

MOTION NO. M2010-71
Amendment to the Commuter Rail Service Agreement with The BNSF Railway Company for the Seattle-to-Lakewood Sounder Segment

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:	PHONE:
Board	07/22/10	Final Action	Bonnie Todd, Executive Director of Operations Martin Young, Commuter Rail Operations Manager Jordan Wagner, Senior Legal Counsel	206-398-5367 206-398-5115 206-398-5224

PROPOSED ACTION

Authorizes the chief executive officer to execute an amendment to the Commuter Rail Service Agreement with The BNSF Railway Company for the operation of Sounder commuter rail service between Seattle and Lakewood to add four additional Sounder commuter rail weekday round trips.

KEY FEATURES

- Sound Transit is acquiring rights to add four weekday peak-direction round trips on The BNSF Railway Company (BNSF) railway between Seattle and Tacoma under Resolution No. R2010-14. These four round trips were included in the ST2 plan for Sounder service expansion.
- The amendment to the Commuter Rail Service Agreement with BNSF adds the operation of four round trips to the nine round trips currently operated on the Sounder commuter rail Seattle to Tacoma corridor.
- The amendment covers the extension to Lakewood for the four new easements when that service is added in 2012 (an earlier agreement already provides for the original nine trips to service Lakewood).
- In addition to this action, the Board will consider a concurrent action to approve a Joint Use Agreement with BNSF to provide the terms under which the four additional weekday round trips can be operated on the BNSF corridor between Seattle and Tacoma when the Commuter Rail Service Agreement expires in 2040.

PROJECT DESCRIPTION

The Seattle-to-Tacoma Sounder segment is a 40-mile long BNSF railroad corridor between Seattle and Tacoma that includes seven Sounder commuter rail stations – King Street (Seattle), Tukwila, Kent, Auburn, Sumner, Puyallup, and Tacoma. The Tacoma-to-Lakewood segment is eight miles long, including over one mile of new track to be constructed by Sound Transit and seven miles of track purchased from BNSF that will be upgraded for commuter rail by Sound Transit. This segment will serve stations in South Tacoma and Lakewood. It will connect to the Seattle to Tacoma segment at the Tacoma Dome Station.

BNSF owns the right-of-way between Everett and Tacoma. Tacoma Rail owns an approximately one-mile segment between BNSF's tracks in Tacoma and the Tacoma Dome Station. Sound Transit owns the right of way between M Street in Tacoma, and Lakewood. Sound Transit has acquired the necessary property interests over the approximately 1.2 mile segment between the Tacoma Dome Station and M Street for the construction of the D Street – M Street Track and Signal Project. Construction on the Tacoma to Lakewood corridor is being completed in two phases; the M Street to Lakewood phase began in 2009 and the D Street to M Street phase is tentatively scheduled to begin in 2010.

Extensive track and signal improvements throughout the 40-mile Seattle-to-Tacoma corridor were completed under the May 2000 Construction Agreement and Service Agreement between Sound Transit and BNSF. These improvements increased the rail capacity of the corridor to support nine round trip Sounder trains each weekday without compromising freight mobility in the Puget Sound area.

FISCAL INFORMATION

The Adopted 2010 Lifetime Budget for Sounder South Expanded Service is \$190,760,657 with a right of way phase budget of \$184,991,348. The proposed action is to authorize the execution of an amendment to the Commuter Rail Service Agreement with BNSF. This action does not require any expenditure authority; the easement expense would be authorized under Resolution No. R2010-14.

For service occurring in years beyond 2010, the budget will be included in future years' operating budgets. This item has been fully incorporated in agency financial planning and there is adequate budget programmed in the current financial plan for the subject action. The amendment includes a change to the service structure for maintenance-of-way costs from a actual cost model to one based on a per train mile formula. The per train mile structure is currently used on the Everett to Seattle corridor and may provide a cost savings by reducing administrative costs.

BUDGET TABLE

Summary for Board Action (Year of Expenditure \$000)

Project: 510 - Sounder South Expanded Service

	2010 Board Adopted Budget ¹ (A)	Committed To Date ² (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
Agency Administration	\$ 5,544	\$ 5,544	\$ -	\$ 5,544	\$ -
Preliminary Engineering	\$ 225	\$ 61	\$ -	\$ 61	\$ 165
Final Design	\$ -	\$ -	\$ -	\$ -	\$ -
Right of Way	\$ 184,991	\$ 185,069	\$ -	\$ 185,069	\$ (78)
Construction	\$ -	\$ -	\$ -	\$ -	\$ -
Vehicles	\$ -	\$ -	\$ -	\$ -	\$ -
Contingency	\$ -	\$ -	\$ -	\$ -	\$ -
Total Current Budget	\$ 190,761	\$ 190,674	\$ -	\$ 190,674	\$ 87

Notes:

- ¹ Project budget is located on pages 68 and 69 of the Adopted 2010 Transit Improvement Plan budget book. Project has been renamed Sounder South Expanded Service combining projects 510 and 520.
- ² Committed to date amount includes actual outlays and commitments through April 30, 2010 including the commitment made to BNSF for four additional easements.

EQUAL EMPLOYMENT WORKFORCE PROFILE

Salaried Employees: 24% women and 27% minorities; Union-represented: 4% women and 17% minority.

BACKGROUND

BNSF currently operates nine daily round trips for Sound Transit between Seattle and Tacoma. Under Resolution No. R2010-14 BNSF will sell Sound Transit four easements that will allow weekday round trips from Seattle to Tacoma. These four additional easements will be permanent (in contrast to the existing south-line easements which are for 40 years only).

Sound Transit will have the option of implementing mid-day service. When all of the four additional round trips are implemented, Sound Transit will have nine peak direction round trips, three reverse direction rush hour round trips, and one mid-day round trip.

The operating rights for the nine round trips currently in operation will expire in 2040, if no arrangements are made to increase or continue that initial nine train service plan, then the only rights that Sound Transit will have to operate service will be the four peak direction round trips acquired in the Purchase and Sale

Agreement, which will arrive in Seattle between 6:00 and 9:00 am and depart Seattle between 3:30 and 6:30 pm.

The 2001 Commuter Rail Service Agreement, as amended in 2003, describes the terms for the operation of commuter trains by BNSF on BNSF's Tacoma to Seattle corridor, Tacoma Rail's Reservation to Freighthouse Square segment, and Sound Transit's Freighthouse Square to Lakewood segment through 2040. The Service Agreement covers train crews, maintenance-of-way, and other expenses incurred in the operation of Sounder commuter rail between Seattle and Lakewood.

This amendment will incorporate the operation of the four round trips added through the acquisition of four commuter rail easements authorized by the Board in Resolution No. R2010-14 from Seattle to Lakewood. The amendment will also change the compensation structure for the costs related to maintenance of way from an actual cost model to one based on a per train mile formula. This change will only apply to maintenance of way costs, the train operations costs will remain based on actual costs. This per train formula for maintenance of way is used in the existing Everett to Seattle Service Agreement and Joint Use Agreement.

ENVIRONMENTAL COMPLIANCE

Required environmental documentation under NEPA and SEPA has been completed by Sound Transit for Easements 1 and 2. A NEPA Documented Categorical Exclusion (DCE) was approved the Federal Transit Administration on November 4, 2009 for Easements 1 and 2. Sound Transit issued a SEPA Determination of Nonsignificance (DNS) on November 13, 2009 for Easements 1 and 2. For Easements 3 and 4, Sound Transit will complete required NEPA and SEPA environmental documentation and staff will then return to the Sound Transit Board for authorization to make deposits and close.

SSK 7-15-20

PRIOR BOARD/COMMITTEE ACTIONS

Motion No. M2007-98 – Authorized the chief executive officer to execute an amendment to the BNSF Railway Company Service Agreement for Sounder commuter rail for the Seattle to Tacoma Corridor to permit up to six round trips before completion of Phase 2 railroad improvements under the BNSF Railway Company Construction Agreement.

Motion No. M2003-136 – Authorized the Chief Executive Officer to execute a First Amendment to the Commuter Rail Service Agreement between the Central Puget Sound Regional Transit Authority and the Burlington Northern Santa Fe Railway Company.

Resolution No. R99-22 – Authorized the Executive Director to execute two contracts with The Burlington Northern and Santa Fe Railway (BNSF), each to be substantially in accordance with the basic terms for such agreements set forth in the Background and Comments attached hereto as Exhibit A. The first is a long-term contract that will provide for BNSF to operate *Sounder* commuter rail service between Seattle and Tacoma (Operating Agreement). The second is a contract that will specify agreed-upon capital improvements on and around BNSF's existing railroad right-of-way, and provide for BNSF to construct those improvements and for Sound Transit to contribute approximately \$200 million and other public authorities to contribute approximately \$70 million to the cost of such construction (Construction Agreement).

TIME CONSTRAINTS

BNSF will not commit to the terms of the purchase and sale agreement of the four commuter rail easements if these agreements are not authorized by the Board in July.

PUBLIC INVOLVEMENT

Not applicable to this action.

LEGAL REVIEW

JW 7/16/10

MOTION NO. M2010-71

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute an amendment to the Commuter Rail Service Agreement with The BNSF Railway Company for the operation of Sounder commuter rail service between Seattle and Lakewood to add four additional Sounder commuter rail weekday round trips.

BACKGROUND:

BNSF currently operates nine daily round trips for Sound Transit between Seattle and Tacoma. Under Resolution No. R2010-14 BNSF will sell Sound Transit four easements that will allow weekday round trips from Seattle to Tacoma. These four additional easements will be permanent (in contrast to the existing south-line easements which are for 40 years only).

Sound Transit will have the option of implementing mid-day service. When all of the four additional round trips are implemented, Sound Transit will have nine peak direction round trips, three reverse direction rush hour round trips, and one mid-day round trip.

The operating rights for the nine round trips currently in operation will expire in 2040, if no arrangements are made to increase or continue that initial nine train service plan, then the only rights that Sound Transit will have to operate service will be the four peak direction round trips acquired in the Purchase and Sale Agreement, which will arrive in Seattle between 6:00 and 9:00 am and depart Seattle between 3:30 and 6:30 pm.

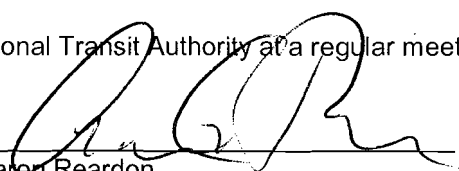
The 2001 Commuter Rail Service Agreement, as amended in 2003, describes the terms for the operation of commuter trains by BNSF on BNSF's Tacoma to Seattle corridor, Tacoma Rail's Reservation to Freighthouse Square segment, and Sound Transit's Freighthouse Square to Lakewood segment through 2040. The Service Agreement covers train crews, maintenance-of-way, and other expenses incurred in the operation of Sounder commuter rail between Seattle and Lakewood.

This amendment will incorporate the operation of the four round trips added through the acquisition of four commuter rail easements authorized by the Board in Resolution No. R2010-14 from Seattle to Lakewood. The amendment will also change the compensation structure for the costs related to maintenance of way from an actual cost model to one based on a per train mile formula. This change will only apply to maintenance of way costs, the train operations costs will remain based on actual costs. This per train formula for maintenance of way is used in the existing Everett to Seattle Service Agreement and Joint Use Agreement.

MOTION:


It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to execute an amendment to the Commuter Rail Service Agreement with The BNSF Railway Company for the operation of Sounder commuter rail service between Seattle and Lakewood to add four additional Sounder commuter rail weekday round trips.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on July 22, 2010.



Aaron Reardon
Board Chair

ATTEST:



Marcia Walker
Board Administrator