

**SOUND TRANSIT  
STAFF REPORT**

**MOTION NO. M2002-44**

**Increase Contingency for Contract No. RTA LR/61-00, Construction of Tacoma Link Light Rail Line Segment, Project C910, with Gary Merlino Construction Company**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Finance	5/2/02	Discussion/Possible Action to Recommend Board Approval Action	Ahmad Fazel, Link Director	(206) 398-5389
Board	5/9/02		<b>Henry Cody, Deputy Construction Manager</b>	(206) 398-5377

<b>Contract/Agreement Type:</b>		<b>Requested Action:</b>	
Competitive Procurement	3	Execute New Contract/Agreement	3
Sole Source	3	Amend Existing Contract/Agreement	
Memorandum of Agreement		Contingency Funds Required	3
Purchase/Sale Agreement		Budget Amendment Required	

4 Applicable to proposed transaction.

**OBJECTIVE OF ACTION**

This proposed action increases the contract contingency on Construction of Tacoma Link Light Rail Line Segment, Project C910, (Gary Merlino Construction Company) by \$2,300,000 to allow construction to continue when current contingencies are exhausted.

**ACTION**

Authorizes an additional \$2,300,000 to be added to the approved contingency amount for Contract No. RTA LR/61-00 with Gary Merlino Construction Company for construction of Tacoma Link Light Rail Line Segment, Project C910 for a new total authorized contingency amount of \$4,592,538.

**KEY FEATURES**

- Increases the contract contingency on Contract No. RTA LR/61-00, Construction of Tacoma Link Light Rail Line Segment, Project C910, (Gary Merlino Construction Company) by \$2,300,000 to address a variety of adverse cost trends.
- The original contract contingency for this contract was \$2,292,538 (10% of the original contract value of \$22,925,382). This action increases the total contract contingency to \$4,592,538 (19.6% of the current contract amount of \$23,353,731).
- Funds for this increase are available within the Tacoma Link Light Rail budget.

## **BUDGET IMPACT SUMMARY**

**Project Description:** Tacoma Link  
**Current Status:** Under Construction  
**Projected Completion Date:** 09/03

<b>Action Outside of Adopted Budget:</b>	<b>Y/N</b>	<b>Y Requires Comment</b>
This Line of Business	N	
This Project	N	
This Phase	N	
This Task	Y	Requires a transfer from uncommitted funds within the construction phase.
Budget amendment required	N	
<b>Key Financial Indicators:</b>	<b>Y/N</b>	<b>Y Requires Comment</b>
Contingency funds required	N	
Subarea impacts	N	
Funding required from other parties other than what is already assumed in financial plan	N	

N = Action is assumed in current Board-adopted budget. Requires no budget action or adjustment to financial plan

## **BUDGET DISCUSSION**

The total adopted budget for Tacoma Link, as amended is \$80.4 million. Within that budget, the activity contemplated within this motion is identified within the Construction phase. This activity was included within the cost estimate. The budget for this construction contract is \$26,264,146. For this task, there is a budget deficit of \$1,253,774. Within the construction phase, there are sufficient uncommitted funds available for this action. With the approval of this contract amendment, there is sufficient budget remaining to complete the project.

## **REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS**

The proposed action is consistent with the current board adopted budget and is affordable within the agency's current long-term financial plan and sub-area financial capacity. The action will have no new revenue impacts on Sound Transit.

## SUMMARY FOR BOARD ACTION

### Summary for Board Action (Year of Expenditure \$000)

#### Action Item: Merlino Contract Amendment

Tacoma Link	Current Board Adopted Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	4,552	2,145		2,145	2,406
2 Preliminary Engineering	6,242	6,566		6,566	(324)
3 Final Design	6,007	6,511		6,511	(504)
4 Right of Way	2,944	1,654		1,654	1,290
5 Construction	49,498	40,686	2,300	42,986	6,512
6 Vehicles	9,485	7,980		7,980	1,504
7 System Testing and Startup	760	-		-	760
8 Contingency	928	-		-	928
9 <b>Total Current Budget</b>	<b>80,416</b>	<b>65,543</b>	<b>2,300</b>	<b>67,843</b>	<b>12,572</b>

#### Final Design

##### Phase Budget Detail

10 C910 Tacoma Line segment Construction	26,264	25,218	2,300	27,518	(1,254)
11 Other Construction	23,234	15,468		15,468	7,766
12 <b>Total Phase</b>	<b>49,498</b>	<b>40,686</b>	<b>2,300</b>	<b>42,986</b>	<b>6,512</b>

Contract Budget	Current Approved Contract Value (F)	Spent to Date (G)	Proposed Action (H)	Proposed Total Contract Value (I)
13 C910 Tacoma Line segment Construction	22,925	8,155		22,925
14 Contingency	2,293	212	2,300	4,593
15 <b>Total</b>	<b>25,218</b>	<b>8,367</b>	<b>2,300</b>	<b>27,518</b>
16 Percent Contingency	10%	3%	0%	20%

- B Contains current commitments together with all commitments currently under consideration by the Board. This provides a more conservative measure of uncommitted budget authority. Should all proposed actions not be exercised, then the uncommitted amount (column D) would be higher.

## M/W/DBE – SMALL BUSINESS PARTICIPATION

The goal for small business participation on this contract is 30%. This action does not modify the goal. The same goal applies to all changes executed under the terms of the contract.

## HISTORY OF CONTRACT

Bids were opened for Contract No. RTA LR/61-00, Construction of Tacoma Link Light Rail Line Segment, Project C910 on September 25, 2000. The scope of work for this contract included the construction of 1.6 miles of at-grade light rail guideway, 5 stations, and associated urban improvements. Contract bids came in under the engineer's estimate. A bid protest ensued relating to small business participation, and the low bidder was determined to be non-responsive.

On February 13, 2001, the Board awarded Contract No. RTA LR/61-00, Construction of Tacoma Link Light Rail Line Segment, Project C910, to Gary Merlino Construction Company, for \$22,925,382 plus a 10% contingency of \$2,292,538, for a total contract amount of \$25,217,920.

Because of BNSF railroad right-of-way issues, a Limited Notice to Proceed was issued on April 5, 2001. On July 9, 2001, a Full Notice to Proceed was issued, and construction in the field began.

The contract is currently 40% complete and 19% of the contingency has been expended. Significant adverse cost trends have been identified, signaling a need to restore contingencies to a level matching the current estimate at completion for this contract. The purpose of this Board Action is to increase contingency to the contract prior to exhausting the existing contingency. The proposed sources of funding for this action are cost underruns on other elements of the project, proposed scope and funding deletions of non-essential work, and unallocated contingencies within the Tacoma Link Light rail project budget.

Changes to date, and forecast, for this contract amount to 19.5% of current contract amount and include the following major categories:

1. Scope Changes: 1.6% of current contract amount
2. Changes in quantities: 9.4 % of current contract amount
3. Engineering changes: 1.4% of current contract amount
4. Schedule delays: 1.4% of current contract amount
5. Changes for public and private utilities: 4.2% of current contract amount
6. Value engineering savings to contract: \$391,000

Attachment A is a log and chart of all changes identified to date on this contract.

Since the award of this contract, a series of events have occurred that require the budget to be increased, and the project schedule extended. The major drivers for the increased construction costs include:

Bid Protest - In the fall and winter of 2000 a bid protest of the main civil construction contract, Contract 910, resulted in a 6-month delay in awarding the contract. This delay resulted in substantial resequencing of the specified construction phasing. These delays resulted in added costs and time to the contract.

Right-of-Way Delay - In the spring of 2001 the contract experienced a 10-week delay as a result of a right-of-way dispute with a railroad.

Failure of Private Utilities to Relocate prior to Construction - To date, multiple private utilities have resisted relocating their facilities within the City of Tacoma public right-of-way, as directed by the City of Tacoma. These relocations are necessary to protect the utilities and resolve conflicts with the Sound Transit trackway, City of Tacoma improvements, and associated structures. Sound Transit staff continues to work with the private utilities on a weekly basis to achieve the necessary relocations/protections, but Sound Transit's contractor continues to have to "build around" and/or protect existing private utilities in place, and to resequence the entire construction schedule at additional cost to Sound Transit and its construction contractors. Sound Transit is working with the City of Tacoma to recover any such costs from the respective private utilities, and is actively assisting the City of Tacoma to litigate Qwest to require and expedite their relocation.

Errors in Estimated Quantities on Bid Form - Following award of the contract an error on the estimated quantities in the bid form for “concrete headers” was discovered. The quantities were under-estimated by approximately \$1,080,000, and consequently this scope (cost) was not included in the original unit price contract. Sound Transit is not paying twice for this scope. The scope cannot be deleted since it is part of the track slab.

Estimated Overages in Quantities at Completion - The 910 contract is a unit price/lump sum contract. The roadwork, utilities and trackwork are unit prices, and each station is a lump sum. Several adverse trends in unit price quantities, above and beyond the estimated quantities, have developed during the first year of construction. These trends, extrapolated to the end of the construction, create an adverse cost trend and include greater than anticipated amounts of the following items: hours for traffic control (flaggers) to maintain traffic flow and accesses to businesses, quantities of demolition due greater than expected thicknesses and the need to repair streets damaged by private utilities, quantities for excavation and fill due to the discovery of unsuitable base materials for new roadway and trackbed, and quantities of sidewalk replacement due to cumulative and construction impacts by a variety of parties.

Since the initial bid protest and subsequent delays, Link construction management staff has been actively rescheduling all Tacoma Link contracts to minimize delay costs, and achieve the most efficient sequence of construction, given the multiple contract restraints, including the annual 3 month construction moratorium on Pacific Ave. and 25<sup>th</sup> Street. (See Attachment A for contract cost details).

Link Staff anticipates that the start of operations date of September 2003 can still be achieved.

**Prior Board or Committee Actions  
and Relevant Board Policies**

<b>Motion Number</b>	<b>Summary of Action</b>	<b>Date of Action</b>
M2000-114	Authorized the Executive Director to execute a contract with Gary Merlino Construction for the construction of Tacoma Link Light Rail, Contract 910. The action authorizes a base contract amount of \$22,924,382, with Alternate A Streetscape Improvements and Alternate Street Lighting as an additional contract amount of \$473,266, and a 10% contingency of \$2,339,764 for a total authorized amount not to exceed \$25,737,413.	2/8/01

**CONSEQUENCES OF DELAY**

Delay in approving this action is expected to result in a depletion of all remaining construction contingencies on this contract within 2 months. Other contingencies on other elements of the total project are still being carried forward, unspent at this time. Staff has not committed existing contingencies to this date in excess of board authorized amounts.

## **REGIONAL PARTNERSHIP AND COOPERATION**

Sound Transit has worked cooperatively with the City of Tacoma, Pierce Transit, local businesses and interest groups on the Tacoma Link Light Rail Project. The BNSF is an important agency partner on the Sounder program.

## **PUBLIC INVOLVEMENT**

Link Light Rail continues to work with communications staff to keep local and area residents informed about the status of the project and the impact of construction on the neighborhoods.

## **BUDGET ALTERNATIVES**

There are many cost pressures on the Tacoma Link Light Rail project budget of \$80.4M (\$YOE). Adverse cost trends indicate that it may be prudent for the board to consider pro-active scope reduction or deferral measures now to provide additional assurance that adequate funds are available to complete the essential scope within budget. "Essential scope" is considered to be scope required to operate the system. Staff will continue to work with the board to identify potential opportunities for scope reduction, deferral, or savings.

## **SCHEDULE ALTERNATIVES**

Since the initial bid protest and subsequent delays, Link construction management staff has been actively rescheduling all Tacoma Link contracts to minimize delay costs, and achieve the most efficient sequence of construction, given the restraints.

Link staff remains confident that the start of operations date of September 2003 can still be achieved.

## **LEGAL REVIEW**

JDW 4/11/02

## SOUND TRANSIT

### MOTION NO. M2002-44

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing an additional \$2,300,000 to be added to the approved contingency amount for Contract No. RTA LR/61-00 with Gary Merlino Construction Company for construction of Tacoma Link Light Rail Line Segment, Project C910 for a new total authorized contingency amount of \$4,592,538.

#### Background

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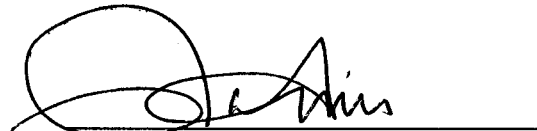
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#### Motion:

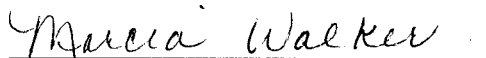
It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that an additional \$2,300,000 be added to the approved contingency amount for Contract No. RTA LR/61-00 with Gary Merlino Construction Company for construction of Tacoma Link Light Rail Line Segment, Project C910 for a new total authorized contingency amount of \$4,592,538.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on May 9, 2002.



Ron Sims  
Board Chair

ATTEST:

  
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Marcia Walker  
Board Administrator