PROJECT: CRENshaw/LAX Transit Corridor Project

ACTION: Approve Agreement with BNSF Railway Company for Abandonment of Railroad Tracks

RECOMMENDATION

A. Authorize the Chief Executive Officer or his designee to execute an Agreement with BNSF Railway Company to cease rail operations and abandon its interest in the Crenshaw Segment portion of the Harbor Branch right-of-way on the terms and conditions set forth in the term sheet attached as Attachment B. Also, authorize the Chief Executive Officer to execute such other agreements, forms and other documents needed to implement such BNSF abandonment.

ISSUE

The BNSF Railway Company (BNSF) conducts intermittent rail operations within the Project’s southern section, but rail operations in the Crenshaw segment is heavily restricted for through movements and with implementation of the Alameda Corridor has seen very infrequent use. The most cost effective method to construct the Project’s southern section, known as the Crenshaw Segment portion of the Harbor Branch right-of-way, is to not relocate the existing BNSF tracks and eliminate the shared corridor with BNSF. By eliminating this shared corridor, MTA removes the additional clearance requirements and the associated increase in right-of-way and wayside costs.

DISCUSSION

The Crenshaw/LAX Transit Corridor is a north/south corridor that serves the cities of Los Angeles, Inglewood, Hawthorne and El Segundo as well as portions of unincorporated Los Angeles County. The proposed alignment extends 8.5 miles from the intersection of Crenshaw and Exposition Boulevards to a connection with the Metro Green Line at the Aviation/LAX Station (see Attachment A). The project provides major connections with the Los Angeles International Airport (LAX) as well as links to the Metro Green Line, the Exposition Line and a countywide bus network. The Board
adopted a light rail system as the locally preferred alternative on December 10, 2009 and recently adopted a base project through certification of the Final Environmental Impact Report on September 22, 2011.

The alignment is comprised of a double-tracked right-of-way consisting of sections of at-grade in-street, at-grade within railroad right-of-way, aerial, and below-grade guideway sections, six stations, park and ride facilities at three locations, utilities, landscaping, roadway improvements required by the project and a maintenance and storage facility.

As part of the value engineering effort that was completed during preliminary engineering, it was recommended that instead of relocating the existing BNSF tracks to make room for the light rail tracks, it would be best to eliminate the BNSF tracks and not share the corridor with BNSF. This would significantly reduce costs by not relocating the tracks and reducing the need for associated infrastructure such as retaining walls and drainage structures. It would also eliminate the need for additional right-of-way and utility relocations required for the relocation of the BNSF tracks.

The terms and conditions for BNSF’s abandonment is set forth on the Term Sheet (see Attachment B), which has been negotiated and agreed upon by MTA and BNSF legal counsel, subject to their respective board’s approval. The Agreement Term Sheet provides that MTA will pay BNSF $4,500,000 for the cessation of rail freight operations on the Crenshaw Segment and for the abandonment of BNSF’s Reserved Freight Rail Service Easement. BNSF will apply for authority from the Surface Transportation Board (STB) to cease and abandon its operations on the Crenshaw Segment and will cooperate with MTA to accommodate MTA construction activities. BNSF’s contribution to maintain the Harbor Subdivision will be reduced accordingly. Payment to BNSF would be made as follows: $1,000,000 within 10 business days of executing the agreement, $1,000,000 within 10 business days of filing the STB application and the balance upon receipt of STB abandonment approval.

FINANCIAL IMPACT

Funds are included in FY12 for this action under Measure R Project 865512 (Crenshaw/LAX Transit Corridor Project), in Cost Center 8510 (Construction Project Management), and Account No. 53101. Since this is a multi-year project, the Executive Director and Project Manager will be responsible for budgeting future year’s costs.

Impact to Bus and Rail Operating and Capital Budget

The funding for this project will be capital funds identified in the approved life-of-project budget. The sources of funds are not eligible for bus operating activities.
ALTERNATIVES CONSIDERED

The Board may choose not to approve the Agreement with BNSF for abandonment of railway tracks but this action would cause MTA to increase clearance requirements in the shared corridor and not achieve the associated significant cost saving in right-of-way and wayside costs.

NEXT STEPS

Upon Board approval, the terms of the Agreement will be forwarded to BNSF’s Board for approval. Once approved, BNSF and MTA will execute an agreement based on the Term Sheet. Once the agreement is executed, within 45 days BNSF will apply to the Surface Transportation Board (STB) for an order to cease and abandon its operations on the Crenshaw Segment of the Harbor Subdivision. Upon receipt of STB approval, BNSF will quitclaim and release its Reserved Freight Rail Service Easement.

ATTACHMENTS

A. Project Alignment
B. Agreement Term Sheet

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Executive Director, Transit Project Delivery

Arthur T. Leahy
Chief Executive Officer
Project Alignment
Crenshaw/LAX Transit Corridor
Attachment A
Crenshaw/LAX Transit Corridor Project
Agreement Term Sheet

Los Angeles County Metropolitan Transportation Authority (LACMTA) and
BNSF Railway Company (BNSF)

The Crenshaw/LAX Transit Corridor Project ("Project") is a light rail line to be constructed and operated by the LACMTA. The Project will start at the Metro Green Line near the existing Aviation/LAX station and terminate on Crenshaw Boulevard at the Exposition light rail line. LACMTA is currently anticipated to receive state environmental clearance on the Project in September, 2011 and federal environmental clearance in November, 2011.

As part of the Project, LACMTA desires that BNSF cease its rail operations and abandon its interest in a portion of the Harbor Branch right-of-way from approximately MP 7.95 (just north of West 67th Street curbline) to MP 13.25 (just south of existing Metro Green Line structure) (the precise endpoints will be set forth in the definitive agreement(s) described below) (the "Crenshaw Segment"). Subject to LACMTA’s prior compliance with the California Environmental Quality Act and the National Environmental Policy Act, the parties have agreed in principle that BNSF will cease rail operations and abandon its interest in the Crenshaw Segment on the terms and conditions set forth herein. LACMTA advised BNSF that it is prepared to initiate eminent domain proceedings against BNSF concerning the Crenshaw Segment and the parties’ agreement in principle as described herein is in lieu of LACMTA initiating such proceedings.

1. BNSF will cease rail operations on and abandon its Reserved Freight Rail Service Easement on the Crenshaw Segment. BNSF will apply to the Surface Transportation Board ("STB") for authority to cease and abandon its operations on the Crenshaw Segment and, subject to obtaining such authority, quitclaim and release BNSF’s Reserved Freight Rail Service Easement in the Crenshaw Segment.

2. From and after the date that BNSF quitclaims and releases BNSF’s Reserved Rail Service Easement in the Crenshaw Segment, (1) BNSF will have no further obligations of maintenance, reimbursement to LACMTA for costs, or otherwise with respect to the Crenshaw Segment, and (2) BNSF’s cap on good housekeeping maintenance costs on the Harbor Subdivision shall be reduced in accordance with the length of the Crenshaw Segment and as set forth in paragraph 3 of the Second Amendment to the Shared Use Agreement. The reduction shall be set forth in the definitive agreement(s) described below. Nothing herein is intended to alter BNSF’s obligations with respect to the
Crenshaw Segment that arise prior to the date of such quitclaim and release.

3. LACMTA will pay BNSF $4,500,000 for the cessation of rail freight operations on the Crenshaw Segment and for the abandonment of BNSF’s Reserved Freight Rail Service Easement. Payment will be made as follows: $1,000,000 within 10 business days of executing the agreement, $1,000,000 within 10 business days of filing the STB application and the balance upon receipt of STB abandonment approval.

4. BNSF will cooperate with LACMTA to accommodate LACMTA construction activities in the Crenshaw Segment. BNSF will work with LACMTA in allocating track time to allow LACMTA to construct the Project as needed. Nothing herein is intended to interfere with BNSF’s rights under the Reserved Freight Rail Service Easement until such easement right in the Crenshaw Segment has been quitclaimed and released by BNSF and then only with respect to the Crenshaw Segment.

5. BNSF shall initiate its application to the STB for abandonment within 45 days from execution of the agreement.

6. BNSF shall support and cooperate with LACMTA before the CPUC on grade crossing applications submitted by LACMTA. LACMTA intends to submit plans which will not show the freight line in the after-construction conditions but acknowledges that STB approval of the abandonment (described above) is required before removing such freight track. Upon BNSF quitclaiming its Reserved Freight Rail Easement in the Crenshaw Segment, LACMTA will have responsibility for all costs and expenses associated with the Crenshaw Segment and BNSF will have no responsibility for any operations on or improvements to the Crenshaw Segment.

7. The parties acknowledge that this term sheet is only an outline of some of the essential terms and conditions. Nothing in this term sheet shall be binding upon either party and no party shall have any obligation with respect to the matters set forth herein unless and until each party’s governing board approves the proposed transaction and the parties have entered into definitive agreement(s) with respect to the matters described herein.