

Persons in the audience who wish to address the Governing Board on any agenda item are invited to identify themselves when that agenda item is called. Persons wishing to address the Governing Board on an item not on the agenda but within the subject matter jurisdiction of the Board should ask to be recognized during the agenda item entitled "Public Comment on Non-Agenda Items". Each public speaker will be limited to three minutes to comment on each agenda item.

Members of the public may view the meeting using the Zoom link set forth on the agenda. No Public Comments will be accepted via Zoom.

Public comments will be accepted by email. Please submit your written comments prior to 3:00 p.m. on the day before the scheduled meeting to have your comment read into the record during the meeting, limited to three minutes. Any email received after 3:00 p.m. on the day before the meeting but before the end of the meeting will be included in the minutes of the meeting, limited to one page.

The Governing Board may consider and act upon items as set forth on the agenda. Ordinarily, the Governing Board will not act on any matter which does not appear on the published agenda.

C. AGENDA ITEMS

Reports:

1. INFORMATION March 2023 Performance Report

Consent Agenda:

2. APPROVE Minutes of the April 6, 2023, Special Board Meeting of the Alameda Corridor Transportation Authority
3. RECEIVE AND FILE Financial Reports for March 2023

Regular Agenda:

4. APPROVE Agreements for Municipal Financial Advisor Services with Frasca & Associates, LLC (C0914) and with PFM Financial Advisors LLC (C0915) for a 5-year term and compensation not-to-exceed \$300,000 for each firm
5. APPROVE Agreements for Emergency Response and Hazardous Waste Management Services with Ocean Blue Environmental Services, Inc. (C0912) and NRC Environmental Services, Inc. (C0913) for a 3-year term and compensation not-to-exceed \$50,000 for each firm
6. APPROVE Agreement for Media Relations Services with Westbound Communications Inc. (C0911) for a term of 3-years and compensation not-to-exceed \$270,000
7. APPROVE Legal Services Agreements with Everett Dorey LLP; Orbach Huff & Henderson LLP; and the Law Office of Sima Salek
8. APPROVE 1) First Amendments to add an additional five year term for legal services agreements with BDG Law Group; Best, Best & Krieger LLP; Gibbs Giden Locher Turner Senet & Wittbrodt LLP; Hawkins Delafield & Wood LLP; Kutak Rock LLP; Nixon Peabody LLP; O’Melveny & Myers LLP; and Theodora Oringer PC and 2) First amendments for an additional five year term and additional funding with Nossaman LLP and Sheppard, Mullin, Richter & Hampton LLP
9. APPROVE Annual Contract Change Orders 79 and 60 and the Extension of Agreement No. C0027 with Alameda Corridor Engineering Team for 1 year and compensation not to exceed \$2,734,568
10. APPROVE and Adopt the ACTA Officer and Employee Publicly Available Pay Schedule for Fiscal Year 2023/2024
11. APPROVE Annual ACTA Operating Budget for Fiscal Year 2023/2024
12. Presentation to Tony Gioiello for Recognition of completed service as a longstanding member of Alameda Corridor Transportation Authority Governing Board

D. PUBLIC COMMENT ON NON-AGENDA ITEMS

E. CLOSED SESSION

ADJOURNMENT

As a covered entity under Title II of the Americans with Disabilities Act, the Alameda Corridor Transportation Authority (ACTA) does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services, and activities. Sign language interpreters, assistive listening devices, and translation services may be provided. To ensure availability, 72-hour advance notice is required. Contact the ACTA Office at (562) 247-7777.

Item 1

Performance Report March 2023

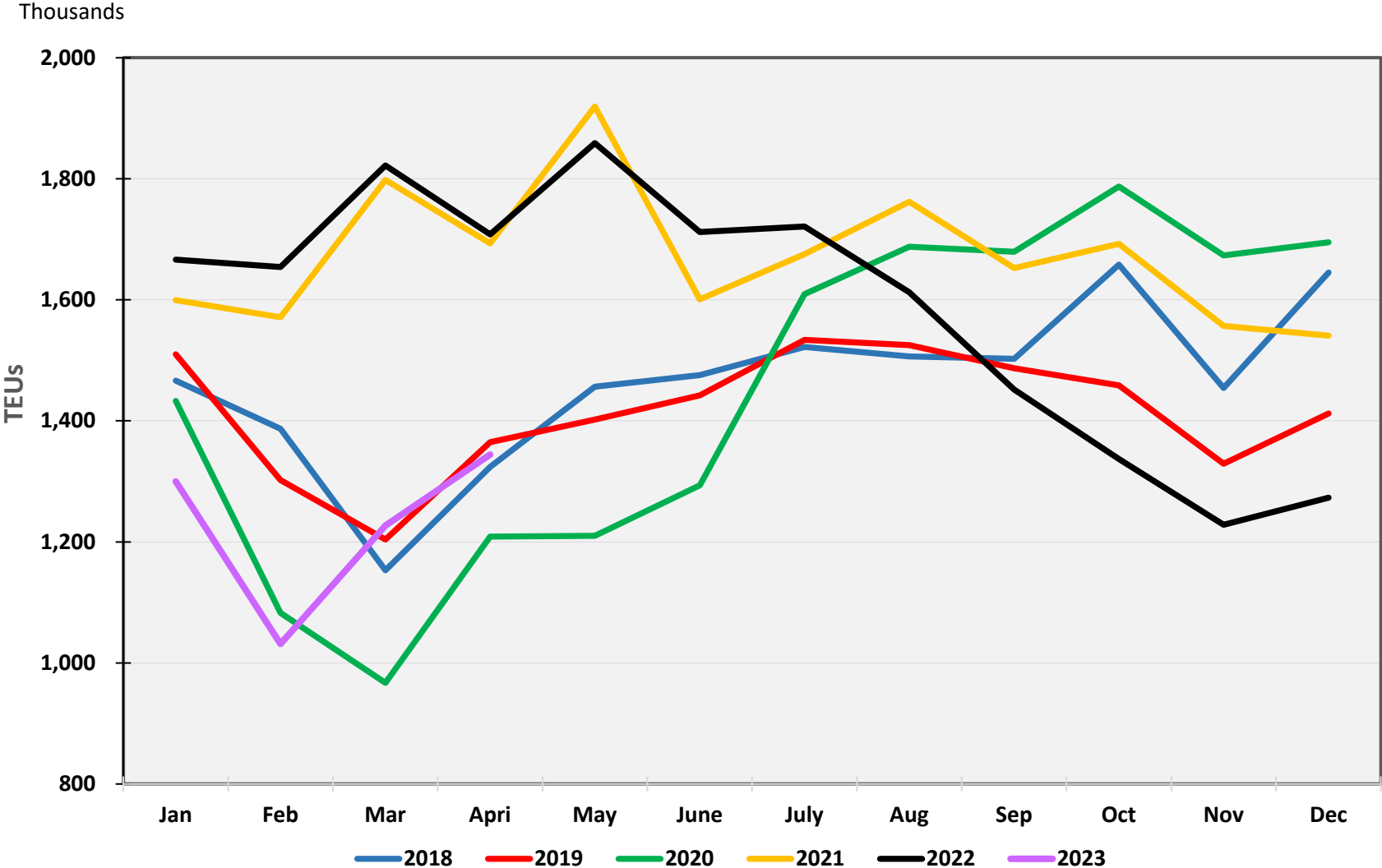
Port Container Throughput (TEUs) – March 2023

	POLA		POLB		Combined	
	Mar-23	%Change*	Mar-23	%Change*	Mar-23	%Change*
Imports	319,962	- 35.4%	279,148	- 34.7%	599,110	- 35.1%
Exports	98,276	- 12.1%	133,512	16.9%	231,788	2.6%
Total Loaded	418,238	- 31.1%	412,660	- 23.8%	830,898	- 27.6%
Empty	204,996	- 41.7%	191,219	- 40.6%	396,215	- 41.2%
Total	623,234	- 35.0%	603,879	- 30.0%	1,227,113	- 32.6%
	YTD	%Change*	YTD	%Change*	YTD	%Change*
Imports	941,409	- 30.1%	797,512	- 33.9%	1,738,921	- 31.9%
Exports	283,404	- 7.8%	350,054	- 1.4%	633,458	- 4.4%
Total Loaded	1,224,813	- 25.9%	1,147,566	- 26.5%	2,372,379	- 26.2%
Empty	612,281	- 40.4%	573,762	- 36.1%	1,186,043	- 38.4%
Total	1,837,094	- 31.5%	1,721,328	- 30.0%	3,558,422	- 30.8%

Port Container Throughput (TEUs) – April 2023

	POLA		POLB		Combined	
	Apr-23	%Change*	Apr-23	%Change*	Apr-23	%Change*
Imports	343,689	- 24.7%	313,444	- 21.8%	657,133	- 23.4%
Exports	88,202	- 11.7%	122,663	0.6%	210,865	- 4.9%
Total Loaded	431,891	- 22.4%	436,107	- 16.6%	867,998	- 19.6%
Empty	256,219	- 22.5%	219,943	- 26.2%	476,162	- 24.3%
Total	688,110	- 22.5%	656,050	- 20.1%	1,344,160	- 21.3%
	YTD	%Change*	YTD	%Change*	YTD	%Change*
Imports	1,285,098	- 28.7%	1,110,956	- 30.9%	2,396,054	- 29.8%
Exports	371,605	- 8.8%	472,717	- 0.9%	844,322	- 4.5%
Total Loaded	1,656,703	- 25.1%	1,583,673	- 24.0%	3,240,376	- 24.6%
Empty	868,500	- 36.1%	793,705	- 33.7%	1,662,205	- 35.0%
Total	2,525,203	- 29.3%	2,377,378	- 27.5%	4,902,581	- 28.4%

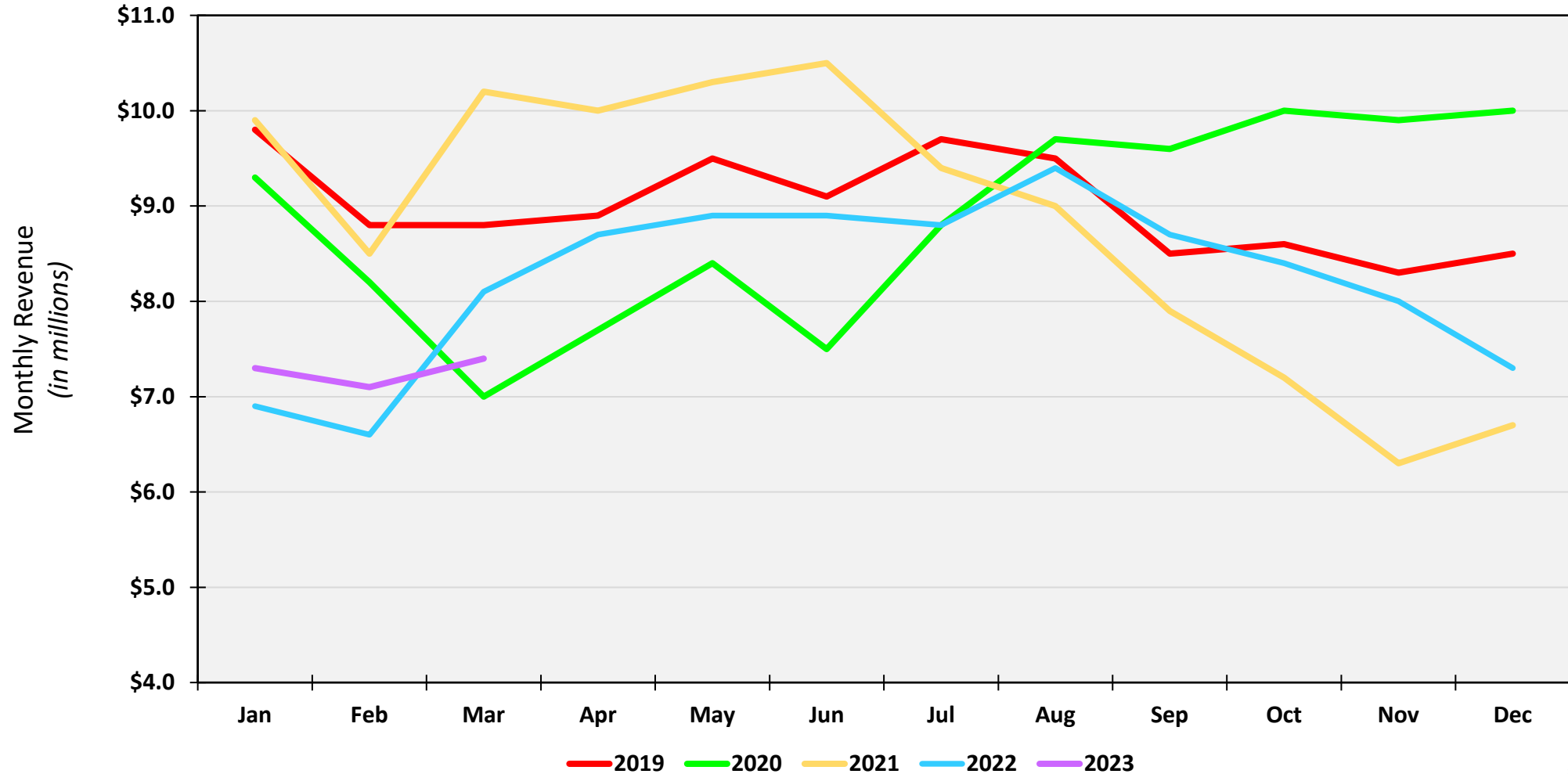
SP Bay Port TEUs Trends through April 2023



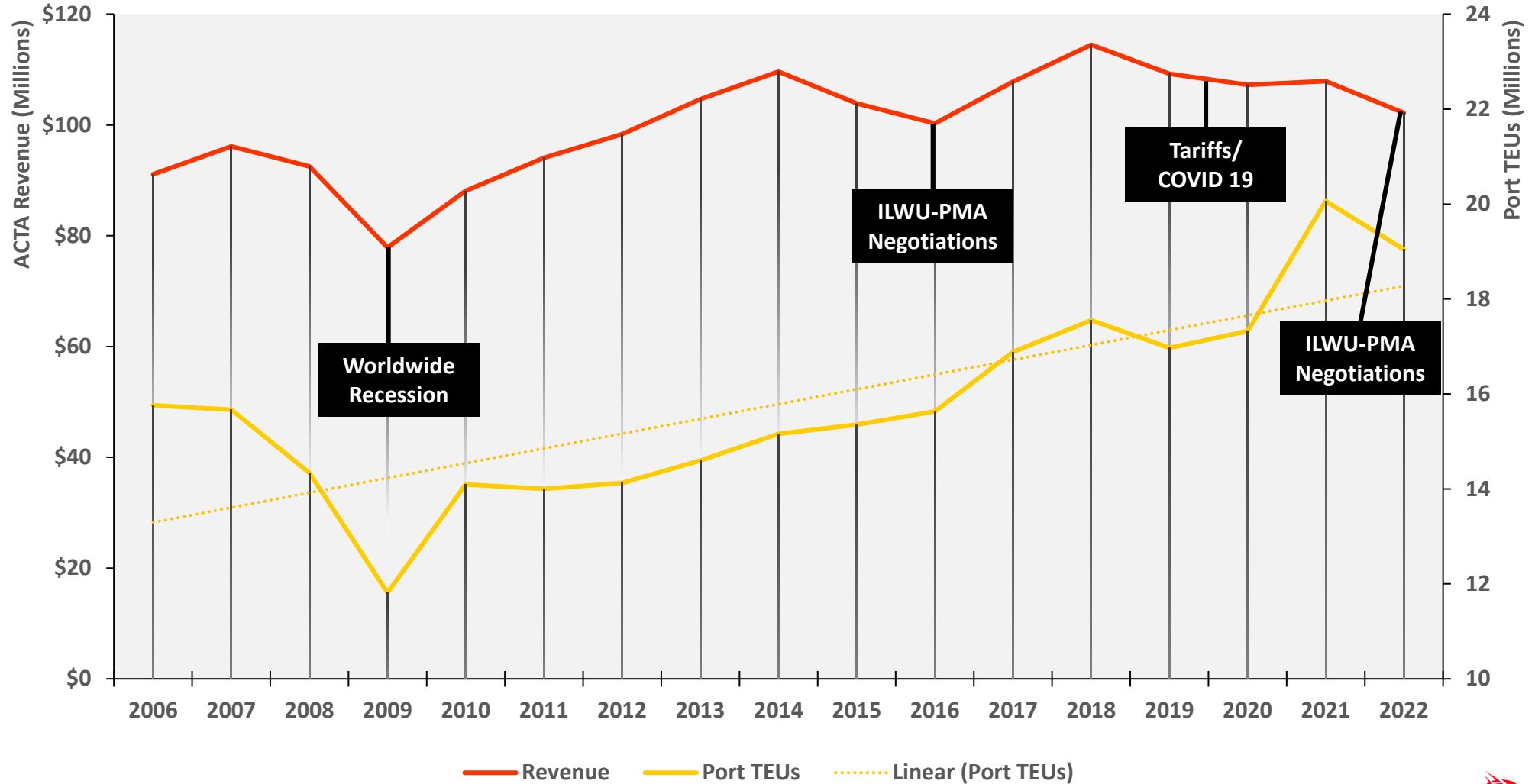
Alameda Corridor Performance March 2023

	Mar 2023	CY23	FY23
Revenue	\$7.4 M	\$21.9 M	\$72.6 M
Change from 2022	- 8.4 %	1.5 %	6.5 %
TEU's	318,925	957,164	3,418,915
Change from 2022	- 14.3 %	- 3.2 %	3.3 %

Corridor Revenue Performance CY2019 to CY2023



ACTA Revenue & Port TEUS



MINUTES OF A SPECIAL MEETING OF THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY GOVERNING BOARD HELD AT THE PORT OF LOS ANGELES HARBOR ADMINISTRATION BUILDING, 425 S. PALOS VERDES STREET, SAN PEDRO, CALIFORNIA 90731 ON APRIL 6, 2023 AT 10:00 A.M.

A. ROLL CALL

Members present:

Michael Cano, Los Angeles County Metro

Tim McOsker, City of Los Angeles

Suely Saro, City of Long Beach

Alternate members present:

Tony Gioiello, Port of Los Angeles

Duane Kenagy, Port of Long Beach

Bonnie Lowenthal, Port of Long Beach

Members absent:

Edward Renwick, Port of Los Angeles

Also present and participating:

Michael Leue, ACTA, Chief Executive Officer

Kevin Scott, ACTA, Chief Financial Officer

Thomas Oh, ACTA, Co-General Counsel

Maria Melendres, ACTA, Governing Board Secretary

B. OPENING STATEMENT

CHAIR MCOSKER PRESIDED AS CHAIR.

The meeting was called to order at 10:08 a.m. The opening statement was read into the record.

C. AGENDA ITEMS

Reports

1. JANUARY 2023 CORRIDOR PERFORMANCE

Michael Leue presented the Corridor performance statistics through January 2023.

2. 2023 ANNUAL EMERGENCY RESPONSE EXERCISE

Michael Leue presented information on the 2023 Annual Emergency Response Exercise conducted by ACTA on March 26, 2023.

Consent Agenda

3. MINUTES - ACTA GOVERNING BOARD SPECIAL MEETING OF FEBRUARY 24, 2023 – APPROVED.

Minutes of the Special Meeting of February 24, 2023, of the Governing Board of the Alameda Corridor Transportation Authority, were presented to the Governing Board.

4. MONTHLY FINANCIAL REPORTS AS OF JANUARY 2023 FINANCIAL REPORT – RECEIVED AND FILED.

Communication from Kevin L. Scott, Chief Financial Officer, dated April 6, 2023, recommending that the monthly financial reports as of January 31, 2023, be received and filed, was presented to the Governing Board.

No public comment was received on the Consent Agenda.

Board Member Lowenthal motioned, seconded by Board Member Cano that the minutes of the February 24, 2023, Special Meeting of the Alameda Corridor Transportation Authority be approved as submitted and that the Monthly Financial Reports as of January 31, 2023, be received and filed. Roll call was taken and carried by the following vote:

AYES: Cano, Gioiello, Kenagy, Lowenthal, McOsker, Saro

NOES: None

ABSENT: Renwick

Regular Agenda

5. CALTRANS SERVICE CONTRACT 07R399 – RAILINGS REPLACEMENT OF ANAHEIM OVERHEAD BRIDGE – FLAGGING SERVICES & PROJECT OVERSIGHT – APPROVED.

Communication from Michael C. Leue, Chief Executive Officer, dated April 6, 2023, requesting the approval of the Caltrans Service Contract 07R399 for ACTA to provide flagging services and project oversight for a term of five years in support of Caltrans’ replacement of existing bridge railings on the Anaheim Overhead (Bridge #53-2627) with estimated costs reimbursable to ACTA in an amount not to exceed \$47,783, and authorize the Chief Executive Officer or Chief Financial Officer to execute the agreement, was presented to the Governing Board.

No public comment was received on Item No. 5.

Vice Chair Saro motioned, seconded by Board Member Lowenthal that Item No. 5 be approved as recommended. Roll call was taken and carried by the following vote:

AYES: Cano, Gioiello, Kenagy, Lowenthal, McOsker, Saro

NOES: None

ABSENT: Renwick

6. RAILWORKS TRACK SERVICES, LLC – AGREEMENT NO. C0885 – CONTRACT TASK ORDER NO. 9 – FLAGGING SERVICES – APPROVED.

Communication from Michael C. Leue, Chief Executive Officer, dated April 6, 2023, requesting the authorization of the Chief Executive Officer or his designee to execute Contract Task Order No. 9 under Agreement No. C0885 with RailWorks Track Services LLC, for payment costs not to exceed \$220,800 for flagging services on SR-91 at Compton Creek Bridge OH – Bridge #53-2235 and Off-Ramp Bridge OH – Bridge No. 53-22375, was presented to the Governing Board.

No public comment was received on Item No. 6.

Vice Chair Saro motioned, seconded by Board Member Gioiello that Item No. 6 be approved as recommended. Roll call was taken and carried by the following vote:

AYES: Cano, Gioiello, Kenagy, Lowenthal, McOsker, Saro
NOES: None
ABSENT: Renwick

7. TETRA TECH, INC. – AGREEMENT NO. C0868 – AMENDMENT NO. 2 – ENVIRONMENTAL SITE ASSESSMENT & RESTORATION – APPROVED.

Communication from Michael C. Leue, Chief Executive Officer, dated April 6, 2023, requesting the approval of the proposed second amendment to Agreement No. C0868 with Tetra Tech, Inc. for environmental site assessment and restoration services to extend the term of the Agreement for three years through June 30, 2026, and decrease the total compensation amount to \$50,000; and authorize the Chief Executive Officer or his designee to execute said amendment, was presented to the Governing Board.

No public comment was received on Item No. 7.

Vice Chair Saro motioned, seconded by Board Member Lowenthal that Item No. 7 be approved as recommended. Roll call was taken and carried by the following vote:

AYES: Cano, Gioiello, Kenagy, Lowenthal, McOsker, Saro
NOES: None
ABSENT: Renwick

8. 2023-2024 RENEWAL OF INSURANCE COVERAGE – APPROVED.

Communication from Kevin L. Scott, Chief Financial Officer, dated April 6, 2023, recommending that the Governing Board authorize the Chief Financial Officer or his designee to: 1) Negotiate and accept the recommendations of Willis Towers Watson (Willis), ACTA’s Broker of Record, for placement of required insurance for the period April 15, 2023 through April 14, 2024; and 2) Bind insurance, on behalf of ACTA, in accordance with the recommendations of Willis, was presented to the Governing Board.

Revised Transmittals were presented to the Board and available to the public at the meeting.

No public comment was received on Item No. 8.

Board Member Kenagy motioned, seconded by Board Member Lowenthal that Item No. 8 be approved as recommended. Roll call was taken and carried by the following vote:

AYES: Cano, Gioiello, Kenagy, Lowenthal, McOsker, Saro
NOES: None
ABSENT: Renwick

Before proceeding with Item 9, Chair McOsker left the meeting, leaving Board Member Saro to serve as Acting Chair for the remainder of the meeting.

9. ACTA ORGANIZATION TRANSITION – INFORMATION.

Communication from Michael C. Leue, Chief Executive Officer, dated April 6, 2023, with information on the proposed ACTA Organization transition, was presented to the Governing Board.

No public comment was received on Item No. 9.

10. PRELIMINARY BUDGET– FISCAL YEAR 2024 – INFORMATION.

Communication from Kevin L. Scott, Chief Financial Officer, dated April 6, 2023, with information on the FY2024 Draft Budget, was presented to the Governing Board.

No public comment was received on Item No. 10.

D. PUBLIC COMMENT ON NON-AGENDA ITEMS

There were no requests by the public to address the Governing Board.

E. CLOSED SESSION


None

ADJOURNMENT

At 11:23 p.m., the meeting was adjourned sine die.

M E M O

Alameda Corridor Transportation Authority

To: Governing Board
Meeting Date: June 1, 2023
From: Kevin L. Scott, Chief Financial Officer 
Subject: Monthly Financial Reports as of March 31, 2023 (RECEIVE AND FILE)

Recommendation:

Receive and file the Monthly Financial Reports as of March 2023.

Discussion:

The financial package includes the following:

- Executive Summary – Monthly key financial activity (See Transmittal 1).

Performance Comparisons – Current Month (March) and year-to-date (both by fiscal year and calendar year) of **Revenue** (corridor use fee) and corresponding **TEU** information; **Change** is compared to prior year actuals by month, fiscal year and calendar year.

Use Fees and Container Charges – Use fee and container charge information is provided in a bar chart by fiscal year. The current year shows the actuals to date overlain on the approved fiscal year budget, and with a notation of the latest forecast for fiscal year revenue.


- Monthly Financial Statements (See Transmittal 2).

Statements of Net Position - Unaudited statement of ACTA's assets and liabilities as of March 31, 2023. The audited June 30, 2022 financial information is also included for comparative purposes to the beginning of the fiscal year.

Statement of Revenues, Expenses and Changes in Net Position – Fiscal Year 2023 unaudited statement of revenues, expenses and changes in net position through March 31, 2023. Also included is the statement as of March 2022 which has been included for comparative purposes for nine months of information.

Comparison of Budget Functional Expenses – Operating Budget by Expense Type - The fiscal year-to-date budget is compared to actual revenue and expenditures incurred as of March 31, 2023.

Comparison of Budget Functional Expenses – Operating Budget by Funds - The fiscal year-to-date budget is compared to actual revenue and expenditures incurred as of March 31, 2023.



Cash and Investment Summary – Cash and investment balances and the corresponding investment schedule are being presented as of March 31, 2023. The cash and investment balances are segregated by institution, account number reference, and account description. Balances are presented in book and market value. Also included are the grant funds received for the SR-47 project during the current fiscal year. The investment schedule summarizes the composition of the agency’s investment portfolio and how the portfolio complies with the Board approved Investment Policy.

Cash Flow – Cash flow for the month of March 2023 is presented. It is presented in both a summary format and a detailed format. A fiscal year-to-date cash flow showing all activity through March 31, 2023 is also presented in both a summary format and a detailed format. The dollar amounts represent the book values for each account.

Co-General Counsel Review:

ACTA’s Co-General Counsel has reviewed this Board Report and there are no legal issues at this time.

Transmittals:

Transmittal 1 - Executive Summary – Key financial activity

Transmittal 2 - Monthly Financial Statements as of March 31, 2023

Key Financial Activity

March '23 vs. '22

Corridor Performance

March '23 vs. '22

Railroad Self-Assessment Revenue

	'23	'22	Change
March Revenue	\$7.4 M	\$8.1 M	- 8.4 %
Calendar Year to Date (Jan-Mar) *	\$21.9 M	\$21.6 M	1.5 %
Fiscal Year to Date (July-Mar) *	\$72.6 M	\$68.1 M	6.5 %

* Note: Does not include reconciliations / adjustments for fiscal year-end.

Corridor Volumes

March '23 vs. '22

TEUs (Daily Containers)

Operations – On Corridor

	'23	'22	Change
TEU's *	308,064 (5,400)	361,267 (6,332)	- 14.7 %
Calendar Year to Date	930,736 (5,619)	959,843 (5,795)	- 3.0 %
Fiscal Year to Date	3,312,792 (6,569)	3,193,290 (6,333)	3.7 %

Operations – Around Corridor (Container Charges)

	'23	'22	Change
TEU's *	10,861 (190)	10,641 (187)	2.1 %
Calendar Year to Date	26,428 (160)	28,794 (174)	- 8.2 %
Fiscal Year to Date	106,123 (210)	117,162 (232)	- 9.4 %

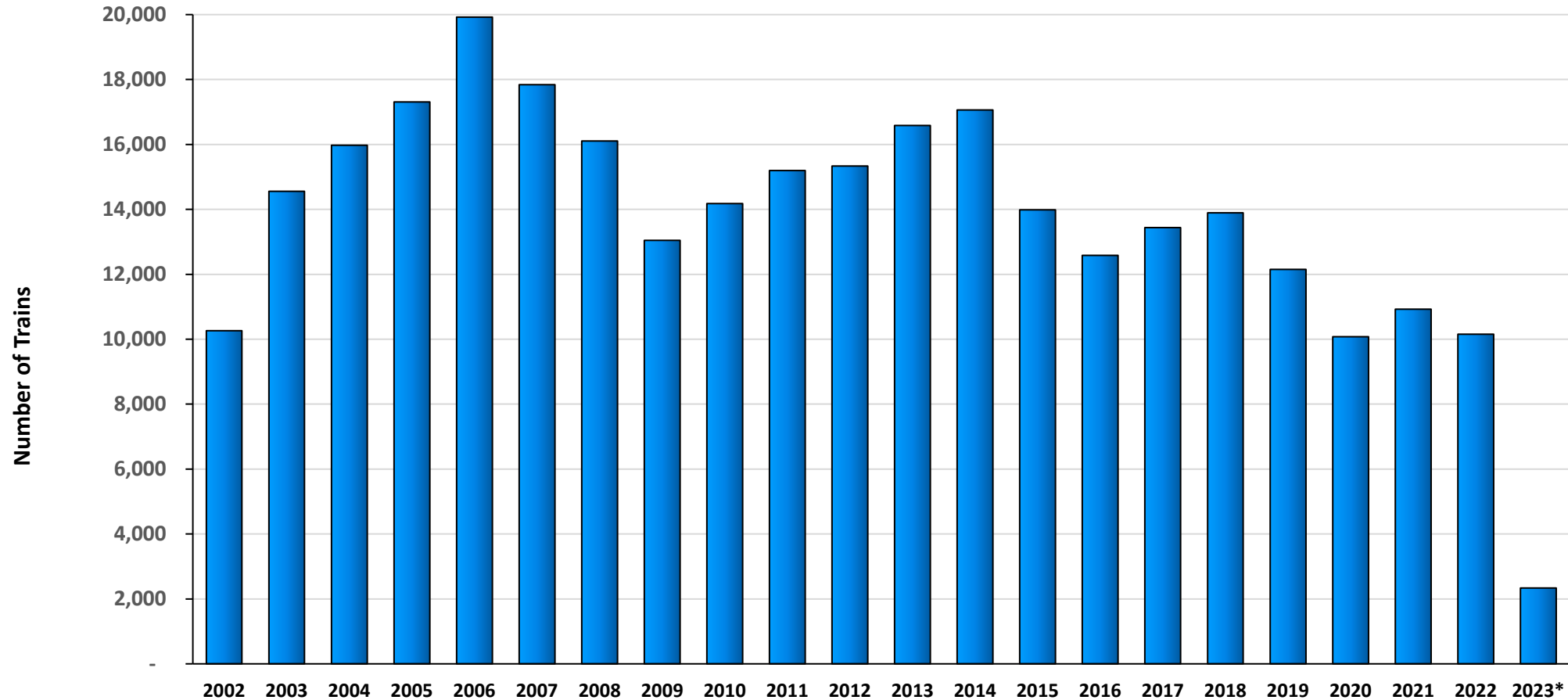
Operations – Combined

	'23	'22	Change
TEU's *	318,925 (5,590)	371,907 (6,519)	- 14.3 %
Calendar Year to Date	957,164 (5,779)	988,637 (5,969)	- 3.2 %
Fiscal Year to Date	3,418,915 (6,780)	3,310,452 (6,565)	3.3 %

Note: Numbers in () are the Average Daily Containers, Daily TEU's ÷ 1.84 = Containers

* Containers trucked to off-dock intermodal yards that are charged ACTA fee

Alameda Corridor Train Counts



Average Daily Trains**:

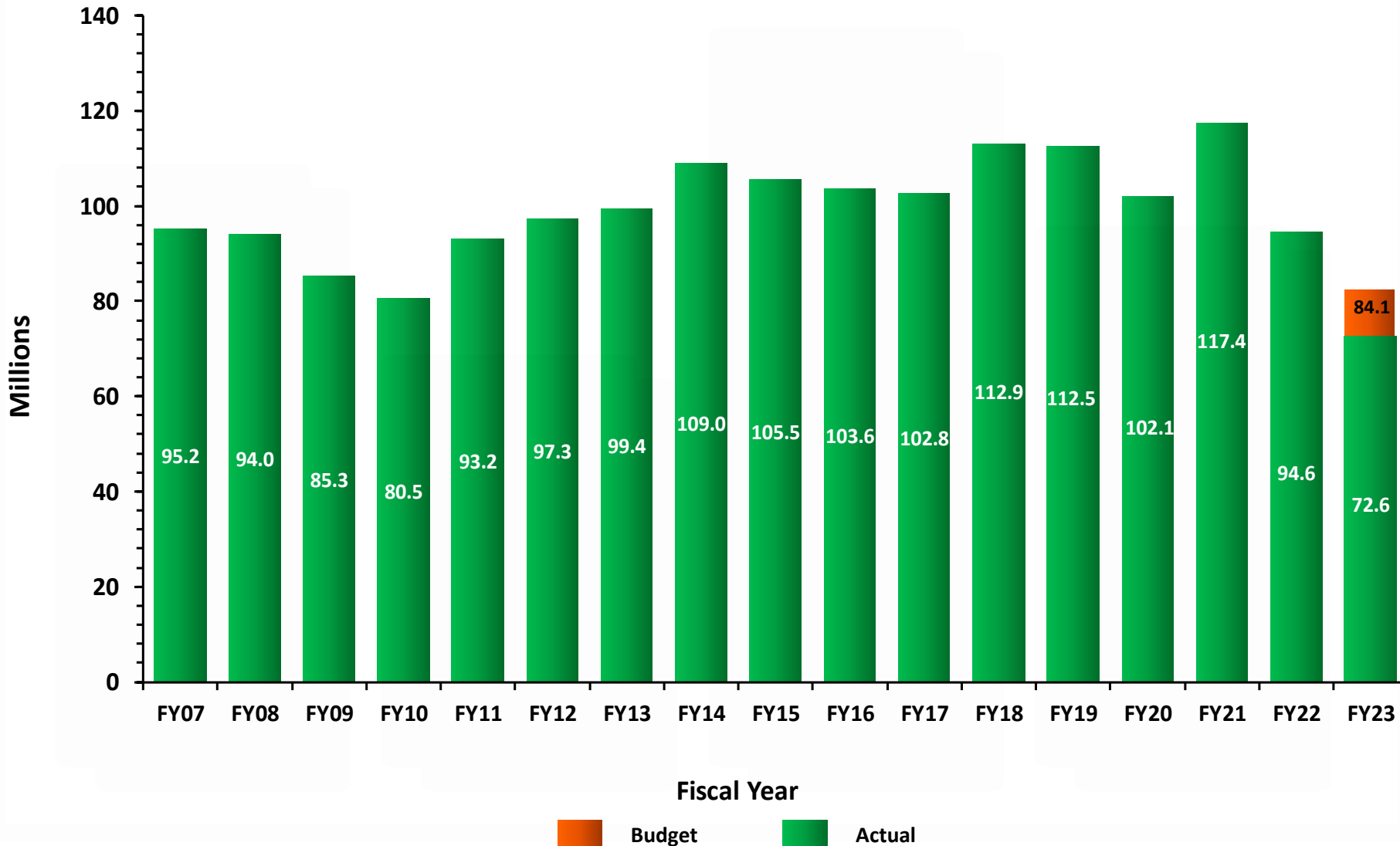
<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
39	40	44	47	55	49	44	36	39	42	42
<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
45	47	38	34	37	38	33	28	30	28	26

• Calendar Year-to-Date

** Corridor Capacity 150 Trains per Day

Use Fees & Container Charges

as of March 31, 2023





Statements of Net Position

March 31, 2023 & June 30, 2022

	<u>March 2023</u>	<u>June 2022</u>
<u>Assets & Deferred Outflows of Resources</u>		
Current Assets:		
Restricted Cash & Cash Equivalents, & Investments	\$ 56,974,969	\$ 112,642,434
Receivables	9,583,837	14,097,414
Prepaid Expenses	167,448	1,509,733
Total Current Assets	66,726,254	128,249,581
Restricted Investments *	129,648,615	51,156,921
Assets Held for Transfer	3,182,825	3,182,825
Net OPEB Asset	556,666	556,666
Capital Assets Not Being Depreciated	438,148,732	438,148,732
Capital Assets, Net	1,039,675,403	1,055,509,055
Total Assets	1,677,938,495	1,676,803,780
Deferred Outflows of Resources:		
Charges on Refunding	46,516,982	12,344,243
Pension Contributions & Differences in Experience	837,109	837,109
Total Assets & Deferred Outflows of Resources	\$ 1,725,292,586	\$ 1,689,985,132
<u>Liabilities, Deferred Inflows of Resources, & Net Position</u>		
Current Liabilities:		
Accounts Payable	\$ 3,279,215	\$ 8,018,917
Unearned Revenue	2,633,673	2,402,881
Accrued Interest Payable, Current Portion	25,094,625	40,588,101
Revenue Bonds Payable, Current Portion	26,983,264	37,813,264
Other Liabilities	470,505	533,837
Total Current Liabilities	58,461,282	89,357,000
Noncurrent Liabilities:		
Collateral Deposit	-	-
Shortfall Advances Payable to Ports	12,677,512	12,646,463
Net Pension Liability	809,128	809,128
Accrued Interest Payable, Net of Current Portion	598,175,850	636,833,348
Revenue Bonds Payable, Net of Current Portion & Unamortized Discount	1,638,917,247	1,473,164,082
Total Noncurrent Liabilities	2,250,579,737	2,123,453,021
Total Liabilities	\$ 2,309,041,019	\$ 2,212,810,021
Deferred Inflows of Resources	1,193,401	1,193,401
<u>Net Position</u>		
Net Investment in Capital Assets	(100,038,091)	65,177,915
Restricted for Debt Service	118,539,707	110,068,346
Restricted for Capital Projects	-	-
Restricted by Master Trust Agreement	63,238,382	41,508,731
Unrestricted	(666,681,832)	(740,773,282)
Total Net Position	(584,941,834)	(524,018,290)
Total Liabilities, Deferred Inflows of Resources, & Net Position	\$ 1,725,292,586	\$ 1,689,985,132

* All investments with a maturity within three months are considered cash for the year-end financial statements. Monthly, unaudited financial statements, carry all investments, regardless of maturity date(s), as Restricted Investments. Fully detailed classifications are only done at year-end in accordance with GASB 41, therefore classification differences exist.

	<u>March 2023</u>	<u>June 2022</u>	<u>FY2023 Increase</u>
Current	\$ 56,974,969	\$ 112,642,434	
Noncurrent	129,648,615	51,156,921	
	\$ 186,623,584	\$ 163,799,355	\$ 22,824,229



Statement of Revenues, Expenses, & Changes in Net Position

For nine months ended March 31, 2023 & March 31, 2022

	<u>March 2023</u>	<u>March 2022</u>
Operating Revenues:		
Use Fees & Container Charges	\$ 74,473,076	\$ 69,382,839
Maintenance-of-Way Charges	5,834,099	4,540,602
Total Operating Revenues	<u>80,307,175</u>	<u>73,923,441</u>
Operating Expenses:		
Salaries & Benefits	1,760,921	1,681,435
Administrative Expenses	1,116,883	990,877
Professional Services	607,543	637,442
Maintenance-of-Way	9,567,430	7,885,422
Depreciation	15,833,652	15,768,602
Total Operating Expenses	<u>28,886,429</u>	<u>26,963,778</u>
Operating Income (Loss)	51,420,746	46,959,663
Nonoperating Revenues:		
Interest & Investment Revenue, Net	2,967,314	(2,110,409)
Public Benefit Income	87,155	86,522
Miscellaneous Revenue	491,752	99,567
Total Nonoperating Revenues	<u>3,546,221</u>	<u>(1,924,320)</u>
Nonoperating Expenses:		
Interest Expense	85,903,284	81,069,503
Expenses for Public Benefit & Pass Thru Expenses	393,287	231,362
Costs of Issuance	29,593,940	-
Gain/Loss Sale or Transfer of Capital Assets	-	-
Total Nonoperating Expenses, Net	<u>115,890,511</u>	<u>81,300,865</u>
Changes in Net Position	(60,923,544)	(36,265,522)
Net Position:		
Net Position, Beginning of Year	(524,018,290)	(471,751,858)
Net Position - End of Year	<u>\$ (584,941,834)</u>	<u>\$ (508,017,380)</u>



Comparison of Budget By Expense Type as of March 31, 2023

(\$ in thousands)	Fiscal Year-to-Date		
	Budget*	Actuals	Variance
Revenues			
Operating Revenues			
Use Fees & Container Charges	\$ 63,045,084	\$ 74,473,076	\$ 11,427,992
Maintenance-of-Way Charges	7,969,997	5,834,099	(2,135,898)
Total Operating Revenues	<u>71,015,081</u>	<u>80,307,175</u>	<u>9,292,094</u>
Other Revenues			
Projects			
Pier Pass	45,000	45,000	-
EPA Order & Pass Thru Income	127,659	-	(127,659)
Subtotal Projects	<u>172,659</u>	<u>45,000</u>	<u>(127,659)</u>
Miscellaneous			
Public Benefit Income	3,327,750	87,155	(3,240,595)
Gain/Loss from Sale of Fixed Assets	-	-	-
Ports-Shortfall Advances	-	-	-
Office Rental & Other Income	97,212	446,752	349,540
Investment Income	335,120	2,967,314	2,632,194
Subtotal Miscellaneous	<u>3,760,082</u>	<u>3,501,221</u>	<u>(258,861)</u>
Subtotal Other Revenues	<u>3,932,741</u>	<u>3,546,221</u>	<u>(386,520)</u>
Total Sources of Funds	<u>74,947,822</u>	<u>83,853,396</u>	<u>8,905,574</u>
Expenses			
Salaries	1,359,171	1,273,381	(85,790)
Benefits	733,987	487,540	(246,447)
Office Expenses	364,676	360,127	(4,549)
Other Management Expenses	71,663	35,860	(35,803)
Information Technologies	166,425	77,767	(88,658)
Bank & Investment	131,250	91,962	(39,288)
ACET Administrative & Capital Support	1,250,763	551,167	(699,596)
Audit	147,353	115,197	(32,156)
Legal	622,500	306,990	(315,510)
Governmental Affairs	62,548	55,870	(6,678)
Other Professional Services	335,366	129,486	(205,880)
Pass Thru Expenses & EPA Order	127,659	303,901	176,242
Expenses for Public Benefit	3,327,750	89,386	(3,238,365)
Total Administrative Expenses	<u>8,701,111</u>	<u>3,878,634</u>	<u>(4,822,477)</u>
Maintenance-of-Way Expenses-Rail - Contractors	6,046,911	3,794,509	(2,252,402)
Maintenance-of-Way Expenses-Rail - Capital	-	-	-
Maintenance-of-Way Expenses-Rail - Other	1,923,086	2,039,590	116,504
Maintenance-of-Way Expenses-Nonrail - Contractors	990,160	892,778	(97,382)
Maintenance-of-Way Expenses-Nonrail - Capital	4,266,995	2,591,049	(1,675,946)
Maintenance-of-Way Expenses-Nonrail - Other	106,510	151,233	44,723
Maintenance-of-Way Expenses - ACTA	125,110	98,271	(26,839)
Total Maintenance-of-Way Expenses	<u>13,458,772</u>	<u>9,567,430</u>	<u>(3,891,341)</u>
Subtotal Administrative and M&O Expenses	<u>22,159,883</u>	<u>13,446,064</u>	<u>(8,713,819)</u>
Financing Expenses			
Debt Service - Interest	43,783,202	15,465,435	(28,317,767)
Debt Service - Accrued CAB Interest	49,387,434	70,437,849	21,050,415
Subtotal Financing Expenses	<u>93,170,636</u>	<u>85,903,284</u>	<u>(7,267,352)</u>
Depreciation & Amortization Expenses			
Depreciation	15,738,873	15,833,652	94,779
Cost of Issuance	-	29,593,940	29,593,940
Subtotal Depreciation & Amortization Expenses	<u>15,738,873</u>	<u>45,427,592</u>	<u>29,688,719</u>
Total Operating Expenses	<u>131,069,392</u>	<u>144,776,940</u>	<u>13,707,548</u>
Income (Loss)	<u>\$ (56,121,570)</u>	<u>\$ (60,923,544)</u>	<u>\$ (4,801,974)</u>

* Y-T-D Budget calculated on a straight line basis.



Comparison of Budget By Funds as of March 31, 2023

(\$ in thousands)	<u>Fiscal Year-to-Date</u>		
	Budget*	Actuals	Variance
Revenues			
Operating Revenues			
Use Fees & Container Charges	\$ 63,045,084	\$ 74,473,076	\$ 11,427,992
Maintenance-of-Way Charges	7,969,997	5,834,099	(2,135,898)
Total Operating Revenues	<u>71,015,081</u>	<u>80,307,175</u>	<u>9,292,094</u>
Other Revenues			
Projects			
Pier Pass	45,000	45,000	-
EPA Order & Pass Thru Income	127,659	-	(127,659)
Subtotal Projects	<u>172,659</u>	<u>45,000</u>	<u>(127,659)</u>
Miscellaneous			
Public Benefit Income	3,327,750	87,155	(3,240,595)
Gain/Loss from Sale of Fixed Assets	-	-	-
Ports-Shortfall Advances	-	-	-
Office Rental & Other Income	97,212	446,752	349,540
Investment Income	335,120	2,967,314	2,632,194
Subtotal Miscellaneous	<u>3,760,082</u>	<u>3,501,221</u>	<u>(258,861)</u>
Subtotal Other Revenues	<u>3,932,741</u>	<u>3,546,221</u>	<u>(386,520)</u>
Total Sources of Funds	<u>74,947,822</u>	<u>83,853,396</u>	<u>8,905,574</u>
Expenses			
Administrative Costs	5,245,702	3,485,347	(1,760,355)
Railroads-M&O	7,969,997	5,834,099	(2,135,898)
Reserve-M&O	5,363,665	3,635,060	(1,728,605)
Financing Fees-M&O	125,110	98,271	(26,839)
Revenue Fund-Interest & COI	43,783,202	15,465,435	(28,317,767)
Expenses for Public Benefit	3,327,750	89,386	(3,238,364)
LAIF General Fund-Pass Thru & EPA	127,659	303,901	176,242
Total Expenses	<u>65,943,085</u>	<u>28,911,499</u>	<u>(37,031,586)</u>
Non Cash Expenses			
Accrued CAB Debt Service Interest	49,387,434	70,437,849	21,050,415
Depreciation	15,738,873	15,833,652	94,779
Cost of Issuance	-	29,593,940	29,593,940
Subtotal Interest, Depreciation, & Amortization Expenses	<u>65,126,307</u>	<u>115,865,441</u>	<u>50,739,134</u>
Total Operating Expenses	<u>131,069,392</u>	<u>144,776,940</u>	<u>13,707,548</u>
Income (Loss)	<u>\$ (56,121,570)</u>	<u>\$ (60,923,544)</u>	<u>\$ (4,801,974)</u>

* Y-T-D Budget calculated on a straight line basis.



Cash & Investment Summary as of March 31, 2023

<u>Cash and Investment Balances (\$ in thousands)</u>					
<u>Institution</u>	<u>Bank Reference #</u>	<u>Chandler Reference #</u>	<u>Account Description</u>	<u>Book Value</u>	<u>Market Value</u>
Bank of America					
	0457 & 0796	-	Concentration & Disbursement	467	467
Pre 1999 Bond Sale Accounts-Union Bank					
	5080	512	SR-47	4,451	4,491
Grant Reimbursement Received this Month \$ -0.00-					
Grant Reimbursement Received FY to Date \$266,280					
Local Agency Investment Fund (LAIF)					
	40-19-006	570	General Fund	9,837	9,837
1999, 2004 and 2016 Bond Funds - US Bank-Trustee					
Revenue Funds					
	1170	507	Revenue Fund	28,142	28,285
	1171	508	M & O Fund	4,389	4,426
	1172	509	Reserve Account	12,296	12,221
	1189	518	Administrative Costs	8,447	8,560
			Subtotal Revenue Funds	53,274	53,492
Debt Service Funds					
	61200	-	99C Interest Account	6,306	6,405
	61201	-	99C Principal Account	18,633	18,633
	38003	-	04B Debt Service Reserve	24,957	23,804
	39004	-	04A Debt Service Reserve	34,051	32,335
	38000	516	04B Debt Service	-	-
	39006	-	04A Financing fee	1,402	1,402
	39002	515	04A Debt Service Principal Account	-	-
	59001	-	12 Debt Service Interest Account	1,035	1,035
	59002	-	12 Debt Service Principal Account	5,307	5,307
	59004	516	12 Debt Service Reserve Account	7,709	7,292
	67001	-	13A Debt Service Interest Account	1	1
	67002	-	13A Debt Service Principal Account	6	6
	27000	-	16A Debt Service	427	427
	27004	-	16A Debt Service Reserve	3,648	3,468
	108006	-	16B- Financing fee	628	628
	108000	-	16B- Financing fee	8,431	8,431
	98000	-	2022 A - DS Fund	31	31
	98001	-	2022 A - DS Reserve Fund	-	-
	98002	-	2022 A - Interest Account	-	-
	98003	-	2022 A - Principal Account	-	-
	98004	-	2022 A - Redemption Account	-	-
	98005	-	2022 A - Cost of Issuance Fund	-	-
	98006	-	2022 A - Bond Proceeds Account	-	-
	53000	-	2022 B - DS Fund	62	62
	53001	-	2022 B - DS Reserve Fund	-	-
	53002	-	2022 B - Interest Account	6,286	6,384
	53003	-	2022 B - Principal Account	-	-
	53004	-	2022 B - Redemption Account	-	-
	53005	-	2022 B - Cost of Issuance Fund	-	-
	53006	-	2022 B - Bond Proceeds Account	-	-
	86000	-	2022 C - DS Fund	2,685	2,685
	86001	-	2022 C - DS Reserve Fund	-	-
	86002	-	2022 C - Interest Account	-	-
	86003	-	2022 C - Principal Account	-	-
	86004	-	2022 C - Redemption Account	-	-
	86005	-	2022 C - Cost of Issuance Fund	-	-
			Subtotal Debt Service Funds	121,605	118,336
			Total 1999, 2004, 2012, 2016, 2022 Bond Funds- U.S. Bank	174,879	171,828
Total Cash & Investment Balances				\$ 189,634	186,623



Cash & Investment Summary (cont'd)

as of March 31, 2023

Investment Schedule (\$ in thousands)

<u>Type of Investment</u>	<u>Book Value</u>	<u>Market Value</u>	<u>Percentage of Total</u>	<u>Investment Policy Limit</u>
Money Market Funds	\$ 46,671	\$ 46,671	25.01%	20.00%
U.S. Government & Agency Obligations	45,589	44,476	23.83%	100.00%
Commercial Paper	-	-	0.00%	15.00%
U.S. Treasury Note	75,913	74,259	39.79%	100.00%
Corporate Bonds	11,157	10,913	5.85%	30.00%
Bank of America	467	467	0.25%	20.00%
Local Agency Investment Fund	9,837	9,837	5.27%	\$40 Million
Total	<u>\$ 189,634</u>	<u>\$ 186,623</u>	<u>100.00%</u>	

Monthly Cash Flow

		<u>March 2023</u>
Total Beginning Cash		\$ 60,158,822
Receipts		
Use Fees & Container Charges	\$ 7,284,869	
M&O & Misc. Revenues, & Funds Transfers	1,402,877	
Total Receipts	<u>8,687,746</u>	
Disbursements		
Debt Service - Transfer to Accounts	13,591,381	
M&O, Administrative, & Financing Expenses	1,981,576	
Total Disbursements	<u>15,572,957</u>	
Cash Flow for Month		<u>\$ (6,885,211)</u>
Total Ending Cash		<u><u>\$ 53,273,611</u></u>



Cash Flow as of March 31, 2023

<u>March 2023</u>	
Beginning Cash	
Master Indenture Revenue Fund 1170	34,326,389
Master Indenture M&O Fund 1171	4,032,526
Master Indenture Reserve Fund 1172	12,835,916
1999A Admin Fund 1189	8,963,991
2004A Financing Fund 39006	-
1999C Construction Fund 1206	-
Total Beginning Cash	60,158,822
Receipts	
Use Fee & Container Charges	7,284,869
M&O	1,176,805
Funds Transferred from BOA to Admin Fund	35,198
Funds Transferred from BOA to Reserve Fund	-
Annual Accounting- transfer from 1999C Interest	-
Annual Accounting - Transfer from Revenue Fund	-
Interest Income / Loss	190,874
Total Receipts	8,687,746
Total Cash	\$ 68,846,568
Disbursements	
Debt Service - transfer to 1999C Principal	-
Debt Service - transfer to 1999C Interest	-
Debt Service - transfer to 2012 Interest	171,135
Debt Service- transfer to 2012 Principal	879,167
Debt Service- transfer to 2022B Interest	1,044,351
Debt Service - transfer to 2013A Principal	-
Semi-Annual Accounting - Transfers & Debt Service	-
Transfer to 2012 Reserve	-
Transfer to 2004A Financing Fee	-
Transfer to Admin Fund	-
Transfer to Master Reserve	-
Transfer to 2016A Reserve	-
Transfer to 2016B Financing Fee	-
Annual Accounting- transfer to 2022C Reserve Fund	-
Debt service payment - 2016A Interest	419,400
Debt service payment - 2016B Interest	8,424,703
Debt service payment - 2004	2,652,625
M&O - Railroads expense payments	829,284
M&O - Reserve expense payments	582,984
Administrative expense payments	569,308
Financing expense payments	-
Total Disbursements	15,572,957
Net Ending Cash	\$ 53,273,611
Ending Cash	
Master Indenture Revenue Fund 1170	28,141,712
Master Indenture M&O Fund 1171	4,388,883
Master Indenture Reserve Fund 1172	12,295,593
1999A Admin Fund 1189	8,447,423
2004A Financing Fund 39006	-
Total Ending Cash	\$ 53,273,611



Cash Flow – YTD as of March 31, 2023

<u>Cash Flow - Fiscal Year-to-Date</u>		
		<u>March 2023</u>
Total Beginning Cash as of 7/1/22		\$ 33,735,654
Receipts		
Use Fees & Container Charges	\$ 76,435,392	
M&O & Misc. Revenues, & Funds Transfers	25,946,564	
	<u>102,381,956</u>	
Total Receipts		102,381,956
Disbursements		
Debt Service - Transfer to Accounts	66,249,949	
M&O, Administrative, & Financing Expenses	16,594,050	
	<u>82,843,999</u>	
Total Disbursements		82,843,999
Cash Flow for Fiscal Year		<u>\$ 19,537,957</u>
	Total Ending Cash	<u><u>\$ 53,273,611</u></u>



Cash Flow – YTD as of March 31, 2023


		<u>March 2023</u>
Beginning Cash as of 7/1/22		
Master Indenture Revenue Fund 1170		14,872,364
Master Indenture M&O Fund 1171		4,269,281
Master Indenture Reserve Fund 1172		11,638,283
1999A Admin Fund 1189		2,955,726
2004A Financing Fund 39006		-
Total Beginning Cash		33,735,654
Receipts		
Use Fee & Container Charges		76,435,391
M&O		7,638,446
Funds Transferred from BOA to Admin Fund		119,956
Funds Transferred from BOA to Reserve Fund		5,500,000
Annual Accounting - Transfer from Revenue Fund		11,216,600
Interest Income / Loss		1,471,562
Total Receipts		102,381,955
Total Cash		\$ 136,117,609
Disbursements		
Debt Service - transfer to 1999C Principal		-
Debt Service - transfer to 1999C Interest		2,101,660
Debt Service - transfer to 2012 Interest		1,541,124
Debt Service- transfer to 2012 Principal		5,275,000
Debt Service - transfer to 2022A Interest		8,945,175
Debt Service- transfer to 2013A Principal		-
Semi-Annual Accounting - Transfers & Debt Service		-
Transfer to 2012 Reserve		96,000
Transfer to 2004A Financing Fee		837,318
Transfer to Admin Fund		9,000,244
Transfer to Master Reserve		5,500,000
Transfer to 2016A Reserve		45,000
Transfer to 2016B Financing Fee		332,112
Annual Accounting- transfer to 2022C Reserv Fee		1,134,734
Debt service payment - 2016A Interest		11,939,550
Debt service payment - 2016B Interest		16,849,406
Debt service payment - 2004		2,652,625
M&O - Railroads expense payments		7,925,949
M&O - Reserve expense payments		4,888,178
Administrative expense payments		3,779,923
Financing expense payments		-
Total Disbursements		82,843,998
Net Ending Cash		\$ 53,273,611
Ending Cash		
Master Indenture Revenue Fund 1170		28,141,711
Master Indenture M&O Fund 1171		4,388,883
Master Indenture Reserve Fund 1172		12,295,593
1999A Admin Fund 1189		8,447,424
2004A Financing Fund 39006		-
Total Ending Cash		\$ 53,273,611

M E M O

Alameda Corridor Transportation Authority

To: Governing Board

Meeting Date: June 1, 2023

From: Kevin L. Scott, Chief Financial Officer 

Subject: APPROVE Agreements for Municipal Financial Advisory Services with Frasca & Associates, LLC (C0914) and with PFM Financial Advisors LLC (C0915) for a 5-year term and compensation not to exceed \$300,000 for each firm

Recommendation:

Approve Agreement No. C0914 with Frasca & Associates, LLC (Frasca) and Agreement No C0915 with PFM Financial Advisors LLC (PFM) for municipal financial advisory services and authorize the Chief Executive Officer or his designee to execute each Agreement. The not-to-exceed compensation is \$300,000 for each Agreement and they will be in effect for a period of five-years from the execution date of the Agreements, unless terminated earlier. Agreements are provided in Transmittal 1a and 1b.

Discussion:

Municipal Financial Advisors (MFA) play a key role in ACTA's financing team as these firms assist with the evaluation of financing options and market trends, municipal bonds and other financial transactions, credit rating and investor relationships, legislative and policy matters and other advisory services, as needed. Based on the complexity of the work to be completed, market conditions, and the financial risk associated with large-scale financing transactions, using MFAs to aid ACTA is warranted and required. Please see Transmittal 2 for the detailed scope of work.

PFM has served as ACTA's MFA since March 2002. On October 31, 2022, ACTA issued a Request for Proposals (RFP) for MFA services to be consistent with best government contracting practices which call for periodic re-bidding of contracts. This RFP was posted to ACTA's website as well as on the websites of the Ports of Los Angeles and Long Beach. The RFP was also distributed electronically to 14 MFA firms doing business in California. This outreach utilized the latest edition of the Bond Buyer's Municipal Marketplace, a leading directory of public finance professionals as well as to firms that have contacted ACTA expressing interest.

Only two proposals were submitted by the November 29, 2022 deadline. ACTA staff asked several of the non-responding firms why they had not submitted a proposal. At least one firm providing MFA services to the Port of Los Angeles (POLA) and/or the Port of Long Beach (POLB) indicated that they did not submit a proposal because they thought an MFA firm could not serve both POLA or POLB and ACTA at the same time. However, there is no law, rule or policy restricting MFAs from concurrently representing either POLA or POLB and ACTA. Therefore, ACTA staff reissued the RFP in order to possibly receive additional firm proposals.

The RFP was reissued on January 9, 2023. Six firms responded on the February 7, 2023 deadline, as listed on Transmittal 3. The proposals were reviewed and evaluated by a selection panel comprised of three senior professional level finance staff: one from ACTA and one each from the Ports of Los Angeles and Long Beach.

The selection panel evaluated, scored and ranked the firms utilizing the evaluation form provided in the RFP (Transmittal 4). The proposers were comprised of 4 small business and minority enterprises (SBE/WBE), and 2 firms that were other business enterprises (OBE).

Staff recommends that the two firms scoring highest, PFM and Frasca be appointed as MFAs. While ACTA has contracted with a single MFA firm in the past, we believe that a second firm will be beneficial to validate our financial plans. The firms will provide services on an on-call hourly basis. Based on the job title of the professional, Frasca's hourly rates range from \$200 to \$450, while PFM's range from \$250 to \$400. Staff recommends that the not-to-exceed compensation be \$300,000 for each Agreement, that agreement terms be for a five-year period from the execution date of the Agreements, unless terminated earlier, and the Chief Executive Officer or his designee be authorized to execute each Agreement.

Budget Impact:

The proposed not to exceed amount for each Agreement is \$300,000 for the five-year term, totaling \$600,000 in aggregate. For fiscal year 2023-24 the budgeted amount for each Agreement is \$60,000, totaling \$120,000 in aggregate.

Co-General Counsel Review:

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

Transmittals:

Transmittal 1A – Frasca Agreement No.C0914

Transmittal 1B – PFM Agreement No. C0915

Transmittal 2 – Scope of Work

Transmittal 3 – Summary of Proposing Firms

Transmittal 4 – Evaluation Form

AGREEMENT NO. C0914

BETWEEN THE ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY
AND
FRASCA & ASSOCIATES, LLC

THIS AGREEMENT (“Agreement”) is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, a California Joint Powers Authority (“ACTA”), acting by and through its Governing Board (“Board”) and FRASCA & ASSOCIATES, LLC, a New York limited liability company, 521 Madison Avenue, Seventh Floor, New York, New York 10022 (“Consultant”).

WHEREAS, ACTA requires independent general financial advisory services in connection with its existing and proposed financing arrangements for its financial debt portfolio; and

WHEREAS, ACTA requires the professional, expert and technical services of Consultant on a temporary or occasional basis to assist ACTA in connection with evaluating financing options and market trends, assisting in all aspects of financial transactions, developing and recommending strategies to maintain and enhance credit ratings and investor relations, providing analysis and recommendations on legislative policy matters, and providing other municipal financial advisory services on an as-needed basis; and

WHEREAS, Consultant possesses extensive experience in providing professional and technical financial advice to public entities regarding the aforementioned tasks, in accordance with all applicable federal, state and local laws, ordinances and regulations; and

WHEREAS, Consultant, by virtue of training and experience, is well qualified to provide such services to ACTA;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

I. SERVICES TO BE PERFORMED BY CONSULTANT

A. Consultant hereby agrees to render to ACTA, as an independent contractor, certain professional, technical and expert services as set forth in Exhibit A (“Scope of Work”).

B. Consultant, at its sole cost and expense, shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Scope of Work. As between ACTA and Consultant, Consultant is solely responsible for any taxes or fees which may be assessed against it or its employees resulting from performance of the Scope of Work, whether social security, payroll or other, and

regardless of whether assessed by the federal government, any state, city, or any other governmental entity.

C. Consultant acknowledges and agrees that it lacks authority to perform any services outside the Scope of Work. Consultant further acknowledges and agrees that any services it performs outside the Scope of Work are performed as a volunteer and shall not be compensable under this Agreement.

D. The Scope of Work shall be performed by personnel qualified and competent in the sole reasonable discretion of ACTA's Chief Executive Officer ("ACTA's CEO") or his or her designee, whether performance is undertaken by Consultant or third-parties with whom Consultant has contracted ("Subconsultants"). Obligations of this Agreement, whether undertaken by Consultant or Subconsultants, are and shall be the responsibility of Consultant. Consultant acknowledges and agrees that this Agreement creates no rights in Subconsultants with respect to ACTA and that obligations that may be owed to Subconsultants, including, but not limited to, the obligation to pay Subconsultants for services performed, are those of Consultant alone. Upon ACTA's CEO's written request, Consultant shall supply ACTA with all agreements between Consultant and its Subconsultants.

II. SERVICES TO BE PERFORMED BY ACTA

A. ACTA shall furnish Consultant, upon its request, all documents and papers in possession of ACTA which may lawfully be supplied to Consultant and which are necessary for Consultant to perform its obligations.

B. ACTA's CEO or his or her designee is designated as the contract administrator for ACTA and shall also decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the interpretation of instructions to Consultant and the acceptable completion of this Agreement and the amount of compensation due. Notwithstanding the preceding, the termination of this Agreement shall be governed by the provisions of Article X (Termination) hereof.

C. Consultant shall provide ACTA's CEO with reasonable advance written notice if it requires access to the premises of ACTA or of the Alameda Corridor. Access rights, if any, shall be granted to Consultant at the sole reasonable discretion of ACTA's CEO, specifying conditions Consultant must satisfy in connection with such access. Consultant acknowledges that such areas may be occupied or used by tenants or contractors of ACTA and that access rights granted by ACTA to Consultant shall be consistent with any such occupancy or use.

III. EFFECTIVE DATE AND TERM OF AGREEMENT

A. The effective date of this Agreement shall be the date of its execution by ACTA's CEO or his designee upon authorization of the Board.

B. This Agreement shall be in full force and effect commencing from the date of execution and shall continue until the earlier of the following occurs:

1. Five (5) years have lapsed from the effective date of this Agreement;

or

2. The Board, in its sole discretion, terminates and cancels all or part of this Agreement for any reason upon giving to Consultant ten (10) days' notice in writing of its election to cancel and terminate this Agreement.

IV. TERMINATION DUE TO NON-APPROPRIATION OF FUNDS

Pursuant to Section 5 of ACTA's Amended and Restated Joint Exercise of Powers Agreement, ACTA shall be restricted in its powers in the same manner as the City of Los Angeles is restricted in its exercise of similar powers. Therefore, this Agreement is subject to the provisions of the Los Angeles City Charter Section 320 which precludes ACTA from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated therefor.

The Board, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Board is under no legal obligation to do so.

ACTA, its board, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefore. The Consultant is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Consultant is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Consultant agrees to resume performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefore is approved by the Board within that 60-day period. The Consultant is responsible for maintaining all insurance and bonds during this 60-day period until the appropriation is made; however, such extension of time is not compensable.

If in any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

V. COMPENSATION AND PAYMENT

A. As compensation for the satisfactory performance of the services required by this Agreement, ACTA shall pay and reimburse Consultant at the rates set forth in Exhibit B.

B. The maximum amount payable under this Agreement, including reimbursable expenses (see Exhibit B), shall be Three Hundred Thousand Dollars (\$300,000).

C. Consultant shall submit invoices in duplicate to ACTA monthly following the effective date of this Agreement for services performed during the preceding month. Each such invoice shall be signed by the Consultant and shall include the following certification:

“I certify under penalty of perjury that the above invoice is true and just, in accordance with the terms of Agreement No. C0914, that payment of this invoice has not been received and that none of the items contained in the invoice have been submitted to any other agency.

”
(Consultant’s Signature)

D. All invoices shall be approved by ACTA’s CEO or his or her designee prior to payment. All invoices due and payable and found to be in order shall be paid as soon as, in the ordinary course of ACTA business, the same may be approved, audited and processed.

Invoices shall include the Agreement number, employee name, title/classification, hourly rate, hours worked, current charges and cumulative charges. Subconsultant invoices shall be in a similar format. Consultant shall submit appropriate supporting documents with each invoice. Such documents may include provider invoices, payrolls, and time sheets. ACTA may require, and Consultant shall provide, all documents reasonably required to determine whether amounts on the invoice are allowable expenses under this Agreement. All invoices are subject to audit. Consultant is not required to submit support for direct costs items of \$25 or less.

Further, where the Consultant employs Subconsultants under this Agreement, the Consultant shall submit to ACTA, with each monthly invoice, a Monthly Subconsultant Monitoring Report Form (Exhibit C) listing SBE/VSBE/MBE/WBE/DVBE/OBE amounts. Where applicable, Consultant shall provide an explanation for any item that does not meet or exceed the anticipated participation levels for this Agreement, with specific plans and recommendations for improved Subconsultant utilization. Invoices will not be paid without a completed Monthly Subconsultant Monitoring Report Form.

E. For payment and processing, all invoices should be mailed to the following address:

Accounts Payable Department
Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806

VI. RECORDKEEPING AND AUDIT RIGHTS

A. Consultant shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied, which books and records shall be readily accessible to and open for inspection and copying at Consultant's premises by ACTA, its auditors or other authorized representatives. Notwithstanding any other provision of this Agreement, failure to do so shall constitute a conclusive waiver of any right to compensation for such services as are otherwise compensable hereunder. Such books and records shall be maintained by Consultant for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

B. Upon reasonable notice and in compliance with then applicable federal law, and during the term of this Agreement, ACTA may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Consultant and Subconsultants arising from or related to this Agreement or performance of the Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Consultant, Subconsultants or any individual or entity acting for or on behalf of Consultant or a Subconsultant, and (c) without regard to whether such writings have previously been provided to ACTA. Consultant shall be responsible for obtaining access to and providing writings of Subconsultants. Consultant shall provide ACTA at Consultant's sole cost and expense a copy of all such writings within thirty (30) calendar days of a written request by ACTA. ACTA's right shall also include inspection at reasonable times of the Consultant's office or facilities which are engaged in the performance of the Scope of Work. Consultant shall, at no cost to ACTA, furnish reasonable facilities and assistance for such review and audit. Consultant's failure to comply with this Article VI shall constitute a material breach of this Agreement and shall entitle ACTA to withhold any payment due under this Agreement until such breach is cured.

VII. INDEPENDENT CONTRACTOR

Consultant, in the performance of the work required by this Agreement, is an independent contractor and not an agent or employee of ACTA. Consultant shall not represent itself as an agent or employee of ACTA and shall have no power to bind ACTA in contract or otherwise.

VIII. INDEMNIFICATION

Except for the sole negligence or willful misconduct of ACTA, its Board or any of its Officers, Agents, Employees, Assigns and Successors in Interest, Consultant

undertakes and agrees to defend, indemnify and hold harmless ACTA, its Board and any of its Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by ACTA, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Consultant's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Consultant or its Subcontractors of any tier. Rights and remedies available to ACTA under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

IX. INSURANCE

A. In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Article VIII, Consultant shall procure and maintain at its sole cost and expense and keep in force at all times during the term of this Agreement the following insurance:

(1) Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Consultant's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that ACTA's CEO may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Consultant. The retention or self-insurance provided shall provide that any other insurance maintained by ACTA shall be excess of Consultant's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents and employees as additional insureds.

(2) Automobile Liability Insurance

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Consultant's normal limits of liability but not less than One Million Dollars (\$1,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or

accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents and employees as Primary additional insureds.

(3) Workers' Compensation and Employer's Liability

Consultant shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that Consultant shall comply with such provisions before commencing the performance of the tasks under this Agreement. Consultant shall submit Workers' Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Worker's Compensation and occupational disease requirements shall include coverage for all employees of Consultant, and for all employees of any subcontractor or other vendor retained by Consultant.

(4) Professional Liability Insurance

Consultant is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Consultant certifies that it now has professional liability insurance in the amount of One Million Dollars (\$1,000,000), which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Agreement and until two (2) years following completion or termination of the Agreement.

B. Insurance Procured by Consultant on Behalf of ACTA

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Article VIII, and where Consultant is required to name ACTA, its Board, officers, agents and employees as Primary additional insureds on any insurance policy required by this Agreement, Consultant shall cause ACTA to be named as an additional insured on all policies it procures in connection with this Article IX. Consultant shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached

hereto, it is agreed that ACTA, its Board, their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts and activities of the insured under Agreement No. ____, and under any amendments, modifications, extensions or renewals of said Agreement regardless of where such contractual obligations, operations, uses, occupations, acts and activities occur.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by ACTA is excess coverage;

"In the event of one of the named insured's incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to ACTA's CEO with copies sent to ACTA's Co-General Counsel at the following addresses; 1) Office of the Long Beach City Attorney, 411 West Ocean Boulevard, 9th Floor, Long Beach, California 90802, and 2) Office of the Los Angeles City Attorney, 425 S. Palos Verdes Street, San Pedro, California, 90731."

C. Required Features of Coverages

Insurance procured by Consultant in connection with this Article IX shall include the following features:

(1) Acceptable Evidence and Approval of Insurance

Consultant's insurance broker or agent shall submit to ACTA the appropriate proof of insurance on Consultant's behalf.

Upon request by ACTA, Consultant shall furnish full copies of certified policies of any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

(2) Carrier Requirements

All insurance which Consultant is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.

(3) Notice of Cancellation

For each insurance policy described above, Consultant shall give a 10-day prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-day prior notice of cancellation or reduction in coverage for any other reason, by written notice to ACTA.

(4) Modification of Coverage

ACTA's CEO, at his sole reasonable discretion, based upon recommendation of independent insurance consultants to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Consultant.

(5) Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Consultant shall renew or extend such policy in accordance with the requirements of this Agreement and direct their insurance broker or agent to submit to ACTA a renewal endorsement or renewal certificate or, if new insurance has been obtained, evidence of insurance as specified above. If Consultant neglects or fails to secure or maintain the insurance required above, ACTA's CEO may, at his or her own option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance shall be deducted from the next payment due Consultant.

(6) Limits of Coverage

If Consultant maintains higher limits than the minimums required by this Agreement, ACTA requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to ACTA.

D. Accident Reports

Consultant shall report in writing to ACTA's CEO within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars (\$500.00) to property, occurring upon any Alameda Corridor property if Consultant's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Consultant, its officers or managing agents.

X. TERMINATION PROVISION

The Board, in its sole discretion, shall have the right to terminate and cancel all or any part of this Agreement for any reason upon giving the Consultant ten (10) days' advance, written notice of the Board's election to cancel and terminate this Agreement. It is agreed that any Agreement entered into shall not limit the right of ACTA to hire additional consultants or perform the services described in this Agreement either during or after the term of this Agreement.

XI. PERSONAL SERVICE AGREEMENT

A. During the term hereof, Consultant agrees that it will not enter into other contracts or perform any work without the written permission of ACTA's CEO where the work may conflict with the interests of ACTA.

B. Consultant acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, that Consultant may permit Subconsultant(s) to perform portions of the Scope of Work in accordance with Article I. All Subconsultants whom Consultant utilizes, however, shall be deemed to be its agents. Subconsultants' performance of the Scope of Work shall not be deemed to release Consultant from its obligations under this Agreement or to impose any obligation on ACTA to such Subconsultant(s) or give the Subconsultant(s) any rights against ACTA.

XII. AFFIRMATIVE ACTION

The Consultant, during the performance of this Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded shall contain a like nondiscrimination provision.

XIII. SMALL BUSINESS ENTERPRISE PROGRAM

It is the policy of ACTA to provide Small Business Enterprises (SBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Consultant shall assist ACTA in implementing ACTA's Small Business Program attached hereto as Exhibit D, and shall use its best efforts to afford the opportunity for SBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement.

XIV. CONFLICT OF INTEREST

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of ACTA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of ACTA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, ACTA may immediately terminate this Agreement by giving written notice thereof.

XV. COMPLIANCE WITH APPLICABLE LAWS

Consultant shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations, and with the reasonable requests and directions of ACTA's CEO.

XVI. GOVERNING LAW / VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

XVII. TRADEMARKS, COPYRIGHTS, AND PATENTS

Consultant agrees to save, keep, hold harmless, protect and indemnify ACTA, its Board and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by ACTA of any materials supplied by Consultant in the performance of this Agreement.

XVIII. PROPRIETARY INFORMATION

A. Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by ACTA as soon as they are developed, whether in draft or final form. ACTA has the right to use or permit the use of property and any ideas or methods represented by such property for

any purpose and at any time without compensation other than that provided in this Agreement. Consultant hereby warrants and represents that ACTA at all times owns rights provided for in this Article free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Consultant need not obtain for ACTA the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Consultant or one of its employees, or its Subconsultant or the Subconsultant's employees, in which case such right shall be obtained without additional compensation. Whether or not Consultant's initial proposal or proposals made during this Agreement are accepted by ACTA, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Consultant, its Subconsultants or on either's behalf, whether prior or subsequent to this Agreement becoming effective, to ACTA, its Board, officers, agents or employees, is not given in confidence. Accordingly, ACTA or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

B. If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Consultant, its officers, agents, employees, or Subconsultants, ACTA shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by ACTA. Upon ACTA's request, Consultant, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to ACTA. It is expressly understood and agreed that, as between ACTA and Consultant, the referenced license shall arise for ACTA's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. ACTA may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by ACTA.

XIX. CONFIDENTIALITY

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Consultant relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Consultant or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement, unless required to do so by law or judicial or regulatory process. In addition, Consultant is required to safeguard such information from access by unauthorized personnel.

XX. NOTICES

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage prepaid. When so given, such notice shall be effective from the date of mailing of the same. For the purposes hereof, unless otherwise provided by notice in writing from the respective

parties, notice ACTA shall be addressed to its Chief Executive Officer, Alameda Corridor Transportation Authority, 3760 Kilroy Airport Way, Suite 200, Long Beach, California 90806, and notice to Consultant shall be addressed to it at Consultant's address set forth in the opening paragraph of this Agreement. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

XXI. INTEGRATION

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

XXII. SEVERABILITY

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law or public policy, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

XXIII. CONSTRUCTION OF AGREEMENT

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

XXIV. TITLES AND CAPTIONS

The parties have inserted the Article titles in this Agreement only as a matter of convenience and for reference, and the Article titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

XV. MODIFICATION IN WRITING

This Agreement may be modified, amended or changed only by written agreement of all parties, said agreement duly executed and delivered by both parties. Any such modifications are subject to all applicable approval processes required by ACTA.

XVI. WAIVER

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

XVII. EXHIBITS; ARTICLES

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to Articles are to Articles of this Agreement unless stated otherwise.

XVIII. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

FRASCA & ASSOCIATES, LLC

Date: _____

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A

Scope of Work

Consultant, serving as Co-Municipal Financial Advisor, will advise and assist ACTA in formulating and/or executing debt financings, management plans, and performing a broad variety of functions, which may include the following tasks as directed:

I. Evaluation of Financing Options and Market Trends

- A. Assist in evaluating financial proposals, economic influences, and governmental actions affecting financial objectives of ACTA.
- B. Evaluate existing financial plans and the timing of cash flows with respect to future financing plans and overall debt capacity.
- C. Evaluate existing tax-exempt bond proceeds as well as Debt Service Reserve Funds' reinvestment plan to help ensure optimal yields are being achieved.
- D. Provide an assessment of the relevant bond market trends.
- E. Analyze costs, financial impacts, and risks of financing as well as investment structures.
- F. Provide and interpret current information on financial trends in port industry, and municipal debt markets, as directed.

II. Municipal Bonds and other Financial Transactions

Assist in all aspects of the bond issuance process including, but not limited to:

- A. Assist staff with issuance of refunding bonds, including but not limited to financing structure, review of underwriter proposals, assistance with review and preparation of related documents and coordination of the financing schedule.
- B. Structure and implement an informational advertising program designed to inform prospective brokers, dealers and investors of the merits of the securities.
- C. Coordinate and contract with pertinent service providers (e.g. printers, verification agents, etc.)
- D. Provide a follow-up analysis of the sale and final terms of the bond sale.

III. Credit Rating and Investor Relationship

- A. Develop and recommend strategies to maintain ACTA's existing credit ratings.
- B. Assist in preparing and ensuring the accuracy of presentation materials for rating agencies and for other members of the financial and investment communities.
- C. Keep staff informed of key rating topics in between transactions.
- D. Provide periodic analyses of the investor market and trends.

IV. Legislative and policy matters

- A. Provide analysis and recommendations on current and proposed legislation, and any impact on port and railroad industries.
- B. Act as an expert witness or spokesperson before governmental bodies, organizations, or public forums.

V. Other advisory services, as needed

- A. Monitor and make recommendations on investments held by bond trustee.
- B. Review and provide recommendations related to existing financial policies.
- C. Provide financial advice as needed and requested by ACTA.
- D. Obtain bids from various financial institutions on behalf of ACTA, if needed.
- E. Provide strategic advice as needed.
- F. Assist with the formulation of policies, and provide advice on industry best practices.

Standard Financial Advisory Provisions

Registered Municipal Advisor; Required Disclosures

Consultant is a registered municipal advisor with the Securities and Exchange Commission (the "SEC") and the Municipal Securities Rulemaking Board (the "MSRB"), pursuant to the Securities Exchange Act of 1934 Rule 15Ba1-2. The parties agree that if ACTA has designated Consultant as its independent registered municipal advisor ("IRMA") for purposes of SEC Rule 15Ba1- 1(d)(3)(vi) (the "IRMA exemption"), the services provided pursuant to such designation shall be the services described in the Scope of Work hereto, subject to any limitations provided therein.

Verification of independence (as is required under the IRMA exemption) shall be the responsibility of such third party seeking to rely on such IRMA exemption. Consultant shall have the right to review and approve in advance any representation of Consultant's role as IRMA to ACTA.

MSRB Rules require that municipal advisors make written disclosures to their clients of all material conflicts of interest, certain legal or disciplinary events and certain regulatory requirements, which are provided in Consultant's Disclosure Statement which Consultant shall deliver to ACTA prior to or together with this Agreement.

Other Services

Upon request of ACTA, an affiliate of Consultant or a third party referred or otherwise introduced by Consultant may agree to additional services to be provided by such affiliate or third party, by a separate writing, including separate scope and compensation, between ACTA and such affiliate or third party. For the sake of clarity, any separate agreement between ACTA and an affiliate or third party shall not in any way be deemed an amendment or modification of this Agreement.

Information to be Furnished to Consultant

All information, data, reports, and records in the possession of ACTA or any third party necessary for carrying out any services to be performed under this Agreement (“Data”) shall be furnished to Consultant. Consultant may rely on the Data in connection with its provision of the services under this Agreement and the provider thereof shall remain solely responsible for the adequacy, accuracy or completeness of such Data.

EXHIBIT B – Hourly Rates

Name	Title	Hourly Rates
Juan Pittman, Ken Cushine, Marvin Sun	Principal	\$450
Robby Meador	Vice President	\$300
Sandy Kanu	Senior Associate	\$200

FRASCA would also be able to provide a fixed fee schedule to ACTA for its individual transactions. The fixed fee would be based upon the nature of the transaction and would be subject to negotiations with ACTA.

Exhibit C
MONTHLY SUBCONTRACTOR MONITORING REPORT

Instructions: Please indicate the participation levels achieved for the month of _____ for the referenced contract number.

Contract No. _____ Start Date _____ End Date _____

Committed SBE Participation Percentage _____

				PROPOSED	ACTUALS		
	Name of Subcontractor	Work Performed	Certifications:* SBE/VSBE/MBE/WBE/OBE/DVBE	Original Proposed SBE Percentage	Amount Paid This Month	Amount Paid to Date	Overall Contract Amount Percentage (Paid to Date)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

* Indicate all certifications held by each subcontractor

EXHIBIT D

SMALL BUSINESS ENTERPRISE PROGRAM

The Alameda Corridor Transportation Authority (“ACTA”) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at ACTA. ACTA's Small Business Enterprise (SBE) Program was created to provide opportunities for small businesses to participate in professional service and construction contracts. It is the policy of ACTA to solicit participation in the performance of all service contracts by all individuals and businesses, including, but not limited to, SBEs, women-owned business enterprises (WBEs), minority-owned business enterprises (MBEs), and disabled veteran business enterprises (DVBES). The SBE Program allows ACTA to target small business participation, including MBEs, WBEs, and DVBES, more effectively.

An overall ACTA goal of 25% SBE participation by total contract value and/or by total number of contracts awarded to SBE prime consultants or contractors has been established for the Program. The specific goal or requirement for each contract opportunity may be higher or lower based on the scope of work, and will be stated in the specific request for proposals or bids. **Based on the work to be performed under this Agreement, it has been determined that the percentage of required small business participation will be 0%.**

Consultant shall be responsible for determining the SBE status of its subconsultants for purposes of meeting the small business requirement, where required, and for reporting to ACTA. Subconsultants must qualify as an SBE based on the type of services that they will be performing under the Agreement. All business participation will be determined by the percentage of the total amount of compensation under the agreement paid to SBEs.

Contractor Description Form

For the Prime Contractor and each Subcontractor, state the type of SBE certification claimed and, if available, return documentation with this form to ACTA evidencing the declared SBE certification.

PRIME CONTRACTOR

Contract #: _____ Award Date: _____ Contract Term: _____

Contract Title: _____

Business Name: _____ Award Total: \$ _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email address: _____

AGREEMENT NO. C0915

BETWEEN THE ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY
AND
PFM FINANCIAL ADVISORS LLC

THIS AGREEMENT ("Agreement") is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, a California Joint Powers Authority ("ACTA"), acting by and through its Governing Board ("Board") and PFM FINANCIAL ADVISORS LLC, a Delaware limited liability company, 1735 Market Street, 42nd Floor, Philadelphia, Pennsylvania 19103 ("Consultant").

WHEREAS, ACTA requires independent general financial advisory services in connection with its existing and proposed financing arrangements for its financial debt portfolio; and

WHEREAS, ACTA requires the professional, expert and technical services of Consultant on a temporary or occasional basis to assist ACTA in connection with evaluating financing options and market trends, assisting in all aspects of financial transactions, developing and recommending strategies to maintain and enhance credit ratings and investor relations, providing analysis and recommendations on legislative policy matters, and providing other municipal financial advisory services on an as-needed basis; and

WHEREAS, Consultant possesses extensive experience in providing professional and technical financial advice to public entities regarding the aforementioned tasks, in accordance with all applicable federal, state and local laws, ordinances and regulations; and

WHEREAS, Consultant, by virtue of training and experience, is well qualified to provide such services to ACTA;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

I. SERVICES TO BE PERFORMED BY CONSULTANT

A. Consultant hereby agrees to render to ACTA, as an independent contractor, certain professional, technical and expert services as set forth in Exhibit A ("Scope of Work").

B. Consultant, at its sole cost and expense, shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Scope of Work. As between ACTA and Consultant, Consultant is solely responsible for any taxes or fees which may be assessed against it or its employees resulting from performance of the Scope of Work, whether social security, payroll or other, and

regardless of whether assessed by the federal government, any state, city, or any other governmental entity.

C. Consultant acknowledges and agrees that it lacks authority to perform any services outside the Scope of Work. Consultant further acknowledges and agrees that any services it performs outside the Scope of Work are performed as a volunteer and shall not be compensable under this Agreement.

D. The Scope of Work shall be performed by personnel qualified and competent in the sole reasonable discretion of ACTA's Chief Executive Officer ("ACTA's CEO") or his or her designee, whether performance is undertaken by Consultant or third-parties with whom Consultant has contracted ("Subconsultants"). Obligations of this Agreement, whether undertaken by Consultant or Subconsultants, are and shall be the responsibility of Consultant. Consultant acknowledges and agrees that this Agreement creates no rights in Subconsultants with respect to ACTA and that obligations that may be owed to Subconsultants, including, but not limited to, the obligation to pay Subconsultants for services performed, are those of Consultant alone. Upon ACTA's CEO's written request, Consultant shall supply ACTA with all agreements between Consultant and its Subconsultants.

II. SERVICES TO BE PERFORMED BY ACTA

A. ACTA shall furnish Consultant, upon its request, all documents and papers in possession of ACTA which may lawfully be supplied to Consultant and which are necessary for Consultant to perform its obligations.

B. ACTA's CEO or his or her designee is designated as the contract administrator for ACTA and shall also decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the interpretation of instructions to Consultant and the acceptable completion of this Agreement and the amount of compensation due. Notwithstanding the preceding, the termination of this Agreement shall be governed by the provisions of Article X (Termination) hereof.

C. Consultant shall provide ACTA's CEO with reasonable advance written notice if it requires access to the premises of ACTA or of the Alameda Corridor. Access rights, if any, shall be granted to Consultant at the sole reasonable discretion of ACTA's CEO, specifying conditions Consultant must satisfy in connection with such access. Consultant acknowledges that such areas may be occupied or used by tenants or contractors of ACTA and that access rights granted by ACTA to Consultant shall be consistent with any such occupancy or use.

III. EFFECTIVE DATE AND TERM OF AGREEMENT

A. The effective date of this Agreement shall be the date of its execution by ACTA's CEO or his designee upon authorization of the Board.

B. This Agreement shall be in full force and effect commencing from the date of execution and shall continue until the earlier of the following occurs:

1. Five (5) years have lapsed from the effective date of this Agreement;

or

2. The Board, in its sole discretion, terminates and cancels all or part of this Agreement for any reason upon giving to Consultant ten (10) days' notice in writing of its election to cancel and terminate this Agreement.

IV. TERMINATION DUE TO NON-APPROPRIATION OF FUNDS

Pursuant to Section 5 of ACTA's Amended and Restated Joint Exercise of Powers Agreement, ACTA shall be restricted in its powers in the same manner as the City of Los Angeles is restricted in its exercise of similar powers. Therefore, this Agreement is subject to the provisions of the Los Angeles City Charter Section 320 which precludes ACTA from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated therefor.

The Board, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Board is under no legal obligation to do so.

ACTA, its board, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefore. The Consultant is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Consultant is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Consultant agrees to resume performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefore is approved by the Board within that 60-day period. The Consultant is responsible for maintaining all insurance and bonds during this 60-day period until the appropriation is made; however, such extension of time is not compensable.

If in any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

V. COMPENSATION AND PAYMENT

A. As compensation for the satisfactory performance of the services required by this Agreement, ACTA shall pay and reimburse Consultant at the rates set forth in Exhibit B.

B. The maximum amount payable under this Agreement, including reimbursable expenses (see Exhibit B), shall be Three Hundred Thousand Dollars (\$300,000).

C. Consultant shall submit invoices in duplicate to ACTA monthly following the effective date of this Agreement for services performed during the preceding month. Each such invoice shall be signed by the Consultant and shall include the following certification:

“I certify under penalty of perjury that the above invoice is true and just, in accordance with the terms of Agreement No. C0915, that payment of this invoice has not been received and that none of the items contained in the invoice have been submitted to any other agency.

(Consultant’s Signature)

D. All invoices shall be approved by ACTA’s CEO or his or her designee prior to payment. All invoices due and payable and found to be in order shall be paid as soon as, in the ordinary course of ACTA business, the same may be approved, audited and processed.

Invoices shall include the Agreement number, employee name, title/classification, hourly rate, hours worked, current charges and cumulative charges. Subconsultant invoices shall be in a similar format. Consultant shall submit appropriate supporting documents with each invoice. Such documents may include provider invoices, payrolls, and time sheets. ACTA may require, and Consultant shall provide, all documents reasonably required to determine whether amounts on the invoice are allowable expenses under this Agreement. All invoices are subject to audit. Consultant is not required to submit support for direct costs items of \$25 or less.

Further, where the Consultant employs Subconsultants under this Agreement, the Consultant shall submit to ACTA, with each monthly invoice, a Monthly Subconsultant Monitoring Report Form (Exhibit C) listing SBE/VSBE/MBE/WBE/DVBE/OBE amounts. Where applicable, Consultant shall provide an explanation for any item that does not meet or exceed the anticipated participation levels for this Agreement, with specific plans and recommendations for improved Subconsultant utilization. Invoices will not be paid without a completed Monthly Subconsultant Monitoring Report Form.

E. For payment and processing, all invoices should be mailed to the following address:

Accounts Payable Department
Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806

VI. RECORDKEEPING AND AUDIT RIGHTS

A. Consultant shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied, which books and records shall be readily accessible to and open for inspection and copying at Consultant's premises by ACTA, its auditors or other authorized representatives. Notwithstanding any other provision of this Agreement, failure to do so shall constitute a conclusive waiver of any right to compensation for such services as are otherwise compensable hereunder. Such books and records shall be maintained by Consultant for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

B. Upon reasonable notice and in compliance with then applicable federal law, and during the term of this Agreement, ACTA may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Consultant and Subconsultants arising from or related to this Agreement or performance of the Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Consultant, Subconsultants or any individual or entity acting for or on behalf of Consultant or a Subconsultant, and (c) without regard to whether such writings have previously been provided to ACTA. Consultant shall be responsible for obtaining access to and providing writings of Subconsultants. Consultant shall provide ACTA at Consultant's sole cost and expense a copy of all such writings within thirty (30) calendar days of a written request by ACTA. ACTA's right shall also include inspection at reasonable times of the Consultant's office or facilities which are engaged in the performance of the Scope of Work. Consultant shall, at no cost to ACTA, furnish reasonable facilities and assistance for such review and audit. Consultant's failure to comply with this Article VI shall constitute a material breach of this Agreement and shall entitle ACTA to withhold any payment due under this Agreement until such breach is cured.

VII. INDEPENDENT CONTRACTOR

Consultant, in the performance of the work required by this Agreement, is an independent contractor and not an agent or employee of ACTA. Consultant shall not represent itself as an agent or employee of ACTA and shall have no power to bind ACTA in contract or otherwise.

VIII. INDEMNIFICATION

Except for the sole negligence or willful misconduct of ACTA, its Board or any of its Officers, Agents, Employees, Assigns and Successors in Interest, Consultant

undertakes and agrees to defend, indemnify and hold harmless ACTA, its Board and any of its Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by ACTA, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Consultant's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Consultant or its Subcontractors of any tier. Rights and remedies available to ACTA under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

IX. INSURANCE

A. In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Article VIII, Consultant shall procure and maintain at its sole cost and expense and keep in force at all times during the term of this Agreement the following insurance:

(1) Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Consultant's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that ACTA's CEO may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Consultant. The retention or self-insurance provided shall provide that any other insurance maintained by ACTA shall be excess of Consultant's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents and employees as additional insureds.

(2) Automobile Liability Insurance

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Consultant's normal limits of liability but not less than One Million Dollars (\$1,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or

accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents and employees as Primary additional insureds.

(3) Workers' Compensation and Employer's Liability

Consultant shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that Consultant shall comply with such provisions before commencing the performance of the tasks under this Agreement. Consultant shall submit Workers' Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Worker's Compensation and occupational disease requirements shall include coverage for all employees of Consultant, and for all employees of any subcontractor or other vendor retained by Consultant.

(4) Professional Liability Insurance

Consultant is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Consultant certifies that it now has professional liability insurance in the amount of One Million Dollars (\$1,000,000), which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Agreement and until two (2) years following completion or termination of the Agreement.

B. Insurance Procured by Consultant on Behalf of ACTA

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Article VIII, and where Consultant is required to name ACTA, its Board, officers, agents and employees as Primary additional insureds on any insurance policy required by this Agreement, Consultant shall cause ACTA to be named as an additional insured on all policies it procures in connection with this Article IX. Consultant shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached

hereto, it is agreed that ACTA, its Board, their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts and activities of the insured under Agreement No. ____, and under any amendments, modifications, extensions or renewals of said Agreement regardless of where such contractual obligations, operations, uses, occupations, acts and activities occur.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by ACTA is excess coverage;

"In the event of one of the named insured's incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to ACTA's CEO with copies sent to ACTA's Co-General Counsel at the following addresses; 1) Office of the Long Beach City Attorney, 411 West Ocean Boulevard, 9th Floor, Long Beach, California 90802, and 2) Office of the Los Angeles City Attorney, 425 S. Palos Verdes Street, San Pedro, California, 90731."

C. Required Features of Coverages

Insurance procured by Consultant in connection with this Article IX shall include the following features:

(1) Acceptable Evidence and Approval of Insurance

Consultant's insurance broker or agent shall submit to ACTA the appropriate proof of insurance on Consultant's behalf.

Upon request by ACTA, Consultant shall furnish full copies of certified policies of any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

(2) Carrier Requirements

All insurance which Consultant is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.

(3) Notice of Cancellation

For each insurance policy described above, Consultant shall give a 10-day prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-day prior notice of cancellation or reduction in coverage for any other reason, by written notice to ACTA.

(4) Modification of Coverage

ACTA's CEO, at his sole reasonable discretion, based upon recommendation of independent insurance consultants to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Consultant.

(5) Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Consultant shall renew or extend such policy in accordance with the requirements of this Agreement and direct their insurance broker or agent to submit to ACTA a renewal endorsement or renewal certificate or, if new insurance has been obtained, evidence of insurance as specified above. If Consultant neglects or fails to secure or maintain the insurance required above, ACTA's CEO may, at his or her own option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance shall be deducted from the next payment due Consultant.

(6) Limits of Coverage

If Consultant maintains higher limits than the minimums required by this Agreement, ACTA requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to ACTA.

D. Accident Reports

Consultant shall report in writing to ACTA's CEO within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars (\$500.00) to property, occurring upon any Alameda Corridor property if Consultant's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Consultant, its officers or managing agents.

X. TERMINATION PROVISION

The Board, in its sole discretion, shall have the right to terminate and cancel all or any part of this Agreement for any reason upon giving the Consultant ten (10) days' advance, written notice of the Board's election to cancel and terminate this Agreement. It is agreed that any Agreement entered into shall not limit the right of ACTA to hire additional consultants or perform the services described in this Agreement either during or after the term of this Agreement.

XI. PERSONAL SERVICE AGREEMENT

A. During the term hereof, Consultant agrees that it will not enter into other contracts or perform any work without the written permission of ACTA's CEO where the work may conflict with the interests of ACTA.

B. Consultant acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, that Consultant may permit Subconsultant(s) to perform portions of the Scope of Work in accordance with Article I. All Subconsultants whom Consultant utilizes, however, shall be deemed to be its agents. Subconsultants' performance of the Scope of Work shall not be deemed to release Consultant from its obligations under this Agreement or to impose any obligation on ACTA to such Subconsultant(s) or give the Subconsultant(s) any rights against ACTA.

XII. AFFIRMATIVE ACTION

The Consultant, during the performance of this Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded shall contain a like nondiscrimination provision.

XIII. SMALL BUSINESS ENTERPRISE PROGRAM

It is the policy of ACTA to provide Small Business Enterprises (SBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Consultant shall assist ACTA in implementing ACTA's Small Business Program attached hereto as Exhibit D, and shall use its best efforts to afford the opportunity for SBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement.

XIV. CONFLICT OF INTEREST

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of ACTA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of ACTA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, ACTA may immediately terminate this Agreement by giving written notice thereof.

XV. COMPLIANCE WITH APPLICABLE LAWS

Consultant shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations, and with the reasonable requests and directions of ACTA's CEO.

XVI. GOVERNING LAW / VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

XVII. TRADEMARKS, COPYRIGHTS, AND PATENTS

Consultant agrees to save, keep, hold harmless, protect and indemnify ACTA, its Board and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by ACTA of any materials supplied by Consultant in the performance of this Agreement.

XVIII. PROPRIETARY INFORMATION

A. Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by ACTA as soon as they are developed, whether in draft or final form. ACTA has the right to use or permit the use of property and any ideas or methods represented by such property for

any purpose and at any time without compensation other than that provided in this Agreement. Consultant hereby warrants and represents that ACTA at all times owns rights provided for in this Article free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Consultant need not obtain for ACTA the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Consultant or one of its employees, or its Subconsultant or the Subconsultant's employees, in which case such right shall be obtained without additional compensation. Whether or not Consultant's initial proposal or proposals made during this Agreement are accepted by ACTA, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Consultant, its Subconsultants or on either's behalf, whether prior or subsequent to this Agreement becoming effective, to ACTA, its Board, officers, agents or employees, is not given in confidence. Accordingly, ACTA or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

B. If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Consultant, its officers, agents, employees, or Subconsultants, ACTA shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by ACTA. Upon ACTA's request, Consultant, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to ACTA. It is expressly understood and agreed that, as between ACTA and Consultant, the referenced license shall arise for ACTA's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. ACTA may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by ACTA.

XIX. CONFIDENTIALITY

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Consultant relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Consultant or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement, unless required to do so by law or judicial or regulatory process. In addition, Consultant is required to safeguard such information from access by unauthorized personnel.

XX. NOTICES

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage prepaid. When so given, such notice shall be effective from the date of mailing of the same. For the purposes hereof, unless otherwise provided by notice in writing from the respective

parties, notice ACTA shall be addressed to its Chief Executive Officer, Alameda Corridor Transportation Authority, 3760 Kilroy Airport Way, Suite 200, Long Beach, California 90806, and notice to Consultant shall be addressed to it at Consultant's address set forth in the opening paragraph of this Agreement. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

XXI. INTEGRATION

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

XXII. SEVERABILITY

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law or public policy, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

XXIII. CONSTRUCTION OF AGREEMENT

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

XXIV. TITLES AND CAPTIONS

The parties have inserted the Article titles in this Agreement only as a matter of convenience and for reference, and the Article titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

XV. MODIFICATION IN WRITING

This Agreement may be modified, amended or changed only by written agreement of all parties, said agreement duly executed and delivered by both parties. Any such modifications are subject to all applicable approval processes required by ACTA.

XVI. WAIVER

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

XVII. EXHIBITS; ARTICLES

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to Articles are to Articles of this Agreement unless stated otherwise.

XVIII. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

PFM FINANCIAL ADVISORS LLC

Date: _____

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A

Scope of Work

Consultant, serving as Co-Municipal Financial Advisor, will advise and assist ACTA in formulating and/or executing debt financings, management plans, and performing a broad variety of functions, which may include the following tasks as directed:

I. Evaluation of Financing Options and Market Trends

- A. Assist in evaluating financial proposals, economic influences, and governmental actions affecting financial objectives of ACTA.
- B. Evaluate existing financial plans and the timing of cash flows with respect to future financing plans and overall debt capacity.
- C. Evaluate existing tax-exempt bond proceeds as well as Debt Service Reserve Funds' reinvestment plan to help ensure optimal yields are being achieved.
- D. Provide an assessment of the relevant bond market trends.
- E. Analyze costs, financial impacts, and risks of financing as well as investment structures.
- F. Provide and interpret current information on financial trends in port industry, and municipal debt markets, as directed.

II. Municipal Bonds and other Financial Transactions

Assist in all aspects of the bond issuance process including, but not limited to:

- A. Assist staff with issuance of refunding bonds, including but not limited to financing structure, review of underwriter proposals, assistance with review and preparation of related documents and coordination of the financing schedule.
- B. Structure and implement an informational advertising program designed to inform prospective brokers, dealers and investors of the merits of the securities.
- C. Coordinate and contract with pertinent service providers (e.g. printers, verification agents, etc.)
- D. Provide a follow-up analysis of the sale and final terms of the bond sale.

III. Credit Rating and Investor Relationship

- A. Develop and recommend strategies to maintain ACTA's existing credit ratings.
- B. Assist in preparing and ensuring the accuracy of presentation materials for rating agencies and for other members of the financial and investment communities.
- C. Keep staff informed of key rating topics in between transactions.
- D. Provide periodic analyses of the investor market and trends.

IV. Legislative and policy matters

- A. Provide analysis and recommendations on current and proposed legislation, and any impact on port and railroad industries.
- B. Act as an expert witness or spokesperson before governmental bodies, organizations, or public forums.

V. Other advisory services, as needed

- A. Monitor and make recommendations on investments held by bond trustee.
- B. Review and provide recommendations related to existing financial policies.
- C. Provide financial advice as needed and requested by ACTA.
- D. Obtain bids from various financial institutions on behalf of ACTA, if needed.
- E. Provide strategic advice as needed.
- F. Assist with the formulation of policies, and provide advice on industry best practices.

Standard Financial Advisory Provisions

Registered Municipal Advisor; Required Disclosures

Consultant is a registered municipal advisor with the Securities and Exchange Commission (the "SEC") and the Municipal Securities Rulemaking Board (the "MSRB"), pursuant to the Securities Exchange Act of 1934 Rule 15Ba1-2. The parties agree that if ACTA has designated Consultant as its independent registered municipal advisor ("IRMA") for purposes of SEC Rule 15Ba1- 1(d)(3)(vi) (the "IRMA exemption"), the services provided pursuant to such designation shall be the services described in the Scope of Work hereto, subject to any limitations provided therein.

Verification of independence (as is required under the IRMA exemption) shall be the responsibility of such third party seeking to rely on such IRMA exemption. Consultant shall have the right to review and approve in advance any representation of Consultant's role as IRMA to ACTA.

MSRB Rules require that municipal advisors make written disclosures to their clients of all material conflicts of interest, certain legal or disciplinary events and certain regulatory requirements, which are provided in Consultant's Disclosure Statement which Consultant shall deliver to ACTA prior to or together with this Agreement.

Other Services

Upon request of ACTA, an affiliate of Consultant or a third party referred or otherwise introduced by Consultant may agree to additional services to be provided by such affiliate or third party, by a separate writing, including separate scope and compensation, between ACTA and such affiliate or third party. For the sake of clarity, any separate agreement between ACTA and an affiliate or third party shall not in any way be deemed an amendment or modification of this Agreement.

Information to be Furnished to Consultant

All information, data, reports, and records in the possession of ACTA or any third party necessary for carrying out any services to be performed under this Agreement (“Data”) shall be furnished to Consultant. Consultant may rely on the Data in connection with its provision of the services under this Agreement and the provider thereof shall remain solely responsible for the adequacy, accuracy or completeness of such Data.

EXHIBIT B

PFM Professional Fees

Name	Title	Hourly Rate
Robert Rich Mary Francoeur Peter Shellenberger David Miller Daniel Kozloff Todd Fraizer Darren Hodge	Managing Director	\$400
John Murphy	Director	\$350
	Senior Managing Consultant	\$325
Frederick Dilly	Senior Analyst	\$275
Britney Drew	Analyst	\$250

Exhibit C
MONTHLY SUBCONTRACTOR MONITORING REPORT

Instructions: Please indicate the participation levels achieved for the month of _____ for the referenced contract number.

Contract No. _____ Start Date _____ End Date _____

Committed SBE Participation Percentage _____

				PROPOSED	ACTUALS		
	Name of Subcontractor	Work Performed	Certifications:* SBE/VSBE/MBE/WBE/OBE/DVBE	Original Proposed SBE Percentage	Amount Paid This Month	Amount Paid to Date	Overall Contract Amount Percentage (Paid to Date)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

* Indicate all certifications held by each subcontractor

EXHIBIT D

SMALL BUSINESS ENTERPRISE PROGRAM

The Alameda Corridor Transportation Authority (“ACTA”) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at ACTA. ACTA's Small Business Enterprise (SBE) Program was created to provide opportunities for small businesses to participate in professional service and construction contracts. It is the policy of ACTA to solicit participation in the performance of all service contracts by all individuals and businesses, including, but not limited to, SBEs, women-owned business enterprises (WBEs), minority-owned business enterprises (MBEs), and disabled veteran business enterprises (DVBES). The SBE Program allows ACTA to target small business participation, including MBEs, WBEs, and DVBES, more effectively.

An overall ACTA goal of 25% SBE participation by total contract value and/or by total number of contracts awarded to SBE prime consultants or contractors has been established for the Program. The specific goal or requirement for each contract opportunity may be higher or lower based on the scope of work, and will be stated in the specific request for proposals or bids. **Based on the work to be performed under this Agreement, it has been determined that the percentage of required small business participation will be 0%.**

Consultant shall be responsible for determining the SBE status of its subconsultants for purposes of meeting the small business requirement, where required, and for reporting to ACTA. Subconsultants must qualify as an SBE based on the type of services that they will be performing under the Agreement. All business participation will be determined by the percentage of the total amount of compensation under the agreement paid to SBEs.

AFFIDAVIT OF COMPANY STATUS

“The undersigned declares under penalty of perjury pursuant to the laws of the State of California that the following information and information contained on **the attached Contractor Description Form** is true and correct and include all material information necessary to identify and explain the operations of

Name of Firm

as well as the ownership thereof. Further, the undersigned agrees to provide either through the prime consultant or, directly to ACTA, complete and accurate information regarding ownership in the named firm, any proposed changes of the ownership and to permit the audit and examination of firm ownership documents in association with this agreement.”

Small/Very Small Business Enterprise Program: Please indicate the ownership of your company. Please check all that apply. At least one box must be checked:

SBE VSBE MBE WBE DVBE OBE

Signature _____
Printed Name _____

Title _____
Date Signed _____

NOTARY

<p>STATE OF CALIFORNIA)) ss COUNTY OF LOS ANGELES)</p> <p style="text-align: center;">Place Notary Seal and/or Stamp Above</p>	<p>Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__ by</p> <p>(1) _____ Name of Signer (1)</p> <p>Who proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (.)</p> <p style="text-align: center;">(and)</p> <p>(2) _____ Name of Signer (2)</p> <p>Who proved to me on the basis of satisfactory evidence to be the person who appeared before me.)</p> <p>Signature _____</p>
--	--

Contractor Description Form

For the Prime Contractor and each Subcontractor, state the type of SBE certification claimed and, if available, return documentation with this form to ACTA evidencing the declared SBE certification.

PRIME CONTRACTOR

Contract #: _____ Award Date: _____ Contract Term: _____

Contract Title: _____

Business Name: _____ Award Total: \$ _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email address: _____

Scope of Work

Frasca & Associates LLC, serving as Co-Municipal Financial Advisor, will advise and assist ACTA in formulating and/or executing debt financings, management plans, and performing a broad variety of functions, which may include the following tasks as directed:

I. Evaluation of Financing Options and Market Trends

- A. Assist in evaluating financial proposals, economic influences, and governmental actions affecting financial objectives of ACTA.
- B. Evaluate existing financial plans and the timing of cash flows with respect to future financing plans and overall debt capacity.
- C. Evaluate existing tax-exempt bond proceeds as well as Debt Service Reserve Funds' reinvestment plan to help ensure optimal yields are being achieved.
- D. Provide an assessment of the relevant bond market trends.
- E. Analyze costs, financial impacts, and risks of financing as well as investment structures.
- F. Provide and interpret current information on financial trends in port industry, and municipal debt markets, as directed.

II. Municipal Bonds and other Financial Transactions

Assist in all aspects of the bond issuance process including, but not limited to:

- A. Assist staff with issuance of refunding bonds, including but not limited to financing structure, review of underwriter proposals, assistance with review and preparation of related documents and coordination of the financing schedule.
- B. Structure and implement an informational advertising program designed to inform prospective brokers, dealers and investors of the merits of the securities.
- C. Coordinate and contract with pertinent service providers (e.g. printers, verification agents, etc.)
- D. Provide a follow-up analysis of the sale and final terms of the bond sale.

III. Credit Rating and Investor Relationship

- A. Develop and recommend strategies to maintain ACTA's existing credit ratings.
- B. Assist in preparing and ensuring the accuracy of presentation materials for rating agencies and for other members of the financial and investment communities.
- C. Keep staff informed of key rating topics in between transactions.
- D. Provide periodic analyses of the investor market and trends.



IV. Legislative and policy matters

- A. Provide analysis and recommendations on current and proposed legislation, and any impact on port and railroad industries.
- B. Act as an expert witness or spokesperson before governmental bodies, organizations, or public forums.

V. Other advisory services, as needed

- A. Monitor and make recommendations on investments held by bond trustee.
- B. Review and provide recommendations related to existing financial policies.
- C. Provide financial advice as needed and requested by ACTA.
- D. Obtain bids from various financial institutions on behalf of ACTA, if needed.
- E. Provide strategic advice as needed.
- F. Assist with the formulation of policies, and provide advice on industry best practices.

Ranking of Proposing Firms by Score

Firm	Proposal 1st Time	Proposed 2nd Time	Group
PFM Financial Advisors LLC	yes	yes	OBE
Frasca & Associates LLP	no	yes	SBE, MBE
Montague DeRose and Associat	no	yes	SBE
Fieldman, Rolapp & Associates,	yes	yes	SBE
Sperry Capital Inc.	no	yes	OBE
<i>Alex San Andres, LLC</i>	<i>no</i>	<i>yes</i>	<i>SBE, MBE</i>
Legend			
- SBE = Small Business Enterprise; - MBE = Minority Business Enterprise			
- WBE = Women Business Enterprise; - DVBE = Disabled Veteran Business Enterprise			

Municipal Financial Advisory Services RFP Selection Evaluation Form

SCORING GUIDELINES:

Rater's Score: (Range 0-5) 0=not included/non responsive; 1=Marginal Abilities, Serious Deficiencies; 2=Adequate with Minor Deficiencies; 3=Adequate, Standard-Acceptable; 4=Well Qualified; 5=Exceptionally Well Qualified.

Weighing Factor: Input using a range of 1 through 6, with 1 being of relative lower importance and 6 being relative highest importance. You may use each number (1 through 6) more than once; however, in establishing weights, the total of all the weighing factors (A -E) must equal 20.

Weighted Score= Rater's Score multiplied by (x) Weighing Factor. Totals should be calculated for each criterion.

Total score= Sum of all weighted scores.


Firm Name:	Evaluated by:	Date:		
CRITERIA TO BE RATED		RATER'S SCORE	WEIGHING FACTOR	WEIGHTED SCORE
A. Experience & Qualifications of the Firm and Personnel	How long has the company been in business? Has the company done similar work? Qualifications and experience of proposed personnel for requested services?	0	6	0
B. Demonstration of Rating Agency Relations and Investor Relations Capabilities	How experienced and detail oriented are the assigned personnel in handling relations with the rating agencies and the investor community?	0	5	0
C. Demonstration of Quantitative Analysis Capabilities	How experienced are the assigned personnel in their ability to perform complex quantitative assignments?	0	5	0
D. Hourly Rates and Fee Schedule	Are the hourly rates and fees reasonable and competitive for the proposed services?	0	3	0
E. Clarity and Comprehensiveness of the Proposal	Is the Proposal clear, comprehensive, and understandable?	0	1	0
	Maximum points possible=100		A+B+C+D+E=20	Total Points
Total				0

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 Agreements for Emergency Response and Hazardous Waste Management Services with Ocean Blue Environmental Services, Inc. (C0912) and NRC Environmental Services, Inc. (C0913) for a 3-year term and compensation not-to-exceed \$50,000 for each firm

Recommendation:

Authorize the Chief Executive Officer or his designee to execute agreements for Emergency Response and Hazardous Waste Management Services in a not to exceed amount of \$50,000 per firm for a three-year term with these two service providers:

1. Ocean Blue Environmental Services, Inc. - Agreement No. C0912 for \$50,000 (Transmittal 1a)
2. NRC Environmental Services, Inc. - Agreement No. C0913 for \$50,000 (Transmittal 1b)

Discussion:

The Alameda Corridor Emergency Response and Hazardous Waste Management program responds to both emergency and non-emergency chemical spills, releases of regulated and/or hazardous materials, and abandoned wastes within the Alameda Corridor. The requests for these services come to ACTA from or in compliance with the Railroads, and State and Federal agencies, including the United States Coast Guard (USCG), United States Environmental Protection Agency (USEPA), California Department of Fish and Wildlife (CDFW), and the Regional Water Quality Control Board (RWQCB). The Alameda Corridor requires the services of qualified Contractors to support and perform all phases of waste management on land, on or adjacent to railroad tracks and in the water. These include the containment of spills, and cleanup of releases, or abandoned waste on an as-needed basis.

ACTA published a Request for Proposals in February 2023 for Emergency Response and Hazardous Waste Management Services and received five proposals from local and minority firms. The list of firms that responded are provided in Transmittal 2.

Proposals were evaluated by a three-member selection panel composed of senior environmental staff from ACTA, Port of Long Beach and Port of Los Angeles. The proposals were scored utilizing the evaluation form provided in the RFP (Transmittal 3) The two highest scoring firms were recommended to enter agreements with ACTA and be available in an on-call pool for bidding or assignment on particular tasks. Both recommended firms have worked with ACTA before, and one is a local small minority business.

The selected On-call Emergency Response and Hazardous Waste Management firms will be available to respond to requests from ACTA to identify, categorize, remove, package, and recycle, or dispose of hazardous, non-hazardous, and regulated waste from the Corridor right-of-way in a cost-effective manner. By having two on-call firms, ACTA can request competitive bids to identify the best capabilities and value for each waste management task.

Budget Impact:

Funds for the Emergency Response and Hazardous Waste Management services are included in the FY24 Program and Operating Budget. Funds for future fiscal years will be brought to the Governing Board for approval.

Co-General Counsel Review:

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

Transmittals:

Transmittal 1a – Agreement No. C0912 with Ocean Blue Environmental Services, Inc.

Transmittal 1b – Agreement No. C0913 with NRC Environmental Services, Inc.

Transmittal 2 – List of Proposers

Transmittal 3 – Evaluation Criteria

AGREEMENT NO. CO912
BETWEEN THE ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY
AND
OCEAN BLUE ENVIRONMENTAL SERVICES, INC.

THIS AGREEMENT ("Agreement") is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, a California Joint Powers Authority ("ACTA") acting by and through its Governing Board ("Board"), and OCEAN BLUE ENVIRONMENTAL SERVICES, INC., a California corporation, whose address is 425 Esther Street, Long Beach, California 98130 ("Contractor").

WHEREAS, ACTA requires, on a temporary and occasional basis, professional, scientific, expert and technical as-needed services for handling and removal of hazardous and non-hazardous waste found on property under the management and control of ACTA, with said services to be performed by full-service waste disposal companies for transportation, storage, recycling and disposal of such waste ("Project"); and

WHEREAS, Contractor is an organization that provides these services, including, but not limited to those services required by ACTA and, by virtue of training and experience, is well-qualified to provide such services to ACTA; and

WHEREAS, ACTA does not employ personnel with the required expertise nor is it feasible to do so on a temporary or occasional basis;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Incorporation of Recitals

1.1 The recitals to this Agreement above are incorporated herein and made a part hereof.

2. Services To Be Performed By Contractor

2.1 All of the potential services Contractor shall perform for ACTA are set forth in Exhibit A hereto and hereinafter shall be referred to as "Scope of Work."

2.2 Contractor's performance of tasks shall occur as follows:

a. ACTA's Chief Executive Officer ("CEO") shall issue a written Contract Task Order ("CTO") in the form attached hereto as Exhibit B that specifies, without limitation: the task or subtask to be performed; the specific services required in connection with such task or subtask; the deliverables required in the performance of such task or subtask; the schedule for the performance of such task or subtask; authorized personnel who may perform the task or subtask; and authorized compensation for such task or subtask

("Directive").

b. Contractor, to reflect its agreement with all the terms of such Directive, shall sign, date and return such CTO to ACTA.

c. Following ACTA's receipt of the CTO signed by Contractor, ACTA's CEO shall issue a Notice to Proceed in the form attached hereto as Exhibit C that has been signed by him and that authorizes Contractor to commence performance of the services contemplated by such CTO.

2.3 Contractor acknowledges and agrees that it lacks authority to perform and that ACTA's CEO lacks authority to request the performance of any services outside the Scope of Work. Contractor further acknowledges and agrees that any services it performs outside the Scope of Work or a Directive, or in the absence of both a Directive and a Notice to Proceed, are performed as a volunteer and shall not be compensable under this Agreement.

2.4 The Scope of Work shall be performed by personnel qualified and competent in the sole reasonable discretion of ACTA's CEO, whether performance is undertaken by Contractor or third-parties with whom Contractor has contracted on the effective date of this Agreement, whom ACTA's CEO may subsequently approve in writing ("Subcontractors"), or as listed on Directives. Obligations of this Agreement, whether undertaken by Contractor or Subcontractors, are and shall be the responsibility of Contractor. Contractor acknowledges and agrees that this Agreement creates no rights in Subcontractors with respect to ACTA and that obligations that may be owed to Subcontractors, including, but not limited to, the obligation to pay Subcontractors for services performed, are those of Contractor alone. Upon ACTA's CEO's written request, Contractor shall supply ACTA with all agreements between it and its Subcontractors.

2.5 Contractor, at its sole cost and expense, shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Scope of Work. As between ACTA and Contractor, Contractor is solely responsible for any taxes or fees which may be assessed against it or its employees resulting from performance of the Scope of Work, whether social security, payroll or other, and regardless of whether assessed by the federal government, any state, City, or any other governmental entity. ACTA shall pay applicable state or local fees necessary to obtain approval, plan checks, permits and variances for the Project.

2.6 ACTA's CEO shall resolve in his sole reasonable discretion any issues or questions which may arise during the term of this Agreement as to the quality or acceptability of Contractor's performance of the Scope of Work, the manner of performance, the interpretation of direction given to Contractor, the acceptable completion of a Directive, and the amount of compensation due. Upon written notice from ACTA's CEO, Contractor shall assign replacement personnel and/or shall remedy any deficient services or work product to his reasonable satisfaction and at Contractor's sole cost and expense. Compliance with the requirements of this Section 2.6 is a condition to payment by ACTA of compensation to Contractor pursuant to this Agreement.

2.7 Contractor's representative responsible for administering this Agreement,

Justin Lee (“Project Manager”), shall not be changed without ACTA’s CEO’s written approval. ACTA’s CEO may, for any reason in his sole reasonable discretion, require Contractor to substitute a new Project Manager. If ACTA requests such a substitution, the substitute Project Manager shall expend whatever time and costs necessary to become familiar with the Project and any portions of the Scope of Work already performed at Contractor’s sole cost and expense.

2.8 If the law requires Contractor, in performing the Scope of Work, to follow a different standard of care than the ordinary standard of care applied to a reasonable person, Contractor shall perform such services with the degree of diligence, skill, judgment, and care applicable to Contractor's profession (“professional standard”). Contractors not required to follow a professional standard shall exercise the degree of care required of ordinary persons.

2.9 For portions of the Scope of Work to be performed on a time and material basis, Contractor shall assign personnel, whether employees or Subcontractors, with the lowest applicable hourly rate who are fully competent to provide the services required. If Contractor finds it necessary to have any portion of the Scope of Work, which this Section 2.9 would require to be performed by personnel at a lower rate, to be performed by personnel at a higher rate, Contractor shall, nevertheless, invoice ACTA at the lower rate.

2.10 Contractor shall promptly consider and implement, to his reasonable satisfaction, any written comments of ACTA’s CEO.

2.11 Contractor shall review information provided by ACTA. Any such information reasonably believed by Contractor to be inaccurate, incomplete or inapplicable shall be brought promptly to the attention of ACTA’s CEO in writing.

2.12 Contractor shall perform the Scope of Work as expeditiously as possible and at the time or times required by ACTA’s CEO. Time is of the essence in the performance of the Scope of Work. Contractor's failure to conform to the schedule set forth in a project Directive shall entitle ACTA to have services completed by others, shall obligate Contractor to pay ACTA ACTA’s cost to undertake completion of such services, and shall authorize ACTA to withhold such amounts from any payments otherwise due to Contractor. Contractor's failure to timely perform in accordance with the schedule set forth in a Directive shall result in economic losses to the ACTA, including, but not limited to, the timely bidding and awarding of contracts, completion of the Project in connection with which Contractor’s services are rendered and the use of such project by ACTA, the users of the Alameda Corridor and the public.

3. Services To Be Performed By ACTA

3.1 ACTA shall provide Contractor with available and/or necessary horizontal and vertical survey data in the form of field notes or electronic format as maintained by ACTA, access to public records, prints of existing aerial photos, existing planimetric maps, environmental documents, and existing soil reports in the vicinity, previous specifications and other information which, in the sole reasonable discretion of ACTA’s CEO, shall assist in completing the Scope of Work.

3.2 Contractor shall provide ACTA’s CEO with reasonable advance written

notice if it requires access to any premises under the control of ACTA. Subsequent access rights, if any, shall be granted to Contractor at the sole reasonable discretion of ACTA's CEO, specifying conditions Contractor must satisfy in connection with such access. Contractor acknowledges that such premises may be occupied or used by railroad companies, tenants or contractors of ACTA and that access rights granted by ACTA to Contractor shall be consistent with any such occupancy or use.

3.3 ACTA shall not be obligated to provide information and/or services except as specified in this Agreement.

4. Effective Date and Term

4.1 The effective date of this Agreement shall be July 1, 2023.

4.2 Commencing on the Agreement's effective date, this Agreement shall be in full force and effect until the earlier of the following occurs:

- a. June 30, 2026; or
- b. ACTA's Board, in its sole discretion, terminates this Agreement pursuant to Section 6.

5. Compensation.

5.1 For the full and satisfactory performance of the Scope of Work, ACTA shall pay Contractor and Contractor shall accept a sum not to exceed Fifty Thousand Dollars (\$50,000.00). The total sum payable under this Agreement shall be determined by Directives and Contractor acknowledges that final compensation may not reach the maximum sum allowed for herein.

5.2 Compensation payable under this Agreement for payment for labor, travel, per diem, materials, supplies, transportation, and all other direct and indirect costs and expenses incurred by Contractor ("Expenses") are listed in Exhibit D. No markups or premiums shall be applied to services performed by Subcontractors unless Exhibit D expressly so allows.

5.3 Compensation payable under this Agreement shall be on a (1) Fixed Fee, (2) Time and Materials, (3) Equal Payment or (4) any combination of the three, as may be more particularly specified in a Directive.

a. Fixed Fee. Lump sum compensation for satisfactory performance as may be specified in a particular Directive.

b. Time and Materials Fee. Contractor shall be paid based on the actual time expended in the performance of tasks using the applicable rates set forth in Exhibit D. Contractor will also be reimbursed for materials and other out-of-pocket expenses at cost. The rates identified in Exhibit D state the maximum rates Contractor shall charge under this Agreement. No premium rates, including, but not limited to, overtime or hazardous duty premiums, shall be charged unless authorized in Exhibit D.

c. Equal Payment Fee. Contractor shall be paid equal amounts over time throughout a particular Directive, up to the stated fixed amount.

5.4 Each month during the term of this Agreement, as a prerequisite to payment for services, Contractor shall submit a written invoice to ACTA for services performed during the prior month, accompanied by such records and receipts as may be required by Section 5.5. If payments are to be based on the performance of established milestones, Contractor shall bill as each milestone is completed, but not more often than once a month.

Contractor shall submit one (1) original and one (1) copy of each such invoice for payment in the format that contains the information specified in Exhibit E, and that includes the following certification:

“I certify under penalty of perjury that the above invoice is true and just, in accordance with the terms of Agreement No. _____, that payment of this invoice has not been received and that none of the items contained in the invoice have been submitted to any other agency.

”
(signed)

5.5 Where Contractor employs Subcontractors under this Agreement, Contractor shall submit to ACTA, with each monthly invoice, a Monthly Subcontractor Monitoring Report Form (Exhibit F) listing SBE/VSBE/MBE/WBE/DVBE/OBE amounts. Contractor shall provide an explanation for any item that does not meet or exceed the anticipated participation levels for this Agreement, with specific plans and recommendations for improved Subcontractor utilization. Invoices will not be paid without a completed Monthly Subcontractor Monitoring Report Form.

5.6 Contractor shall submit supporting documents with each invoice, which may include, but not be limited to, provider invoices, receipts, payrolls, and time sheets. Contractor is not required to submit support for direct costs items of \$25 or less. All invoices are subject to audit.

5.7 All sums due and payable to Contractor shall be paid as soon as, in the ordinary course of ACTA business, the same may be reviewed and approved.

For payment and processing, all invoices shall be mailed to the following address:

Accounts Payable Department
Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806

6. Termination

6.1 The Board, in its sole discretion, shall have the right to terminate and

cancel all or any part of this Agreement for any reason upon ACTA's CEO giving the Contractor ten (10) days' advance, written notice of the Board's election to cancel and terminate this Agreement. It is agreed that any Agreement entered into shall not limit the right of ACTA to hire additional contractors or perform the services described in this Agreement either during or after the term of this Agreement.

6.2 Upon receipt of such written notice, Contractor shall cease the performance of the Scope of Work. Contractor shall be entitled to compensation only for services actually performed prior to such termination. ACTA's CEO, in his sole reasonable discretion, shall determine the amount of services actually performed and shall allocate a portion of the total compensation due Contractor accordingly.

6.3 If Board so terminates this Agreement, Contractor shall deliver all drawings, specifications, plans, reports, studies, calculations, estimates, documents and other work product produced pursuant to this Agreement to ACTA in an organized, usable form with all items properly labeled to the degree of detail specified by ACTA's CEO. No compensation shall be due Contractor until it complies with the requirements of this paragraph.

6.4 Pursuant to Section 5 of ACTA's Amended and Restated Joint Exercise of Powers Agreement, ACTA shall be restricted in its powers in the same manner as the City of Los Angeles is restricted in its exercise of similar powers. Therefore, this Agreement is subject to the provisions of the Los Angeles City Charter Section 320 which precludes ACTA from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated therefor.

The Board, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Board is under no legal obligation to do so.

ACTA, its board, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefor. The Contractor is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Contractor is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Contractor agrees to resume performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefor is approved by the Board within that 60-day period. The Contractor is responsible for maintaining all insurance and bonds during this 60-day period until the appropriation is made; however, such extension of time is not compensable.

If in any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

7. Recordkeeping and Audit Rights

7.1 Contractor shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied. Contractor's books and records shall be readily accessible to and open for inspection and copying at the premises by ACTA, its auditors or other authorized representatives. Notwithstanding any other provision of this Agreement, failure to do so shall constitute a conclusive waiver of any right to compensation for such services as are otherwise compensable hereunder. Such books and records shall be maintained by Contractor for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

7.2 During the term of this Agreement, ACTA may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Contractor and Subcontractors arising from or related to this Agreement or performance of the Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Contractor, Subcontractors or any individual or entity acting for or on behalf of Contractor or a Subcontractor, and (c) without regard to whether such writings have previously been provided to ACTA. Contractor shall be responsible for obtaining access to and providing writings of Subcontractors. Contractor shall provide ACTA at Contractor's sole cost and expense a copy of all such writings within fourteen (14) calendar days of a written request by ACTA. ACTA's right shall also include inspection at reasonable times of the Contractor's office or facilities which are engaged in the performance of the Scope of Work. Contractor shall, at no cost to ACTA, furnish reasonable facilities and assistance for such review and audit. Contractor's failure to comply with this Section 7.2 shall constitute a material breach of this Agreement and shall entitle ACTA to withhold any payment due under this Agreement until such breach is cured.

8. Contractor Is An Independent Contractor

Contractor, in the performance of the Scope of Work, is an independent contractor and not an agent or employee of ACTA. Contractor shall not represent itself as an agent or employee of ACTA and shall have no power to bind ACTA in contract or otherwise.

9. Indemnification

9.1 Indemnification. Except for the sole negligence or willful misconduct of ACTA, its Board or any of its officers, agents, employees, assigns and successors in interest, Contractor undertakes and agrees to defend, indemnify and hold harmless ACTA, its Board and any of its officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, arbitration proceedings, administrative proceedings, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by ACTA, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or

injury to any person, including Contractor's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Contractor or its subcontractors of any tier. Rights and remedies available to ACTA under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

10. Insurance

10.1 Insurance procured by Contractor on Behalf of Contractor

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 9, and as a condition precedent to the effectiveness of this Agreement, Contractor shall procure and maintain at its sole cost and expense and keep in force at all times during the term of this Agreement the following insurance:

(a) Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Contractor's normal limits of liability but not less than Five Million Dollars (\$5,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that ACTA's CEO may permit a self-insured retention or self-insurance in those cases where, in his judgment, such retention or self-insurance is justified by the net worth of Contractor. The retention or self-insurance provided shall provide that any other insurance maintained by ACTA shall be excess of Contractor's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision, a severability of interest clause and have the railroad exclusion deleted. Each policy shall name ACTA, its Board, officers, agents and employees as Primary additional insureds.

(b) Automobile Liability Insurance

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Contractor's normal limits of liability but not less than Five Million Dollars (\$5,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents and employees as Primary additional insureds.

(c) Workers' Compensation and Employer's Liability

Contractor shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that Contractor shall comply with such provisions before commencing the performance of the tasks under this Agreement. Coverage for claims under U.S. Longshore and Harbor Workers' Compensation Act, if required under applicable law, shall be included. Contractor shall submit Workers' Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Worker's Compensation and occupational disease requirements shall include coverage for all employees of Contractor, and for all employees of any subcontractor or other vendor retained by Contractor.

(d) Ocean Marine Liability

Contractor shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connections with Contractor's operations. The cost of the insurance shall be borne by Contractor. The coverage shall be written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's Rating is not available). Coverage shall include, but not be limited to:

- (i) Hull and machinery coverage up to the value of the vessel(s);
- (ii) Protection and Indemnity coverage with combined single limits of Two Million Dollars (\$2,000,000) per occurrence for bodily injury, illness, death, loss of or damage to the property of another, and Jones Act risks or equivalent thereto internationally.
- (iii) Ship repairers legal liability to cover loss, damage or expenses to any property temporarily in the Contractor's care, custody or control.

Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents, and employees as Primary additional insureds.

(e) Pollution Liability Insurance or Environmental Impairment Liability

Contractor shall procure and maintain throughout the term of this Agreement, at its cost, Pollution Liability coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's Rating is not available), with Contractor's normal limits of liability but not less than Five Million Dollars (\$5,000,000) combined single limit for injury or death or property damage arising out of each accident or occurrence covering Contractor's services under this Agreement. Said limits shall

provide first dollar coverage except that ACTA's CEO may permit a self-insured retention or self-insurance in those cases where, in his judgment, such retention or self-insurance is justified by the net worth of Contractor. Contractor's pollution liability shall include coverage for losses caused by pollution conditions that arise from the operation of Contractor described under the scope of services of this Agreement and include: (a) on-site and off-site coverage for bodily injury, sickness, disease, mental anguish or shock sustained by a person, including death; (b) on-site and off-site property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed; (c) on-site and off-site defense including costs, charges and expenses incurred in the investigation adjustment or defense of claims for such compensatory damages.

Non-owned disposal site coverage shall also be provided if Contractor is handling, storing or generating hazardous materials or any material/substance otherwise regulated under governmental laws/regulations.

The insurance provided shall contain a severability of interest clause and shall provide that any other insurance maintained by ACTA shall be excess of Contractor's insurance and shall not contribute with it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and severability of interest clause, have no exclusions for Contractual Liability, have no restrictions for Sole Liability of Contractor, and shall not contain any other exclusions contrary to this Agreement.

Each policy shall name ACTA, its Board, officers, agents and employees as Primary and Non-Contributory additional insureds.

10.2 Insurance Procured by Contractor on Behalf of ACTA

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 9, and where Contractor is required to name ACTA, its Board, officers, agents and employees as Primary additional insureds on any insurance policy required by this Agreement, Contractor shall cause ACTA to be named as an additional insured on all policies it procures in connection with this Section 10. Contractor shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that the Alameda Corridor Transportation Authority, its Board, their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts and activities of the insured under Agreement No. _____, and under any amendments, modifications, extensions or renewals of said Agreement regardless of where such contractual obligations, operations, uses, occupations, acts and activities occur.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by ACTA is excess coverage;

"In the event of one of the named insured's incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to ACTA's CEO with copies sent to ACTA's Co-General Counsel at the following addresses: 1) Office of the Long Beach City Attorney, 411 West Ocean Boulevard, 9th Floor, Long Beach, California 90802, and 2) Office of the Los Angeles City Attorney, 425 S. Palos Verdes Street, San Pedro, California, 90731."

10.3 Required Features of Coverages

Insurance procured by Contractor in connection with this Section 10 shall include the following features:

(a) Acceptable Evidence and Approval of Insurance

Contractor's insurance broker or agent shall submit to ACTA the appropriate proof of insurance on Contractor's behalf.

Upon request by ACTA, Contractor shall furnish full copies of certified policies of any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

(b) Carrier Requirements

All insurance which Contractor is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.

(c) Notice of Cancellation

For each insurance policy described above, Contractor shall give a 10-day prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-day prior notice of cancellation or reduction in coverage for any other reason, by written notice via registered mail and addressed to ACTA as set forth herein.

(d) Modification of Coverage

ACTA's CEO, at his sole reasonable discretion, based upon recommendation of independent insurance consultants to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Contractor.

(e) Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Contractor shall renew or extend such policy in accordance with the requirements of this Agreement and direct their insurance broker or agent to submit to the ACTA a renewal endorsement or renewal certificate or, if new insurance has been obtained, evidence of insurance as specified above. If Contractor neglects or fails to secure or maintain the insurance required above, ACTA's CEO may, at his own option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance shall be deducted from the next payment due Contractor.

(f) Limits of Coverage

If Contractor maintains higher limits than the minimums required by this Agreement, ACTA requires and shall be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to ACTA.

10.4 Accident Reports

Contractor shall report in writing to ACTA's CEO within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars (\$500.00) to property, occurring upon any Alameda Corridor property if Contractor's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Contractor, its officers or managing agents.

11. Personal Services Agreement

Contractor acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, that Contractor may permit Subcontractor(s) to perform portions of the Scope of Work in accordance with Section 2.3. All Subcontractors whom Contractor utilizes, however, shall be deemed to be its agents. Subcontractors' performance of the Scope of Work shall not be deemed to release Contractor from its obligations under this Agreement or to impose any obligation on ACTA to such Subcontractor(s) or give the Subcontractor(s) any rights against ACTA.

12. Confidentiality

Contractor shall not disclose any proprietary or confidential information of ACTA to any third party or parties during or after the term of this Agreement without the prior written consent of ACTA. The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the Scope of Work and any recommendations made by Contractor relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Contractor or its employees or agents in any manner except and only to the extent

necessary in the performance of the work under this Agreement. In addition, Contractor is required to safeguard such information from access by unauthorized personnel.

13. Affirmative Action

Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded shall contain a like nondiscrimination provision.

14. Small/Very Small Business Enterprise Program

It is the policy of ACTA to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE), and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Contractor shall assist ACTA in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunities which might be presented under this Agreement. See Exhibit G.

15. Conflict of Interest

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of ACTA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of ACTA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, ACTA may immediately terminate this Agreement by giving written notice thereof.

16. Compliance with Applicable Laws

Contractor's activities under this Agreement, including its performance of the Scope of Work, shall comply with all federal, state, municipal, and local laws, ordinances, rules, regulations, and orders.

17. Trademarks, Copyrights and Patents

Contractor shall promptly and fully inform ACTA's CEO in writing of any patents, trademarks or copyrights related to services provided under this Agreement or patent trademark or copyright disputes, existing or potential, which Contractor has knowledge of, relating to any idea, design, method, material, equipment or other matter connected to this Agreement. Contractor agrees to save, keep, hold harmless, protect and indemnify ACTA and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of

any person or persons, or corporations in consequence of the use by ACTA of any materials supplied by Contractor in the performance of this Agreement.

18. Proprietary Information

Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by ACTA as soon as they are developed, whether in draft or final form. ACTA has the right to use or permit the use of property and any ideas or methods represented by such property for any purpose and at any time without compensation other than that provided in this Agreement. Contractor hereby warrants and represents that ACTA at all times owns rights provided for in this section free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Contractor need not obtain for ACTA the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Contractor or one of its employees, or its Subcontractor or the Subcontractor's employees, in which case such right shall be obtained without additional compensation. Whether or not Contractor's initial proposal or proposals made during this Agreement are accepted by ACTA, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Contractor, its Subcontractors or on either's behalf, whether prior or subsequent to this Agreement becoming effective, to the ACTA, its Board, officers, agents or employees, is not given in confidence. Accordingly, ACTA or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

19. Royalty-Free License

If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Contractor, its officers, agents, employees, or Subcontractors, ACTA shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by ACTA. Upon ACTA's request, Contractor, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to ACTA. It is expressly understood and agreed that, as between ACTA and Contractor, the referenced license shall arise for ACTA's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. ACTA may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by ACTA.

20. ACTA's Disclosure Obligations

Contractor acknowledges that ACTA is subject to laws, rules and/or regulations generally requiring it to disclose records upon request, which laws, rules and/or

regulations include, but are not limited to, the California Public Records Act (California Government Code Sections 6250 et seq.) (“Disclosure Laws”).

21. Notices

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, registered or certified mail, return receipt requested, and postage prepaid. When so given, such notice shall be effective from the date of mailing of the same. For the purpose hereof, unless otherwise provided by notice in writing from the respective parties, notice to ACTA shall be addressed to its Chief Executive Officer, Alameda Corridor Transportation Authority, 3760 Kilroy Airport Way, Suite 200, Long Beach, California 90806, and notice to Contractor shall be addressed to it at the address set forth above. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

22. Construction of Agreement

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

23. Titles and Captions

The parties have inserted the section titles in this Agreement only as a matter of convenience and for reference, and the section titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

24. Modification in Writing

This Agreement shall not be amended, nor any provision or breach hereof waived, except in writing signed by the parties which expressly refers to this Agreement. Any such modifications are subject to all applicable approval processes required by ACTA.

25. Waiver

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

26. Governing Law/Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of

such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

27. Severability

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law or public policy, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

28. Integrated Agreement

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

29. Exhibits; Sections

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to sections are to sections of this Agreement unless stated otherwise.

30. Counterparts and Electronic Signatures

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

The use of electronic signatures herein, or in any amendments to this Agreement, and any electronic records related to this Agreement (including, without limitation, any agreement or other record created, generated, sent, communicated, received, or stored by electronic means), shall be of the same legal effect, validity and enforceability as a

manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transaction Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

The words "execution," "signed," "signature," and words of like import in this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf" "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign or Acrobat Sign).

The parties agree that electronically signed and/or electronically transmitted signatures shall be conclusive proof, admissible in judicial proceedings, of such party's execution of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date next to their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

OCEAN BLUE ENVIRONMENTAL
SERVICES, INC.

Date: _____

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

APPROVED AS TO FORM

_____, 2023
DAWN MCINTOSH, Long Beach City Attorney

By _____
Thomas Y. Oh, Deputy
ACTA Co-General Counsel

Exhibit A
Scope of Work

The Alameda Corridor Emergency Response and Hazardous Waste Management program responds to both emergency and non-emergency chemical spills, releases of regulated and/or hazardous materials, and abandoned wastes within the Alameda Corridor. The requests for emergency response and hazardous waste management services come to ACTA from the Railroads, and State and Federal agencies, including the United States Coast Guard (USCG), United States Environmental Protection Agency (USEPA), California Department of Fish and Wildlife (CDFW), and the Regional Water Quality Control Board (RWQCB).

I. **General**

The Contractor shall support and perform all phases of waste management on land, on or adjacent to railroad tracks and in the water. These include the containment of spills, cleanup of releases, or abandoned waste on an as-needed basis in the following categories:

A. **Emergency Response**

Emergency Response is the ability to respond to a spill or uncontrolled release of a hazardous or regulated material on an emergency basis at any time, 24 hours per day, 7 days per week (including holidays), and provide containment and cleanup as required by local, state and federal regulatory agencies, and as directed by ACTA. The Contractor shall have the ability to arrive on-scene within 30 to 45 minutes of notification. These spills may involve containment and cleanup operations in storm drains, pipelines, groundwater, and in other water bodies, including navigable waters such as the ocean, harbors, lakes, reservoirs, streams, canals and rivers.

B. **Unidentified Waste**

Unidentified wastes are unlabeled containers with unknown substances deposited on property operated and maintained by ACTA that require removal.

1. The Contractor shall have the ability to identify, package, and transport the unidentified wastes deposited on ACTA properties (including on railroad tracks) or right-of-way for recycling, treatment, or disposal.
2. Response to this waste stream will usually be required during normal working hours.

C. **Waste Management**

Waste Management is the ability to identify, categorize, remove, package, and recycle, or dispose of hazardous, non-hazardous, and regulated waste that are generated through the normal work process of maintaining property or equipment operated and maintained by ACTA.

1. Response to this waste stream will usually be required during normal working hours.

2. The Contractor shall be required to be on-site at a facility operated and maintained by ACTA at a mutually agreed-upon time with an authorized ACTA representative.
3. Waste management services may include, but are not limited to:
 - a. Removing and excavating contaminated soils and debris;
 - b. Laboratory packing of chemicals;
 - c. Packaging and consolidating hazardous materials;
 - d. Identifying and packaging unidentified materials;
 - e. Characterizing and profiling of waste prior to disposal; and
 - f. Transporting waste for disposal.
4. For this contract, regulated and/or hazardous materials include, but are not limited to:
 - a. Asbestos, crude oil and petroleum products, including fuel oil, mineral oil, gasoline, diesel;
 - b. Corrosive liquids, including acid, and alkaline solutions;
 - c. Polychlorinated Biphenyls (PCBs) and PCB-contaminated materials;
 - d. Mercury, lead, and other metals;
 - e. Waste tires;
 - f. Treated wood;
 - g. Bio-hazard waste;
 - h. Sewage; and
 - i. Other environmental regulated media.

D. Miscellaneous Services

In addition to emergency and non-emergency activities listed above, ACTA may require the following:

- Management and disposal of both hazardous and non-hazardous wastes generated by ACTA's maintenance operations and construction projects;
- Abatement of lead-based paint and asbestos-containing materials in/on structures operated and maintained by ACTA;
- Removal and/or cleaning of materials contaminated by biological wastes;
- Storm drain or other storm water drainage system cleaning and maintenance including the use of remote camera equipment to verify conditions;
- Pressure-washing/steam cleaning; and
- Assist ACTA staff on projects that involve confined space.

II. Required Equipment

Contractor shall have, or have immediate access to, the following equipment and services:

- Black iron vacuum trucks steel – 35 BBL to 70 BBL, and/or 90 to 120 BBL;

- Emergency response unit – Level B;
- Blood & Bio cleanup; and
- Registered waste tire hauler.

It is recommended that Contractor have, or have immediate access to, the following equipment and services:

- Roll-off bins and trailer;
- Tandem roll-off trailer;
- Flatbed box van;
- Booming vessel and work skiff – w/ Hull & Machinery Insurance;
- Portable containment boom system – 1000' of boom with hydraulic power pack;
- Oil spill skimmers – drum style, mop style;
- Skim packs;
- Mercury vapor analyzer and Organic Vapor Analyzer (calibrated);
- Haz Mat kit – chemical identification;
- Sufficient amount/length of containment boom (at least 10,000 feet);
- Super sucker/jetter combos; and
- Trauma scene practitioner with license to haul medical waste.

III. General Requirements

The Contractor shall perform all tasks in accordance with all applicable local, state, and federal regulations. Contractors must also perform activities in compliance with all appropriate elements of ACTA's policies and programs.

The Contractor must be capable of responding to regulated and/or hazardous materials discharged to inland, river/canal, and coastal/ocean environments.

A. Laboratory Services

The Contractor shall have access to the services of a California State Certified environmental laboratory equipped to perform waste characterization analyses mandated by the Code of Federal Regulations (CFR) 40 and Code of California Regulations (CCR) Title 22 and in accordance with USEPA Solid Waste (SW)-846 test methods of evaluation of solid wastes, physical/chemical methods. The capabilities of the lab must include, but are not limited to, analysis by Atomic Absorption (AA), AA – flame, AA Spectroscopy – Graphite furnace, Fluorescence, Gas Chromatography (GC), and GC-Mass Spectrometry for all regulated organics, X-ray Fluorescence, Organic Vapor Analyzer, Inductively Coupled Plasma/Atomic Emission Spectroscopy, pH, and flash-point testing.

B. Disposal and Transportation

The Contractor shall provide disposal services of a fully permitted waste disposal facility or facilities capable of handling non-hazardous and hazardous wastes, including California

regulated wastes, Resource Conservation and Recovery Act (RCRA) Federal regulated wastes, and liquid/solid waste under the Toxic Substances Control Act.

All subcontractors and all identified hazardous or regulated waste recycling and disposal sites must be reviewed and approved for environmental acceptability and regulatory compliance with applicable state and federal laws, at the sole discretion of ACTA. All recycling, treatment, storage, and/or disposal facilities must operate under Federal and State licenses/permits.

The Contractor shall ensure that all wastes handled, stored or transported are properly contained and labeled for shipment in accordance with all applicable State and Federal regulations.

The Contractor shall provide transportation of hazardous waste to a treatment, storage or disposal facility by a licensed and permitted hazardous waste transporter.

The Contractor shall furnish all labor, materials, and equipment as well as technical expertise, supervision, and management to effectively identify, package, clean up, and transport the various regulated, non-hazardous and hazardous waste for recycling, treatment, and/or disposal.

C. Manifest Documents

The Contractor shall provide properly prepared non-hazardous and hazardous waste manifest documents for waste to be transported to disposal or treatment facilities.

On non-emergency or routine jobs, the Contractor shall coordinate with the ACTA representative and hazardous waste disposal or treatment facilities to provide hazardous waste profiles and manifests to ACTA.

IV. Project Management

The Contractor will work directly under the supervision of the ACTA Environmental Manager.

V. Project Deliverables

The Contractor must submit summary reports describing all work assignments, including a running total of costs at the completion of each contract task order event. The report must be cumulative. ACTA will provide the format for the report.

Exhibit "B"

Contract Task Order

(Date)
(Consultant)
(Consultant address)
(City, State, Zip)

Attention: (Project Manager)

Subject: Agreement No. _____
Contract Task Order No. ____

Project Name

Pursuant to Section 2 of Agreement No. _____, after receipt of a written Notice to Proceed signed by ACTA's CEO, Consultant shall proceed with the following:

<u>Task Services</u>	<u>Authorized Amount</u>
----------------------	--------------------------

Consultant shall provide all required task, services, and deliverables in accordance with Exhibit A to Agreement No. _____.

Consultant shall complete the work within ____ calendar days from ACTA's transmittal of its written Notice to Proceed.

Consultant shall undertake the following MBE/WBE/SBE/VSBE/DVBE/OBE utilization in connection with its performance of this Contract Task Order No. ____:

Consultant acknowledges that the terms and conditions of Agreement No. _____ govern this Contract Task Order and that its signature below reflects its agreement with the terms and conditions of this Contract Task Order No. ____.

If you have any questions, please contact _____ at (562) 247-_____.

Very truly yours,

Mike Leue
ACTA Chief Executive Officer

ACCEPTED:

(Consultant Name)

Date:

SAMPLE

Exhibit "C"

Form of Notice to Proceed

(Date)
(Consultant)
(Consultant address)
(City, State, Zip)

Attention: (Project Manager)

Subject: Agreement No. _____
Notice to Proceed – Contract Task Order No. ____
Project Name

This is to notify and direct you to commence performance of the subject Contract Task Order No. _____. Enclosed is your set of the executed Contract Task Order documents.

If you have any questions, please contact _____ at (562) 247-_____.

Very truly yours,

Mike Leue
ACTA Chief Executive Officer

Enclosure: Contract Task No. ____

EXHIBIT D

7/1/2023 - 6/30/2026 PREFERRED RATES FOR: ALAMEDA CORRIDOR TRANSIT AUTHORITY

DEFINITIONS

Straight Time (S/T): Monday through Friday, from 8:00 AM to 5:00 PM

Overtime (O/T): Monday through Friday, before 8:00 AM and after 5:00 PM,
and all day on Saturdays

Premium Time (P/T): Sundays, Following Holidays

HOLIDAYS OBSERVED

New Year's Day

Martin Luther King, Jr.'s Birthday

Veterans Day

Fourth of July

Day after Thanksgiving

Christmas Day

Labor Day

Presidents Day

Memorial Day

Thanksgiving Day

Columbus Day

MINIMUM CHARGES

Four (4) hour minimum charges will apply to all call outs. Portal to Portal rates apply. Time charges include personnel, equipment and materials for preparation, mobilization, travel to and from site, demobilization, decontamination, transportation and unloading.

DISPOSAL AND OUTSIDE COSTS

All disposal, services, non-heavy equipment rentals, and materials not on the rate sheet will be billed at cost plus a twenty percent (20%) handling charge. Heavy equipment rental will be billed at cost plus twenty five percent handling charge due to high liability cost.

PAYMENT TERMS

All terms are set forth in Section 5 of the Agreement.

ACTA EFFECTIVE RATES

	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/25 - 6/30/26	
<u>1. HAZARDOUS WASTE-TRAINED PERSONNEL</u>				
PROJECT MANAGER S/T	130.12	136.63	143.46	HOURLY
PROJECT MANAGER O/T	171.41	179.98	188.98	HOURLY
PROJECT MANAGER P/T	171.41	179.98	188.98	HOURLY
SUPERVISOR S/T	100.17	105.18	110.44	HOURLY
SUPERVISOR O/T	119.78	125.77	132.06	HOURLY
SUPERVISOR P/T	136.31	143.13	150.29	HOURLY
CHEMIST/INDUSTRIAL HYGIENIST S/T	199.30	209.27	219.73	HOURLY
CHEMIST/INDUSTRIAL HYGIENIST STRAIGHT O/T	228.21	239.62	251.60	HOURLY
CHEMIST/INDUSTRIAL HYGIENIST STRAIGHT P/T	228.21	239.62	251.60	HOURLY
LEAD TECHNICIAN S/T	70.21	73.72	77.41	HOURLY
LEAD TECHNICIAN O/T	101.20	106.26	111.57	HOURLY
LEAD TECHNICIAN P/T	132.17	138.78	145.72	HOURLY
EQUIPMENT OPERATOR S/T	67.12	70.48	74.00	HOURLY
EQUIPMENT OPERATOR O/T	100.17	105.18	110.44	HOURLY
EQUIPMENT OPERATOR P/T	128.05	134.45	141.17	HOURLY
TECHNICIAN S/T	62.99	66.14	69.45	HOURLY
TECHNICIAN O/T	88.81	93.25	97.91	HOURLY
TECHNICIAN P/T	115.66	121.44	127.51	HOURLY
ILWU TECH (INT. LONGSHORE & WHSE UNION) S/T	87.77	92.16	96.77	HOURLY
ILWU TECH (INT. LONGSHORE & WHSE UNION) O/T	131.15	137.71	144.60	HOURLY
ILWU TECH (INT. LONGSHORE & WHSE UNION) P/T	175.55	184.33	193.55	HOURLY
<u>2. CERTIFIED HAZARDOUS WASTE TRANSPORTATION VEH</u>				
UTILITY TRUCK 4X4 W/TRAFFIC CONTROL LIGHTS & LIFTGATE	54.73	57.47	60.34	HOURLY
GEAR TRUCK W/ LIFTGATE	54.73	57.47	60.34	HOURLY
EMERGENCY RESPONSE UNIT - LARGE	256.10	268.91	282.36	HOURLY
EMERGENCY RESPONSE UNIT - SMALL	176.58	185.41	194.68	HOURLY
CREW VAN	48.53	50.96	53.51	HOURLY
BOB CAT W/SOLID TIRES	59.89	62.88	66.02	HOURLY
VACUUM TRAILER - 20 BBL	59.89	62.88	66.02	HOURLY
VACUUM TRUCK - 70 BBL W/ ROPER PUMP*	146.63	153.96	161.66	HOURLY
VACUUM TRUCK - 120 BBL*	168.32	176.74	185.58	HOURLY
VACUUM TRUCK - 120 BBL STAINLESS STEEL*	190.01	199.51	209.49	HOURLY
AIR EXCAVATOR*	146.63	153.96	161.66	HOURLY
HYDRO EXCAVATOR*	271.58	285.16	299.42	HOURLY
OMNI VAC - 85 BBL*	271.58	285.16	299.42	HOURLY
JETTER / VACTOR COMBO UNIT*	271.58	285.16	299.42	HOURLY
ROLL-OFF TRUCK*	146.63	153.96	161.66	HOURLY
ROLL-OFF TRUCK AND TRAILER*	168.32	176.74	185.58	HOURLY
DUMP TRUCK - 10 WHEEL*	103.27	108.43	113.85	HOURLY
TRASH COMPACTOR*	146.63	153.96	161.66	HOURLY
25' BOX VAN*	103.27	108.43	113.85	HOURLY
45' BOX VAN*	119.78	125.77	132.06	HOURLY
45' FLAT BED*	119.78	125.77	132.06	HOURLY
25' EQUIPMENT TRAILER	38.21	40.12	42.13	HOURLY

"*" DENOTES EQUIPMENT INCLUDING OPERATOR. THESE WILL BE CHARGED AN ADDITIONAL \$29.00 PER HOUR FOR OVERTIME AND \$39.00 PER HOUR FOR PREMIUM TIME.

ACTA EFFECTIVE RATES

	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/25 - 6/30/26	
<u>3. RESPIRATORY / CONFINED SPACE ENTRY EQUIPMENT</u>				
SELF-CONTAINED BREATHING APPARATUS (30 MIN.)	149.73	157.22	165.08	DAILY
6-PACK BREATHING AIR BOTTLES	299.46	314.43	330.15	DAILY
5-MINUTE EGRESS AIR BOTTLE	42.34	44.46	46.68	DAILY
TRIPOD W/DOUBLE WINCHES	268.49	281.91	296.01	DAILY
FULL BODY HARNESS W/ SHOCK ABSORBER	38.21	40.12	42.13	DAILY
COPPUS BLOWER	216.86	227.70	239.09	DAILY
4-GAS AIR MONITOR	328.38	344.80	362.04	DAILY
PID METER	455.39	478.16	502.07	DAILY
MERCURY VAPOR ANALYZER	568.97	597.42	627.29	DAILY
OVA MONITOR	398.59	418.52	439.45	DAILY
PERSONAL 4 GAS METER	271.58	285.16	299.42	DAILY
ELECTRIC BLOWER	70.21	73.72	77.41	DAILY
<u>4. TRAFFIC CONTROL</u>				
ARROW BOARD	243.71	255.90	268.70	DAILY
PORTABLE DECON STATION W/ARROWBOARD	325.28	341.54	358.62	DAILY
BARRICADES W/ REFLECTORS, EACH	35.11	36.87	38.71	DAILY
DELINEATOR/REFLECTIVE, EACH	2.07	2.17	2.28	DAILY
NO TURN RIGHT OR LEFT SIGNS, EACH	17.56	18.44	19.36	DAILY
TRAFFIC CONE/REFLECTIVE, EACH	3.10	3.26	3.42	DAILY
TRAFFIC CONTROL SIGNS 48"X48"/REFLECTIVE	40.27	42.28	44.39	DAILY
<u>5. CLEANING EQUIPMENT</u>				
AIR COMPRESSOR	46.47	48.79	51.23	HOURLY
CHEMICAL DIAPHRAGM PUMP	341.80	358.89	376.83	DAILY
DECONTAMINATION STATION	233.37	245.04	257.29	DAILY
DIAPHRAGM PUMP	244.73	256.97	269.82	DAILY
SUCTION/DISCHARGE HOSE (PER FOOT)	85.71	90.00	94.50	DAILY
STEAM MACHINE 1,000 PSI 22 GPM	76.42	80.24	84.25	HOURLY
STEAM MACHINE 3,500 PSI 6 GPM	67.12	70.48	74.00	HOURLY
PORTABLE TRASH PUMP	228.21	239.62	251.60	DAILY
AIR SCRUBBERS PORTABLE	190.01	199.51	209.49	DAILY
HEPA FILTERS FOR SCRUBBERS	141.47	148.54	155.97	EACH
55 GALLON CARBON SCRUBBER FOR VAC TRUCKS	216.86	227.70	239.09	DAILY
3 STALL DECONTAMINATION SHOWER	325.28	341.54	358.62	DAILY
<u>6. PORTABLE STORAGE UNITS</u>				
20-YARD BIN, OPEN TOP	27.88	29.27	30.73	DAILY
20-YARD BIN, CLOSED TOP	33.04	34.69	36.42	DAILY
40-YARD BIN, OPEN TOP	27.88	29.27	30.73	DAILY
40-YARD BIN, CLOSED TOP	35.11	36.87	38.71	DAILY
4" TANK MANIFOLD	21.68	22.76	23.90	DAILY
BIN LINERS	57.82	60.71	63.75	EACH
<u>7. OIL SPILL EQUIPMENT</u>				
20' DRUM & SUPPLY TRAILER W/ 4' SIDES & 12,000 GVW	228.21	239.62	251.60	DAILY
BOOM TRAILER (STANDBY) W/ 1500' OF 8"x12" BOOM	171.41	179.98	188.98	DAILY
BOOM 8"x12" (DEPLOYED)	2.07	2.17	2.28	PER FT/DAY
BOOM 4"x12" (DEPLOYED)	1.03	1.08	1.13	PER FT/DAY
22' TOW/SPILL CONTROL BOAT W/ 200 HP MOTOR	146.63	153.96	161.66	HOURLY

ACTA EFFECTIVE RATES

	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/25 - 6/30/26	
22' x 8' SELF POWERED BARGE	98.10	103.01	108.16	HOURLY
19' TOOL SPILL BOAT W/90HP	98.10	103.01	108.16	HOURLY
17' TOW/SPILL CONTROL BOAT W/ 40 HP MOTOR	81.57	85.65	89.93	HOURLY
14' TOW/SPILL CONTROL BOAT W/ 25 HP MOTOR	65.06	68.31	71.73	HOURLY
12' PUNTS	38.21	40.12	42.13	HOURLY
12' PUNTS W/ 5HP MOTOR	48.53	50.96	53.51	HOURLY
SPLASH ZONE 2-PART SEALER	178.65	187.58	196.96	PER GALLON
25 LBS ANCHORS W/ 15' CHAIN	16.53	17.36	18.23	DAILY
15 LBS ANCHORS W/ 10' CHAIN	11.36	11.93	12.53	DAILY
24" BOEYS	16.53	17.36	18.23	DAILY
EMERGENCY RESPONSE TRAILER	513.22	538.88	565.82	DAILY
ROPE MOP SKIMMER	171.41	179.98	188.98	HOURLY
DRUM SKIMMER TDS-136 W/ POWER PACK	228.21	239.62	251.60	HOURLY
SKIM-PAK SERIES 4000 W/ CONTROL SYSTEM	70.21	73.72	77.41	HOURLY
SKIMMER TRAILER	228.21	239.62	251.60	DAILY
ABSORBENT BOOM TRAILER	171.41	179.98	188.98	DAILY
ATV (ALL TERRAIN VEHICLE) W/TRAILER	298.43	313.35	329.02	DAILY
FORKLIFT TRAILER	108.42	113.84	119.53	DAILY
<u>8. MATERIALS</u>				
10 GALLON DOT DRUM, STEEL	54.73	57.47	60.34	EACH
15 GALLON DOT DRUM, POLY	54.73	57.47	60.34	EACH
16 GALLON DOT DRUM, STEEL	54.73	57.47	60.34	EACH
20 GALLON DOT DRUM, STEEL	57.82	60.71	63.75	EACH
30 GALLON DOT DRUM, POLY	57.82	60.71	63.75	EACH
30 GALLON DOT DRUM, STEEL	57.82	60.71	63.75	EACH
5 GALLON DOT DRUM	20.65	21.68	22.76	EACH
55 GALLON DOT DRUM, POLY	68.16	71.57	75.15	EACH
55 GALLON DOT DRUM, STEEL	67.12	70.48	74.00	EACH
55 GALLON DOT DRUM, BIO	43.38	45.55	47.83	EACH
85 GALLON DRUM, OVERPAK, STEEL	243.71	255.90	268.70	EACH
95 GALLON DRUM, OVERPAK, POLY	243.71	255.90	268.70	EACH
ACID SPILFYTER NEUTRALIZER PER GALLON	21.68	22.76	23.90	EACH
BASE SPILFYTER NEUTRALIZER PER GALLON	21.68	22.76	23.90	EACH
BIO-SOLVE (HYDROCARBON ENCAPSULANT)	40.27	42.28	44.39	PER GALLON
BLEACH	5.17	5.43	5.70	PER GALLON
CHEMICAL POLY TOTES	352.13	369.74	388.23	EACH
CHLOR-D-TECT Q4000	20.65	21.68	22.76	EACH
CITRI-CLEAN, 55 GALLON	910.78	956.32	1004.14	PER DRUM
DIESEL FUEL (EQUIPMENT)	5.17	5.43	5.70	PER GALLON
DRUM LINER	3.10	3.26	3.42	EACH
DUCT TAPE	7.22	7.58	7.96	PER ROLL
EAR PLUGS 200/BOX	113.59	119.27	125.23	EACH
FACE SHIELD	14.46	15.18	15.94	DAILY
HAND AUGER	95.00	99.75	104.74	EACH
HEPA VACUUM FILTER PROTECTORS	22.72	23.86	25.05	EACH
HEPA VACUUM REPLACEMENT BAGS	22.72	23.86	25.05	PER BALE
OIL SORBENT POM POMS	62.99	66.14	69.45	PER BOX

ACTA EFFECTIVE RATES

	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/25 - 6/30/26	
PLASTIC BAGS	81.57	85.65	89.93	PER ROLL
PLASTIC SHEETING	81.57	85.65	89.93	PER BOX
RAGS, 50 LB BOX	73.32	76.99	80.84	PER ROLL
ROPE 1/2 POLY, 100' ROLL	35.11	36.87	38.71	PER ROLL
ROPE 5/8 POLY, 100' SPOOL	40.27	42.28	44.39	EACH
SAMPLE JARS - 1QT	14.46	15.18	15.94	EACH
SAND BAGS	4.13	4.34	4.56	ROLL
SHRINK WRAP	33.04	34.69	36.42	PER GALLON
SIMPLE GREEN	14.46	15.18	15.94	PER GALLON
SODA ASH	7.22	7.58	7.96	PER BALE
SORBENT BOOM W/ JELLING MATERIAL	455.39	478.16	502.07	EACH
SORBENT BOOM, 8"x10"	59.89	62.88	66.02	PER BALE
SORBENT PADS 18"x18"x1/4" (200/BALE)	98.10	103.01	108.16	PER BAG
SUPERFINE, 25 LB BAG	20.65	21.68	22.76	EACH
TRIWALL BOXES	171.41	179.98	188.98	PER FOOT
VACTOR FLEX HOSE 4"	2.07	2.17	2.28	PER FOOT
VACTOR FLEX HOSE 6"	3.10	3.26	3.42	PER FOOT
<u>9. TOOLS AND OTHER EQUIPMENT</u>				
BIO-HAZARD "BLOOD" SPILL KIT	113.59	119.27	125.23	EACH
BOAT HOOKS 3'-9' TELESCOPING	8.26	8.67	9.10	DAILY
BOBCAT SWEEPER ATTACHMENT	163.16	171.32	179.89	DAILY
CHEST WADERS	68.16	71.57	75.15	DAILY
14 PORTABLE GAS POWERED ABRASIVE SAW	163.16	171.32	179.89	DAILY
COM-A-LONG - 4000 LBS	7.22	7.58	7.96	DAILY
CUTTING TORCH	165.22	173.48	182.15	DAILY
DRUM SAMPLING ROD (GLASS)	8.26	8.67	9.10	EACH
DRUM VACUUM - 55 GALLON	131.15	137.71	144.60	DAILY
EXTENSION LADDER	14.46	15.18	15.94	DAILY
EYEWASH STATION	35.11	36.87	38.71	DAILY
FIRE PROTECTION SUIT (1500 DEGREE PROTECTION FACTOR)	243.71	255.90	268.70	DAILY
FORK LIFT	210.65	221.18	232.24	DAILY
GENERATOR, 10KV TRAILER MOUNTED	38.21	40.12	42.13	HOURLY
GENERATOR, 5500 WATTS	135.27	142.03	149.13	DAILY
HAND TOOLS	57.82	60.71	63.75	DAILY
HAND WASHING STATION	54.73	57.47	60.34	DAILY
HAZ-CAT KIT	22.72	23.86	25.05	PER TEST
HEAVY DUTY JETTER NOZZLES	25.82	27.11	28.47	DAILY
HEPA VACUUM (DRY)	171.41	179.98	188.98	DAILY
HIP WADERS	57.82	60.71	63.75	DAILY
HUDSON SPRAYER	22.72	23.86	25.05	DAILY
JACK HAMMER 90 LBS	135.27	142.03	149.13	DAILY
LIFE JACKETS	17.56	18.44	19.36	DAILY
LIGHT STAND (2 BULBS)	40.27	42.28	44.39	DAILY
LIGHT TOWER (4 BULBS)	325.28	341.54	358.62	DAILY
MEALS ON SPILLS	8.26	8.67	9.10	EACH
MERCURY VACUUM	568.97	597.42	627.29	DAILY
NON-SPARKING COLD CUTTER / RIVET BUSTER	108.42	113.84	119.53	DAILY

ACTA EFFECTIVE RATES

	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/25 - 6/30/26	
NON-SPARKING COLD CUTTER TIPS	33.04	34.69	36.42	EACH
PER DIEM ALLOWANCE ON TRAVEL	178.65	187.58	196.96	DAILY
PICKS "MINERS"	3.10	3.26	3.42	DAILY
PLUG & DIKE, 1 LB CAN	27.88	29.27	30.73	EACH
POLY SIPHON (POGO) PUMP	21.68	22.76	23.90	EACH
PORTABLE RESTROOM W/SINK	171.41	179.98	188.98	DAILY
PROFILING FEE (PER WASTE STREAM)	85.71	90.00	94.50	EACH
RADIO 2-WAY, INTRINSICALLY SAFE	45.43	47.70	50.09	DAILY
SAWZALL	90.87	95.41	100.18	DAILY
SKIL SAW	40.27	42.28	44.39	DAILY
STEEL SPIKES, 36"	6.20	6.51	6.84	DAILY
TRANSFER HOSES, 1 - 4"	325.28	341.54	358.62	DAILY
STEEL SPIKES, 36"	6.20	6.51	6.84	DAILY
TRUCK RAMPS (30,000 LBS)	171.41	179.98	188.98	DAILY
VAPOR TIGHT DROP LIGHTS	131.15	137.71	144.60	DAILY
VENTILATION FAN	285.00	299.25	314.21	DAILY
WATER METER	385.17	404.43	424.65	DAILY
WATER TANK TRAILER W/ PUMP	26.85	28.19	29.60	DAILY
DRUM DOLLY	32.13	33.74	35.43	
<u>10. PERSONAL PROTECTIVE EQUIPMENT (PPE)</u>				
LEVEL "A" - FULLY ENCAPSULATED GAS-TIGHT SUIT WITH SCBA	542.13	569.24	597.70	PER SET
LEVEL "B" - POLY-TYVEK THROUGH FULLY ENCAPSULATED SUIT, BUT NOT GAS TIGHT W/SCBA	171.41	179.98	188.98	PER SET
LEVEL "C" - TYVEK THROUGH SARANEX SUIT W/ AIR PURIFYING RESPIRATOR	73.32	76.99	80.84	PER SET
LEVEL "D" - TYVEK, POLY-TYVEK, COVERALL OR RAINGEAR SUIT WITH GLOVES, BOOTS, HARDHAT AND SAFETY GLASSES	35.11	36.87	38.71	PER SET

EXHIBIT E

Company Letterhead

Agreement No.:
TIN:

Invoice Number:
Date:
ACTA PM:

Task number, Project Title
Billing Period: Month/Day/Year to Month/Day/Year

Authorized PD Budget	Current Invoice	Invoiced To-Date	PD Balance
\$0.00	\$0.00	\$0.00	\$0.00

PERSONNEL:	Rate/Hour	Current Hours	Cumulative Hours	Current Total
Name & Title	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
Total Labor Cost:				\$0.00

SUBCONSULTANT:	Activity	Current Total
Name of Subconsultant	Work Performed	\$0.00
"		\$0.00
"		\$0.00
"		\$0.00
Total Subconsultant Cost:		\$0.00

REIMBURSABLE EXPENSES:	Current Total	
Mileage, Parking, Car Rentals, Reproduction/Copies, etc.	\$0.00	
"	\$0.00	
"	\$0.00	
"	\$0.00	
"	\$0.00	
Total Other Direct Cost:		\$0.00

REMIT PAYMENT TO: Company Name Address City, ST Zip
--

TOTAL AMOUNT NOW DUE: \$0.00

Progress Report: Describe the work undertaken during this billing period. Identify accomplishments and challenges encountered. Provide other info as appropriate.

I certify under penalty of perjury that the above bill is just and correct according to the terms of Agmt #_____ and that payment has not been received.

Consultant Representative Name

Date:
APPROVED AS TO SCOPE AND
AMOUNT OF WORK PERFORMED

ACTA PROJECT MANAGER

Exhibit F

**ALAMEDA CORRIDOR
MONTHLY SUBCONTRACTOR MONITORING REPORT**

Instructions: Please indicate the participation levels achieved for the month of _____ for the referenced contract number.

Contract No. _____ Start Date _____ End Date _____

Committed SBE Participation Percentage _____

				PROPOSED	ACTUALS		
	Name of Subcontractor	Work Performed	Certifications:* SBE/VSBE/MBE/WBE/OBE/DVBE	Original Proposed SBE Percentage	Amount Paid This Month	Amount Paid to Date	Overall Contract Amount Percentage (Paid to Date)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

* Indicate all certifications held by each subcontractor

EXHIBIT G

SMALL BUSINESS ENTERPRISE PROGRAM

The Alameda Corridor Transportation Authority (“ACTA”) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at ACTA. ACTA's Small Business Enterprise (SBE) Program was created to provide opportunities for small businesses to participate in professional service and construction contracts. It is the policy of ACTA to solicit participation in the performance of all service contracts by all individuals and businesses, including, but not limited to, SBEs, women-owned business enterprises (WBEs), minority-owned business enterprises (MBEs), and disabled veteran business enterprises (DVBES). The SBE Program allows ACTA to target small business participation, including MBEs, WBEs, and DVBES, more effectively.

An overall ACTA goal of 25% SBE participation by total contract value and/or by total number of contracts awarded to SBE prime consultants or contractors has been established for the Program. The specific goal or requirement for each contract opportunity may be higher or lower based on the scope of work, and will be stated in the specific request for proposals or bids. **Based on the work to be performed under this Agreement, it has been determined that the percentage of required small business participation will be 0%.**

Consultant shall be responsible for determining the SBE status of its subconsultants for purposes of meeting the small business requirement, where required, and for reporting to ACTA. Subconsultants must qualify as an SBE based on the type of services that they will be performing under the Agreement. All business participation will be determined by the percentage of the total amount of compensation under the agreement paid to SBEs.

AFFIDAVIT OF COMPANY STATUS

"The undersigned declares under penalty of perjury pursuant to the laws of the State of California that the following information and information contained on **the attached Contractor Description Form** is true and correct and include all material information necessary to identify and explain the operations of

Name of Firm _____

as well as the ownership thereof. Further, the undersigned agrees to provide either through the prime consultant or, directly to ACTA, complete and accurate information regarding ownership in the named firm, any proposed changes of the ownership and to permit the audit and examination of firm ownership documents in association with this agreement."

Small/Very Small Business Enterprise Program: Please indicate the ownership of your company. Please check all that apply. At least one box must be checked:

SBE
 VSBE
 MBE
 WBE
 DVBE
 OBE

Signature _____
 Printed Name _____

Title _____
 Date Signed _____

NOTARY

<p>STATE OF CALIFORNIA)) ss COUNTY OF LOS ANGELES)</p> <p style="text-align: center; margin-top: 100px;">Place Notary Seal and/or Stamp Above</p>	<p>Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__ by</p> <p>(1) _____ Name of Signer (1)</p> <p>Who proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (.)</p> <p style="text-align: center;">(and)</p> <p>(2) _____ Name of Signer (2)</p> <p>Who proved to me on the basis of satisfactory evidence to be the person who appeared before me.)</p> <p>Signature _____</p>
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Contractor Description Form

For the Prime Contractor and each Subcontractor, state the type of SBE certification claimed and, if available, return documentation with this form to ACTA evidencing the declared SBE certification.

PRIME CONTRACTOR

Contract #: _____ Award Date: _____ Contract Term: _____

Contract Title: _____

Business Name: _____ Award Total: \$ _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email address: _____

AGREEMENT NO. C0913

BETWEEN THE ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY
AND
NRC ENVIRONMENTAL SERVICES, INC.

THIS AGREEMENT ("Agreement") is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, a California Joint Powers Authority ("ACTA") acting by and through its Governing Board ("Board"), and NRC ENVIRONMENTAL SERVICES, INC., a Washington corporation, whose address is 3777 Long Beach Boulevard, Suite 100, Long Beach, California 90807 ("Contractor").

WHEREAS, ACTA requires, on a temporary and occasional basis, professional, scientific, expert and technical as-needed services for handling and removal of hazardous and non-hazardous waste found on property under the management and control of ACTA, with said services to be performed by full-service waste disposal companies for transportation, storage, recycling and disposal of such waste ("Project"); and

WHEREAS, Contractor is an organization that provides these services, including, but not limited to those services required by ACTA and, by virtue of training and experience, is well-qualified to provide such services to ACTA; and

WHEREAS, ACTA does not employ personnel with the required expertise nor is it feasible to do so on a temporary or occasional basis;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Incorporation of Recitals

1.1 The recitals to this Agreement above are incorporated herein and made a part hereof.

2. Services To Be Performed By Contractor

2.1 All of the potential services Contractor shall perform for ACTA are set forth in Exhibit A hereto and hereinafter shall be referred to as "Scope of Work."

2.2 Contractor's performance of tasks shall occur as follows:

a. ACTA's Chief Executive Officer ("CEO") shall issue a written Contract Task Order ("CTO") in the form attached hereto as Exhibit B that specifies, without limitation: the task or subtask to be performed; the specific services required in connection with such task or subtask; the deliverables required in the performance of such task or subtask; the schedule for the performance of such task or subtask; authorized personnel who may perform the task or subtask; and authorized compensation for such task or subtask

("Directive").

b. Contractor, to reflect its agreement with all the terms of such Directive, shall sign, date and return such CTO to ACTA.

c. Following ACTA's receipt of the CTO signed by Contractor, ACTA's CEO shall issue a Notice to Proceed in the form attached hereto as Exhibit C that has been signed by him and that authorizes Contractor to commence performance of the services contemplated by such CTO.

2.3 Contractor acknowledges and agrees that it lacks authority to perform and that ACTA's CEO lacks authority to request the performance of any services outside the Scope of Work. Contractor further acknowledges and agrees that any services it performs outside the Scope of Work or a Directive, or in the absence of both a Directive and a Notice to Proceed, are performed as a volunteer and shall not be compensable under this Agreement.

2.4 The Scope of Work shall be performed by personnel qualified and competent in the sole reasonable discretion of ACTA's CEO, whether performance is undertaken by Contractor or third-parties with whom Contractor has contracted on the effective date of this Agreement, whom ACTA's CEO may subsequently approve in writing ("Subcontractors"), or as listed on Directives. Obligations of this Agreement, whether undertaken by Contractor or Subcontractors, are and shall be the responsibility of Contractor. Contractor acknowledges and agrees that this Agreement creates no rights in Subcontractors with respect to ACTA and that obligations that may be owed to Subcontractors, including, but not limited to, the obligation to pay Subcontractors for services performed, are those of Contractor alone. Upon ACTA's CEO's written request, Contractor shall supply ACTA with all agreements between it and its Subcontractors.

2.5 Contractor, at its sole cost and expense, shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Scope of Work. As between ACTA and Contractor, Contractor is solely responsible for any taxes or fees which may be assessed against it or its employees resulting from performance of the Scope of Work, whether social security, payroll or other, and regardless of whether assessed by the federal government, any state, City, or any other governmental entity. ACTA shall pay applicable state or local fees necessary to obtain approval, plan checks, permits and variances for the Project.

2.6 ACTA's CEO shall resolve in his sole reasonable discretion any issues or questions which may arise during the term of this Agreement as to the quality or acceptability of Contractor's performance of the Scope of Work, the manner of performance, the interpretation of direction given to Contractor, the acceptable completion of a Directive, and the amount of compensation due. Upon written notice from ACTA's CEO, Contractor shall assign replacement personnel and/or shall remedy any deficient services or work product to his reasonable satisfaction and at Contractor's sole cost and expense. Compliance with the requirements of this Section 2.6 is a condition to payment by ACTA of compensation to Contractor pursuant to this Agreement.

2.7 Contractor's representative responsible for administering this Agreement,

Aaron Smith ("Project Manager"), shall not be changed without ACTA's CEO's written approval. ACTA's CEO may, for any reason in his sole reasonable discretion, require Contractor to substitute a new Project Manager. If ACTA requests such a substitution, the substitute Project Manager shall expend whatever time and costs necessary to become familiar with the Project and any portions of the Scope of Work already performed at Contractor's sole cost and expense.

2.8 If the law requires Contractor, in performing the Scope of Work, to follow a different standard of care than the ordinary standard of care applied to a reasonable person, Contractor shall perform such services with the degree of diligence, skill, judgment, and care applicable to Contractor's profession ("professional standard"). Contractors not required to follow a professional standard shall exercise the degree of care required of ordinary persons.

2.9 For portions of the Scope of Work to be performed on a time and material basis, Contractor shall assign personnel, whether employees or Subcontractors, with the lowest applicable hourly rate who are fully competent to provide the services required. If Contractor finds it necessary to have any portion of the Scope of Work, which this Section 2.9 would require to be performed by personnel at a lower rate, to be performed by personnel at a higher rate, Contractor shall, nevertheless, invoice ACTA at the lower rate.

2.10 Contractor shall promptly consider and implement, to his reasonable satisfaction, any written comments of ACTA's CEO.

2.11 Contractor shall review information provided by ACTA. Any such information reasonably believed by Contractor to be inaccurate, incomplete or inapplicable shall be brought promptly to the attention of ACTA's CEO in writing.

2.12 Contractor shall perform the Scope of Work as expeditiously as possible and at the time or times required by ACTA's CEO. Time is of the essence in the performance of the Scope of Work. Contractor's failure to conform to the schedule set forth in a project Directive shall entitle ACTA to have services completed by others, shall obligate Contractor to pay ACTA ACTA's cost to undertake completion of such services, and shall authorize ACTA to withhold such amounts from any payments otherwise due to Contractor. Contractor's failure to timely perform in accordance with the schedule set forth in a Directive shall result in economic losses to the ACTA, including, but not limited to, the timely bidding and awarding of contracts, completion of the Project in connection with which Contractor's services are rendered and the use of such project by ACTA, the users of the Alameda Corridor and the public.

3. Services To Be Performed By ACTA

3.1 ACTA shall provide Contractor with available and/or necessary horizontal and vertical survey data in the form of field notes or electronic format as maintained by ACTA, access to public records, prints of existing aerial photos, existing planimetric maps, environmental documents, and existing soil reports in the vicinity, previous specifications and other information which, in the sole reasonable discretion of ACTA's CEO, shall assist in completing the Scope of Work.

3.2 Contractor shall provide ACTA's CEO with reasonable advance written

notice if it requires access to any premises under the control of ACTA. Subsequent access rights, if any, shall be granted to Contractor at the sole reasonable discretion of ACTA's CEO, specifying conditions Contractor must satisfy in connection with such access. Contractor acknowledges that such premises may be occupied or used by railroad companies, tenants or contractors of ACTA and that access rights granted by ACTA to Contractor shall be consistent with any such occupancy or use.

3.3 ACTA shall not be obligated to provide information and/or services except as specified in this Agreement.

4. Effective Date and Term

4.1 The effective date of this Agreement shall be July 1, 2023.

4.2 Commencing on the Agreement's effective date, this Agreement shall be in full force and effect until the earlier of the following occurs:

- a. June 30, 2026; or
- b. ACTA's Board, in its sole discretion, terminates this Agreement pursuant to Section 6.

5. Compensation.

5.1 For the full and satisfactory performance of the Scope of Work, ACTA shall pay Contractor and Contractor shall accept a sum not to exceed Fifty Thousand Dollars (\$50,000.00). The total sum payable under this Agreement shall be determined by Directives and Contractor acknowledges that final compensation may not reach the maximum sum allowed for herein.

5.2 Compensation payable under this Agreement for payment for labor, travel, per diem, materials, supplies, transportation, and all other direct and indirect costs and expenses incurred by Contractor ("Expenses") are listed in Exhibit D. No markups or premiums shall be applied to services performed by Subcontractors unless Exhibit D expressly so allows.

5.3 Compensation payable under this Agreement shall be on a (1) Fixed Fee, (2) Time and Materials, (3) Equal Payment or (4) any combination of the three, as may be more particularly specified in a Directive.

a. Fixed Fee. Lump sum compensation for satisfactory performance as may be specified in a particular Directive.

b. Time and Materials Fee. Contractor shall be paid based on the actual time expended in the performance of tasks using the applicable rates set forth in Exhibit D. Contractor will also be reimbursed for materials and other out-of-pocket expenses at cost. The rates identified in Exhibit D state the maximum rates Contractor shall charge under this Agreement. No premium rates, including, but not limited to, overtime or hazardous duty premiums, shall be charged unless authorized in Exhibit D.

c. Equal Payment Fee. Contractor shall be paid equal amounts over time throughout a particular Directive, up to the stated fixed amount.

5.4 Each month during the term of this Agreement, as a prerequisite to payment for services, Contractor shall submit a written invoice to ACTA for services performed during the prior month, accompanied by such records and receipts as may be required by Section 5.5. If payments are to be based on the performance of established milestones, Contractor shall bill as each milestone is completed, but not more often than once a month.

Contractor shall submit one (1) original and one (1) copy of each such invoice for payment in the format that contains the information specified in Exhibit E, and that includes the following certification:

“I certify under penalty of perjury that the above invoice is true and just, in accordance with the terms of Agreement No. _____, that payment of this invoice has not been received and that none of the items contained in the invoice have been submitted to any other agency.

”
(signed)

5.5 Where Contractor employs Subcontractors under this Agreement, Contractor shall submit to ACTA, with each monthly invoice, a Monthly Subcontractor Monitoring Report Form (Exhibit F) listing SBE/VSBE/MBE/WBE/DVBE/OBE amounts. Contractor shall provide an explanation for any item that does not meet or exceed the anticipated participation levels for this Agreement, with specific plans and recommendations for improved Subcontractor utilization. Invoices will not be paid without a completed Monthly Subcontractor Monitoring Report Form.

5.6 Contractor shall submit supporting documents with each invoice, which may include, but not be limited to, provider invoices, receipts, payrolls, and time sheets. Contractor is not required to submit support for direct costs items of \$25 or less. All invoices are subject to audit.

5.7 All sums due and payable to Contractor shall be paid as soon as, in the ordinary course of ACTA business, the same may be reviewed and approved.

For payment and processing, all invoices shall be mailed to the following address:

Accounts Payable Department
Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806

6. Termination

6.1 The Board, in its sole discretion, shall have the right to terminate and

cancel all or any part of this Agreement for any reason upon ACTA's CEO giving the Contractor ten (10) days' advance, written notice of the Board's election to cancel and terminate this Agreement. It is agreed that any Agreement entered into shall not limit the right of ACTA to hire additional contractors or perform the services described in this Agreement either during or after the term of this Agreement.

6.2 Upon receipt of such written notice, Contractor shall cease the performance of the Scope of Work. Contractor shall be entitled to compensation only for services actually performed prior to such termination. ACTA's CEO, in his sole reasonable discretion, shall determine the amount of services actually performed and shall allocate a portion of the total compensation due Contractor accordingly.

6.3 If Board so terminates this Agreement, Contractor shall deliver all drawings, specifications, plans, reports, studies, calculations, estimates, documents and other work product produced pursuant to this Agreement to ACTA in an organized, usable form with all items properly labeled to the degree of detail specified by ACTA's CEO. No compensation shall be due Contractor until it complies with the requirements of this paragraph.

6.4 Pursuant to Section 5 of ACTA's Amended and Restated Joint Exercise of Powers Agreement, ACTA shall be restricted in its powers in the same manner as the City of Los Angeles is restricted in its exercise of similar powers. Therefore, this Agreement is subject to the provisions of the Los Angeles City Charter Section 320 which precludes ACTA from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated therefor.

The Board, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Board is under no legal obligation to do so.

ACTA, its board, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefor. The Contractor is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Contractor is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Contractor agrees to resume performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefor is approved by the Board within that 60-day period. The Contractor is responsible for maintaining all insurance and bonds during this 60-day period until the appropriation is made; however, such extension of time is not compensable.

If in any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

7. Recordkeeping and Audit Rights

7.1 Contractor shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied. Contractor's books and records shall be readily accessible to and open for inspection and copying at the premises by ACTA, its auditors or other authorized representatives. Notwithstanding any other provision of this Agreement, failure to do so shall constitute a conclusive waiver of any right to compensation for such services as are otherwise compensable hereunder. Such books and records shall be maintained by Contractor for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

7.2 During the term of this Agreement, ACTA may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Contractor and Subcontractors arising from or related to this Agreement or performance of the Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Contractor, Subcontractors or any individual or entity acting for or on behalf of Contractor or a Subcontractor, and (c) without regard to whether such writings have previously been provided to ACTA. Contractor shall be responsible for obtaining access to and providing writings of Subcontractors. Contractor shall provide ACTA at Contractor's sole cost and expense a copy of all such writings within fourteen (14) calendar days of a written request by ACTA. ACTA's right shall also include inspection at reasonable times of the Contractor's office or facilities which are engaged in the performance of the Scope of Work. Contractor shall, at no cost to ACTA, furnish reasonable facilities and assistance for such review and audit. Contractor's failure to comply with this Section 7.2 shall constitute a material breach of this Agreement and shall entitle ACTA to withhold any payment due under this Agreement until such breach is cured.

8. Contractor Is An Independent Contractor

Contractor, in the performance of the Scope of Work, is an independent contractor and not an agent or employee of ACTA. Contractor shall not represent itself as an agent or employee of ACTA and shall have no power to bind ACTA in contract or otherwise.

9. Indemnification

9.1 Indemnification. Except for the sole negligence or willful misconduct of ACTA, its Board or any of its officers, agents, employees, assigns and successors in interest, Contractor undertakes and agrees to defend, indemnify and hold harmless ACTA, its Board and any of its officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, arbitration proceedings, administrative proceedings, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by ACTA, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or

injury to any person, including Contractor's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Contractor or its subcontractors of any tier. Rights and remedies available to ACTA under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

10. Insurance

10.1 Insurance procured by Contractor on Behalf of Contractor

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 9, and as a condition precedent to the effectiveness of this Agreement, Contractor shall procure and maintain at its sole cost and expense and keep in force at all times during the term of this Agreement the following insurance:

(a) Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Contractor's normal limits of liability but not less than Five Million Dollars (\$5,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that ACTA's CEO may permit a self-insured retention or self-insurance in those cases where, in his judgment, such retention or self-insurance is justified by the net worth of Contractor. The retention or self-insurance provided shall provide that any other insurance maintained by ACTA shall be excess of Contractor's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision, a severability of interest clause and have the railroad exclusion deleted. Each policy shall name ACTA, its Board, officers, agents and employees as Primary additional insureds.

(b) Automobile Liability Insurance

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Contractor's normal limits of liability but not less than Five Million Dollars (\$5,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents and employees as Primary additional insureds.

(c) Workers' Compensation and Employer's Liability

Contractor shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that Contractor shall comply with such provisions before commencing the performance of the tasks under this Agreement. Coverage for claims under U.S. Longshore and Harbor Workers' Compensation Act, if required under applicable law, shall be included. Contractor shall submit Workers' Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Worker's Compensation and occupational disease requirements shall include coverage for all employees of Contractor, and for all employees of any subcontractor or other vendor retained by Contractor.

(d) Ocean Marine Liability

Contractor shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connections with Contractor's operations. The cost of the insurance shall be borne by Contractor. The coverage shall be written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's Rating is not available). Coverage shall include, but not be limited to:

- (i) Hull and machinery coverage up to the value of the vessel(s);
- (ii) Protection and Indemnity coverage with combined single limits of Two Million Dollars (\$2,000,000) per occurrence for bodily injury, illness, death, loss of or damage to the property of another, and Jones Act risks or equivalent thereto internationally.
- (iii) Ship repairers legal liability to cover loss, damage or expenses to any property temporarily in the Contractor's care, custody or control.

Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents, and employees as Primary additional insureds.

(e) Pollution Liability Insurance or Environmental Impairment Liability

Contractor shall procure and maintain throughout the term of this Agreement, at its cost, Pollution Liability coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's Rating is not available), with Contractor's normal limits of liability but not less than Five Million Dollars (\$5,000,000) combined single limit for injury or death or property damage arising out of each accident or occurrence covering Contractor's services under this Agreement. Said limits shall

provide first dollar coverage except that ACTA's CEO may permit a self-insured retention or self-insurance in those cases where, in his judgment, such retention or self-insurance is justified by the net worth of Contractor. Contractor's pollution liability shall include coverage for losses caused by pollution conditions that arise from the operation of Contractor described under the scope of services of this Agreement and include: (a) on-site and off-site coverage for bodily injury, sickness, disease, mental anguish or shock sustained by a person, including death; (b) on-site and off-site property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed; (c) on-site and off-site defense including costs, charges and expenses incurred in the investigation adjustment or defense of claims for such compensatory damages.

Non-owned disposal site coverage shall also be provided if Contractor is handling, storing or generating hazardous materials or any material/substance otherwise regulated under governmental laws/regulations.

The insurance provided shall contain a severability of interest clause and shall provide that any other insurance maintained by ACTA shall be excess of Contractor's insurance and shall not contribute with it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and severability of interest clause, have no exclusions for Contractual Liability, have no restrictions for Sole Liability of Contractor, and shall not contain any other exclusions contrary to this Agreement.

Each policy shall name ACTA, its Board, officers, agents and employees as Primary and Non-Contributory additional insureds.

10.2 Insurance Procured by Contractor on Behalf of ACTA

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 9, and where Contractor is required to name ACTA, its Board, officers, agents and employees as Primary additional insureds on any insurance policy required by this Agreement, Contractor shall cause ACTA to be named as an additional insured on all policies it procures in connection with this Section 10. Contractor shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that the Alameda Corridor Transportation Authority, its Board, their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts and activities of the insured under Agreement No. _____, and under any amendments, modifications, extensions or renewals of said Agreement regardless of where such contractual obligations, operations, uses, occupations, acts and activities occur.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by ACTA is excess coverage;

"In the event of one of the named insured's incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to ACTA's CEO with copies sent to ACTA's Co-General Counsel at the following addresses: 1) Office of the Long Beach City Attorney, 411 West Ocean Boulevard, 9th Floor, Long Beach, California 90802, and 2) Office of the Los Angeles City Attorney, 425 S. Palos Verdes Street, San Pedro, California, 90731."

10.3 Required Features of Coverages

Insurance procured by Contractor in connection with this Section 10 shall include the following features:

(a) Acceptable Evidence and Approval of Insurance

Contractor's insurance broker or agent shall submit to ACTA the appropriate proof of insurance on Contractor's behalf.

Upon request by ACTA, Contractor shall furnish full copies of certified policies of any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

(b) Carrier Requirements

All insurance which Contractor is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.

(c) Notice of Cancellation

For each insurance policy described above, Contractor shall give a 10-day prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-day prior notice of cancellation or reduction in coverage for any other reason, by written notice via registered mail and addressed to ACTA as set forth herein.

(d) Modification of Coverage

ACTA's CEO, at his sole reasonable discretion, based upon recommendation of independent insurance consultants to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Contractor.

(e) Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Contractor shall renew or extend such policy in accordance with the requirements of this Agreement and direct their insurance broker or agent to submit to the ACTA a renewal endorsement or renewal certificate or, if new insurance has been obtained, evidence of insurance as specified above. If Contractor neglects or fails to secure or maintain the insurance required above, ACTA's CEO may, at his own option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance shall be deducted from the next payment due Contractor.

(f) Limits of Coverage

If Contractor maintains higher limits than the minimums required by this Agreement, ACTA requires and shall be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to ACTA.

10.4 Accident Reports

Contractor shall report in writing to ACTA's CEO within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars (\$500.00) to property, occurring upon any Alameda Corridor property if Contractor's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Contractor, its officers or managing agents.

11. Personal Services Agreement

Contractor acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, that Contractor may permit Subcontractor(s) to perform portions of the Scope of Work in accordance with Section 2.3. All Subcontractors whom Contractor utilizes, however, shall be deemed to be its agents. Subcontractors' performance of the Scope of Work shall not be deemed to release Contractor from its obligations under this Agreement or to impose any obligation on ACTA to such Subcontractor(s) or give the Subcontractor(s) any rights against ACTA.

12. Confidentiality

Contractor shall not disclose any proprietary or confidential information of ACTA to any third party or parties during or after the term of this Agreement without the prior written consent of ACTA. The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the Scope of Work and any recommendations made by Contractor relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Contractor or its employees or agents in any manner except and only to the extent

necessary in the performance of the work under this Agreement. In addition, Contractor is required to safeguard such information from access by unauthorized personnel.

13. Affirmative Action

Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded shall contain a like nondiscrimination provision.

14. Small/Very Small Business Enterprise Program

It is the policy of ACTA to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE), and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Contractor shall assist ACTA in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunities which might be presented under this Agreement. See Exhibit G.

15. Conflict of Interest

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of ACTA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of ACTA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, ACTA may immediately terminate this Agreement by giving written notice thereof.

16. Compliance with Applicable Laws

Contractor's activities under this Agreement, including its performance of the Scope of Work, shall comply with all federal, state, municipal, and local laws, ordinances, rules, regulations, and orders.

17. Trademarks, Copyrights and Patents

Contractor shall promptly and fully inform ACTA's CEO in writing of any patents, trademarks or copyrights related to services provided under this Agreement or patent trademark or copyright disputes, existing or potential, which Contractor has knowledge of, relating to any idea, design, method, material, equipment or other matter connected to this Agreement. Contractor agrees to save, keep, hold harmless, protect and indemnify ACTA and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of

any person or persons, or corporations in consequence of the use by ACTA of any materials supplied by Contractor in the performance of this Agreement.

18. Proprietary Information

Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by ACTA as soon as they are developed, whether in draft or final form. ACTA has the right to use or permit the use of property and any ideas or methods represented by such property for any purpose and at any time without compensation other than that provided in this Agreement. Contractor hereby warrants and represents that ACTA at all times owns rights provided for in this section free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Contractor need not obtain for ACTA the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Contractor or one of its employees, or its Subcontractor or the Subcontractor's employees, in which case such right shall be obtained without additional compensation. Whether or not Contractor's initial proposal or proposals made during this Agreement are accepted by ACTA, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Contractor, its Subcontractors or on either's behalf, whether prior or subsequent to this Agreement becoming effective, to the ACTA, its Board, officers, agents or employees, is not given in confidence. Accordingly, ACTA or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

19. Royalty-Free License

If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Contractor, its officers, agents, employees, or Subcontractors, ACTA shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by ACTA. Upon ACTA's request, Contractor, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to ACTA. It is expressly understood and agreed that, as between ACTA and Contractor, the referenced license shall arise for ACTA's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. ACTA may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by ACTA.

20. ACTA's Disclosure Obligations

Contractor acknowledges that ACTA is subject to laws, rules and/or regulations generally requiring it to disclose records upon request, which laws, rules and/or

regulations include, but are not limited to, the California Public Records Act (California Government Code Sections 6250 et seq.) (“Disclosure Laws”).

21. Notices

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, registered or certified mail, return receipt requested, and postage prepaid. When so given, such notice shall be effective from the date of mailing of the same. For the purpose hereof, unless otherwise provided by notice in writing from the respective parties, notice to ACTA shall be addressed to its Chief Executive Officer, Alameda Corridor Transportation Authority, 3760 Kilroy Airport Way, Suite 200, Long Beach, California 90806, and notice to Contractor shall be addressed to it at the address set forth above. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

22. Construction of Agreement

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

23. Titles and Captions

The parties have inserted the section titles in this Agreement only as a matter of convenience and for reference, and the section titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

24. Modification in Writing

This Agreement shall not be amended, nor any provision or breach hereof waived, except in writing signed by the parties which expressly refers to this Agreement. Any such modifications are subject to all applicable approval processes required by ACTA.

25. Waiver

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

26. Governing Law/Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of

such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

27. Severability

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law or public policy, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

28. Integrated Agreement

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

29. Exhibits; Sections

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to sections are to sections of this Agreement unless stated otherwise.

30. Counterparts and Electronic Signatures

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

The use of electronic signatures herein, or in any amendments to this Agreement, and any electronic records related to this Agreement (including, without limitation, any agreement or other record created, generated, sent, communicated, received, or stored by electronic means), shall be of the same legal effect, validity and enforceability as a

manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transaction Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

The words "execution," "signed," "signature," and words of like import in this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf" "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign or Acrobat Sign).

The parties agree that electronically signed and/or electronically transmitted signatures shall be conclusive proof, admissible in judicial proceedings, of such party's execution of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date next to their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

NRC ENVIRONMENTAL SERVICES,
INC.

Date: _____

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

APPROVED AS TO FORM

_____, 2023
DAWN MCINTOSH, Long Beach City Attorney

By _____
Thomas Y. Oh, Deputy
ACTA Co-General Counsel

Exhibit A
Scope of Work

The Alameda Corridor Emergency Response and Hazardous Waste Management program responds to both emergency and non-emergency chemical spills, releases of regulated and/or hazardous materials, and abandoned wastes within the Alameda Corridor. The requests for emergency response and hazardous waste management services come to ACTA from the Railroads, and State and Federal agencies, including the United States Coast Guard (USCG), United States Environmental Protection Agency (USEPA), California Department of Fish and Wildlife (CDFW), and the Regional Water Quality Control Board (RWQCB).

I. **General**

The Contractor shall support and perform all phases of waste management on land, on or adjacent to railroad tracks and in the water. These include the containment of spills, cleanup of releases, or abandoned waste on an as-needed basis in the following categories:

A. **Emergency Response**

Emergency Response is the ability to respond to a spill or uncontrolled release of a hazardous or regulated material on an emergency basis at any time, 24 hours per day, 7 days per week (including holidays), and provide containment and cleanup as required by local, state and federal regulatory agencies, and as directed by ACTA. The Contractor shall have the ability to arrive on-scene within 30 to 45 minutes of notification. These spills may involve containment and cleanup operations in storm drains, pipelines, groundwater, and in other water bodies, including navigable waters such as the ocean, harbors, lakes, reservoirs, streams, canals and rivers.

B. **Unidentified Waste**

Unidentified wastes are unlabeled containers with unknown substances deposited on property operated and maintained by ACTA that require removal.

1. The Contractor shall have the ability to identify, package, and transport the unidentified wastes deposited on ACTA properties (including on railroad tracks) or right-of-way for recycling, treatment, or disposal.
2. Response to this waste stream will usually be required during normal working hours.

C. **Waste Management**

Waste Management is the ability to identify, categorize, remove, package, and recycle, or dispose of hazardous, non-hazardous, and regulated waste that are generated through the normal work process of maintaining property or equipment operated and maintained by ACTA.

1. Response to this waste stream will usually be required during normal working hours.

2. The Contractor shall be required to be on-site at a facility operated and maintained by ACTA at a mutually agreed-upon time with an authorized ACTA representative.
3. Waste management services may include, but are not limited to:
 - a. Removing and excavating contaminated soils and debris;
 - b. Laboratory packing of chemicals;
 - c. Packaging and consolidating hazardous materials;
 - d. Identifying and packaging unidentified materials;
 - e. Characterizing and profiling of waste prior to disposal; and
 - f. Transporting waste for disposal.
4. For this contract, regulated and/or hazardous materials include, but are not limited to:
 - a. Asbestos, crude oil and petroleum products, including fuel oil, mineral oil, gasoline, diesel;
 - b. Corrosive liquids, including acid, and alkaline solutions;
 - c. Polychlorinated Biphenyls (PCBs) and PCB-contaminated materials;
 - d. Mercury, lead, and other metals;
 - e. Waste tires;
 - f. Treated wood;
 - g. Bio-hazard waste;
 - h. Sewage; and
 - i. Other environmental regulated media.

D. Miscellaneous Services

In addition to emergency and non-emergency activities listed above, ACTA may require the following:

- Management and disposal of both hazardous and non-hazardous wastes generated by ACTA's maintenance operations and construction projects;
- Abatement of lead-based paint and asbestos-containing materials in/on structures operated and maintained by ACTA;
- Removal and/or cleaning of materials contaminated by biological wastes;
- Storm drain or other storm water drainage system cleaning and maintenance including the use of remote camera equipment to verify conditions;
- Pressure-washing/steam cleaning; and
- Assist ACTA staff on projects that involve confined space.

II. Required Equipment

Contractor shall have, or have immediate access to, the following equipment and services:

- Black iron vacuum trucks steel – 35 BBL to 70 BBL, and/or 90 to 120 BBL;

- Emergency response unit – Level B;
- Blood & Bio cleanup; and
- Registered waste tire hauler.

It is recommended that Contractor have, or have immediate access to, the following equipment and services:

- Roll-off bins and trailer;
- Tandem roll-off trailer;
- Flatbed box van;
- Booming vessel and work skiff – w/ Hull & Machinery Insurance;
- Portable containment boom system – 1000' of boom with hydraulic power pack;
- Oil spill skimmers – drum style, mop style;
- Skim packs;
- Mercury vapor analyzer and Organic Vapor Analyzer (calibrated);
- Haz Mat kit – chemical identification;
- Sufficient amount/length of containment boom (at least 10,000 feet);
- Super sucker/jetter combos; and
- Trauma scene practitioner with license to haul medical waste.

III. General Requirements

The Contractor shall perform all tasks in accordance with all applicable local, state, and federal regulations. Contractors must also perform activities in compliance with all appropriate elements of ACTA's policies and programs.

The Contractor must be capable of responding to regulated and/or hazardous materials discharged to inland, river/canal, and coastal/ocean environments.

A. Laboratory Services

The Contractor shall have access to the services of a California State Certified environmental laboratory equipped to perform waste characterization analyses mandated by the Code of Federal Regulations (CFR) 40 and Code of California Regulations (CCR) Title 22 and in accordance with USEPA Solid Waste (SW)-846 test methods of evaluation of solid wastes, physical/chemical methods. The capabilities of the lab must include, but are not limited to, analysis by Atomic Absorption (AA), AA – flame, AA Spectroscopy – Graphite furnace, Fluorescence, Gas Chromatography (GC), and GC-Mass Spectrometry for all regulated organics, X-ray Fluorescence, Organic Vapor Analyzer, Inductively Coupled Plasma/Atomic Emission Spectroscopy, pH, and flash-point testing.

B. Disposal and Transportation

The Contractor shall provide disposal services of a fully permitted waste disposal facility or facilities capable of handling non-hazardous and hazardous wastes, including California

regulated wastes, Resource Conservation and Recovery Act (RCRA) Federal regulated wastes, and liquid/solid waste under the Toxic Substances Control Act.

All subcontractors and all identified hazardous or regulated waste recycling and disposal sites must be reviewed and approved for environmental acceptability and regulatory compliance with applicable state and federal laws, at the sole discretion of ACTA. All recycling, treatment, storage, and/or disposal facilities must operate under Federal and State licenses/permits.

The Contractor shall ensure that all wastes handled, stored or transported are properly contained and labeled for shipment in accordance with all applicable State and Federal regulations.

The Contractor shall provide transportation of hazardous waste to a treatment, storage or disposal facility by a licensed and permitted hazardous waste transporter.

The Contractor shall furnish all labor, materials, and equipment as well as technical expertise, supervision, and management to effectively identify, package, clean up, and transport the various regulated, non-hazardous and hazardous waste for recycling, treatment, and/or disposal.

C. Manifest Documents

The Contractor shall provide properly prepared non-hazardous and hazardous waste manifest documents for waste to be transported to disposal or treatment facilities.

On non-emergency or routine jobs, the Contractor shall coordinate with the ACTA representative and hazardous waste disposal or treatment facilities to provide hazardous waste profiles and manifests to ACTA.

IV. Project Management

The Contractor will work directly under the supervision of the ACTA Environmental Manager.

V. Project Deliverables

The Contractor must submit summary reports describing all work assignments, including a running total of costs at the completion of each contract task order event. The report must be cumulative. ACTA will provide the format for the report.

Exhibit "B"

Contract Task Order

(Date)
(Consultant)
(Consultant address)
(City, State, Zip)

Attention: (Project Manager)

Subject: Agreement No. _____
Contract Task Order No. ____

Project Name

Pursuant to Section 2 of Agreement No. _____, after receipt of a written Notice to Proceed signed by ACTA's CEO, Consultant shall proceed with the following:

<u>Task Services</u>	<u>Authorized Amount</u>

Consultant shall provide all required task, services, and deliverables in accordance with Exhibit A to Agreement No. _____.

Consultant shall complete the work within ____ calendar days from ACTA's transmittal of its written Notice to Proceed.

Consultant shall undertake the following MBE/WBE/SBE/VSBE/DVBE/OBE utilization in connection with its performance of this Contract Task Order No. ____:

Consultant acknowledges that the terms and conditions of Agreement No. _____ govern this Contract Task Order and that its signature below reflects its agreement with the terms and conditions of this Contract Task Order No. ____.

If you have any questions, please contact _____ at (562) 247-_____.

Very truly yours,

Mike Leue
ACTA Chief Executive Officer

ACCEPTED:

(Consultant Name)

Date:

SAMPLE

Exhibit "C"

Form of Notice to Proceed

(Date)
(Consultant)
(Consultant address)
(City, State, Zip)

Attention: (Project Manager)

Subject: Agreement No. _____
Notice to Proceed – Contract Task Order No. ____
Project Name

This is to notify and direct you to commence performance of the subject Contract Task Order No. _____. Enclosed is your set of the executed Contract Task Order documents.

If you have any questions, please contact _____ at (562) 247-_____.

Very truly yours,

Mike Leue
ACTA Chief Executive Officer

Enclosure: Contract Task No. ____

EXHIBIT D



**REPUBLIC
SERVICES**



US ecology



NRC

RATE SCHEDULE

CONTENTS	
Personnel	
Field Personnel	1
Professional / Administration	1
Special Operations	1
Equipment	
Boom and Accessories	1
Recovery Vessels	2
Portable Recovery	2
Temporary Storage	3
Support Vessels	3
Excavation	3
Trailers	4
Trucks	4
Vacuum Trucks/Trailers	4
Vehicles	5
Blowers/Compressors	5
Pressure Washers	5
Pumps	5
Hoses/Pipes/Fittings	6
Support	6
Communications	8
Safety	8
Dispersants / Aircraft	9
Materials	
Bags/Sheeting	9
Cleaners	9
Containers	10
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Sorbents	11
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Special Operations Equipment and Materials	
Response Units	12
Power Packs & Compressors	13
Pumps	13
Hoses	13
Fire Fighting	13
Miscellaneous	14
Materials	14
Terms and Conditions	
General	T1
Personnel	T1
Equipment	T2
Materials	T2

24-HOUR RESPONSE - 800.899.4672



REPUBLIC
SERVICES



Item	Description	Unit	Rate
PERSONNEL			
Field Personnel			
IC	Incident Commander	Hour	\$250
RM	Emergency Response Manager	Hour	\$225
SP	Senior Project Manager	Hour	\$180
PM	Project Manager	Hour	\$155
LO	Licensed Vessel Operator	Hour	\$150
TM	Tankerman / PIC	Hour	\$125
SU	Superintendent	Hour	\$125
AM	Assistant Project Manager (Operations, Planning, Logistics, Finance)	Hour	\$125
PS	Project Scientist / Field Chemist	Hour	\$150
FS	Field Supervisor	Hour	\$125
BT	Bio-Hazard Field Technician	Hour	\$125
SM	Support Manager (Purchasing, Communications, Transportation, Decon)	Hour	\$120
VO	Vessel Operator	Hour	\$115
MC	Mechanic / Welder	Hour	\$100
EO	Equipment Operator	Hour	\$100
SF	Site Foreman	Hour	\$100
MT	Marine Technician	Hour	\$100
DR	Driver (Commercial)	Hour	\$100
RT	Confined Space / Rescue Technician	Hour	\$100
DH	Deckhand	Hour	\$85
TE	Technician, Emergency Response (Hazwoper)	Hour	\$85
ST	Laborer	Hour	\$70
RC	Resource Coordinator (Dispatch, Warehouse, Logistics)	Hour	\$85
Professional/Administration			
SRSA	Subcontracted Response Services Administration	Each	\$350
CH	Certified Industrial Hygienist	Hour	\$275
TR	Trainer	Hour	\$170
HS	Health & Safety	Hour	\$165
IS	Information Systems Technician	Hour	\$130
SA	Senior Accountant	Hour	\$125
PR	Purchaser / Subcontracts Administrator	Hour	\$95
BA	Billing Analyst	Hour	\$85
AS	Administrative Support / Accountant	Hour	\$75
Special Operations			
SOXM	Project Manager XT (Reactive/Explosive/Cylinder/Compressed Gas)	Hour	\$280
SOFM	Project Manager - Fire	Hour	\$265
SOXT	Technician XT (Reactive/Explosive/Cylinder/Compressed Gas)	Hour	\$220
SOFF	Fire Fighter	Hour	\$190
SOWD	Welder (Hazardous Duty Welding)	Hour	\$150
SOTE	Special Ops Technician	Hour	\$90
EQUIPMENT			
Boom and Accessories			
1001	Anchor Gear, Set (1 anchor, chain, < 90' rope, 1 buoy – add'l components \$15/each)	Day	\$45
1002	Boom Mooring Light	Day	\$20
1012	Boom Vane	Day	\$308



REPUBLIC
SERVICES



Item	Description	Unit	Rate
Boom and Accessories (continued)			
1003	Contractor Boom, up to 21"	Ft/Day	\$3
1004	Petro Barrier, up to 24"	Ft/Day	\$5
1005	Ocean Boom, up to 42"	Ft/Day	\$15
1013	Desmi Speed Sweep Boom System	Day	\$2,352
1007	Hydro-Boom System (boom, pumps, power pack, reel)	Day	Quote
1008	AmeriCan Fire Boom (500'/ system minimum)	Day	Quote
1009	Oil Boom Inflator/Blowers	Day	\$191
1010	Hull Magnets	Each/Day	\$37
1011	Dual-Roller Boom Handler	Day	\$404
Recovery Vessels			
2025	OSRV up to 126' (includes Master)	Day	\$15,120
2026	46' Catamaran w/Disk Skimmer	Day	\$6,244
2004	Belt Skimmer Vessel, Marco I-C	Hour	\$650
Portable Recovery			
2002	Belt Skimmer, Marco Class XI-C	Day	\$5,242
2005	Brush Skimmer, Lamor	Day	\$4,727
2006	Brush Skimmer, Aquaguard RBS-40	Day	\$3,276
2007	Brush Skimmer, Aquaguard RBS-25, 35G or 10 Twin	Day	\$2,632
2008	Brush/Drum/Disc Skimmer, Aquaguard RBS-05	Day	\$1,115
2027	Disc Skimmer, Crucial Magna ORD	Day	\$1,092
2028	Disc Skimmer, Crucial ORD-XP	Day	\$1,020
2029	Disc Skimmer, Hoyle T	Day	\$1,496
2009	Disc Skimmer, MI-30, Komara 12K, USE Disc	Day	\$2,352
2010	Disc Skimmer, Vikoma Sea Skimmer	Day	\$2,621
2124	Disc Skimmer, X-150, Elastec	Day	\$5,903
2030	Disc Skimmer, Crucial, Coated Disc 13/30	Day	\$2,184
2031	VOSS Package (disc skimmer, power pack, hose, knuckle crane, boom vane)	Day	\$4,984
2011	Drum Skimmer, Roto 70	Day	\$4,592
2032	Drum Skimmer, Elastec 118G	Day	\$2,632
2012	Drum Skimmer, Action Petroleum Model 60, 48	Day	\$1,848
2013	Drum Skimmer, Action Petroleum Model 36	Day	\$1,568
2014	Drum Skimmer, Action Petroleum Model 18, 24	Day	\$1,048
2033	Drum Skimmer, Action Petroleum Model 12	Day	\$751
2034	Drum Skimmer, Crucial Double DB-18H-36	Day	\$1,031
2045	Drum Skimmer, Coated, Crucial 1CD-18H-36	Day	\$1,495
2036	Rope Mop Skimmer, 8 Band	Day	\$2,308
2037	Rope Mop Skimmer, 4 Band	Day	\$1,557
2015	Rope Mop Skimmer, II-9	Day	\$1,048
2016	Rope Mop Skimmer, I-4, II-4, II-6	Day	\$790
2017	Rope Mop Skimmer Rope, 100'	Day	\$146
2038	Vacuum System, Elastec Mini-Vac	Day	\$1,154
2039	Vacuum System, Elastec PACS 1000	Day	\$1,288
2040	Vacuum System, Transvac 500D	Day	\$1,249
2018	Vacuum System, Vacuum Transfer Unit (VTU)	Day	\$1,300
2019	Weir Skimmer, Desmi 250 or Terminator	Day	\$4,592
2041	Weir Skimmer, Elastec Sea Skater	Day	\$2,072
2044	Weir Skimmer, Elastec Ocean Skater	Day	\$3,052
2020	Weir Skimmer, Foilex, vacuum	Day	\$1,960



REPUBLIC
SERVICES



Item	Description	Unit	Rate
Portable Recovery (continued)			
2021	Weir Skimmer, Foilex, hydraulic	Day	\$3,276
2022	Weir Skimmer, Cascade LP 3000 or Vikoma Fastflow	Day	\$2,100
2023	Weir Skimmer, Skimpak or Oleo, 2" or 3"	Day	\$437
2042	Weir Skimmer, Floating (Desmi Mini-Max, Duckbill, Manta)	Day	\$437
2043	Weathered Oil, USE SWORD (dewatering Bags \$85/ea add'l)	Day	\$2,313
Temporary Storage			
3001	Bladder/Pillow Tank, 24 barrel	Day	\$331
3002	Bladder Tank, 25 - 100 barrel	Day	\$656
3003	Bladder Tank, 101 - 240 barrel	Day	\$1,305
3032	Bladder Tank, Canflex, 300 barrel	Day	\$936
3033	Bladder Tank, Canflex, 600 barrel	Day	\$1,400
3004	Container, Intermodal or Connex Storage, 20' (plus delivery and P/U)	Day	\$31
3005	Container, Intermodal or Connex Storage, 40' (plus delivery and P/U)	Day	\$62
3006	Roll-off Bins, up to 20 cu yd (plus delivery and P/U)	Day	\$28
3007	Roll-off Bins, over 20 to 40 cu yd (plus delivery and P/U)	Day	\$32
3013	Roll-off Bins (Vacuum Box), up to 25 cu yd (plus delivery and P/U)	Day	\$90
3031	Storage Tank, up to 250 bbl/10,500 gal (plus delivery and P/U)	Day	\$62
3023	Storage Tank, (Frac Tank), 250 bbl/10,500 gal (plus delivery and P/U)	Day	\$68
3015	Storage Tank, (Frac Tank), 500 bbl/21,000 gal (plus delivery and P/U)	Day	\$124
3014	Tank Barge	Day	\$15,120
3011	Tank Barge or Barge Set, up to 238 bbl	Day	\$1,960
Support Vessels			
4012	OSRV up to 150'-180' (includes Master)	Day	\$21,616
4002	Response Vessel, 65'	Hour	\$488
4028	Response Vessel, 55' - 64'	Hour	\$409
4029	Response Vessel, 45' - 54'	Hour	\$348
4030	Response Vessel, 35' - 44'	Hour	\$292
4004	Response Vessel, 30' - 34'	Hour	\$213
4005	Response Vessel, 25' - 29'	Hour	\$168
4006	Response Vessel, 16' - 24'	Hour	\$145
4007	Skiffs w/outboard, 15' or less	Hour	\$68
4008	Skiffs w/o outboard	Hour	\$40
4028	John Boat (15' and under)	Day	\$207
Excavation			
5001	Backhoe 2wd, 65 hp, 14' depth	Day	\$475
5003	Backhoe Attachment, Breaker	Day	\$280
5004	Backhoe Attachment, Compactor	Day	\$175
5013	Bobcat, Skidsteer or equivalent 50-55hp, or 4 WD, backhoe.	Day	\$675
5022	Compaction, Sheepsfoot or Roller	Day	\$600
5021	Dump Truck, 5 cu yd, w/ Plow & Sander	Hour	\$230
5007	Excavator, Mini	Day	\$675
5008	Excavator, up to 37,000 lb.	Day	\$1,115
5009	Excavator, 38,000 to 53,000 lb.	Day	\$1,375
5010	Excavator, over 53,000 lb.	Day	\$1,950
5017	Excavator, over 100,000 lb.	Hour	\$330
5011	Excavator Attachment, Thumb or Wheel	Day	\$475
5012	Excavator Attachment, Hammer	Day	\$725
5014	Hydraulic Attachment, Breaker, Compactor or Grapple	Day	\$230



**REPUBLIC
SERVICES**



Item	Description	Unit	Rate
Excavation (continued)			
5026	Skidsteer Attachment	Day	\$125
5015	Loader, up to 3.5 cu yd	Day	\$840
Trailers			
6001	Trailer, Confined Space Entry/Rescue	Day	\$1,725
6002	Trailer, Decon, up to 24'	Day	\$650
6003	Trailer, Dump, 7,000 – 12,000 lb.	Day	\$325
6004	Trailer, Dump, Side/End, 18 yd.	Hour	\$50
6005	Trailer, Emergency Response, up to 24'	Day	\$625
6000	Trailer, Emergency Response, 25'-39'	Day	\$725
6006	Trailer, Emergency Response, 40'- 48'	Day	\$775
6007	Trailer, Equipment, Utility, 1-2 ton	Day	\$135
6008	Trailer, Equipment, Utility, 3-10 ton	Day	\$330
6009	Trailer, Flatbed, up to 48'	Day	\$300
6010	Trailer, Incident Command Center, 24'	Day	\$840
6011	Trailer, Incident Command Center, 48'	Day	\$1,800
6012	Trailer, Low Boy	Day	\$395
6013	Trailer, MTR (boom, boat, skimmer add'l if deployed)	Day	\$450
6014	Trailer, Office	Day	\$250
6044	Trailer, Roll Off Bin, Double Rail Trailer	Hour	\$90
6016	Trailer, Side Dump, 3 axle	Day	\$785
6017	Trailer, Tilt Top, 26 ton	Day	\$330
6018	Trailer, Van, up to 48'	Day	\$365
6045	Trailer, Vessel Transport	Day	\$1,400
6019	Trailer, Water Buffalo (up to 500 Gallons, with pump)	Day	\$265
6020	Trailer, Wildlife Response and Rehab (supplies add'l)	Day	\$3,275
6021	Trailer, Wildlife Search & Collection	Day	\$1,325
6022	Trailer, Wildlife Support	Day	\$475
Trucks			
7001	Tractor, Diesel	Hour	\$80
7003	Truck, Crane, 1 ton - 6 ton	Hour	\$90
7007	Truck, Dump, up to 10 yard	Hour	\$85
7008	Truck, Dump, over 10 yard	Hour	\$90
7009	Truck, Dump, over 10 yard with pup	Hour	\$95
7016	Truck, Flatbed or Van, 2-Axle, up to 24'	Hour	\$65
7010	Truck, Gear, less than 1 ton	Hour	\$35
7012	Truck, Gear, 1 ton	Hour	\$55
7014	Truck, Gear, 2 ton - 5 ton	Hour	\$75
7017	Truck, Hazmat Response, up to 26'	Hour	\$100
7018	Truck, Marine Response	Hour	\$70
7019	Truck, Roll Off Bin, Bobtail	Hour	\$120
7021	Truck, Water, up to 3000 Gallons	Hour	\$130
7022	Truck, Mobile Communications & Command Unit, 34'	Day	\$1,200
Vacuum Trucks/Trailers			
8001	Guzzler/Air Mover (filters add'l)	Hour	\$202
8018	HydroExcavator (attachments additional)	Hour	\$275
8017	Hi-Rail Air Mover w/ Air-spade	Hour	\$300
8008	Sweeper - Vacuum & Brush	Hour	\$165
8002	Vactor/Jetter - Combo Unit (attachments add'l)	Hour	\$245



REPUBLIC
SERVICES



Item	Description	Unit	Rate
Vacuum Trucks/Trailers (continued)			
8003	Vacuum Trailer, 120 -130 bbl., Black Iron	Hour	\$80
8004	Vacuum Trailer, 120 -130 bbl., Stainless	Hour	\$110
8006	Vacuum Truck, 35 - 80 bbl.	Hour	\$115
8007	Vacuum Trailer, less than 50 bbl.	Hour	\$40
Vehicles			
9003	Auto, Personnel or Support	Day	\$140
9008	Crew, Response or Utility Vehicle, 4wd, or 2wd	Day	\$300
9004	Van, MTR (boom, boat, skimmer add'l if deployed)	Day	\$530
9005	Van, Maintenance, Personnel or Support	Day	\$220
9006	Wildlife Transport-Care Vehicle/Trailer	Day	\$840
Blowers/Compressors			
1101	Air Compressor, up to 100 CFM	Day	\$185
1102	Air Compressor, 100 to 185 CFM	Day	\$310
1103	Air Compressor, 210 to 375 CFM	Day	\$490
1104	Blower, Coppus, Electric/Pneumatic	Day	\$135
1105	Blower, Negative Air Exhaust, 6" (consumables add'l)	Day	\$100
1106	Blower, Negative Air Exhaust, 12" (consumables add'l)	Day	\$145
1107	Blower, Venturi, Horn	Day	\$45
1108	Exhaust Duct, 25' x 6", 10" or 12"	Day	\$40
Pressure Washers			
1214	Dump-Style Gun, Foot Operated, up to 20k psi	Day	\$115
1215	Dump-Style Gun, Single, Safety Surround, up to 40k	Day	\$170
1216	Dump-Style Gun, Dual, Safety Surround, up to 20k psi	Day	\$170
1217	Dump-Style Gun, Multi Gun Valve Control System	Day	\$140
1219	Flange Mount Anti-Withdrawal Device	Day	\$30
1206	Flexible Lance, 50', Rigid Tip, Foot Pedal, up to 5k psi	Day	\$95
1212	Flexible Lance, 50', Rigid/Spinner Tip, Foot Pedal, 5k	Day	\$165
1211	Flexible Lance, 50', Foot Pedal, up to 20k psi	Day	\$165
1221	Flexible Lance, 50', Foot Pedal, up to 40k psi	Day	\$185
1202	Hydroblaster, 6,000 psi	Hour	\$70
1203	Hydroblaster, 10,000 psi	Hour	\$90
1204	Hydroblaster, 20,000 psi	Hour	\$240
1222	Hydroblaster, 40,000 psi	Hour	\$280
1209	Jetter Trailer	Hour	\$125
1218	Pipe Centralizer, 8" – 36" Diameter	Day	\$45
1207	Pressure Washer, up to 3,000 psi, single	Day	\$330
1210	Pressure Washer, trailered, up to 5,000 psi	Day	\$785
1208	Pressure Washer, 3,000 to 5,000 psi	Day	\$465
1205	Remote Tank Cleaning (Gamajet) Head	Day	\$395
1201	Specialty Nozzles up to 5k psi (Roto, fogging, etc.)	Day	\$65
1213	Specialty Nozzles over 5k psi (Rotating multi-tip)	Day	\$110
Pumps			
1311	Drum Vacuum (consumables add'l)	Each/Day	\$200
1300	Pump, Up to 1", Chemical, Hand Operated	Each/Day	\$185
1301	Pump, up to 1", Petroleum	Each/Day	\$80
1302	Pump, up to 1", Chemical	Each/Day	\$125
1303	Pump, 2", Petroleum	Each/Day	\$115
1304	Pump, 2", Chemical	Each/Day	\$250



REPUBLIC
SERVICES



Item	Description	Unit	Rate
Pumps (continued)			
1305	Pump, 2", Chemical Peristaltic	Each/Day	\$450
1306	Pump, 3", Petroleum	Each/Day	\$135
1307	Pump, 3", Chemical	Each/Day	\$395
1312	Pump, 3", Hydraulic (Archimedes/MT30) w/power pack	Each/Day	\$1,960
1308	Pump, 4", Petroleum	Each/Day	\$225
1309	Pump, 4", Petro-Submersible	Each/Day	\$420
1324	Pump, Fire, 1800 gpm 150psi	Each/Day	\$2,250
1325	Pump, Sludge	Each/Day	\$1,000
1310	Pump, 5" - 6", Petroleum	Each/Day	\$535
1316	Pump, Double Diaphragm, Stainless Steel, 1"	Each/Day	\$265
1317	Pump, Double Diaphragm, Stainless Steel, 2"	Each/Day	\$395
Hoses/Pipes/Fittings			
1405	Guzzler/Air Mover Vacuum Breaker	Day	\$45
1406	Guzzler/Air Mover/Jetter Fittings (elbows, tees, etc.)	Each/Day	\$14
1415	Hose, Discharge (lay flat), 2"	50 Ft/Day	\$14
1416	Hose, Discharge (lay flat), 3"	50 Ft/Day	\$19
1417	Hose, Discharge (lay flat), 4"	50 Ft/Day	\$26
1418	Hose, Discharge (lay flat), 6"	50 Ft/Day	\$32
1401	Hose, Fire, 1.5"	50 Ft/Day	\$28
1402	Hose, Fire, 2.5"	50 Ft/Day	\$34
1403	Hose, Guzzler/Air Mover, Pipe, 4"	Ft/Day	\$8
1404	Hose, Guzzler/Air Mover, Pipe, 6"	Ft/Day	\$9
1420	Hose, Hydraulic	50 Ft/Day	\$28
1428	Hose, Hydroblaster, up to 40,000 psi	50 Ft/Day	\$185
1407	Hose, Pneumatic	50 Ft/Day	\$14
1429	Hose, Pressure Washer, up to 6,000 psi	50 Ft/Day	\$28
1400	Hose, Suction & Discharge, 1", Petro or Chemical	25 Ft/Day	\$34
1408	Hose, Suction & Discharge, 2", Petro	25 Ft/Day	\$21
1409	Hose, Suction & Discharge, 2", Chemical	25 Ft/Day	\$46
1410	Hose, Suction & Discharge, 3", Petro	25 Ft/Day	\$34
1411	Hose, Suction & Discharge, 3", Chemical	25 Ft/Day	\$60
1412	Hose, Suction & Discharge, 4", Petro	25 Ft/Day	\$46
1413	Hose, Suction & Discharge, 4", Chemical	25 Ft/Day	\$87
1414	Hose, Suction & Discharge, 6", Petro	25 Ft/Day	\$68
1424	Hose, Teflon, 1" Rubber Jacketed or 2" Stainless Braid	Ft/Day	\$51
1419	Hose, Wash, up to 1"	50 Ft/Day	\$14
1435	Stinger, Hose Attachment	Day	\$40
Support			
1591	7 BBL Spill Kit (delivery add'l)	Day	\$700
1501	Air Knife	Day	\$195
1555	Bag Filter System, Single (Bag filters add'l)	Day	\$80
1502	Bag Filter System, Dual Pod (Bag filters add'l)	Day	\$95
1567	Banding Equipment, 2-inch	Hour	\$45
1583	Butane Flare Kit (includes hoses and nitrogen)	Day	\$140
1503	Carbon Filtration System	Day	Quote
1504	Chipping Gun, Pneumatic	Day	\$70
1505	Compactor, Hand Operated	Day	\$200
1596	Containment, Storage Tank	Day	\$65



REPUBLIC
SERVICES



Item	Description	Unit	Rate
Support (continued)			
1506	Decon Cleaning Pool, Portable 10' x 15'	Day	\$165
1507	Decon Cleaning Pool, Portable 10' x 30'	Day	\$260
1508	Decon Cleaning Pool, Portable 20' x 100'	Day	\$725
1509	Decon Cleaning Pool, Portable 25' x 50'	Day	\$365
1510	Decon Station, Personnel 2 Stage (supplies add'l)	Day	\$68
1553	Decon Station, Personnel 3 Stage (supplies add'l)	Day	\$95
1580	Drum Dolly	Day	\$55
1511	Electrical Accessories (cords, GFCI, adaptors)	Day	\$20
1573	Floor Buffer (pads add'l)	Day	\$95
1593	Fogger, handheld	Day	\$85
1594	Forklift, offroad	Day	\$740
1512	Forklift, 5K to 10K lb.	Day	\$365
1513	Forklift, Attachment	Day	\$135
1514	Generator, less than 4 kW	Day	\$90
1515	Generator, 4 kW to less than 7.5 kW	Day	\$155
1516	Generator, 7.5 kW to 12.5 kW	Day	\$220
1574	Generator, over 12.5 kW to 67 kW	Day	\$425
1569	Hydrogen Peroxide System (consumables add'l)	Day	\$1,120
1518	Jackhammer	Day	\$205
1519	Ladder, Extension, Folding or Jacobs	Day	\$55
1557	Laser Level Kit, 1/16" x 100'	Day	\$75
1558	Laser Level Kit, 1/4" x 100'	Day	\$30
1520	Light Tower, Trailer Mounted	Day	\$285
1521	Light, Explosion-Proof or Wet-Location	Day	\$60
1570	Light, Explosion-Proof, LED String, 10 lights/each	Day	\$585
1522	Light, Stand, Regular, 500W	Day	\$30
1523	Light, Stand, Regular, 1000W	Day	\$80
1590	Nitrogen Sparger System, Remote Liquid Agitator	Day	\$125
1525	Pipe Plug 4" to 18" (includes 20' air line hose)	Day	\$310
1526	Pipe Plug 18" to 24" (includes 20' air line hose)	Day	\$195
1527	Pipe Plug 24" to 36" (includes 20' air line hose)	Day	\$225
1528	Pipe Plug 36" to 48" (includes 20' air line hose)	Day	\$280
1529	Pipe Plug 48" to 60" (includes 20' air line hose)	Day	\$455
1500	Pipe Plug 60" to 96" (includes 20' air line hose)	Day	\$545
1572	Portable Toilet (includes service, wash basin)	Day	\$130
1563	Portable Breathing Air Compressor	Day	\$840
1530	Power Pack, Hydraulic, 1 hp (<0.75 kW)	Day	\$70
1531	Power Pack, Hydraulic, 16 hp (0.75 kW < 12 kW)	Day	\$185
1532	Power Pack, Hydraulic, 40 hp (12 kW < 30 kW)	Day	\$365
1533	Power Pack, Hydraulic, 60 hp (30 kW < 45 kW)	Day	\$655
1592	Salvage Support Package (DC kit, compressor, stingers, etc.)	Day	\$530
1534	Road Closure Signs, reflective	Each/Day	\$70
1536	Sand & Floor Dry Spreader Attachment	Day	\$130
1537	Saw, Chain	Day	\$80
1538	Saw, Cutoff	Day	\$170
1539	Soil Sampler, Hollow Stem	Day	\$70
1584	Specialty Rope Bag (w/ shackles, D-rings, carabiners, pulleys)	Day	\$310
1581	Steel Plate, 4' x 8'	Day	\$150



**REPUBLIC
SERVICES**



Item	Description	Unit	Rate
Support (continued)			
1582	Steel Plate, 5' x 10'	Day	\$200
1540	Tools, Hand (brooms, shovels, etc.)	Each/Day	\$17
1541	Tools, Mechanical Set	Day	\$80
1542	Tools, Non-Sparking	Day	\$60
1543	Tools, Power, Small (drills, Sawzall, etc.)	Each/Day	\$40
1544	Truck Ramps	Day	\$195
1545	Vacuum, HEPA (filters add'l)	Day	\$330
1546	Vacuum, Shop (filters add'l)	Day	\$70
1547	Vactor/Jetter Attachment (hydro-exca, Drum-It head, nozzles)	Each/Day	\$130
1566	Vapor Extraction System, Portable	Day	\$450
1588	Welder, Extrusion, handheld	Day	\$310
1548	Welding Unit / Torch Set, Portable	Day	\$110
1549	Wildlife Rehabilitation Pool	Day	\$265
1550	Wildlife Shelter, 19' x 35'	Day	\$2,650
1551	Wildlife Shelter, 20' x 20'	Day	\$980
1552	Yokohama Fenders, 8' diameter	Day	\$230
Communications			
1601	Base Station	Day	\$115
1603	Computer and/or Printer	Day	\$140
1604	GPS Unit	Day	\$70
1605	High Power Repeater System w/Generator	Day	\$395
1606	Radio, UHF or VHF, Portable	Day	\$40
1607	Satellite Phone (includes 20 minutes airtime per day)	Day	\$140
1608	Satellite Dish for HS Internet	Day	\$175
1609	Respirator Comms System	Day	\$150
1610	IT ER Equipment Package – Office in a Box (SM)	Day	\$2,450
1611	IT ER Equipment Package- Mobile ER Unit (LG)	Day	\$3,200
1612	MIFI Hot Spot	Day	\$50
1616	Small Comms Package (6 IS radios, mikes, charging station)	Day	\$280
Safety			
1701	Air Sampling Kit (tubes add'l)	Day	\$55
1760	Anti-Exposure Suit	Day	\$60
1702	Chest or Hip Waders, Insulated Cooling Vests	Each/Day	\$40
1704	Eyewash Station	Day	\$50
1705	Drager CMS Meter	Day	\$260
1761	Dry Suit	Day	\$50
1706	Flotation Work Suit	Each/Day	\$70
1707	Flotation Work Vest, PFD	Each/Day	\$15
1710	Harness (including Lanyard or SRL)	Each/Day	\$35
1730	Hazcat Kit	Day	\$200
1734	Kendrick Extrication Device (KED)	Use	\$265
1759	Lighting, Portable (handheld, head lamp, cordless area lighting, etc.)	Each/Day	\$25
1733	Manometer	Day	\$95
1711	Meter, 4EC Radiation	Day	\$475
1712	Meter, LEL/O2/H2S/CO	Day	\$200
1725	Meter, LEL/O2/H2S/CO/PID	Day	\$335
1713	Meter, Jerome Mercury	Day	\$785
1723	Meter, Lumex Mercury	Day	\$1,115



REPUBLIC
SERVICES



Item	Description	Unit	Rate
Safety (continued)			
1714	Meter, Personal, Gillian, Single or 4-gas	Each/Day	\$55
1715	Meter, Personal, Particulate Monitoring	Each/Day	\$195
1716	Meter, PID	Day	\$265
1762	Meter, Specialty (Benzene, etc.)	Day	\$450
1717	Mercury Vacuum (consumables add'l)	Day	\$980
1724	Remote Drum Drilling Unit	Day	\$840
1757	Rescue Gear, High Line System	Day	\$840
1736	Rescue Gear, SKED	Day	\$35
1737	Rescue Gear, Stokes Basket	Day	\$25
1708	Respirator, Full Face (cartridges add'l)	Each/Day	\$50
1709	Respirator, Half Face (cartridges add'l)	Each/Day	\$35
1758	Road Closure, Barricades, Cones, Delineators	Each/Day	\$8
1719	SCBA or Egress Bottles w/ Lines	Each/Day	\$280
1729	SCBA or Egress Bottles w/ Lines, Refill	Each/Day	\$40
1731	Shin and Metatarsal Guards, Aluminum	Day	\$40
1720	Six Pack / Regulated Air Supply (includes up to 300' airline)	Day	\$395
1738	Support Station, Table and Chairs	Day	\$155
1739	Support Station, Canopy	Day	\$40
1759	Sweeper, power handheld	Day	\$40
1740	Swift Water PPE Equipment (River Vest, Helmet, Throw Bag)	Day	\$175
1721	Tripod and Winch	Day	\$335
1732	Turtle Armor Suit (Torso, Chaps, Gaiters, Gauntlets)	Day	\$125
Dispersants/Aircraft			
1909	Douglas DC-4/Convairst 340 Spray Aircraft (includes first Air Crew)	Hour	\$10,400
1910	Douglas DC-6 Spray Aircraft (includes first Air Crew)	Hour	\$11,620
1911	Spotter Aircraft (includes first Air Crew)	Hour	Cost+20%
1912	Dispersant Loading Pumps	Day	\$635
1913	Dispersant, Applied (\$10/gallon on Standby)	Gallon	Cost+20%
1914	Portable Dispersant Spray System	Day	\$3,165
MATERIALS			
Bags/Sheeting			
M100	Bulk Bag, 1 yard	Each	\$45
M113	Dunnage Bags	Each	\$54
M101	Plastic Bag, 36" x 60", 6 mil, 50/Roll or Box	Roll/Box	\$168
M102	Plastic Bag, 36" x 60" (drum liner)	Each	\$8
M103	Roll Off Bin Liner	Each	\$62
M104	Sheeting, 20' to 32' x 100', 10 mil	Roll	\$219
M105	Sheeting, 20' to 32' x 100', 6 mil	Roll	\$163
M110	Sheeting, 8' to 20' x 100', 4 mil	Roll	\$96
M111	Sheeting, 20' x 100', Flame Retardant, 6 mil	Roll	\$112
M112	Sheeting, 12' x 100', Flame Retardant, 6 mil	Roll	\$90
Cleaners			
M205	Cleaner, Hand, 14 oz. Container	Each	\$12
M200	Cleaner, Hand, 1 Gallon Container	Each	\$43
M201	Cleaner, Marine/Industrial (Simple Green or equivalent)	Gallon	\$40
M202	Bleach	Gallon	\$14
M204	Decon Solvent (HD Citrus Degreaser, Penetone, PES-51)	Gallon	\$110



**REPUBLIC
SERVICES**



Item	Description	Unit	Rate
Cleaners (continued)			
M211	Disinfectant (IPA, Misty Biodet, Sporicidin, Zep DZ-7)	Gallon	\$71
M209	Encapsulant Solution / Defoamer	Gallon	\$75
M208	Hydrogen Peroxide Fogging Aerosol	Gallon	\$84
M210	Mastic Remover	Gallon	\$40
M207	Mercury Cleaning Solution	Gallon	\$101
M206	Mercury Vapor Suppressant	Pound	\$51
M212	VOC Suppressant (BioSolve, Gold Crew)	Gallon	\$140
Containers			
M318	1 Gallon, Poly Pail	Each	\$20
M301	5 Gallon, Bucket with Lid, Poly or Metal	Each	\$25
M313	5 Gallon, DOT Container with Lid	Each	\$40
M302	10-15 Gallon, Steel	Each	\$111
M319	15 Gallon, Poly	Each	\$111
M303	20 Gallon, Open Top, Steel	Each	\$104
M304	30 Gallon, Open or Close Top, Refurbished	Each	\$111
M320	30 Gallon, Open or Close Top, Steel, New	Each	\$139
M305	55 Gallon, Close Top, Steel, Refurbished	Each	\$95
M314	55 Gallon, Close Top, Steel, New	Each	\$150
M306	55 Gallon, Open Top, Steel, Refurbished	Each	\$95
M315	55 Gallon, Open Top, Steel, New	Each	\$150
M316	55 Gallon, Open or Close Top, Poly, Refurbished	Each	\$97
M307	55 Gallon, Open or Close Top, Poly, New	Each	\$130
M308	85 Gallon, Overpack, Unlined, Black	Each	\$350
M309	85 Gallon, Overpack, Lined, Yellow	Each	\$350
M310	95 Gallon, Overpack, Poly	Each	\$385
M317	275-300 Gallon, Liquid Tote, DOT, Recon	Each	\$325
M311	275-300 Gallon, Liquid Tote, DOT, New	Each	\$630
M321	Fluorescent Tube Disposal Container, 4'	Each	\$55
M322	Fluorescent Tube Disposal Container, 8'	Each	\$100
M312	Triwall Box, Cubic Yard, DOT Approved	Each	\$175
Safety			
M400	Acid Suit, 1 Piece	Each	\$125
M401	Boot, Steel Toe, Rubber	Pair	\$60
M493	Boot, Steel Toe, HAZMAX Chemical (replacement)	Pair	\$195
M442	Face Shield	Each	\$25
M402	Glove, Work Glove	Pair	\$9.00
M403	Glove, Inner, Cotton, Latex or Nitrile	Pair	\$4
M404	Glove, Inner, Cotton, Latex or Nitrile, 50 per Box	Box	\$90
M405	Glove, Silver Shield	Pair	\$10
M406	Glove, Medium Duty, PVC	Pair	\$10
M407	Glove, Heavy Duty, PVC	Pair	\$15
M408	Glove, Heavy Duty, Butyl Rubber	Pair	\$50
M409	Hard Hat	Each	\$40
M620	Negative Air Exhaust Consumables Change Out	Each	\$240
M513	Orange Construction Fence, 4'x100'	Roll	\$90
M410	Overboot, Disposable	Pair	\$15
M641	Pallet	Each	\$30
M607	Petro Flag Test Kit	Per Test	\$50



REPUBLIC
SERVICES



Item	Description	Unit	Rate
Safety (continued)			
M446	PBI / FR Cotton / Nomex Coveralls, replacement	Each	\$500
M426	Protective Gear Level B	Each	\$585
M427	Protective Gear Level B, Change	Each	\$395
M428	Protective Gear Level C	Each	\$125
M429	Protective Gear Level C, Change	Each	\$85
M430	Protective Gear Level D	Each	\$55
M431	Protective Gear Level D, Change	Each	\$35
M432	Rain Gear, 2 Piece	Set	\$35
M445	Rescue Rope, Lifeline or Tagline, 10'	Each	\$20
M433	Respirator Cartridge, Single, OV, Acid Gas, P100	Pair	\$55
M443	Respirator Cartridges, Combo	Pair	\$76
M434	Respirator Cartridge, Mercury/chlorine	Pair	\$85
M436	Safety Eyewear	Each	\$13
M438	Safety Vest	Each	\$45
M444	Thermo Pro/Tychem TK Level B Suit	Each	\$840
M439	Tyvek Suit, Saran-Coated, Disposable	Each	\$45
M440	Tyvek Suit, Uncoated, Disposable	Each	\$20
M441	Tyvek Suit, Poly-Coated, Disposable	Each	\$35
M489	Tyvek Suit, Poly-Coated, Fire Resistant, Disposable	Each	\$85
Sorbents			
M500	Absorbent, Chemical Stabilizer, 35 lb.	Bag	\$185
M501	Absorbent, Absorb X	Bag	\$45
M502	Floor Dry, 25 lb.	Bag	\$35
M503	Neutralizer, citric acid	Bag	\$195
M520	Neutralizer, Ash or Bicarbonate	Bag	\$65
M519	Neutralizer, Liquid	Gallon	\$60
M504	Oil Snare on Rope, 50 ft/Bag	Bag	\$190
M505	Oil Snare, 30/Carton	Carton	\$155
M506	Sorbent Boom 5" x 10', 4/Bale	Bale	\$150
M507	Sorbent Boom 8" x 10', 4/Bale	Bale	\$260
M508	Sorbent Roll, SXT 638, 38" x 144' x 3/8"	Roll	\$260
M509	Sorbent Sheet 17" x 19" x 3/8", 100/Bale	Bale	\$100
M510	Sorbent Sweep 17" x 100' x 3/8"	Each	\$181
M514	Straw Wattles, 25 ft/Roll	Roll	\$75
M512	Universal Pads, 11"x13" or equivalent, 50/Bale	Bale	\$130
M511	Vermiculite, 4 cu ft/Bag	Bag	\$65
Miscellaneous			
M627	Abatement Supplies (scrapers, mop-heads, etc.)	Each	\$14
M621	Air Mover Dry Filter Sock	Each	\$28
M600	Banner Tape, 3"	Roll	\$33
M638	Brake Cleaner	Can	\$14
M619	Catch Basin Filter	Each	\$84
M632	Chemical Indicator Paper	Package	\$45
M626	Chemtape	Roll	\$59
M601	Cotton Rags, 25 lb. Box/Bale	Each	\$72
M602	Decon Pool, Small Personnel	Each	\$45
M617	Flex Hose, Consumable, 4"	Foot	\$6
M618	Flex Hose, Consumable, 6"	Foot	\$8



REPUBLIC
SERVICES



Item	Description	Unit	Rate
Miscellaneous (continued)			
M628	Floor Buffer Pads	Each	\$72
M604	Duct Tape, 2"	Roll	\$15
M639	Glue (3M Aerosol)	Can	\$20
M622	HEPA Vacuum Consumables, Standard	Each	\$72
M625	HEPA Vacuum Consumables, Tornado Filter	Each	\$349
M623	HEPA Vacuum Consumables, Complete	Each	\$628
M631	Lead Paint Field Screening Test Kit - 5 Tests	Each	\$73
M642	Jute Netting (includes staples)	Roll	\$162
M653	Mastic Tape	Roll	\$162
M606	Mercury Vacuum Consumables Change Out	Each	\$104
M492	Nitrogen Cylinder Refill	Each	\$107
M141	Plug and Patch Kit	Each	\$195
M651	Portland Cement	Bag	\$22
M613	Rope, 600', up to 1/2"	Roll	\$150
M630	Scrubbing Pads	Each	\$9
M603	Sampling Tubes and Supplies	Each	\$33
M614	Sand Bags, Filled	Each	\$14.00
M633	Silt Fence, 100'	Roll	\$156
M616	Sprayer, Handheld (Hudson), 3 Gallon	Each	\$78
M801	Water, Drinking, 24/Case	Case	\$34
M850	Mileage for Car (M850 + Eq Item#)	Mile	\$2
M851	Mileage for Trucks/Vans (M851+ Eq Item#)	Mile	\$2
M852	Mileage for Commercial Trucks	Mile	\$2
M860	Equipment Fuel (Gasoline or Diesel)	Gallon	\$9
M883	Fuel - Extra Heavy Equipment (up to 8 gallons per hr)	Hour	\$75
M884	Fuel - Heavy Equipment (up to 5 gallons per hr)	Hour	\$50
M885	Fuel - Light Equipment (up to 3 gallons per hr)	Hour	\$25
M880	Bridge Toll, Vehicle, 2 axle	Each	\$17
M881	Bridge Toll, Vehicle, 3 axle	Each	\$33
M886	Bridge Toll, Vehicle, 4 axle	Each	\$43
M882	Bridge Toll, Vehicle, 5 axle	Each	\$55
M901	Transportation to TSDF, Triwalls, Totes	Each	Quote
M902	Transportation to TSDF, Drums	Each	Quote
SPECIAL OPERATIONS			
Response Units			
6024	Trailer, Reactive/Explosive/Special Operations	Day	\$840
6025	Trailer, Emergency Breathing Air	Day	\$5,880
6027	Trailer, Emergency Response Enclosed 20'	Day	\$585
6028	Trailer, Transfer compressed gas, static liquid 40-48'	Day	\$1,125
6029	Trailer, RV w/ Living Quarters (M & I not Included)	Day	\$575
6030	Trailer, Utility	Day	\$250
6035	Truck, 1-Ton Crew Cab	Day	\$250
6032	Truck, 1 1/2 Ton Crew Cab	Day	\$350
6033	Truck, 2 1/2 Ton Crew Cab	Day	\$475
6046	Truck, 10 ton Rescue, Quad Cab, 4x4, SRS Canada	Day	\$750
6047	Truck, Brush/Fast Attack w/300 Gallon Water Tank	Hour	\$175
6031	Truck, Emergency Response	Day	\$400



REPUBLIC
SERVICES



Item	Description	Unit	Rate
Response Units (continued)			
6048	Truck, Hi-Rail Brush/Fast Attack w/300 Gallon Water Tank	Hour	\$225
6036	Truck, Light / Sedan	Day	\$195
6034	Truck, Mobile Command	Day	\$575
6037	Truck, Special Operations Semi- Over the road	Day	\$725
6049	UTV, 4 or 6 Wheel Unit	Day	\$400
6050	UTV, Wildland Unit, with fire suppression or rescue set up	Day	\$575
Power Packs & Compressors			
1109	Corken Compressor (291T / Corrosive Compatible)	Day	\$900
1110	Corken Compressor (491T / Corrosive Compatible)	Day	\$1,250
1177	Corken Compressor (490 LPG/NH3)	Day	\$1,100
1564	Hydraulic Power Pack, 75 hp with 100 ft. of Hydraulic	Day	\$750
1576	PTO Hydraulic Power Unit, with 100 ft. of Hydraulic	Day	\$600
Pumps			
1314	Corken/Blackmer, Stainless Steel Sliding Vane (3")	Day	\$800
1315	Corken/Blackmer, Coro Vane or Equivalent (3")	Day	\$800
1319	Drum Pump, Stainless Steel (3") Positive Displacement	Day	\$650
1320	Double Diaphragm, Aluminum (2")	Day	\$225
1321	Double Diaphragm, Poly-Pro (2")	Day	\$325
1322	Double Diaphragm, Poly-Kynar/Teflon (1")	Day	\$225
1318	Fire/Dispersant	Day	\$275
1313	Jet Pump (gas eductor) 1" or 2"	Day	\$300
1323	Roper Vane Pump, Carbon Steel (3")	Day	\$600
1426	Stinger, 2", CPVC/SS/Carbon	Day	\$175
1327	10 HP Magnetic Drive, non-contact pump, Teflon	Day	\$840
1328	15 HP Magnetic Drive, non-contact pump, Teflon	Day	\$900
Hoses			
1423	Chlorine Transfer, certified	Ft/Day	\$75
1432	Crosslinked Polyethylene Hose (2")	Ft/Day	\$20
1433	Crosslinked Polyethylene Hose (1")	Ft/Day	\$6
1421	LPG/NH3, 1" Vapor	Ft/Day	\$14
1422	LPG/NH3, 2" Liquid Transfer	Ft/Day	\$30
1430	Teflon, Rubber Jacketed (1")	Ft/Day	\$40
1431	Teflon, Stainless Steel Braid (2")	Ft/Day	\$40
1427	Transfer Fittings (gauges, nipples, risers, etc.,)	Transfer	\$365
1436	Stainless Steel Hose (3")	Ft/Day	\$50
1425	Stainless Steel Hose (2")	Ft/Day	\$40
1434	Ultra-High Molecular Weight Polyethylene Hose 2"	Ft/Day	\$17
Fire Fighting			
1823	Complete Turnout/Bunker Gear	Day	\$375
1821	Eductor (1", 1 1/2") 60 to 95 gpm	Day	\$85
1822	Eductor (2 1/2") 250 gpm	Day	\$110
1806	Fire Hose (1" to 3") Double Jacketed	Ft/Day	\$3
1807	Fire Hose (4" to 6") LDH	Ft/Day	\$4
1808	Fire Hose Tester	Day	\$300
1825	Fire Fighting Fittings Charge	Day	\$600
1805	Fire Fighting Quick-out Kits (flight ready) + mob	Day	\$1,250
1826	Flash Suit	Day	\$400
1824	Frameless Bladder (10,000 gallon)	Day	\$650



**REPUBLIC
SERVICES**



Item	Description	Unit	Rate
Fire Fighting (continued)			
1813	Job Box (Tools, Adapters, Fittings)	Day	\$1,500
1803	Mounted Monitor – (300-1250gpm) + consumables	Day	\$1,400
1814	Monitor & Nozzle, 2 ½" Inlet (500 GPM Ground set)	Day	\$525
1815	Monitor & Nozzle, 2 ½" Inlets (1250 GPM Ground Set)	Day	\$875
1816	Nozzle (1", 1 ½")	Day	\$225
1817	Nozzle (2 ½ ")	Day	\$250
1818	Nozzle, High-X (1 ½")	Day	\$395
1819	Nozzle, Piercing (1 ½")	Day	\$280
1820	Nozzle, Foam Pro	Day	\$280
1809	Pito Flow Meter	Day	\$140
1804	Portable Fire Pump (650gpm NFPA Rated) +	Day	\$2,650
1812	Pressure Pump, Fire, 250 psi, 200 gpm	Day	\$275
1810	Suction Hose (4")	Section	\$140
1811	Suction Hose (6")	Section	\$165
1800	Trailer, Portable Fire w/ Pump	Day	\$475
1801	Trailer, Fire Fighting Foam, Type I, 550 gal +	Day	\$4,000
1802	Trailer, Fire Fighting Foam, Type II, 275 gal +	Day	\$1,750
Miscellaneous			
1703	Chlorine A/B/C Response Kits (gaskets add'l)	Day	\$600
1595	Cylinder Recovery Vessel	Day	\$2,250
1577	Fabrication, Specialty Tool Charge	Day	\$395
1559	Flare, Ground Set, 2"	Day	\$275
1560	Flare, Ground Set, 3"	Day	\$375
1561	Flare, Stack, 2"	Day	\$175
1562	Flow Meter, 2", Stainless Steel	Day	\$225
1597	Hot Tap Kit, 2" (replacement bits and valves add'l)	Day	\$1,250
1578	Mag-Drill	Day	\$250
1571	Manway Adapter, 14"-22", Stainless Steel	Day	\$400
1728	Midland Capping Kit	Day	\$1,400
1579	SRV Puller / Excess Flow Valve Defeater	Day	\$600
1580	Thermal Imager	Day	\$850
1565	Trident Magnetic Patch	Day	\$1,250
1722	Truck Rollover/Cylinder Drill Kit/Betts Valve	Day	\$500
Materials			
M635	AR-AFFF Foam	Gallon	\$65
M636	High-X Foam	Gallon	\$62
M634	Manway Gaskets	Each	\$300
M425	Responder (encapsulated, Level A)	Each	\$1,650
M447	Responder (encapsulated, Level A with flash cover)	Each	\$3,500
M853	Mileage, Special Ops Trailer	Mile	\$2.00
M854	Mileage, Special Ops Truck	Mile	\$2.25
M855	Mileage, Special Ops Truck (1 1/2 ton, 2 1/2 ton)	Mile	\$3.25
M858	Mileage, Special Ops Tractor or Rescue Truck (10 ton)	Mile	\$4.00



REPUBLIC
SERVICES



USecology



NRC

TERMS AND CONDITIONS

1. Minimum call out is 4 hours per person, except for projects over 50 miles from office location require 8-hour daily minimum.
2. All Personnel rates are subject to the following :
 - a) Weekdays: Monday - Friday first 8 hours are charged at Standard Time (ST= Hourly Rate). Monday - Friday outside 8 hours are charged at Over Time (OT= Hourly Rate).¹ Work performed on Monday - Friday outside 12 hours are charged at Double Time (Double Time= Hourly Rate).² Changes to start times for Weekday ST, OT and DT may be requested by ACTA and may be approved by Contractor on a case-by-case basis for longer projects.
 - b) Saturdays: First 8 hours charged at OT; hours over first 8 hours charged at DT.
 - c) Sundays and Holidays: All time charged at DT. The following are included holidays (on day as observed): New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day. Other holidays may apply when employing certain union personnel, including but not limited to: Martin Luther King, Jr. Day, Cesar Chavez's Birthday, Veterans Day, day before Christmas and day after Christmas.
 - d) ST, OT and DT rates are applied per (a) - (c) above regardless of the number of hours worked for any client on any particular day. Rates for hours subsequent to a break of less than 8 hours are charged at the appropriate OT or DT rate continuous to hours prior to the break.
 - e) All time for international projects charged at 1.5 of the rates listed herein. Whale tows in international waters are not considered international work.
 - f) All time involved in providing expert testimony in any court, deposition or hearing, etc., including preparation and travel time, is charged at DT.
3. All project specific personnel, including accounting, administrative, personnel support, logistics and management, whether on site, at NRC offices, or at support locations, are chargeable. All personnel are charged according to the above rates, regardless of full-time, part-time or third-party labor source status, unless provided as part of a specified subcontracted service. Personnel charged per their standard category rates for participation in any activity provided on behalf of the Customer including depositions, interviews, document preparation, etc.

Accounting/administrative/personnel support will only be billable in the event that large responses require a team specifically to track costs for that project and with approval by ACTA. Routine work, monthly billing, or dispatch is not considered billable.

¹ Overtime (OT) will be charged at 1½ times ST.

² Double Time (DT) will be charged at 2 times ST rates.
Republic-USE-SRS-NRC Rate Schedule

4. Time charges begin with equipment and personnel mobilization activities and terminate at the conclusion of the services, including transportation of equipment and personnel back to operations centers and any demobilization activities. Personnel time is charged in half-hour increments for all personnel. Personnel on standby for ACTA will be charged at 8 hours per 24-hour period. ACTA will pay portal-to-portal only for emergency work. Planned work rates will be paid when staff is on-site. Non-emergency work is defined as work that can be scheduled at least 3 days in advance.
5. Equipment and services not specified on the Rate Schedule will be charged at cost (including rental, insurance, freight, fuel, related fees) plus 10%.
6. ACTA will pay transportation, incidentals, lodging, rack and meals at cost for emergency response personnel. There will be no markup on these charges.
7. Above rates assume non-prevailing/non-union work.

EXHIBIT E

Company Letterhead

Agreement No.:
TIN:

Invoice Number:
Date:
ACTA PM:

Task number, Project Title
Billing Period: Month/Day/Year to Month/Day/Year

Authorized PD Budget	Current Invoice	Invoiced To-Date	PD Balance
\$0.00	\$0.00	\$0.00	\$0.00

PERSONNEL:	Rate/Hour	Current Hours	Cumulative Hours	Current Total
Name & Title	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
Total Labor Cost:				\$0.00

SUBCONSULTANT:	Activity	Current Total
Name of Subconsultant	Work Performed	\$0.00
"		\$0.00
"		\$0.00
"		\$0.00
Total Subconsultant Cost:		\$0.00

REIMBURSABLE EXPENSES:	Current Total	
Mileage, Parking, Car Rentals, Reproduction/Copies, etc.	\$0.00	
"	\$0.00	
"	\$0.00	
"	\$0.00	
"	\$0.00	
Total Other Direct Cost:		\$0.00

REMIT PAYMENT TO: Company Name Address City, ST Zip
--

TOTAL AMOUNT NOW DUE: \$0.00

Progress Report: Describe the work undertaken during this billing period. Identify accomplishments and challenges encountered. Provide other info as appropriate.

I certify under penalty of perjury that the above bill is just and correct according to the terms of Agmt #_____ and that payment has not been received.

Consultant Representative Name

Date:
APPROVED AS TO SCOPE AND
AMOUNT OF WORK PERFORMED

ACTA PROJECT MANAGER

Exhibit F

**ALAMEDA CORRIDOR
MONTHLY SUBCONTRACTOR MONITORING REPORT**

Instructions: Please indicate the participation levels achieved for the month of _____ for the referenced contract number.

Contract No. _____ Start Date _____ End Date _____

Committed SBE Participation Percentage _____

				PROPOSED	ACTUALS		
	Name of Subcontractor	Work Performed	Certifications:* SBE/VSBE/MBE/WBE/OBE/DVBE	Original Proposed SBE Percentage	Amount Paid This Month	Amount Paid to Date	Overall Contract Amount Percentage (Paid to Date)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

* Indicate all certifications held by each subcontractor

EXHIBIT G

SMALL BUSINESS ENTERPRISE PROGRAM

The Alameda Corridor Transportation Authority (“ACTA”) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at ACTA. ACTA's Small Business Enterprise (SBE) Program was created to provide opportunities for small businesses to participate in professional service and construction contracts. It is the policy of ACTA to solicit participation in the performance of all service contracts by all individuals and businesses, including, but not limited to, SBEs, women-owned business enterprises (WBEs), minority-owned business enterprises (MBEs), and disabled veteran business enterprises (DVBES). The SBE Program allows ACTA to target small business participation, including MBEs, WBEs, and DVBES, more effectively.

An overall ACTA goal of 25% SBE participation by total contract value and/or by total number of contracts awarded to SBE prime consultants or contractors has been established for the Program. The specific goal or requirement for each contract opportunity may be higher or lower based on the scope of work, and will be stated in the specific request for proposals or bids. **Based on the work to be performed under this Agreement, it has been determined that the percentage of required small business participation will be 0%.**

Consultant shall be responsible for determining the SBE status of its subconsultants for purposes of meeting the small business requirement, where required, and for reporting to ACTA. Subconsultants must qualify as an SBE based on the type of services that they will be performing under the Agreement. All business participation will be determined by the percentage of the total amount of compensation under the agreement paid to SBEs.

AFFIDAVIT OF COMPANY STATUS

"The undersigned declares under penalty of perjury pursuant to the laws of the State of California that the following information and information contained on **the attached Contractor Description Form** is true and correct and include all material information necessary to identify and explain the operations of

Name of Firm _____

as well as the ownership thereof. Further, the undersigned agrees to provide either through the prime consultant or, directly to ACTA, complete and accurate information regarding ownership in the named firm, any proposed changes of the ownership and to permit the audit and examination of firm ownership documents in association with this agreement."

Small/Very Small Business Enterprise Program: Please indicate the ownership of your company. Please check all that apply. At least one box must be checked:

SBE VSBE MBE WBE DVBE OBE

Signature _____
Printed Name _____

Title _____
Date Signed _____

NOTARY

<p>STATE OF CALIFORNIA)) ss COUNTY OF LOS ANGELES)</p> <p style="text-align: center;">Place Notary Seal and/or Stamp Above</p>	<p>Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__ by</p> <p>(1) _____ Name of Signer (1)</p> <p>Who proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (.)</p> <p style="text-align: center;">(and)</p> <p>(2) _____ Name of Signer (2)</p> <p>Who proved to me on the basis of satisfactory evidence to be the person who appeared before me.)</p> <p>Signature _____</p>
---	--

Contractor Description Form

For the Prime Contractor and each Subcontractor, state the type of SBE certification claimed and, if available, return documentation with this form to ACTA evidencing the declared SBE certification.

PRIME CONTRACTOR

Contract #: _____ Award Date: _____ Contract Term: _____

Contract Title: _____

Business Name: _____ Award Total: \$ _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email address: _____

List of Proposers

Environmental Logistics, Inc.
Hunter Consulting dba HCI Environmental and Engineering
NRC Environmental Services, Inc.
Ocean Blue Environmental Services, Inc.
West Coast Environmental Solutions

Evaluation Criteria


Firm Qualifications
Project Personnel and Staffing
Project Management
Pricing
Responsiveness and Safety

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 Agreement for Media Relations Services with Westbound Communications Inc. (C0911) for a term of 3 years and compensation not-to-exceed \$270,000

Recommendation:

Approve the proposed Agreement No. C0911 with Westbound Communications Inc. (Transmittal 1) for media relations services in an amount not-to-exceed \$270,000 for a three-year term and an option for the Governing Board to renew for an additional three years; and authorize the Chief Executive Officer or his designee to execute said agreement.

Discussion:

ACTA's critical role in, and knowledge of, the regional and national goods movement systems garners routine requests from the media and other stakeholders for data and comments relating to goods movement. In addition, various media outlets and periodicals report on ACTA's activities, including operational and financial performance, bond ratings, and debt structuring. ACTA must also be ready to interface with media outlets in the event of emergencies or accidents that may occur along the Corridor.

ACTA staff require assistance in all such media relations matters. The proposed on-call services will include social media interaction, crisis communication support, drafting and issuing press releases, and coordinating media coverage for ACTA's annual first-responders emergency exercise.

On January 31, 2023, the Media Relations Services Request for Proposals was posted on the ACTA website. Notice of its availability was advertised on the web-based procurement systems hosted by the two ports: the Port of Los Angeles' Los Angeles Business Assistance Virtual Network (LABVN) and Port of Long Beach's PlanetBids. Fourteen responses were received by the February 28, 2023 due date. The list of responding firms is provided in Transmittal 2.

Proposals were evaluated by a three-member selection panel consisting of ACTA's Director of Public Affairs and representatives from the Port of Los Angeles and Port of Long Beach public relations offices. The proposals were evaluated and scored utilizing the evaluation form provided in the RFP, which comprised the following criteria: the firm's qualifications, personnel and staff experience, project management, price, and clarity/responsiveness of the proposal.

Based on that evaluation, the proposals were ranked, and the top three firms were selected for interview on April 20, 2023. The same panel, overseen by ACTA's Chief Executive Officer, conducted the interviews and evaluated the firms' responses to a set of pre-selected questions. The selection panel recommends that the Board approve an agreement for media relations services with Westbound Communications Inc.

Budget Impact:

Funds for the Media Relations services are included in the FY24 Program and Operating Budget under Professional Services. Funds for future fiscal years will be brought to the Governing Board for approval.

Co-General Counsel Review:

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

Transmittals:

Transmittal 1 – Agreement No. C0911 with Westbound Communications

Transmittal 2 – List of Proposing Firms

AGREEMENT NO. C0911

BETWEEN THE ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY
AND
WESTBOUND COMMUNICATIONS INC.

THIS AGREEMENT (“Agreement”) is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, a California Joint Powers Authority (“ACTA”), acting by and through its Governing Board (“Board”) and WESTBOUND COMMUNICATIONS INC., a California corporation, office address 2099 South State College Boulevard, Suite 600, Anaheim, California 92806 (“Consultant”).

WHEREAS, ACTA requires media relations support; and

WHEREAS, ACTA requires the professional, expert and technical services of Consultant to assist ACTA in media relations, crisis communications and social media services; and

WHEREAS, Consultant, by virtue of training and experience, is well qualified to provide such services to ACTA;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. SERVICES TO BE PERFORMED BY CONSULTANT

A. Consultant hereby agrees to render to ACTA, as an independent contractor, certain professional, technical and expert services as set forth in Exhibit A (“Scope of Work”).

B. Consultant, at its sole cost and expense, shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Scope of Work. As between ACTA and Consultant, Consultant is solely responsible for any taxes or fees which may be assessed against it or its employees resulting from performance of the Scope of Work, whether social security, payroll or other, and regardless of whether assessed by the federal government, any state, city, or any other governmental entity.

C. Consultant acknowledges and agrees that it lacks authority to perform any services outside the Scope of Work. Consultant further acknowledges and agrees that any services it performs outside the Scope of Work are performed as a volunteer and shall not be compensable under this Agreement.

D. The Scope of Work shall be performed by personnel qualified and competent in the sole reasonable discretion of ACTA’s Chief Executive Officer (“ACTA’s CEO”) or his or her designee, whether performance is undertaken by Consultant or third-parties with whom Consultant has contracted (“Subconsultants”). Obligations of this

Agreement, whether undertaken by Consultant or Subconsultants, are and shall be the responsibility of Consultant. Consultant acknowledges and agrees that this Agreement creates no rights in Subconsultants with respect to ACTA and that obligations that may be owed to Subconsultants, including, but not limited to, the obligation to pay Subconsultants for services performed, are those of Consultant alone. Upon ACTA's CEO's written request, Consultant shall supply ACTA with all agreements between Consultant and its Subconsultants.

2. SERVICES TO BE PERFORMED BY ACTA

A. ACTA shall furnish Consultant, upon its request, all documents and papers in possession of ACTA which may lawfully be supplied to Consultant and which are necessary for Consultant to perform its obligations.

B. ACTA's CEO or his or her designee is designated as the contract administrator for ACTA and shall also decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the interpretation of instructions to Consultant and the acceptable completion of this Agreement and the amount of compensation due. Notwithstanding the preceding, the termination of this Agreement shall be governed by the provisions of Section 10 (Termination) hereof.

C. Consultant shall provide ACTA's CEO with reasonable advance written notice if it requires access to the premises of ACTA or of the Alameda Corridor. Access rights, if any, shall be granted to Consultant at the sole reasonable discretion of ACTA's CEO, specifying conditions Consultant must satisfy in connection with such access. Consultant acknowledges that such areas may be occupied or used by tenants or contractors of ACTA and that access rights granted by ACTA to Consultant shall be consistent with any such occupancy or use.

3. EFFECTIVE DATE AND TERM OF AGREEMENT

This Agreement shall be in full force and effect commencing from July 1, 2023, for an initial period of three (3) years, subject to the following:

A. ACTA's Board has the option to renew the term of the Agreement for an additional three (3) years, for a total agreement term not to exceed six (6) years from the effective date. The option to renew shall be approved by the ACTA Board, prior to the end of the current term of the Agreement, and Consultant shall be notified of the Board's election to exercise the additional term through written notice from the Executive Director; or

B. The ACTA Board, in its sole discretion, terminates and cancels all or part of this Agreement for any reason upon giving to Consultant ten (10) days' notice in writing of its election to cancel and terminate this Agreement.

4. TERMINATION DUE TO NON-APPROPRIATION OF FUNDS

Pursuant to Section 5 of ACTA's Amended and Restated Joint Exercise of Powers Agreement, ACTA shall be restricted in its powers in the same manner as the City of Los Angeles is restricted in its exercise of similar powers. Therefore, this Agreement is subject to the provisions of the Los Angeles City Charter Section 320 which precludes ACTA from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated therefor.

The Board, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Board is under no legal obligation to do so.

ACTA, its board, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefore. The Consultant is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Consultant is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Consultant agrees to resume performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefore is approved by the Board within that 60-day period. The Consultant is responsible for maintaining all insurance and bonds during this 60-day period until the appropriation is made; however, such extension of time is not compensable.

If in any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

5. COMPENSATION AND PAYMENT

A. As compensation for the satisfactory performance of the services required by this Agreement, ACTA shall pay and reimburse Consultant at the rates set forth in Exhibit B.

B. The maximum amount payable under this Agreement, including reimbursable expenses (see Exhibit B), shall be Two Hundred Seventy Thousand Dollars (\$270,000).

C. Consultant shall submit invoices in duplicate to ACTA monthly following the effective date of this Agreement for services performed during the preceding month. Each such invoice shall be signed by the Consultant and shall include the following certification:

“I certify under penalty of perjury that the above invoice is true and just, in accordance with the terms of Agreement No. _____, that payment of this invoice has not been received and that none of the items contained in the invoice have been submitted to any other agency.

(Consultant’s Signature)

D. All invoices shall be approved by ACTA’s CEO or his or her designee prior to payment. All invoices due and payable and found to be in order shall be paid as soon as, in the ordinary course of ACTA business, the same may be approved, audited and processed.

Invoices shall include the Agreement number, employee name, title/classification, hourly rate, hours worked, current charges and cumulative charges. Subconsultant invoices shall be in a similar format. Consultant shall submit appropriate supporting documents with each invoice. Such documents may include provider invoices, payrolls, and time sheets. ACTA may require, and Consultant shall provide, all documents reasonably required to determine whether amounts on the invoice are allowable expenses under this Agreement. All invoices are subject to audit. Consultant is not required to submit support for direct costs items of \$25 or less.

Further, where the Consultant employs Subconsultants under this Agreement, the Consultant shall submit to ACTA, with each monthly invoice, a Monthly Subconsultant Monitoring Report Form (Exhibit C) listing SBE/VSBE/MBE/WBE/DVBE/OBE amounts. Where applicable, Consultant shall provide an explanation for any item that does not meet or exceed the anticipated participation levels for this Agreement, with specific plans and recommendations for improved Subconsultant utilization. Invoices will not be paid without a completed Monthly Subconsultant Monitoring Report Form.

E. For payment and processing, all invoices should be sent to the following address:

Accounts Payable Department
Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806

In addition to, or in lieu of, mailing invoices per the above instructions, Consultant may email invoices to accountspayable@acta.org, and Consultant shall be responsible for confirming receipt of emailed invoices. ACTA shall not be responsible for invoices incorrectly emailed or not received due to technical issues, regardless of the source of such issues.

6. RECORDKEEPING AND AUDIT RIGHTS

A. Consultant shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied, which books and records shall be readily accessible to and open for inspection and copying at Consultant's premises by ACTA, its auditors or other authorized representatives. Notwithstanding any other provision of this Agreement, failure to do so shall constitute a conclusive waiver of any right to compensation for such services as are otherwise compensable hereunder. Such books and records shall be maintained by Consultant for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

B. During the term of this Agreement, ACTA may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Consultant and Subconsultants arising from or related to this Agreement or performance of the Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Consultant, Subconsultants or any individual or entity acting for or on behalf of Consultant or a Subconsultant, and (c) without regard to whether such writings have previously been provided to ACTA. Consultant shall be responsible for obtaining access to and providing writings of Subconsultants. Consultant shall provide ACTA at Consultant's sole cost and expense a copy of all such writings within fourteen (14) calendar days of a written request by ACTA. ACTA's right shall also include inspection at reasonable times of the Consultant's office or facilities which are engaged in the performance of the Scope of Work. Consultant shall, at no cost to ACTA, furnish reasonable facilities and assistance for such review and audit. Consultant's failure to comply with this Section 6 shall constitute a material breach of this Agreement and shall entitle ACTA to withhold any payment due under this Agreement until such breach is cured.

7. INDEPENDENT CONTRACTOR

Consultant, in the performance of the work required by this Agreement, is an independent contractor and not an agent or employee of ACTA. Consultant shall not represent itself as an agent or employee of ACTA and shall have no power to bind ACTA in contract or otherwise.

8. INDEMNIFICATION

Except for the sole negligence or willful misconduct of ACTA, its Board or any of its officers, agents, employees, assigns and successors in interest, Consultant undertakes and agrees to defend, indemnify and hold harmless ACTA, its Board and any of its officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by ACTA, including but not limited to, costs of

experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Consultant's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Consultant or its Subcontractors of any tier. Rights and remedies available to ACTA under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

9. INSURANCE

A. In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 8, Consultant shall procure and maintain at its sole cost and expense and keep in force at all times during the term of this Agreement the following insurance:

(1) Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Consultant's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that ACTA's CEO may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Consultant. The retention or self-insurance provided shall provide that any other insurance maintained by ACTA shall be excess of Consultant's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents and employees as additional insureds.

(2) Automobile Liability Insurance

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Consultant's normal limits of liability but not less than Five Hundred Thousand Dollars (\$500,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name ACTA, its Board, officers, agents and employees as Primary additional insureds.

(3) Workers' Compensation and Employer's Liability

Consultant shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that Consultant shall comply with such provisions before commencing the performance of the tasks under this Agreement. Consultant shall submit Workers' Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Worker's Compensation and occupational disease requirements shall include coverage for all employees of Consultant, and for all employees of any subcontractor or other vendor retained by Consultant.

B. Insurance Procured by Consultant on Behalf of ACTA

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 8, and where Consultant is required to name ACTA, its Board, officers, agents and employees as Primary additional insureds on any insurance policy required by this Agreement, Consultant shall cause ACTA to be named as an additional insured on all policies it procures in connection with this Section 9. Consultant shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that ACTA, its Board, their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts and activities of the insured under Agreement No. ____, and under any amendments, modifications, extensions or renewals of said Agreement regardless of where such contractual obligations, operations, uses, occupations, acts and activities occur.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by ACTA is excess coverage;

"In the event of one of the named insured's incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to ACTA's CEO with copies sent to ACTA's Co-General Counsel at the following addresses: 1) Office of the Long Beach City Attorney, 411 West Ocean Boulevard, 9th Floor, Long Beach,

California 90802, and 2) Office of the Los Angeles City Attorney, 425 S. Palos Verdes Street, San Pedro, California, 90731."

C. Required Features of Coverages

Insurance procured by Consultant in connection with this Section 9 shall include the following features:

(1) Acceptable Evidence and Approval of Insurance

Consultant's insurance broker or agent shall submit to ACTA the appropriate proof of insurance on Consultant's behalf.

Upon request by ACTA, Consultant shall furnish full copies of certified policies of any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

(2) Carrier Requirements

All insurance which Consultant is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.

(3) Notice of Cancellation

For each insurance policy described above, Consultant shall give a 10-day prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-day prior notice of cancellation or reduction in coverage for any other reason, by written notice to ACTA.

(4) Modification of Coverage

ACTA's CEO, at his sole reasonable discretion, based upon recommendation of independent insurance consultants to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Consultant.

(5) Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Consultant shall renew or extend such policy in accordance with the requirements of this Agreement and direct their insurance broker or agent to submit to ACTA a renewal endorsement or renewal certificate or, if new insurance has been obtained, evidence of insurance as specified above. If Consultant neglects or fails to secure or maintain the insurance required above, ACTA's CEO may, at his or her own

option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance shall be deducted from the next payment due Consultant.

(6) Limits of Coverage

If Consultant maintains higher limits than the minimums required by this Agreement, ACTA requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to ACTA.

D. Accident Reports

Consultant shall report in writing to ACTA's CEO within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars (\$500.00) to property, occurring upon any Alameda Corridor property if Consultant's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Consultant, its officers or managing agents.

10. TERMINATION PROVISION

The Board, in its sole discretion, shall have the right to terminate and cancel all or any part of this Agreement for any reason upon giving the Consultant ten (10) days' advance, written notice of the Board's election to cancel and terminate this Agreement. It is agreed that any Agreement entered into shall not limit the right of ACTA to hire additional consultants or perform the services described in this Agreement either during or after the term of this Agreement.

11. PERSONAL SERVICE AGREEMENT

A. During the term hereof, Consultant agrees that it will not enter into other contracts or perform any work without the written permission of ACTA's CEO where the work may conflict with the interests of ACTA.

B. Consultant acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, that Consultant may permit Subconsultant(s) to perform portions of the Scope of Work in accordance with Section 1 of this Agreement. All Subconsultants whom Consultant utilizes, however, shall be deemed to be its agents. Subconsultants' performance of the Scope of Work shall not be deemed to release Consultant from its obligations under this

Agreement or to impose any obligation on ACTA to such Subconsultant(s) or give the Subconsultant(s) any rights against ACTA.

12. AFFIRMATIVE ACTION

The Consultant, during the performance of this Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded shall contain a like nondiscrimination provision.

13. SMALL BUSINESS ENTERPRISE PROGRAM

It is the policy of ACTA to provide Small Business Enterprises (SBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Consultant shall assist ACTA in implementing ACTA's Small Business Program attached hereto as Exhibit D, and shall use its best efforts to afford the opportunity for SBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement.

14. CONFLICT OF INTEREST

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of ACTA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of ACTA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, ACTA may immediately terminate this Agreement by giving written notice thereof.

15. COMPLIANCE WITH APPLICABLE LAWS

Consultant shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations, and with the reasonable requests and directions of ACTA's CEO.

16. GOVERNING LAW / VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

17. TRADEMARKS, COPYRIGHTS, AND PATENTS

Consultant agrees to save, keep, hold harmless, protect and indemnify ACTA, its Board and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by ACTA of any materials supplied by Consultant in the performance of this Agreement.

18. PROPRIETARY INFORMATION

A. Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by ACTA as soon as they are developed, whether in draft or final form. ACTA has the right to use or permit the use of property and any ideas or methods represented by such property for any purpose and at any time without compensation other than that provided in this Agreement. Consultant hereby warrants and represents that ACTA at all times owns rights provided for in this Section 18 free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Consultant need not obtain for ACTA the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Consultant or one of its employees, or its Subconsultant or the Subconsultant's employees, in which case such right shall be obtained without additional compensation. Whether or not Consultant's initial proposal or proposals made during this Agreement are accepted by ACTA, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Consultant, its Subconsultants or on either's behalf, whether prior or subsequent to this Agreement becoming effective, to ACTA, its Board, officers, agents or employees, is not given in confidence. Accordingly, ACTA or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

B. If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Consultant, its officers, agents, employees, or Subconsultants, ACTA shall

have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by ACTA. Upon ACTA's request, Consultant, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to ACTA. It is expressly understood and agreed that, as between ACTA and Consultant, the referenced license shall arise for ACTA's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. ACTA may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by ACTA.

19. CONFIDENTIALITY

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Consultant relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Consultant or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Consultant is required to safeguard such information from access by unauthorized personnel.

20. NOTICES

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage prepaid. When so given, such notice shall be effective from the date of mailing of the same. For the purposes hereof, unless otherwise provided by notice in writing from the respective parties, notice ACTA shall be addressed to its Chief Executive Officer, Alameda Corridor Transportation Authority, 3760 Kilroy Airport Way, Suite 200, Long Beach, California 90806, and notice to Consultant shall be addressed to it at Consultant's address set forth in the opening paragraph of this Agreement. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

21. INTEGRATION

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

22. SEVERABILITY

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law or public policy, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

23. CONSTRUCTION OF AGREEMENT

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

24. TITLES AND CAPTIONS

The parties have inserted the Section titles in this Agreement only as a matter of convenience and for reference, and the Section titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

25. MODIFICATION IN WRITING

This Agreement may be modified, amended or changed only by written agreement of all parties, said agreement duly executed and delivered by both parties. Any such modifications are subject to all applicable approval processes required by ACTA.

26. WAIVER

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

27. EXHIBITS; SECTIONS

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to Sections are to Sections of this Agreement unless stated otherwise.

28. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

The use of electronic signatures herein, or in any amendments to this Agreement, and any electronic records related to this Agreement (including, without limitation, any agreement or other record created, generated, sent, communicated, received, or stored by electronic means), shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transaction Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

The words "execution," "signed," "signature," and words of like import in this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf" "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign or Acrobat Sign).

The parties agree that electronically signed and/or electronically transmitted signatures shall be conclusive proof, admissible in judicial proceedings, of such party's execution of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

WESTBOUND COMMUNICATIONS
INC.

Date: _____

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

Exhibit A

SCOPE OF WORK

ACTA's Director of Public Affairs will direct the efforts of the Consultant, with oversight by the Chief Executive Officer.

The following areas are intended to be guidelines as to the type of assignments for which the Consultant will provide media relations assistance to ACTA.

Media Relations

- Serve as liaison to the news media, research and respond to inquiries, coordinate interviews, draft and distribute news releases and provide overall media support;
- Prepare program and materials to secure editorial support for ACTA's initiatives and funding efforts as well as ACTA's operational and financial accomplishments;
- Prepare media information package on Board approved Initiatives, based on research conducted by ACTA and its consultants;
- Provide marketing and other collateral material including design, copywrite, printing and distribution;
- Prepare and edit ACTA written materials including speeches and presentations;
- Prepare information packages for legislative briefings;
- Prepare and print new ACTA handouts;
- Coordinate special event planning;
- Assist and support community relations efforts to secure "grass roots" and legislative support for ACTA initiatives and funding programs;
- Attend public meetings; and
- Provide weekly electronic press clippings involving port and goods movement matters.

Social Media

- Identify goals and strategize content;
- Create a content calendar;
- Post and monitor social media platforms; and
- Analyze social media performance.

Crisis Communication

The Alameda Corridor operates on a 24-hour-a-day, 7-days-a-week basis. Consultant will be available to provide media relations support in any situation that may occur in the course of operating, maintaining, managing or otherwise conducting the business of the Alameda Corridor in accordance with the Incident Communication Plan.

Under the direction of ACTA's Director of Public Affairs, the Consultant is responsible for developing a plan for information delivery to the media or other interested parties that includes:

- Developing statements and talking points that accurately describe the incident and plan of action, including ACTA's role and that of other emergency response providers;
- Determining impacted stakeholders;
- Contacting media outlets and coordinating a press conference, if required;
- Writing press releases; and
- Providing media training and message counseling for ACTA spokesperson(s) to ensure timely and effective communication.

EXHIBIT B

PRICING

The fixed hourly rates stated below correspond to the different team roles for Public Relations Services. Labor hours shall be charged on the basis of actual time spent on each job and shall be computed to the nearest on quarter (1/4) hour.

Outreach Team Billing Rates * (per hour)			
Team Role	Year 1	Year 2	Year 3
Project Manager	\$168.00	\$173.04	\$178.23
Senior Strategist	\$175.00	\$180.25	\$185.65
Media Relations Manager	\$155.00	\$159.65	\$164.44
Community & Diversity Manager	\$155.00	\$159.65	\$164.44
Social and Digital Media Manager	\$155.00	\$159.65	\$164.44
Account Coordinator	\$123.00	\$126.69	\$130.49
Graphic Designer	\$125.00	\$128.75	\$132.61

*Overtime for crisis communications must be pre-approved by ACTA and paid at 1.5 times per hour.



Exhibit C
MONTHLY SUBCONTRACTOR MONITORING REPORT

Instructions: Please indicate the participation levels achieved for the month of _____ for the referenced contract number.

Contract No. _____ Start Date _____ End Date _____

Committed SBE Participation Percentage _____

				PROPOSED	ACTUALS		
	Name of Subcontractor	Work Performed	Certifications:* SBE/VSBE/MBE/WBE/OBE/DVBE	Original Proposed SBE Percentage	Amount Paid This Month	Amount Paid to Date	Overall Contract Amount Percentage (Paid to Date)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

* Indicate all certifications held by each subcontractor

EXHIBIT D

Contractor Description Form

For the Prime Contractor and each Subcontractor, state the type of SBE certification claimed and, if available, return documentation with this form to ACTA evidencing the declared SBE certification.

PRIME CONTRACTOR

Contract #: 013123-1 Award Date: _____ Contract Term: _____
Contract Title: Media Relations Services
Business Name: Westbound Communications.com Award Total: \$ _____
Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: As certified through Planetbids and Port of Long Beach

Certified Small Business Enterprise

Address: 2099 South State College, Suite 600
Anaheim, CA 92806

Vendor Account Number: 254173

Telephone: (714) 663-8188 (or Scott Smith's mobile # 310-497-5081)

Contact Person/Title: Scott Smith, Chairman and Principal

Email Address: ssmith@westboundcommunications.com

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____
Services to be provided: _____
Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: \$ _____
Services to be provided: _____
Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE
(Circle all that apply)

If claimed, state SBE certification type: _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email address: _____



AFFIDAVIT OF COMPANY STATUS

"The undersigned declares under penalty of perjury pursuant to the laws of the State of California that the following information and information contained on **the attached Contractor Description Form** is true and correct and include all material information necessary to identify and explain the operations of
Westbound Communications Inc.

Name of Firm

as well as the ownership thereof. Further, the undersigned agrees to provide either through the prime consultant or, directly to ACTA, complete and accurate information regarding ownership in the named firm, any proposed changes of the ownership and to permit the audit and examination of firm ownership documents in association with this agreement."

Small/Very Small Business Enterprise Program: Please indicate the ownership of your company. Please check all that apply. At least one box must be checked:

SBE VSBE MBE WBE DVBE OBE

Signature _____
Printed Name Scott Smith

Title Chairman and Principal
Date Signed 2/19/2023

NOTARY

<p>STATE OF CALIFORNIA)) ss COUNTY OF LOS ANGELES)</p> <p>Place Notary Seal and/or Stamp Above</p>	<p>Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__ by _____</p> <p>(1) _____ Name of Signer (1)</p> <p>Who proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (.)</p> <p>(and)</p> <p>(2) _____ Name of Signer (2)</p> <p>Who proved to me on the basis of satisfactory evidence to be the person who appeared before me.)</p> <p>Signature _____</p>
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Alameda Corridor Transportation Authority
Media Relations Services

PROPOSING FIRMS*
46 Mile & Bastion Amplify
Branimir & Associates
Charles Communication Group
Communications Lab
Costin Public Outreach Group
Courtney Torres Consulting
Imprenta Communications Group
Integrity Public Relations
Miller Ink
Presidio Communications
S Groner Associates
Szabo & Associates
US News Express
Westbound Communications

*Listed in alphabetical order

M E M O

Alameda Corridor Transportation Authority

To: Governing Board

Meeting Date: June 1, 2023

From: Heather M. McCloskey, Co-General Counsel
Thomas Oh, Co-General Counsel

Subject: APPROVE Legal Services Agreements with Everett Dorey LLP; Orbach Huff & Henderson LLP; and the Law Office of Sima Salek

Recommendation:


- 1) Approve legal services agreements with Everett Dorey LLP; Orbach Huff & Henderson LLP; and the Law Office of Sima Salek.
- 2) Authorize the Chief Executive Officer or designee to execute said agreements.

Discussion:

Starting in 1997, ACTA has hired outside law firms to provide on-call specialized legal services, including litigation matters. Since 2008, ACTA has contracted with law firms through competitive selection procedures conducted in five-year intervals. The agreements currently in effect with law firms selected from the 2018 competitive process will expire on June 30, 2023.

In anticipation of the current agreements' upcoming expiration date, ACTA issued a Request for Proposals ("RFP") for legal services on January 24, 2023. The request for legal services was made for specific practice areas, with the intention of selecting one or more firms for each area of specialized work. The practice areas for which ACTA requires outside legal assistance are public finance (bond, tax, and disclosure counsel); business transactions and contracts; employment matters; real property transactions; construction contracts and claims; environmental regulations and entitlements; and general litigation for these practice areas. Firms were invited to submit proposals offering services in one or more practice areas.

Twenty-five firms responded to the RFP, submitting proposals by the February 24, 2023, deadline. See Transmittal 1. Proposals were reviewed and selection of firms was based upon the following criteria:

- Demonstrated specific expertise, experience and qualifications of the firm and the attorneys for each proposed practice area;
 - The firm's approach and strategy, including staffing, to provide services for each proposed practice area;
 - Hourly rates, fees and cost effectiveness of the proposed practice areas; and
 - The firm's general experience representing and advising public entities in the proposed practice areas, including litigation where applicable.
- 

A selection committee consisting of both ACTA's Co-General Counsel, ACTA's Chief Executive Officer, ACTA's Chief Financial Officer and one Deputy City Attorney from the Harbor Division of the Los Angeles City Attorney's Office reviewed the proposals and made the selection recommendations set forth herein. The written proposals were independently reviewed and evaluated by each selection committee member. Thereafter, the selection committee discussed each firm's proposal with respect to the selection criteria and decided whether to select, reject or interview each firm.

The selection committee agreed that ten firms currently under contract with ACTA should be recommended to have their contracts renewed based upon their proposals and their work with ACTA during the preceding five years. A request to approve amendments with these ten firms is the subject of a separate agenda item for the ACTA Governing Board meeting held on June 1, 2023.

For the fifteen remaining firms that submitted proposals, the selection committee interviewed seven firms on May 1st and 2nd, 2023. From the interviews, three firms were selected for recommendation to provide legal services to ACTA. Everett Dorey LLP was selected to provide general litigation services for employment, real property, construction, and environmental matters; Orbach, Huff & Henderson LLP was selected to provide transaction and litigation services for business contracts, employment, real property, construction and environmental matters; and the Law Office of Sima Salek was selected to provide employment and workplace investigation services. Transmittal 2 provides a table showing each proposed law firm's supervising attorney, selected practice areas, and proposed budgets. Transmittal 3 provides the agreement for each law firm. The hourly rate structure set forth in Exhibit A of the agreements is the same for all firms, namely, the firm's proposed first year rates apply for the first two years, followed by 4% increases for years three through five.

These proposed law firms, along with those firms proposed for agreement renewal by amendment, will provide coverage for the range of services to meet ACTA's present and currently known legal needs. On a day-to-day basis, legal services may be initiated by ACTA staff contacting ACTA's Co-General Counsel to discuss the legal matter at hand. Co-General Counsel, in consultation with ACTA staff, will decide whether the matter may be handled in-house or if additional specialized services are required. Generally, legal services for public finance matters (i.e., bond, tax, and disclosure counsel), litigation matters and environmental regulatory matters (e.g. CEQA/NEPA counsel), require services by outside counsel.

When outside legal services are necessary, assignments may be given to law firms on a case-by-case basis by ACTA's Co-General Counsel after discussion with ACTA staff. However, whenever a larger size project or significant need for legal services arises, firms within the required practice area will be asked to submit a proposal for the work, propose attorneys to be assigned, provide examples of similar prior experience, if any, and submit a proposed schedule and budget. A current conflict check will also be conducted to ensure that a firm is not engaged for work in which it may have a client conflict, unless appropriate waivers are obtained. Conducting these "mini-proposal" procedures ensures that ACTA receives legal services from the most qualified firm for that specific matter, along with a competitive budget proposal.

The proposed budgets for each of the three law firms will cover on-call services to be provided as needed. However, the budget allocations do not take into account the possibility of future significant legal services such as litigation or regulatory actions. Should such legal service needs arise, additional funding may be requested for approval by the Board in the form of a contract amendment for the selected law firm to address these unforeseen needs.

Budget Impact:

The proposed total five-year contract budget for the three agreements is \$200,000. Everett Dorey LLP and Orbach, Huff & Henderson LLP each have proposed agreement amounts of \$75,000 and the Law Office of Sima Salek has a proposed agreement amount of \$50,000. Annual requests for approval to fund on-call legal services provided by these law firms will be made pursuant to ACTA's annual budget approval process. For the FY23-24 budget, the funding requested for these three firms is \$40,000. See Transmittal 2.

Co-General Counsel Review:

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

Transmittals:

Transmittal 1 – Law Firms Submitting Proposals in Response to the RFP

Transmittal 2 – Proposed Law Firm Practice Areas and Budgets

Transmittal 3 – Agreements with Everett Dorey LLP; Orbach Huff & Henderson LLP; and Law Office of Sima Salek

ACTA 2023 Outside Counsel Request for Proposals

Law Firms Submitting Proposals

1. Ashurst LLP
2. BDG Law Group
3. Best, Best & Krieger
4. Buchalter
5. Burke, Williams & Sorensen, LLP
6. Clark Hill LLP
7. Everett Dorey LLP
8. Gibbs, Giden, Locher, Turner, Senet & Wittbrodt LLP
9. Hawkins, Delafield & Wood LLP
10. Holland & Knight LLP
11. Jain Law Office, P.C.
12. Keesal, Young & Logan
13. Kutak Rock LLP
14. Lewis, Brisbois, Bisgaard & Smith LLP
15. Lozano Smith
16. Manning & Kass, Ellrod, Ramirez, Trester LLP
17. Nixon Peabody LLP
18. Nossaman LLP
19. O'Melveny & Meyers LLP
20. Orbach, Huff & Henderson LLP
21. Ovando Bowen, LLP
22. Sheppard, Mullin, Richter & Hampton LLP
23. Law Office of Sima Salek
24. Theodora Oringher PC
25. Van Dermyden Makus

ACTA Outside Counsel Agreements

Proposed New Agreements 2023-2028

	Firm Name Supervising Attorney Office Location	Practice Areas	Proposed Agreement Amount 2023-2028	Proposed FY2023-24 Budget
1	Orbach Huff & Henderson LLP David Huff Los Angeles	Business Transactions/Contracts Construction Contracts Real Property Employment matters Environmental/CEQA	\$75,000	\$15,000
2	Everett Dorey LLP Seymour Everett Irvine	Employment Litigation Real Property Litigation Construction Contracts/Claims Litigation Environmental/CEQA Litigation	\$75,000	\$15,000
3	Law Office of Sima Salek Sima Salek Encino	Employment/workplace Investigations	\$50,000	\$10,000
			\$200,000	\$40,000

ACTA AGREEMENT NO. C0908

AGREEMENT BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND
EVERETT DOREY LLP

THIS AGREEMENT is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY (“ACTA”), a Joint Powers Authority, acting by and through its Governing Board, and EVERETT DOREY LLP, located at 18300 Von Karman Avenue, Suite 900, Irvine, California 92612 (“Outside Counsel”).

WHEREAS, ACTA has a need for specialized legal services relating to general litigation matters and other advice; and

WHEREAS, Outside Counsel indicates that it has the expertise and competence to perform the professional legal services sought by ACTA; and

WHEREAS, ACTA has selected Outside Counsel to provide such services from time to time as directed by ACTA’s Co-General Counsel, and Outside Counsel desires to provide such services to ACTA and is able to do so without a conflict of interest; and

NOW, THEREFORE, in consideration of the promises, covenants, terms and conditions contained herein, the parties hereby covenant, agree and represent as follows:

1. SCOPE OF REPRESENTATION AND PARTNERING

Outside Counsel is retained to assist ACTA’s Co-General Counsel in providing legal services for ACTA acting by and through its Governing Board. Outside Counsel shall at all times work under the direction of ACTA’s Co-General Counsel. ACTA and its Co-General Counsel shall rely on the competence, expertise and experience of Outside Counsel. At all times, Outside Counsel shall provide professional legal advice and services at the highest level expected of law firms providing legal services in the Los Angeles region. This is a non-exclusive agreement to provide legal services to ACTA and ACTA may, at its discretion, augment the services with another law firm or law firms or select to terminate Outside Counsel’s services in a manner consistent with this Agreement.

ACTA and Outside Counsel recognize and agree that an important purpose of this Agreement is to promote effective collaboration between its Co-General Counsel and Outside Counsel so that, among other things, Co-General Counsel is able to gain familiarity with the legal issues presented in these matters and for Outside Counsel to impart substantive subject matter knowledge to ACTA’s lawyers. To this end, ACTA’s Co-General Counsel and Outside Counsel both agree to make reasonable efforts to coordinate their efforts and work.

2. TERM OF AGREEMENT

The term of this agreement shall be deemed to commence upon the date of signature by ACTA's CEO and, subject to the provisions of Section 6(A), shall be for a term of five years.

3. OUTSIDE COUNSEL SERVICES AND RESPONSIBILITIES

It is understood that ACTA's Co-General Counsel renders day-to-day and on-going legal services to ACTA, and that Outside Counsel shall perform its services hereunder at the direction of Co-General Counsel. Subject to the general supervision of Co-General Counsel, Outside Counsel shall perform legal services as may be necessary or desirable in connection with general litigation matters and other advice and representation as required. It is understood that Outside Counsel shall function as attorneys at law in the independent practice of its profession and not as employees of ACTA.

A. Professional Ethics and Conflicts of Interest

ACTA recognizes that Outside Counsel may have clients that, from time to time, may have interests adverse to ACTA. Any such representation shall be in accordance with the ethical duties of members of the State Bar of California including, without limitation, those established by the Bar's Rules of Professional Conduct. Outside Counsel shall send written notice to Co-General Counsel of any actual or potential conflict of interest with ACTA that exists during Outside Counsel's engagement under this Agreement and request a waiver of such conflict by Co-General Counsel. The request for waiver shall describe in detail the nature of the proposed engagement by Outside Counsel, the nature of the conflict, and why Outside Counsel believes a waiver is appropriate. Outside Counsel's representation of ACTA does not create an attorney/client relationship with any of ACTA's member agencies.

B. Key Outside Counsel Personnel

1. Outside Counsel's Supervising Attorney for this Agreement shall be Seymour Everett. Outside Counsel's Supervising Attorney shall not be changed without Co-General Counsel's written authorization.

2. Outside Counsel's Supervising Attorney shall have full authority to act for Outside Counsel on all daily operational matters under this Agreement and shall serve as or designate Lead Counsel for all matters performed pursuant to this Agreement. Designation of a Lead Counsel other than the Supervising Attorney shall be subject to Co-General Counsel's prior written approval.

C. Legal Representation

1. Outside Counsel shall provide ACTA with the necessary representation by qualified staff at the least costly billing category. The names of personnel authorized to provide services under this Agreement and the hourly rates for each staff member are listed in Exhibit A, attached hereto and incorporated herein.

2. Any use of personnel other than as enumerated in Exhibit A shall be subject to the prior written approval of Co-General Counsel. Outside Counsel may hire consultants, but

only with the prior written approval of Co-General Counsel. Outside Counsel may retain other law firms or attorneys as subcontractors to provide the legal services covered by this Agreement, but only with the prior written approval of Co-General Counsel. Any such written approval of subcontractors must set forth the name of each approved attorney or other personnel and the agreed rate for such individual. Outside Counsel will require any such subcontractors or consultants to comply with the terms and conditions of this Agreement and will indemnify, defend and forever hold harmless ACTA from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) arising out of any negligent acts errors, or omissions or willful misconduct of any such subcontractors or consultants.

3. Outside Counsel shall provide all required reports referenced in this Agreement.

4. Outside Counsel shall meet with Co-General Counsel as requested.

5. Outside Counsel shall consult with Co-General Counsel on trial and tactical decisions.

6. Outside Counsel shall maintain all backup documentation to support all entries included in its billings.

4. COMPENSATION

A. Not To Exceed Amount

For the services rendered to ACTA by Outside Counsel pursuant to this Agreement, ACTA shall pay Outside Counsel at hourly rates not-to-exceed the hourly rates attached hereto as Exhibit A, which rates shall remain in effect for the term of this Agreement. All fees and expenses billed pursuant to this Agreement shall not exceed Seventy Thousand Dollars (\$75,000) without prior mutual agreement of the parties and a written amendment.

B. Outside Counsel's Obligation For Continued Performance

In the event that Outside Counsel's fees, costs and expenses, in the aggregate, exceed the amount appropriated by ACTA as provided herein, Outside Counsel shall not be obligated to provide services or incur any further costs or expenses on the work required hereunder, and ACTA shall not be liable for fees or costs in excess of the amount appropriated, unless the appropriated amount is increased as provided herein. Outside Counsel shall be responsible for notifying Co-General Counsel that the aforesaid appropriated amount will be expended before completion of the work required hereunder and that Outside Counsel will need additional funds if ACTA desires further work. Outside Counsel shall give written notice to Co-General Counsel when Outside Counsel's expenditures under this Agreement are equal to sixty percent (60%) and eighty percent (80%) of the total dollar value appropriated for this Agreement so that Co-General Counsel has sufficient time to consider whether it desires to seek an additional appropriation and written amendment to the Agreement.

C. Fees

ACTA shall pay Outside Counsel for the services performed by Outside Counsel which are reasonably necessary. The fees for such services shall be based upon the time expended to render the required services, with fractions thereof being stated to the tenth of an hour, and shall be computed at a rate not to exceed the rates specified for each category of staff as listed in Exhibit A.

D. ACTA's Reservation of Rights to Obtain Reimbursement

ACTA shall pay Outside Counsel based on Outside Counsel's submission of monthly billing statements consistent with the provisions of this Agreement. Even though ACTA makes payment pursuant to billing statements, ACTA shall have the right to demand reimbursement any time ACTA determines that previously paid costs and expenses were not properly billed by Outside Counsel. Outside Counsel shall promptly reimburse ACTA for such costs and expenses previously paid by ACTA.

E. Expenses

ACTA shall reimburse Outside Counsel for reasonable, actual out-of-pocket expenses enumerated below incurred in performing the work specified herein. Such out-of-pocket expenses over \$50.00 must be supported by appropriate documentation for reimbursement. Absent the express prior written approval of Co-General Counsel, ACTA will not pay for any extraordinary expenses incurred in any legal matter. Co-General Counsel must approve in writing any item of expense that exceeds \$1,000. Such expenses include, but are not limited to, expert witnesses, consultant services, investigative services, computer litigation support services, videotaping of depositions, temporary office help, travel expenses, meals as well as other expenses. Outside Counsel shall note that ACTA is exempt from all filing fee charges.

1. Reimbursable ordinary expenses shall include, but are not limited to:

a) Deposition fees. ACTA expects Outside Counsel to keep the costs of deposition transcripts to a minimum. When depositions are taken and Outside Counsel receives the original deposition transcript, ACTA shall not pay the court reporter's fee for providing Outside Counsel with an extra photocopy of the deposition transcript. ACTA expects Outside Counsel to make a photocopy of the original deposition transcript at Outside Counsel's office. Likewise, when attending depositions of third parties or third-party witnesses, ACTA requests that, if Outside Counsel believes an additional copy of the deposition transcript is necessary, Outside Counsel agree with opposing counsel to share the costs. Prior written approval from Co-General Counsel must be obtained before ordering any expedited original or expedited copy of a deposition transcript.

b) Deposition summaries, if necessary, should be brief and should be completed by the deposing attorney. ACTA shall not pay for a paralegal or other lawyer to summarize the deposition transcript unless trial is imminent. ACTA shall not pay for summaries that are, in effect, a complete regurgitation of the underlying deposition.

c) Transcript fees.

- d) Messenger service. Note that where possible, documents should be transmitted via email or facsimile.
- e) Process service.
- f) In-house document reproduction. Outside Counsel may charge up to \$0.10 cents per page for photocopies. The billing statement shall contain the total number of copies made.

2. Reimbursable extraordinary expenses shall include charges of which Outside Counsel has obtained Co-General Counsel's prior written approval. Such expenses shall include, but are not limited to:

- a) Consultants.
- b) Expert witnesses.
- c) Investigative services.
- d) Computer Assisted Legal Research ("CALR") - ACTA's decision to retain a particular firm is based in part on the firm's expertise and knowledge. ACTA therefore assumes familiarity with the basic substantive law at issue in the matter for which the firm was retained; any exception to this general expectation should be discussed fully at the time of retention. In conducting legal research Outside Counsel is expected to utilize all appropriate sources reasonably available, including previously prepared briefs and memoranda. Should Outside Counsel determine that it is necessary to incur CALR charges in order to satisfy the terms of this Agreement, Outside Counsel shall obtain Co-General Counsel's prior written approval to charge for such expenses. No charges for CALR shall be paid by ACTA without Co-General Counsel's prior written approval of such a charge.
- e) Outside Counsel shall describe in detail in its billings any travel expenses incurred by Outside Counsel. ACTA retains the right to audit these expenses. All travel shall be reimbursed in the same manner for which the travel would be reimbursable to ACTA employees if incurred by them in the performance of their duties. All travel expenses outside the Counties of Los Angeles, San Bernardino, Orange, Riverside, Imperial, Kern, Ventura and Santa Barbara shall be subject to Co-General Counsel's prior written approval. Unapproved travel shall not be reimbursed.
- f) Lodging. A receipt shall be submitted for reimbursement of single occupancy hotel accommodation, which will be reimbursed up to the maximum allowed to an ACTA employee if incurred by them in the performance of their duties.

3. Non-reimbursable expenses shall include, but are not limited to:
 - a) Staff time or overtime for performing secretarial, clerical, or word processing functions.
 - b) Charges for time spent complying with ACTA audits or billing inquiries.
 - c) Charges for work performed which Co-General Counsel had not authorized. Such work shall be a gratuitous effort by Outside Counsel.
 - d) Expenses that are considered to be part of general law firm overhead, including but not limited to, administrative time, secretarial time, calendaring, setting up files, indexing, word processing, air conditioning, equipment rental, office supplies, meals, snacks, beverages, seminars, books or association dues, etc.
 - e) Charges for telephone services except for international long distance which shall be charged at cost.

F. Most Favored Nation

Outside Counsel represents that, as of the date hereof, the rates set forth in Exhibit A and the other economic terms and conditions provided in this Agreement, taken individually, are at least as favorable to ACTA as those provided to the Long Beach City Attorney's Office or the Los Angeles City Attorney's Office for the same type of work set forth in Section 3 of this Agreement, in the event that either of these entities are a client of Outside Counsel (individually and collectively defined herein as "Municipal Client").

If during the term of this Agreement (including any extension or renewal) Outside Counsel has in effect or places into effect an agreement with a Municipal Client that has a lower rate or other more favorable economic term or condition than provided under this Agreement (a "More Favorable Provision"), Outside Counsel shall promptly offer such More Favorable Provision to ACTA, unconditionally by providing written notice thereof to ACTA (an "MFN Notice") and, at ACTA's election, this Agreement shall be deemed to have been modified to provide ACTA with such More Favorable Provision from the date such provision is effective for Outside Counsel's Municipal Client.

Outside Counsel's failure to provide ACTA with an MFN Notice shall not limit or otherwise impact ACTA's right to enjoy the benefits of the applicable More Favorable Provision(s).

5. BILLINGS AND PAYMENT

A. Payment to Outside Counsel shall be made by ACTA from time to time in due course of payments, but not more frequently than once each month, and only upon the submission of an itemized invoice as described in this Agreement, showing in reasonable and complete detail the services rendered and reimbursable costs and expenses incurred in connection with the services rendered. Outside Counsel and ACTA mutually recognize that legal services performed under this Agreement are being paid for with public funds and that,

therefore, a heightened duty of care exists in Outside Counsel and ACTA to ensure that Outside Counsel scrupulously adheres to principles of moderation, frugality and cost consciousness in carrying out the goals of this Agreement. Outside Counsel pledges to observe a duty of reasonableness and cost-effective representation in all aspects of this Agreement.

B. Each invoice shall be signed by Outside Counsel's Supervising Attorney shall include the following certification:

"I certify under penalty of perjury that the above invoice is just and correct according to the terms of ACTA Agreement No. C0908 and that payment has not been received. I further certify that none of the items contained in said invoice have been submitted for reimbursement to any other company or agency."

Signature

Further, Outside Counsel shall certify that its members and employees have performed the work and incurred the costs and expenses in full conformance with the provisions of this Agreement and that it is entitled to receive said amount pursuant to the terms of this Agreement. In the event Co-General Counsel assigns additional matters unrelated to each other to Outside Counsel, a separate and distinct identification must be reflected on each invoice submitted to ACTA and detailed description of work performed as assigned by Co-General Counsel as described above.

C. Outside Counsel shall not bill for hours other than those expressly devoted to the tasks as authorized under this Agreement, and Outside Counsel shall not bill for time not specifically assigned by Co-General Counsel. Outside Counsel shall not use legal professionals for secretarial work, and under no circumstances, bill for time consumed by attorneys making copies or scheduling appointments or taking care of matters or work which would otherwise be performed by a clerk or a secretary. Any and all conferences and activities engaged by Outside Counsel shall be fully described in complete detail and shall only take place when assigned by Co-General Counsel.

D. ACTA shall not pay for more than one attorney doing any particular task unless Co-General Counsel has given its prior written approval. ACTA will not pay for two or more attorneys attending the same meeting, deposition or court appearance unless approved by Co-General Counsel. ACTA will pay for the time recorded by more than one attorney for in-office conferences, but only if the conference is an occasional and necessary strategy meeting relating to some significant legal event or proceeding.

E. ACTA shall not pay for duplicative time charges by two or more attorneys, e.g., for legal research, reviewing documents, drafting documents, except as approved in writing by Co-General Counsel. ACTA shall not pay for "training" or "apprenticeship" time. ACTA shall not pay for the involvement of attorneys who work on the case irregularly or sporadically, unless a particular attorney has a special expertise that substantially advances a particular project or the prosecution/defense of a case.

F. Use of paralegals is encouraged providing they meet the requirements set forth herein. Assignment of work to paralegals should not result in duplicative activity between attorneys and paralegals, or the reworking or rewriting of paralegals' work product by attorneys. ACTA shall not pay for paralegal time spent performing clerical/secretarial work (e.g., filing, indexing, sorting, organizing, photocopying and bates stamping documents) unless Co-General Counsel has given its prior written approval. ACTA expects paralegals to perform true paralegal work, e.g., research, document productions, preparing discovery or responses, interviewing witnesses, etc.

G. Billings under this Agreement shall not be made in more than one-tenth of an hour (six minute) increments, and shall represent the devotion of a full six minutes before such an increment is billed. Under no circumstances shall Outside Counsel use "block billing" procedures, wherein a list of series of activities is done each day with only an aggregate amount of time specified. Instead, Outside Counsel shall provide a detailed specific entry for each separate task and sub-task reflecting the time for such task or subtask. All tasks set forth in Outside Counsel's billing documentation shall be highly specific and highly detailed. Overly generalized listings of task descriptions such as "review contract", "prepare for negotiations", "review/send communications" or similar entries shall not be acceptable. Outside Counsel shall provide detailed descriptions providing a meaningful record to an independent auditor reviewing said task description.

H. Each billing statement shall be identified by a unique number and itemized to include:

- a) Project name;
- b) Staffing level(s), hourly rates and specific activities for each attorney and/or paralegal;
 - 1) Each activity shall be billed in a reporting format as set forth in Exhibit B.
 - 2) A detailed description of specific activities for each attorney and/or paralegal shall include, but is not limited to:
 - (a) In-person conferences.
 - (b) Telephone calls.
 - (c) Correspondence.
 - (d) Research, including computerized legal research.
 - (e) Travel.
- c) Total current monthly expenses billed in the following categories:
 - 1) Consultant and expert witness expenses;
 - 2) Deposition and transcript expenses;
 - 3) Other miscellaneous expenses.
 - 4) Total cumulative expenses to date billed in (1)-(3).
- d) Total cumulative fees and expenses billed to date on project/matter.

Outside Counsel shall submit appropriate supporting documents with each billing statement. Such documents may include provider invoices, payrolls, and time sheets. ACTA may require, and Outside Counsel shall provide, all documents reasonably required to determine whether amounts on the billing statement are allowable expenses under this Agreement.

I. For payment and processing, all original billing statements should be sent to the following address:

Accounts Payable Department
Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, CA 90806

In addition to, or in lieu of, mailing invoices per the above instructions, Consultant may email invoices to accountspayable@acta.org, and Consultant shall be responsible for confirming receipt of emailed invoices. ACTA shall not be responsible for invoices incorrectly emailed or not received due to technical issues, regardless of the source of such issues.

6. GENERAL CONDITIONS

A. Termination or Suspension of Legal Services

1. Termination/Suspension For ACTA's Convenience

The ACTA Governing Board, in its sole discretion, may terminate and cancel all or part of this Agreement for any reason upon giving Outside Counsel ten (10) days' notice in writing of its election to cancel and terminate this Agreement.

After receiving a notice of termination or suspension, unless otherwise directed by Co-General Counsel, Outside Counsel shall:

- 1) Stop services on the date and to the extent specified in the notice;
- 2) Continue to perform services not terminated or suspended by the notice;
- 3) Submit final billing for services rendered through the time of termination no later than thirty (30) calendar days from the effective date of termination; and
- 4) If Outside Counsel fails to submit a final billing within the time allowed, Co-General Counsel may determine the amount, if any, to be paid to Outside Counsel. Outside Counsel agrees that Co-General Counsel's determination shall be final.

2. Termination For Outside Counsel's Default

Services performed under this Agreement may be terminated in whole or in part by ACTA upon a default by Outside Counsel. Under this Agreement, Outside Counsel will be deemed in default if Outside Counsel:

- 1) Fails to perform the service(s) within the specified time period; or
- 2) Fails to perform any of the provisions contained in this Agreement; or
- 3) Fails to make adequate progress in the matter and endangers the performance of this Agreement's terms.

If ACTA terminates services under this Section 6.A.2, ACTA may obtain alternative legal services with terms and in a manner ACTA deems appropriate. In addition to any other remedies provided by this Agreement, law or equity, Outside Counsel shall be liable to ACTA for any excess costs associated with obtaining and utilizing alternative legal services.

3. Closing Report Upon Termination

If requested by Co-General Counsel, Outside Counsel shall deliver a Closing Report within two days of the termination of services. The Closing Report shall include, but is not limited to, a description of the status of projects handled by Outside Counsel prior to termination. Outside Counsel shall give Co-General Counsel all evidence, files and attorney work product for every matter in which Outside Counsel has represented ACTA, including but not limited to any computerized indices, programs and document retrieval systems created or used for the matter.

B. Independent Contractor Status

This Agreement is between ACTA and Outside Counsel and is not intended, and shall not be construed, to create, as between ACTA and Outside Counsel, the relationship of agent, servant, employee, partnership, joint venture or association. Outside Counsel understands and agrees that all Outside Counsel personnel furnishing services to ACTA under this Agreement are employees solely of Outside Counsel and not ACTA. Outside Counsel shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any Outside Counsel personnel for injuries arising from services performed under this Agreement.

C. Ownership of Documents

All information, documents, records, reports, data, or other materials furnished to Outside Counsel or other such information, documents, records, data or other materials to which Outside Counsel has access during their performance pursuant to this Agreement are deemed confidential and shall remain the property of ACTA. Outside Counsel shall not make use of such items for any purpose unrelated to the matter involved herein and shall not make oral or written disclosure thereof, other than as necessary for their performance hereunder, without the prior written approval of ACTA.

D. Indemnity for General Liability

Except for the sole negligence or willful misconduct of ACTA, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Outside Counsel undertakes and agrees to defend, indemnify and hold harmless ACTA, its Board, and any of its Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees

(both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by ACTA, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Outside Counsel's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, or omissions or willful misconduct incident to the performance of this Agreement by Outside Counsel or its subcontractors of any tier. Rights and remedies available to ACTA under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

E. Indemnity for Professional Liability

Except for the sole negligence or willful misconduct of ACTA, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Outside Counsel undertakes and agrees to defend, indemnify and hold harmless ACTA and any and all of its Boards, Officers, Agents, or Employees, Assigns and Successors in Interest from and against all claims, charges, demands, costs, expenses (including counsel fees), judgments, civil fines and penalties, liabilities or losses of any kind or nature whatsoever which may be sustained or suffered by or secured against ACTA, its Boards, Officers, Agents, Employees, Assigns and Successors in Interest by reason of any damage to property, injury to persons, or any action that may arise out of the performance of this Agreement that is caused by any negligent acts, errors, or omissions, or willful misconduct of Outside Counsel, its boards, officers, agents, employees, or subconsultants.

F. Workers' Compensation

Outside Counsel shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that the Outside Counsel shall comply with such provisions before commencing the performance of the tasks under this Agreement. Outside Counsel shall submit Workers' Compensation policies, whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Workers' Compensation and occupational disease requirements shall include coverage for all employees of Outside Counsel, and for all employees of any subcontractor or other vendor retained by Outside Counsel.

G. Professional Liability Insurance

Outside Counsel is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Outside Counsel certifies that it now has professional liability insurance in the amount of One Million Dollars (\$1,000,000), which covers work to be performed pursuant to this

Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of this Agreement and until two (2) years following termination or completion of services pursuant to this Agreement.

- a) Carrier Requirements: All insurance which Outside Counsel is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.
- b) Notice of Cancellation: In the event that Outside Counsel receives notice of intended cancellation of the above described Professional Liability Insurance policy, or that coverage limits will be reduced below \$1,000,000, Outside Counsel shall immediately provide written notice of same to ACTA and Co-General Counsel.
- c) Modification of Coverage: ACTA's Chief Executive Office, at his or her discretion, based upon recommendation of independent insurance consultants to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Outside Counsel.
- d) Renewal of Policies: At least thirty (30) days prior to the expiration of each policy, Outside Counsel shall furnish to ACTA a renewal endorsement or renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified above. If Outside Counsel neglects or fails to secure or maintain the insurance required above, ACTA's Chief Executive Officer may, at his or her own option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance will be deducted from the next payment due Outside Counsel.

H. Validity

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

I. Waiver

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any future breach of the provision or any breach of any other provision of this Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

J. Remedies Reserved to ACTA

The remedies reserved to ACTA shall be cumulative and additional to any other remedies provided in law or equity.

K. Authorization for Warranty

Outside Counsel represents and warrants that the signatory to this Agreement is fully authorized to obligate Outside Counsel and that all corporate acts necessary to the execution of this Agreement have been accomplished.

L. Changes and Written Amendment of Terms

Material changes to this Agreement shall only be effective upon the execution of a mutually-approved written amendment.

7. AUTHORIZED REPRESENTATIVES

ACTA's Co-General Counsel represents ACTA on all matters related to this Agreement.

8. NOTICES

The following addresses shall serve as the places to which notices and other correspondence between the parties shall be sent:

A. Outside Counsel: Seymour Everett, Esq.
Everett Dorey LLP
18300 Von Karman Ave., Suite 900
Irvine, California 92612

B. ACTA Co-General Counsel:

Long Beach Office of the City Attorney
411 West Ocean Blvd, 9th Floor
Long Beach, CA 90802
Attention: ACTA Co-General Counsel

Los Angeles Office of the City Attorney
Harbor Division
425 S. Palos Verdes Street
San Pedro, CA 90731
Attention: ACTA Co-General Counsel

C. ACTA: ACTA
Kevin Scott
Chief Financial Officer
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806

All such notices shall be delivered personally to the other parties, or shall be deposited in the United States mail, properly addressed as aforesaid, with postage fully prepaid by certified or registered mail, and shall be effective upon receipt.

9. EMPLOYMENT OF OTHER COUNSEL, SPECIALISTS OR EXPERTS

Outside Counsel will not employ or otherwise incur any obligation, pay other counsel, specialists or experts for services in connection with this Agreement without prior written approval of Co-General Counsel.

10. AUDIT AND INSPECTION OF RECORDS

For at least three years after completion of services under this Agreement or termination of this Agreement, Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement, shall maintain backup documentation to support all entries included in the monthly billing statement. Such backup documentation shall be maintained in an auditable format and in accordance with generally accepted accounting principles. ACTA, at its sole discretion, may, at any time up to three years beyond the completion of services or termination of this Agreement, audit Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement. Outside Counsel and any such third parties shall promptly and fully cooperate with the audit, including affording ACTA, Co-General Counsel and/or its auditors access to records and files maintained by Outside Counsel and the third party.

11. SMALL BUSINESS ENTERPRISE PROGRAM

It is the policy of ACTA to provide Small Business Enterprises (SBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Outside Counsel shall assist ACTA in implementing ACTA's Small Business Program and shall use its best efforts to afford the opportunity for SBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement.

12. MERGER

This Agreement supersedes all prior communications and all previous written and oral agreements, and shall constitute the complete and exclusive statement of understanding between ACTA, Co-General Counsel and Outside Counsel relating to the subject matter of this Agreement.

13. COMPLIANCE WITH APPLICABLE LAWS

Outside Counsel shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations.

14. GOVERNING LAW / VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

15. TRADEMARKS, COPYRIGHTS, AND PATENTS

Outside Counsel agrees to save, keep, hold harmless, protect and indemnify ACTA and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by ACTA of any materials supplied by Outside Counsel in the performance of this Agreement.

16. PROPRIETARY INFORMATION

The Outside Counsel may not disclose to any party without ACTA's permission any information developed pursuant to this Agreement. ACTA will, however, have the right to disclose the information as it determines appropriate considering the nature of the information, its use and the laws applicable to ACTA.

17. CONFIDENTIALITY

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Outside Counsel relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Outside Counsel or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Outside Counsel is required to safeguard such information from access by unauthorized personnel.

18. TAXPAYER IDENTIFICATION NUMBER (TIN)

The Internal Revenue Service (IRS) requires that all consultants and suppliers of materials and supplies provide a TIN to the party that pays them. Outside Counsel declares that it has an authorized TIN. No payments will be made under this Agreement without a valid TIN.

19. NO ASSIGNMENT

This Agreement contemplates the personal professional services of Outside Counsel, its members and professional employees, and it is acknowledged by the parties hereto that a substantial inducement to ACTA for entering into this Agreement was, and is, the professional reputation and competence of Outside Counsel. Neither this Agreement nor any interest therein may be assigned. Any attempt by Outside Counsel to assign or subcontract services

relating to this Agreement without prior written consent shall constitute a material breach of this Agreement.

20. INTEGRATION

This document constitutes the entire Agreement between the parties to this Agreement with respect to the subject matter set forth and supersedes any and all prior Agreements or contracts on this subject matter between the parties, either oral or written. This Agreement may not be amended, waived, or extended, in whole or in part, except in writing signed by both parties.

21. SEVERABILITY

Should any part of this Agreement be found to be invalid, the remainder of this Agreement is to continue in full force and effect.

22. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

The use of electronic signatures herein, or in any amendments to this Agreement, and any electronic records related to this Agreement (including, without limitation, any agreement or other record created, generated, sent, communicated, received, or stored by electronic means), shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transaction Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

The words "execution," "signed," "signature," and words of like import in this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf" "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign or Acrobat Sign).

The parties agree that electronically signed and/or electronically transmitted signatures shall be conclusive proof, admissible in judicial proceedings, of such party's execution of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date to the left of their signatures.

ALAMEDA CORRIDOR TRANSPORTATION
AUTHORITY

Date _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

EVERETT DOREY LLP

Date _____

By: _____
Seymour Everett, Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By: _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A

EVERETT DOREY LLP AGREEMENT NO. C0908

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Seymour Everett	Partner	\$310	\$322	\$335	\$348
Samantha Dorey	Partner	\$310	\$322	\$335	\$348
Stacy Douglas	Partner	\$310	\$322	\$335	\$348
Christopher Lee	Partner	\$310	\$322	\$335	\$348
Diana Chao	Partner	\$310	\$322	\$335	\$348

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Partner/Sr. Counsel	\$310	\$322	\$335	\$348
Associate	\$265	\$276	\$287	\$298
Paralegal	\$125	\$130	\$135	\$140

EXHIBIT B
SAMPLE INVOICE
(Legal Firm Letterhead)

Alameda Corridor Transportation Authority
Attention: Kevin Scott, CFO
3760 Kilroy Airport Way, Suite #200
Long Beach, CA 90806

Invoice #:

Invoice Date:

Invoice Period:
Project Name/Matter Number:

Professional Services

<u>Date</u>	<u>Timekeeper</u>	<u>Position</u>	<u>Description of Services</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
Total Professional Services						<hr/> <u>\$ -</u>

Expenses/Disbursements

<u>Date</u>	<u>Timekeeper</u>	<u>Position</u>	<u>Description</u>	<u>Amount</u>	<u>Rate</u>	<u>Total</u>
						\$ -
						\$ -
Total Expenses						<hr/> <u>\$ -</u>
<u>Total Invoice Amount</u>						<hr/> <u>\$ -</u>

Total Cumulative Fees and Expenses Billed to
Date on Project/Matter \$ -

I certify under penalty of perjury that the above invoice is just and correct according to the terms of ACTA Agreement No. _____ and that payment has not been received. I further certify that none of the items contained in said invoice have been submitted for reimbursement to any other company or agency.

Signature

ACTA AGREEMENT NO. C0909

AGREEMENT BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND
ORBACH HUFF & HENDERSON LLP

THIS AGREEMENT is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY (“ACTA”), a Joint Powers Authority, acting by and through its Governing Board, and ORBACH HUFF & HENDERSON LLP, located at 1901 Avenue of the Stars, Suite 575, Los Angeles, California 90067 (“Outside Counsel”).

WHEREAS, ACTA has a need for specialized legal services involving general transaction and litigation matters including real property, construction, employment and environmental issues and other advice; and

WHEREAS, Outside Counsel indicates that it has the expertise and competence to perform the professional legal services sought by ACTA; and

WHEREAS, ACTA has selected Outside Counsel to provide such services from time to time as directed by ACTA’s Co-General Counsel, and Outside Counsel desires to provide such services to ACTA and is able to do so without a conflict of interest; and

NOW, THEREFORE, in consideration of the promises, covenants, terms and conditions contained herein, the parties hereby covenant, agree and represent as follows:

1. SCOPE OF REPRESENTATION AND PARTNERING

Outside Counsel is retained to assist ACTA’s Co-General Counsel in providing legal services for ACTA acting by and through its Governing Board. Outside Counsel shall at all times work under the direction of ACTA’s Co-General Counsel. ACTA and its Co-General Counsel shall rely on the competence, expertise and experience of Outside Counsel. At all times, Outside Counsel shall provide professional legal advice and services at the highest level expected of law firms providing legal services in the Los Angeles region. This is a non-exclusive agreement to provide legal services to ACTA and ACTA may, at its discretion, augment the services with another law firm or law firms or select to terminate Outside Counsel’s services in a manner consistent with this Agreement.

ACTA and Outside Counsel recognize and agree that an important purpose of this Agreement is to promote effective collaboration between its Co-General Counsel and Outside Counsel so that, among other things, Co-General Counsel is able to gain familiarity with the legal issues presented in these matters and for Outside Counsel to impart substantive subject matter knowledge to ACTA’s lawyers. To this end, ACTA’s Co-General Counsel and Outside Counsel both agree to make reasonable efforts to coordinate their efforts and work.

2. TERM OF AGREEMENT

The term of this agreement shall be deemed to commence upon the date of signature by ACTA's CEO and, subject to the provisions of Section 6(A), shall be for a term of five years.

3. OUTSIDE COUNSEL SERVICES AND RESPONSIBILITIES

It is understood that ACTA's Co-General Counsel renders day-to-day and on-going legal services to ACTA, and that Outside Counsel shall perform its services hereunder at the direction of Co-General Counsel. Subject to the general supervision of Co-General Counsel, Outside Counsel shall perform legal services as may be necessary or desirable in connection with general litigation matters and other advice and representation as required. It is understood that Outside Counsel shall function as attorneys at law in the independent practice of its profession and not as employees of ACTA.

A. Professional Ethics and Conflicts of Interest

ACTA recognizes that Outside Counsel may have clients that, from time to time, may have interests adverse to ACTA. Any such representation shall be in accordance with the ethical duties of members of the State Bar of California including, without limitation, those established by the Bar's Rules of Professional Conduct. Outside Counsel shall send written notice to Co-General Counsel of any actual or potential conflict of interest with ACTA that exists during Outside Counsel's engagement under this Agreement and request a waiver of such conflict by Co-General Counsel. The request for waiver shall describe in detail the nature of the proposed engagement by Outside Counsel, the nature of the conflict, and why Outside Counsel believes a waiver is appropriate. Outside Counsel's representation of ACTA does not create an attorney/client relationship with any of ACTA's member agencies.

B. Key Outside Counsel Personnel

1. Outside Counsel's Supervising Attorney for this Agreement shall be David Huff. Outside Counsel's Supervising Attorney shall not be changed without Co-General Counsel's written authorization.

2. Outside Counsel's Supervising Attorney shall have full authority to act for Outside Counsel on all daily operational matters under this Agreement and shall serve as or designate Lead Counsel for all matters performed pursuant to this Agreement. Designation of a Lead Counsel other than the Supervising Attorney shall be subject to Co-General Counsel's prior written approval.

C. Legal Representation

1. Outside Counsel shall provide ACTA with the necessary representation by qualified staff at the least costly billing category. The names of personnel authorized to provide services under this Agreement and the hourly rates for each staff member are listed in Exhibit A, attached hereto and incorporated herein.

2. Any use of personnel other than as enumerated in Exhibit A shall be subject to

the prior written approval of Co-General Counsel. Outside Counsel may hire consultants, but only with the prior written approval of Co-General Counsel. Outside Counsel may retain other law firms or attorneys as subcontractors to provide the legal services covered by this Agreement, but only with the prior written approval of Co-General Counsel. Any such written approval of subcontractors must set forth the name of each approved attorney or other personnel and the agreed rate for such individual. Outside Counsel will require any such subcontractors or consultants to comply with the terms and conditions of this Agreement and will indemnify, defend and forever hold harmless ACTA from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) arising out of any negligent acts errors, or omissions or willful misconduct of any such subcontractors or consultants.

3. Outside Counsel shall provide all required reports referenced in this Agreement.

4. Outside Counsel shall meet with Co-General Counsel as requested.

5. Outside Counsel shall consult with Co-General Counsel on trial and tactical decisions.

6. Outside Counsel shall maintain all backup documentation to support all entries included in its billings.

4. COMPENSATION

A. Not To Exceed Amount

For the services rendered to ACTA by Outside Counsel pursuant to this Agreement, ACTA shall pay Outside Counsel at hourly rates not-to-exceed the hourly rates attached hereto as Exhibit A, which rates shall remain in effect for the term of this Agreement. All fees and expenses billed pursuant to this Agreement shall not exceed Seventy Thousand Dollars (\$75,000) without prior mutual agreement of the parties and a written amendment.

B. Outside Counsel's Obligation For Continued Performance

In the event that Outside Counsel's fees, costs and expenses, in the aggregate, exceed the amount appropriated by ACTA as provided herein, Outside Counsel shall not be obligated to provide services or incur any further costs or expenses on the work required hereunder, and ACTA shall not be liable for fees or costs in excess of the amount appropriated, unless the appropriated amount is increased as provided herein. Outside Counsel shall be responsible for notifying Co-General Counsel that the aforesaid appropriated amount will be expended before completion of the work required hereunder and that Outside Counsel will need additional funds if ACTA desires further work. Outside Counsel shall give written notice to Co-General Counsel when Outside Counsel's expenditures under this Agreement are equal to sixty percent (60%) and eighty percent (80%) of the total dollar value appropriated for this Agreement so that Co-General Counsel has sufficient time to consider whether it desires to seek an additional appropriation and written amendment to the Agreement.

C. Fees

ACTA shall pay Outside Counsel for the services performed by Outside Counsel which are reasonably necessary. The fees for such services shall be based upon the time expended to render the required services, with fractions thereof being stated to the tenth of an hour, and shall be computed at a rate not to exceed the rates specified for each category of staff as listed in Exhibit A.

D. ACTA's Reservation of Rights to Obtain Reimbursement

ACTA shall pay Outside Counsel based on Outside Counsel's submission of monthly billing statements consistent with the provisions of this Agreement. Even though ACTA makes payment pursuant to billing statements, ACTA shall have the right to demand reimbursement any time ACTA determines that previously paid costs and expenses were not properly billed by Outside Counsel. Outside Counsel shall promptly reimburse ACTA for such costs and expenses previously paid by ACTA.

E. Expenses

ACTA shall reimburse Outside Counsel for reasonable, actual out-of-pocket expenses enumerated below incurred in performing the work specified herein. Such out-of-pocket expenses over \$50.00 must be supported by appropriate documentation for reimbursement. Absent the express prior written approval of Co-General Counsel, ACTA will not pay for any extraordinary expenses incurred in any legal matter. Co-General Counsel must approve in writing any item of expense that exceeds \$1,000. Such expenses include, but are not limited to, expert witnesses, consultant services, investigative services, computer litigation support services, videotaping of depositions, temporary office help, travel expenses, meals as well as other expenses. Outside Counsel shall note that ACTA is exempt from all filing fee charges.

1. Reimbursable ordinary expenses shall include, but are not limited to:

a) Deposition fees. ACTA expects Outside Counsel to keep the costs of deposition transcripts to a minimum. When depositions are taken and Outside Counsel receives the original deposition transcript, ACTA shall not pay the court reporter's fee for providing Outside Counsel with an extra photocopy of the deposition transcript. ACTA expects Outside Counsel to make a photocopy of the original deposition transcript at Outside Counsel's office. Likewise, when attending depositions of third parties or third-party witnesses, ACTA requests that, if Outside Counsel believes an additional copy of the deposition transcript is necessary, Outside Counsel agree with opposing counsel to share the costs. Prior written approval from Co-General Counsel must be obtained before ordering any expedited original or expedited copy of a deposition transcript.

- b) Deposition summaries, if necessary, should be brief and should be completed by the deposing attorney. ACTA shall not pay for a paralegal or other lawyer to summarize the deposition transcript unless trial is imminent. ACTA shall not pay for summaries that are, in effect, a complete regurgitation of the underlying deposition.
- c) Transcript fees.
- d) Messenger service. Note that where possible, documents should be transmitted via email or facsimile.
- e) Process service.
- f) In-house document reproduction. Outside Counsel may charge up to \$0.10 cents per page for photocopies. The billing statement shall contain the total number of copies made.

2. Reimbursable extraordinary expenses shall include charges of which Outside Counsel has obtained Co-General Counsel's prior written approval. Such expenses shall include, but are not limited to:

- a) Consultants.
- b) Expert witnesses.
- c) Investigative services.
- d) Computer Assisted Legal Research ("CALR") - ACTA's decision to retain a particular firm is based in part on the firm's expertise and knowledge. ACTA therefore assumes familiarity with the basic substantive law at issue in the matter for which the firm was retained; any exception to this general expectation should be discussed fully at the time of retention. In conducting legal research Outside Counsel is expected to utilize all appropriate sources reasonably available, including previously prepared briefs and memoranda. Should Outside Counsel determine that it is necessary to incur CALR charges in order to satisfy the terms of this Agreement, Outside Counsel shall obtain Co-General Counsel's prior written approval to charge for such expenses. No charges for CALR shall be paid by ACTA without Co-General Counsel's prior written approval of such a charge.
- e) Outside Counsel shall describe in detail in its billings any travel expenses incurred by Outside Counsel. ACTA retains the right to audit these expenses. All travel shall be reimbursed in the same manner for which the travel would be reimbursable to ACTA employees if incurred by them in the performance of their duties. All travel expenses outside the Counties of Los Angeles, San Bernardino, Orange, Riverside, Imperial, Kern, Ventura and Santa Barbara shall be subject to Co-General Counsel's prior written approval. Unapproved travel shall not be reimbursed.

f) Lodging. A receipt shall be submitted for reimbursement of single occupancy hotel accommodation, which will be reimbursed up to the maximum allowed to an ACTA employee if incurred by them in the performance of their duties.

3. Non-reimbursable expenses shall include, but are not limited to:

a) Staff time or overtime for performing secretarial, clerical, or word processing functions.

b) Charges for time spent complying with ACTA audits or billing inquiries.

c) Charges for work performed which Co-General Counsel had not authorized. Such work shall be a gratuitous effort by Outside Counsel.

d) Expenses that are considered to be part of general law firm overhead, including but not limited to, administrative time, secretarial time, calendaring, setting up files, indexing, word processing, air conditioning, equipment rental, office supplies, meals, snacks, beverages, seminars, books or association dues, etc.

e) Charges for telephone services except for international long distance which shall be charged at cost.

F. Most Favored Nation

Outside Counsel represents that, as of the date hereof, the rates set forth in Exhibit A and the other economic terms and conditions provided in this Agreement, taken individually, are at least as favorable to ACTA as those provided to the Long Beach City Attorney's Office or the Los Angeles City Attorney's Office for the same type of work set forth in Section 3 of this Agreement, in the event that either of these entities are a client of Outside Counsel (individually and collectively defined herein as "Municipal Client").

If during the term of this Agreement (including any extension or renewal) Outside Counsel has in effect or places into effect an agreement with a Municipal Client that has a lower rate or other more favorable economic term or condition than provided under this Agreement (a "More Favorable Provision"), Outside Counsel shall promptly offer such More Favorable Provision to ACTA, unconditionally by providing written notice thereof to ACTA (an "MFN Notice") and, at ACTA's election, this Agreement shall be deemed to have been modified to provide ACTA with such More Favorable Provision from the date such provision is effective for Outside Counsel's Municipal Client.

Outside Counsel's failure to provide ACTA with an MFN Notice shall not limit or otherwise impact ACTA's right to enjoy the benefits of the applicable More Favorable Provision(s).

5. BILLINGS AND PAYMENT

A. Payment to Outside Counsel shall be made by ACTA from time to time in due course of payments, but not more frequently than once each month, and only upon the

submission of an itemized invoice as described in this Agreement, showing in reasonable and complete detail the services rendered and reimbursable costs and expenses incurred in connection with the services rendered. Outside Counsel and ACTA mutually recognize that legal services performed under this Agreement are being paid for with public funds and that, therefore, a heightened duty of care exists in Outside Counsel and ACTA to ensure that Outside Counsel scrupulously adheres to principles of moderation, frugality and cost consciousness in carrying out the goals of this Agreement. Outside Counsel pledges to observe a duty of reasonableness and cost-effective representation in all aspects of this Agreement.

B. Each invoice shall be signed by Outside Counsel's Supervising Attorney shall include the following certification:

"I certify under penalty of perjury that the above invoice is just and correct according to the terms of ACTA Agreement No. C0909 and that payment has not been received. I further certify that none of the items contained in said invoice have been submitted for reimbursement to any other company or agency."

Signature

Further, Outside Counsel shall certify that its members and employees have performed the work and incurred the costs and expenses in full conformance with the provisions of this Agreement and that it is entitled to receive said amount pursuant to the terms of this Agreement. In the event Co-General Counsel assigns additional matters unrelated to each other to Outside Counsel, a separate and distinct identification must be reflected on each invoice submitted to ACTA and detailed description of work performed as assigned by Co-General Counsel as described above.

C. Outside Counsel shall not bill for hours other than those expressly devoted to the tasks as authorized under this Agreement, and Outside Counsel shall not bill for time not specifically assigned by Co-General Counsel. Outside Counsel shall not use legal professionals for secretarial work, and under no circumstances, bill for time consumed by attorneys making copies or scheduling appointments or taking care of matters or work which would otherwise be performed by a clerk or a secretary. Any and all conferences and activities engaged by Outside Counsel shall be fully described in complete detail and shall only take place when assigned by Co-General Counsel.

D. ACTA shall not pay for more than one attorney doing any particular task unless Co-General Counsel has given its prior written approval. ACTA will not pay for two or more attorneys attending the same meeting, deposition or court appearance unless approved by Co-General Counsel. ACTA will pay for the time recorded by more than one attorney for in-office conferences, but only if the conference is an occasional and necessary strategy meeting relating to some significant legal event or proceeding.

E. ACTA shall not pay for duplicative time charges by two or more attorneys, e.g., for legal research, reviewing documents, drafting documents, except as approved in writing by Co-General Counsel. ACTA shall not pay for "training" or "apprenticeship" time. ACTA shall not pay for the involvement of attorneys who work on the case irregularly or sporadically,

unless a particular attorney has a special expertise that substantially advances a particular project or the prosecution/defense of a case.

F. Use of paralegals is encouraged providing they meet the requirements set forth herein. Assignment of work to paralegals should not result in duplicative activity between attorneys and paralegals, or the reworking or rewriting of paralegals' work product by attorneys. ACTA shall not pay for paralegal time spent performing clerical/secretarial work (e.g., filing, indexing, sorting, organizing, photocopying and bates stamping documents) unless Co-General Counsel has given its prior written approval. ACTA expects paralegals to perform true paralegal work, e.g., research, document productions, preparing discovery or responses, interviewing witnesses, etc.

G. Billings under this Agreement shall not be made in more than one-tenth of an hour (six minute) increments, and shall represent the devotion of a full six minutes before such an increment is billed. Under no circumstances shall Outside Counsel use "block billing" procedures, wherein a list of series of activities is done each day with only an aggregate amount of time specified. Instead, Outside Counsel shall provide a detailed specific entry for each separate task and sub-task reflecting the time for such task or subtask. All tasks set forth in Outside Counsel's billing documentation shall be highly specific and highly detailed. Overly generalized listings of task descriptions such as "review contract", "prepare for negotiations", "review/send communications" or similar entries shall not be acceptable. Outside Counsel shall provide detailed descriptions providing a meaningful record to an independent auditor reviewing said task description.

H. Each billing statement shall be identified by a unique number and itemized to include:

- a) Project name;
- b) Staffing level(s), hourly rates and specific activities for each attorney and/or paralegal;
 - 1) Each activity shall be billed in a reporting format as set forth in Exhibit B.
 - 2) A detailed description of specific activities for each attorney and/or paralegal shall include, but is not limited to:
 - (a) In-person conferences.
 - (b) Telephone calls.
 - (c) Correspondence.
 - (d) Research, including computerized legal research.
 - (e) Travel.
- c) Total current monthly expenses billed in the following categories:
 - 1) Consultant and expert witness expenses;
 - 2) Deposition and transcript expenses;
 - 3) Other miscellaneous expenses.

- 4) Total cumulative expenses to date billed in (1)-(3).
- d) Total cumulative fees and expenses billed to date on project/matter.

Outside Counsel shall submit appropriate supporting documents with each billing statement. Such documents may include provider invoices, payrolls, and time sheets. ACTA may require, and Outside Counsel shall provide, all documents reasonably required to determine whether amounts on the billing statement are allowable expenses under this Agreement.

I. For payment and processing, all original billing statements should be sent to the following address:

Accounts Payable Department
Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, CA 90806

In addition to, or in lieu of, mailing invoices per the above instructions, Consultant may email invoices to accountspayable@acta.org, and Consultant shall be responsible for confirming receipt of emailed invoices. ACTA shall not be responsible for invoices incorrectly emailed or not received due to technical issues, regardless of the source of such issues.

6. GENERAL CONDITIONS

A. Termination or Suspension of Legal Services

1. Termination/Suspension For ACTA's Convenience

The ACTA Governing Board, in its sole discretion, may terminate and cancel all or part of this Agreement for any reason upon giving Outside Counsel ten (10) days' notice in writing of its election to cancel and terminate this Agreement.

After receiving a notice of termination or suspension, unless otherwise directed by Co-General Counsel, Outside Counsel shall:

- 1) Stop services on the date and to the extent specified in the notice;
- 2) Continue to perform services not terminated or suspended by the notice;
- 3) Submit final billing for services rendered through the time of termination no later than thirty (30) calendar days from the effective date of termination; and
- 4) If Outside Counsel fails to submit a final billing within the time allowed, Co-General Counsel may determine the amount, if any, to be paid to Outside Counsel. Outside Counsel agrees that Co-General Counsel's determination shall be final.

2. Termination For Outside Counsel's Default

Services performed under this Agreement may be terminated in whole or in part by ACTA upon a default by Outside Counsel. Under this Agreement, Outside Counsel will be deemed in default if Outside Counsel:

- 1) Fails to perform the service(s) within the specified time period; or
- 2) Fails to perform any of the provisions contained in this Agreement; or
- 3) Fails to make adequate progress in the matter and endangers the performance of this Agreement's terms.

If ACTA terminates services under this Section 6.A.2, ACTA may obtain alternative legal services with terms and in a manner ACTA deems appropriate. In addition to any other remedies provided by this Agreement, law or equity, Outside Counsel shall be liable to ACTA for any excess costs associated with obtaining and utilizing alternative legal services.

3. Closing Report Upon Termination

If requested by Co-General Counsel, Outside Counsel shall deliver a Closing Report within two days of the termination of services. The Closing Report shall include, but is not limited to, a description of the status of projects handled by Outside Counsel prior to termination. Outside Counsel shall give Co-General Counsel all evidence, files and attorney work product for every matter in which Outside Counsel has represented ACTA, including but not limited to any computerized indices, programs and document retrieval systems created or used for the matter.

B. Independent Contractor Status

This Agreement is between ACTA and Outside Counsel and is not intended, and shall not be construed, to create, as between ACTA and Outside Counsel, the relationship of agent, servant, employee, partnership, joint venture or association. Outside Counsel understands and agrees that all Outside Counsel personnel furnishing services to ACTA under this Agreement are employees solely of Outside Counsel and not ACTA. Outside Counsel shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any Outside Counsel personnel for injuries arising from services performed under this Agreement.

C. Ownership of Documents

All information, documents, records, reports, data, or other materials furnished to Outside Counsel or other such information, documents, records, data or other materials to which Outside Counsel has access during their performance pursuant to this Agreement are deemed confidential and shall remain the property of ACTA. Outside Counsel shall not make use of such items for any purpose unrelated to the matter involved herein and shall not make oral or written disclosure thereof, other than as necessary for their performance hereunder, without the prior written approval of ACTA.

D. Indemnity for General Liability

Except for the sole negligence or willful misconduct of ACTA, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Outside Counsel undertakes and agrees to defend, indemnify and hold harmless ACTA, its Board, and any of its Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by ACTA, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Outside Counsel's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, or omissions or willful misconduct incident to the performance of this Agreement by Outside Counsel or its subcontractors of any tier. Rights and remedies available to ACTA under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

E. Indemnity for Professional Liability

Except for the sole negligence or willful misconduct of ACTA, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Outside Counsel undertakes and agrees to defend, indemnify and hold harmless ACTA and any and all of its Boards, Officers, Agents, or Employees, Assigns and Successors in Interest from and against all claims, charges, demands, costs, expenses (including counsel fees), judgments, civil fines and penalties, liabilities or losses of any kind or nature whatsoever which may be sustained or suffered by or secured against ACTA, its Boards, Officers, Agents, Employees, Assigns and Successors in Interest by reason of any damage to property, injury to persons, or any action that may arise out of the performance of this Agreement that is caused by any negligent acts, errors, or omissions, or willful misconduct of Outside Counsel, its boards, officers, agents, employees, or subconsultants.

F. Workers' Compensation

Outside Counsel shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that the Outside Counsel shall comply with such provisions before commencing the performance of the tasks under this Agreement. Outside Counsel shall submit Workers' Compensation policies, whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Workers' Compensation and occupational disease requirements shall include coverage for all employees of Outside Counsel, and for all employees of any subcontractor or other vendor retained by Outside Counsel.

G. Professional Liability Insurance

Outside Counsel is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Outside Counsel certifies that it now has professional liability insurance in the amount of One Million Dollars (\$1,000,000), which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of this Agreement and until two (2) years following termination or completion of services pursuant to this Agreement.

- a) Carrier Requirements: All insurance which Outside Counsel is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.
- b) Notice of Cancellation: In the event that Outside Counsel receives notice of intended cancellation of the above described Professional Liability Insurance policy, or that coverage limits will be reduced below \$1,000,000, Outside Counsel shall immediately provide written notice of same to ACTA and Co-General Counsel.
- c) Modification of Coverage: ACTA's Chief Executive Office, at his or her discretion, based upon recommendation of independent insurance consultants to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Outside Counsel.
- d) Renewal of Policies: At least thirty (30) days prior to the expiration of each policy, Outside Counsel shall furnish to ACTA a renewal endorsement or renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified above. If Outside Counsel neglects or fails to secure or maintain the insurance required above, ACTA's Chief Executive Officer may, at his or her own option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance will be deducted from the next payment due Outside Counsel.

H. Validity

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

I. Waiver

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any future breach of the provision or any breach of any other provision of this Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

J. Remedies Reserved to ACTA

The remedies reserved to ACTA shall be cumulative and additional to any other remedies provided in law or equity.

K. Authorization for Warranty

Outside Counsel represents and warrants that the signatory to this Agreement is fully authorized to obligate Outside Counsel and that all corporate acts necessary to the execution of this Agreement have been accomplished.

L. Changes and Written Amendment of Terms

Material changes to this Agreement shall only be effective upon the execution of a mutually-approved written amendment.

7. AUTHORIZED REPRESENTATIVES

ACTA's Co-General Counsel represents ACTA on all matters related to this Agreement.

8. NOTICES

The following addresses shall serve as the places to which notices and other correspondence between the parties shall be sent:

A. Outside Counsel: David Huff, Esq.
Orbach Huff & Henderson LLP
1901 Avenue of the Stars, Suite 575
Los Angeles, California 90067

B. ACTA Co-General Counsel:

Long Beach Office of the City Attorney
411 West Ocean Blvd, 9th Floor
Long Beach, CA 90802
Attention: ACTA Co-General Counsel

Los Angeles Office of the City Attorney
Harbor Division
425 S. Palos Verdes Street
San Pedro, CA 90731

Attention: ACTA Co-General Counsel

C. ACTA: ACTA
Kevin Scott
Chief Financial Officer
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806

All such notices shall be delivered personally to the other parties, or shall be deposited in the United States mail, properly addressed as aforesaid, with postage fully prepaid by certified or registered mail, and shall be effective upon receipt.

9. EMPLOYMENT OF OTHER COUNSEL, SPECIALISTS OR EXPERTS

Outside Counsel will not employ or otherwise incur any obligation, pay other counsel, specialists or experts for services in connection with this Agreement without prior written approval of Co-General Counsel.

10. AUDIT AND INSPECTION OF RECORDS

For at least three years after completion of services under this Agreement or termination of this Agreement, Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement, shall maintain backup documentation to support all entries included in the monthly billing statement. Such backup documentation shall be maintained in an auditable format and in accordance with generally accepted accounting principles. ACTA, at its sole discretion, may, at any time up to three years beyond the completion of services or termination of this Agreement, audit Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement. Outside Counsel and any such third parties shall promptly and fully cooperate with the audit, including affording ACTA, Co-General Counsel and/or its auditors access to records and files maintained by Outside Counsel and the third party.

11. SMALL BUSINESS ENTERPRISE PROGRAM

It is the policy of ACTA to provide Small Business Enterprises (SBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Outside Counsel shall assist ACTA in implementing ACTA's Small Business Program and shall use its best efforts to afford the opportunity for SBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement.

12. MERGER

This Agreement supersedes all prior communications and all previous written and oral agreements, and shall constitute the complete and exclusive statement of understanding between ACTA, Co-General Counsel and Outside Counsel relating to the subject matter of this Agreement.

13. COMPLIANCE WITH APPLICABLE LAWS

Outside Counsel shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations.

14. GOVERNING LAW / VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

15. TRADEMARKS, COPYRIGHTS, AND PATENTS

Outside Counsel agrees to save, keep, hold harmless, protect and indemnify ACTA and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by ACTA of any materials supplied by Outside Counsel in the performance of this Agreement.

16. PROPRIETARY INFORMATION

The Outside Counsel may not disclose to any party without ACTA's permission any information developed pursuant to this Agreement. ACTA will, however, have the right to disclose the information as it determines appropriate considering the nature of the information, its use and the laws applicable to ACTA.

17. CONFIDENTIALITY

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Outside Counsel relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Outside Counsel or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Outside Counsel is required to safeguard such information from access by unauthorized personnel.

18. TAXPAYER IDENTIFICATION NUMBER (TIN)

The Internal Revenue Service (IRS) requires that all consultants and suppliers of materials and supplies provide a TIN to the party that pays them. Outside Counsel declares that it has an authorized TIN. No payments will be made under this Agreement without a valid TIN.

19. NO ASSIGNMENT

This Agreement contemplates the personal professional services of Outside Counsel, its members and professional employees, and it is acknowledged by the parties hereto that a substantial inducement to ACTA for entering into this Agreement was, and is, the professional reputation and competence of Outside Counsel. Neither this Agreement nor any interest therein may be assigned. Any attempt by Outside Counsel to assign or subcontract services relating to this Agreement without prior written consent shall constitute a material breach of this Agreement.

20. INTEGRATION

This document constitutes the entire Agreement between the parties to this Agreement with respect to the subject matter set forth and supersedes any and all prior Agreements or contracts on this subject matter between the parties, either oral or written. This Agreement may not be amended, waived, or extended, in whole or in part, except in writing signed by both parties.

21. SEVERABILITY

Should any part of this Agreement be found to be invalid, the remainder of this Agreement is to continue in full force and effect.

22. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

The use of electronic signatures herein, or in any amendments to this Agreement, and any electronic records related to this Agreement (including, without limitation, any agreement or other record created, generated, sent, communicated, received, or stored by electronic means), shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transaction Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

The words "execution," "signed," "signature," and words of like import in this Agreement shall include images of manually executed signatures transmitted by facsimile or other

electronic format (including, without limitation, "pdf" "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign or Acrobat Sign).

The parties agree that electronically signed and/or electronically transmitted signatures shall be conclusive proof, admissible in judicial proceedings, of such party's execution of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date to the left of their signatures.

ALAMEDA CORRIDOR TRANSPORTATION
AUTHORITY

Date _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

ORBACH HUFF & HENDERSON LLP

Date _____

By: _____
David Huff, Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By: _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A

ORBACH HUFF & HENDERSON LLP AGREEMENT NO. C0909

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
David Huff	Partner	\$345	\$359	\$373	\$388
Sarine Abrahamian	Partner	\$345	\$359	\$373	\$388
Philip Henderson	Partner	\$345	\$359	\$373	\$388
Enrique Vassallo	Partner	\$345	\$359	\$373	\$388
Stan Barankiewicz	Partner	\$345	\$359	\$373	\$388
Tempestt Garland	Senior Counsel	\$315	\$328	\$341	\$355

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Partner	\$345	\$359	\$373	\$388
Senior Counsel	\$315	\$328	\$341	\$355
Associate	\$295	\$307	\$319	\$332
Paralegal	\$175	\$182	\$189	\$197

EXHIBIT B
SAMPLE INVOICE
 (Legal Firm Letterhead)

Alameda Corridor Transportation Authority
 Attention: Kevin Scott, CFO
 3760 Kilroy Airport Way, Suite #200
 Long Beach, CA 90806

Invoice #:

 Invoice Date:

Invoice Period:
 Project Name/Matter Number:

Professional Services

<u>Date</u>	<u>Timekeeper</u>	<u>Position</u>	<u>Description of Services</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
Total Professional Services						\$ -

Expenses/Disbursements

<u>Date</u>	<u>Timekeeper</u>	<u>Position</u>	<u>Description</u>	<u>Amount</u>	<u>Rate</u>	<u>Total</u>
						\$ -
						\$ -
Total Expenses						\$ -

Total Invoice Amount \$ -

Total Cumulative Fees and Expenses Billed to
 Date on Project/Matter \$ -

I certify under penalty of perjury that the above invoice is just and correct according to the terms of ACTA Agreement No. _____ and that payment has not been received. I further certify that none of the items contained in said invoice have been submitted for reimbursement to any other company or agency.

 Signature

ACTA AGREEMENT NO. C0910

AGREEMENT BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND
LAW OFFICE OF SIMA SALEK

THIS AGREEMENT is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY (“ACTA”), a Joint Powers Authority, acting by and through its Governing Board, and the LAW OFFICE OF SIMA SALEK, located at 15760 Ventura Boulevard, Suite 700, Encino, California 91436 (“Outside Counsel”).

WHEREAS, ACTA has an occasional need for specialized legal services involving employment and workplace investigations; and

WHEREAS, Outside Counsel indicates that it has the expertise and competence to perform the professional legal services sought by ACTA; and

WHEREAS, ACTA has selected Outside Counsel to provide such services from time to time as directed by ACTA’s Co-General Counsel, and Outside Counsel desires to provide such services to ACTA and is able to do so without a conflict of interest; and

NOW, THEREFORE, in consideration of the promises, covenants, terms and conditions contained herein, the parties hereby covenant, agree and represent as follows:

1. SCOPE OF REPRESENTATION AND PARTNERING

Outside Counsel is retained to assist ACTA’s Co-General Counsel in providing legal services for ACTA acting by and through its Governing Board. Outside Counsel shall at all times work under the direction of ACTA’s Co-General Counsel. ACTA and its Co-General Counsel shall rely on the competence, expertise and experience of Outside Counsel. At all times, Outside Counsel shall provide professional legal advice and services at the highest level expected of law firms providing legal services in the Los Angeles region. This is a non-exclusive agreement to provide legal services to ACTA and ACTA may, at its discretion, augment the services with another law firm or law firms or select to terminate Outside Counsel’s services in a manner consistent with this Agreement.

ACTA and Outside Counsel recognize and agree that an important purpose of this Agreement is to promote effective collaboration between its Co-General Counsel and Outside Counsel so that, among other things, Co-General Counsel is able to gain familiarity with the legal issues presented in these matters and for Outside Counsel to impart substantive subject matter knowledge to ACTA’s lawyers. To this end, ACTA’s Co-General Counsel and Outside Counsel both agree to make reasonable efforts to coordinate their efforts and work.

2. TERM OF AGREEMENT

The term of this agreement shall be deemed to commence upon the date of signature by ACTA's CEO and, subject to the provisions of Section 6(A), shall be for a term of five years.

3. OUTSIDE COUNSEL SERVICES AND RESPONSIBILITIES

It is understood that ACTA's Co-General Counsel renders day-to-day and on-going legal services to ACTA, and that Outside Counsel shall perform its services hereunder at the direction of Co-General Counsel. Subject to the general supervision of Co-General Counsel, Outside Counsel shall perform legal services as may be necessary or desirable in connection with general litigation matters and other advice and representation as required. It is understood that Outside Counsel shall function as attorneys at law in the independent practice of its profession and not as employees of ACTA.

A. Professional Ethics and Conflicts of Interest

ACTA recognizes that Outside Counsel may have clients that, from time to time, may have interests adverse to ACTA. Any such representation shall be in accordance with the ethical duties of members of the State Bar of California including, without limitation, those established by the Bar's Rules of Professional Conduct. Outside Counsel shall send written notice to Co-General Counsel of any actual or potential conflict of interest with ACTA that exists during Outside Counsel's engagement under this Agreement and request a waiver of such conflict by Co-General Counsel. The request for waiver shall describe in detail the nature of the proposed engagement by Outside Counsel, the nature of the conflict, and why Outside Counsel believes a waiver is appropriate. Outside Counsel's representation of ACTA does not create an attorney/client relationship with any of ACTA's member agencies.

B. Key Outside Counsel Personnel

1. Outside Counsel's Supervising Attorney for this Agreement shall be Sima Salek. Outside Counsel's Supervising Attorney shall not be changed without Co-General Counsel's written authorization.

2. Outside Counsel's Supervising Attorney shall have full authority to act for Outside Counsel on all daily operational matters under this Agreement and shall serve as or designate Lead Counsel for all matters performed pursuant to this Agreement. Designation of a Lead Counsel other than the Supervising Attorney shall be subject to Co-General Counsel's prior written approval.

C. Legal Representation

1. Outside Counsel shall provide ACTA with the necessary representation by qualified staff at the least costly billing category. The names of personnel authorized to provide services under this Agreement and the hourly rates for each staff member are listed in Exhibit A, attached hereto and incorporated herein.

2. Any use of personnel other than as enumerated in Exhibit A shall be subject to the prior written approval of Co-General Counsel. Outside Counsel may hire consultants, but

only with the prior written approval of Co-General Counsel. Outside Counsel may retain other law firms or attorneys as subcontractors to provide the legal services covered by this Agreement, but only with the prior written approval of Co-General Counsel. Any such written approval of subcontractors must set forth the name of each approved attorney or other personnel and the agreed rate for such individual. Outside Counsel will require any such subcontractors or consultants to comply with the terms and conditions of this Agreement and will indemnify, defend and forever hold harmless ACTA from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) arising out of any negligent acts errors, or omissions or willful misconduct of any such subcontractors or consultants.

3. Outside Counsel shall provide all required reports referenced in this Agreement.

4. Outside Counsel shall meet with Co-General Counsel as requested.

5. Outside Counsel shall consult with Co-General Counsel on trial and tactical decisions.

6. Outside Counsel shall maintain all backup documentation to support all entries included in its billings.

4. COMPENSATION

A. Not To Exceed Amount

For the services rendered to ACTA by Outside Counsel pursuant to this Agreement, ACTA shall pay Outside Counsel at hourly rates not-to-exceed the hourly rates attached hereto as Exhibit A, which rates shall remain in effect for the term of this Agreement. All fees and expenses billed pursuant to this Agreement shall not exceed Fifty Thousand Dollars (\$50,000) without prior mutual agreement of the parties and a written amendment.

B. Outside Counsel's Obligation For Continued Performance

In the event that Outside Counsel's fees, costs and expenses, in the aggregate, exceed the amount appropriated by ACTA as provided herein, Outside Counsel shall not be obligated to provide services or incur any further costs or expenses on the work required hereunder, and ACTA shall not be liable for fees or costs in excess of the amount appropriated, unless the appropriated amount is increased as provided herein. Outside Counsel shall be responsible for notifying Co-General Counsel that the aforesaid appropriated amount will be expended before completion of the work required hereunder and that Outside Counsel will need additional funds if ACTA desires further work. Outside Counsel shall give written notice to Co-General Counsel when Outside Counsel's expenditures under this Agreement are equal to sixty percent (60%) and eighty percent (80%) of the total dollar value appropriated for this Agreement so that Co-General Counsel has sufficient time to consider whether it desires to seek an additional appropriation and written amendment to the Agreement.

C. Fees

ACTA shall pay Outside Counsel for the services performed by Outside Counsel which are reasonably necessary. The fees for such services shall be based upon the time expended to render the required services, with fractions thereof being stated to the tenth of an hour, and shall be computed at a rate not to exceed the rates specified for each category of staff as listed in Exhibit A.

For investigative services provided by Outside Counsel, if Outside Counsel is required to prepare for and/or testify, including, without limitation, at deposition, trial, arbitration or any other proceeding, as a result of services rendered under this Agreement, or if Outside Counsel must respond to subpoenas or discovery or otherwise respond or perform services with respect to any matter relating to or arising out of the service performed for ACTA, ACTA agrees to pay Outside Counsel for all time expended (including preparation time) at Outside Counsel's hourly rate and to reimburse Outside Counsel for reasonable costs and expenses incurred, including legal representation, whether or not the investigation has concluded.

D. ACTA's Reservation of Rights to Obtain Reimbursement

ACTA shall pay Outside Counsel based on Outside Counsel's submission of monthly billing statements consistent with the provisions of this Agreement. Even though ACTA makes payment pursuant to billing statements, ACTA shall have the right to demand reimbursement any time ACTA determines that previously paid costs and expenses were not properly billed by Outside Counsel. Outside Counsel shall promptly reimburse ACTA for such costs and expenses previously paid by ACTA.

E. Expenses

ACTA shall reimburse Outside Counsel for reasonable, actual out-of-pocket expenses enumerated below incurred in performing the work specified herein. Such out-of-pocket expenses over \$50.00 must be supported by appropriate documentation for reimbursement. Absent the express prior written approval of Co-General Counsel, ACTA will not pay for any extraordinary expenses incurred in any legal matter. Co-General Counsel must approve in writing any item of expense that exceeds \$1,000. Such expenses include, but are not limited to, expert witnesses, consultant services, investigative services, computer litigation support services, videotaping of depositions, temporary office help, travel expenses, meals as well as other expenses. Outside Counsel shall note that ACTA is exempt from all filing fee charges.

1. Reimbursable ordinary expenses shall include, but are not limited to:

a) Deposition fees. ACTA expects Outside Counsel to keep the costs of deposition transcripts to a minimum. When depositions are taken and Outside Counsel receives the original deposition transcript, ACTA shall not pay the court reporter's fee for providing Outside Counsel with an extra photocopy of the deposition transcript. ACTA expects Outside Counsel to make a photocopy of the original deposition transcript at Outside Counsel's office. Likewise, when attending depositions of third parties or third-party witnesses, ACTA requests that, if Outside Counsel believes an additional copy of the deposition transcript is necessary, Outside Counsel agree with opposing counsel to

share the costs. Prior written approval from Co-General Counsel must be obtained before ordering any expedited original or expedited copy of a deposition transcript.

b) Deposition summaries, if necessary, should be brief and should be completed by the deposing attorney. ACTA shall not pay for a paralegal or other lawyer to summarize the deposition transcript unless trial is imminent. ACTA shall not pay for summaries that are, in effect, a complete regurgitation of the underlying deposition.

c) Transcript fees.

d) Messenger service. Note that where possible, documents should be transmitted via email or facsimile.

e) Process service.

f) In-house document reproduction. Outside Counsel may charge up to \$0.10 cents per page for photocopies. The billing statement shall contain the total number of copies made.

2. Reimbursable extraordinary expenses shall include charges of which Outside Counsel has obtained Co-General Counsel's prior written approval. Such expenses shall include, but are not limited to:

a) Consultants.

b) Expert witnesses.

c) Investigative services.

d) Computer Assisted Legal Research ("CALR") - ACTA's decision to retain a particular firm is based in part on the firm's expertise and knowledge. ACTA therefore assumes familiarity with the basic substantive law at issue in the matter for which the firm was retained; any exception to this general expectation should be discussed fully at the time of retention. In conducting legal research Outside Counsel is expected to utilize all appropriate sources reasonably available, including previously prepared briefs and memoranda. Should Outside Counsel determine that it is necessary to incur CALR charges in order to satisfy the terms of this Agreement, Outside Counsel shall obtain Co-General Counsel's prior written approval to charge for such expenses. No charges for CALR shall be paid by ACTA without Co-General Counsel's prior written approval of such a charge.

e) Outside Counsel shall describe in detail in its billings any travel expenses incurred by Outside Counsel. ACTA retains the right to audit these expenses. All travel shall be reimbursed in the same manner for which the travel would be reimbursable to ACTA employees if incurred by them in the performance of their duties. All travel expenses outside the Counties of Los Angeles, San Bernardino, Orange, Riverside, Imperial, Kern, Ventura and Santa Barbara shall be subject to Co-General Counsel's prior written approval. Unapproved travel shall not be reimbursed.

f) Lodging. A receipt shall be submitted for reimbursement of single occupancy hotel accommodation, which will be reimbursed up to the maximum allowed to an ACTA employee if incurred by them in the performance of their duties.

3. Non-reimbursable expenses shall include, but are not limited to:

a) Staff time or overtime for performing secretarial, clerical, or word processing functions.

b) Charges for time spent complying with ACTA audits or billing inquiries.

c) Charges for work performed which Co-General Counsel had not authorized. Such work shall be a gratuitous effort by Outside Counsel.

d) Expenses that are considered to be part of general law firm overhead, including but not limited to, administrative time, secretarial time, calendaring, setting up files, indexing, word processing, air conditioning, equipment rental, office supplies, meals, snacks, beverages, seminars, books or association dues, etc.

e) Charges for telephone services except for international long distance which shall be charged at cost.

F. Most Favored Nation

Outside Counsel represents that, as of the date hereof, the rates set forth in Exhibit A and the other economic terms and conditions provided in this Agreement, taken individually, are at least as favorable to ACTA as those provided to the Long Beach City Attorney's Office or the Los Angeles City Attorney's Office for the same type of work set forth in Section 3 of this Agreement, in the event that either of these entities are a client of Outside Counsel (individually and collectively defined herein as "Municipal Client").

If during the term of this Agreement (including any extension or renewal) Outside Counsel has in effect or places into effect an agreement with a Municipal Client that has a lower rate or other more favorable economic term or condition than provided under this Agreement (a "More Favorable Provision"), Outside Counsel shall promptly offer such More Favorable Provision to ACTA, unconditionally by providing written notice thereof to ACTA (an "MFN Notice") and, at ACTA's election, this Agreement shall be deemed to have been modified to provide ACTA with such More Favorable Provision from the date such provision is effective for Outside Counsel's Municipal Client.

Outside Counsel's failure to provide ACTA with an MFN Notice shall not limit or otherwise impact ACTA's right to enjoy the benefits of the applicable More Favorable Provision(s).

5. BILLINGS AND PAYMENT

A. Payment to Outside Counsel shall be made by ACTA from time to time in due course of payments, but not more frequently than once each month, and only upon the submission of an itemized invoice as described in this Agreement, showing in reasonable and complete detail the services rendered and reimbursable costs and expenses incurred in connection with the services rendered. Outside Counsel and ACTA mutually recognize that legal services performed under this Agreement are being paid for with public funds and that, therefore, a heightened duty of care exists in Outside Counsel and ACTA to ensure that Outside Counsel scrupulously adheres to principles of moderation, frugality and cost consciousness in carrying out the goals of this Agreement. Outside Counsel pledges to observe a duty of reasonableness and cost-effective representation in all aspects of this Agreement.

B. Each invoice shall be signed by Outside Counsel's Supervising Attorney shall include the following certification:

"I certify under penalty of perjury that the above invoice is just and correct according to the terms of ACTA Agreement No. C0910 and that payment has not been received. I further certify that none of the items contained in said invoice have been submitted for reimbursement to any other company or agency."

Signature

Further, Outside Counsel shall certify that its members and employees have performed the work and incurred the costs and expenses in full conformance with the provisions of this Agreement and that it is entitled to receive said amount pursuant to the terms of this Agreement. In the event Co-General Counsel assigns additional matters unrelated to each other to Outside Counsel, a separate and distinct identification must be reflected on each invoice submitted to ACTA and detailed description of work performed as assigned by Co-General Counsel as described above.

C. Outside Counsel shall not bill for hours other than those expressly devoted to the tasks as authorized under this Agreement, and Outside Counsel shall not bill for time not specifically assigned by Co-General Counsel. Outside Counsel shall not use legal professionals for secretarial work, and under no circumstances, bill for time consumed by attorneys making copies or scheduling appointments or taking care of matters or work which would otherwise be performed by a clerk or a secretary. Any and all conferences and activities engaged by Outside Counsel shall be fully described in complete detail and shall only take place when assigned by Co-General Counsel.

D. ACTA shall not pay for more than one attorney doing any particular task unless Co-General Counsel has given its prior written approval. ACTA will not pay for two or more attorneys attending the same meeting, deposition or court appearance unless approved by Co-General Counsel. ACTA will pay for the time recorded by more than one attorney for in-office conferences, but only if the conference is an occasional and necessary strategy meeting relating to some significant legal event or proceeding.

E. ACTA shall not pay for duplicative time charges by two or more attorneys, e.g., for legal research, reviewing documents, drafting documents, except as approved in writing by Co-General Counsel. ACTA shall not pay for "training" or "apprenticeship" time. ACTA shall not pay for the involvement of attorneys who work on the case irregularly or sporadically, unless a particular attorney has a special expertise that substantially advances a particular project or the prosecution/defense of a case.

F. Use of paralegals is encouraged providing they meet the requirements set forth herein. Assignment of work to paralegals should not result in duplicative activity between attorneys and paralegals, or the reworking or rewriting of paralegals' work product by attorneys. ACTA shall not pay for paralegal time spent performing clerical/secretarial work (e.g., filing, indexing, sorting, organizing, photocopying and bates stamping documents) unless Co-General Counsel has given its prior written approval. ACTA expects paralegals to perform true paralegal work, e.g., research, document productions, preparing discovery or responses, interviewing witnesses, etc.

G. Billings under this Agreement shall not be made in more than one-tenth of an hour (six minute) increments, and shall represent the devotion of a full six minutes before such an increment is billed. Under no circumstances shall Outside Counsel use "block billing" procedures, wherein a list of series of activities is done each day with only an aggregate amount of time specified. Instead, Outside Counsel shall provide a detailed specific entry for each separate task and sub-task reflecting the time for such task or subtask. All tasks set forth in Outside Counsel's billing documentation shall be highly specific and highly detailed. Overly generalized listings of task descriptions such as "review contract", "prepare for negotiations", "review/send communications" or similar entries shall not be acceptable. Outside Counsel shall provide detailed descriptions providing a meaningful record to an independent auditor reviewing said task description.

H. Each billing statement shall be identified by a unique number and itemized to include:

- a) Project name;
- b) Staffing level(s), hourly rates and specific activities for each attorney and/or paralegal;
 - 1) Each activity shall be billed in a reporting format as set forth in Exhibit B.
 - 2) A detailed description of specific activities for each attorney and/or paralegal shall include, but is not limited to:
 - (a) In-person conferences.
 - (b) Telephone calls.
 - (c) Correspondence.
 - (d) Research, including computerized legal research.
 - (e) Travel.

- c) Total current monthly expenses billed in the following categories:
 - 1) Consultant and expert witness expenses;
 - 2) Deposition and transcript expenses;
 - 3) Other miscellaneous expenses.
 - 4) Total cumulative expenses to date billed in (1)-(3).

- d) Total cumulative fees and expenses billed to date on project/matter.

Outside Counsel shall submit appropriate supporting documents with each billing statement. Such documents may include provider invoices, payrolls, and time sheets. ACTA may require, and Outside Counsel shall provide, all documents reasonably required to determine whether amounts on the billing statement are allowable expenses under this Agreement.

I. For payment and processing, all original billing statements should be sent to the following address:

Accounts Payable Department
Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, CA 90806

In addition to, or in lieu of, mailing invoices per the above instructions, Consultant may email invoices to accountspayable@acta.org, and Consultant shall be responsible for confirming receipt of emailed invoices. ACTA shall not be responsible for invoices incorrectly emailed or not received due to technical issues, regardless of the source of such issues.

6. GENERAL CONDITIONS

A. Termination or Suspension of Legal Services

1. Termination/Suspension For ACTA's Convenience

The ACTA Governing Board, in its sole discretion, may terminate and cancel all or part of this Agreement for any reason upon giving Outside Counsel ten (10) days' notice in writing of its election to cancel and terminate this Agreement.

After receiving a notice of termination or suspension, unless otherwise directed by Co-General Counsel, Outside Counsel shall:

- 1) Stop services on the date and to the extent specified in the notice;
- 2) Continue to perform services not terminated or suspended by the notice;
- 3) Submit final billing for services rendered through the time of termination no later than thirty (30) calendar days from the effective date of termination; and
- 4) If Outside Counsel fails to submit a final billing within the time allowed, Co-General Counsel may determine the amount, if any, to be paid to Outside

Counsel. Outside Counsel agrees that Co-General Counsel's determination shall be final.

2. Termination For Outside Counsel's Default

Services performed under this Agreement may be terminated in whole or in part by ACTA upon a default by Outside Counsel. Under this Agreement, Outside Counsel will be deemed in default if Outside Counsel:

- 1) Fails to perform the service(s) within the specified time period; or
- 2) Fails to perform any of the provisions contained in this Agreement; or
- 3) Fails to make adequate progress in the matter and endangers the performance of this Agreement's terms.

If ACTA terminates services under this Section 6.A.2, ACTA may obtain alternative legal services with terms and in a manner ACTA deems appropriate. In addition to any other remedies provided by this Agreement, law or equity, Outside Counsel shall be liable to ACTA for any excess costs associated with obtaining and utilizing alternative legal services.

3. Closing Report Upon Termination

If requested by Co-General Counsel, Outside Counsel shall deliver a Closing Report within two days of the termination of services. The Closing Report shall include, but is not limited to, a description of the status of projects handled by Outside Counsel prior to termination. Outside Counsel shall give Co-General Counsel all evidence, files and attorney work product for every matter in which Outside Counsel has represented ACTA, including but not limited to any computerized indices, programs and document retrieval systems created or used for the matter.

B. Independent Contractor Status

This Agreement is between ACTA and Outside Counsel and is not intended, and shall not be construed, to create, as between ACTA and Outside Counsel, the relationship of agent, servant, employee, partnership, joint venture or association. Outside Counsel understands and agrees that all Outside Counsel personnel furnishing services to ACTA under this Agreement are employees solely of Outside Counsel and not ACTA. Outside Counsel shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any Outside Counsel personnel for injuries arising from services performed under this Agreement.

C. Ownership of Documents

All information, documents, records, reports, data, or other materials furnished to Outside Counsel or other such information, documents, records, data or other materials to which Outside Counsel has access during their performance pursuant to this Agreement are deemed confidential and shall remain the property of ACTA. Outside Counsel shall not make use of such items for any purpose unrelated to the matter involved herein and shall not make

oral or written disclosure thereof, other than as necessary for their performance hereunder, without the prior written approval of ACTA.

D. Indemnity for General Liability

Except for the sole negligence or willful misconduct of ACTA, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Outside Counsel undertakes and agrees to defend, indemnify and hold harmless ACTA, its Board, and any of its Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by ACTA, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Outside Counsel's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, or omissions or willful misconduct incident to the performance of this Agreement by Outside Counsel or its subcontractors of any tier. Rights and remedies available to ACTA under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

E. Indemnity for Professional Liability

Except for the sole negligence or willful misconduct of ACTA, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Outside Counsel undertakes and agrees to defend, indemnify and hold harmless ACTA and any and all of its Boards, Officers, Agents, or Employees, Assigns and Successors in Interest from and against all claims, charges, demands, costs, expenses (including counsel fees), judgments, civil fines and penalties, liabilities or losses of any kind or nature whatsoever which may be sustained or suffered by or secured against ACTA, its Boards, Officers, Agents, Employees, Assigns and Successors in Interest by reason of any damage to property, injury to persons, or any action that may arise out of the performance of this Agreement that is caused by any negligent acts, errors, or omissions, or willful misconduct of Outside Counsel, its boards, officers, agents, employees, or subconsultants.

F. Workers' Compensation

Outside Counsel shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that the Outside Counsel shall comply with such provisions before commencing the performance of the tasks under this Agreement. Outside Counsel shall submit Workers' Compensation policies, whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Workers' Compensation and occupational disease requirements shall include coverage for all employees of Outside Counsel, and for all employees of any subcontractor or other vendor retained by Outside Counsel.

G. Professional Liability Insurance

Outside Counsel is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Outside Counsel certifies that it now has professional liability insurance in the amount of One Million Dollars (\$1,000,000), which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of this Agreement and until two (2) years following termination or completion of services pursuant to this Agreement.

- a) Carrier Requirements: All insurance which Outside Counsel is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.
- b) Notice of Cancellation: In the event that Outside Counsel receives notice of intended cancellation of the above described Professional Liability Insurance policy, or that coverage limits will be reduced below \$1,000,000, Outside Counsel shall immediately provide written notice of same to ACTA and Co-General Counsel.
- c) Modification of Coverage: ACTA's Chief Executive Office, at his or her discretion, based upon recommendation of independent insurance consultants to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Outside Counsel.
- d) Renewal of Policies: At least thirty (30) days prior to the expiration of each policy, Outside Counsel shall furnish to ACTA a renewal endorsement or renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified above. If Outside Counsel neglects or fails to secure or maintain the insurance required above, ACTA's Chief Executive Officer may, at his or her own option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance will be deducted from the next payment due Outside Counsel.

H. Validity

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

I. Waiver

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any future breach of the provision or any breach of any other provision of this Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

J. Remedies Reserved to ACTA

The remedies reserved to ACTA shall be cumulative and additional to any other remedies provided in law or equity.

K. Authorization for Warranty

Outside Counsel represents and warrants that the signatory to this Agreement is fully authorized to obligate Outside Counsel and that all corporate acts necessary to the execution of this Agreement have been accomplished.

L. Changes and Written Amendment of Terms

Material changes to this Agreement shall only be effective upon the execution of a mutually-approved written amendment.

7. AUTHORIZED REPRESENTATIVES

ACTA's Co-General Counsel represents ACTA on all matters related to this Agreement.

8. NOTICES

The following addresses shall serve as the places to which notices and other correspondence between the parties shall be sent:

A. Outside Counsel: Sima Salek, Esq.
Law Office of Sima Salek
15760 Venture Boulevard, Suite 700
Encino, California 91436

B. ACTA Co-General Counsel:

Long Beach Office of the City Attorney
411 West Ocean Blvd, 9th Floor
Long Beach, CA 90802
Attention: ACTA Co-General Counsel

Los Angeles Office of the City Attorney
Harbor Division
425 S. Palos Verdes Street

San Pedro, CA 90731
Attention: ACTA Co-General Counsel

C. ACTA: ACTA
Kevin Scott
Chief Financial Officer
3760 Kilroy Airport Way, Suite 200
Long Beach, California 90806

All such notices shall be delivered personally to the other parties, or shall be deposited in the United States mail, properly addressed as aforesaid, with postage fully prepaid by certified or registered mail, and shall be effective upon receipt.

9. EMPLOYMENT OF OTHER COUNSEL, SPECIALISTS OR EXPERTS

Outside Counsel will not employ or otherwise incur any obligation, pay other counsel, specialists or experts for services in connection with this Agreement without prior written approval of Co-General Counsel.

10. AUDIT AND INSPECTION OF RECORDS

For at least three years after completion of services under this Agreement or termination of this Agreement, Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement, shall maintain backup documentation to support all entries included in the monthly billing statement. Such backup documentation shall be maintained in an auditable format and in accordance with generally accepted accounting principles. ACTA, at its sole discretion, may, at any time up to three years beyond the completion of services or termination of this Agreement, audit Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement. Outside Counsel and any such third parties shall promptly and fully cooperate with the audit, including affording ACTA, Co-General Counsel and/or its auditors access to records and files maintained by Outside Counsel and the third party.

11. SMALL BUSINESS ENTERPRISE PROGRAM

It is the policy of ACTA to provide Small Business Enterprises (SBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Outside Counsel shall assist ACTA in implementing ACTA's Small Business Program and shall use its best efforts to afford the opportunity for SBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement.

12. MERGER

This Agreement supersedes all prior communications and all previous written and oral agreements, and shall constitute the complete and exclusive statement of understanding between ACTA, Co-General Counsel and Outside Counsel relating to the subject matter of this Agreement.

13. COMPLIANCE WITH APPLICABLE LAWS

Outside Counsel shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations.

14. GOVERNING LAW / VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

15. TRADEMARKS, COPYRIGHTS, AND PATENTS

Outside Counsel agrees to save, keep, hold harmless, protect and indemnify ACTA and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by ACTA of any materials supplied by Outside Counsel in the performance of this Agreement.

16. PROPRIETARY INFORMATION

The Outside Counsel may not disclose to any party without ACTA's permission any information developed pursuant to this Agreement. ACTA will, however, have the right to disclose the information as it determines appropriate considering the nature of the information, its use and the laws applicable to ACTA.

17. CONFIDENTIALITY

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Outside Counsel relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Outside Counsel or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Outside Counsel is required to safeguard such information from access by unauthorized personnel.

18. TAXPAYER IDENTIFICATION NUMBER (TIN)

The Internal Revenue Service (IRS) requires that all consultants and suppliers of materials and supplies provide a TIN to the party that pays them. Outside Counsel declares that it has an authorized TIN. No payments will be made under this Agreement without a valid TIN.

19. NO ASSIGNMENT

This Agreement contemplates the personal professional services of Outside Counsel, its members and professional employees, and it is acknowledged by the parties hereto that a substantial inducement to ACTA for entering into this Agreement was, and is, the professional reputation and competence of Outside Counsel. Neither this Agreement nor any interest therein may be assigned. Any attempt by Outside Counsel to assign or subcontract services relating to this Agreement without prior written consent shall constitute a material breach of this Agreement.

20. INTEGRATION

This document constitutes the entire Agreement between the parties to this Agreement with respect to the subject matter set forth and supersedes any and all prior Agreements or contracts on this subject matter between the parties, either oral or written. This Agreement may not be amended, waived, or extended, in whole or in part, except in writing signed by both parties.

21. SEVERABILITY

Should any part of this Agreement be found to be invalid, the remainder of this Agreement is to continue in full force and effect.

22. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

The use of electronic signatures herein, or in any amendments to this Agreement, and any electronic records related to this Agreement (including, without limitation, any agreement or other record created, generated, sent, communicated, received, or stored by electronic means), shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transaction Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

The words "execution," "signed," "signature," and words of like import in this Agreement shall include images of manually executed signatures transmitted by facsimile or other

electronic format (including, without limitation, “pdf” “tif” or “jpg”) and other electronic signatures (including, without limitation, DocuSign or Acrobat Sign).

The parties agree that electronically signed and/or electronically transmitted signatures shall be conclusive proof, admissible in judicial proceedings, of such party’s execution of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date to the left of their signatures.

ALAMEDA CORRIDOR TRANSPORTATION
AUTHORITY

Date _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

LAW OFFICE OF SIMA SALEK

Date _____

By: _____
Sima Salek, Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By: _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A

LAW OFFICE OF SIMA SALEK AGREEMENT NO.

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Sima Salek	Principal	\$400	\$416	\$433	\$450
Jillian Hollingshead	Of Counsel	\$350	\$364	\$379	\$394
Donde McCament	Of Counsel	\$350	\$364	\$379	\$394
Mariam Nazaretyan	Associate	\$225	\$234	\$243	\$253

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Principal/Partner	\$400	\$416	\$433	\$450
Of Counsel	\$350	\$364	\$379	\$394
Associate	\$225	\$234	\$243	\$253
Paralegal	\$100	\$104	\$108	\$112

EXHIBIT B
SAMPLE INVOICE
 (Legal Firm Letterhead)

Alameda Corridor Transportation Authority
 Attention: Kevin Scott, CFO
 3760 Kilroy Airport Way, Suite #200
 Long Beach, CA 90806

Invoice #:

 Invoice Date:

Invoice Period:
 Project Name/Matter Number:

Professional Services

<u>Date</u>	<u>Timekeeper</u>	<u>Position</u>	<u>Description of Services</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
Total Professional Services						\$ -

Expenses/Disbursements

<u>Date</u>	<u>Timekeeper</u>	<u>Position</u>	<u>Description</u>	<u>Amount</u>	<u>Rate</u>	<u>Total</u>
						\$ -
						\$ -
Total Expenses						\$ -

Total Invoice Amount \$ -

Total Cumulative Fees and Expenses Billed to
 Date on Project/Matter \$ -

I certify under penalty of perjury that the above invoice is just and correct according to the terms of ACTA Agreement No. _____ and that payment has not been received. I further certify that none of the items contained in said invoice have been submitted for reimbursement to any other company or agency.

 Signature

M E M O

Alameda Corridor Transportation Authority

To: Governing Board

Meeting Date: June 1, 2023

From: Heather M. McCloskey, Co-General Counsel
Thomas Oh, Co-General Counsel

Subject: APPROVE 1) First Amendments to add an additional five year term for legal services agreements with BDG Law Group; Best, Best & Krieger LLP; Gibbs Giden Locher Turner Senet & Wittbrodt LLP; Hawkins Delafield & Wood LLP; Kutak Rock LLP; Nixon Peabody LLP; O’Melveny & Myers LLP; and Theodora Oringher PC and 2) First amendments for an additional five year term and additional funding with Nossaman LLP and Sheppard, Mullin, Richter & Hampton LLP.

Recommendation:

- 1) Approve the first amendments to legal services agreements with the following law firms:

- BDG Law Group
- Best, Best & Krieger LLP
- Gibbs Giden Locher Turner Senet & Wittbrodt LLP
- Hawkins Delafield & Wood LLP
- Kutak Rock LLP
- Nixon Peabody LLP
- Nossaman LLP
- O’Melveny & Myers LLP
- Sheppard, Mullin, Richter & Hampton LLP
- Theodora Oringher PC

The amendments extend the term of each agreement for five years to June 30, 2028, and increase the total compensation for the agreements with Nossaman LLP and Sheppard, Mullin, Richter & Hampton LLP.

- 2) Authorize the Chief Executive Officer or Chief Financial Officer to execute said agreements.

Discussion:

Starting in 1997, ACTA has hired outside law firms to provide on-call specialized legal services, including litigation matters. Since 2008, ACTA has contracted with law firms through competitive selection procedures conducted in five-year intervals. The agreements currently in effect with law firms selected from the 2018 competitive process will expire on June 30, 2023.

In anticipation of the current agreements’ upcoming expiration date, ACTA issued a Request for Proposals (“RFP”) for legal services on January 24, 2023. The request for legal services was made for specific practice areas, with

the intention of selecting one or more firms for each area of specialized work. The practice areas for which ACTA requires outside legal assistance are public finance (bond, tax, and disclosure counsel); business transactions and contracts; employment matters; real property transactions; construction contracts and claims; environmental regulations and entitlements; and general litigation for these practice areas. Firms were invited to submit proposals offering services in one or more practice areas.

Twenty-five firms responded to the RFP, submitting proposals by the February 24, 2023, deadline. See Transmittal 1. Proposals were reviewed and selection of firms was based upon the following criteria:

- Demonstrated specific expertise, experience and qualifications of the firm and the attorneys for each proposed practice area;
- The firm's approach and strategy, including staffing, to provide services for each proposed practice area;
- Hourly rates, fees and cost effectiveness of the proposed practice areas; and
- The firm's general experience representing and advising public entities in the proposed practice areas, including litigation where applicable.

A selection committee consisting of both ACTA's Co-General Counsel, ACTA's Chief Executive Officer, ACTA's Chief Financial Officer and one Deputy City Attorney from the Harbor Division of the Los Angeles City Attorney's Office reviewed the proposals and made the selection recommendations set forth herein. The written proposals were independently reviewed and evaluated by each selection committee member. Thereafter, the selection committee discussed each firm's proposal with respect to the selection criteria and decided whether to select, reject or interview each firm.

The selection committee agreed that ten firms currently under contract with ACTA should be recommended to have their contracts renewed based upon their proposals and their work with ACTA during the preceding five years. Of the fifteen remaining firms, seven were invited to interview with the selection panel on May 1st and 2nd, 2023. From the interviews, three firms were selected for recommendation to provide legal services to ACTA. The request for the Governing Board to approve these three new agreements is set forth in a separate agenda item for the June 1, 2023, meeting.

The law firms recommended, and the budget allocations made therein, provide coverage for the range of services to meet ACTA's present and currently known legal needs. On a day-to-day basis, legal services may be initiated by ACTA staff contacting ACTA's Co-General Counsel to discuss the legal matter at hand. Co-General Counsel, in consultation with ACTA staff, will decide whether the matter may be handled in-house or if additional specialized services are required. Generally, legal services for public finance matters (i.e., bond, tax, and disclosure counsel), litigation matters and environmental regulatory matters (e.g. CEQA/NEPA counsel), require services by outside counsel.

When outside legal services are necessary, assignments may be given to law firms on a case-by-case basis by ACTA's Co-General Counsel after discussion with ACTA staff. However, whenever a larger size project or significant need for legal services arises, firms within the required practice area will be asked to submit a proposal for the work, propose attorneys to be assigned, provide examples of similar prior experience, if any, and submit a proposed schedule and budget. A current conflict check will also be conducted to ensure that a firm is not engaged for work in which it may have a client conflict, unless appropriate waivers are obtained. Conducting these "mini-

proposal” procedures ensures that ACTA receives legal services from the most qualified firm for that specific matter, along with a competitive budget proposal.

Transmittal 2 provides a table showing each law firm’s supervising attorney, selected practice areas, agreement compensation amount and additional funding if requested, and the proposed FY 23-24 budget. Transmittal 3 provides the amendments for each firm recommended for extension. The hourly rate structure is the same for all firms, namely, the firm’s first year proposed rates apply for the first two years, followed by 4% increases for years three through five.

The amendments for Nossaman LLP and Sheppard, Mullin, Richter & Hampton LLP have increased compensation amounts of \$320,000 and \$460,000 respectively. These two firms have provided, and will continue to provide, on-going real estate services for a variety of real property transactions, assisting with the exchange of easement and ownership rights among third parties and government agencies along the corridor. These real property transactions are with various government agencies and the two railroads operating on the corridor, involving the sorting of final ownership and access rights among the parties for property that was needed to build the corridor. These transactions involve transfers between various parties for fee ownership, easement rights or utility location rights. In some cases, parcel transfers involve multiple-layered transactions which require each agency involved to sign-off on the transfer plan and documents prior to closing the transaction through governing authority approvals. In addition to these continuing services, Sheppard Mullin provides annual disclosure services to ACTA in compliance with federal public finance laws and ACTA’s Master Trust Indenture obligations.

While the proposed funding budget does account for current on-going work, it does not account for the possibility of future significant legal services such as litigation or regulatory actions. Should such legal service needs arise, additional funding, if required, may be requested for the law firm handling such unforeseen matters. Finally, fees for public finance firms providing bond, tax, and disclosure services for bond transactions are funded from the proceeds of such transaction and are not included as part of the outside counsel budget.

Budget Impact:

There is no budget impact for eight of the proposed ten amendments, as no additional funds are being requested. Two amendments, those with Nossaman and Sheppard Mullin, will add additional funding totaling \$780,000 over the next five-year period. See Transmittal 2. Annual requests for approval to fund services provided by the law firms will be made pursuant to ACTA’s annual budget approval process. For the FY23-24 budget, the funding requested for the ten firms subject to this approval item is \$350,000.

Co-General Counsel Review:

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

Transmittals:

- Transmittal 1 – Law Firms Submitting Proposals in Response to the RFP
- Transmittal 2 – Proposed Law Firm Practice Areas and Budgets
- Transmittal 3 – Agreement Amendments

ACTA 2023 Outside Counsel Request for Proposals

Law Firms Submitting Proposals

1. Ashurst LLP
2. BDG Law Group
3. Best, Best & Krieger
4. Buchalter
5. Burke, Williams & Sorensen, LLP
6. Clark Hill LLP
7. Everett Dorey LLP
8. Gibbs, Giden, Locher, Turner, Senet & Wittbrodt LLP
9. Hawkins, Delafield & Wood LLP
10. Holland & Knight LLP
11. Jain Law Office, P.C.
12. Keesal, Young & Logan
13. Kutak Rock LLP
14. Lewis, Brisbois, Bisgaard & Smith LLP
15. Lozano Smith
16. Manning & Kass, Ellrod, Ramirez, Trester LLP
17. Nixon Peabody LLP
18. Nossaman LLP
19. O'Melveny & Meyers LLP
20. Orbach, Huff & Henderson LLP
21. Ovando Bowen, LLP
22. Sheppard, Mullin, Richter & Hampton LLP
23. Law Office of Sima Salek
24. Theodora Oringher PC
25. Van Dermyden Makus

ACTA Outside Counsel Agreements Proposed Amendments 2023-2028

	Firm Name Supervising Attorney Office Location	Practice Areas	2018-2023 Agreement Funding and (Approximate Funds Remaining)	Proposed New Funding 2023-2028	FY2023-24 Budget
1	BDG Law Group Brian Bergman Los Angeles	Environmental/CEQA Real Property Construction Contracts/Claims	\$100,000 (\$89,000)		\$20,000
2	Best, Best & Krieger Scott Campbell Los Angeles	Business transactions/contracts Employment Matters Real Property Construction Contracts/Claims Environmental/CEQA	\$100,000 (\$89,000)		\$25,000
3	Gibbs Giden Locher Turner Senet & Wittbrodt LLP Barbara Gadbois Los Angeles	Construction Contracts/Claims Construction Litigation	\$250,000 (\$241,000)		\$15,000
4	Hawkins Delafield & Wood LLP Melanie Murakami Los Angeles	Public Finance	\$100,000 (\$100,000)		\$10,000
5	Kutak Rock LLP Michael Thomas Denver	Public Finance	\$100,000 (\$94,000)		\$20,000
6	Nixon Peabody LLP Jade Turner-Bond Los Angeles	Public Finance	\$100,000 (\$100,000)		\$10,000
7	Nossaman LLP Karla MacCary Los Angeles	Real Property	\$750,000 (\$210,000)	Add \$320,000 New Amount \$1,070,000	\$110,000
8	O'Melveny & Myers LLP Liz Dubeck Los Angeles	Business Contracts Public Finance	\$750,000 (\$485,000)		\$50,000
9	Sheppard Mullin Tim Reimer Los Angeles	Public Finance Real Property	\$120,000 (\$30,000)	Add \$340,000 New Amount \$460,000	\$75,000
10	Theodora Oringher PC Kevin Dorse Los Angeles	Construction Contracts/Claims Real Property	\$100,000 \$100,000		\$15,000
					\$350,000

FIRST AMENDMENT
TO AGREEMENT NO. C0872
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND BDG LAW GROUP

THIS FIRST AMENDMENT to Agreement No.C0872 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and BDG LAW GROUP ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0872 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0872 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

BDG LAW GROUP

Date: _____

By: _____
Brian Bergman, Shareholder

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

BERGMAN DACEY GOLDSMITH AGREEMENT NO. C0872

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Greg Bergman	Shareholder	\$415	\$432	\$449	\$467
Brian Bergman	Shareholder	\$415	\$432	\$449	\$467
Robert Bergman	Of Counsel	\$400	\$416	\$433	\$450
Richard Fond	Of Counsel	\$400	\$416	\$433	\$450
Matt Hicks	Of Counsel	\$400	\$416	\$433	\$450
Jason Barbato	Of Counsel	\$400	\$416	\$433	\$450
Elina Antoniou	Of Counsel	\$400	\$416	\$433	\$450
Lisa Delorme	Of Counsel	\$400	\$416	\$433	\$450
Marina Melikyan	Associate	\$325	\$338	\$352	\$366

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Shareholder	\$415	\$432	\$449	\$467
Of Counsel	\$400	\$416	\$433	\$450
Senior Associate	\$375	\$390	\$406	\$422
Junior Associate	\$325	\$338	\$352	\$366
Paralegal	\$150	\$156	\$163	\$170

FIRST AMENDMENT
TO AGREEMENT NO. C0873
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND BEST BEST & KRIEGER LLP

THIS FIRST AMENDMENT to Agreement No.C0873 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and BEST BEST & KRIEGER ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0873 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0873 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____

Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____

Secretary

BEST BEST & KRIEGER LLP

Date: _____

By: _____

Scott Campbell, Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

BEST, BEST & KRIEGER LLP AGREEMENT NO. C0873

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Scott Campbell	Partner	\$450	\$468	\$487	\$506
Glen W. Price	Partner	\$450	\$468	\$487	\$506
Cynthia M. Germano	Partner	\$450	\$468	\$487	\$506
Guillermo A. Frias	Partner	\$450	\$468	\$487	\$506
Charity B. Schiller	Partner	\$450	\$468	\$487	\$506
Christopher Pisano	Partner	\$450	\$468	\$487	\$506
Alexander M. Brand	Associate	\$365	\$380	\$395	\$411

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Partner	\$450	\$468	\$487	\$506
Of Counsel	\$420	\$437	\$454	\$472
Associate	\$365	\$380	\$395	\$411
Paralegal, Law Clerk and Analyst	\$205	\$213	\$222	\$231

FIRST AMENDMENT
TO AGREEMENT NO. C0875
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT LLP

THIS FIRST AMENDMENT to Agreement No.C0875 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT LLP ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0875 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0875 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

Date: _____

By: _____
Barbara Gadbois, Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

**GIBBS GIDEN
LOCHER TURNER SENET & WITTBRODT LLP
AGREEMENT NO. C0875**

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Barbara Gadbois	Partner	\$440	\$458	\$476	\$495
Richard Wittbrodt	Partner	\$440	\$458	\$476	\$495
Sara Kornblatt	Partner	\$440	\$458	\$476	\$495
Michele A. Ellison	Sr. Associate	\$440	\$458	\$476	\$495

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 To 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Partner	\$440	\$458	\$476	\$495
Associate (5 th year and up)	\$440	\$458	\$476	\$495
Associate (4 th year/below)	\$380	\$395	\$411	\$427
Paralegals/Law Clerks	\$185	\$192	\$200	\$208

FIRST AMENDMENT
TO AGREEMENT NO. C0877
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND HAWKINS DELAFIELD & WOOD LLP

THIS FIRST AMENDMENT to Agreement No.C0877 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and HAWKINS DELAFIELD & WOOD LLP ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0877 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0877 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____

Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____

Secretary

HAWKINS DELAFIELD & WOOD LLP

Date: _____

By: _____

Melanie Murakami, Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

HAWKINS DELAFIELD & WOOD LLP AGREEMENT NO. C0877

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Melanie Murakami	Partner	\$595	\$619	\$644	\$670
Sam Litton	Partner	\$595	\$619	\$644	\$670
John Pirog	Partner	\$595	\$619	\$644	\$670
Joe Sullivan	Partner	\$595	\$619	\$644	\$670
Diane Quan	Partner	\$595	\$619	\$644	\$670
Brian Garziona	Partner	\$595	\$619	\$644	\$670
Russ Miller	Tax Attorney	\$595	\$619	\$644	\$670

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Partners	\$595	\$619	\$644	\$670
Tax Attorneys	\$595	\$619	\$644	\$670
Associates				
Paralegals				

FIRST AMENDMENT
TO AGREEMENT NO. C0878
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND KUTAK ROCK LLP

THIS FIRST AMENDMENT to Agreement No.C0878 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and KUTAK ROCK LLP ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0878 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0878 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

KUTAK ROCK LLP

Date: _____

By: _____
Michael Thomas, Partner

APPROVED AS TO FORM
_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

KUTAK ROCK LLP AGREEMENT NO. C0878

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Michael Thomas	Partner	\$500	\$520	\$541	\$563
Michael Reppe	Partner	\$500	\$520	\$541	\$563
Sam Balisy	Partner	\$525	\$546	\$568	\$591
Ryan Jardine	Partner	\$425	\$442	\$460	\$478
Pardis Farrokhyar	Staff Attorney	\$375	\$390	\$406	\$478
Larry Carlile	Partner (Tax)	\$625	\$650	\$676	\$703
Mattias Edrich	Partner (Tax)	\$600	\$624	\$649	\$675
Elizabeth Partlow	Associate	\$325	\$338	\$352	\$366

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Partners	\$500	\$520	\$541	\$563
Staff Attorney	\$375	\$390	\$406	\$478
Associates	\$325	\$338	\$352	\$366
Tax Partners	\$600	\$624	\$649	\$675
Paralegals	\$250	\$260	\$270	\$280

FIRST AMENDMENT
TO AGREEMENT NO. C0879
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND NIXON PEABODY LLP

THIS FIRST AMENDMENT to Agreement No.C0879 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and NIXON PEABODY LLP ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0879 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0879 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____

Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____

Secretary

NIXON PEABODY LLP

Date: _____

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

APPROVED AS TO FORM

_____, 2023

HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____

Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

NIXON PEABODY LLP AGREEMENT NO. C0879

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Jade Turner-Bond	Partner	\$600	\$624	\$649	\$675
Travis Gibbs	Partner	\$600	\$624	\$649	\$675
Daniel Deaton	Partner	\$600	\$624	\$649	\$675
Joel Swearingen	Partner	\$600	\$624	\$649	\$675
David Song	Associate	\$450	\$468	\$487	\$506
Janelle Walker	Associate	\$450	\$468	\$487	\$506
Stuart Clapp	Paralegal	\$250	\$260	\$270	\$281

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Partner	\$600	\$624	\$649	\$675
Counsel	\$500	\$520	\$541	\$563
Associate	\$450	\$468	\$487	\$506
Paralegal	\$250	\$260	\$270	\$281

FIRST AMENDMENT
TO AGREEMENT NO. C0880
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND NOSSAMAN LLP

THIS FIRST AMENDMENT to Agreement No.C0880 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and NOSSAMAN LLP ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Section IV. COMPENSATION, Subsection A. Not To Exceed Amount, is here by removed and replaced in its entirety, as follow:

"For the services rendered to ACTA by Outside Counsel pursuant to this Agreement, ACTA shall pay Outside Counsel at hourly rates not-to-exceed the hourly rates attached hereto as Exhibit A, which rates shall remain in effect for the term of this Agreement. All fees and expenses billed pursuant to this Agreement shall not exceed One Million Seventy Thousand Dollars (\$1,070,000) ("NTE amount") without prior mutual agreement of the parties and a written amendment."

3. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0883 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0880 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

NOSSAMAN LLP

Date: _____

By: _____
Karla MacCary, Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

NOSSAMAN LLP AGREEMENT NO. C0880

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Karla MacCary	Partner	\$550	\$572	\$595	\$619
Elinor Eizdi	Partner	\$540	\$562	\$584	\$607
David Graeler	Partner	\$550	\$572	\$595	\$619
Gabriela Perez	Associate	\$440	\$458	\$476	\$495
Paolo Hermoso	Associate	\$440	\$458	\$476	\$495
Jenna Vallador	Paralegal	\$260	\$270	\$281	\$292

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Partner/Of Counsel	\$550	\$572	\$595	\$619
Senior Associate/Associate	\$440	\$458	\$476	\$495
Paralegal	\$260	\$270	\$281	\$292

FIRST AMENDMENT
TO AGREEMENT NO. C0881
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND O'MELVENY & MEYERS LLP

THIS FIRST AMENDMENT to Agreement No.C0881 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and O'MELVENY & MEYERS LLP ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0881 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0881 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

O'MELVENY & MEYERS LLP

Date: _____

By: _____
M. Elizabeth Dubeck, Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

O'MELVENY & MYERS LLP AGREEMENT NO. C0881

The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Partner/Of Counsel	\$816	\$849	\$883	\$918
Sr. Associate (5 th year and up)	\$738	\$768	\$799	\$831
Associate (4 th year and below)	\$666	\$693	\$721	\$750
Paralegal	\$290	\$302	\$314	\$327

FIRST AMENDMENT
TO AGREEMENT NO. C0897
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

THIS FIRST AMENDMENT to Agreement No.C0897 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and SHEPPARD, MULLIN, RICHTER & HAMPTON LLP ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Section IV. COMPENSATION, Subsection A. Not To Exceed Amount, is here by removed and replaced in its entirety, as follow:

"For the services rendered to ACTA by Outside Counsel pursuant to this Agreement, ACTA shall pay Outside Counsel at hourly rates not-to-exceed the hourly rates attached hereto as Exhibit A, which rates shall remain in effect for the term of this Agreement. All fees and expenses billed pursuant to this Agreement shall not exceed Four Hundred Sixty Thousand Dollars (\$460,000) ("NTE amount") without prior mutual agreement of the parties and a written amendment."

3. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0897 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0897 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP

Date: _____

By: _____
Tim Reimers, Esq.
Senior Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP AGREEMENT NO. C0897

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Timothy Reimers	Senior Partner	\$750	\$780	\$811	\$843
Kendra Leghart	Special Counsel	\$650	\$676	\$703	\$731
Rachel Cheong	Associate	\$450	\$468	\$487	\$505
Audrey Danciger	Paralegal	\$225	\$234	\$243	\$253

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.

Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Senior Partner/Of Counsel (20+ years)	\$750	\$780	\$811	\$843
Partners/Special Counsel (less than 20 years)	\$650	\$676	\$703	\$731
Senior Associate (5+ years)	\$550	\$572	\$595	\$619
Associate (1-4 years)	\$450	\$468	\$487	\$505
Paralegal	\$225	\$234	\$243	\$253

FIRST AMENDMENT
TO AGREEMENT NO. C0883
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND THEODORA ORINGHER PC

THIS FIRST AMENDMENT to Agreement No. C0883 is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board, and THEODORA ORINGHER PC ("Outside Counsel") as follows:

1. Section II. Term of Agreement is hereby removed and replaced in its entirety, as follows:

"This term of this agreement shall commence as of July 1, 2018 and shall be for a term of ten years, through June 30, 2028, unless earlier terminated or extended as provided elsewhere in this Agreement."

2. Exhibit A-1 is attached hereto and made a part of the Agreement. The rates set forth in Exhibit A-1 shall be applied to services provided by Outside Counsel during the time period July 1, 2023 to June 30, 2028. All references in the Agreement to "Exhibit A" shall include Exhibit A-1.

Except as amended herein, all remaining terms and conditions of Agreement No. C0883 shall remain in full force and effect.

The effective date of this amendment shall be the date of its execution by ACTA's Chief Executive Officer or his designee.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. C0883 on the date to the left of their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____

Michael C. Leue, P.E.
Chief Executive Officer

Attest: _____

Secretary

THEODORA ORINGHER PC

Date: _____

By: _____

Kevin Dorse, Managing Partner

APPROVED AS TO FORM

_____, 2023
HYDEE FELDSTEIN SOTO, Los Angeles City Attorney

By _____
Heather M. McCloskey, Deputy
ACTA Co-General Counsel

EXHIBIT A-1

THEODORA ORINGHER PC AGREEMENT NO. C0883

A. The hourly rates for each authorized timekeeper shall not exceed the following amounts, as provided for each year of the agreement.

Authorized Timekeeper	Title	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027	7/1/2027 to 6/30/2028
Kevin Dorse	Senior Attorney	\$535	\$556	\$578	\$601
Erich Luschei	Senior Attorney	\$535	\$556	\$578	\$601
Scott Behrendt	Senior Attorney	\$535	\$556	\$578	\$601
Robert Briseño	Senior Attorney	\$535	\$556	\$578	\$601
Jin Oh	Associate	\$435	\$452	\$470	\$489
Caroline Wong	Associate	\$435	\$452	\$470	\$489

B. The hourly rate for each timekeeper category shall not exceed the following amounts, as provided for each year of the agreement.


Timekeeper Category	7/1/2023 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2027 to 6/30/2027	7/1/2027 to 6/30/2028
Senior Attorney	\$535	\$556	\$578	\$601
Associate	\$435	\$452	\$470	\$489
Paralegal	\$225	\$234	\$243	\$253

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

ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY

First Amended Agreement No. C0027 Program Management Services

CHANGE ORDER NO. 79

Modifies the First Amended Agreement No. C0027 (hereinafter “the Agreement”) to increase the maximum compensation and extend the term as approved by the ACTA Governing Board on June 1, 2023 for the ACTA Support Work Order (ASA CWO).

CONSULTANT: **Alameda Corridor Engineering Team (ACET)**

SUMMARY The Agreement duration is changed: -365- Calendar Days

OF The Agreement value is increased by \$2,558,568 to a total Agreement value of \$222,091,860 for the ASA CWO.

CHANGE

- This change order extends the Agreement through June 30, 2024 and authorizes ACET to continue to provide services consistent with the budget set forth in this Change Order No. 79 and the statements set forth in ACTA Board Authorization of June 1, 2023.

The ACET contract total value of all CWO’s is \$256,583,677 *excluding compensation for the R10 Oil Release*. See attached document titled “Summary of Contract Values” as of May 19, 2023.

- In **ARTICLE 5, COMPENSATION, Paragraph 5.1**, is revised to provide “**Cost-Plus-Fixed-Fee through June 30, 2024**” as follows:

	(No R10) ASA CWO through CO 78	(No R10) FY '24 CO 79	(No R10) Total ASA CWO (Base)
Reimbursable Costs not-to-exceed	\$200,302,953	\$2,316,734	\$202,619,687
Plus Fixed Fee (calculated in accordance with Paragraph 5.2.3, Fixed Fee) of	\$19,230,339	\$241,834	\$19,472,173
For a Total Estimated Cost of	\$219,533,292	\$2,558,568	\$222,091,860

3. In Paragraph 5.2.3, Fixed-Fee Subparagraph (b) is revised to read, “This Fixed-Fee shall not exceed \$19,472,173 as specified hereinabove in 5.1 until June 30, 2024.”
4. Except as provided herein, all terms and conditions of the Agreement remain unchanged. The terms and conditions of this ASA CWO Change Order to the Agreement constitute full accord and satisfaction for all costs and period of performance related to the Change described or referenced herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Change Order No. 79 to the Agreement on the date next to their signatures.

AUTHORITY:

**ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY**

By: _____

Signature: _____

Date: _____

ATTEST

Signature: _____

By: _____

Date: _____

APPROVED AS TO FORM:

Michael N. Feuer, City of Los Angeles City Attorney

By: _____

Deputy City Attorney

Date: _____

CONSULTANT:

**ALAMEDA CORRIDOR ENGINEERING
TEAM, a Joint Venture**

AECOM TECHNICAL SERVICES, INC.

By: _____

Signature: _____

Date: _____

ATTEST

Signature: _____

By: _____

Date: _____

MOFFATT & NICHOL, INC.

By: _____

Signature: _____

Date: _____

ATTEST

Signature: _____

By: _____

Date: _____

Signatures of Change Order No. 79 (continued)

IN WITNESS WHEREOF, the Parties hereto have executed this Change Order No. 79 to the Agreement on the date next to their signatures.

CONSULTANT:

JENKINS/GALES & MARTINEZ, INC.

By: _____

Signature: _____

Date: _____

ATTEST

Signature: _____

By: _____

Date: _____

**TELACU CONSTRUCTION
MANAGEMENT, INC.**

By: _____

Signature: _____

Date: _____

ATTEST

Signature _____

By: _____

Date: _____

ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY

First Amended Agreement No. C0027 Program Management Services

CWO SR-47 PROJECT CHANGE ORDER NO. 60

Modifies the First Amended Agreement No. C0027 (hereinafter “the Agreement”) to increase the maximum compensation and extend the term as approved by ACTA Governing Board on June 1, 2023 for the SR-47 Project CWO.

CONSULTANT: **Alameda Corridor Engineering Team (ACET)**

SUMMARY The Agreement duration is changed: -365- Calendar Days

OF The total SR-47 Project CWO is increased by \$176,000 a total not-to-exceed amount of \$23,843,098.

CHANGE

1. This change order extends the Agreement through June 30, 2024, and authorizes ACET to continue to provide services consistent with the budget set forth in this Change Order No. 60 and the statements set forth in the ACTA Board Authorization of June 1, 2023.

The ACET contract total value of all CWO’s is \$256,583,677 *excluding compensation for the R10 Oil Release*. See attached document titled “Summary of Contract Values” as of May 19, 2023.

2. In **ARTICLE 5, COMPENSATION, Paragraph 5.1, remains to provide “Cost-Plus-Fixed-Fee through June 30, 2024”** as follows:

	SR-47 Project CWO Through CO 59	FY '24 CO 60	Total SR-47 Project CWO Only
<i>Reimbursable Costs not-to-exceed</i>	<u>\$21,847,843</u>	<u>\$164,141</u>	<u>\$22,011,984</u>
Plus Fixed Fee (calculated in accordance with Paragraph 5.2.3, Fixed Fee) of	<u>\$1,819,255</u>	<u>\$11,859</u>	<u>\$1,831,114</u>
For a Total Estimated Cost of	<u>\$23,667,098</u>	<u>\$176,000</u>	<u>\$23,843,098</u>

3. In **Paragraph 5.2.3, Fixed-Fee**, the amount shown in **Subparagraph (b)** is revised to read, "\$1,831,114".
4. Except as provided herein, all terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have executed this SR-47 CWO Change Order No. 60 to the Agreement on the date next to their signatures.

AUTHORITY:

**ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY**

By: _____

Signature: _____

Date: _____

ATTEST

Signature: _____

By: _____

Date: _____

APPROVED AS TO FORM:

Michael N. Feuer, City of Los Angeles City Attorney

By: _____

Deputy City Attorney

Date: _____

CONSULTANT:

**ALAMEDA CORRIDOR ENGINEERING
TEAM, a Joint Venture**

AECOM TECHNICAL SERVICES, INC.

By: _____

Signature: _____

Date: _____

ATTEST

Signature: _____

By: _____

Date: _____

MOFFATT & NICHOL, INC.

By: _____

Signature: _____

Date: _____

ATTEST

Signature: _____

By: _____

Date: _____

Signatures of Change Order No. 60 (continued)

IN WITNESS WHEREOF, the Parties hereto have executed this Change Order No. 60 to the Agreement on the date next to their signatures.

CONSULTANT:

JENKINS/GALES & MARTINEZ, INC.

By: _____

Signature: _____

Date: _____

ATTEST

Signature: _____

By: _____

Date: _____

**TELACU CONSTRUCTION
MANAGEMENT, INC.**

By: _____

Signature: _____

Date: _____

ATTEST

Signature _____

By: _____

Date: _____

ATTACHMENT CWO FY24 ACET CUMULATIVE CONTRACT VALUES

	ASA (BASE)			PCH	SR47			TOTALS	
	ITD ASA (Base + R10) THRU CO 78	ASA (Base) CO 79 FY 24	TOTAL ASA (Base + R10) TO DATE CO 79	TOTAL PCH TO DATE (PROJECT CLOSED in FY15)	ITD SR47 THRU CO 59	SR 47 CO 60 FY 24	TOTAL SR47 TO DATE THRU CO 60	TOTAL FY 24 TO DATE	GRAND TOTAL
Direct Labor	\$ 67,809,191	\$ 615,094	\$ 68,424,285	\$ 3,431,270	\$ 4,509,071	\$ 29,777	\$ 4,538,848	\$ 644,871	\$ 76,394,403
Indirect Costs	\$ 94,565,545	\$ 1,435,220	\$ 96,000,765	\$ 4,805,744	\$ 7,612,517	\$ 43,264	\$ 7,655,781	\$ 1,478,484	\$ 108,462,290
Offsite/On Call/OT	\$ 2,327,586	\$ -	\$ 2,327,586	\$ 27,331	\$ 1,577,326	\$ -	\$ 1,577,326	\$ -	\$ 3,932,243
S/t - Labor	\$ 164,702,322	\$ 2,050,314	\$ 166,752,636	\$ 8,264,345	\$ 13,698,914	\$ 73,041	\$ 13,771,955	\$ 2,123,355	\$ 188,788,936
Subconsultants	\$ 30,643,932	\$ 266,420	\$ 30,910,352	\$ 1,219,633	\$ 7,832,798	\$ 91,100	\$ 7,923,898	\$ 357,520	\$ 40,053,883
MIS	\$ 994,701	\$ -	\$ 994,701	\$ 33,827	\$ 60,664	\$ -	\$ 60,664	\$ -	\$ 1,089,192
ODC's	\$ 6,460,148	\$ -	\$ 6,460,148	\$ 207,883	\$ 255,466	\$ -	\$ 255,466	\$ -	\$ 6,923,497
S/t - Subs & ODC's	\$ 38,098,781	\$ 266,420	\$ 38,365,201	\$ 1,461,343	\$ 8,148,928	\$ 91,100	\$ 8,240,028	\$ 357,520	\$ 48,066,572
FY 01 Underrun (rolled over)	\$ 978,500	\$ -	\$ 978,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 978,500
Correction of '99 discrepancy	\$ (2,021,501)	\$ -	\$ (2,021,501)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (2,021,501)
To Balance	\$ 32,229	\$ -	\$ 32,229	\$ (22)	\$ 1	\$ -	\$ 1	\$ -	\$ 32,209
Total Direct Costs	\$ 201,790,331	\$ 2,316,734	\$ 204,107,065	\$ 9,725,666	\$ 21,847,843	\$ 164,141	\$ 22,011,984	\$ 2,480,875	\$ 235,844,715
Labor Fee	\$ 17,592,340	\$ 227,812	\$ 17,820,152	\$ 844,081	\$ 1,343,406	\$ 7,304	\$ 1,350,710	\$ 235,116	\$ 20,014,943
Administrative Fees	\$ 1,792,216	\$ 14,022	\$ 1,806,238	\$ 78,972	\$ 475,849	\$ 4,555	\$ 480,404	\$ 18,577	\$ 2,365,614
Total Fixed Fee	\$ 19,384,556	\$ 241,834	\$ 19,626,390	\$ 923,053	\$ 1,819,255	\$ 11,859	\$ 1,831,114	\$ 253,693	\$ 22,380,557
Total Costs w/ Fees	\$ 221,174,887	\$ 2,558,568	\$ 223,733,455	\$ 10,648,719	\$ 23,667,098	\$ 176,000	\$ 23,843,098	\$ 2,734,568	\$ 258,225,272
Less figures for R10	(1,641,595)		(1,641,595)						(1,641,595)
TOTAL figures excluding R10	219,533,292		222,091,860						256,583,677

SUMMARY OF CONTRACT VALUES

ASA (Base) CWO:

DESCRIPTION			DIRECT COST	RUNNING TOTAL DIRECT COST	FIXED FEE	RUNNING TOTAL FIXED FEE	CWO TOTAL	RUNNING TOTAL CWO
FY 02 Total			\$ 5,200,032		\$ 479,720		\$ 5,679,752	
FY 03 Total			\$ 9,455,175		\$ 840,981		\$ 10,296,155	
FY 04 Total			\$ 4,102,568		\$ 438,842		\$ 4,541,410	
FY 05 Total			\$ 4,882,523		\$ 424,411		\$ 5,306,935	
FY 06 Total			\$ 4,942,537		\$ 400,425		\$ 5,342,962	
FY 07 Total			\$ 3,749,203		\$ 333,937		\$ 4,083,140	
FY 08 Total			\$ 4,115,386		\$ 459,590		\$ 4,574,975	
FY 09 Total			\$ 4,071,344		\$ 365,944		\$ 4,437,288	
FY 10 Total			\$ 3,480,697		\$ 288,596		\$ 3,769,294	
FY 11 Total			\$ 2,546,627		\$ 210,824		\$ 2,757,450	
FY 12 Total			\$ 2,451,050		\$ 223,354		\$ 2,674,404	
FY 13 Total			\$ 2,095,394		\$ 205,833		\$ 2,301,226	
FY 14 Total			\$ 1,880,110		\$ 174,775		\$ 2,054,885	
FY 15 Total			\$ 1,632,890		\$ 176,181		\$ 1,809,071	
FY 16 Total			\$ 1,563,189		\$ 147,075		\$ 1,710,264	
FY 17 Total			\$ 1,562,390		\$ 150,882		\$ 1,713,272	
FY 18 Total			\$ 1,634,182		\$ 157,532		\$ 1,791,714	
FY 19	ASA	CO 65	\$ 1,759,400	\$ 194,223,223	\$ 164,626	\$ 18,695,569	\$ 1,924,026	\$ 212,918,791
FY 19	(R10 - 9)	CO 54 / SPLIT	\$ 15,438	\$ 194,238,660	\$ 0	\$ 18,695,569	\$ 15,438	\$ 212,934,229
FY 19	ASA	CO 68	\$ (57,675)	\$ 194,180,985	\$ -	\$ 18,695,569	\$ (57,675)	\$ 212,876,554
FY 19 Total			\$ 1,717,163		\$ 164,626		\$ 1,881,789	
FY 20	ASA	CO 67	\$ 1,775,372	\$ 195,956,357	\$ 166,223	\$ 18,861,792	\$ 1,941,595	\$ 214,818,149
FY 20	(R10 - 9)	CO 54 / SPLIT	\$ 5,660	\$ 195,962,018	\$ (0)	\$ 18,861,792	\$ 5,660	\$ 214,823,809
FY 20	ASA	CO 70	\$ 175,000	\$ 196,137,018	\$ -	\$ 18,861,792	\$ 175,000	\$ 214,998,809
FY 20	ASA	CO 71	\$ (73,634)	\$ 196,063,384	\$ -	\$ 18,861,792	\$ (73,634)	\$ 214,925,176
FY 20 Total			\$ 1,882,399		\$ 166,223		\$ 2,048,622	
FY 21	ASA	CO 69	\$ 1,719,419	\$ 197,782,804	\$ 160,629	\$ 19,022,421	\$ 1,880,048	\$ 216,805,224
FY 21	(R10 - 9)	CO 54 / SPLIT	\$ 13,976	\$ 197,796,780	\$ -	\$ 19,022,421	\$ 13,976	\$ 216,819,200
FY 21	ASA	CO 72	\$ 170,000	\$ 197,966,780	\$ -	\$ 19,022,421	\$ 170,000	\$ 216,989,200
FY 21	CLOSEOUT	CO 74	\$ (100,111)	\$ 197,866,668	\$ -	\$ 19,022,421	\$ (100,111)	\$ 216,889,089
FY 21 Total			\$ 1,803,284		\$ 160,629		\$ 1,963,913	
FY 22	ASA	CO 73	\$ 1,835,879	\$ 199,702,547	\$ 172,210	\$ 19,194,631	\$ 2,008,089	\$ 218,897,177
FY 22	(R10 - 9)	CO 54 / SPLIT	\$ 9,244	\$ 199,711,791	\$ -	\$ 19,194,631	\$ 9,244	\$ 218,906,421
FY 22	ASA	CO 76	\$ 200,000	\$ 199,911,791	\$ -	\$ 19,194,631	\$ 200,000	\$ 219,106,421
FY 22	CLOSEOUT	CO 77	\$ (183,408)	\$ 199,728,383	\$ -	\$ 19,194,631	\$ (183,408)	\$ 218,923,013
FY 22 Total			\$ 1,861,715		\$ 172,210		\$ 2,033,925	
FY 23	ASA	CO 75	\$ 2,049,052	\$ 201,777,435	\$ 189,925	\$ 19,384,555	\$ 2,238,977	\$ 221,161,990
FY 23	(R10 - 9)	CO 54 / SPLIT	\$ 6,347	\$ 201,783,782	\$ -	\$ 19,384,555	\$ 6,347	\$ 221,168,337
FY 23	ASA Reduction	CO 78	\$ (47,000)	\$ 201,736,782	\$ -	\$ 19,384,555	\$ (47,000)	\$ 221,121,337
FY 23 Total			\$ 2,008,399		\$ 189,925		\$ 2,198,324	
FY 24	ASA	CO 79	\$ 2,316,734	\$ 204,053,516	\$ 241,834	\$ 19,626,389	\$ 2,558,568	\$ 223,679,905
FY 24	(R10 - 9)	CO 54 / SPLIT	\$ 53,548	\$ 204,107,064	\$ -	\$ 19,626,389	\$ 53,548	\$ 223,733,453
FY 24 Total			\$ 4,378,681		\$ 431,759		\$ 4,810,440	
Grand Total			\$ 204,107,064		\$ 19,626,390		\$ 223,733,454	
Total of all Base exclusive of R10			\$ 202,619,687		\$ 19,472,173		\$ 222,091,860	
R10 Totals			\$ 1,487,379		\$ 154,216		\$ 1,641,595	

SUMMARY OF CONTRACT VALUES

PCH CWO:

DESCRIPTION	DIRECT COST	RUNNING TOTAL DIRECT COST	FIXED FEE	RUNNING TOTAL FIXED FEE	CWO TOTAL	RUNNING TOTAL CWO
FY 02 Total	\$ 1,758,838		\$ 140,099		\$ 1,898,937	
FY 03 Total	\$ 3,183,381		\$ 307,669		\$ 3,491,050	
FY 04 Total	\$ 3,189,176		\$ 339,883		\$ 3,529,059	
FY 05 Total	\$ 490,130		\$ 34,093		\$ 524,223	
FY 06 Total	\$ 528,227		\$ 27,709		\$ 555,936	
FY 07 Total	\$ 111,812		\$ 10,787		\$ 122,599	
FY 08 Total	\$ 110,794		\$ 11,838		\$ 122,632	
FY 09 Total	\$ 27,734		\$ 11,838		\$ 39,572	
FY 10 Total	\$ 55,064		\$ 8,914		\$ 63,978	
FY 11 Total	\$ 68,375		\$ 9,473		\$ 77,848	
FY 12 Total	\$ 43,133		\$ 2,066		\$ 45,199	
FY 13 Total	\$ 76,836		\$ 7,997		\$ 84,833	
FY 14 Total	\$ 65,738		\$ 7,554		\$ 73,292	
FY 15 Total	\$ 16,429		\$ 3,133		\$ 19,562	
FY 16 Total	\$ -		\$ -		\$ -	
Grand Total	\$ 9,725,666		\$ 923,053		\$ 10,648,719	

SUMMARY OF CONTRACT VALUES

SR 47 CWO:

DESCRIPTION		DIRECT COST	RUNNING TOTAL DIRECT COST	FIXED FEE	RUNNING TOTAL FIXED FEE	CWO TOTAL	RUNNING TOTAL CWO
FY 02 Total		\$ 715,367		\$ 62,321		\$ 777,688	
FY 03 Total		\$ 1,479,222	\$ 2,194,589	\$ 138,600	\$ 200,921	\$ 1,617,822	
FY 04 Total		\$ 401,173		\$ 33,083		\$ 434,256	
FY 05 Total		\$ 2,370,581		\$ 189,925		\$ 2,560,505	
FY 06 Total		\$ 1,901,388		\$ 85,153		\$ 1,986,541	
FY 07 Total		\$ 2,187,304		\$ 143,149		\$ 2,330,453	
FY 08 Total		\$ 2,399,265		\$ 138,680		\$ 2,537,945	
FY 09 Total		\$ 2,056,700		\$ 148,500		\$ 2,205,200	
FY 10 Total		\$ 2,053,959		\$ 201,332		\$ 2,255,292	
FY 11 Total		\$ 1,531,589		\$ 148,592		\$ 1,680,181	
FY 12 Total		\$ 944,613		\$ 86,600		\$ 1,031,213	
FY 13 Total		\$ 496,611		\$ 55,734		\$ 552,345	
FY 14 Total		\$ 619,218		\$ 71,587		\$ 690,805	
FY 15 Total		\$ 407,749		\$ 32,965		\$ 440,714	
FY 16 Total		\$ 371,599		\$ 36,251		\$ 407,849	
FY 17 Total		\$ 347,879		\$ 37,517		\$ 385,397	
FY 18 Total		\$ 393,101		\$ 37,863		\$ 430,965	
FY 19 Total		\$ 350,770		\$ 39,303		\$ 390,073	
FY 20 Total		\$ 202,911		\$ 39,219		\$ 242,130	
FY 21	CO 51	\$ 470,339	\$ 21,701,337	\$ 39,522	\$ 1,765,897	\$ 509,861	\$ 23,467,234
FY 21	CO 54	\$ (170,000)	\$ 21,531,337	\$ -	\$ 1,765,897	\$ (170,000)	\$ 23,297,234
FY 21	CLOSEOUT CO 56	\$ (102,181)	\$ 21,429,156	\$ -	\$ 1,765,897	\$ (102,181)	\$ 23,195,053
FY 21 Total		\$ 198,158		\$ 39,522		\$ 237,680	
FY 22	CO 55	\$ 401,974	\$ 21,831,130	\$ 33,710	\$ 1,799,607	\$ 435,684	\$ 23,630,737
FY 22	CO 58	\$ (200,000)	\$ 21,631,130	\$ -	\$ 1,799,607	\$ (200,000)	\$ 23,430,737
FY 22	CLOSEOUT CO 59	\$ (44,647)	\$ 21,586,483	\$ -	\$ 1,799,607	\$ (44,647)	\$ 23,386,090
FY 22 Total		\$ 157,327		\$ 33,710		\$ 191,037	
FY 23	CO 57	\$ 261,359	\$ 21,847,842	\$ 19,649	\$ 1,819,256	\$ 281,008	\$ 23,667,098
FY 23 Total		\$ 261,359		\$ 19,649		\$ 281,008	
FY24	CO 60	\$ 164,141	\$ 22,011,983	\$ 11,859	\$ 1,831,115	\$ 176,000	\$ 23,843,098
FY 24 Total		\$ 164,141		\$ 11,859		\$ 176,000	\$ 23,843,098
Grand Total		\$ 22,011,984		\$ 1,831,114		\$ 23,843,098	


SUMMARY OF CONTRACT VALUES

ALL ACET CWO's:

DESCRIPTION			DIRECT COST	RUNNING TOTAL DIRECT COST	FIXED FEE	RUNNING TOTAL FIXED FEE	CWO TOTAL	RUNNING TOTAL CWO
FY 02 Total			\$ 7,674,237		\$ 682,140		\$ 8,356,377	
FY 03 Total			\$ 14,117,777		\$ 1,287,250		\$ 15,405,027	
FY 04 Total			\$ 7,692,917		\$ 811,808		\$ 8,504,725	
FY 05 Total			\$ 7,743,234		\$ 648,429		\$ 8,391,663	
FY 06 Total			\$ 7,372,152		\$ 513,287		\$ 7,885,439	
FY 07 Total			\$ 6,048,319		\$ 487,873		\$ 6,536,191	
FY 08 Total			\$ 6,625,445		\$ 610,108		\$ 7,235,552	
FY 09 Total			\$ 6,155,778		\$ 526,282		\$ 6,682,060	
FY 10 Total			\$ 5,589,721		\$ 498,842		\$ 6,088,563	
FY 11 Total			\$ 4,146,591		\$ 368,888		\$ 4,515,479	
FY 12 Total			\$ 3,438,796		\$ 312,020		\$ 3,750,816	
FY 13 Total			\$ 2,668,841		\$ 269,564		\$ 2,938,404	
FY 14 Total			\$ 2,565,066		\$ 253,916		\$ 2,818,982	
FY 15 Total			\$ 2,057,068		\$ 212,279		\$ 2,269,347	
FY 16 Total			\$ 1,934,787		\$ 183,326		\$ 2,118,113	
FY 17 Total			\$ 1,910,269		\$ 188,400		\$ 2,098,669	
FY 18 Total			\$ 2,027,283		\$ 195,396		\$ 2,222,679	
FY 19 Total			\$ 2,067,933		\$ 203,929		\$ 2,271,863	
FY 20	ASA	CO 67	\$ 1,775,372	\$ 226,710,111	\$ 166,223	\$ 21,472,000	\$ 1,941,595	\$ 248,182,111
FY 20	SR47	CO 49	\$ 467,308	\$ 227,177,419	\$ 39,219	\$ 21,511,220	\$ 506,527	\$ 248,688,638
FY 20	ASA (R10) 9	CO 54/SPLIT-9	\$ 5,660	\$ 227,183,079	\$ (0)	\$ 21,511,219	\$ 5,660	\$ 248,694,298
FY 20	ASA	CO 70	\$ 175,000	\$ 227,358,079	\$ -	\$ 21,511,219	\$ 175,000	\$ 248,869,298
FY 20	SR47	CO 52	\$ (175,000)	\$ 227,183,079	\$ -	\$ 21,511,219	\$ (175,000)	\$ 248,694,298
FY 20	ASA	CO 71	\$ (73,634)	\$ 227,109,446	\$ -	\$ 21,511,219	\$ (73,634)	\$ 248,620,665
FY 20	SR47	CO 53	\$ (89,397)	\$ 227,020,048	\$ -	\$ 21,511,219	\$ (89,397)	\$ 248,531,268
FY 20 Total			\$ 2,085,309		\$ 205,442		\$ 2,290,751	
FY 21	ASA	CO 69	\$ 1,719,419	\$ 228,739,468	\$ 160,629	\$ 21,671,848	\$ 1,880,048	\$ 250,411,316
FY 21	SR47	CO 51	\$ 470,339	\$ 229,209,807	\$ 39,522	\$ 21,711,370	\$ 509,861	\$ 250,921,177
FY 21	ASA (R10) 9	CO 54/SPLIT-9	\$ 13,976	\$ 229,223,783	\$ -	\$ 21,711,370	\$ 13,976	\$ 250,935,153
FY 21	ASA	CO 72	\$ 170,000	\$ 229,393,783	\$ -	\$ 21,711,370	\$ 170,000	\$ 251,105,153
FY 21	SR47	CO 54	\$ (170,000)	\$ 229,223,783	\$ -	\$ 21,711,370	\$ (170,000)	\$ 250,935,153
FY 21	ASA	CO 74	\$ (100,111)	\$ 229,123,671	\$ -	\$ 21,711,370	\$ (100,111)	\$ 250,835,041
FY 21	SR47	CO56	\$ (102,181)	\$ 229,021,490	\$ -	\$ 21,711,370	\$ (102,181)	\$ 250,732,860
FY 21 Total			\$ 2,103,623		\$ 200,151		\$ 2,303,773	
FY 22	ASA	CO73	\$ 1,835,879	\$ 230,857,369	\$ 172,210	\$ 21,883,580	\$ 2,008,089	\$ 252,740,949
FY 22	SR47	CO 55	\$ 401,974	\$ 231,259,343	\$ 33,710	\$ 21,917,290	\$ 435,684	\$ 253,176,633
FY 22	ASA (R10) 9	CO 54/SPLIT-9	\$ 9,244	\$ 231,268,587	\$ -	\$ 21,917,290	\$ 9,244	\$ 253,185,877
FY 22	ASA	CO 76	\$ 200,000	\$ 231,468,587	\$ -	\$ 21,917,290	\$ 200,000	\$ 253,385,877
FY 22	SR47	CO 58	\$ (200,000)	\$ 231,268,587	\$ -	\$ 21,917,290	\$ (200,000)	\$ 253,185,877
FY 22	ASA	CO 77	\$ (183,408)	\$ 231,085,179	\$ -	\$ 21,917,290	\$ (183,408)	\$ 253,002,469
FY 22	SR47	CO 59	\$ (44,647)	\$ 231,040,532	\$ -	\$ 21,917,290	\$ (44,647)	\$ 252,957,822
FY 22 Total			\$ 2,063,689		\$ 205,920		\$ 2,269,609	
FY 23	ASA	CO 75	\$ 2,049,052	\$ 233,089,584	\$ 189,925	\$ 22,107,215	\$ 2,238,977	\$ 255,196,799
FY 23	SR47	CO 57	\$ 261,359	\$ 233,350,943	\$ 19,649	\$ 22,126,864	\$ 281,008	\$ 255,477,807
FY 23	ASA (R10) 9	CO 54/SPLIT-9	\$ 6,347	\$ 233,357,290	\$ -	\$ 22,126,864	\$ 6,347	\$ 255,484,154
FY 23	ASA	CO 78	\$ (47,000)	\$ 233,310,290	\$ -	\$ 22,126,864	\$ (47,000)	\$ 255,437,154
FY 23 Total			\$ 2,269,758		\$ 209,574		\$ 2,479,332	
FY 24	ASA	CO 79	\$ 2,316,734	\$ 235,627,024	\$ 241,834	\$ 22,368,698	\$ 2,558,568	\$ 257,995,722
FY 24	SR47	CO 60	\$ 164,141	\$ 235,791,165	\$ 11,859	\$ 22,380,557	\$ 176,000	\$ 258,171,722
FY 24	ASA (R10) 9	CO 54/SPLIT-9	\$ 53,548	\$ 235,844,713	\$ -	\$ 22,380,557	\$ 53,548	\$ 258,225,270
FY 24 Total			\$ 2,534,423		\$ 253,693		\$ 2,788,116	
Grand Total			\$ 235,844,715		\$ 22,380,557		\$ 258,225,272	
Total of all CWO's exclusive of R10			\$ 234,357,336		\$ 22,226,341		\$ 256,583,677	

M E M O

Alameda Corridor Transportation Authority

To: Governing Board
Meeting Date: June 1, 2023
From: Kevin L. Scott, Chief Financial Officer 
Subject: APPROVE and Adopt the ACTA Officer and Employee Publicly Available Pay Schedule for Fiscal Year 2024

Recommendation:

Staff requests that the Governing Board approve and adopt the Publicly Available Pay Schedule for ACTA's Officers and Employees effective July 1, 2023. The Pay Schedule sets the range of salaries allowed for each ACTA position.

Background:

The California Public Employee Retirement System (CalPERS) requires its member agencies to have each agency's governing body approve its employee Pay Schedule and thereafter make it publicly available. This item is brought before the Governing Board for approval to update the past Governing Board-approved Pay Schedule and to comply with CalPERS requirements.

Note that separately from approving the Pay Schedule, the ACTA Governing Board approves the salary budget line item during each annual budget approval process.

Discussion:

ACTA ORGANIZATION

ACTA's Organization Chart is shown in Transmittal 1.

ACTA's management will be hiring a Chief Operating Officer (COO) to support the CEO in providing leadership and expertise in railroad maintenance and operations with the ability to provide management of maintenance-of-way activities, engineering contractor activities, safety programs and dispatching performance.

ACTA's management also will be hiring a Production Analyst to support the data analysis related to our revenue assessment and verification system, operations assessments, as well as production of data presentation graphics, reports and Board meeting packages. This position will also assist with contract documents.

PAY SCHEDULE

ACTA management proposes a salary budget and Pay Schedule for 13 positions including three officers and ten employees. The salary ranges for each position have historically been established by comparing the salaries for ACTA's position descriptions with relatively equivalent City of Los Angeles employee positions. The proposed ACTA Pay Schedule lines are not tied directly to the City of Los Angeles ranges because the City salaries take into

consideration certain contractually negotiated terms and conditions that do not carry over to employment at ACTA. Therefore, the proposed salary ranges for each position also consider consumer price index changes, merit raises and the Board's approved budget for the upcoming fiscal year. The proposed ACTA Pay Schedule applies a 7.5% increase to the Maximum limit for each position. Transmittal 2 shows ACTA's proposed Pay Schedule for ACTA Governing Board approval.

Budget Impact:

The approval of ACTA's Pay Schedule will not directly impact ACTA's budget.

Co-General Counsel Review:

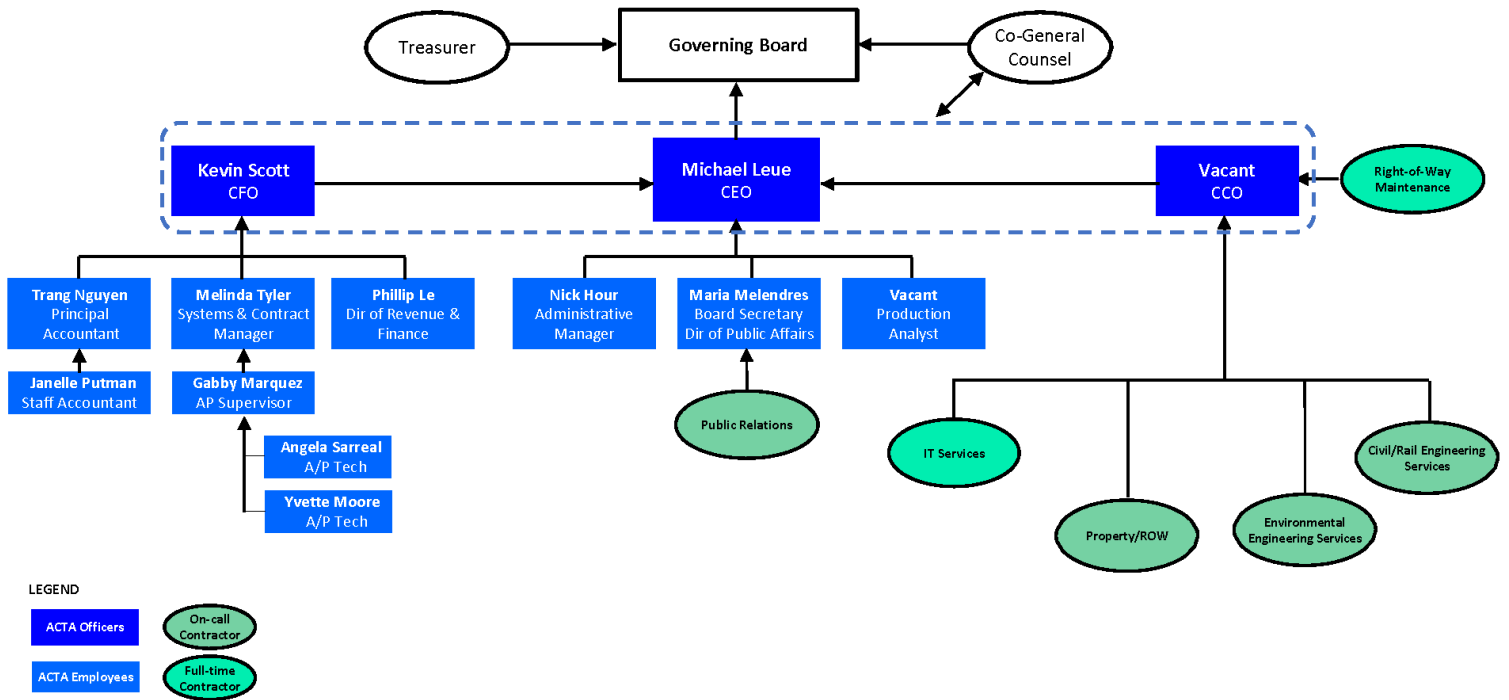
ACTA's Co-General Counsel has reviewed this board report and there are no legal issues at this time.

Transmittals:

Transmittal 1 – ACTA Organization Chart

Transmittal 2 – ACTA Pay Schedule Effective FY24

ACTA FY 2023-24 Proposed Organization Chart



ACTA Officer and Employee Publicly Available Pay Schedule

Effective 07/01/2023


FLSA Exempt	Rate Type	Position	Pay Schedule			
	for PERS Reporting		Minimum	Maximum	Minimum	Maximum
			Annual	Annual	Hourly	Hourly
Yes	Monthly	Chief Executive Officer	\$231,344	\$344,568	\$111.22	\$165.66
Yes	Monthly	Chief Financial Officer	\$196,549	\$292,745	\$94.50	\$140.75
Yes	Monthly	Chief Operating Officer	\$196,549	\$292,745	\$94.50	\$140.75
Yes	Monthly	Dir. of Systems, Revenue, Finance	\$167,458	\$249,408	\$80.51	\$119.91
Yes	Monthly	Principal Accountant	\$141,345	\$210,493	\$67.95	\$101.20
Yes	Monthly	Staff Accountant	\$80,685	\$122,552	\$38.79	\$58.91
Yes	Monthly	Dir. of Public Affairs	\$121,681	\$181,211	\$58.50	\$87.12
Yes	Monthly	Accounts Payable Supervisor	\$97,508	\$148,153	\$46.88	\$71.23
Yes	Monthly	Administrative Manager	\$88,465	\$137,133	\$42.53	\$65.93
Yes	Monthly	Systems & Contracts Manager	\$124,478	\$189,123	\$59.84	\$90.93
No	Monthly	Accounts Payable Technician	\$74,438	\$113,111	\$35.79	\$54.38
Yes	Monthly	Production Analyst	\$124,478	\$189,123	\$59.84	\$90.93

M E M O

Alameda Corridor Transportation Authority

To: Governing Board

Meeting Date: June 1, 2023

From: Kevin L. Scott, Chief Financial Officer 

Subject: APPROVE Annual ACTA Operating Budget for Fiscal Year 2023/2024

Recommendation:

Adopt the final Fiscal Year 2023/2024 (FY24) ACTA Operating Budget and appropriate cash spending of \$101,081,366.

Discussion:

The FY24 cash budget of \$101.1 million includes debt service of \$65.5 million (consisting of \$15.5 million in principal payments and \$50.0 million in interest payments) and other expenditures as outlined below.

Cash Spending

	<u>FY24</u>	<u>Budget</u>	<u>FY23</u>
Debt Service	\$65,461,227		\$122,060,946
Administrative Expenses	8,690,295		6,994,268
EPA Pass Thru	1,169,835		170,212
Public Benefit Spending	2,992,850		4,437,000
Maintenance of Way Expenses	22,767,159		17,945,027
	<u>\$101,081,366</u>		<u>\$151,607,453</u>

The Budget also details non-cash expenditures, for which no Board appropriation occurs. These items include:

Non-Cash Spending

	<u>FY24</u>	<u>FY23</u>
Debt Service – Accrued CAB Interest	\$75,607,088	\$39,979,832
Depreciation	20,985,164	20,985,164
	<u>\$96,592,252</u>	<u>\$60,964,996</u>



Revenue Summary

Operating Revenue during FY24 is forecasted to be \$101.8 million. The largest component of Revenue, \$87.2 million, is from Use Fees and Container Charges as established in the 1998 Use and Operating Agreement (UOA), as amended. There is an additional \$14.6 million of Maintenance of Way Charges which are paid by the railroads. Rates are forecast to escalate by 4.5%, which is the maximum annual CPI adjustment provided in the Use & Operating Agreement (the actual CPI adjustment will be taken from October 2023). ACTA TEU volumes are based on our ACTA Forecast Model -Low Scenario results, which show 0% growth for the first six months of the fiscal year compared to that period in 2022, and increase by 2% for the remaining six months compared to that period in 2023.

Other Revenue comprise reimbursable components, the largest of which is reimbursement by Caltrans of \$3.0 million in funds advanced by ACTA for the SR-47 project; Investment Income and interest earnings on debt service reserve funds totaling \$1.5 million. The other components, totaling \$1.3 million, are reimbursements to ACTA from PierPass, Crimson Oil, Dolores Crossover-UPRR, Long Beach Pier B, miscellaneous flagging for the railroads, and office space provided to ACET.

Spending Summary

Administrative Expenses have increased mainly due to the reorganization plan, including the addition of two new ACTA employees (Chief Operating Officer and Production Analyst), professional consultant services to replace ACET and an extension of ACET contract to enable knowledge transfer. The FY24 budget also includes salary adjustments/increases of 4.5% and a 3% merit increase pool for ACTA employees. Benefit costs reflect the latest rates as quoted by the benefit providers such as CalPERS (health and retirement), Guardian (life insurance) and other benefit providers (workers compensation, dental insurance, vision insurance, etc.), as well as additional CalPERS deposits.

The table below details Administrative Expenses by Expense Type, comparing the FY24 Budget to both FY23 Estimated Actual and FY23 Budget. The FY24 Budget proposes a 24.2% increase over the FY23 Budget.

Some notable information on the FY24 Administrative Expenses is described as follows:

Salaries: ACTA staff annual compensation adjustment of 4.5% CPI. The net increase to FY24 Budget reflects 23.8% due to COLA and executive and staff additions. Establishment of a merit bonus pool at 3% of total salaries.

Information Technologies: Decreases in FY24 mainly due to conversion to mobile phone system and reduction in software and licenses to be closer to actuals.

Audit: Increases in FY24 because the specialized consultant services for the new accounting software required in FY24.

Professional Services: Increases due to inclusion of new engineering agreements which will replace ACET in FY25.

Administrative Expenses by Type

	FY 2024		FY 2023		% Change FY 2024 Budget to	
	Budget	Est. Actual	Budget	FY 2023 Est. Actual	FY 2023 Budget	
Salaries	2,243,210	1,745,956	1,812,228	28.5%	23.8%	
Benefits	1,040,759	847,348	978,649	22.8%	6.3%	
Office Expenses	505,233	445,473	486,235	13.4%	3.9%	
Other Management Exp	103,900	49,893	95,550	108.2%	8.7%	
Information Technologies	183,500	145,849	221,900	25.8%	-17.3%	
Bank and Investment	175,000	129,551	175,000	35.1%	0.0%	
ACET Operating	1,545,943	1,219,209	1,667,684	26.8%	-7.3%	
Audit	206,128	159,408	196,470	29.3%	4.9%	
Legal	680,000	436,535	830,000	55.8%	-18.1%	
Governmental Affairs	85,000	83,468	83,397	1.8%	1.9%	
Professional Services	1,921,622	261,412	447,155	635.1%	329.7%	
Total Admin Expense	\$8,690,295	\$5,524,102	\$6,994,268	57.3%	24.2%	

Pass Through Expenses include two items for FY24 Budget: 1) EPA Order related to the Dolores Yard Crossover Project, Pier B Project, Crimson Oil Pipeline, project flagging and other miscellaneous support budgeted at \$1.2 million, and 2) ACTA’s Public Benefit Project Expenses budgeted for \$3.0 million. The expenditures incurred by ACTA are fully reimbursed by Union Pacific Railroad, Port of Long Beach, Crimson or other entities for item 1, and Caltrans for item 2, through Cooperative Agreements between the agencies.

Port Advances

Use Fees & Container Charges during FY24 have been projected at \$87.2 million. No Shortfall advance by the Ports to ACTA will be required in FY24. Revenues are also forecast to be sufficient to pay the full cost of funding the Reserve Account and paying Administrative Costs.

Following adoption of the FY24 Budget, staff will prepare the final budget document for distribution, and post the authorized budget to the ACTA website.

Adoption of the FY24 Budget, as presented is recommended.

Co-General Counsel Review:

ACTA’s Co-General Counsel has reviewed this Board Report and there are no legal issues at this time.

Transmittals:

Transmittal 1 - Proposed FY2024 Budget

Transmittal 2 - Proposed FY2024 Budget Presentation

Proposed FY2024 Budget

Presented to ACTA Governing Board

June 1, 2023

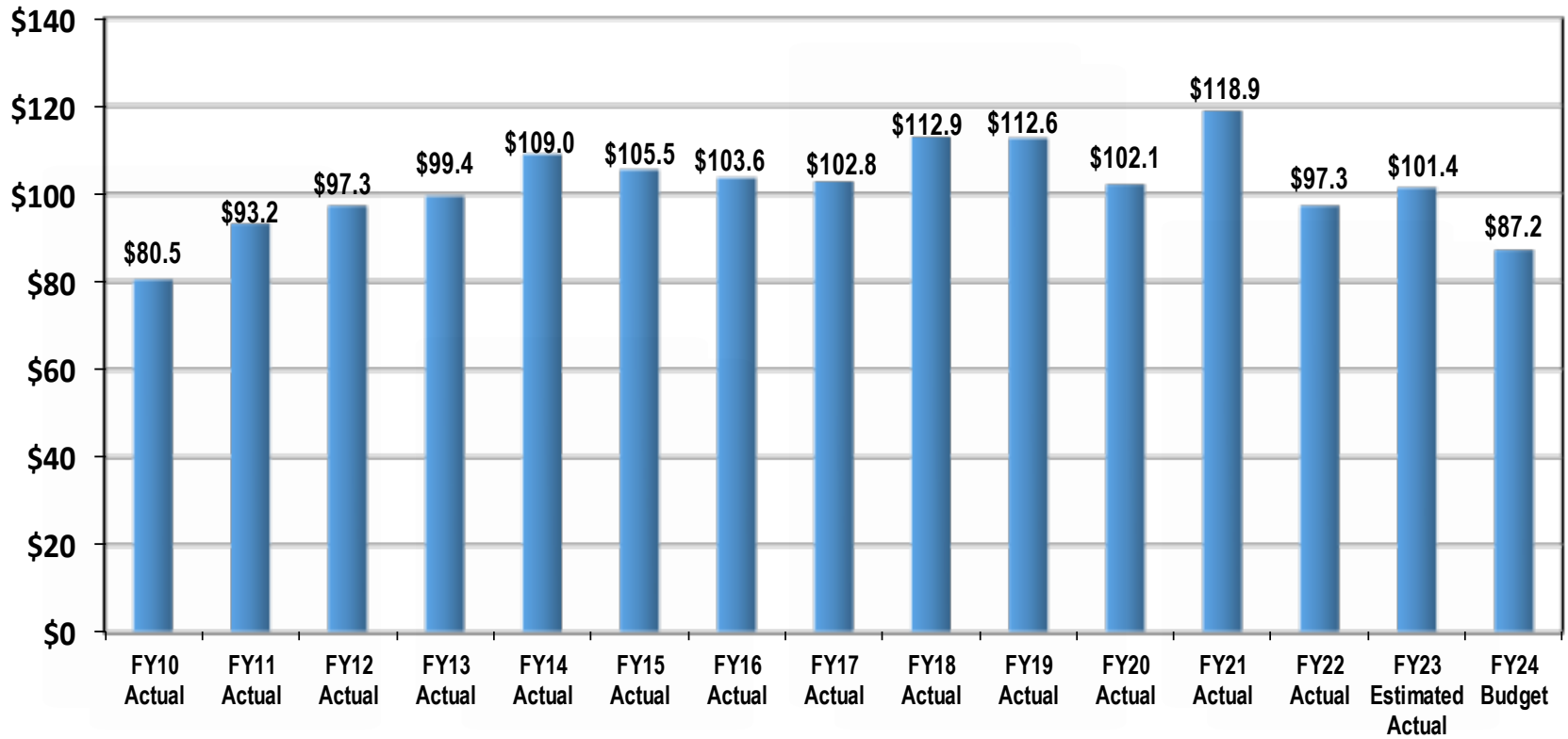


**ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
OPERATING BUDGET SUMMARY**

	FY 2024		FY 2023	
	Budget	Estimated Actual	Budget	
San Pedro Bay TEUs (000)	11,531	11,410	12,101	
ACTA TEUs (000)	2,979	3,440	2,982	
<hr/>				
Revenues				
Operating Revenues				
Use Fees & Container Charges	\$ 87,167,877	\$ 101,362,221	\$ 84,060,112	
Maintenance-of-Way Charges	14,660,656	9,407,263	10,626,662	
Total Operating Revenues	101,828,533	110,769,484	94,686,774	
Other Revenues	5,798,793	4,408,244	5,243,655	
Total Sources of Funds	107,627,326	115,177,728	99,930,429	
<hr/>				
Expenses				
Salaries	2,243,210	1,745,956	1,812,228	
Benefits	1,040,759	847,348	978,649	
Office Expenses	505,233	445,473	486,235	
Other Management Expenses	103,900	49,893	95,550	
Information Technologies	183,500	145,849	221,900	
Bank and Investment	175,000	129,551	175,000	
ACET Administrative Support	1,545,943	1,219,209	1,667,684	
Audit	206,128	159,408	196,470	
Legal	680,000	436,535	830,000	
Government Affairs	85,000	83,468	83,397	
Professional Services	1,921,622	261,412	447,155	
Total Administrative Expenses	8,690,295	5,524,102	6,994,268	
Pass Thru Expenses & EPA Order	1,169,835	550,498	170,212	
Expenses for Public Benefit	2,992,850	1,822,506	4,437,000	
Total Admin, EPA, and Public Benefit Expenses	12,852,980	7,897,106	11,601,480	
Total Maintenance-of-Way Expenses	22,767,159	16,431,386	17,945,027	
Subtotal Admin, EPA, Public Benefit, and MOW Expenses	35,620,139	24,328,492	29,546,507	
Financing Interest	125,573,315	124,227,516	124,227,515	
Depreciation and Amortization Expenses	20,985,164	20,985,164	20,985,164	
Total Operating Expenses	182,178,618	169,541,172	174,759,186	
Income (loss)	\$ (74,551,292)	\$ (54,363,444)	\$ (74,828,757)	

Total Use & Container Charges Comparison

Millions 15.8% 4.4% 2.1% 9.7% -3.2% -1.8% -0.8% 9.8% -0.3% -9.3% 16.5% -18.2% 4.2% -14.0%



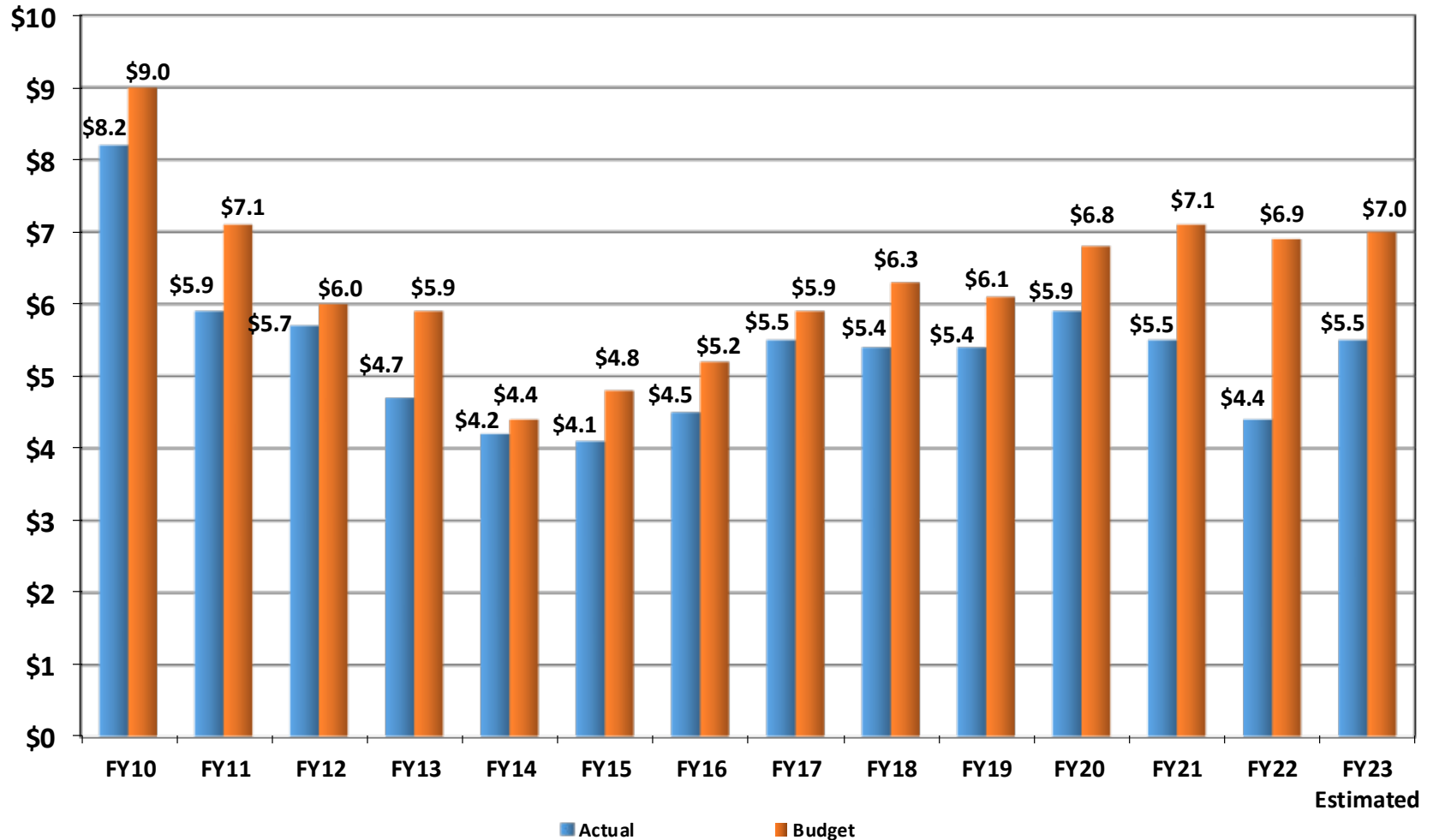
ACTA Revenues *
Projected using ACTA Imputed TEUs
Revenue FY24 Hybrid

	San Pedro Bay Loaded TEUs		Imputed TEUs			Fee	Actual and Projected Revenues
Month	San Pedro Bay Loaded Waterborne Total	San Pedro Bay Loaded Waterborne Growth Rate	Imputed TEUs Divided By Loaded TEUs	ACTA Imputed TEUs	ACTA Imputed TEUs Growth Rate	Actual Loaded Rate / TEU	Actual Reconciled / Forecasted Unreconciled
Jul-22	1,074,937	2.0%	29.4%	315,842	-10.1%	27.92	\$9,624,261
Aug-22	1,011,859	-9.2%	33.3%	337,115	-0.3%	27.92	\$9,361,322
Sep-22	876,753	-14.4%	35.5%	310,864	4.1%	27.92	\$9,717,321
Oct-22	839,714	-21.7%	36.0%	302,294	12.0%	27.92	\$9,054,882
Nov-22	781,626	-18.4%	36.6%	286,351	22.2%	27.92	\$8,440,039
Dec-22	805,989	-13.2%	32.6%	262,825	5.0%	27.92	\$8,004,707
Jan-23	843,780	-18.9%	29.8%	251,831	2.2%	29.18	\$7,638,654
Feb-23	697,700	-32.1%	35.0%	244,182	3.3%	29.18	\$7,335,892
Mar-23	1,148,442	0.0%	25.2%	289,407	-0.1%	29.18	\$7,124,343
Apr-23	1,079,227	0.0%	25.2%	271,965	-12.3%	29.18	\$8,443,866
May-23	1,180,827	0.0%	25.2%	297,568	-7.0%	29.18	\$7,934,962
Jun-23	1,069,550	0.0%	25.2%	269,527	-15.8%	29.18	\$8,681,972
FY2023	11,410,404			3,439,770			\$101,362,221
Jul-23	1,074,937	0.0%	25.2%	270,884	-14.2%	29.18	\$7,863,815
Aug-23	1,011,859	0.0%	25.2%	254,989	-24.4%	29.18	\$7,903,425
Sep-23	876,753	0.0%	25.2%	220,942	-28.9%	29.18	\$7,439,647
Oct-23	839,714	0.0%	25.2%	211,608	-30.0%	29.18	\$6,446,284
Nov-23	781,626	0.0%	25.2%	196,970	-31.2%	29.18	\$6,173,955
Dec-23	805,989	0.0%	25.2%	203,109	-22.7%	29.18	\$5,746,865
Jan-24	860,656	2.0%	26.4%	227,213	-9.8%	29.76	\$5,925,999
Feb-24	711,654	2.0%	26.4%	187,877	-23.1%	29.76	\$6,761,847
Mar-24	1,171,411	2.0%	26.4%	309,252	6.9%	29.76	\$5,591,199
Apr-24	1,100,811	2.0%	26.4%	290,614	6.9%	29.76	\$9,203,331
May-24	1,204,443	2.0%	26.4%	317,973	6.9%	29.76	\$8,648,656
Jun-24	1,090,941	2.0%	26.4%	288,008	6.9%	29.76	\$9,462,854
FY2024	11,530,794			2,979,439			\$87,167,877

* Actual Reconciled and Projected Unreconciled

Net Administrative Expense Comparison Budget vs. Actual FY10 to FY23

Millions



**Alameda Corridor Transportation Authority
Estimated Cash Flow-Budget
FY2024**

Beginning Cash 7/1/2023 - Budget \$ 68,078,291

Receipts:

Use Fee & Containers Charges	\$ 87,167,877
M&O and Other Revenue	<u>16,296,764</u>
Total Receipts	103,464,641

Disbursements:

Debt Service Payments	65,461,227
Operating and M&O Expenses	<u>31,457,454</u>
Total Disbursements	96,918,681

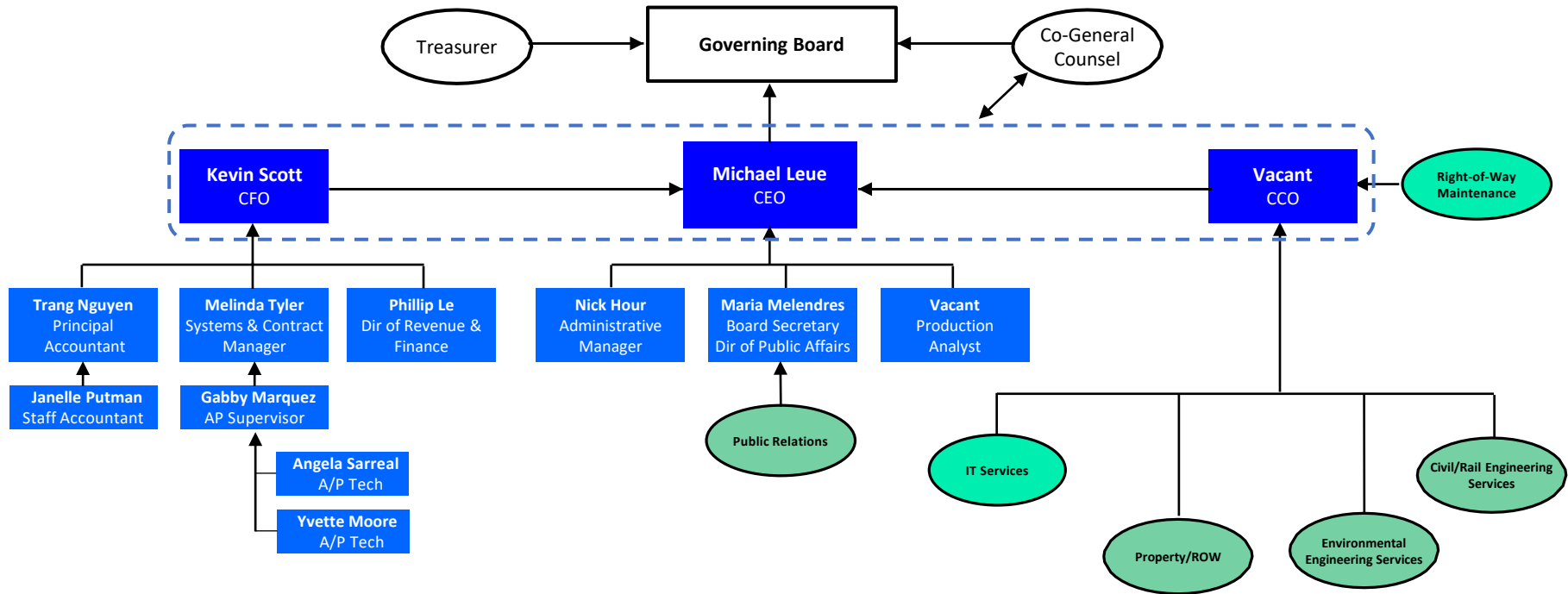
Cash Flow for the Year 6,545,960

Estimated Ending Cash 6/30/2024 \$ 74,624,251



Alameda Corridor Transportation Authority

Functional Organizational Chart



LEGEND

- ACTA Officers
- ACTA Employees

- On-call Contractor
- Full-time Contractor

Item 11

FY24 Proposed Budget

Budget Assumptions

- Projected revenues based on:
 - 4.5% CPI fee increase
 - Assumption of 0% month over month change in volume starting in July 2023 through December 2023 compared to the same period 2022 and change of 2% for January through June 2024.
- ACTA staff compensation adjustment 4.5% CPI
- Merit bonus pool for merit based raises; 3% of total salaries
- ACTA staffing level 13 full-time, new positions of COO and Production Analyst added
- One year of ACET staffing provided to meet needs of operations and field support and transition. New consulting agreements will be made for civil/rail engineer, environmental engineer, IT and real estate

Budget Assumptions

- Core ACTA functions include corridor maintenance, revenue collection, payment of obligations, and servicing of debt
- ACET duties will be replaced by four new professional contracts, civil/rail engineer, environmental engineer, IT and real estate
- ACET funded at 90% of full time to provide transition of institutional knowledge
- M&O budget figures based upon 2023 calendar year budget approved through the Notice of Mutual Agreement process

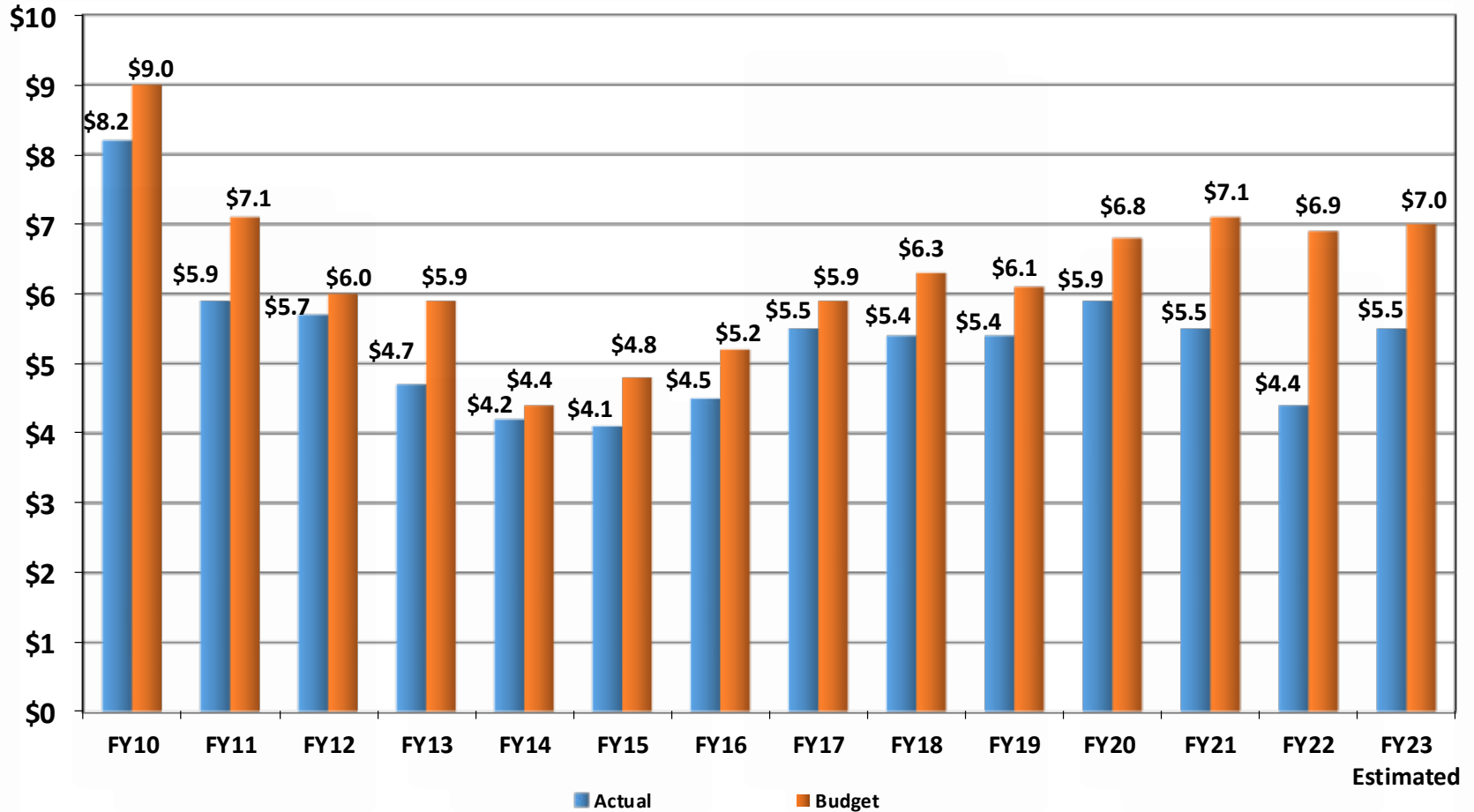
Operating Budget Summary Revenue

(x1000)

	FY 2024 Budget	FY 2023 Estimated Actual	FY 2023 Budget
San Pedro Bay TEUs	11,531	11,410	12,101
ACTA TEUs	2,979	3,440	2,982
Operating Revenue			
Use Fees and Container Charges	\$ 87,168	\$ 101,362	\$ 84,060
Maintenance-of-Way Charges	<u>14,660</u>	<u>9,407</u>	<u>10,627</u>
Total Operating Revenue	\$ 101,828	\$ 110,769	\$ 94,687
Other Revenue	<u>5,799</u>	<u>4,408</u>	<u>5,243</u>
Total Revenue	<u>\$ 107,627</u>	<u>\$ 115,177</u>	<u>\$ 99,930</u>

Net Administrative Expense Comparison Budget vs. Actual FY10 to FY23

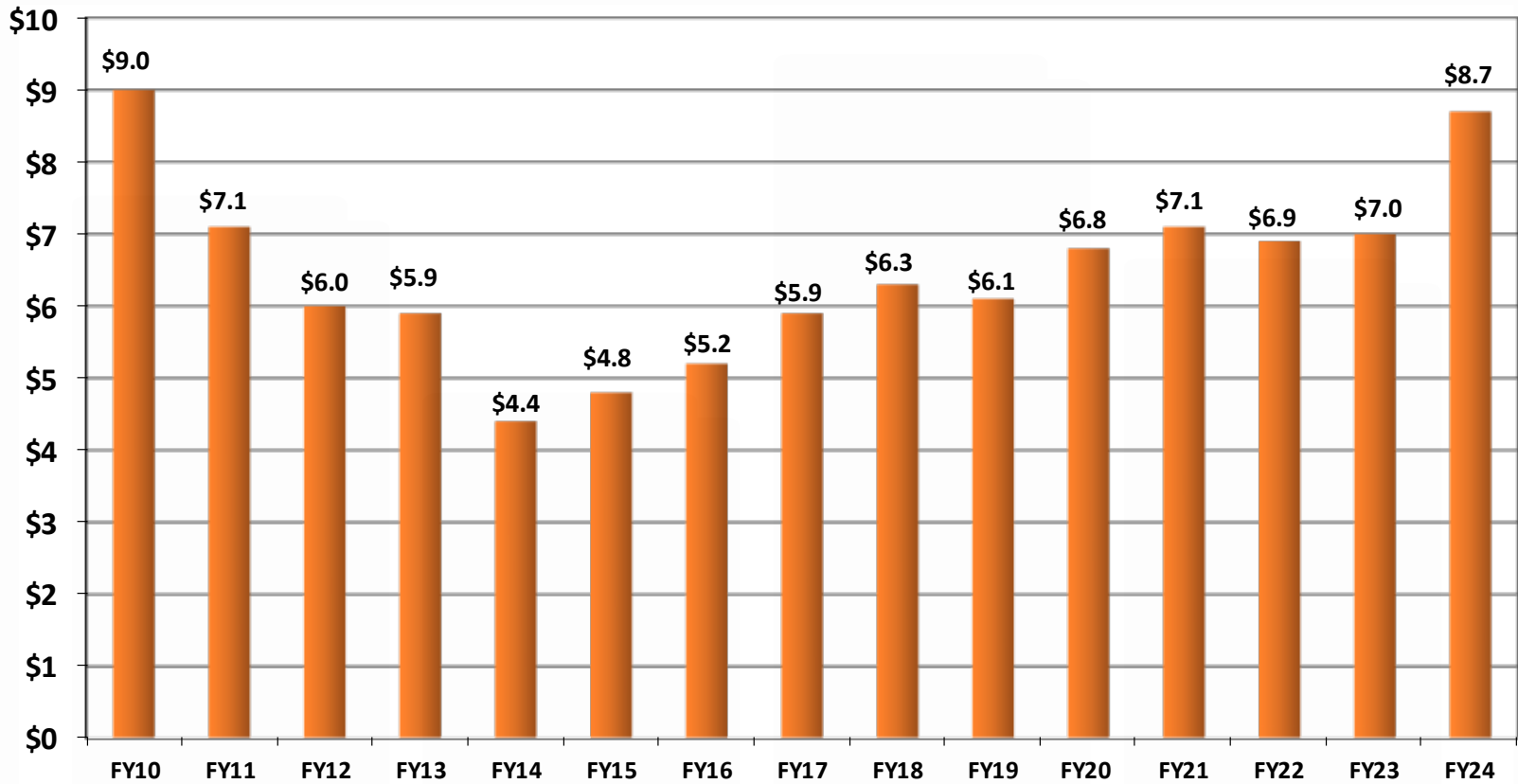
Millions



Estimated

Net Administrative Expense Comparison Budget FY10 to FY24

Millions



Administrative Spending by Expense Type

	FY 2024 Budget	FY 2023 Estimated Actual	FY 2023 Budget
Salaries	\$ 2,243,210	\$ 1,745,956	\$ 1,812,228
Benefits	1,040,759	847,348	978,649
Office Expenses	505,233	445,473	486,235
Other Management Expenses	103,900	49,893	95,550
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