



ITEM ID: 2023-367-0

TRANSMITTAL DATE: December 1, 2023

MEETING DATE: December 8, 2023

TO: Board of Directors

FROM: Justin Fornelli, Chief, Program Delivery

SUBJECT: Work Order No. CN-20-0003 with BNSF for Final Design Services on the BNSF San Bernardino Subdivision for the Fullerton Interlocker Project

Issue

Approval is needed to execute a Work Order with BNSF for the Final Design Services of the Fullerton Interlocker project on the BNSF San Bernardino Subdivision.

Recommendation

It is recommended that 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 \$18,868,300. An initial Limited Notice to Proceed (LNTP) amount of \$3,450,000 will be executed, and the remaining \$15,418,300 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, which consisted of the modifications to Fullerton Station, Fullerton Junction, and the associated track and signal improvements on the adjacent segment of the BNSF San Bernardino Subdivision between Raymond Avenue and CP Esperanza. 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 segments adjacent to the Fullerton Interlocker project between Raymond Avenue - CP Atwood, and CP Atwood - CP Esperanza. Therefore, the entire 9.2-mile segment of 3rd Main Track between Raymond Avenue (MP 45.0) and CP Esperanza (MP 35.8) adjacent to the Fullerton Interlocker project is both CEQA and NEPA environmentally cleared.

The Fullerton Interlocker project is located within the footprint of the California High Speed Rail Authority (CHSRA) Los Angeles - Anaheim segment. CHSRA had been leading the Environmental Clearance efforts for the Los Angeles - Anaheim segment, which included the Fullerton Interlocker project. However, due to delays with CHSRA's Environmental Clearance, the Authority and CHSRA had been in discussions regarding the Authority taking the lead for the Environmental Clearance of the Fullerton Interlocker project only. In July 2023, CHSRA and Authority agreed that Authority would lead the Environmental Clearance of the Fullerton Interlocker project only.

In June 2023, a concept for the Fullerton Interlocker project was agreed upon among 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 Fullerton Interlocker, 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, Authority requested BNSF to provide a cost estimate to Authority for preparing the Final Design (100% design level) for the Fullerton Interlocker project.

On August 28, 2023, the Authority received BNSF's cost estimate for the Final Design Services. After negotiation and scope clarification, it was agreed that \$18,868,300.00 was a fair and reasonable cost estimate for the work to be performed.

The Authority plans to utilize previously allocated TIRCP funding of \$3,450,000 to issue a Limited Notice to Proceed (LNTP) to BNSF to commence the Final Design effort for the Fullerton Interlocker project.

In spring 2024, the Authority will submit a TIRCP allocation request to the California Transportation Commission (CTC) to request an allocation for the remaining amount of \$15,418,300. 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 Final Design (100% design level) for the Fullerton Interlocker project.

This Work Order will fund a not -to-exceed total amount of \$18,868,300 to BNSF Railway to complete the Final Design (100% design level) 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 (\$3,450,000) and funded with TIRCP funds granted by CalSTA through the SCORE Program. Remaining funding authorization will be allocated by the California Transportation Commission in Spring 2024.

Next Steps

Upon Board Authorization, the Work Order No. CN-20-0003 will be negotiated and executed by both parties, which will allow BNSF to commence the design. A separate work order will be brought to the Board for approval once the Authority has approved the final design plans and are ready for BNSF to commence construction.

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