

STAFF REPORT

**SOUND TRANSIT
MOTION NO. M2000-35**

**An Amendment to Resolution No. R99-22 to Increase the
Authorized Contract Amount of the Capital Construction Agreement
between Sound Transit and the Burlington Northern Santa Fe
Railway for the Tacoma-to-Seattle Commuter Rail System**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	4/20/00	Discussion/Possible Action to Recommend Board Approval	Paul Price	206-398-5000
Board Meeting	4/27/00	Discussion/Action		

PROPOSED ACTION

Amends Board Resolution No. R99-22 to increase the allowable expenditures under the Capital Agreement with the Burlington Northern Santa Fe Railway (BNSF) for track and facilities work on the Sounder Tacoma-to-Seattle line. The increase reflects the most current draft agreement with BNSF and would increase Sound Transit's obligation as follows:

- ◆ the amendment would increase Sound Transit's contractual obligation by approximately \$85 million. \$60 million of this \$85 million reflects the Puget Sound Regional Council's recent \$60 million reprogramming grant of Surface Transportation Program funds to Sound Transit. This \$60 million grant replaces the \$60 million in WSDOT funding losses as a result of the passage of Initiative 695; and
- ◆ the amendment would permit the expenditure of any net interest proceeds earned on the \$260 million capital investment to be made by Sound Transit, which are expected to be approximately \$25 million.

Therefore, the amendment would increase Sound Transit's obligation by an amount of \$60 million, plus net interest earnings of approximately \$25 million, for a total amount of approximately \$85 million.

KEY FEATURES

Highlights of Proposed Action:

- ◆ Resolution No. R99-22 authorized Sound Transit to enter into a Capital Agreement with BNSF to fund up to \$270 million (\$200 million from Sound Transit and \$70 million from other sources) in track and signal improvements necessary to support regularly scheduled commuter rail passenger service between Tacoma and Seattle.
- ◆ This motion amends Resolution No. R99-22 to increase Sound Transit's contractual obligation from \$200 million to approximately \$285 million to fund track and signal improvements necessary to support regularly scheduled commuter rail passenger service between Tacoma and Seattle. The \$285 million reflects the original \$200 million in ST's 2000 budget, a \$60 million grant to Sound Transit from the Puget Sound Regional Council (PSRC) as a result of WSDOT's \$60 million funding loss, and approximately \$25 million in net interest proceeds expected to be earned over the term of the Capital Agreement. This motion authorizes the expenditure of those net interest proceeds to fund the capital improvements to support commuter rail service at the levels provided in the Capital Agreement.
- ◆ The amendment will also authorize a new transaction structure in which Sound Transit will enter into an agreement with the Bank of America (a qualified Public Depository of the State of Washington) to issue a letter of credit in the amount of \$260 million with a cash deposit as security to be drawn down as payments are due to BNSF for the capital investments to be constructed by BNSF. Sound Transit will place the \$260 million on deposit with Bank of America and will enter into a repurchase agreement with the bank, whereby Sound Transit will authorize the bank to pay BNSF for approved invoices for work performed by BNSF under the Capital Agreement.
- ◆ The current financial model is a long-term planning tool, which allocates the agency's total cash flow on a gross annual basis. It is not developed to a detailed level, showing particular payment mechanisms for individual contracts. The proceeds generated from the repurchase agreement mechanism used under the current proposed BNSF agreement would be used to fund additional capital improvements associated with this contract. These additional funds would not therefore be available for other Sound Transit uses. The payment mechanism therefore allocates existing Sound Transit financial capacity to Sounder capital improvements, making that capacity unavailable for other uses.
- ◆ By structuring the transaction with a letter of credit and security deposit, Sound Transit retains control over the funds in terms of investments and payments over the life of the contract. By the terms of the contract, Sound Transit will receive any unspent funds or accrued reserves at the end of the contract term.

Discussion of Proposed Action:

With the approval of Resolution No. R99-22 (August 26, 1999) the Board authorized the Executive Director to execute a contract with BNSF for an amount not to exceed \$270 million in order to fund a mutually agreed upon set of track and signal improvements to ensure the speed

and reliability required for Sounder trains while ensuring capacity adequate for ongoing freight rail activity.

When Resolution No. R99-22 was brought before the Board, the Final Engineering Report was largely complete. The major design and cost components had been sufficiently determined, however, to allow the parties to negotiate the basic terms of the Construction Agreement. The Construction Agreement was expected to require Sound Transit to contribute \$200 million. The Washington State Department of Transportation was expected to commit \$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. However, the passage of I-695 effectively eliminated that contribution. Another \$14 million was expected from other federal, state and local funds (*e.g.*, grade crossings safety improvement grant, FAST corridor grants, and Port access improvement capital funds).

The partners reduced the capital investment for the project by taking the following steps:

First, staff from the WSDOT, the BNSF, and Sound Transit agreed that if the WSDOT funds were eliminated by I-695, then a particular improvement shown by the capacity analysis as necessary only for WSDOT's trains and not for freight or commuter rail capacity (a third main track through Auburn) will not be built.

Second, staff from BNSF and Sound Transit agreed last November to negotiate to permit a level of commuter rail service based on Sound Transit's commitment of \$200 million, even in the event that no additional funds were contributed from other sources. Although some additional funds were developed through PSRC (\$60 million), this analysis allowed for a reduced capital plant and provided for Sound Move's nine round trips. The construction development is set in three phases. Phase I construction allows for operation of three round trips daily. Phase II construction allows for the Sound Moves nine round trips daily. Phase III allows for 15 round trips daily. This Agreement funds Phases I and II. Phase III is dependent upon the future State and Federal grants to fund the reduced capital.

Under the Capital Agreement, BNSF will construct agreed upon capital improvements to its lines that are needed to accommodate present and future freight and commuter rail service. BNSF will perform much of the construction work using its own forces, in accordance with applicable labor agreements. BNSF will conduct a competitive procurement process for supporting contracting services and will strive to meet both Federal and Sound Transit M/W/DBE goals.

BUDGET

Resolution No. R99-22 authorized Sound Transit to execute a Capital Agreement for capital improvements with BNSF requiring Sound Transit to contribute an amount not to exceed \$200 million. That Board action also provided for additional funding contributions of approximately \$70 million from other public sources upon such terms as may agreed to by Sound Transit and BNSF. The Capital Agreement has now been negotiated. It requires Sound Transit to deposit \$260 million (\$200 from Sound Transit sources and \$60 million as a grant from PSRC) in an account to be used to fund capital improvements. Sound Transit will monthly receive an invoice from BNSF for work performed and amounts due. Sound Transit will approve and authorize the bank to wire transfer funds to BNSF. In order to maximize the yield on these funds, Sound Transit would enter into a repurchase agreement with Bank of America. These additional funds would then be available to fund capital improvements under the program. As WSDOT is not making a direct contribution to the project and as the PSRC monies are coming directly to

Sound Transit, Resolution No. R99-22 should be amended to reflect that ST will receive the \$60 million grant from PSRC. This motion would also approve the expenditure of the approximately \$25 million in interest expected to be earned on the \$260 million through the life of the Agreement. If this amendment is approved by the Board, the Proposed 2001 budget would include the additional capital improvements and reflect a total Seattle-to-Tacoma track and facilities budget of approximately \$285 million (subject to actual net interest proceeds).

A comparison of the original and current estimates with funding assumptions are shown in Table 1 below; Table 2 shows the related budget, with the required costs, including funding from partnerships and accrued net proceeds.

**Table 1 – Tacoma to Seattle Track & Facilities
Funding Sources and Current Estimate (in millions, YOES)**

Description/ Contribution Source	Original Cost Estimate 1999	Current Cost Estimate 2000
Total Estimate¹	\$ 322	\$ 332
Sound Transit	\$ 200	\$ 200
Fast Corridor "D" Street (Tacoma)	\$ 10	\$ 10
State of Washington	\$ 60	\$ -
PSRC to Sound Transit	\$ -	\$ 60
BNSF & UP RR	\$ 11	\$ 11
Federal Section 1301	\$ 4	\$ 4
Net interest proceeds ²	\$ -	\$ 25
Total Contributions	\$ 285	\$ 310
Projected Reduction ³	\$ 37	\$ -
Anticipated Capital Cost Reduction	\$ -	\$ 22

¹Difference reflects 3% inflation due to project schedule slide.

²Estimate Only.

³Engineering estimate was anticipated to have reduction in excess contingency.

Table 2 - Tacoma to Seattle Construction:

Budget and Relationship to This Action (in thousands, YOES) Description/Project #	2000 10- Year Budget ¹ (A)	Expenditure s to Date ² (B)	Total Requested (C)	Shortfall from Budget (A-[B+C])	Funding & Partners ³ Contribution (D)
Seattle to Auburn (#110)	\$ 127,601	\$ -	\$ 171,368	\$ (43,767)	\$ 43,767
Auburn to Tacoma (#120)	\$ 72,400	\$ -	\$ 138,632	\$ (66,232)	\$ 66,232
Total	\$ 200,001	\$ -	\$ 310,000	\$ (109,999)	\$ 109,999

¹See 2000 Budget (pp. 80-81); figures include the \$1.436 million for final design called out in M2000-16 and M2000-17 (Authorizations for change orders with Mainline Management and BNSF for Final Engineering.)

²Expenditures through November 30, 1999.

³Includes projected net interest proceeds.

ALTERNATIVES

The Board could choose not to proceed with this agreement, and renegotiate a new contract with BNSF.

CONSEQUENCES OF DELAY

Renegotiations of the BNSF contract would postpone the start of capital improvement work and delay the fall 2000 start-up date for Sounder service.

REGIONAL PARTNERSHIP AND COOPERATION

The capital improvements on the Tacoma-to-Seattle track involve a large number of local jurisdictions, including the Port of Tacoma, the Port of Seattle, PSRC, WSDOT, BNSF, Union Pacific, AMTRAK and FAST Corridor projects.

PUBLIC INVOLVEMENT

The impacted communities have been involved in the planning and design of the improvements through the Federal and State environmental review processes concluded in by Sound Transit 1998.

LEGAL REVIEW

DLB (4/13/00)

SOUND TRANSIT

MOTION NO. M2000-35

A MOTION of the Board of the Central Puget Sound Regional Transit Authority to amend Resolution No. R99-22, to increase the approved expenditures under the Capital Agreement with the Burlington Northern Santa Fe Railway (BNSF) for track and facilities work on the Sounder Tacoma-to-Seattle line by \$85 million (reflecting a \$60 million grant from the Puget Sound Regional Council and approximately \$25 million in earned interest).

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 Seattle-Tacoma commuter rail service; and

WHEREAS, the Sound Transit Board adopted Resolution No. R99-22 on August 26, 1999 approving a Construction Agreement with BNSF to fund \$270 million in track and signal capital improvements required to provide regularly scheduled commuter rail service between Tacoma and Seattle. Resolution No. R99-22 authorized Sound Transit to contribute an amount not to exceed \$200 million and required additional funds of approximately \$70 million from other public sources;

WHEREAS, the nature and characteristics of available funding sources has changed significantly; and

WHEREAS, Resolution No. R99-22, authorizing the contract with BNSF, reflected the original budget and funding plan for the track and facilities capital improvements; and

WHEREAS, the draft contract was amended to reflect the new budget and funding plan; and

WHEREAS, Sound Transit has received a \$60 million grant from the Puget Sound Regional Council to replace funds that were to be contributed by the Washington State Department of Transportation, but which were lost as a result of the passage of Initiative 695. This \$60 million grant to Sound Transit has increased Sound Transit's funding capability from \$200 to \$260 million; and

WHEREAS, the \$260 million to be contributed by Sound Transit is expected to generate approximately \$25 million in interest earnings through a Repurchase Agreement with the depository bank which can be used to fund the capital improvements;


WHEREAS, the proposed changes provide that Sound Transit may recapture any unused revenues from the construction funds which are set aside for the term of the Capital Agreement;

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

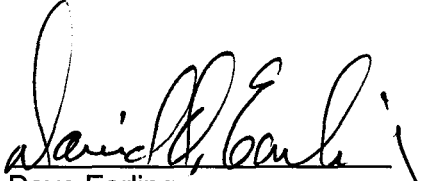
Resolution No. R99-22 is hereby amended to increase Sound Transit's authorized contribution from \$200 million to \$260 million, and in addition thereto, to authorize the expenditure of any accrued net interest proceeds earned on that \$260 capital investment, which is expected to be approximately \$25 million, for a total authorized contribution of approximately \$285 million Except as amended herein, Resolution No. R99-22 shall remain in full force of effect.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on the 27th day of April, 2000.

ATTEST:



Marcia Walker
Board Administrator



Dave Earling
Board Chair