

**DATE:** 4 April 2018

**SUBJECT:** Transport for the North – Franchise Management Agreement

**REPORT OF:** Tom Sunter, Senior Solicitor

### **EXECUTIVE SUMMARY**

The purpose of this report is to authorise the Monitoring Officer to enter into the franchise management agreement with Transport for the North (“TfN”).

### **RECOMMENDATIONS**

- (i) Having consulted with the Vice-Chairs of NECA (there being a vacancy in the role of Chair) and the Monitoring Officer, the Head of Paid Service authorises (consent to) NECA entering into the Franchise Management Agreement with Transport for the North and Rail North Limited.
- (ii) Note that this will be executed on behalf of the North East Combined Authority by the Monitoring Officer under constitutional authority.

**1. Background**

1.1 The purpose of this report is to authorise the Monitoring Officer of NECA to enter into the Franchise Management Agreement with TfN and Rail North Limited. At its meeting on the 7 August 2017 the Leadership Board provisionally granted consent to:

i) The making by the Secretary of State of Regulations under section 102E of the Local Transport Body 2008 to establish Transport for the North as a Sub-National Transport Body;

ii) The transfer of Rail North Limited to Transport for the North so that it can be subsumed within Transport for the North

iii) The signing of the Franchise Management Agreement with Transport for the North replicating as far as possible the current Rail North Limited Members Agreement; and

iv) Continuation of the payment of the current funding for Rail North Limited to Transport after its inauguration.

The Leadership Board also authorised agreement that:

v) Delegated authority is given to the Head of Paid Service to fully consent to items (i) to (iv) on the Leadership Board's behalf, provided that she is satisfied, in consultation with the Chair of the Leadership Board and the Monitoring Officer, that the final draft Regulations serve only to give Transport for the North the Statutory powers to carry out the functions set out in paragraph 1.3; and

vi) That the Thematic Lead for Transport be designated as NECA's main representative, and that Cllr Carl Marshall be designated as NECA's alternate representative, on Transport for the North.

1.2 Following this resolution and similar resolutions from TfN's other constituent authorities the Sub-national Transport Body (Transport for the North) Regulations 2018 which establishes TfN as a Sub-National Transport Body were made on 22 January 2018 and are due to come into force on 1 April 2018.

1.3 The Shadow Board of TfN approved the Franchise Management Agreement in principle at its meeting on 8 February 2018. This will then need to be approved at TfN's Board meeting in early April when it first meets as a Sub-national Transport Body.

1.4 The TfN report recommended the Shadow Board:

Endorse the draft Franchise Management Agreement (intended to replace the current Members Agreement) and recommendation that each of TfN's Authorities progress signing of the Agreement in readiness for the first TfN meeting (i.e. in advance of TfN's effective commencement date (1st April 2018)).

## **2. Proposals**

- 2.1 The Franchise Management Agreement sets out the terms on which TfN agrees to interface with the rail franchisees, the Rail North Partnership Board, the Management Team and each TfN Rail Authority.
- 2.2 The Franchise Agreement replicates as far as possible the terms of the original members agreement. As set out above the Leadership Board on 7 August 2017 authorised the signing of the Franchise Agreement and delegated authority to the Head of Paid Service to approve this. The agreement is in accordance with the approval given by NECA Leadership board on 7 August 2017. This Agreement has been checked by Newcastle City Council Legal Department on behalf of NECA.

## **3. Reasons for the Proposals**

- 3.1 The proposals are being put forward to enable TfN to operate once it becomes a Sub-national Transport Body on 1 April 2018.
- 3.2 The reasons for NECA deciding to become part of TfN is set out in previous reports to the Leadership Board. Overall one of the main benefits of NECA becoming part of TfN is the added influence a Sub-national Transport Body can have with the Department of Transport and the national delivery agencies of Network Rail and Highways England when setting and allocating national infrastructure spending.

## **4. Alternative Options Available**

- 4.1 Option 1 – The Head of Paid Service may accept the recommendation set out in the report.
- 4.2 Option 2 – The Head of Paid Service may not accept the recommendations set out in the report. In these circumstances the Head of Paid Service would not exercise the delegation and the matter would fall to be decided by the Leadership Board at its next meeting.
- 4.3 Option 1 is the recommended option. NECA have previously decided to become part of TfN and this is set out in the Sub-national Transport Body (Transport for the North) Regulations 2018. As part of the formation of TfN, it is proposed that Rail North Ltd transfers to TfN. It is important that the previous content of the signed Rail North Members agreement is retained to protect the North East influence over

the management of the Northern and TPE franchises and to influence Network Rail and DfT Rail investment choices.

## **5. Next Steps and Timetable for Implementation**

- 5.1 If the Head of Paid Service agrees to the recommendation set out in the report the next steps are expected to be as follows:
- The Sub-national Transport Body (Transport for the North) Regulations 2018 are due to come into force on 1 April 2018.
  - The first meeting of the TfN Board will take place in early April where authorisation to approve the Constitution of TfN and authorisation to enter into legal agreements including the Franchise Management Agreement is expected to take place.

## **6. Potential Impact on Objectives**

- 6.1 As a member of the Sub-national Transport Body, NECA would have access to additional resources to develop strategic infrastructure projects with the purpose of facilitating economic growth in line with the Strategic Economic Plan and the Local Transport Plan. As a Statutory Partner in the Department's investment processes, TfN will be able to provide advice on the North's priorities and influence the investment plans of Highways England and Network Rail.

## **7. Financial and Other Resources Implications**

- 7.1 The existing contribution from NECA (funded through the Nexus Rail Administration Grant from DfT) will initially transfer from Rail North to TfN. Future contribution arrangements are to be agreed between DfT / TfN and constituent authorities (including NECA).

## **8. Legal Implications**

- 8.1 The Sub-national Transport Body (Transport for the North) Regulations 2018 are due to come into force on 1 April 2018. This decision will ensure that the franchise management agreement can be completed as soon as possible after this body's creation by the regulations.

## **9. Key Risks**

- 9.1 The assurances given within the existing Rail North Members Agreement are replicated in the TfN Franchise Management Agreement which uses the same governance and voting metrics. Thus the NECA influence remains the same under

the changed agreement.

**10. Equality and Diversity**

10.1 There are no equality and diversity implications directly arising from this report.

**11. Crime and Disorder**

11.1 Safety and security are fundamental considerations in the design of new services and facilities and thus impacts will be assessed for individual projects at the appropriate stage of development.

**12. Consultation/ Engagement**

12.1 Legal officers have been consulted and involved in the process on commenting on the draft legal agreements subject to this report.

**13. Other Impacts of the Proposals**

13.1 As each of the projects and plans of TfN become more defined, environmental and economic impacts and analysis will form key considerations when options are being considered.

**14. Appendices**

14.1 Report to the Leadership Board of 7 August 2017.

**15. Background Papers**

15.1 Report to Leadership Board on 19 July 2016

**16. Contact Officer(s)**

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**17. Sign Off**

- 17.1
- Head of Paid Service: ✓
  - Monitoring Officer: ✓
  - Chief Finance Officer: ✓

**18. Glossary**

18.1 TfN – Transport for the North  
NECA – North East Combined Authority