

THIRD AMENDMENT
TO AGREEMENT NO. C0889
BETWEEN
THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY
AND PACIFIC RAILWAY ENTERPRISES, INC.

THIS THIRD AMENDMENT to Agreement No. C0889 ("Third Amendment") is made and entered into by the Alameda Corridor Transportation Authority ("ACTA"), acting by and through its Governing Board ("ACTA Board"), and Pacific Railway Enterprises, Inc. ("Consultant").

RECITALS

WHEREAS, ACTA and Consultant entered into that certain Agreement No. C0889 ("Original Agreement"), dated January 9, 2020, whereby Consultant agreed to provide ACTA with on-call rail signal design engineering services and on-site support services for the rail signal systems installed along the Alameda Corridor; and

WHEREAS, the Original Agreement was amended by that certain First Amendment to Agreement No. C0889 ("First Amendment"), dated March 3, 2023, and that certain Second Amendment to Agreement No. C0889 ("Second Amendment"), dated December 21, 2023; and

WHEREAS, the Original Agreement, First Amendment, and Second Amendment are collectively referred to herein as the "Agreement"; and

WHEREAS, pursuant to Sections 4.2(b) and 4.3 of the Agreement, the ACTA Board has the option to renew the term of the Agreement for one (1) renewal period of three (3) years ("Option") upon ACTA Board approval prior to the expiration of the Agreement; and

WHEREAS, the Agreement is set to expire on January 8, 2025, and by this Third Amendment, the ACTA Board desires to exercise the Option and the parties hereto desire to revise the compensation provisions, including increasing the total compensation payable under the Agreement and correcting a drafting error in the First Amendment and Second Amendment.

NOW, THEREFORE, in consideration of the terms, covenants, and conditions hereinafter provided, IT IS MUTUALLY AGREED AS FOLLOWS:

1. By the ACTA Board's approval of this Third Amendment, the parties hereto agree that (a) the ACTA Board has exercised the Option, and (b) the term of the Agreement is hereby extended to January 8, 2028.

2. The term "Article 5 Compensation" in Section 1 of the First Amendment and Section 1 of the Second Amendment is hereby deleted and replaced in its entirety with "Section 5.1". Correspondingly, as of March 3, 2023, Sections 5.2 to 5.7 of the Original Agreement shall have remained, and shall continue to remain, a part of the Agreement.

3. Section 5.1 is hereby removed and replaced in its entirety, as follows:

“For the full and satisfactory performance of the Scope of Work, ACTA shall pay Consultant, and Consultant shall accept, a sum not to exceed Five Million Five Thousand Two-Hundred Dollars (\$5,005,200). The total sum payable under this Agreement shall be determined by Project Directives and Consultant acknowledges that final compensation may not reach the maximum sum allowed for herein.”

4. Except as amended herein, all remaining terms and conditions of Agreement No. C0889 shall remain in full force and effect.

5. The effective date of this Third Amendment shall be the date of its execution by ACTA’s Chief Executive Officer or his designee.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS THEREOF, the parties hereto have executed this Third Amendment to Agreement No. C0889 on the date to the left of their signatures:

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date: _____

By: _____
Michael D. Leue, P.E.
Chief Executive Officer

Attest: _____
Secretary

PACIFIC RAILWAY ENTERPRISES,
INC.

Date: _____

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

APPROVED AS TO FORM

_____, 2024
DAWN MCINTOSH, Long Beach City Attorney

By _____
Thomas Y. Oh, Deputy
ACTA Co-General Counsel