



ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY

 ONE CIVIC PLAZA, SUITE 350, CARSON, CALIFORNIA 90745 • TEL. (310) 233-7480 • FAX (310) 233-7483

November 25, 2013

Via Facsimile & Email

David Hughes
 General Manager - Contracts and Joint Facilities
 Union Pacific Railroad Company
 1400 Douglas Street - Stop 1180
 Omaha, Nebraska 68179
 Facsimile: (402) 544-0046
 Email: dwhughes@up.com

Re: *Consent to Union Pacific's Revocable, Nonexclusive Grant of Certain Use and Operating Rights and Related Delegation of Certain Duties to Pacific Harbor Line Under Alameda Corridor Drill Track Use and Operating Agreement and Alameda Corridor Use and Operating Agreement*

Dear David:

Union Pacific Railroad Company ("UP") has requested that the Alameda Corridor Transportation Authority ("ACTA"), the City of Long Beach, acting by and through its Board of Harbor Commissioners ("POLB") and the City of Los Angeles, acting by and through its Board of Harbor Commissioners ("POLA" and, together with POLB, the "Ports") consent to UP's revocable, nonexclusive grant of certain use and operating rights and the related delegation of certain duties by UP to Pacific Harbor Line ("PHL") under the Alameda Corridor Drill Track Use and Operating Agreement dated as of December 31, 2002, by and among ACTA, POLB, POLA and UP (the "Drill Track Agreement") and the Alameda Corridor Use and Operating Agreement dated October 12, 1998, by and among, ACTA, POLA, POLB, UP and BNSF Railway Company (the "Use and Operating Agreement"). Section 11.1(a) of the Drill Track Agreement provides that "no party may assign its rights or delegate its duties under this Agreement without the prior written consent of the other parties." Section 15.1(c) of the Use and Operating Agreement provides in relevant part that "No Railroad may assign its rights under this Agreement (including the right to use the Rail Corridor) without Owner's consent, which may be withheld in Owner's sole discretion...". Terms not otherwise defined in this letter shall have the meaning set forth in the Use and Operating Agreement.

In particular, UP proposes that PHL will conduct certain rail freight operations on the Santa Ana Bypass, the Reyes Lead and the Carson Industrial Lead pursuant to nonexclusive track leases as further described in (i) the Santa Ana By-Pass Track Lease Agreement dated as of January 18, 2013, as amended by the First Amendment dated as of November 1, 2013 (ii) the Amended and Restated Reyes Industrial Lead Lease Agreement Articles of Agreement dated as of November 1, 2013 and (iii) the Amended and Restated Carson Industrial Lead Lease

Agreement Articles of Agreement dated as of November 1, 2013, each by and between UP and PHL and attached as Exhibit A hereto (collectively, the "PHL Track Leases"). In order to access the Carson Industrial Lead, the Santa Ana Bypass and the Reyes Lead, PHL will need to operate over a portion of the Rail Corridor and the Drill Track as depicted on Exhibit B hereto (the "Subject Trackage") UP retains certain reserved use and operating rights over the Subject Trackage as further described in the PHL Track Leases.

Each of ACTA, POLA and POLB hereby consent to the UP's revocable, nonexclusive grant of use and operating rights over the Subject Trackage and the delegation of certain related duties as described in the PHL Track Leases by UP to PHL, provided that such consent shall be subject to the following conditions:

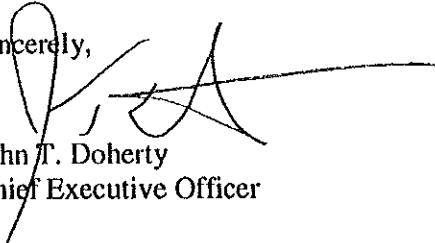
(a) UP shall cause PHL, as its designee, to comply with all dispatching, use and operating requirements applicable to the use and operation of the subject portions of the Drill Track and the Rail Corridor. Notwithstanding the proposed grant and delegation by UP to PHL described herein, UP shall continue to be fully responsible for all of its obligations under the Drill Track Agreement and the Use and Operating Agreement, including, but not limited to, the use, operation and maintenance of the Rail Corridor and the Drill Track by UP and any grantee or delegatee, including PHL, as provided in the Use and Operating Agreement and the Drill Track Agreement, as applicable, including, without limitation, UP's obligation to pay Use Fees and M&O Charges pursuant to Article VII of the Use and Operating Agreement, to provide indemnification and insurance pursuant to Article XI of the Use and Operating Agreement, to pay applicable fees, utility charges, taxes and assessments pursuant to Section 2.5 and Articles VI and VIII of the Drill Track Agreement, and to provide indemnification and insurance pursuant to Article VII of the Drill Track Agreement, all of which aforementioned indemnification and insurance shall cover ACTA, POLA and POLB in addition to UP and PHL. Nothing in this consent shall be deemed to relieve UP of any of its obligations or duties (including without limitation payment obligations) under the Use and Operating Agreement and the Drill Track Agreement. Without limiting the foregoing, as among ACTA, POLA, POLB and UP, for purposes of the Use and Operating Agreement and Drill Track Agreement all trains, equipment and employees of PHL, while on the Rail Corridor or Drill Track, shall be deemed to be the trains, equipment and employees of UP.

(b) Nothing in this consent shall be deemed to be a modification or waiver of any terms or conditions of the Drill Track Agreement or the Use and Operating Agreement. In the event of any conflict between the operational terms of the PHL Track Leases and the Drill Track Agreement or the Use and Operating Agreement, the terms of the Drill Track Agreement or the Use and Operating Agreement, as applicable, shall control with respect to PHL's operations on the Rail Corridor and Drill Track. ACTA and the Ports expressly reserve the right to revoke this consent following (30) days' prior written notice to UP and PHL if at any time ACTA, POLA and POLB jointly determine, in their sole discretion, that the performance by PHL in connection with the PHL Track Leases has an adverse effect on the operations contemplated under the Drill Track Agreement or the Use and Operating Agreement; provided, that (i) such termination notice shall describe the adverse effect that is the basis of the termination, and (ii) PHL shall be provided with an opportunity to cure the cause of the adverse effect during the thirty (30) days prior to the termination date.

(c) Nothing in this consent shall be deemed to be a modification or waiver of any terms or conditions of the San Pedro Bay Rail Operating Permit between the POLA and PHL dated as of December 1, 1997 and the Long Beach Rail Operating Agreement between POLB and PHL dated as of June 1, 1998 (collectively, the "Existing PHL Agreements"). As between PHL and POLA and POLB, as applicable, in the event of any conflict between the terms of the PHL Track Leases and the Existing PHL Agreements, the terms of the Existing PHL Agreement shall control with respect to PHL's operations in POLA and POLA. POLA and POLB expressly reserve the right to revoke this consent following thirty (30) days' prior written notice to UP and PHL if at any time either POLA or POLB determines, in its sole discretion, that the performance by PHL in connection with the PHL Track Leases has an adverse effect on the operations contemplated under the Existing PHL Agreements provided, that (i) such termination notice shall describe the adverse effect that is the basis of the termination, and (ii) PHL shall be provided with an opportunity to cure the cause of the adverse effect during the thirty (30) days prior to the termination date.


Nothing in this consent is intended to terminate, diminish, waive or otherwise modify UP's or any other party's rights or obligations under the Use and Operating Agreement, the Drill Track Agreement, the Existing PHL Agreements, or any other agreement between UP and/or PHL and the entities providing this consent.

Sincerely,


John T. Doherty
Chief Executive Officer

cc: PHL, Attn: Otis Cliatt

[signatures continued on following page]

APPROVED AS TO FORM AND LEGALITY
12/19 2013
MICHAEL N. FEUER, City Attorney
By 
Deputy City Attorney

AGREED AND CONSENTED TO:

"POLA"

CITY OF LOS ANGELES, acting by and
through its Board of Harbor Commissioners

Dated: _____, 2013

By: _____
Executive Director

Attest: _____
Secretary

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney
Janna B. Sidley, General Counsel

Dated: _____, 2013

By: _____
Deputy/Assistant

"POLB"

CITY OF LONG BEACH, acting by and
through its Board of Harbor Commissioners

Dated: _____, 2013

By: _____
Executive Director

Approved as to form this ____ day of _____, 2013

CHARLES PARKIN, City Attorney

By: _____
Deputy City Attorney

[signatures continued on following page]

ACKNOWLEDGED AND AGREED:

UNION PACIFIC RAILROAD COMPANY

By: David Wayne Hughes
Name: David Wayne Hughes
Title: GM: Int Fac + Contracts