



ITEM ID: 2024-140-0

TRANSMITTAL DATE: July 5, 2024

MEETING DATE: July 12, 2024

TO: Contracts, Operations, Maintenance, and Safety Committee

FROM: Justin Fornelli, Chief, Program Delivery

SUBJECT: BNSF Railway Work Order Revision for Final Design of the SCORE Atwood to Esperanza Project

Issue

As part of the Authority's Southern California Optimized Rail Expansion (SCORE) Program, approval is needed to execute a revision to the existing Work Order No. CN-02-0002 with BNSF Railway Company (BNSF) for final (100%) design services of the 3rd track segment between CP Atwood and CP Esperanza (mile post 40.6 to 35.8) on the BNSF San Bernardino Subdivision (SBS).

Recommendation

It is recommended that the Committee recommend the Board authorize the Chief Executive Officer to negotiate and execute Work Order No. CN-02-0002, Revision #2 between BNSF and the Authority in an amount of \$1,278,348, for a new total not-to-exceed amount of \$3,770,090 to complete final (100%) design stage services for the CP Atwood to Esperanza Project (Project).

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. As part of the SCORE Program, the project would construct a 3rd main track section that will enable additional capacity on Metrolink's 91/Perris Valley (91-PV) and

Inland Empire-Orange County (IE-OC) Lines.

Background

BNSF owns, dispatches and maintains the right-of-way, tracks and associated operational systems on the BNSF San Bernardino Subdivision (SBS), on which the Authority operates the 91-PV and IE-OC services.

In October 1992, RCTC and BNSF entered into a Shared Use Agreement (SUA) and Capital Improvements Agreement (CIA) for the BNSF SBS, whereby all design and construction, which includes new construction, reconstruction, relocation and/or removal, on the BNSF SBS 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 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 \$106 million for the environmental, design and partial construction of capacity improvements on BNSF's SBS between Fullerton and San Bernardino. The capacity improvements in this corridor consist of additional track, signal enhancements, grade crossing enhancements and safety improvements. These improvements will enable additional capacity on Metrolink's 91-PV and IE-OC lines.

In July 2019, the Authority was awarded a Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant from the Federal Railroad Administration (FRA) in the amount of \$30 million, specifically for the construction of the 3rd track section of the BNSF SBS between CP Atwood and Esperanza.

In January 2020, the Board approved a BNSF Work Order CN-02-0002, which funded a total of \$1,776,482 for design services on the BNSF SBS segment between CP Atwood and CP Esperanza. The Work Order between the Authority and BNSF was executed on May 18, 2020 and BNSF completed the intermediate design (60% design level) in May 2021. BNSF spent additional efforts to conduct a value engineering analysis and implement the results, which expended the full Work Order amount thereby preventing BNSF from completing the pre-final (90%) design and the final (100%) design stages. However, through implementation of the value engineering options, a segment of the 3rd track alignment west of Imperial Highway was shifted from the north to south of the existing tracks, which resulted in an estimated construction cost savings of \$8 million.

In March 2022, the Authority brought BNSF Work Order Revision #1 to the Board to approve an additional amount of \$715,260 for BNSF to complete the final (100%) design stage services. The Work Order Revision #1 between the Authority and BNSF was executed on December 9, 2022, and BNSF completed the pre-final (90%) design stage in December 2023.

Discussion

While developing the pre-final (90%) design authorized under Work Order Revision #1, BNSF identified significant constructability issues within a section of the Project east of Imperial Highway where an existing storage track would need to be relocated. Within this particular section, the track bed is on the order of twelve (12) feet higher than the adjacent residential properties, with an existing retaining wall structure separating the track bed from the residential properties. In order to support the new track and the associated railroad loading, structural modifications to the retaining wall would be required, causing significant impacts to adjacent residential properties. The structural modifications were estimated at \$4 million, not taking into account the residential impacts. Thus, it was determined that modifying the retaining wall was infeasible and an alternative design should be considered.

The additional effort required to analyze the existing conditions of the retaining wall, along with development of various alternative alignment options to resolve the issue consumed additional budget that was originally intended as part of the pre-final (90%) design stage authorized under Work Order Revision #1. In addition, there have been extensive pre-construction activities with right-of-way efforts and utility relocation coordination and management. Altogether, these activities exhausted the \$715,260 of funds provided to BNSF under Work Order Revision #1 and BNSF was only able to complete the pre-final (90%) design stage.

Work Order Revision #2 will fund BNSF a total not-to-exceed amount of \$1,278,348, which includes a 20% contingency amount, to complete the final (100%) design stage of the Project. Therefore, the total Work Order amount allocated to BNSF to complete the Project design is not-to-exceed \$3,770,090.

Despite the additional costs required in Work Order Revision #2 to achieve the final (100%) design stage, the total design fee of \$3,770,090 is within the Authority's independent cost estimate of \$4,200,000, which is comparable to other Authority capital expansion projects of similar size and scope for 100% design.

Staff will ensure additional oversight measures are in place with BNSF to manage and control the project deliverables and expenditures through monthly expenditure reports, ensuring that the 100% design is completed within the allocated Work Directive budget.

The final (100%) design plans will be reviewed and approved by the Authority prior to advancing to construction.

Budget Impact

The amounts for which contract Authority is requested are included in the Adopted SCORE Program Capital Budget for FY2023-24 (\$1,278,348) and funded with TIRCP funds granted by CalSTA through the SCORE Program.

Next Steps

Upon Board Authorization, Work Order Revision #2 will be executed by both parties. This will allow BNSF to complete the final (100%) design stage. Staff will establish meetings with BNSF to specifically review project scope and expenses incurred to date on a regular basis.

A separate Work Order will be brought to the Board for approval for construction activities, once the Authority has approved the final (100%) design plans.

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