

SOUND TRANSIT

RESOLUTION NO. R99-21

**Policies and Guidelines for the Use of
Project Labor Agreements on Sound Transit Construction Contracts
BACKGROUND AND COMMENTS**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Executive Committee Board	June 18 July 8	Recommendation for Board Action Action	Alec Stephens, Diversity Program Manager	206-398-5019

ACTION:

Establish a policy regarding the use of project labor agreements (PLA) on Sound Transit construction contracts. The Board will consider a recommendation passed by the Executive Committee at its June 18 meeting. In addition to the Executive Committee’s recommendation, alternatives considered by the Executive Committee are also included for the Board’s consideration.

BACKGROUND:

The Executive Committee has adopted a recommendation to the Board that Sound Transit use PLAs on a portion of Sound Transit construction contracts. Prior to making its recommendation to the Board, the Executive Committee considered various sources of information and often opposing points of view concerning the use of PLAs.

The Executive Committee reviewed a discussion paper outlining the issues surrounding the use of project labor agreements at its April 16, 1999 meeting. On May 27, 1999, the Board held a workshop in which panelists made presentations in favor of and in opposition to the use of project labor agreements. Panelists representing community concerns also made presentations regarding the inclusion of employment objectives for people of color and women, and the participation of minority- and women-owned businesses on projects with project labor agreements.

At the June 4th Executive Committee meeting, the committee considered a sample PLA policy and directed staff to prepare a number of policy alternatives to the committee to facilitate making a recommendation to the Board. Staff prepared alternatives ranging from the use of PLAs on all Sound Transit construction contracts, to a policy that would prohibit the use of PLAs on any Sound Transit construction contracts.

On June 18, the Executive Committee passed a motion recommending the use of PLAs on a portion of Sound Transit construction contracts, recommended the use of apprenticeship requirements on all other construction contracts, and recommended a community role in implementing the PLA recommendation. In forwarding its recommendation to the Board, the Executive Committee also directed that all of the alternatives the Committee considered be forwarded to the Board for its consideration. The materials in this document contain those alternatives.

RELEVANT BOARD POLICIES AND PREVIOUS ACTIONS TAKEN:

- ◆ Resolution No. 60, establishing a policy promoting a fair work environment for local labor utilized by suppliers, manufacturers and contractors involved on Sound Transit projects. (February 24, 1995)

Resolution No. 60 directs staff to review the operational and legal feasibility of project labor agreements to assist the Board in determining whether project labor agreements should be included within the contracting plan.

- ◆ Motion No. 17, adopting guiding principles and policies for employment and contracting. (November 1, 1996)

The Guiding Principles for Employment and Contracting include maximum local contracting and employment participation as Regional Transit Authority (Sound Transit) objectives. Motion No. 17 also provides that Sound Transit promote and encourage the principles on construction contracts for a workforce that reflects the region's diversity, and the maximum use of local, small and minority, women and disadvantaged businesses.

- ◆ Motion No. 98-75, clarifying Sound Transit's appropriate role in economic development. (October 22, 1998)

Motion No. 98-75 declares that Sound Transit's appropriate role in economic development includes increasing local economic benefits in employment and contracting, which directly benefits Sound Transit in the implementation of *Sound Move*.

RESPONSES TO BOARD INQUIRIES

Board members have posed the questions set forth below as they have considered the often conflicting information and the wide variety of concerns raised by all interested parties regarding the use of project labor agreements. Many of the responses are derived from the Tucker Alan study discussed below and previously provided to the Board and other interested parties.

Tucker Alan Study

To assist in answering the questions and to assist the Board in evaluating the extent to which a PLA may be an appropriate contracting mechanism to achieve Sound Transit's objectives,

Sound Transit engaged Tucker Alan, a national consulting firm with broad expertise on construction-related issues. Tucker Alan has prepared a comprehensive study of project labor agreements. The study presents the use of project labor agreements in the region and in other states.

The Tucker Alan study makes a conclusion that is a key to many of the answers that follow. Tucker Alan concludes as follows:

Ultimately, as with all contracts, the effectiveness of a PLA is influenced by its specific terms and conditions, as well as the degree of compliance of the signatories. Because PLAs are often negotiated on a project specific basis, and therefore may contain terms and conditions reflective of...the unique nature of the specific project, assumptions concerning future events (that ultimately may or may not occur) and the unique abilities of the negotiating parties, each PLA is unique.¹

A key answer, therefore to a number of the questions that have been posed is that the Board may adopt provisions that it will require in any approved PLA, and that further assurances may be included in the course of negotiating the specific project labor agreement(s).

Other key points made in the Tucker Alan study are as follows:

- ◆ Project labor agreements vary in form, structure and how they are put in place. They can be tailored to address a variety of objectives.
- ◆ There is evidence that non-union firms have participated as bidders, prime contractors and subcontractors on contracts or projects using PLAs.
- ◆ Goals for the participation of minority, women and disadvantaged businesses, and EEO & apprenticeship goals for the employment of people of color and women have been met on contracts or projects using PLAs.
- ◆ The overall assessments by the owners and contractor representatives on the PLAs used on the Port of Seattle Central Waterfront Project (Pier 66) and on the Public Facilities District Safeco Field is that the PLA was of benefit to the project and generally achieved project objectives.

Supplementing the Tucker Alan study, Sound Transit surveyed firms that were on the planholders list for the design-build tunnel request for qualifications and had indicated that they were potential prime contractors. Of the 13 firms that responded, 1 firm was strictly open shop, 6 were strictly union, and 6 firms indicated that they used both methods. Of the 6 firms indicating that they used both methods, 2 indicated that they would use union halls for the work in this region.

Bechtel Study

The Bechtel Construction Company conducted a cost study analyzing the cost impacts of using a PLA on Sound Transit projects. The cost study is being provided to the Board.

¹ Tucker Alan Inc., “Issues Involving the Potential Use of Project Labor Agreements”, study prepared for Sound Transit, Executive Summary, Page 10 (June 1999)

The Bechtel Study evaluated twelve labor issues commonly found in collective bargaining agreements to determine whether a project labor agreement would positively or negatively affect Sound Transit's construction costs.

The Bechtel Study identified six areas where cost savings could be realized: Apprenticeship utilization, crew size, industry funds, organized breaks, shift differentials/shift premiums, and show-up/reporting time. The Bechtel Study concluded that PLAs could increase costs in three areas: Holidays, prevailing wage, and shift differential/shift premiums. The Study identified four areas in which PLAs would have no cost impact: Hours of work/work week, no strike/no lockout clauses, overtime, and wage premiums. Bechtel noted that while the "No strike/No lockout" issue has a zero dollar impact, it would have a major impact on other cost issues related to the project.

The Bechtel Study identified approximately \$15.7 million in net cost savings by using project labor agreements.

Responses to Additional Questions

1. If the Board adopts a policy to use project labor agreements for all or a portion of Sound Transit construction, what is the process for negotiating the specific project labor agreement(s)?

The Board policy can provide guidance on and a framework for negotiating agreements to be applied to a specific contract or contracts. The policy can state a preference for which parties should participate in the negotiations (such as the contractor or the community), and can set forth requirements to be included in the agreement. The policy can also provide for the Board to approve the agreement or designate the Executive Director to approve consistent with the policy.

2. Who will negotiate the project labor agreement(s)?

The minimum parties are the affected labor unions and the owner (Sound Transit) or the owner's representative. The owner's representative is someone representing the interest of the owner, and who does not represent the interest of the contractor. The Board may also include in its policy that it prefers to involve the contractor or contractor's representatives in the negotiation process, and it may also include community representatives in the negotiation process. A key consideration of whether the contractor or community interest can reasonably be included in the negotiation process is the time allotted for a particular contract to be negotiated.

3. If it is not feasible to involve a particular contractor in the negotiation process, or the Board prefers to have a PLA negotiated and then applied to a series of contracts, how could such an agreement be negotiated?

If it is not feasible to involve a particular contractor, a "model PLA" may be negotiated and applied to contracts where a contract-specific negotiation process is not feasible, or for all

contracts placed under the PLA policy. Sound Transit may include in its policy that a contractor representative (such as the Associated General Contractors or Associated Builders & Contractors) be invited to participate in the negotiation process.

4. Contractor groups have identified various concerns including not being able to use the employees that they already have, dual payment of pension benefits, and disruption of existing labor agreements. Can those concerns be addressed under a PLA?

Yes. The PLA policy can speak to those issues and require that they be addressed during the negotiation process. Again, the contractor or contractor's representative could be an invited participant in the negotiation process.

5. Community groups have identified various concerns regarding the participation of people of color and women on construction contracts, particularly those contracts in which a PLA might apply. Can those concerns be addressed under a PLA?

Yes. The PLA policy can include many of these objectives and require that they be addressed in the negotiation process. Representatives of these interests could be invited to participate in the negotiation process. In addition, there are federal EEO requirements for community participation that are consistent with many of the points that have also been raised, and Sound Transit will comply with those requirements. The federal requirements will provide an overall framework for EEO compliance on all contracts, and the specific provisions negotiated for a PLA could serve to supplement and enhance such requirements.

6. Does a project labor agreement stop a non-union contractor from participating on contracts governed by the PLA?

No. A fundamental provision in PLAs is non-discrimination between union and non-union contractors. Although some contractors and contractor representatives oppose PLAs, the evidence on PLAs used in the Sound Transit region and across the country is that non-union contractors have participated as bidders, prime contractors and subcontractors. In a survey of 78 construction contractors conducted by the Hebert Research firm, the results indicate that non-union prime contractors and subcontractors will participate on such contracts.²

7. If a non-union contractor agrees to participate under a project labor agreement, how will that affect all other work they will seek to perform?

A project labor agreement is applicable for the contract or project specified. The policy may specify that certain protections will be required for any PLA approved by the Board, and may require that such protections be negotiated to ensure that the PLA will not affect work not covered by the PLA.

8. Can Sound Transit require that regional participation be an essential element in the use of labor under the PLA?

² See, Tucker Alan study, Appendix 7.

Yes. Such a requirement can be included in the PLA policy, and the policy may specify that terms be negotiated to ensure that the labor secured under the PLA is accomplished as a regional effort.

Policy Alternatives

The policy alternatives presented to the Executive Committee are summarized below with a brief discussion of key features. The Committee was requested to identify from the alternatives a preferred choice as a PLA policy recommendation to the Board. The alternatives are as follows:

- A. A **project labor agreement (PLA) shall be used on all Sound Transit construction contracts, except** Sounder Commuter Rail from Tacoma to Seattle,³ and contracts that are not directly awarded, let or managed by Sound Transit. Sound Transit would take no position on the use of PLAs by other regional partners.

Key Features: This policy would be applied to all construction contracts regardless of size or duration. It may require negotiation of a “model PLA” that would be used on all contracts.

- B. A **PLA shall be used on an identified portion of Sound Transit construction contracts except** Sounder Commuter Rail from Tacoma to Seattle, and contracts that are not directly awarded, let or managed by Sound Transit. Sound Transit would take no position on the use of PLAs by other regional partners. **Such portion is hereby identified as**

_____.

Key Features: This policy would identify a set of contracts or a collection of contracts that will be subject to a PLA with the exceptions as specified. The choices include, but are not limited to, contracts for these areas (and in different combinations):

- ◆ Link Light Rail (Central and Tacoma segments)
- ◆ Central Link Light Rail
- ◆ Tacoma Link Light Rail
- ◆ Regional Express
- ◆ Sounder Commuter Rail (Everett to Seattle and Lakewood to Tacoma)
- ◆ Other _____

- C. A **PLA shall be used based on the application of established criteria to be applied to all Sound Transit construction contracts except** Sounder Commuter Rail from Tacoma to Seattle, and contracts that are not directly awarded, let or managed by Sound Transit. Sound Transit would take no position on the use of PLAs by other regional partners.

³ At the April 22, 1999 Sound Transit Board meeting, the Sounder Commuter Rail construction contracts from Tacoma to Seattle were removed as a set of contracts to be considered under the potential use of a project labor agreement (PLA). This decision was based solely on imminent contract bid solicitations, and should in no way be interpreted as a policy position of the Board regarding the use of PLAs.

Key Features: This policy requires the Board to establish criteria to be applied regarding those contracts that are likely candidates for the use of a PLA. Criteria could include, for example, the following elements:

- ◆ Size of the contract or dollar threshold (for example, use the \$5 million threshold as set on the federal level, a \$20 million threshold as discussed at the April 16, 1999 Executive Committee meeting, or some other figure).
- ◆ Duration of the contract (use 1 year, 2 years or longer/shorter duration).
- ◆ Minimum number of crafts needed to perform the contracts
- ◆ Complexity of the contract(s) or impact on other contracts
- ◆ Other criteria

Using the criteria, staff would identify the applicable contracts, return to the Board or a Board Committee to gain authorization to proceed to negotiate a PLA for the identified contract(s). A “model PLA” may need to be negotiated according to the mix of contracts selected and the feasibility of having the contractor participate in the negotiations.

- D. **A PLA shall be used on an identified portion of Sound Transit construction contracts with additional contracts to be included based on the application of established criteria to be applied to all other Sound Transit construction contracts, except Sounder Commuter Rail from Tacoma to Seattle, and contracts that are not directly awarded, let or managed by Sound Transit. Sound Transit would take no position on the use of PLAs by other regional partners.**

Key Features: This alternative presupposes that Alternatives B & C would be used in the order to initially identify a set of contracts to be included, and then staff would use criteria established by the Board to recommend that other contracts be included for the negotiation of a PLA. A “model PLA” may need to be negotiated according to the mix of contracts selected and the feasibility of having the contractor participate in the negotiations.

- E. **A PLA shall *not* be used on any Sound Transit construction contracts** that are directly awarded, let or managed by Sound Transit. Further, Sound Transit would take a neutral position on the use of PLAs by other regional partners.
- F. **The objectives provided in Exhibit A, “Sample Policy for the Use of Project Labor Agreements on Sound Transit Construction Contracts”, shall be made a part of Sound Transit’s construction contract specifications. Sound Transit will take a neutral position on the use of PLAs, and will leave it to individual contractors to negotiate such labor agreements as they deem necessary to fulfill contractual obligations.** Further, Sound Transit would take a neutral position on the use of PLAs by other regional partners.

POLICY RECOMMENDATION FROM THE EXECUTIVE COMMITTEE

At its June 18th meeting, the Executive Committee adopted a motion to use project labor agreements on a portion of Sound Transit construction contracts. The Executive Committee

recommends that Sound Transit use PLAs on all light rail construction contracts; use PLAs on all commuter rail station contracts with some exceptions; and recommends that apprenticeship requirements be made a part of all other Sound Transit-funded construction contracts in excess of \$1 million, regardless of the contracting entity. The recommendation also addresses community concerns regarding the employment and training of people of color and women, by including community members in the negotiation process regarding the employment and training issues in the PLAs, and community involvement to monitor progress in meeting the employment and training objectives. The motion adopting the recommendation is provided in Exhibit B. Resolution No. R99-21 has been drafted in accordance with the Executive Committee's recommendation.

KEY FEATURES

- ◆ Authorizes the use of project labor agreements on all Link light rail construction contracts, and Sounder commuter rail station construction contracts.
- ◆ Directs that the community shall be a participant in the process of implementing the use of PLAs, including participation in the negotiation process and in monitoring and oversight.
- ◆ Directs that specific terms to increase the participation of low-income people of color and women be made a part of PLAs.
- ◆ The Executive Director or his designee shall be responsible for the implementation of this resolution.
- ◆ The Executive Committee shall provide Board oversight of the implementation of this resolution and shall approve negotiated PLAs prior to execution of such PLAs.
- ◆ The adoption of the resolution shall not be used as an endorsement or a position on whether a PLA should be used by any other public entity.
- ◆ Authorizes the use of apprenticeship requirements on all other construction contracts not covered by project labor agreements on all Sound Transit-funded construction contracts in excess of \$1 million, regardless of the contracting entity, with the exception of contracts awarded by private parties for work performed within the railroad right-of-way.

CONSEQUENCES OF DELAY:

A design/build contract selection process is already under way for Link light rail tunnels and deep stations (45th Street Station to Capitol Hill). Sounder commuter rail station construction contracts for Tacoma to Seattle have begun to be bid and awarded. To the extent possible, staff hopes to notify submitters or bidders of any PLA-related requirements they need to consider on these contract as soon as possible.

LEGAL REVIEW:

This discussion paper has been reviewed and approved by the Legal Department.

SOUND TRANSIT

RESOLUTION NO. R99-21

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority establishing Sound Transit's intent to use project labor agreements for a portion of Sound Transit construction contracts, to include community participation in the formation, monitoring and oversight of such project labor agreements, and to include apprenticeship requirements on construction contracts of a certain dollar amount where project labor agreements are not used.

WHEREAS, the Central Puget Sound Regional Transit Authority ("Sound Transit") has been duly created for the Pierce, King and Snohomish County region by action of their respective county councils pursuant to RCW Chapters 81.104 and 81.112, and possesses all the powers necessary to construct and implement a high capacity transportation system; and

WHEREAS, on November 5, 1996, Central Puget Sound area voters approved local funding for *Sound Move*, the ten-year plan for regional high-capacity transit in the Central Puget Sound Region; and

WHEREAS, the *Sound Move* plan approved by the voters provides that the transportation services and improvements should be funded in accordance with the approved financing plan; and

WHEREAS, the *Sound Move* plan approved by the voters provides that the capital improvements necessary to implement *Sound Move* should be completed within a ten-year period because of the urgent need to provide improved regional mobility in the central Puget Sound region; and

WHEREAS, Sound Transit is engaged in the planning, development and construction of facilities ("the Project") pursuant to state law, and is or will soon be in the process of awarding

contracts to construction managers and contractors to implement the construction of the Project in accordance with applicable federal and state laws; and

WHEREAS, Sound Transit has adopted the following policies, which relate to construction contracting, to be implemented consistent with applicable legal and grant requirements: Resolution No. 52 (participation by local and disadvantaged businesses), Resolution No. 60 (fair labor policy), and Motion No. 17 (guiding principles for employment and contracting), Motion No.19 (public involvement policy), and Motion No. 98-75 (economic development policies); and

WHEREAS, Sound Transit evaluated the feasibility of using a project labor agreement on all or a portion of the construction of facilities to implement *Sound Move*, to determine whether such agreements will facilitate the implementation of *Sound Move* in accordance with the budget and schedules set forth in the *Sound Move* plan approved by the voters and in accordance with the adopted labor, employment and economic development policies; and

WHEREAS, the Tucker Alan consulting firm prepared a comprehensive study entitled "Issues Involving the Potential Use of Project Labor Agreements" to evaluate the use of project labor agreements on the Project ("Tucker Alan Study"). The Tucker Alan Study is incorporated by reference as an in-depth study of the use project labor agreements in the Puget Sound region and around the nation; and

WHEREAS, other public entities in the State of Washington and in other states, have utilized project labor agreements in the construction of large public facilities, including the City of Seattle, the Port of Seattle, and the Washington State Major League Baseball Stadium Public Facilities District in order to ensure timely project completion; and

WHEREAS, the use of project labor agreements by other public entities in the Puget Sound area demonstrates that non-union or open shop contractors do successfully bid and compete and have participated on contracts using a project labor agreement in this region; and

WHEREAS, participation goals for minority and women businesses have been met on public works projects using project labor agreements in this region and nationally; and

WHEREAS, the demand for skilled craft construction workers is forecasted to substantially increase between 1999-2008 in the Puget Sound region and nationally. Local workers are expected to fill only 95% of the projected local demand. Surveys of construction firms have revealed a national shortage of skilled construction workers that will be required to work on the Project, especially among electricians, pipefitters and welders; and

WHEREAS, in light of the current and forecasted labor shortages and attendant higher labor costs, measures should be undertaken to obtain access to a stable and adequate labor supply in order to ensure timely completion of the Project within the 10-year time frame to implement *Sound Move*; and

WHEREAS, project labor agreements can be used to secure a skilled labor supply to mitigate the risk of labor shortages on the Project due to current and forecasted shortages by using the project labor agreement to guarantee priority access to local and national labor work forces; and

WHEREAS, the increased use of apprentices on the Project will mitigate the projected labor shortage, reduce costs, and is consistent with Sound Transit's construction contracting principles and with the adopted economic development policy of increasing job creation and training opportunities in the Puget Sound region where activities directly benefit Sound Transit in the implementation of *Sound Move*; and

WHEREAS, registered apprenticeship programs provided training for 18,000 workers over the last six-year period. Approximately 17,000 (94%) of these workers received training through twelve union-sponsored apprenticeship programs. Open-shop programs provided training for approximately 1,000 (6%) of these workers through three training programs. Union sponsored programs produce 98% of the workers who complete apprenticeship programs and become qualified as journeyman. Open-shop training programs produce 2% of the journeymen workers.

WHEREAS, although there are some State-approved apprenticeship programs for non-union or open shop contractors, there is evidence that the programs that have a longer track record and affect the most crafts are apprenticeship programs sponsored by labor unions and union contractors; and

WHEREAS, a negotiated project labor agreement is an effective method to achieve Sound Transit's apprenticeship training and employment by affording access to established apprenticeship programs that will maximize training opportunities for local citizens to learn a skilled trade and to secure family-wage jobs and continuing employment opportunities, including opportunities for citizens residing in economically distressed areas that will be impacted by the Project; and

WHEREAS, the Bechtel Construction Company performed a cost study for Sound Transit, analyzing the cost impacts of using project labor agreements on Sound Transit projects ("Bechtel Study") which is incorporated by reference as an in-depth study on the cost impacts of using project labor agreements on Sound Transit projects; and

WHEREAS, the Bechtel Study analyzed the effect that a project labor agreement would have on Project labor costs, including an evaluation of the following cost parameters: prevailing wage requirements on public works projects, expected work force supply and composition,

apprenticeship utilization, crew size, industry fund contributions, organized breaks, shift differentials/shift premiums, show-up/reporting time, holidays, prevailing wages, work hours, no strike/no lockout guarantees, overtime, and wage premiums; and

WHEREAS project labor agreements have been used to reduce labor costs and to ensure timely completion of large projects by securing a skilled and adequate labor supply, by effectively using apprentices, by negotiating and standardizing compensation, benefits and work rules, and by contractually prohibiting strikes, work delays and labor interruptions; and

WHEREAS, the Bechtel Study concluded that Sound Transit could realize a net cost savings of up to \$15.7 million by negotiating a project labor agreement on the Project; and

WHEREAS, additional testimony and written materials advocating and opposing the use project labor agreements on the Project were received and considered by the Board; and

WHEREAS, community participation and cooperation is recognized as an essential element in the implementation of the Project, and such participation should be a part of negotiating and monitoring labor agreements for the Project; and

WHEREAS, in order to minimize Project costs and to complete the Project within the ten-year time frame, it is in Sound Transit's best interest to negotiate one or more project labor agreements with respect to commuter rail and light-rail construction projects that include, without limitation, terms and conditions consistent with the cost and time saving measures identified in the Bechtel Study and the Tucker Alan Study, and to require apprenticeship participation on contracts in excess of \$1 million with substantial labor components.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority as follows:

Section 1. Use of Project Labor Agreements—Objectives

To implement *Sound Move* as approved by the voters within the 10-year time frame and within budget, Sound Transit will use project labor agreements as provided in this Resolution to meet the following objectives:

- A. Reasonably achieve Sound Transit's labor, employment, and economic objectives.
- B. Obtain contractual assurances that Sound Transit will have an adequate supply of skilled labor and labor cost certainty.
- C. Use skilled labor from throughout the Puget Sound region.
- D. Increase local economic benefits in employment and contracting on construction contracts.
- E. Increase local job training and apprenticeship opportunities on construction contracts.
- F. Increase opportunities for the participation of people of color, women, economically disadvantaged persons, and locally owned small businesses on construction contracts.
- G. Administer construction contracts in a manner consistent with Sound Transit's objectives and federal grant requirements for the participation of local, small, and minority, women and disadvantaged business enterprises (M/W/DBEs), and equal employment opportunity goals.

Section 2. Use of Project Labor Agreements--Scope

- A. One or more project labor agreements shall be used on all Link light rail construction contracts.
- B. One or more projects labor agreements shall be used on all Sounder commuter rail station construction contracts, unless it is not operationally feasible to negotiate a project labor agreement with respect to a particular contract because there is

insufficient time to negotiate and incorporate the project labor agreement into the contract bid specification documents, or because the negotiation of the agreement would delay the bidding or contract award process or the on-time completion of the contract or a commuter rail station is part of a larger multi-modal transportation center and the construction is being let and managed by another agency.

Section 3. Use of Project Labor Agreements-- Key Provisions

The specific terms of a project labor agreement shall be negotiated by the Executive Director as provided in this Resolution. To ensure that Sound Transit's employment and contracting objectives will be met, the following provisions are identified as key terms that shall be negotiated and included in the project labor agreement in a manner consistent with this Resolution:

- A. An agreement not to strike, walkout or otherwise engage in job actions that interrupt the work, and to swiftly resolve disputes between labor crafts regarding the performance of work.
- B. An agreement to provide an adequate and continuous supply of skilled labor and apprentices by fully using the regional workforce, and if necessary to obtain additional labor from outside the region to ensure timely completion of the Project.
- C. An agreement that the project labor agreement will not apply to employees of Sound Transit and consultants engaged by Sound Transit or to off-site activities such as the fabrication and manufacture of equipment and materials, the delivery of equipment and materials, and the installation of such equipment and materials where warranties are affected.

- D. An agreement that non-union or open shop contractors may participate on all contracts under the project labor agreements, without signing permanent union contracting agreements.
- E. An agreement that contractors and labor unions adopt employment objectives for people of color and women consistent with federal and state laws, and Sound Transit policies.
- F. An agreement that contractors and labor unions use apprenticeship programs certified by the State of Washington and also work with community groups identified by Sound Transit to develop apprenticeship outreach and recruiting efforts to maximize the use of apprentices on the Project and to facilitate the participation of people of color, women and other disadvantaged persons in such apprenticeship programs.
- G. An agreement to increase the opportunities for participation by low-income people of color and women. The agreement should identify training and hiring goals, and reduce barriers to employment and training.
- H. An agreement that contractors and labor unions (i) ensure nondiscriminatory union hall hiring practices for non-union project labor agreement workers, (ii) authorize the employment of identified core employees, and shall require good faith negotiations to permit small locally owned businesses to use a small number of permanent continuously employed core employees, including labor and craft workers, who would otherwise be laid-off unless able to work on the project, and (iii) eliminate double benefit payment requirements.
- I. An agreement substantially adopting the recommendations and approach identified in the Bechtel Study in negotiating the labor issues analyzed in the study, including, without limitation, prevailing wage requirements on public works projects, expected work force

supply and composition, apprenticeship utilization, crew size, industry fund contributions, organized breaks, shift differentials/shift premiums, show-up/reporting time, holidays, prevailing wages, work hours, no strike/no lockout guarantees, overtime, and wage premiums.

Section 4. Use of Project Labor Agreements-- Implementation

- A. The Executive Director is authorized to negotiate directly or to approve one or more project labor agreements consistent with this Resolution. The Executive Director shall determine the appropriate parties to negotiate and execute the agreement and shall keep the Board informed of progress in implementing this Resolution in periodic reports to the Executive Committee.
- B. Community participation and cooperation is an essential element in the use of project labor agreements. Community representatives will be invited to participate in the negotiation process to establish the terms by which community concerns (such as those raised by the FAST Jobs Coalition) will be addressed.
- C. Contractors or contractor representatives shall be invited to participate in the negotiation process.
- D. A project labor agreement shall not become effective until approved by the Executive Committee.

Section 5. Use of Project Labor Agreements-- Oversight and Monitoring

- A. The Executive Committee shall oversee and monitor the implementation of this Resolution.
- B. The Executive Director shall oversee and monitor the implementation and day-to-day adherence with the provisions of each project labor agreement. Consistent with this

Resolution, community groups from the areas where the construction will occur will be encouraged to participated in oversight and monitoring efforts of identified project labor agreements. The Executive Director shall establish the process by which community groups may participate in negotiating and monitoring project labor agreements.

- C. In the event that the Executive Director is unable to negotiate a project labor agreement with provisions consistent with this Resolution, the Executive Director shall request direction from the Executive Committee.

Section 6. Contracts Valued at \$1 Million or Greater Not Using Project Labor Agreements—Apprenticeship Requirements

- A. All construction contracts valued at \$1 million or greater that are entered by Sound Transit shall have apprenticeship requirements consistent with this Resolution. When Sound Transit is not the contracting party, but funds the contract in part, Sound Transit shall negotiate apprenticeship requirements with the contracting entity awarding the contract subject to criteria that will be developed by Sound Transit which will include, at the minimum, the following: total labor hours, ratio of materials cost to labor cost, and type of work/crafts required. This provision shall not apply to contracts awarded by private parties for work performed within railroad right-of-way.

ADOPTED by the Board of the Central Puget Sound Regional Transit

Authority at a regular meeting thereof held on the 8 day of July 1999.

ATTEST:

Marcia Walker
Marcia Walker
Board Administrator

Paul E. Miller
Paul E. Miller
Board Chair

Exhibit A
**Sample Policy for the Use of
Project Labor Agreements on
Sound Transit Construction Contracts**

OBJECTIVE:

Project labor agreements may be used on a contract or group of contracts when it is determined that a PLA will reasonably achieve Sound Transit's labor, employment and economic objectives and will facilitate the completion of construction contract(s) on time and within budget. This determination will be based on a number of factors including the following:

- ◆ Whether a project labor agreement will facilitate access to skilled labor needed to complete such contract(s).
- ◆ Whether a project labor agreement will be used to access skilled labor throughout the region on its contracts.
- ◆ Whether a project labor agreement will increase local economic benefits in employment and contracting.
- ◆ Whether a project labor agreement will increase local job training and apprenticeship opportunities.
- ◆ Whether a project labor agreement will increase opportunities for the participation of people of color, women, economically disadvantaged persons, and locally owned small businesses on such contract(s).
- ◆ Whether a project labor agreement can be administered in a manner consistent with Sound Transit's objectives and federal grant requirements for the participation of local, small, and minority, women and disadvantaged business enterprises (M/W/DBEs), and equal employment opportunity goals.

KEY PROVISIONS:

The following key provisions may be included in any project labor agreement negotiated for Sound Transit construction contracts:

- ◆ A commitment from labor unions to agree not to strike, walkout or otherwise engage in job actions that put the completion of such contract(s) at risk, and to swiftly resolve jurisdictional disputes.
- ◆ Commitments from labor unions to provide skilled labor and apprentices from throughout the region.
- ◆ The project labor agreement will not apply to employees of Sound Transit and consultants engaged by Sound Transit or to off-site activities such as the fabrication and manufacture of equipment and materials, the delivery of equipment and materials, and the installation of such equipment and materials where warranties are affected.
- ◆ Agreement by contractors and labor unions that non-union contractors may participate on all contracts under the project labor agreements, without signing permanent union contracting agreements.
- ◆ A requirement that contractors and labor unions adopt employment objectives for people of color and women consistent with federal and state laws, policies and regulations.

- ◆ A requirement that contractors and labor unions use apprentices to facilitate the participation of people of color, women and other disadvantaged persons on such contract(s).
- ◆ A requirement that contractors and labor unions (a) ensure nondiscriminatory union hall hiring practices for non-union project labor agreement workers, (b) authorize the employment of identified core employees, and (c) eliminate double benefit payment requirements.

Exhibit B
SOUND TRANSIT

MOTION

A motion recommending a policy to utilize project labor agreements (PLAs) on certain *Sound Move* projects.

The Executive Committee has reviewed testimony, documentary evidence and an independent study on the use of project labor agreements in this region and throughout the country. The independent study indicates that PLAs can be an effective tool that can be used to meet budget and schedule objectives on large projects such as the construction of facilities to implement *Sound Move*.

After considering the issues, the following information supports the utilization of PLAs in implementing *Sound Move*:

- ◆ Project labor agreements (PLAs) have been used to secure a skilled labor supply, standardize work rules and guard against labor interruptions to ensure timely completion of large projects.
- ◆ The completion of the rail-related portions of *Sound Move* requires that tight construction schedules are met.
- ◆ The use of a PLAs by other public entities has not resulted in denying the participation of non-union or open shop contractors. In fact, such contractors have participated on PLA projects in this region and around the country.
- ◆ The use of a PLA by other public entities has not resulted in minority, women and disadvantaged business goals being negatively impacted. In fact, such goals have been met on contracts awarded under PLA projects in this region and around the country.
- ◆ The Board places a priority on the creation and training of a larger skilled workforce, and is particularly interested in providing tangible job training benefits for low-income communities that are directly affected by Sound Transit construction.
- ◆ Although there are some State approved apprenticeship programs for non-union or open shop contractors, there is evidence that the programs that have a longer track record and affect the most crafts are apprenticeship programs sponsored by labor unions and union contractors.
- ◆ To affect Sound Transit's employment objectives regarding apprenticeships, the use of project labor agreements are the most effective way to meet those objectives.

Motion:

It is hereby moved that the Executive Committee recommends to the Board the following:

1. All Link Light Rail construction contracts will be covered under a PLA.
2. All Sounder Commuter Rail Station construction contracts shall be covered under a PLA. This shall include the Seattle to Tacoma commuter rail stations, unless the application of the

PLA to particular stations is not legally or operationally feasible due to such factors as the completion of a negotiated PLA in time to include such provisions in a bid document, or impact on the schedule that would delay the bidding or contract award process, and the on-time completion of the contract.

3. All other contracts, regardless of the awarding or contracting agency, which have Sound Transit funding and are in excess of \$1 million, shall have apprenticeship requirements.
4. Community participation and cooperation shall be recognized as an essential element of this project. Community representatives will participate in the negotiation process to establish the terms by which the FAST Jobs Coalition concerns will be addressed.
5. Monitoring and Oversight. While it is essential that communities have a voice in the planning of these terms, past practices have shown that successful projects have always included active community involvement in the monitoring and oversight.
6. Commitment to specific terms to increase participation of low-income people of color and women. These include:
 - Training and Hiring Goals,
 - Reducing Barriers to Access and
 - Training Issues including commitment to direct access.