

**SOUND TRANSIT
STAFF REPORT**

MOTION NO. M2009-04

**Authorize Sound Transit to Support an Amendment to the Scope of the Project Labor Agreement
(PLA)**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Executive Committee	1/8/09	Discussion/Possible Action	Joni Earl	(206) 398-5450
Board	1/15/09	Action	Leslie Jones, Diversity Programs Manager	(206) 398-5047

Contract/Agreement Type:	<input checked="" type="checkbox"/>	Requested Action:	<input checked="" type="checkbox"/>
Competitive Procurement		Execute New Contract/Agreement	
Sole Source		Amend Existing Contract/Agreement	<input checked="" type="checkbox"/>
Agreement with Other Jurisdiction(s)		Budget Amendment	
Real Estate		Property Acquisition	

PROJECT NAME

Project Labor Agreement

PROPOSED ACTION

Authorizes the chief executive officer to support an amendment to the Project Labor Agreement (PLA) at the Joint Administrative Committee, which would include in the scope of the PLA a framework to allow recognition of applicable local, area or national collective bargaining agreements.

KEY FEATURES of PROPOSED ACTION

- This action authorizes Sound Transit to support an amendment to the PLA at the Joint Administrative Committee to provide a framework for the use of applicable local, area or national collective bargaining agreements to resolve issues when the PLA is silent on a particular issue. This would bring Sound Transit's PLA into closer alignment with other PLAs currently in place in the Sound Transit region (Port of Seattle SeaTac Airport and King County Brightwater Treatment Plant and Conveyance System projects).
- The action is to be taken after a negotiated amendment to the PLA Tunneling Provisions is made to cover how meals and missed meal and penalty provisions are to be handled during tunneling activities on Sound Transit contracts.
- Both actions support the underlying framework of the PLA and the Board's Resolution No. R99-21 and Motion No. M99-80 authorizing the use of a PLA on specified construction contracts, the authorization to negotiate a PLA, and to enter into the negotiated agreement, while recognizing that under certain circumstances, other existing collective bargaining agreements can and should be used to resolve issues where the PLA is silent. The actions also maintain the purpose of the PLA to provide a single set of rules for which all parties (labor and management) shall adhere.

BUDGET IMPACT SUMMARY

Not applicable to this action.

SMALL BUSINESS PARTICIPATION

Not applicable to this action.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

On July 8, 1999, the Board adopted Resolution No. R99-21, establishing Sound Transit's intent to use project labor agreements for a portion of Sound Transit's construction contracts and authorized the Executive Director to negotiate one or more project labor agreements consistent with objectives, key provisions, implementation and oversight and monitoring outlined in the resolution. After the conclusion of negotiations, the Board passed Motion No. M99-80 on November 18, 1999, authorizing the Executive Director to execute the project labor agreement.

The Project Labor Agreement (PLA) is a stand-alone collective bargaining agreement applicable to Link light rail construction contracts and Sounder commuter rail station contracts. It was negotiated between representatives appointed by the State of Washington Building and Construction Trades Council, AFL-CIO and its affiliate unions for labor, and Sound Transit for management. In accordance with the Board's instructions, organizations representing contractors and community were included in the management caucus during negotiations.

As Sound Transit was negotiating its PLA, similar PLA negotiations were concurrently underway with the Port of Seattle for the SeaTac Airport Project with the same negotiation team for labor. At the conclusion of Sound Transit's negotiations, nearly identical agreements were developed. Two major distinctions between the PLAs exist. One is that the Port of Seattle PLAs include provisions for the application of local, area or national collective bargaining agreements, and Sound Transit's PLA does not. The other is that Sound Transit's PLA contains specific Tunnel Provisions, which are not in the Port of Seattle PLA. Since the implementation of the Sound Transit and Port of Seattle PLAs, King County negotiated two PLAs for use on the Brightwater Treatment Plant and Conveyance System projects. Those PLAs also differ from the Sound Transit PLA in the same manner.

This action authorizes Sound Transit to support an amendment to the PLA at the Joint Administrative Committee to provide a framework for the use of applicable local, area or national collective bargaining agreements to resolve issues when the PLA is silent on a particular issue. The proposed amendment would bring Sound Transit's PLA in closer alignment to the Port of Seattle SeaTac Airport PLA and the King County Brightwater Treatment Plant and Conveyance System PLAs.

At the same time, there is an issue to be resolved regarding breaks for meals and penalties for missed meals pertaining to tunneling activities. Staff believes it would be best handled with a negotiated amendment to the tunneling provisions. This would support a key feature of PLAs which is to establish a single set of work rules to the greatest extent possible. This amendment is to be acted upon by the Joint Administrative Committee prior to taking action changing the scope of the PLA. In this way, a known issue to be resolved is handled within the framework of the PLA, and the use of existing collective bargaining agreements when the PLA is "silent" is used prospectively for heretofore unknown issues.

The proposed amendment has been circulated to Seattle-King County Building and Construction Trades Council, as well as to the Washington Associated General Contractors, and PLA signatory contractors currently in the management caucus of the PLA's Joint Administrative Committee. None of the parties have raised an objection to this proposed amendment or the Board's potential adoption of this motion.

Prior Board/Committee Actions

Motion/Resolution Number and Date	Summary of Action
M99-80 11/18/99	Authorizing the Executive Director to execute and implement a project labor agreement for light rail and commuter rail construction.
R99-21 7/8/99	Establishing Sound Transit's intent to use project labor agreements for a portion of Sound Transit construction contracts, to include community participation in the formation, monitoring and oversight of such project labor agreements, and to include apprenticeship requirements on construction contracts of a certain dollar amount where project labor agreements are not used.

CONSEQUENCES of DELAY

A delay of this action beyond January could impact the effect of this provision on construction contracts currently pending award and out for bid on the U-Link project.

PUBLIC INVOLVEMENT

Not applicable to this action.

ENVIRONMENTAL COMPLIANCE

SK 12/30/08

LEGAL REVIEW

JW 12/31/08

SOUND TRANSIT

MOTION NO. M2009-04

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to support an amendment to the Project Labor Agreement (PLA) at the Joint Administrative Committee, which would include in the scope of the PLA a framework to allow recognition of applicable local, area or national collective bargaining agreements.

Background:

On July 8, 1999, the Board adopted Resolution No. R99-21, establishing Sound Transit's intent to use project labor agreements for a portion of Sound Transit's construction contracts and authorized the Executive Director to negotiate one or more project labor agreements consistent with objectives, key provisions, implementation and oversight and monitoring outlined in the resolution. After the conclusion of negotiations, the Board passed Motion No. M99-80 on November 18, 1999, authorizing the Executive Director to execute the project labor agreement.

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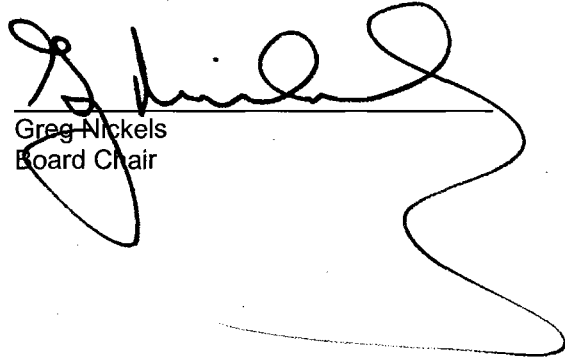
The proposed amendment has been circulated to Seattle-King County Building and Construction Trades Council, as well as to the Washington Associated General Contractors, and PLA signatory contractors currently in the management caucus of the PLA's Joint Administrative Committee. None of the parties have raised an objection to this proposed amendment or the Board's potential adoption of this motion.

A copy of the proposed amendment to the PLA is attached as Exhibit A.

Motion:

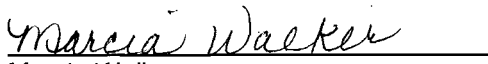
It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to support an amendment to the Project Labor Agreement (PLA) at the Joint Administrative Committee, which would include in the scope of the PLA a framework to allow recognition of applicable local, area or national collective bargaining agreements.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on January 15, 2009.



Greg Nickels
Board Chair

ATTEST:



Marcia Walker
Board Administrator

EXHIBIT A

DRAFT

Proposed Amendment, by either party, to the Sound Transit Project Labor Agreement Amend Section 2.3 of Article 2—Scope of Agreement, as follows:

Revise Paragraph 2 to read as follows:

It is understood that this PLA, together with the Schedule A's and Addendums, constitutes a stand alone agreement, and by virtue of becoming signatory to this PLA, or Letter of Assent, the Contractor or subcontractor will not be obligated to sign any other labor agreement as a condition of performing work within the scope of this PLA. It is further understood that the provisions of this PLA shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national Agreements, which may conflict with or differ from the terms of this PLA. Where a subject covered by the provisions of this PLA is also covered by a conflicting provision of another collective bargaining agreement(s), the provisions of this PLA shall "prevail". In those instances where the PLA is silent on an issue, the parties shall refer to and abide by the applicable local, area or national Collective Bargaining Agreements in ascending order of precedence (in other words, the local agreements shall apply, but if the local agreements do not apply, then the area agreements shall apply, but if the area agreements do not apply, then the national agreements shall apply) **except** when (1) resolution of the issue would be through use of a "Parity", "Most Favored Nations", or "Me Too" clause of the Collective Bargaining Agreement or reference to some other agreement; or (2) the Collective Bargaining Agreement contains provisions that by specific reference, or for all practical purposes, are only applicable to a Sound Transit project or projects. Furthermore, when an issue is resolved under the terms of a particular Collective Bargaining Agreement, that issue shall only be resolved as to the particular members of the trade(s) covered by that Collective Bargaining Agreement. Other trades not covered by the particular Collective Bargaining Agreement shall not achieve a similar result by way of "Parity", "Most Favored Nation", or "Me Too" agreements or clauses in their own Collective Bargaining Agreement or the Collective Bargaining Agreement used to resolve the issue.

This amendment to this agreement shall only apply to new contracts entered into after the date of adoption of this amendment and not to existing contracts.