


M E M O

Alameda Corridor Transportation Authority

To: Governing Board
Meeting Date: August 15, 2024
From: Michael C. Leue, Chief Executive Officer 
Subject: APPROVE Resolution No. JPA 24-1 approving the ACTA Officer Positions and Clarifying Assignment of Treasurer Duties

Recommendation:

Staff recommends the approval of the proposed resolution to clarify and affirm the current ACTA Officers authorized by ACTA's Amended and Restated Joint Exercise of Powers Agreement dated as of December 18, 1996 (as amended, the "Joint Powers Agreement"). The proposed resolution clarifies the appointment of ACTA's Treasurer.

Background:

The Treasurer, who shall be selected in accordance with Government Code Sections 6505.5 and 6505.6;¹ so designated shall do all of the following:

- (a) Receive and receipt for all money of the agency or entity and place it in the treasury of the treasurer so designated to the credit of the agency or entity.
- (b) Be responsible, upon his or her official bond, for the safekeeping and disbursement of all agency or entity money so held by him or her.
- (c) Pay, when due, out of money of the agency or entity held by him or her, all sums payable on outstanding bonds and coupons of the agency or entity.
- (d) Pay any other sums due from the agency or entity from agency or entity money, or any portion thereof, only upon warrants of the public officer performing the functions of auditor or controller who has been designated by the agreement.
- (e) Verify and report in writing on the first day of July, October, January, and April of each year to the agency or entity and to the contracting parties to the agreement the amount of money he or she holds for the agency or entity, the amount of receipts since his or her last report, and the amount paid out since his or her last report.

Option 1: The Governing Board has the option, in compliance with Government Code Section 6505.5, to designate the treasurer of one of the contracting parties (City of Long Beach or City of Los Angeles), or in lieu thereof, the county treasurer, or a certified public accountant to be the depository and have custody of all the money of the agency or entity, from whatever source to perform the Treasurer duties. With this option, the Government Code does not require an internal audit.

¹ Government Code Section 6505.6 allows such position to be filled by an officer or employee of the Authority. The relevant Government Code sections are provided in Transmittal 2.

Option 2: Pursuant to the authority granted under California Government Code Sections 6505.5 and 6505.6, Joint Powers Authority (“JPA”) Treasurer duties may be performed by a JPA member treasurer or an employee or officer of a JPA entity, respectively. Starting in 2014, ACTA approved a resolution assigning the Treasurer position to a qualified financial port representative to oversee the duties while delegating the performance of those Treasurer duties to ACTA’s CFO. Government Code Section 6505.6 authorizes an ACTA officer to hold the Treasurer position and perform the duties, but it does not recognize the appointment of a secondary position for oversight. Since oversight by the Ports is already implicit in item (e) of the Treasurer duties, it is recommended that Resolution No. JPA 24-1 be approved to clarify the assignment of the Treasurer duties to the ACTA CFO. ACTA will continue to engage the services of an outside auditor in compliance with Government Code Section 6505.6.

ACTA Officer Positions:

Section 4E (Officers) of the Joint Powers Agreement requires that the Governing Board appoint qualified personnel to fill the following positions:

1. General Manager, who shall be responsible for the administration of the Authority;
2. Authority Engineer, who shall be a registered professional engineer in California responsible for engineering and construction of the Alameda Corridor;
3. Treasurer, who shall be selected in accordance with Government Code Sections 6505.5 and 6505.6;
4. Auditor/Controller, who shall be selected in accordance with Government Code Sections 6505.5 and 6505.6;
5. General Counsel, appointed from the City Attorney’s Office of the City of Long Beach and/or the City of Los Angeles who shall provide legal advice to the Authority;
6. Secretary, who shall keep the official records and correspondence of the Authority; and
7. Such other officers as determined by the Governing Board.

Since ACTA’s inception, officer positions have been filled by either Port or ACTA employees. Over the years, with Governing Board approval, the officer positions have been renewed or additional positions have been added, re-named and/or consolidated as follows:

General Manager

The original role of the General Manager (GM) was augmented in 1998 with the Board appointment of a Chief Executive Officer (CEO). The GM position was re-named the General Manager and Chief Operating Officer (GM/COO). Later the GM/COO position was abolished, and the duties absorbed by the CEO.

By the proposed resolution, it is affirmed that the position of the CEO includes the duties originally assigned to the General Manager, and that the CEO title replaces the GM title.

Authority Engineer

The role of Authority Engineer was initially performed by engineering representatives of both POLA and POLB. In 1998, the position was renamed the Director of Construction and Engineering (DCE) and filled with an ACTA contract employee. In early 2003, an ACTA employee was nominated to the position. In mid-2003, the position was absorbed into the CEO position, when the DCE was promoted to the CEO position. The current CEO has the requisite California PE license.

By the proposed resolution, it is affirmed that the CEO also fills the role of the Authority Engineer.

Treasurer

The Treasurer position will be held by ACTA's Chief Financial Officer (CFO) in compliance with Government Code Section 6505.6. In compliance with Government Code Section 6505, the CFO shall authorize a certified public accountant to perform annual independent audits of ACTA's accounts and records.

By the proposed resolution, it is affirmed that the CFO also fills the role of Treasurer.

Auditor/Controller

The function of Auditor/Controller was originally performed by Port-provided personnel on a part-time basis, with the Auditor provided by one Port and the Controller provided by the other. The role of Controller was absorbed into the ACTA CFO position April 10, 2014 (JPA 2014-3).

For some time, ACTA maintained a separate Internal Auditor position during the peak of construction activity, but this role has subsequently been performed by independent external auditors under the purview of the CFO and overseen by the Audit Committee of the ACTA Governing Board.

Pursuant to the authority granted by Government Code Section 6505.6 and as set forth in the proposed resolution, it is affirmed that the CFO shall perform the duties of the Auditor/Controller.

General Counsel

The role of General Counsel, which must be filled by either the City Attorney's Office of the City of Los Angeles or the City of Long Beach, was originally filled by the City of Los Angeles. By Board resolution in 2005, the role is now performed by Co-General Counsel from each of the City Attorney's Offices. Their services are reimbursed by ACTA.

By the proposed resolution, it is affirmed that General Counsel title has been replaced by the Co-General Counsel title.

Secretary

The role of Secretary has been provided by both ACTA and port staff over the years. Currently, the position is being performed by an ACTA staff member, as approved by the Governing Board in March 2013.

By the proposed resolution, it is affirmed that Secretary functions and title remain the same.

Chief Operating Officer

The role of Chief Operating Officer (COO), as defined in the ACTA reorganization previously presented to the Board, has been added to the ACTA officers. The ACTA Joint Powers Agreement authorizes the Board to add additional officers as it determines necessary. The COO reports to the CEO and provides leadership in contract management with technical guidance to the performance of contracted services including engineering and railroad maintenance of way.

By the proposed resolution, it is affirmed that the position of Chief Operating Officer is an ACTA officer.

Budget Impact:

The approved ACTA Operating Budget will not be impacted by the adoption of this resolution.



August 15, 2024
ITEM #02

Co-General Counsel Review:

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

Transmittals:

Transmittal 1 – Resolution JPA 24-1

Transmittal 2 – Government Code Sections 6505.5 and 6506.6