

**DATE: NOVEMBER 18, 2011**

**FROM: EXECUTIVE OFFICE**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ ALAMEDA CORRIDOR  
TRANSPORTATION AUTHORITY ADDITIONAL FUNDING REQUEST  
FOR DOMINGUEZ CHANNEL OIL SPILL RESPONSE  
U.S. EPA ORDER NO. OPA CWA 311-09-2011-001**

**SUMMARY:**

The Alameda Corridor Transportation Authority (ACTA) has requested an additional \$250,000 from the City of Los Angeles Harbor Department (Harbor Department) to support efforts to respond to the Dominguez Channel Oil Spill. On June 16, 2011, the Board of Harbor Commissioners (Board) authorized execution of a Funding Agreement (Resolution No. 11-7149, Agreement No. 11-2993) which provides the terms under which such funds are advanced and provides for reimbursement should ACTA recover any response costs from a third party and/or the Oil Spill Liability Trust Fund.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners:

1. Adopt Resolution No. \_\_\_\_\_ authorizing an additional advance of \$250,000 to ACTA for oil spill response costs.

**DISCUSSION:**

Background On the Oil Release and Initial Response - On December 21, 2010, in the midst of heavy rains, oil was seen entering the Dominguez Channel from the outfall of a City storm water pump station. Oil in the City storm sewer was traced to the outfall of a storm water drainage system that underlies the road bed of the Alameda Corridor. The drainage system consists of two French drains, one on the east side and one on the west side of the tracks, formed from perforated pipes surrounded by pea gravel and landscape fabric and laid in trenches cut into the sub-ballast. The east and west side drains, which begin north of Pacific Coast Highway, join together and discharge in a single outfall at the corner of Leeds Avenue and East Grant Street in Wilmington. Oil that had entered the ACTA drain system from a then unknown source was being carried by storm water onto Leeds Avenue and then into the City storm sewer from which it was pumped into the Dominguez Channel.

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The State Office of Spill Prevention and Response was notified and, in conjunction with the U.S. Environmental Protection Agency (EPA), provided the initial response and cleanup. A containment and oil recovery system was set up on Leeds Avenue to prevent any further oil discharge to the Dominguez Channel. Another containment system was set up at the Shell Lubricants plant some 500 feet to the north, where oil had emitted from the rail bed due to an apparent blockage in the storm drain system. Additional background on the early response to the spill can be found on the EPA's web site at: [http://www.epaosc.org/site/site\\_profile.aspx/site\\_id=6580](http://www.epaosc.org/site/site_profile.aspx/site_id=6580)

On January 7, 2011, the EPA issued Order No. OPA CWA 311-09-2011-001 to ACTA, the Harbor Department and the Port of Long Beach (collectively, Ports) directing them, among other things, to assume responsibility for maintenance of the containment systems. The potential liability of the two Ports is based on their status as joint owners of the property on which ACTA operates.

ACTA, through a contractor, took over operation of the containment system and further expanded it so that it could accommodate higher flow rates. ACTA also cleaned the City storm sewer and pump station so that it could be put back into regular service. ACTA also improved the containment system at the Shell Lubricants plant. Finally, ACTA located the apparent source of the oil by first inserting a camera into the drain lines and then excavating the drain system in the area where oil intrusion had been observed. On March 29, 2011, the casing of an oil pipeline that crosses beneath the rail line was found to be punctured. The EPA determined that the punctured casing is the source of the oil that leaked into the railroad drainage system and, on March 30, issued a similar Order to the pipeline operator, Crimson Pipeline Company (No. OPA CWA 311-09-2011-0002).

ACTA Assistance to Date - The Board authorized an advance of \$250,000 on February 3, 2011 (Resolution No. 11-7071) and a subsequent advance of \$500,000 on March 17, 2011 (Resolution No. 11-7099).

As of the date of the latest request (Transmittal 1), ACTA estimates its total response costs at \$3.6 million as detailed in the accounting attached as Transmittal 2.

Funding Agreement - The Funding Agreement (Transmittal 3) provides the terms under which funds are advanced and provides for reimbursement of the advances in case ACTA is able to recover from a third party or the federal Oil Spill Liability Trust Fund. The Agreement explicitly contemplated the initial advances of \$250,000 each made by the Harbor Department and the Port of Long Beach. Additional advances are allowed, but not required by the Agreement.

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The ultimate cost of the spill and the amount of any additional Harbor Department contributions cannot be determined at this time. Crimson Pipeline Company has taken over responsibility for containment of the spill and will be undertaking a program of soil sampling along the railroad bed. That assessment will determine the scope of remediation that is required.

The pipeline that was the source of the leak was removed from beneath the railroad tracks on October 26, 2011. Examination of the pipeline may enlighten negotiations regarding ultimate liability for the spill.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of a resolution authorizing advancement of funds to ACTA for oil spill response costs. The proposed action does not include any cleanup activities associated with the release. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

**ECONOMIC BENEFITS:**

This Board action will have no employment effect.

**FINANCIAL IMPACT:**

The Board authorized an advance of \$250,000 on February 3, 2011 (Resolution No. 11-7071) and a subsequent advance of \$500,000 on March 17, 2011 (Resolution No. 11-7099) for a total of \$750,000 to date. This proposed action authorizes an additional advance of \$250,000, for a revised total of \$1,000,000. Additional advances are allowed, but not required by the Agreement. This is an unbudgeted item; however sufficient funds to cover the \$250,000 are available due to less settlement expenses than projected and the funding request will be charged to Account Number 59960, Division Center 0331, and Program 000.

The Port of Long Beach's has advanced a total of \$250,000 to date. POLB has not contributed additional funds beyond the initial \$250,000 due to objections raised by Crimson Pipelines Insurer. POLB is an additional insured on Crimson's policy, the Harbor Department is not an additional insured and similar concerns do not apply.

After speaking with POLB, it is unclear at this time if POLB intends to continue to contribute and at what level that contribution would be.

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**CITY ATTORNEY:**

Further advances to ACTA are allowed, subject to Board authorization, under the previously approved Funding Agreement.

**TRANSMITTALS:**

1. ACTA Request for Payment dated October 14, 2011
2. EPA 311 Order Compliance Cost Report
3. Funding Agreement

FIS Approval: ey (initials)

CA Approval: rn (initials)

APPROVED:

  
GERALDINE KNATZ, Ph.D.  
Executive Director

KFM/anw