

**SOUND TRANSIT  
STAFF REPORT**

**MOTION NO. M2003-90**

**MLK Undergrounding Agreement with City of Seattle**

| <b>Meeting:</b>   | <b>Date:</b> | <b>Type of Action:</b>                      | <b>Staff Contact:</b>                                    | <b>Phone:</b>  |
|-------------------|--------------|---|--|----------------|
| Finance Committee | 9/4/03       | Discussion                                  | Ahmad Fazel, Link Director                               | (206) 398-5389 |
| Finance Committee | 9/18/03      | Discussion//Possible<br>Action to Recommend | <b>Ron Lewis, Link Deputy<br/>Director</b>               | (206) 689-4905 |
| Board             | 9/25/03      | Board Approval<br>Action                    | Winston Simmonds, Link<br>Systems Engineering<br>Manager | (206) 689-3326 |

| <b>Contract/Agreement Type:</b> | ✓ | <b>Requested Action:</b>          | ✓ |
|---------------------------------|---|-----------------------------------|---|
| Competitive Procurement         |   | Execute New Contract/Agreement    | 4 |
| Sole Source                     |   | Amend Existing Contract/Agreement |   |
| Interlocal Agreement            | 4 | Contingency Funds Required        |   |
| Purchase/Sale Agreement         |   | Budget Amendment Required         |   |

*3Applicable to proposed transaction.*

**OBJECTIVE OF ACTION**

Execute a Memorandum of Agreement (MOA) to obtain funding commitment from the City of Seattle for undergrounding utilities in the Rainier Valley along Martin Luther King (MLK), Jr. Way S. in conjunction with the Link light rail project.

Commit budget for Sound Transit's share of undergrounding utilities in the Rainier Valley along MLK Jr. Way S. in conjunction with the Link light rail project.

**ACTION**

Authorize the Chief Executive Officer to execute a Memorandum of Agreement with the City of Seattle specifying the cost, terms and conditions for undergrounding utilities in the Rainier Valley along Martin Luther King Jr. Way South in an amount not to exceed \$15,576,000, which includes \$2,097,000 in reimbursements from private utilities

**KEY FEATURES**

- Sound Transit shall contribute a maximum of \$15,576,000 (YOES) including \$2,097,000 in reimbursements from participating private utilities for design, civil and ductbank construction, installation of electrical wire and equipment in non-commercially zoned areas of the project.
- The City of Seattle (City) shall contribute a total of \$15,679,000 (YOES) for design, civil and ductbank construction, installation of city-owned electrical wire and equipment in commercially zoned areas of the project. The City payments for undergrounding shall occur on a quarterly basis beginning in 2005 with Sound Transit fully reimbursed by December 2007.
- Sound Transit shall be responsible to complete final design work to underground publicly and privately owned utilities on MLK Jr. Way S. in collaboration with the City, and private utility companies (Qwest and Comcast).

- Sound Transit shall be responsible for construction of the civil infrastructure to underground publicly and privately owned utilities, including trenches, conduits, structures, and street light poles and foundations. The Sound Transit contractor, as part of the C735 (Rainier Valley – MLK Jr. Way S) line section contract, will perform construction of the civil infrastructure for undergrounding.
- The City shall be responsible for design of underground City-owned electrical utilities, and the electrical distribution infrastructure, removal of City-owned overhead wires, and furnishing and installing the electrical infrastructure including electrical wire, transformers, meters and switches, and service connections.
- Sound Transit and the City shall jointly develop a construction schedule and staging plan for the underground to expedite work in a proficient manner and minimize delays. Sound Transit shall be responsible for overall construction coordination.

### **BUDGET IMPACT SUMMARY**

**Project Description:** Initial Segment

**Current Status:** Final Design/ Construction

**Projected Completion Date:** 2009

| <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          | Action exceeds budget for tasks within Final Design and Construction Services phases |
| 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 parties other than what is already assumed in financial plan | Y          | Action includes reimbursements from the City of Seattle, Qwest and Comcast           |

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

### **BUDGET DISCUSSION**

The action considered by this motion authorizes execution of a MOA with the City, which specifies the terms and conditions for undergrounding utilities along MLK Jr. Way S. and limits Sound Transit's share of the costs for this work to \$15,576,000.

The adopted 2003 budget contains a budget task for undergrounding in the amount of \$13,500,000 within the construction phase. As the scope of work related to this activity was more fully developed, it became apparent that not all activities were construction-related. As a result, although the total Sound Transit commitment, after reimbursement from the private utilities, is within this total budget (\$13.479 million), there is a shortfall at the task level in the final design and construction services phases. These budgets have been redistributed within the Proposed 2004 Budget, to resolve these shortfalls and will be subject to Board review and approval this fall.

Actual commitment of the funds for final design occurred under previous Board action (Motion No. M2002-97). Commitment of the Construction services funds will occur under a future board action.

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

**Summary Table: Funding Participation by Phase**

|                          | <b>Final Design</b> | <b>Construction Management</b> | <b>Construction</b> | <b>Total (YOE\$)</b> |
|--------------------------|---------------------|--------------------------------|---------------------|----------------------|
| <b>Sound Transit</b>     | 523                 | 273                            | 12,682              | <b>13,479</b>        |
| <b>Private Utilities</b> | 164                 | 86                             | 1,847               | <b>2,097</b>         |
| <b>Subtotal</b>          | 687                 | 359                            | 14,529              | <b>15,576</b>        |
| <b>City of Seattle</b>   | 573                 | 299                            | 14,808              | <b>15,679</b>        |
| <b>Total</b>             | <b>1,260</b>        | <b>658</b>                     | <b>29,337</b>       | <b>31,255</b>        |

This proposed action includes work that is part of the Initial Segment of the Central Link project as well as additional work that will be reimbursed by the City, Qwest and Comcast.

Sound Transit’s commitment under this proposed agreement with the City is for work directly related to the Initial Segment as well as the work that will be reimbursed by Qwest and Comcast. Sound Transit has reached agreement with these private utilities regarding their payment to Sound Transit for improvements and services provided by Sound Transit in connection with the light rail construction along MLK Jr. Way S. This is documented in signed letters of understanding between Sound Transit and the private utility companies.

Upon reimbursement by the private utility companies, Sound Transit’s total cost associated with the undergrounding of utilities along MLK Jr. Way S. will be less than the maximum \$13,500,000 contribution established by the Sound Transit Board.

Costs related to the additional work being ultimately paid for by the City and by the private utilities will not be charged within the Link Initial Segment project, but rather will be tracked separately in order to facilitate project accountability and reimbursement.

Sound Transit’s share of the proposed action is covered by the current Board-adopted budget, and is affordable within the agency’s current long-term financial plan and subarea financial capacity.

Sound Transit will incur costs to be reimbursed by the City starting in 2003; however, payments are not expected from the City until 2005.

## SUMMARY FOR BOARD ACTION

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

Action Item: City of Seattle (MOA for undergrounding along MLK Way South) - PART I - BUDGET ALLOCATION

#### (Year of Expenditure \$000)

| Initial Segment                | Current Board<br>Adopted<br>Budget<br>(A) | Committed To<br>Date<br>(B) | This Action<br>(C) | Total Committed<br>& Action<br>(D) | Uncommitted<br>(Shortfall)<br>(E) |
|--------------------------------|---|-----------------------------|--------------------|------------------------------------|-----------------------------------|
| 1 Agency Administration        | 226,780                                   | 108,241                     |                    | 108,241                            | 118,539                           |
| 2 Preliminary Engineering      | 35,000                                    | 33,392                      |                    | 33,392                             | 1,608                             |
| 3 Final Design                 | 123,000                                   | 112,590                     | 523                | 113,113                            | 9,887                             |
| 4 Right of Way                 | 233,016                                   | 102,179                     |                    | 102,179                            | 130,837                           |
| 5 Construction                 | 1,172,633                                 | 114,718                     | 12,682             | 127,400                            | 1,045,233                         |
| 6 Construction Services        | 82,464                                    | 3,432                       | 273                | 3,706                              | 78,758                            |
| 7 Third-Party Agreements       | 58,800                                    | 16,121                      |                    | 16,121                             | 42,679                            |
| 8 Vehicles                     | 138,307                                   | -                           |                    | -                                  | 138,307                           |
| 9 Contingency                  | -   | -                           |                    | -                                  | -                                 |
| 10 <b>Total Current Budget</b> | <b>2,070,000</b>                          | <b>490,674</b>              | <b>13,479</b>      | <b>504,153</b>                     | <b>1,565,847</b>                  |

#### Final Design Phase Budget

| Detail                             |                |                |            |                |              |
|------------------------------------|----------------|----------------|------------|----------------|--------------|
| 11 Final Design Undergrounding     | -              | -              | 523        | 523            | (523)        |
| 12 Other Final Design              | 123,000        | 112,590        | -          | 112,590        | 10,410       |
| 13 <b>Total Final Design Phase</b> | <b>123,000</b> | <b>112,590</b> | <b>523</b> | <b>113,113</b> | <b>9,887</b> |

#### Construction Phase Budget

| Detail                             |                  |                |               |                |                  |
|------------------------------------|------------------|----------------|---------------|----------------|------------------|
| 14 Construction Undergrounding     | 13,500           | -              | 12,682        | 12,682         | 818              |
| 15 Other Construction              | 1,159,133        | 114,718        | -             | 114,718        | 1,044,415        |
| 16 <b>Total Construction Phase</b> | <b>1,172,633</b> | <b>114,718</b> | <b>12,682</b> | <b>127,400</b> | <b>1,045,233</b> |

#### Construction Services Phase Budget Detail

|   |               |              |            |              |               |
|---|---------------|--------------|------------|--------------|---------------|
| 17 Construction Svcs<br>Undergrounding      | -             | -            | 273        | 273          | (273)         |
| 18 Other Construction Services              | 82,464        | 3,432        | -          | 3,432        | 79,032        |
| 19 <b>Total Construction Services Phase</b> | <b>82,464</b> | <b>3,432</b> | <b>273</b> | <b>3,706</b> | <b>78,758</b> |

(C) Reallocation of task budgets to be included in the Proposed 2004 Budget

(B) Committed to Date amounts are from the Link Program Cost Summary Report (HQ Reports) for June 2003.

(B)3 and (B)5 Committed to Date amount includes board motions not yet included in June 2003 report.

|                               | Final Design | Construction | Construction Svcs | Third Parties |
|-------------------------------|--------------|--------------|-------------------|---------------|
| Commitments through June 2003 | 111,695.775  | 8,889.669    | 3,432.455         | 16,121.375    |
| Other board motions           | 893.820      | 105,828.402  | -                 | -             |
| Total phase commitments       | 112,589.595  | 114,718.071  | 3,432.455         | 16,121.375    |

| Sound Transit                | Current<br>Approved<br>Contract Value<br>(F) | Spent to Date<br>(G) | Proposed Action<br>(H) | Proposed Total<br>Contract Value<br>(I) |
|------------------------------|--|----------------------|------------------------|---|
| 20 Final Design              | -  | -                    | 523                    | 523                                     |
| 21 Construction              | -  | -                    | 12,682                 | 12,682                                  |
| 22 COS Construction Services | -  | -                    | 273                    | 273                                     |
| 24 <b>Total</b>              | <b>-</b>                                     | <b>-</b>             | <b>13,479</b>          | <b>13,479</b>                           |

## M/W/DBE – SMALL BUSINESS PARTICIPATION

Small business participation is not applicable to this action. However, the Sound Transit work that will be completed within the scope of the C735 (Rainier Valley – MLK Jr. Way S.) line contract will be subject to Sound Transit's guiding principles for contracting.

## HISTORY OF PROJECT

On November 29, 2001, the Sound Transit Board adopted Resolution No. R2001-16 selecting the Initial Segment for Link Light Rail to be constructed and operated by 2009. The resolution

also stated that the project scope includes the potential for relocating utilities along MLK, Jr. Way S. underground. The Sound Transit Board identified a budget of \$13,500,000 (YOES) in the project for this purpose and committed to pursuing additional funding sources to supplement the budget in order to pay the total cost of undergrounding utilities along MLK, Jr. Way S.

On April 25, 2002, the Sound Transit Board adopted Motion No. M2002-57, which authorized the Executive Director to negotiate an agreement with the City of Seattle identifying Sound Transit and the City's funding responsibilities for undergrounding certain utilities, determine design and construction parameters in this area, and to complete the final design with undergrounding of utilities included. Additionally, Sound Transit recognized City of Seattle Resolution 30459, adopted April 22, 2002, as an expression of sincere intent to enter into such an agreement with Sound Transit to share funding responsibilities for undergrounding utilities along MLK, Jr. Way S. for up to \$19,800,000 (2002 dollars) in City funds.

On September 12, 2002, the Sound Transit Board adopted Motion M2002-97, which authorized the Executive Director to execute a contract amendment with CH2M Hill to incorporate underground utilities into the final design of MLK Jr. Way S in the amount of \$1,220,000 plus a 3.3% contingency of \$40,000, for a total of \$1,260,000, and a new total authorized contract amount not to exceed \$9,457,572.

Qwest and Comcast have agreed to participate in the underground project. Final design for undergrounding as part of the scope of the C735 (MLK Jr. Way S) line section contract was completed in June 2003. During final design, staff worked with the City of Seattle, Qwest and Comcast to determine the scope and cost estimate for undergrounding. Staff has reached agreements in principle with both Qwest and Comcast for their share of the cost to underground their utilities. Qwest, a joint pole owner, is responsible for the incremental cost above an overhead-to-overhead relocation and betterment of their overhead existing plant. Comcast, who does not have joint ownership of the poles, is responsible for the all costs to underground their existing overhead plant. Agreements with Qwest and Comcast will be submitted to the Board for consideration later this year.

Staff has estimated the cost of undergrounding utilities along MLK Jr. Way S. to be \$31,255,000 (YOES). This memorandum of agreement with the City of Seattle establishes the scope of undergrounding of utilities along MLK Jr. Way S, construction responsibilities, and funding responsibilities, where Sound Transit's maximum contribution shall be \$15,576,000 (YOES), and the City of Seattle shall contribute \$15,679,000 (YOES). Qwest and Comcast will reimburse Sound Transit \$2,097,000 (YOES) to participate in the project. Therefore, Sound Transit will have a net contribution of \$13,479,000 (YOES) to the undergrounding project, which is within the \$13,500,000 (YOES) budget approved by the Sound Transit Board in November 2001.

**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> |
|------------------------------------|---|-----------------------|
| M2002-97                           | Executed a contract amendment with CH2M Hill to incorporate underground utilities into the final design of Martin Luther King Jr. Way South in the amount of \$1,220,000 plus a 3.3% contingency of \$40,000 totaling \$1,260,000 and for a new total authorized contract amount not to exceed \$9,457,572.   | 9/12/02               |
| M2002-57                           | Authorized the Executive Director to: (1) Initiate the final design for undergrounding utilities on Martin Luther King, Jr. Way S. (from approximately the McClellan Station to South Barton Street) in conjunction with completion of final design for the Link light rail project and to develop a cost estimate and identify impacts of undergrounding utilities. (2) Based upon a refined cost estimate and identification of impacts, negotiate an agreement with the City of Seattle to define terms and conditions for undergrounding utilities on Martin Luther King, Jr. Way S.  | 4/25/02               |
| R2001-16                           | Selected the initial segment of the Central Link Light Rail Project to be constructed and operated by 2009. (The light rail project scope shall include the potential for relocating and placing the utilities along Martin Luther King, Jr. Way South underground. The work necessary to place the utilities underground will be performed only if the cost to Sound Transit shall not exceed \$13.5 million and the other elements included within the project scope to underground the utilities can be completed for an amount that does not allow Sound Transit's expenditures to exceed the \$2,070 million project budget. Sound Transit will continue to pursue additional external funding sources to supplement the existing budget in order to pay the cost to underground the utilities as provided in Motion No. M2001-103.) | 11/29/01              |

**CONSEQUENCES OF DELAY**

In order to underground utilities on MLK, Jr. Way S., agreement with the City on funding must be developed in a timely manner so that the C735 line section contract, which includes the scope of undergrounding, may be awarded later this year. Extended delay would delay award of the C735 contract and subsequent pre-construction and construction activities to support the Link master schedule.

**REGIONAL PARTNERSHIP AND COOPERATION**

Sound Transit has worked extensively with the City of Seattle, Qwest and Comcast to complete final design and determine a cost estimate for undergrounding along MLK, Jr. Way S. The Seattle City Council is expected to vote on this agreement in early October 2003.

**PUBLIC INVOLVEMENT**

The Rainier Valley community has maintained a strong expectation for having undergrounded utilities along MLK, Jr. Way S when light rail begins operation.

**LEGAL REVIEW**

MB 8/7/03

## SOUND TRANSIT

### MOTION NO. M2003-90

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the Chief Executive Officer to execute a Memorandum of Agreement with the City of Seattle specifying the cost, terms and conditions for undergrounding utilities in the Rainier Valley along Martin Luther King Jr. Way South in an amount not to exceed \$15,576,000, which includes \$2,097,000 in reimbursements from private utilities.

#### **Background:**

On November 29, 2001, the Sound Transit Board adopted Resolution No. R2001-16 selecting the Initial Segment for Link Light Rail to be constructed and operated by 2009. The resolution also stated that the project scope includes the potential for relocating utilities along Martin Luther King (MLK), Jr. Way S. underground. The Sound Transit Board identified a budget of \$13.5 million (YOES) in the project for this purpose and committed to pursuing additional funding sources to supplement the budget in order to pay the total cost of undergrounding utilities along MLK, Jr. Way S.

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the City of Seattle shall contribute \$15,679,000 (YOES). Qwest and Comcast will reimburse Sound Transit \$2,097,000 (YOES) million to participate in the project. Therefore, Sound Transit will have a net contribution of \$13,479,000 (YOES) to the undergrounding project, which is within the \$13,500,000 (YOES) budget approved by the Board in November 2001.

**Motion:**

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the Chief Executive Officer is authorized to execute a Memorandum of Agreement with the City of Seattle specifying the cost, terms and conditions for undergrounding utilities in the Rainier Valley along Martin Luther King Jr. Way South in an amount not to exceed \$15,576,000, which includes \$2,097,000 million in reimbursements from private utilities.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on September 25, 2003.



Ron Sims  
Board Chair

ATTEST:



Marcia Walker  
Board Administrator