

MOTION NO. M2015-106

**Amendment to the Commuter Rail Service Agreement with BNSF Railway Company to include the Seattle-to-Lakewood Sounder Segment and implementation of Positive Train Control**

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:
Operations and Administration Committee	11/05/2015	Recommend to Board	Bonnie Todd, Executive Director of Operations
Board	11/19/2015	Final Action	<b>Martin Young, Sounder Operations Manager</b>

PROPOSED ACTION

Authorizes the chief executive officer to execute an amendment to the Commuter Rail Service Agreement with the BNSF Railway Company to incorporate changes related to the south line service agreement including the extension of service to Lakewood on Sound Transit right-of-way and the implementation of positive train control.

KEY FEATURES

- The amendment adds scope to Sound Transit’s Commuter Rail Service Agreement with the BNSF Railway Company (BNSF) for protocols related to dispatching on the Sound Transit-owned right-of-way between Tacoma and Lakewood.
- The new scope includes BNSF 24x7 operations and dispatching support for the Sound Transit-owned right-of-way in the following areas:
  - Resource Operation Call Center, a police facility staffed by BNSF that will respond to all emergency response related calls.
  - Call desks for service interruption, signals, maintenance of way and track related issues, and positive train control.
  - Safety and rules documentation and management functions.
  - Centralized Traffic Control, a signal system used to dispatch trains.
  - Telecommunications support at the crew operations facility.
- The amendment also adds new scope for BNSF to support the installation, maintenance, and operation of positive train control (PTC) for the Sound Transit-owned right-of-way.
- The amendment reimburses BNSF for the increase in scope over the last three years as well as capital costs for telecommunication equipment and training equipment and set up of timetables. The reimbursement totals \$272,011.
- The amendment streamlines the billing process through a change in the overhead rate (certified by the U.S. Department of Transportation), providing improved transparency for auditing purposes.
- The amendment modifies the insurance section to clarify when BNSF employees are covered by Sound Transit insurance and the indemnity section to clarify indemnity obligations in light of Amtrak’s use of the Sound Transit-owned Lakeview Line in 2017.
- The amendment ensures there are no BNSF penalties for delays due to the PTC system and memorializes tolerance for Federal Railroad Administration (FRA) required testing.

BACKGROUND

BNSF is the operator, dispatcher, and owner of the right-of-way for both the Seattle-to-Everett Sounder segment and the Seattle-to-Tacoma Sounder segment. The Seattle-to-Tacoma Sounder

segment was extended nine miles south to Lakewood in October of 2012 on Sound Transit-owned right-of-way.

A 2003 amendment to the Commuter Rail Service Agreement with BNSF outlined basic terms for BNSF's operation of Sound Transit's Sounder service on the Sound Transit right-of-way that Sound Transit purchased from BNSF. With the opening of the extension, additional responsibilities not covered in the 2003 amendment, particularly the federally-mandated positive train control, become apparent. Other responsibilities include setting up and maintaining federally-required railroad timetables, special instructions, and other Federal Railroad Association-required documents for operations, maintenance, and safety. This amendment documents the tasks that BNSF has performed or will need to perform on behalf of Sound Transit for a seamless Sounder service along the entire Sounder corridor.

A few other operating tasks previously covered directly by Sound Transit are now BNSF's responsibility. Such tasks include: procurement; operation and maintenance of office equipment, such as computers and printers needed for transmitting daily train orders; and the procurement, operation, and maintenance of two non-revenue vehicles to support operations. The term of the BNSF service agreement is for 40 years, 25 of which are remaining. Other tasks now assigned to BNSF that will appear in the overhead are crew van transportation, special crew training, crew radios, supplies, and equipment.

This amendment will also fund software development for BNSF's NetSim training simulation. The training software is designed specifically for Sounder equipment and service and will include simulation of the D-M Street section that has a steep 2.85 percent grade. Operating over this section of track requires unique train handling techniques and having access to a training simulator will further enhance the safety of operations.

## FISCAL INFORMATION

The cost of services under this agreement is funded from the purchased transportation services within the Sounder annual operating budget\*. The 2016 budget request for Sounder purchased transportation services is \$9,991,560. Within that amount, \$6,681,271 is committed to the south line to pay for the services provided by BNSF. The additional on-going cost associated with changes under the proposed action is approximately \$300,000 for 2016. This amount is currently being requested in the 2016 budget amendments. The Board will review and approve the budget amendments prior to taking action to adopt the 2016 budget in December 2015. The budget authority will be granted upon the adoption of the budget.

\*Sounder operating budget can be found on page 36 of Proposed 2016 Budget.

One-time costs under the proposed action include expenditure reimbursements of approximately \$154,561 that will be covered through 2015 budget dollars and a capital cost of \$117,450 for communication equipment at Lakewood. Training equipment and timetables will be funded from the Small Works Program\* in 2016. The 2016 annual budget for the Small Works Program is \$856,000. Within that amount, \$117,000 is committed to fund the one-time capital investment. The budget authority will be granted upon the adoption of the budget.

\*Small Work Program can be found on page 100 of Proposed 2016 Transit Improvement Plan

## SMALL BUSINESS/DBE PARTICIPATION

Not applicable to this action.

## TIME CONSTRAINTS

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

## PRIOR BOARD/COMMITTEE ACTIONS

Motion No. M2010-71: Authorized 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.

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.

Motion No. M2003-135: Authorizing the chief executive officer to execute a Joint Use Agreement between the Central Puget Sound Regional Transit Authority and the Burlington Northern and Santa Fe Railway Company for Tacoma to Nisqually Railroad right-of-way and properties.

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).

## ENVIRONMENTAL REVIEW

JI 10/29/2015

## LEGAL REVIEW

JW 11/03/2015

## **MOTION NO. M2015-106**

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 to incorporate changes related to the south line service agreement including the extension of service to Lakewood on Sound Transit right-of-way and the implementation of positive train control.

### **BACKGROUND:**

BNSF Railway Company (BNSF) is the operator, dispatcher, and owner of the right-of-way for both the Seattle-to-Everett Sounder segment and the Seattle-to-Tacoma Sounder segment. The Seattle-to-Tacoma Sounder segment was extended nine miles south to Lakewood in October of 2012 on Sound Transit-owned right-of-way.

A 2003 amendment to the Commuter Rail Service Agreement with BNSF outlined basic terms for BNSF's operation of Sound Transit's Sounder service on the Sound Transit right-of-way that Sound Transit purchased from BNSF. With the opening of the extension, additional responsibilities not covered in the 2003 amendment, particularly the federally-mandated positive train control, become apparent. Other responsibilities include setting up and maintaining federally-required railroad timetables, special instructions, and other Federal Railroad Association-required documents for operations, maintenance, and safety. This amendment documents the tasks that BNSF has performed or will need to perform on behalf of Sound Transit for a seamless Sounder service along the entire Sounder corridor.

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The amendment streamlines the billing process through a change in the overhead rate (certified by the U.S. Department of Transportation), provide improved transparency for auditing purposes. The insurance section of the agreement is modified to clarify when BNSF employees are covered by Sound Transit insurance and the indemnity section to clarify indemnity obligations in light of Amtrak's use of the Sound Transit-owned Lakeview Line in 2017. The amendment ensures there are no BNSF penalties for delays due to the PTC system and memorializes tolerance for Federal Railroad Administration (FRA) required testing.

This amendment will also fund software development for BNSF's NetSim training simulation. The training software is designed specifically for Sounder equipment and service and will include simulation of the D-M Street section that has a steep 2.85 percent grade. Operating over this section of track requires unique train handling techniques and having access to a training simulator will further enhance the safety of operations.

**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 to incorporate changes related to the south line service agreement including the extension of service to Lakewood on Sound Transit right-of-way and the implementation of positive train control.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on November 19, 2015.



Dow Constantine  
Board Chair

ATTEST:

  
Kathryn Flores  
Board Administrator