

**MOTION NO. M2012-03**
**Memorandum of Understanding with BNSF for Positive Train Control**

<b>MEETING:</b>	<b>DATE:</b>	<b>TYPE OF ACTION:</b>	<b>STAFF CONTACT:</b>	<b>PHONE:</b>
Capital Committee	1/12/12	No Action Taken	Ahmad Fazel, DECM Executive Director	206-398-5389
Board	1/26/12	Final Action	<b>Eric Beckman, Project Director</b>	206-398-5251

**PROPOSED ACTION**

Authorizes the chief executive officer to approve a provision in the memorandum of understanding with the BNSF Railway Company to cap Sound Transit's share of costs to install a positive train control system between Everett and Tacoma on BNSF right-of-way in an amount not to exceed \$3,900,000.

**KEY FEATURES**

- Under the service agreements with BNSF, Sound Transit is responsible for a share of costs related to improvements to the right of way required by changes in law.
- The Rail Safety Improvement Act of 2008 and other federal regulations require Class One railroads that carry passenger trains and certain toxic materials to be equipped with positive train control (PTC) technology. PTC systems improve railroad safety by reducing the probability of collisions between trains; casualties to roadway workers and damage to equipment; and over-speed accidents.
- The memorandum of understanding (MOU) caps Sound Transit's contribution to BNSF's PTC system between Everett and Tacoma at \$3.9 million. Board approval of the term that outlines Sound Transit's contribution is required in the MOU.

**PROJECT DESCRIPTION**

PTC systems are integrated command, control, communications and information systems for controlling train movements with safety, security, precision and efficiency. PTC systems issue movement authorization to train and maintenance-of-way crews and track the location of the trains and maintenance-of-way vehicles. PTC systems have the ability to automatically enforce movement authorization and continually update operating data systems with information on the location of trains, locomotives, cars and crews. The remote intervention capability of PTC will permit the control center to stop a train should the locomotive crew be incapacitated. In addition to providing a greater level of safety and security, PTC systems also enable railroad companies to run scheduled operations and provide improved running time, greater running time reliability, higher asset utilization and greater track capacity.

Equipment installed by BNSF for the PTC project will be predominantly electronic and communications systems components; these components will be installed in signal houses and pre-existing underground conduit. BNSF does not plan to install any radio towers along the Everett to Tacoma track segment.

## FISCAL INFORMATION

### Project Budget

Positive Train Control	2012 TIP	Board Approvals	This Action	Board Approved Plus Action	Uncommitted/ (Shortfall)
Agency Administration	2,238	2,045	-	2,045	193
Preliminary Engineering	-	-	-	-	-
Final Design	5,139	25	-	25	5,114
3rd Party	6,348	-	3,900	3,900	2,448
Right of Way	-	-	-	-	-
Construction	23,585	-	-	-	23,585
Construction Management	1,915	-	-	-	1,915
Vehicles	-	-	-	-	-
Contingency	-	-	-	-	-
<b>Total Project Budget</b>	<b>\$ 39,225</b>	<b>\$ 2,070</b>	<b>\$ 3,900</b>	<b>\$ 5,970</b>	<b>\$ 33,255</b>

### Phase Detail

#### 3rd Party

Miscellaneous Third Party	5,800	-	3,900	3,900	1,900
Other Phase Activity	548	-	-	-	548
<b>Total Phase</b>	<b>\$ 6,348</b>	<b>\$ -</b>	<b>\$ 3,900</b>	<b>\$ 3,900</b>	<b>\$ 2,448</b>

### Contract Detail

Miscellaneous Third Party	Board Approvals to Date	Current Approved Contract Status	Proposed Action	Proposed Total for Board Approval
Contract			3,900	3,900
Contingency				-
<b>Total Contract Amount</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 3,900</b>	<b>\$ 3,900</b>
Percent Contingency	0%	0%	0%	0%

#### Notes:

Amounts are expressed in Year of Expenditure \$000.

Board Approvals = Committed to-date + Contingency, and includes pending Board Actions.

Project budget is located on page 60 of the Proposed 2012 Transit Improvement Plan.

## SMALL BUSINESS PARTICIPATION

Not applicable to this action.

## BACKGROUND

In 2000, Sound Transit entered into a service agreement with BNSF for the operation of commuter rail service on BNSF's Seattle to Tacoma corridor. In 2003, Sound Transit entered into a service agreement and joint use agreement with BNSF (in conjunction with agreements to acquire commuter rail easements) for the operation of commuter rail service on BNSF's Everett to Seattle corridor. In 2010, Sound Transit entered into a purchase and sale agreement to purchase four commuter rail easements in the Tacoma to Seattle corridor. In addition to the commuter rail easement purchase and sale agreement, Sound Transit amended the Seattle to Tacoma service agreement and entered into a joint use agreement. Sound Transit is required under the terms of the service agreements and joint use agreements to pay a share of costs related to changes in infrastructure and technology mandated by law.

The Rail Safety Improvement Act of 2008 (49 USC 20157(a)(1)) requires class one railroad companies such as BNSF that provided regularly scheduled passenger transportation to develop and implement a PTC system by December 31, 2015. In April 2010, Sound Transit entered into a letter of understanding with BNSF regarding the parties' desire to cooperate to implement PTC by the statutory deadline. In 2010, BNSF estimated that the total cost of implementing PTC in the Everett to Tacoma corridor was \$8.9 million. BNSF, Amtrak, and Sound Transit calculated Sound Transit's share of the cost to be \$3.9 million. Sound Transit's share was determined by taking the estimated total number of Sound Transit train trips divided by the estimated total train trips requiring the installation of PTC under the Rail Safety Improvement Act (i.e., Sound Transit passenger trains, Amtrak passenger trains, and BNSF freight trains carrying loads that are toxic by inhalation). In July 2010, Sound Transit entered into a MOU with BNSF capping Sound Transit's total cost for PTC in the BNSF corridor at \$3.9 million. Under the MOU, if the total PTC cost came in at less than \$8.9 million, then Sound Transit's \$3.9 million share would be reduced proportionately. The MOU requires the Sound Transit Board to approve this provision.

## **ENVIRONMENTAL COMPLIANCE**

Based on the project description and minor improvements necessary, the project is categorically exempt under SEPA (State Environmental Policy Act).

SSK 12-21-11

## **PRIOR BOARD/COMMITTEE ACTIONS**

Resolution No. R2010-14: Authorized the chief executive officer to 1) execute a Purchase and Sale Agreement with The BNSF Railway Company (BNSF) for the acquisition of four perpetual commuter rail easements in BNSF's right of way between Seattle and Tacoma in the amount of \$41 million for Easement 1, \$44 million for Easement 2, \$52 million for Easement 3, and \$48 million for Easement 4, 2) make a deposit of \$5 million for Easement 2, and 3) close on the purchase of Easement 1 in July 2010 and Easement 2 in January 2011.

Motion No. M2003-131: Authorized the chief executive officer to execute a Commuter Rail Service Agreement between the Central Puget Sound Regional Transit Authority and the Burlington Northern Santa Fe Railway Company for Everett to Seattle Commuter Rail Services.

Motion No. M2003-130: Authorized the chief executive officer to execute a Joint Use Agreement between the Central Puget Sound Regional Transit Authority and the Burlington Northern Santa Fe Railway Company for Everett to Seattle Commuter Rail Easements.

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**

A one month delay would not create a significant impact to the project schedule.

## **PUBLIC INVOLVEMENT**

Not applicable to this action.

**LEGAL REVIEW**

JW 1/5/12

**MOTION NO. M2012-03**

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to approve a provision in the memorandum of understanding with the BNSF Railway Company to cap Sound Transit's share of costs to install a positive train control system between Everett and Tacoma on BNSF right-of-way in an amount not to exceed \$3,900,000.

**BACKGROUND:**

In 2000, Sound Transit entered into a service agreement with BNSF for the operation of commuter rail service on BNSF's Seattle to Tacoma corridor. In 2003, Sound Transit entered into a service agreement and joint use agreement with BNSF (in conjunction with agreements to acquire commuter rail easements) for the operation of commuter rail service on BNSF's Everett to Seattle corridor. In 2010, Sound Transit entered into a purchase and sale agreement to purchase four commuter rail easements in the Tacoma to Seattle corridor. In addition to the commuter rail easement purchase and sale agreement, Sound Transit amended the Seattle to Tacoma service agreement and entered into a joint use agreement. Sound Transit is required under the terms of the service agreements and joint use agreements to pay a share of costs related to changes in infrastructure and technology mandated by law.

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**MOTION:**

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to approve a provision in the memorandum of understanding with the BNSF Railway Company to cap Sound Transit's share of costs to install a positive train control system between Everett and Tacoma on BNSF right-of-way in an amount not to exceed \$3,900,000.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on January 26, 2012.



Pat McCarthy  
Board Chair

ATTEST:



Marcia Walker  
Board Administrator