



**ITEM ID:** 2023-399-0

**TRANSMITTAL DATE:** January 19, 2024

**MEETING DATE:** January 26, 2024

**TO:** Board of Directors

**FROM:** Justin Fornelli, Chief, Program Delivery

**SUBJECT:** Work Order No. CN-20-0003 with BNSF for 30% Preliminary Design Services for the Fullerton Interlocker Project located on the BNSF San Bernardino Subdivision

### **Issue**

Approval is needed to execute a Work Order with BNSF for 30% Preliminary Design Services to advance the SCORE Fullerton Interlocker project on the BNSF San Bernardino Subdivision.

### **Recommendation**

Contracts, Operations, Maintenance, and Safety Committee recommended (5-0) the Board authorize the Chief Executive Officer to negotiate and execute Work Order No. CN-20-0003 between BNSF and the Authority for a not-to-exceed amount of \$6,817,825. An initial Limited Notice to Proceed (LNTP) amount of \$3,000,000 will be executed, and the remaining \$3,817,825 will be executed upon allocation of funds by the California Transportation Commission (CTC).

### **Strategic Commitment**

This report aligns with the Strategic Business Plan commitment of:

- **Advancing Key Regional Goals:** We will grow the role of regional rail in addressing climate change, air quality, and other pressing issues by advancing toward zero emissions, making rail a compelling alternative to single-occupant automobiles and advancing equity-focused opportunities for all communities throughout Southern California. The Fullerton Interlocker project would enable additional capacity and service improvements on Metrolink's 91-Perris Valley (91-PV) and Orange County (OC) Lines.

## **Background**

BNSF owns, dispatches, and maintains the right-of-way, tracks and associated operational systems on the BNSF San Bernardino Subdivision, on which the Authority operates passenger services.

In October 1992, RCTC and BNSF entered into a Shared Use Agreement (SUA) and Capital Improvements Agreement (CIA) for the BNSF San Bernardino Subdivision, whereby all design and construction, which includes new construction, reconstruction, relocation and/or removal, on the BNSF San Bernardino Subdivision would be undertaken by BNSF. OCTA was added as a party in the First Amendment to the SUA dated December 10, 1992. The mechanism by which the Authority funds BNSF to undertake design and construction activities on the BNSF San Bernardino Subdivision is a Work Order issued through the SUA. The Authority has the right to review and approve the design plans through the terms of the SUA and CIA.

In April 2018, as part of the SCORE Program, the Authority secured Transit and Intercity Rail Capital Program (TIRCP) funding from the State of California in the amount of \$102,043,000 for the design and construction of the Fullerton Interlocker project. The Fullerton Interlocker project consists of the modifications to Fullerton Station and Fullerton Junction at Mile Post (MP) 45.7, as well as the associated track and signal improvements on the adjacent segment of the BNSF San Bernardino Subdivision between Raymond Avenue (MP 45.0) and CP Esperanza (MP 35.8). In January 2023, the Authority secured an additional \$50,000,000 of TIRCP funding for construction of the Fullerton Interlocker project.

In 2021, both CEQA and NEPA Environmental Clearances were obtained for the 3rd Main Track segment between Raymond Avenue and CP Esperanza. Therefore, the entire 9.2-mile segment of 3rd Main Track between Raymond Avenue and CP Esperanza on the BNSF San Bernardino Subdivision is both CEQA and NEPA environmentally cleared.

The Fullerton Station and Fullerton Junction segment of the overall Fullerton Interlocker project is located within the footprint of the California High Speed Rail Authority (CHSRA) Los Angeles – Anaheim corridor. Since 2017, CHSRA has been leading the Environmental Clearance efforts for the Los Angeles – Anaheim corridor, which included the Fullerton Station and Fullerton Junction segment of the overall Fullerton Interlocker project. In July 2023, due to delays with CHSRA's Environmental Clearance, the Authority and CHSRA agreed that Authority would lead the Environmental Clearance of the Fullerton Station and Fullerton Junction segment of the Fullerton Interlocker project within the CHSRA Los Angeles – Anaheim corridor.

In June 2023, a concept for the Fullerton Station and Fullerton Junction segment of the Fullerton Interlocker project was agreed upon between SCRRA and BNSF, which formed the basis for the Environmental Clearance and for advancing design. The concept was shared with CHSRA and deemed acceptable.

In August 2023, the Authority commenced procurement of the Environmental Consultant for the environmental clearance of the Fullerton Station and Fullerton Junction component of the Fullerton Interlocker project, and the contract with the Environmental Consultant was executed in October 2023.

## **Discussion**

Based on the agreed Fullerton Interlocker concept, and acknowledgement from CHSRA that Authority would lead the Environmental Clearance of the Fullerton Interlocker project only, Authority requested BNSF to provide a cost estimate to Authority for preparing the 30% Preliminary Design for the Fullerton Interlocker project, which includes both Fullerton Station and Fullerton Junction, along with the 3rd Main Track segment between Raymond Ave and CP Atwood on the BNSF San Bernardino Subdivision.

On December 12, 2023, the Authority received BNSF's cost estimate for the 30% Preliminary Design Services. After negotiation and scope clarification, it was agreed that \$6,817,825 was a fair and reasonable cost estimate for the work to be performed.

The Authority plans to utilize previously allocated TIRCP funding of \$3,000,000 to issue a Limited Notice to Proceed (LNTN) to BNSF to commence the 30% Preliminary Design in order to support the Authority's Environmental Clearance efforts.

In Q1 2024, the Authority will submit a TIRCP allocation request to the California Transportation Commission (CTC) to request an allocation for the remaining amount of \$3,817,825. Once approved by CTC, and upon execution of the associated Program Supplement, the Authority will issue a Revision to this Work Order for the remaining amount in order to complete the 30% Preliminary Design.

Should the LNTN amount of \$3,000,000 be exhausted prior to the CTC allocation and Program Supplement execution for the remaining \$3,817,825, then work will stop until the CTC allocation and Program Supplement is executed for the remaining amount of \$3,817,825.

This Work Order will fund BNSF Railway a not-to-exceed total amount of \$6,817,825 to complete the 30% Preliminary Design of the Fullerton Interlocker project.

The term of this Work Order is 18 months from the date of execution.

## **Budget Impact**

The amounts for which contract authority is requested are included in the Adopted SCORE Program Capital Budget for FY2023-24 (\$3,000,000) and funded with TIRCP funds granted by CalSTA through the SCORE Program. Work will proceed until the referenced 3,000,000 is exhausted, at which time work will stop until additional funds are available. It is expected that remaining funding authorization be allocated by the California Transportation Commission in Spring 2024.

## **Next Steps**

Upon Board Authorization, the Work Order No. CN-20-0003 will be finalized and executed by both parties, which will include a Limited Notice to Proceed for BNSF to commence the 30%

Preliminary Design to support Authority's Environmental Clearance efforts.

Staff will coordinate closely with key stakeholders (e.g. OCTA and local cities) on project concepts and possible impacts as the 30% Preliminary Design and Environmental Clearance efforts progress.

Upon completion of Environmental Clearance and the 30% Preliminary Design stage, staff will bring to the Board a separate BNSF Work Order to advance the design to the 100% Final Design stage.

Prepared by: Chris Haskell, Senior Manager, Program Delivery  
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Approved by: Justin Fornelli, Chief of Program Delivery

**Attachment(s)**

[Presentation - SCORE BNSF Work Order Fullerton Interlocker](#)