

**SOUND TRANSIT  
STAFF REPORT**

**MOTION NO. M2002-65**

**Memorandum of Agreement among Sound Transit, King County, and the City of Seattle  
defining the terms and conditions to permit the joint operations of  
trains and buses in the Downtown Seattle Transit Tunnel**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Executive Committee	6/6/02	Discussion/Possible Action to Recommend Board Approval	<b>Paul Matsuoka, Policy and Planning Officer</b> Ahmad Fazel, Link Light Rail Director	(206) 398-5070
Finance Committee	6/6/02	Discussion/Possible Action to Recommend Board Approval		(206) 398-5389
Board	6/13/02	Action		

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

4 Applicable to proposed transaction.

**OBJECTIVE OF ACTION**

- To obtain access to the Downtown Seattle Transit Tunnel (DSTT) owned by King County within City of Seattle right-of-way to operate Link light rail service and to continue to operate Sound Transit Express Route 550.

**ACTION**

- Authorize the Executive Director to sign an agreement with King County and the City of Seattle specifying the terms and conditions for joint rail and bus operations in the DSTT.

**KEY FEATURES**

- Establishes a cost-sharing formula of tunnel debt service and tunnel O&M costs between King County Metro (KCM) and Sound Transit during joint rail/bus operations.
- Establishes roles and responsibilities for surface improvements, bus-related construction, design and construction of the tunnel retrofit.
- Establishes a process to negotiate an operating agreement for Central Link with KCM.
- Establishes cost savings to the project that allows Sound Transit to deposit \$7.2m to the Community Development Fund because of King County's contribution to the project.
- Terminates previous Transfer Agreement of 2000.

## **BUDGET IMPACT SUMMARY**

**Project Description:** DSTT Agreement

**Current Status:**

**Projected Completion Date:**

<b>Action Outside of Adopted Budget:</b>	<b>Y/N</b>	<b>Y Requires Comment</b>
This Line of Business	Y	REX will be assessed a portion of tunnel costs after retrofit (Route 550)
This Project	N	
This Phase	N	
This Task	N	
Budget amendment required	N	
<b>Key Financial Indicators:</b>	<b>Y/N</b>	<b>Y Requires Comment</b>
Contingency funds required	N	
Subarea impacts	Y	East King County will be assessed a portion of tunnel costs after retrofit (Route 550)
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**

This section not applicable to this MOA, major financial ramifications will be described below in the Financial Plan Impacts section.

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

The Sound Transit financial plan currently contains the capacity to pay for the DSTT transfer agreement that this new MOA will supersede. Under terms of the original transfer agreement adopted by the Sound Transit Board on May 25, 2000, Sound Transit assumed 100% of the tunnel debt service and 100% of the tunnel O&M costs upon closing the tunnel for retrofit. Under this new MOA, Sound Transit and KCM share costs of debt service and tunnel O&M during the period when buses and trains share the tunnel, resulting in increased Phase II financial capacity. There are certain conditions under which Sound Transit may have to acquire the tunnel, but the terms of such acquisition will not be more onerous than the existing Transfer Agreement.

**Impact on Current Year Budget:** Not applicable

**Impact on Sound Move Budget:** The action will have no new impacts on Sound Move beyond those identified within the current financial plan.

**Impact on cost-to-Complete:** All costs associated with this MOA that accrue before 2009 can be accommodated within the Initial Segment cost to complete and the long-range financial plan. In addition, the funding for King County's portion of the CDF is achieved in this MOA through savings to the project budget as a result of re-negotiations of the tunnel agreement.

**Impact on Subarea(s) Budget(s):** As part of this MOA, King County will require that Sound Transit pay for the time the tunnel is used by Sound Transit's buses and trains during joint operations. Therefore, the cost-sharing formula will require Sound Transit to pay a share of debt service, tunnel O&M, and amortized value of major maintenance items for the operations of Sound Transit Route 550 when the tunnel is re-opened after retrofit. Currently, King County charges Sound Transit an hourly rate for the Route 550 service that does not include tunnel costs. Because Sound Transit will begin paying for the time its vehicles spend in the tunnel, and given Sound Transit's subarea equity principles, a portion of the joint operations costs will be assigned to the East King County subarea.

### **M/W/DBE – SMALL BUSINESS PARTICIPATION**

Not Applicable

### **HISTORY OF PROJECT**

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

<b>Motion or Resolution Number</b>	<b>Summary of Action</b>	<b>Date of Action</b>
R2001-16	Board Approval of the Initial Segment, including joint operations in the DSTT.	11/29/01
M2001-103	Board approval of the preferred Initial Segment, including joint operations in the DSTT.	9/27/01
R2000-09	Board approval of the DSTT transfer agreement.	5/25/00
R99-34	Board approval of LPA for Central Link.	11/18/99

Under the Locally Preferred Alternative adopted by the Board in late 1999, the tunnel in downtown Seattle was to be an exclusive train tunnel. Accordingly, King County, the City of Seattle, and Sound Transit staff began negotiations of an agreement specifying the terms and conditions to transfer ownership of the tunnel from King County to Sound Transit (the “transfer agreement”).

With the increase in cost estimates for the light rail project, the Board undertook a significant review of the project, and in the fall of 2001 adopted the Initial Segment. A critical portion of the Initial Segment was in downtown Seattle, where the Locally Preferred Alternative was changed to include a joint rail and bus operation in the tunnel. Because of joint operations and changed assumptions due to joint operations, the prior transfer agreement had to be re-negotiated.

In late 2001, staffs from King County, the City of Seattle, and Sound Transit began negotiating a new agreement to replace the transfer agreement. Sound Transit Board action is now being sought to allow the Executive Director to sign the agreement on behalf of Sound Transit.

Key features of the agreement include:

- This Agreement terminates the Transfer Agreement executed in 2000.
- King County will continue to own the tunnel facility and Sound Transit will pay to use it.
- Sound Transit obtains rights to operate light rail in the tunnel from KCM and the City of Seattle.
- All vehicles operating in the tunnel will be controlled by KCM to ensure safety of operations. Central control will occur at KCM's control center located at the Exchange Building. The parties agree to study the benefits and costs of co-location of KCM's and Sound Transit's control centers at either party's maintenance facilities located in the south downtown area. The parties will each pay their own staff costs in this study.
- Sound Transit and KCM will cooperate in the final design and construction activities for the tunnel and will negotiate a Tunnel Closure O&M Agreement and a Tunnel Construction/Retrofit Agreement in preparation for tunnel closure. The parties will each pay their own staff costs in the development of these agreements. These agreements would be approved by the Sound Transit Executive Director and the King County Director of Transportation. They must be executed by March 31, 2003, or King County will require Sound Transit to acquire the tunnel.
- The agreement also establishes a process to negotiate a Central Link operations agreement between Sound Transit and KCM. The major principles important to Sound Transit, such as policy-setting, cost/budget control, system image, and meaningful input into important personnel functions are included in this Agreement and must be addressed in the future operating agreement. The parties will develop an agreement in principle by January 31, 2003, and a final agreement by March 31, 2003. The Sound Transit Board and the King County Council will approve this agreement. If the parties fail to negotiate an agreement, then Sound Transit will be required to buy the tunnel. The Transfer Agreement of 2000 will be the starting point establishing terms and conditions of acquisition.
- The parties will construct certain surface improvements in downtown Seattle to accommodate increased bus volumes on surface streets during the time the tunnel is closed for retrofit. The monitor and maintain committee will manage the surface improvements budget so that the budget is not exceeded.
- There is a list of contingencies that must be satisfied prior to closing the tunnel for retrofit. Among this list is execution of a Full Fund Grant Agreement (FFGA), completion of the surface improvements, and execution of those agreements noted above.
- Sound Transit will assume 100% of the debt service payments during the two-year retrofit period.
- During retrofit, the tunnel will be changed to permit train use and to perform certain major maintenance work needed in the tunnel. Certain costs will be amortized and paid by the parties in the same proportions as debt service and tunnel O&M.

- Upon opening the tunnel after retrofit for joint rail/bus use, Sound Transit will pay 40% of tunnel debt service and tunnel O&M costs, such payment to cover Sound Transit's fair share of the time the tunnel is used for Link trains and ST Express bus routes. Sound Transit will be allowed a maximum of ten trains and ten buses per hour for the payments it will make to KCM. A rough estimate of the breakdown of Sound Transit's 40% share is 26% to Link and 14% to ST Express. The parties may negotiate for more or less time in the tunnel, and the cost shares will be adjusted accordingly on a sliding scale. In 2016 or upon extension of light rail to Northgate, whichever is sooner, Sound Transit's share of costs rises to 100%. If, at that time, there is capacity for KCM's buses in the tunnel, a negotiated reduction in Sound Transit's costs may be implemented with a corresponding increase in KCM's share.
- If the retrofit work is done earlier than 2007-09, there may be a period of exclusive bus use of the tunnel prior to joint bus/train use. In that case, Sound Transit will pay 17% of debt service and tunnel O&M.
- The list of surface improvements, bus-related facility costs, etc. are largely carried over from the transfer agreement, but have been updated and reduced slightly to reflect current plans.
- In light of the project savings that accrue to the project's budget as a result of this agreement, Sound Transit will contribute \$7.2 million to the CDF.
- Sound Transit agrees to obtain and transfer property currently owned by WSDOT located at Convention Place Station (CPS) to KCM via the Land Bank agreement that Sound Transit has with WSDOT. In exchange for this property, KCM agrees to allow Sound Transit construction staging rights and potential future tunnel easements at no cost, so long as bus operations are not interrupted.
- Termination: As long as Sound Transit and King County Metro have a Link Operating Agreement in place, this Downtown Seattle Transit Tunnel Agreement will be in effect. The Agreement automatically terminates if a FFGA is not obtained by December 31, 2003. It will also terminate if the closure contingencies are not completed by December 31, 2007.

### **CONSEQUENCES OF DELAY**

A fully executed MOA is necessary to submit to the FTA as part of Sound Transit's full funding grant agreement.

### **REGIONAL PARTNERSHIP AND COOPERATION**

Considerable time and effort have been expended by staff from King County and the City of Seattle in the development of the old transfer agreement and this new, proposed DSTT agreement.

## **PUBLIC INVOLVEMENT**

- Numerous public meetings were held during the period leading up to Board adoption of the Initial Segment. During that time, joint operations for rail and bus was widely discussed and debated by members of the public.
- Joint operations was also thoroughly assessed and analyzed in the environmental documents supporting the Board's decision on the Initial Segment.

## **DESCRIPTION OF POLICY**

Cost-sharing principles: This MOA is based upon a principle that debt service, tunnel O&M, and the amortized long-lived maintenance improvements are shared by the agencies and the transit modes on a usage basis. The parties know how many trains and buses will use the tunnel and can estimate the amount of time that each party's vehicles are in the tunnel. Based on the time usage, each agency then bears its fair share of tunnel costs for those cost elements that are appropriately shared between trains and buses. Costs that can be exclusively related to each party are paid 100% by that party (e.g. maintenance of the track is paid solely by Sound Transit). Because of this usage principle, ST Express buses will be assessed for tunnel-related costs when the tunnel re-opens after retrofit. Thus, costs to operate the ST Express Route 550 will begin to accrue, and by subarea equity principles, the costs will be assigned to the East King County subarea. These costs will need to be addressed in future SIPs. The anticipated funding sources include unanticipated revenues prior to 2006, or revenues accruing during 2007-09.

Central Link operations: This MOA establishes a process to negotiate a Central Link operating agreement between Sound Transit and KCM as a condition for the use of the tunnel. The MOA establishes a schedule to accomplish an operating agreement, specifies the roles and responsibilities of the parties in developing the operating plan and agreement, and identifies the terms and conditions if negotiations are unsuccessful.

The MOA calls for an operating agreement in principle to be finished by January 31, 2003. If the parties cannot agree, the issues will be brought to a mediation process. If by March 31, 2003, an agreement still cannot be reached, then King County will require that Sound Transit acquire the tunnel. The terms of the purchase will, at a starting point, be the Transfer Agreement adopted in 2000, including transfer as of 2004, and the payment of \$21.4 million in CPS-related costs. As joint operations is still envisioned, KCM and Sound Transit would then negotiate the terms of KCM's use of Sound Transit's tunnel from 2004-07, and the parties would re-negotiate the terms of the CPS-related issues. The County has stipulated that in no case will the cost of the new Transfer Agreement be more financially onerous than the old Transfer Agreement.

## **ALTERNATIVES**

1. Approve the MOA as negotiated.
2. Specify the portions of the MOA that ought to be furthered negotiated.
3. Reject the MOA.

**RECOMMENDATION**

Staff recommends approval of this MOA.

**LEGAL REVIEW**

JB 5/30/02

## **SOUND TRANSIT**

### **MOTION NO. M2002-65**

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the Executive Director to execute a Memorandum of Agreement among Sound Transit, King County, and the City of Seattle defining the terms and conditions to permit the joint operations of trains and buses in the Downtown Seattle Transit Tunnel.

#### **Background:**

Under the Locally Preferred Alternative adopted by the Board in late 1999, the tunnel in downtown Seattle was to be an exclusive train tunnel. Accordingly, King County, the City of Seattle, and Sound Transit staff began negotiations of an agreement specifying the terms and conditions to transfer ownership of the tunnel from King County to Sound Transit (the "transfer agreement").

With the increase in cost estimates for the light rail project, the Board undertook a significant review of the project, and in the fall of 2001 adopted the Initial Segment. A critical portion of the Initial Segment was in downtown Seattle, where the Locally Preferred Alternative was changed to include a joint rail and bus operation in the tunnel. Because of joint operations and changed assumptions due to joint operations, the prior transfer agreement had to be re-negotiated.

In late 2001, staffs from King County, the City of Seattle, and Sound Transit began negotiating a new agreement to replace the transfer agreement. Sound Transit Board action is now being sought to allow the Executive Director to sign the agreement on behalf of Sound Transit.

Key features of the agreement include:

- This Agreement terminates the Transfer Agreement executed in 2000.
- King County will continue to own the tunnel facility and Sound Transit will pay to use it.
- Sound Transit obtains rights to operate light rail in the tunnel from King County Metro (KCM) and the City of Seattle.
- All vehicles operating in the tunnel will be controlled by KCM to ensure safety of operations. Central control will occur at KCM's control center located at the Exchange Building. The parties agree to study the benefits and costs of co-location of KCM's and Sound Transit's control centers at either party's maintenance facilities located in the south downtown area. The parties will each pay their own staff costs in this study.
- Sound Transit and KCM will cooperate in the final design and construction activities for the tunnel and will negotiate a Tunnel Closure Operations and Maintenance (O&M) Agreement and a Tunnel Construction/Retrofit Agreement in preparation for tunnel closure. The parties will each pay their own staff costs in the development of these agreements. These agreements would be approved by the Sound Transit Executive Director and the King County Director of Transportation. They must be executed by March 31, 2003, or King County will require Sound Transit to acquire the tunnel.



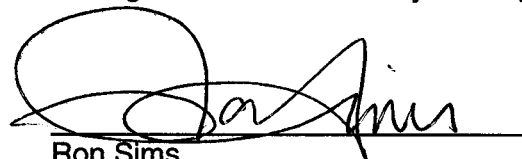
- The agreement also establishes a process to negotiate a Central Link operations agreement between Sound Transit and KCM. The major principles important to Sound Transit, such as policy-setting, cost/budget control, system image, and meaningful input into important personnel functions are included in this Agreement and must be addressed in the future operating agreement. The parties will develop an agreement in principle by January 31, 2003, and a final agreement by March 31, 2003. The Sound Transit Board and the King County Council will approve this agreement. If the parties fail to negotiate an agreement, then Sound Transit will be required to buy the tunnel. The Transfer Agreement of 2000 will be the starting point establishing terms and conditions of acquisition.
- The parties will construct certain surface improvements in downtown Seattle to accommodate increased bus volumes on surface streets during the time the tunnel is closed for retrofit. The monitor and maintain committee will manage the surface improvements budget so that the budget is not exceeded.
- There is a list of contingencies that must be satisfied prior to closing the tunnel for retrofit. Among this list is execution of a Full Funding Grant Agreement (FFGA), completion of the surface improvements, and execution of those agreements noted above.
- Sound Transit will assume 100% of the debt service payments during the two-year retrofit period.
- During retrofit, the tunnel will be changed to permit train use and to perform certain major maintenance work needed in the tunnel. Certain costs will be amortized and paid by the parties in the same proportions as debt service and tunnel O&M.
- Upon opening the tunnel after retrofit for joint rail/bus use, Sound Transit will pay 40% of tunnel debt service and tunnel O&M costs, such payment to cover Sound Transit's fair share of the time the tunnel is used for Link trains and ST Express bus routes. Sound Transit will be allowed a maximum of ten trains and ten buses per hour for the payments it will make to KCM. A rough estimate of the breakdown of Sound Transit's 40% share is 26% to Link and 14% to ST Express. The parties may negotiate for more or less time in the tunnel, and the cost shares will be adjusted accordingly on a sliding scale. In 2016 or upon extension of light rail to Northgate, whichever is sooner, Sound Transit's share of costs rises to 100%. If, at that time, there is capacity for KCM's buses in the tunnel, a negotiated reduction in Sound Transit's costs may be implemented with a corresponding increase in KCM's share.
- If the retrofit work is done earlier than 2007-09, there may be a period of exclusive bus use of the tunnel prior to joint bus/train use. In that case, Sound Transit will pay 17% of debt service and tunnel O&M.
- The list of surface improvements, bus-related facility costs, etc. are largely carried over from the transfer agreement, but have been updated and reduced slightly to reflect current plans.
- In light of the project savings that accrue to the project's budget as a result of this agreement, Sound Transit will contribute \$7.2 million to the CDF.
- Sound Transit agrees to obtain and transfer property currently owned by WSDOT located at Convention Place Station (CPS) to KCM via the Land Bank agreement that Sound Transit has with WSDOT. In exchange for this property, KCM agrees to allow Sound Transit construction staging rights and potential future tunnel easements at no cost, so long as bus operations are not interrupted.

- Termination: As long as Sound Transit and King County Metro have a Link Operating Agreement in place, this Downtown Seattle Transit Tunnel Agreement will be in effect. The Agreement automatically terminates if a FFGA is not obtained by December 31, 2003. It will also terminate if the closure contingencies are not completed by December 31, 2007.

**Motion:**

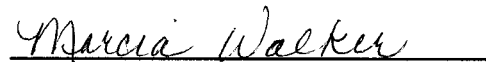
It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the Executive Director is authorized to execute a Memorandum of Agreement among Sound Transit, King County, and the City of Seattle defining the terms and conditions to permit the joint operations of trains and buses in the Downtown Seattle Transit Tunnel.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on June 13, 2002.

A handwritten signature in black ink, appearing to read "Ron Sims", written over a horizontal line.

Ron Sims  
Board Chair

ATTEST:

A handwritten signature in black ink, appearing to read "Marcia Walker", written over a horizontal line.

Marcia Walker  
Board Administrator