

**SOUND TRANSIT  
STAFF REPORT**

**MOTION NO. M2006-18**

**Memorandum of Agreement with the Port of Seattle**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Finance Committee	04/06/06	Discussion/Possible Action to Recommend Board Approval	Ahmad Fazel, Link Director <b>Martin Schachenmayr, Project Manager</b>	(206) 398-5389 (206) 398-5162
Board	04/13/06	Discussion/Possible Action	<b>Steve Sheehy, Legal Counsel</b>	(206) 398-5441

<b>Contract/Agreement Type:</b>	✓	<b>Requested Action:</b>	✓
Competitive Procurement		Execute New Contract/Agreement	✓
Sole Source		Amend Existing Contract/Agreement	
Agreement with Other Jurisdiction(s)	✓	Budget Amendment	

**PROJECT NAME**

Airport Link

**PROPOSED ACTION**

Authorizes the Chief Executive Officer to execute a Memorandum of Agreement with the Port of Seattle (Port) specifying the terms and conditions for the development of the Airport Link Project on Port property, allowing the use of Port right-of-way, and defining the integrated delivery strategy for Airport Link light rail and related Port roadway projects; and to execute all other subsequent agreements as may be necessary to implement this Agreement in an amount not to exceed \$12,690,521.

**KEY FEATURES of PROPOSED ACTION**

- The proposed Agreement between Sound Transit and the Port of Seattle (Port) provides the overall framework and assigns responsibilities for the construction of significant Airport Link project elements in conjunction with concurrent roadway relocation projects that are being constructed by the Port.
- Authority for expenditures beyond those specifically committed under this action would be subject to approvals by the Finance Committee and Sound Transit Board as separate actions in accordance with Sound Transit policies.
- On January 24, 2006, the Port of Seattle Commission reviewed the proposed Agreement. The Commission is scheduled to consider approval of the Agreement in its second hearing on April 11, 2006.
- Sound Transit and the Port have worked collaboratively to integrate Airport Link into the Port roadway relocation plans. The proposed Agreement is consistent with the terms and conditions established in the term sheet signed by Sound Transit and the Port in December of 2004. Upon execution, the Agreement will supersede all prior agreements, resulting in

one “umbrella” document for the parties. Key elements of the Agreement include the following:

- Cooperation and Dispute Resolution: The parties agree to cooperate, provide necessary resources and work in good faith toward completion of the project. A dispute resolution process is included to quickly and effectively settle disputes.
- Management Protocols: The Agreement defines management protocols and control mechanisms that have been put into place to support the controlled and timely completion of Airport Link and related Port roadway projects.
- Property Transfer: The Port will convey permanent property rights to Sound Transit for the construction, operation, and maintenance of light rail facilities. The Agreement satisfies Federal Transit Administration (FTA) continuing control requirements. Sound Transit will compensate the Port for acquired property rights in the amount equal to one-half of the value of these rights. Sound Transit will also compensate the Port for loss of revenue due to the early termination of selected Port tenant leases. The proposed action would authorize expenditures up to \$8,726,521 to compensate the Port for property rights conveyed under this Agreement and for early termination of selected tenant leases.
- Construction Packaging: The Agreement defines the scope and schedule for multiple construction contract packages that have been defined to deliver Airport Link and the related roadway relocations. For each contract package, the Agreement assigns roles and responsibilities to the parties, as summarized below for the key contract packages:
  - > Sound Transit will independently procure, administer, and manage the construction contract for the LRT guideway between South 154th Street and approximately South 160th Street (i.e., Contract #1). This contract does not include any Port elements.
  - > The Port will advertise, administer, and manage the construction of the LRT guideway south of approximately 160th Street, the Port roadway relocations, and the below-grade foundations for the SeaTac/Airport Station (i.e., Contract #2), in coordination with Sound Transit. Sound Transit will perform independent quality assurance (QA) and construction inspection for LRT elements.
  - > Sound Transit will advertise and administer the construction contract for the SeaTac/Airport Station and pedestrian bridges (i.e., Contract #3), in coordination with the Port. The Agreement provides the option for the Port to provide construction management for this contract on behalf of Sound Transit. The Port will perform independent QA and construction inspection for the Port pedestrian bridge.
  - > Sound Transit will independently procure, administer, and manage the fabrication and installation of trackwork and system elements, including the traction power, signals, and communications systems.
- Schedule: The Agreement establishes a series of schedule objectives in support of the completion of Airport Link by the end of 2009.
- Compensation and Cost Sharing: The Agreement establishes the approach that will be employed to assign cost responsibilities between Sound Transit and the Port. Sound Transit and the Port have agreed to share certain common costs, including environmental analyses, constructability reviews, surveying, and geotechnical explorations. Sound Transit will compensate the Port for construction management and contract administration that the Port will perform on behalf of Sound Transit. Under the

proposed action, Sound Transit's financial commitment for such services shall not exceed \$3,544,000. Expenditure authority for construction work and any additional construction management services performed by the Port on behalf of Sound Transit are not included under this action and would be the subject of separate board actions.

- Fire and Police: This Agreement requires that Sound Transit's design and construction of Airport Link address fire safety and security requirements of the Port.
  - Hazardous Materials and Storm Water: The Agreement assigns responsibilities regarding the disposal and treatment of hazardous materials disturbed during construction and establishes thresholds and procedures for the management of storm water during construction and light rail operations. Under the terms of the Agreement, Sound Transit will make a fixed payment in the amount of \$250,000 to address costs associated with the encounter of hazardous materials on Port property (this expenditure is not authorized under this action and will be part of the future construction expenditure action). Sound Transit's payment remains fixed regardless of the level of contamination encountered.
  - Operating Protocols: The Agreement addresses operating protocols during LRT operations on Port property.
  - Insurance: The Agreement defines liability and insurance responsibilities during LRT construction and LRT operations on Port property. The Port will solely assume cost responsibility for insurance premiums and deductibles associated with the construction administered by the Port on behalf of Sound Transit (i.e., Contract #2). The proposed action would authorize Sound Transit expenditures in an amount up to \$420,000 to compensate the Port for the Port's assumption of these insurance responsibilities.
  - Termination: The Agreement shall remain in effect for so long as the Light Rail Transitway is used for public transportation purposes.
- The adopted budget for Airport Link is \$244 million. Sound Transit's financial plan assumes \$30 million in grant funding (12% of the total project cost). Of the \$30 million grant assumption, Sound Transit has already secured \$14.25 million of competitive Federal Transit Administration (FTA) Section 5307 funding. FTA Section 5307 funding is a non-New Start funding source and, therefore, FTA New Start grant requirements do not apply to the overall Airport Link project. During the next three months, additional grant applications will be submitted to secure the remaining \$15.75 million in the Airport Link grant assumption.

## **BUDGET IMPACT SUMMARY**

There is no action outside of the Board-adopted budget; there are no contingency funds required, no subarea impacts, or funding required from other parties other than what is already assumed in the financial plan

## **BUDGET and FINANCIAL PLAN DISCUSSION**

Approval of this motion would commit Sound Transit financial expenditures associated with the acquisition of property rights, impacts to Port interests and facilities due to the light rail construction, and payments made to the Port for work administered by the Port on behalf of Sound Transit. The full amount of these payments cannot be finalized until after the award of construction contracts. The Agreement includes specific commitments in a combined amount not to exceed \$12,690,521, as described in this staff report.

The adopted lifetime capital budget for Airport Link is \$243.6 million. Budget line items affected by the proposed action include: (a) in the administration phase, this action would commit \$420,000 of the line item budget set aside for project insurance costs, leaving a balance of \$560,320 for this budget line item; (b) in the final design phase, this action would commit \$700,000 against budget line items for general and geotechnical services, leaving no remaining balance for these line items; (c) in the construction services phase, this action would commit \$2,604,000 for civil construction management services, leaving a line item balance of \$1,588,843; (d) in the third party phase, this action would commit \$240,000 against the Port of Seattle management support line item, leaving a line item balance of \$60,000; and (e) in the right of way phase, this action would commit \$8,726,521 against the property acquisition line item, leaving a budget line item balance of \$10,540,190.

Expenditure authority for the award of construction and further construction management contracts by Sound Transit or by the Port on behalf of Sound Transit would be brought to the Finance Committee and Board for approval as separate actions in accordance with Sound Transit policies.

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

## BUDGET TABLE

**Action Item:** Port of Seattle (MOA specifying terms and conditions for the development of Airport Link Project on Port property, use of right-of-way, integrated delivery strategy for light rail and related Port roadway projects, and subsequent agreements as may be needed to implement the agreement)

(Year of Expenditure \$000)

<b>Airport Link</b>		Adopted 2006 Budget (A)	Committed To Date (B)	This Action (C)	Committed & Action (D)	Uncommitted (Shortfall) (E)
1	Agency Administration	5,000	2,092	420	2,512	2,488
2	Preliminary Engineering	6,095	4,873		4,873	1,222
3	Final Design	15,405	11,028	700	11,728	3,677
4	Right of Way	23,000	3,337	8,727	12,064	10,936
5	Construction	158,000	6,816		6,816	151,184
6	Construction Services	10,500	3,809	2,604	6,413	4,087
7	Third Party Agreements	2,600	1,367	240	1,607	993
8	Vehicles	17,000	14,587		14,587	2,413
9	Contingency	6,000	-		-	6,000
10	<b>Total Current Budget</b>	<b>243,600</b>	<b>47,909</b>	<b>12,691</b>	<b>60,599</b>	<b>183,001</b>
<b>Agency Administration Phase Detail</b>						
11	OCIP	1,000	20	420	440	560
12	Other Agency Administration	4,000	2,072		2,072	1,928
13	<b>Total Phase</b>	<b>5,000</b>	<b>2,092</b>	<b>420</b>	<b>2,512</b>	<b>2,488</b>
<b>Final Design Phase Detail</b>						
14	Final Design General - Other	500	-	500	500	-
15	Geotech	200	-	200	200	-
16	Other Final Design	14,705	11,028		11,028	3,677
17	<b>Total Phase</b>	<b>15,405</b>	<b>11,028</b>	<b>700</b>	<b>11,728</b>	<b>3,677</b>
<b>Right of Way Phase Detail</b>						
18	Airport Link Right of Way	21,730	2,463	8,727	11,190	10,540
19	ROW unallocated contingency	1,270	874		874	396
20	<b>Total Phase</b>	<b>23,000</b>	<b>3,337</b>	<b>8,727</b>	<b>12,064</b>	<b>10,936</b>
<b>Construction Services Phase Detail</b>						
21	Civil Construction Management	8,000	3,807	2,604	6,411	1,589
22	Other Construction Services	2,500	2		2	2,498
23	<b>Total Phase</b>	<b>10,500</b>	<b>3,809</b>	<b>2,604</b>	<b>6,413</b>	<b>4,087</b>
<b>Third Party Phase Detail</b>						
24	Port of Seattle CA and PM	300	-	240	240	60
25	Other Port of Seattle	542	242		242	300
26	Other Third Party agreements	1,758	1,125		1,125	633
27	<b>Total Phase</b>	<b>2,600</b>	<b>1,367</b>	<b>240</b>	<b>1,607</b>	<b>993</b>
<b>Contract Amount</b>						
28	Contract Amount	-	-	12,691	12,691	12,691
29	Contingency	-	-	-	-	-
30	<b>Total Contract</b>	<b>-</b>	<b>-</b>	<b>12,691</b>	<b>12,691</b>	<b>12,691</b>
31	Percent Contingency	0%	0%	0%	0%	0%

## M/W/DBE – SMALL BUSINESS PARTICIPATION

Sound Transit and the Port will establish goals for participation by small businesses in accordance with the Port's policies and practices and state law. In cases where Airport Link facilities will be constructed through amendment of existing Initial Segment construction and procurement contracts, the established goals for participation by M/W/DBE firms and small businesses will apply.

### EEO Commitment

Equal Employment Opportunity (EEO) commitments will be consistent with the Port's and Sound Transit's policies and goals established for workforce diversity and apprenticeship utilization under the Project Labor Agreement (PLA) adopted by each agency or other existing contract requirements.

Construction of light rail facilities administered by the Port (e.g., Contract #2) will be subject to the Port's existing PLA which establishes workforce diversity requirements as part of its apprenticeship program. Construction contracts administered by Sound Transit that are not targeted for federal funding will be subject to Sound Transit's PLA. In cases where Airport Link facilities will be constructed through amendment of existing Initial Segment contracts, the voluntarily agreed adherence to Sound Transit's PLA will apply.

### **PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION**

On November 18, 1999, the Sound Transit Board adopted Resolution No. R99-34, selecting the alignment alternatives and profiles, station locations, and vehicle maintenance base site alternative to be built for the Central Link Light Rail Project. Resolution No. R99-34 identified the SeaTac alignment from South 154<sup>th</sup> to South 200<sup>th</sup> Streets in the City of SeaTac. In its action identifying the Initial Segment on September 27, 2001, the Sound Transit Board directed the agency to work with the Port and the Cities of SeaTac and Tukwila to extend the Initial Segment south beyond South 154<sup>th</sup> Street. This process culminated in the execution of term sheets between Sound Transit, the Port, and the City of SeaTac in December of 2004 that defined the proposed light rail project scope. On July 14, 2005, the Sound Transit Board adopted Resolution No. R2005-16, selecting the Airport Link alignment and station locations between the Tukwila International Boulevard Station and South 200<sup>th</sup> Street and selecting the portion of Airport Link from the Tukwila International Boulevard Station to Sea-Tac Airport to be constructed and operated as part of the Central Link Light Rail Project by the end of 2009.

The 1.7-mile Airport Link project extends the Initial Segment from South 154<sup>th</sup> Street to an elevated light rail station at Sea-Tac International Airport's main terminal near South 176<sup>th</sup> Street. Beginning from the elevated station at Tukwila International and Southcenter Boulevards, the Airport Link route continues south on an elevated structure, crossing above SR-518 and transitioning to grade just north of South 160<sup>th</sup> Street. The route continues in the median of the relocated North Airport Expressway, passing under the South 160<sup>th</sup> Street bridge and the future return to terminal loop ramp. The alignment crosses above South 170<sup>th</sup> Street and continues on an elevated structure to an elevated light rail station just east of the airport garage. A kiss-and-ride facility will be constructed on the east side of International Boulevard.

Sound Transit and the Port have integrated the Initial Segment extension with the Port's capital improvements in the same corridor and have adopted a common project schedule that integrates the design and construction activities of both parties. Sound Transit and the Port will deliver light rail and Port facilities through an integrated construction packaging plan, as summarized in the project implementation plan presented to the Sound Transit Board on February 10, 2005. Sound Transit and the Port agreed that achieving the schedule completion date of December 2009 will require consideration of innovative project delivery strategies.

Airport Link is part of the light rail line defined in Sound Move and the Central Link Project adopted by the Sound Transit Board in November of 1999. This Board action was supported by the Central Link Light Rail Project Final Environmental Impact Statement (November 1999). The Tukwila Freeway Route Final Supplemental EIS was issued in November 2001 addressing changes to the project in Tukwila and the north end of the City of SeaTac. Since that time, the Airport Link project scope has been modified from the alignment and station locations selected by the Board in November 1999. An Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) has been published to address these modifications. This EA also serves as an Addendum under the State Environmental Policy Act (SEPA). The FTA issued a Record of Decision (ROD) on the Airport Link project on September 13, 2005.

## Prior Board/Committee Actions on this Project and Relevant Board Policies

Motion or Resolution Number	Summary of Action	Date of Action
M2006-12	Authorized execution of a Development and Transitway Agreement with the City of SeaTac specifying the terms and conditions for development of the Airport Link Project and to execute necessary subsequent agreements with the City of SeaTac for a total authorized expenditure not to exceed \$7,416,808.	01/26/06
M2005-117	Authorized execution of a contract amendment with Kinkisharyo International, L.L.C./Mitsui & Co. Inc. Joint Venture to manufacture and deliver four additional low floor light rail vehicles to support operational requirements for the Airport Link project.	12/08/05
R2005-16	Selected the Airport Link alignment and station locations between the Tukwila International Boulevard Station and South 200th Street and selected the portion of Airport Link from the Tukwila International Boulevard Station to Sea-Tac Airport to be constructed and operated as part of the Central Link Light Rail Project by the end of 2009.	07/14/05
M2005-65	Authorized the execution of a contract amendment with LTK Engineering Services to provide preliminary engineering services for the Airport Link preferred alternative and to provide final design services for the Airport Link project selected for construction in the amount of \$1,362,280 with a 5% contingency in the amount of \$68,114.	06/23/05
M2005-37	Authorized execution of a sole source contract amendment with Hatch Mott MacDonald in the amount of \$9,077,591 and a 10 percent contingency in the amount of \$907,759 to provide preliminary engineering services for the Airport Link preferred alternative and to provide final design services for the project selected for construction.	04/14/05
M2001-126	Authorized implementation of a work plan to evaluate light rail alternatives to serve the airport by the year 2009.	11/29/01
M2001-103	Identified the preferred Initial Segment to be constructed and operated for Central Link Light Rail and directed Sound Transit staff to work with the Port of Seattle and the Cities of SeaTac and Tukwila to extend the Initial Segment south beyond South 154 <sup>th</sup> Street.	09/27/01
R99-34	Selected the alignment alternatives and profiles, station locations, and vehicle maintenance base site alternative to be built for the Central Link Light Rail line.	11/18/99

### **CONSEQUENCES OF DELAY**

A delay in approval of the Agreement would result in a delay in the advertisement and award of the first Airport Link construction contract and would risk delaying the completion of Airport Link.

### **PUBLIC INVOLVEMENT**

Throughout the development of the Airport Link Project final design plans which have served as the framework for negotiating the Agreement, Sound Transit and the Port have conducted an extensive public involvement program including mailings, community open houses, presentations, and meetings with individuals and neighborhood groups.

**ENVIRONMENTAL COMPLIANCE**

JDI 1/6/06

**LEGAL REVIEW**

SS 3/30/06



## **SOUND TRANSIT**

### **MOTION NO. M2006-18**

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 Port of Seattle specifying the terms and conditions for the development of the Airport Link Project on Port property, allowing the use of Port right-of-way, and defining the integrated delivery strategy for Airport Link light rail and related Port roadway projects; and to execute all other subsequent agreements as may be necessary to implement this Agreement in an amount not to exceed \$12,690,521.

#### **Background:**

The proposed Memorandum of Agreement (Agreement) between Sound Transit and the Port of Seattle (Port) provides the overall framework and assigns responsibilities for the construction of significant Airport Link project elements in conjunction with concurrent roadway relocation projects that are being constructed by the Port. Environmental Review under the State Environmental Policy Act (SEPA) and National Environmental Policy Act (NEPA) for the Airport Link project has been completed.

On January 24, 2006, the Port of Seattle Commission reviewed the proposed Agreement. The Commission is scheduled to consider approval of the Agreement in its second hearing on April 11, 2006 and to authorize the Port Chief Executive Officer to execute the Agreement.

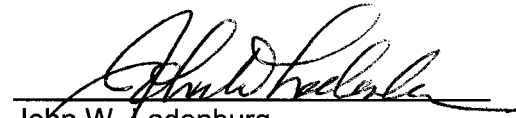
Sound Transit and the Port have worked collaboratively to integrate Airport Link into the Port roadway relocation plans. The proposed Agreement is consistent with the terms and conditions established in the term sheet signed by Sound Transit and the Port in December of 2004.

The adopted budget for Airport Link is \$244 million. Sound Transit's financial plan assumes \$30 million in grant funding (12% of the total project cost). Of the \$30 million grant assumption, Sound Transit has already secured \$14.25 million of competitive Federal Transit Administration (FTA) Section 5307 funding. FTA Section 5307 funding is a non-New Start funding source and, therefore, FTA New Start grant requirements do not apply to the overall Airport Link project.

#### **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 Port of Seattle specifying the terms and conditions for the development of the Airport Link Project on Port property, allowing the use of Port right-of-way, and defining the integrated delivery strategy for Airport Link light rail and related Port roadway projects; and to execute all other subsequent agreements as may be necessary to implement this Agreement in an amount not to exceed \$12,690,521.

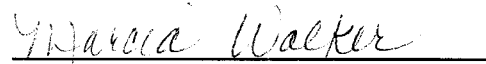
APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on April 13, 2006.



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John W. Ladenburg  
Board Chair

ATTEST:



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Marcia Walker  
Board Administrator