

**ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY**

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

November 14, 2017

**To:** Parties listed on Exhibit A

**Subject:** Notice of Mutual Agreement No. 2017-4 - Request for Approval under Amended and Restated Alameda Corridor Use and Operating Agreement

**Matter:** Alameda Corridor Capital Expense Guidelines Effective January 1, 2018 through December 31, 2022

Dear Sir or Madam:

Reference is made to that certain Amended and Restated Alameda Corridor Use and Operating Agreement dated as of December 15, 2016 (the "Agreement"), 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 decisions to be made from time to time by either Mutual Agreement (as defined in the Agreement) or unanimous consent/approval. Mutual Agreement requires the approval from at least three of the following four parties: BNSF, UP, POLB, and POLA. Unanimous consent/approval requires the approval of all four parties. Pursuant to the terms of the Agreement, ACTA does not approve or disapprove of any such matters.

Attached as Exhibit B is Notice of Mutual Agreement (NMA) No. 2017-4, for which approval is requested with respect to the matter described therein (the "Matter"). Please advise ACTA at the address listed above, in writing via email, of your approval (or disapproval) of the Matter, no later than December 15, 2017. 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: MMartinson@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: 2017-4**

**Subject: Approval of Amended and Restated Alameda Corridor  
Capital Expense Guidelines for January 1, 2018 through  
December 31, 2022**

**Recommendation:**

Approve the Amended and Restated Alameda Corridor Capital Expense Guidelines for the five-year period January 1, 2018 through December 31, 2022 attached hereto.

**Discussion:**

Section 2.5(b) of the Amended and Restated Alameda Corridor Use and Operating Agreement dated as of December 15, 2016, (the "Agreement") provides that guidelines previously established by the Ports and Railroads with respect to capital expenses may be updated or modified from time to time through Mutual Agreement of the Owner and Railroads. The previously establish Capital Expense Guidelines dated June 30, 2012 expire on December 31, 2017 and the Ports and Railroads are hereby requested to review and approve the Amended and Restated Alameda Corridor Capital Expense Guidelines for the period from January 1, 2018 through December 31, 2022 attached hereto.

The proposed Amended and Restated Alameda Corridor Capital Expense Guidelines set forth criteria for determining whether the replacement of components of the Track and Track Support Structures will be treated as a capital item, and paid as a Capital Expense, or be treated as a maintenance item, and paid as an M&O (Maintenance and Operations) Charge under each approved annual budget. Items treated as Capital Expenses are paid from the Reserve Account which is funded from Use Fees and Container Charges. Items not treated as Capital Expenses are paid directly by the Railroads through monthly M&O Charges.

The Guidelines are used to allocate cost funding sources in the annual budget process briefly described below. No ACTA approval of the Guidelines is required, just the Ports and Railroads.

**Background:**

The Agreement requires that the Ports and Railroads through Mutual Agreement approve an Annual Maintenance and Capital Improvement Plan and Budget (the "Plan and Budget") prior to January 1 of each year. The Plan and Budget are comprised of two components.

The first is the **Maintenance of Way (MOW) Budget** as prepared by the Maintenance Contractor, which includes the projected maintenance and Capital Expenses to be incurred by the Contractor for the coming year. The second is the overall **Operations and Maintenance (O&M) Budget**, which incorporates the MOW Budget, as well as other estimated O&M expenses, including but not limited to insurance, dispatching, security, utilities, and support costs. The Plan and Budget are approved each year by the Railroads and the Ports.

The CY2018 Plan and Budget will be the subject of a separate Notice of Mutual Agreement issued in November 2017.

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

**Port of Los Angeles**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Port of Long Beach**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BNSF Railway Company**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Union Pacific Railroad Company**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attachment: Amended and Restated Alameda Corridor Capital Expense Guidelines