

SOUND TRANSIT

RESOLUTION NO. R99-23

**Amendment No.1 to Agreement with Burlington Northern and Santa Fe Railway for
Final Engineering of the Seattle-to-Tacoma Commuter Rail Project
BACKGROUND AND COMMENTS**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	7/15/99	Discussion	Paul W. Price	(206) 398-5111
Finance Committee	8/19/99	Discussion/Possible Action to Recommend Board Approval		
Board of Directors	8/26/99	Approval		

ACTION:

Approval of Resolution R99-23 would authorize the Executive Director to execute a contract amendment to the Final Engineering Agreement with the Burlington Northern and Santa Fe Railway (BNSF) in the amount of \$17,043,311 for the procurement of long lead time capital items.

BACKGROUND:

As described in Sound Move, Sound Transit expects to operate the Seattle-to-Tacoma commuter rail service on the BNSF railroad right-of-way. To accommodate the planned *Sounder* operations, certain track, signal and structure additions and modifications need to be completed in order to provide sufficient freight and passenger train capacity on this rail corridor. These rail corridor additions and modifications comprise the Capital Improvements package, included as an Appendix to the Operating and Capital Agreement with BNSF. This agreement is the subject of a separate resolution, R99-22, which would authorize its execution.

The Executive Committee of the Board approved a contract with BNSF for Advanced Planning for capital improvements on November 7, 1997 (Motion No. 49). This work was completed in April 1998. A Preliminary Engineering Agreement with BNSF was approved by the Finance Committee on April 16, 1998 and by the Board on April 23, 1998. This work was completed in January 1999. A Final Engineering Agreement with BNSF, which provided final design and cost estimates for the improvements, was approved by the Finance Committee on November 5, 1998, and by the Board on November 12, 1998.

The Final Engineering Report is largely complete, with the final product delivery and contract termination due in August 1999. However, design and cost estimates have been completed to a sufficient degree to allow the parties to reach agreement on a Capital Improvement package to be attached to the Operating Agreement for Seattle-to-Tacoma Commuter Rail service. This Capital Improvement package provides for Sound Transit to contribute \$200 million. The Washington State Department of Transportation (WSDOT) will provide \$60 million, recognizing that the State intercity trains (the Talgo trains to Portland and Vancouver) benefit significantly from the capital improvements to this rail corridor. Another \$10 million is to be provided by other federal, state and local funds (e.g., grade crossings safety improvement grant, FAST corridor grants, and Port access improvement capital funds).

The relationship of the Sound Transit contribution of \$200 million to the ST adopted budget is described under Resolution R99-22, FUNDING. The \$200 million contribution is within the budget for track and signal capital improvements supporting Seattle-to-Tacoma commuter rail service.

This contract amendment will provide funds for BNSF to procure long lead time capital items for the Capital Improvement package. These long lead time items typically require 6 to 12 months from order to delivery. The most important of these items are electrical and track control point components for the new train signal system (Centralized Traffic Control, or “CTC”) between Seattle and Tacoma. Installation of this signal system and its control points is now the most critical element required for beginning operation of the 18 weekday trains between Seattle and Tacoma. The full schedule of 18 commuter trains cannot be operated reliably without this new signal system and its control points, which will allow passenger and freight trains to enter and leave the main tracks, and to safely pass each other.

Allowing the procurement of these items prior to final signing of the Operating and Capital Agreement with the BNSF will save at least a month, and possibly as much as three months, on the critical path schedule.

The \$17 million cost for this advance procurement is part of the Sound Transit \$200 million contribution to the Capital Improvement package described above and incorporated in Resolution No. R99-22. This advance procurement is not an additional cost element.

With Board action on Resolution No. R99-22 (Operating & Capital Agreement with BNSF), there is very little remaining risk to the procurement of these items. Until the capital items are placed into service pursuant to the Operating and Capital Agreement with BNSF, they remain the property of Sound Transit. If for some unforeseen reason the agreement with BNSF is not signed, ST has retained the right to re-market, return, or sell to BNSF those capital items procured. Most of these items are common to the railroad industry and will have a value for re-market or resale if necessary.

RELEVANT BOARD POLICIES AND PREVIOUS ACTIONS TAKEN:

- ◆ Adoption of Sound Move, The Ten-Year Regional Transit System Plan. Sound Move states that commuter rail service is to be implemented within two to four years of voter approval.
- ◆ Resolution No. 78-1, authorizing non-standard procurements such as sole source and special circumstances procurements.
- ◆ 1999 Adopted Budget.
- ◆ Motion No. 49, authorizing a contract with BNSF for advanced planning, in an amount not to exceed \$3,711,000. This work has been completed.
- ◆ Resolution No. R98-29, authorizing a contract in the amount of \$3,391,910 for preliminary engineering. This work has been completed.
- ◆ Resolution No. R98-45, authorizing a contract in the amount of \$5,746,000 and a contingency of \$1,149,2000 for final engineering. The work is to be completed in August 1999.

KEY FEATURES:

- ◆ Sound Transit retains the right to re-market, return and/or sell equipment and supplies purchased through this contract amendment, should a capital and operating agreement with BNSF not be signed.
- ◆ Utilizes the existing Final Engineering Contract with BNSF as a vehicle for early procurement of time critical components of the Capital Improvement package for the Seattle-to-Tacoma rail corridor.
- ◆ Starts the construction process for Seattle-to-Tacoma *Sounder*.
- ◆ Allows for optimum unit price costs through an early procurement process, rather than through an accelerated procurement forced by a late start.

M/W/DBE:

This contract Amendment is for long lead time items such as rail, switches, and signal equipment. There are limited opportunities for small business participation, given the size and scope of the capital procurements. We have, however, found a small firm in south Seattle that constructs switch panels and are pursuing a contract with them through BNSF.

FUNDING:

- ◆ As described under Resolution No. R99-22, funding for the Sound Transit contribution of \$200 million toward the Capital Improvement package is within the budget for track and signal improvements supporting Seattle-to-Tacoma commuter rail service.
- ◆ This funding is not an addition to the Agreement described in Resolution No. R99-22, but rather the first procurement envisioned for the Capital Improvement package described in Resolution No. R99-22.

ALTERNATIVES:

1. Delay procurement of these items until final signing of the Operating and Capital Agreement, causing a one to three month delay in the *Sounder* project.
2. Abandon the attempt to complete the Operating and Capital Agreement with BNSF and pursue other options for provision of *Sounder* service as described under ALTERNATIVES to Resolution R99-22.

LEGAL REVIEW:

The Background and Comments and the Resolution have been reviewed and approved by the Legal Department.

SOUND TRANSIT

RESOLUTION NO. R99-23

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the Executive Director to execute Amendment No.1 of the Sound Transit (ST)/Burlington Northern and Santa Fe Railway (BNSF) Final Engineering Agreement, for long lead capital items needed for the Seattle-to-Tacoma commuter rail project (Sounder), with a total contract addition of \$17,043,311, which is a component of the Capital Improvement package of the BNSF/ST Operating Agreement.

WHEREAS, a Regional Transit Authority (Sound Transit) has been created for the Pierce, King, and Snohomish County region by action of their respective county councils pursuant to RCW 81.112.030; 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, Sound Move included funding for the implementation of the Seattle-Tacoma commuter rail line; and

WHEREAS, the commuter rail service is expected to be implemented along existing BNSF freight lines; and

WHEREAS, certain civil, track, signal, and structural work is required to be completed in order for Sound Transit to run commuter rail trains on the BNSF freight lines; and

WHEREAS, pursuant to the Advanced Planning, Preliminary Engineering, and Final Engineering Agreements between the BNSF and Sound Transit certain design work has been performed; and

WHEREAS, the Final Engineering Contract between ST and BNSF provides for the ability to procure long lead time capital items; and

WHEREAS, Sound Transit has ensured adequate project oversight by requiring co-location of BNSF and consultant staff at Sound Transit headquarters, and by contracting with an independent engineering firm for regular oversight of contract work products; and

WHEREAS, Sound Transit has determined that the BNSF is the only practically available source to perform the work because the work and capital procurement items required for commuter rail operations will be within the right-of-way of BNSF, which is expected to continue to own and to conduct freight operations, and

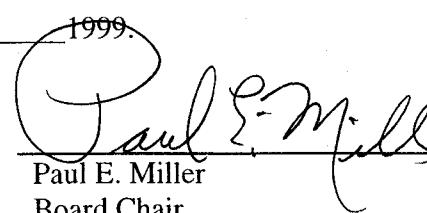
WHEREAS, the Federal Transit Administration (FTA) has issued a Finding of No Significant Impact (FONSI) under the National Environmental Policy Act on the Tacoma to Seattle commuter rail line based on the Environmental Assessment prepared by Sound Transit; and

WHEREAS, Sound Transit has adopted the Environmental Assessment in compliance with the State Environmental Policy Act.


NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority that the Executive Director of Sound Transit is hereby authorized to execute Amendment No.1 to the Final Engineering Contract between ST and BNSF for long lead capital items on the Seattle-Tacoma line, with a total capital contract cost not to exceed \$17,043,311.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on the 26th day of August 1999.

ATTEST:



Paul E. Miller
Board Chair



Marcia Walker
Board Administrator