

Memorandum

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: May 23, 2012

Reference No.: 4.14
Action

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: William D. Bronte, Chief
Division of Rail

Subject: **SUBMITTAL OF DEFINITIVE AGREEMENTS AND SUMMARIES FOR A TRADE
CORRIDOR IMPROVEMENT FUND RAIL PROJECT IN ACCORDANCE WITH
ASSEMBLY BILL 105 (2011)**

RECOMMENDATION:

The California Department of Transportation (Department) recommends that the California Transportation Commission (Commission) accept the summaries of the Definitive Agreements Tehachapi Trade Corridor Improvement Fund (TCIF) project (Project) between the Burlington Northern Santa Fe Railway Company (BNSF) and the Department, as prepared by Department and at the request of the Commission. Copies of the Definitive Agreements are attached in accordance with Assembly Bill (AB) 105.

ISSUE:

In September 2008, Assembly Bill 268 added Section 8879.52 to the Government Code, which required the Department to make a one-time report on or before February 18, 2009, to certain committees of the Legislature summarizing “any memorandum of understanding or any other agreement executed between a railroad company and any state or local transportation agency” for any project that receives TCIF. The Memorandum of Understanding (MOU) for the Project was executed September 12, 2008. Pursuant to the requirements of AB 268, the Department submitted the required report, which included the Project, to the Legislature on February 18, 2009.

In March 2011, AB 105 amended Section 8879.52 of the Government Code. The amendment calls on the Commission to submit a report to certain legislative committees summarizing “any memorandum of understanding, along with a copy of the memorandum, or any agreement executed between a railroad company and any state or local transportation agency” for any project that receives TCIF.

The Parties signed the Definitive Agreements on May 1, 2012. This summary serves to assist the Commission with their AB 105 reporting duties. Although no legislative report is necessary regarding the Project MOU, both a summary and a copy of it are attached because the Project MOU is relevant to an understanding of the definitive agreements.

BACKGROUND:

An MOU must be executed before a project baseline agreement can be approved. The Parties entered into an MOU defining the general scope, schedule, costs and public benefits of the Project in September 2008. Some of the major objectives outlined in the Project MOU, listed below include:

- Ensure the Port of Oakland is a key competitive global gateway,
- Improve throughput and velocity on the Tehachapi Trade Corridor,
- Increase capacity and efficiency for the Port of Oakland,
- Improve the Port of Oakland and shipper access to major national markets,
- Improve the reliability of Northern California’s critical link to major national markets,
- Utilize rail freight network capacity to relieve congestion on California freeways, and
- Position the Port of Oakland and California to meet current and future growth.

Some of the major benefits in the Project MOU include:

- Increased throughput by 70 percent due to capacity improvements,
- Reduced congestion of both rail and highway traffic,
- Increased connectivity for improved East/West goods movement,
- Improved reliability due to a 52 percent reduction in train delay hours,
- Improved train velocity allowing a 14 percent faster transit time, and
- Reduced emissions of carbon dioxide, nitrogen-based oxides, and particulate matter.

The Project Baseline Agreement (PBA) between the Commission, the Department and BNSF was approved by the Commission at its May 2011 meeting. The PBA establishes the baseline for project delivery monitoring. The PBA incorporated the executed MOU as an attachment. The Project schedule and funding plan are enumerated in the following tables.

Project Schedule	Date	Actual
Begin Environmental Phase	1/2008	1/2008
Circulate Draft Environmental Document Doc Type: EIR	3/2010	5/2012
End Environmental Phase	6/2010	11/2012
Begin Design Phase	1/2008	1/2008
End Design Phase	12/2011	9/2012
Begin Construction Phase	3/2012	2/2013
End Construction Phase	10/2014	9/2015

Project Funding Plan		Funding Sources		
Phase of Work	Estimated Cost	TCIF	Other State	BNSF
Environmental	\$3,700,000		\$1,500,000	\$2,200,000
Design	\$1,000,000			\$1,000,000
Construction	\$108,000,000	\$54,000,000		\$54,000,000

Totals	\$112,700,000	\$54,000,000	\$1,500,000	\$57,200,000
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In the MOU, the Parties agreed to formalize details of funding, construction, operations, maintenance, and implementation of public benefits through separate definitive agreements (Definitive Agreements). The Parties signed the Definitive Agreements on May 1, 2012. These agreements consist of an “Agreement Regarding Implementation of Public Benefits Related to the TCIF 6 Tehachapi Trade Corridor Project” (Public Benefits Agreement), and a “Cooperative Agreement for the Construction and Maintenance of the TCIF 6 Tehachapi Trade Corridor Project” (Construction and Maintenance Agreement).

Public Benefits Agreement

The Public Benefits Agreement defines the anticipated benefits of the completed Project. Detailed analyses of benefits were contained in the TCIF Project Application. This agreement formalizes the specific passenger rail benefits that will be derived from the Project and the performance measurements used to assess those benefits, which include:

- Reduced transportation costs from displacing heavy truck travel,
- Lower inventory costs from displacing heavy truck travel and reducing train delays,
- Savings from reduced highway congestion,
- Reduction in road maintenance and costs from displacing heavy truck travel,
- Environmental savings from displacing heavy truck travel and reducing train delay (idling), and
- Reduced accident costs from displacing heavy truck travel.

Construction and Maintenance Agreement

The Construction and Maintenance Agreement defines the roles of the Department and BNSF during construction and after completion of the Project. Those roles and responsibilities listed below include:

- Project design and construction,
- Project funding,
- Record keeping and audits,
- Ownership of facilities,
- Maintenance of track and facilities for 20 years, and
- Operations.