

STAFF REPORT

SOUND TRANSIT MOTION NO. M2000-59

Contract amendment with Marsh USA

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	7/20/2000	Discussion/ Possible Action	Dale Wydman, Risk Manager Hugh Simpson, Director	206-398-5096 206-398-5082

PROPOSED ACTION

Authorizes the Executive Director to extend and amend contract #FA 14-97, with Marsh USA, to provide insurance brokerage services until September 30, 2001 at an additional cost not to exceed \$200,000 for the extension and \$430,000 for increased scope of work to include development, placement and oversight of an Owner Controlled Insurance Program (OCIP).

KEY FEATURES

Highlights of Proposed Action:

- Extends current contract #FA 14-97 with Marsh USA for insurance brokerage services for one additional year for an additional cost not to exceed \$200,000.
- Authorizes Executive Director to amend contract #FA 14-97 to increase scope of work to include development, placement and oversight of an OCIP, which includes but is not limited to Commercial General, Professional, Pollution and Excess Liability and Builders Risk coverages at a cost not to exceed \$430,000.

Discussion of Proposed Action:

Link Light Rail, Sounder Commuter Rail, and Regional Express are all involved in major construction projects. Insurance for these construction projects creates significant costs and concerns, especially in the area of Architects and Engineers Errors & Omissions (Professional Liability), Pollution Liability, and Commercial General Liability. Experience has shown that design professionals, contractors, and subcontractors purchase insurance coverage to protect their own companies as well as Sound Transit from major suits arising out of negligent acts, pollution and environmental problems, and errors or omissions. The costs of these insurance coverages, plus markup, are included with the bid price of the firms. However, the coverages usually have relatively low limits, are expensive, and may be impossible for small, local business and DBE firms to procure.

To overcome the challenges and to assist public agencies and private firms in keeping the design and construction process on time and within budget, many project owners have adopted the concept of an Owner Controlled Insurance Program (OCIP) which encompasses Professional and Pollution Liability, General Liability, and Builders Risk. In 2000, the

Washington State Legislature authorized Sound Transit's use of an OCIP. Although an OCIP can be in many forms, they all have the advantage brought by significant leverage with insurance companies that assures broad terms and conditions of coverage with high limits (excess of \$100,000,000 per claim) at discounted premiums. Because an OCIP provides insurance coverage for all firms involved in the project, small, local, and DBE firms can compete on a more equal basis with larger firms. Additionally, all claims are resolved through a common process that is not based on establishing responsibility among consultants and contractors. Finger pointing and law suits among consultants, contractors and subcontractors are eliminated which lowers costs and the time necessary for resolution.

Marsh USA is currently working with Sound Transit to gather information necessary to develop specifications for insurers who will provide formal quotations for the various insurance coverages necessary for large construction projects. The cost for the professional and pollution liability coverage, with limits of \$100,000,000 or more, are not expected to exceed \$5,000,000 for the life of the projects, while the cost for commercial general liability coverage, with limits of \$100,000,000 or more are not expected to exceed \$3,500,000, again for the life of the project. A contingency of an additional \$1,500,000 is needed in the event limits greater than \$100,000,000 are determined by the Board to be necessary or the insurance market hardens and premiums increase significantly before placement can be made.

BUDGET

The budget for this contract authorization is contained in two areas.

1. The contract extension (\$200,000) is covered under the operating budget for the Risk Management Division. \$50,000 of this amount is covered under the Division's 2000 Budget request of \$305,000 for insurance brokerage services. The remaining \$150,000 will be included in the Division's Proposed 2001 operating budget which will be submitted to the Board in November 2000.
2. The increased scope of work for the contract to cover OCIP (\$430,000) is contained with the Link Light Rail capital budget. Instead of reimbursing consultants, contractors and subcontractors for their cost of insurance plus overhead (or markup) – Sound Transit will procure the insurance at a considerable cost savings. Insurance coverage provided under the OCIP will cover all Link construction, however the majority of the costs are as a result of Link Light Rail's design/build contract.

Program	Budget for this Task (A)	Expenditures to Date (B)	Total Amount Requested (C)	Shortfall or Surplus (A-[B+C])
Insurance Brokerage Services in 2000	\$305,000	\$40,723	\$50,000	\$214,277
Insurance Brokerage Services in 2001	\$200,000	0	150,000	\$50,000
OCIP	NA	0	\$430,000	NA*
*Budgeted as a part of the Link Light Rail construction budget. OCIP expenses will be offset by reduced bid costs for Link construction.				

ALTERNATIVES

The Finance Committee could choose to:

1. Let consultants, contractors, and subcontractors procure the necessary insurance coverages. This would increase the cost of the projects and limit the number of consultants, contractors, and subcontractors who could bid on these projects.
2. Direct Sound Transit Risk Management to evaluate and implement a self-insurance program to retain liabilities arising out of design and construction projects. This would provide significant premium savings but expose Sound Transit to significant loss costs (excess of \$100,000,000) and possible delays in construction.

CONSEQUENCES OF DELAY

The preliminary design work for Link Light Rail has been completed and the Request for Proposals for final design/build of Phase I have already been received and evaluated. Insurance coverage for the exposures presented by this complex project should be in place before final design/build contracts are negotiated or signed as the issue of insurance coverage and responsibility for payment of any claims is significant and may impede timely execution of contracts with prime or subcontractors. If insurance is placed soon, coverage can be retroactively applied to Sounder stations currently being designed and constructed.

Additionally, the current insurance market is one in which broad terms of coverage and favorable pricing are available and achievable. The status and capabilities of insurance markets are subject to significant change over relatively short periods of time. Such changes could make procuring insurance coverages difficult and much more expensive.

LEGAL REVIEW

MBL 7/12/00

SOUND TRANSIT

MOTION NO. M2000-59

A motion of the Finance Committee of the Central Puget Sound Regional Transit Authority authorizing the Executive Director to amend the contract with Marsh USA for insurance brokerage services by extending the contract period until September 30, 2001, at an additional cost not to exceed \$200,000, and by increasing the scope of work to include development, placement, and oversight of an Owner Controlled Insurance Program (OCIP) for all Sound Transit construction projects, in an amount not to exceed \$430,000, for a total additional amount not to exceed \$630,000.

Background:

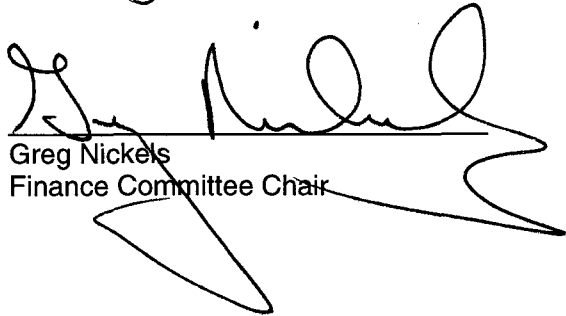
To overcome the challenges and to assist public agencies and private firms in keeping the design and construction process on time and within budget, many project owners have adopted the concept of an Owner Controlled Insurance Program (OCIP) which encompasses Professional and Pollution Liability, General Liability, and Builders Risk.

In 2000, the Washington State Legislature authorized Sound Transit's use of an OCIP. OCIP can be in many forms, but they all have the advantage brought by significant leverage with insurance companies that assures broad terms and conditions of coverage with high limits (excess of \$100,000,000 per claim) at discounted premiums. Because an OCIP provides insurance coverage for all firms involved in the project, small, local, and DBE firms can compete on a more equal basis with larger firms. Additionally, all claims are resolved through a common process that is not based on establishing responsibility among consultants and contractors.

Motion:

It is hereby moved by the Finance Committee of the Central Puget Sound Regional Transit Authority that the Executive Director be authorized to amend the contract with Marsh USA for insurance brokerage services by extending the contract period until September 30, 2001, at an additional cost not to exceed \$200,000, and by increasing the scope of work to include development, placement, and oversight of an Owner Controlled Insurance Program (OCIP) for all Sound Transit construction projects, in an amount not to exceed \$430,000, for a total additional amount not to exceed \$630,000.

Approved by the Finance Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof on the 20th day of July, 2000.



Greg Nickels
Finance Committee Chair

ATTEST:



Marcia Walker
Board Administrator