

Memorandum

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: May 23, 2012

Reference No.: 4.15
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 for the Trade Corridor Improvement Project 6 Richmond Rail Connector project (Project) between the Department and the Burlington Northern Santa Fe Railway Company (BNSF), as prepared by the Department and at the request of the Commission. Copies of the Definitive Agreements are attached in accordance with Assembly Bill (AB) 105.

ISSUE:

In March 2011, AB 105 amended Section 8879.52 of the Government Code as an urgency measure. The amendment took immediate effect and 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 Trade Corridors Improvement Funds (TCIF).

The Project Memorandum of Understanding (MOU) for the Project is the legal agreement between Department and BNSF (collectively, the “Parties”). The Department and BNSF executed the MOU on May 9, 2011. Department delivered a summary of the Project’s MOU to the Commission at its May 2011 meeting, along with the Project’s baseline agreement. In the MOU, the Parties agreed to formalize further details and implementation of the MOU through the negotiation of separate 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 Richmond Rail Connector Project” (Public Benefits Agreement), and a “Cooperative Agreement for the Construction and Maintenance of the Richmond Rail Connector Project” (Construction and Maintenance Agreement).

Department has prepared this summary of the Definitive Agreements at the request of the Commission.

BACKGROUND:

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.

The public benefits of the Project are derived by routing BNSF trains over the Union Pacific Railroad (UPRR) Martinez Subdivision from Stege to Rheem rather than through north Richmond. This routing is shorter, faster, and has fewer at-grade crossings. The Richmond Rail Connector Project provides the infrastructure required for this rerouting. Federal laws and a preexisting agreement, to which the Department is not a party, govern BNSF's use of and access to UPRR facilities.

By removing slow daily train traffic from 1.7 miles of track within the city of Richmond and avoiding nine at-grade crossings, the Project will provide the benefits summarized below, which include:

- Reduced traffic delay,
- Reduced fuel consumption from idling vehicles,
- Reduced emissions from idling vehicles,
- Reduced fuel consumption from train locomotives, and
- Reduced emissions from train locomotives.

Construction and Maintenance Agreement

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

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