

**ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY**

3760 KILROY AIRPORT WAY, SUITE 200, LONG BEACH, CA 90806 • (562) 247-7777 • FAX (562) 247-7090

July 31, 2018

To: Parties listed on Exhibit A

Subject: Notice of Mutual Agreement No. 2018-3 - Request for Approval under Amended and Restated Alameda Corridor Use and Operating Agreement

Matter: Six-month Term Extension through April 14, 2019 for Alameda Corridor Dispatching Agreement dated as of January 30, 2002, as amended, and Alameda Corridor Police and Security Services Agreement dated as of October 15, 2002, as amended

Dear Sir or Madam:


Reference is made to that certain Amended and Restated Alameda Corridor Use and Operating Agreement (the Agreement), dated December 15, 2016, by and among the BNSF Railway Company (BNSF), Union Pacific Railroad Company (UP), the City of Los Angeles, acting by and through its Board of Harbor Commissioners (POLA), the City of Long Beach, acting by and through its Board of Harbor Commissioners (POLB), and the Alameda Corridor Transportation Authority (ACTA).

The Agreement governs the use and operation of the Alameda Corridor and, among other things, contains provisions which require certain parties to make decisions from time to time by Mutual Agreement (as defined in the Agreement) or unanimous consent/approval. In particular, Mutual Agreement requires the approval from at least three of the following parties: BNSF, UP, POLB, and POLA, and unanimous consent/approval requires the approval of each of the same four entities. Pursuant to the terms of the Agreement, ACTA as an entity does not approve or disapprove Mutual Agreement matters.

Attached as Exhibit B is Notice of Mutual Agreement (NMA) No. 2018-3, for which approval by the requisite parties is requested at this time. The matter to be approved is described in the attached NMA (the "Matter"). Following consideration of the Matter, please email to ACTA a signed copy of the attached NMA (or, if such Matter is not approved by your entity, a written statement indicating such disapproval), no later than September 15, 2018. Once all responses are received, ACTA will send a letter to the four entities with the results.

If there are any questions, please advise.

Sincerely,



John T. Doherty, P.E.
Chief Executive Officer

EXHIBIT A
LIST OF PARTIES

Port of Los Angeles
425 South Palos Verdes Street
San Pedro, California 90733
Attn: Executive Director
Email: gene_seroka@portla.org

Port of Long Beach
4801 Airport Plaza Drive
Long Beach, California 90815
Attn: Executive Director
Email: mario.cordero@polb.com

BNSF Railway Company
2500 Lou Menk Drive
AOG -Garden Level
Fort Worth, Texas 76131
Attn: Assistant Vice President - Contracts
& Joint Facilities
Email: sarah.bailiff@bnsf.com

Union Pacific Railroad Company
1400 Douglas Street -Stop 1160
Omaha, Nebraska 68179
Attn: Executive Vice President of
Operations
Email: jointfacilitycontracts@up.com

Cc:

Email: Brian.Aman@bnsf.com
Email: JBarager@UP.com
Email: tgioiello@portla.org
Email: carlo.luzzi@polb.com
Email: hmccloskey@portla.org
Email: Lauren.Misajon@longbeach.gov
Email: duane.kenagy@polb.com

EXHIBIT B
NOTICE OF MUTUAL AGREEMENT

Number: 2018-3

Subject: Request for Approval to Extend the Alameda Corridor Dispatching Agreement dated as of January 30, 2002, as amended, and the Police and Security Services Agreement, dated as of October 15, 2002, as amended.

Recommendation:

Approve an up to six-month extension through April 14, 2019 to the term of the Alameda Corridor Dispatching Agreement, dated as of January 30, 2002, as amended, and the Alameda Corridor Police and Security Services Agreement, dated as of October 15, 2002, as amended, between ACTA, the BNSF Railway Company, and Union Pacific Railroad Company, which agreements are set to expire October 14, 2018.

Discussion:

The Amended and Restated Use and Operating Agreement (UOA) requires that the Ports and Railroads, through Mutual Agreement, select the Corridor Dispatcher and security provider and that ACTA endeavor to enter into an agreement with the selected entity on the business terms specified by the Owner (Ports) and Railroads.

The existing Dispatching Agreement and Police and Security Services Agreement (Agreements) between ACTA, the BNSF Railway (BNSF), and Union Pacific Railroad (UP) have been in place since 2002 and will expire on October 14, 2018. Costs for the services provided under both Agreements are mostly paid directly by the Railroads.

The original term of the Agreements was five years, as approved by the former Operating Committee (OC), and both were extended twice with OC approval for an additional 10 years via two amendments through April 14, 2017. An interim extension of up to one year through April 14, 2018 was provided for in the second amendment to both agreements, which was exercised. An additional 6-month extension through October 14, 2018 was approved via NMA-2018-2. The parties are currently in the process of negotiating amended and restated Agreements which will remove references to the former Operating Committee and update certain other provisions, as well as extend the term through April 14, 2023.

Approval of an additional 6-month interim extension of the existing Agreements is hereby requested, until such time as the amended and restated Agreements are approved and executed (or through April 14, 2019), whichever is earlier. Approval of the amended and restated Agreements will be the subject of a future Notice of Mutual Agreement. The draft amendments to the existing Agreements are attached.

Attachments:

4th Amendment to Dispatching Agreement

4th Amendment to Police and Security Services Agreement

Please provide your acceptance and approval by affixing your signature, name and title below:

Port of Los Angeles

By: _____

Print Name: _____

Title: _____

Date: _____

Port of Long Beach

By: _____

Print Name: _____

Title: _____

Date: _____

BNSF Railway Company

By: _____

Print Name: _____

Title: _____

Date: _____

Union Pacific Railroad Company

By: _____

Print Name: _____

Title: _____

Date: _____

Attachment to Exhibit B.

**FOURTH AMENDMENT TO
ALAMEDA CORRIDOR DISPATCHING AGREEMENT**

THIS FOURTH AMENDMENT TO ALAMEDA CORRIDOR DISPATCHING AGREEMENT (this "**Amendment**") is made as of October 14, 2018, by and between **BNSF RAILWAY COMPANY**, a Delaware corporation (formerly known as The Burlington Northern and Santa Fe Railway Company) ("**BNSF**"), **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("**UP**"), and **THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY**, a joint powers authority created under the laws of the State of California ("**ACTA**"), with reference to the following Recitals:

RECITALS

A. Pursuant to that certain Amended and Restated Alameda Corridor Use and Operating Agreement dated as of December 15, 2016 (the "**Operating Agreement**"), by and among the City of Long Beach, the City of Los Angeles, ACTA, BNSF and UP, certain aspects of the operations on the Rail Corridor (as defined in the Operating Agreement) are governed by Owner and Railroads (as those terms are defined in the Operating Agreement), including dispatching services.

B. Pursuant to the Operating Agreement, BNSF and UP were selected by Owner and Railroads to jointly act as the Rail Corridor's dispatching services providers and to perform other duties specified in that certain Alameda Corridor Dispatching Agreement dated as of January 30, 2002 (as amended, the "**Agreement**") and entered into by BNSF, UP and ACTA. Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement unless the Amendment clearly states otherwise.

C. BNSF, UP and ACTA desire to hereby modify and amend the Agreement, as more particularly set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, BNSF, UP and ACTA hereby agree as follows:

Section 1. Modification of Agreement.

1.1 Section 5.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

5.1 Commencement Date; Term. The term of this Agreement, and Corridor Dispatcher's duties hereunder, commenced on April 15, 2002 ("**Commencement Date**") and unless earlier terminated as

provided herein, this Agreement shall automatically expire on the earlier of (i) April 14, 2019, or (ii) the date on which the Owner and Railroads agree on the reappointment of the Corridor Dispatcher or the selection of a replacement corridor dispatcher and such corridor dispatcher has been engaged by ACTA and is able to commence performing dispatching services on the Rail Corridor.

Section 2. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one agreement.

[Signatures follow]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

"BNSF"

BNSF Railway Company
a Delaware corporation

Approved as to form this _____ Day of
_____, 2018

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

"UP"

Union Pacific Railroad Company
a Delaware corporation

Approved as to form this _____ Day of
_____, 2018

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

"ACTA"

Alameda Corridor Transportation Authority,
a Joint Powers Authority

Approved as to form this _____ Day of
_____, 2018

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

**FOURTH AMENDMENT TO
ALAMEDA CORRIDOR POLICE AND SECURITY SERVICES AGREEMENT**

THIS FOURTH AMENDMENT TO ALAMEDA CORRIDOR POLICE AND SECURITY SERVICES AGREEMENT (this "**Amendment**") is made as of October 14, 2018, by and between **BNSF RAILWAY COMPANY**, a Delaware corporation (formerly known as The Burlington Northern and Santa Fe Railway Company) ("**BNSF**"), **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("**UP**"), and **THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY**, a joint powers authority created under the laws of the State of California ("**ACTA**"), with reference to the following Recitals:

RECITALS

A. Pursuant to that certain Amended and Restated Alameda Corridor Use and Operating Agreement dated as of December 15, 2016 (the "**Operating Agreement**"), by and among the City of Long Beach, the City of Los Angeles, ACTA, BNSF and UP, certain aspects of the operations on the Rail Corridor (as defined in the Operating Agreement) are governed by Owner and Railroads (as those terms are defined in the Operating Agreement), including police and security services.

B. Pursuant to the Operating Agreement, BNSF and UP were selected by Owner and Railroads to jointly act as the Rail Corridor's police and security services providers and to perform other duties specified in that certain Alameda Corridor Police and Security Services Agreement dated as of October 15, 2002 (as amended, the "**Agreement**") and entered into by BNSF, UP and ACTA. Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement unless the Amendment clearly states otherwise.

C. BNSF, UP and ACTA desire to hereby modify and amend the Agreement, as more particularly set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, BNSF, UP and ACTA hereby agree as follows:

Section 1. Modification of Agreement.

1.1 Section 5.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

5.1 Commencement Date; Term. The term of this Agreement, and Corridor Security Provider's duties hereunder, commenced on September 15, 2002 ("**Commencement Date**") and unless earlier

terminated as provided herein, this Agreement shall automatically expire on the earlier of (i) April 14, 2019, or (ii) the date on which the Owner and Railroads agree on the reappointment of the Corridor Security Provider or the selection of a replacement corridor security provider and such corridor security provider has been engaged by ACTA and is able to commence performing security services on the Secured Facilities.

Section 2. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one agreement.

[Signatures follow]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

"BNSF"

BNSF Railway Company
a Delaware corporation

Approved as to form this _____ Day of _____, 2018

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

"UP"

Union Pacific Railroad Company
a Delaware corporation

Approved as to form this _____ Day of _____, 2018

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

"ACTA"

Alameda Corridor Transportation Authority,
a Joint Powers Authority

Approved as to form this _____ Day of _____, 2018

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____