

**SOUND TRANSIT
STAFF REPORT**

MOTION NO. M2009-98

Agreements with the City of Tacoma

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Board	11/12/09	Discussion/Possible Action	Jim Edwards, Director of Capital Projects Eric Beckman, Rail Program Manager	(206) 398-5436 (206) 398-5251

Contract/Agreement Type:	✓	Requested Action:	✓
Competitive Procurement		Execute New Contract/Agreement	✓
Sole Source		Amend Existing Contract/Agreement	
Agreement with Other Jurisdiction(s)	✓	Budget Amendment	
Real Estate		Property Acquisition	

PROJECT NAME

Sounder - D Street to M Street Track and Signal Project Development Agreement, Master Utilities Licensing Agreement, and Right of Use Agreement

PROPOSED ACTION

Authorizes the chief executive officer to execute three agreements with the City of Tacoma: the Master Utilities Licensing Agreement, the Right of Use Agreement, and the D Street to M Street Track and Signal Development Agreement, and to execute all other subsequent agreements with the City of Tacoma as may be necessary to implement these agreements, for a total authorized expenditure not to exceed \$1,212,349.

KEY FEATURES of PROPOSED ACTION

The Project Development Agreement establishes roles, responsibilities, terms, and conditions regarding the design and construction of the D Street to M Street Track and Signal project. The Master Utilities Licensing Agreement and the Right of Use Agreement are programmatic agreements covering the use of Sound Transit and City of Tacoma rights of way.

Project Development Agreement (DA):

- Specific to the D Street to M Street Track and Signal project.
- Acknowledges that the project is an essential public facility.
- Establishes the development standards for the project and creates a ten-year vesting period for those standards.
- Defines the process for obtaining approval of the project design and required permits from the City of Tacoma.
- Establishes a maximum amount of \$1,212,349 to be paid by Sound Transit to the City of Tacoma for design review and approvals, permits, and construction inspections of the project.

Master Utilities License Agreement (MULA):

- Programmatic agreement covering city use of Sound Transit right of way.
- Places most existing utility crossings and other incidental city uses of the Sound Transit railroad right-of-way under perpetual licenses with uniform conditions.
- Establishes procedure for licensing existing but unknown crossings, upon their discovery and documentation.
- Establishes a uniform and streamlined procedure licensing new utility crossings.

Right of Use Agreement (ROU):

- Programmatic agreement covering Sound Transit use of city right of way.
- Grants Sound Transit the perpetual right to construct track facilities and operate trains over and upon city rights of way.
- Establishes a procedure in the event additional use of city right-of-way is needed.
- Details maintenance responsibilities within the right of use areas.

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.

Current Project Phase: Final Design
Projected Completion Date: 2012

BUDGET and FINANCIAL PLAN DISCUSSION

The project's total budget is \$161,580,747, with a final design phase budget of \$14,364,264 and a construction phase budget of \$71,128,693. The proposed action is to execute agreements with the City of Tacoma which include a capped contribution by Sound Transit of \$1,212,349, with \$969,036 in final design and \$243,313 in construction. This action will result in a final design phase balance of \$2,733,977 and a construction phase balance of \$70,731,539. The proposed action will leave a project balance of \$103,213,034.

There are sufficient funds to complete this action within the project budget. Committing these funds will not endanger any other project elements that are to be funded out of the overall project.

BUDGET TABLE

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

Project: 135 - D Street - M Street Track and Signal

	2009 Board Adopted Budget ¹ (A)	Committed To Date ² (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
Agency Administration	\$ 8,894	\$ 8,894	\$ -	\$ 8,894	\$ -
Preliminary Engineering	\$ 1,716	\$ 1,732	\$ -	\$ 1,732	\$ (16)
Final Design	\$ 14,364	\$ 10,661	\$ 969	\$ 11,630	\$ 2,734
Right of Way	\$ 50,123	\$ 26,761	\$ -	\$ 26,761	\$ 23,363
Construction	\$ 71,129	\$ 154	\$ 243	\$ 397	\$ 70,732
Vehicles	\$ 8,953	\$ 8,953	\$ -	\$ 8,953	\$ -
Contingency	\$ 6,401	\$ -	\$ -	\$ -	\$ 6,401
Total Current Budget	\$ 161,581	\$ 57,155	\$ 1,212	\$ 58,368	\$ 103,213

Phase Budget Detail

Final Design	\$ 14,364.26	\$ 10,661.25	\$ 969	\$ 11,630.29	\$ 2,733.98
Misc. Activity	\$ -	\$ -	\$ -	\$ -	\$ -
Total Phase	\$ 14,364	\$ 10,661	\$ 969	\$ 11,630	\$ 2,734

Phase Budget Detail

Construction	\$ 71,128.69	\$ 153.84	\$ 243	\$ 11,630	\$ 59,498
Misc. Activity	\$ -	\$ -	\$ -	\$ -	\$ -
Total Phase	\$ 71,129	\$ 154	\$ 243	\$ 11,630	\$ 59,498

Contract Budget

	Current Approved Contract Value (F)	Committed To Date ² (G)	Proposed Action (H)	Proposed Total Contract Value (I)
City of Tacoma	\$ -	\$ -	\$ 1,212	\$ 1,212
Contingency	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ -	\$ 1,212	\$ 1,212
Percent Contingency	0%	0%	0%	0%

Notes:

¹ Project budget is located on page 126 of the Adopted 2009 Budget book.

² Committed to date amount includes actual outlays and commitments through September 30, 2009.

SMALL BUSINESS PARTICIPATION

Not applicable to this Board action.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

The D Street to M Street Track and Signal project will connect the Tacoma Dome Station, the southern terminus of current Sounder commuter rail service, with Sound Transit's existing rail right-of-way at Tacoma Avenue South and extend track and signal improvements westward to join the improvements of the M Street to Lakewood Track and Signal project. The Sound Transit Board selected an alignment in December 2007 that provides grade-separation over Pacific Avenue. Final design of the project began in July 2008. Resolution No. R2009-19, approved by the Board on September 24, 2009, amended the Adopted 2009 Budget and established the project budget at \$161M.

On October 20, 2009, the Tacoma City Council unanimously approved Resolution No. 37897 authorizing execution of the MULA, Ordinance No. 27833 authorizing approval of the ROU, and Substitute Resolution No. 37898 authorizing the execution of the DA.

Substitute Resolution No. 37898 includes two amendments. The first amendment addresses the appearance of the rail bridge as it passes over Pacific Avenue, requiring Sound Transit to submit aesthetic options for the bridge's treatment (color, lighting, and decoration) to the city for review prior to issuing the building permit. The second amendment requires the city and Sound Transit to jointly hire appropriate firms to 1) design the habitat improvements for the "B" Street gulch, 2) design the landscape improvements for the project, and 3) set in place an agreement to maintain the habitat and landscape improvements.

The MULA and the ROU are programmatic agreements, intended to be perpetual, detailing how each party will act in the other's right-of-way. These agreements create certainty and predictability for the city to place and maintain utilities within the railroad right-of-way as well as for Sound Transit to place track and run trains across street right-of-way. Both agreements include provisions to mutually address traffic control, interference within the right-of-way, compliance with environmental laws, insurance, mutual indemnity and dispute resolution. Beginning in 2014, both agreements provide the opportunity to review and revise terms every five years.

The DA establishes a not to exceed reimbursement to the City of Tacoma totaling \$1,212,349 in payment for design review and approvals, permits, and construction inspection of the project; it also includes reimbursement to the Tacoma Fire Department for relocation of the city communication infrastructure in the project area. This amount is the sum of estimates, including contingencies, provided by city departments performing reviews and inspections and issuing permits. The City of Tacoma will invoice Sound Transit monthly for amounts expended. The City of Tacoma will notify Sound Transit when 70% of the established amount has been expended. The amount may be adjusted upwards, if necessary to complete required services, upon mutual agreement of the parties and approval by the Board. The ten-year vesting of the design standards prevents the project from being subject to redesign during construction if the City's design standards change and gives certainty for the project to move forward under existing codes and ordinances.

Environmental documentation and compliance under NEPA (National Environmental Policy Act) and SEPA (State Environmental Policy Act) for the D to M Street project has been completed by Sound Transit. This includes a NEPA/SEPA Final EIS (2002) for the Lakewood to Tacoma Commuter Rail project, and a SEPA Addendum (2007) evaluating the impacts of alignment changes for the revised D to M Street alignment selected by the Sound Transit Board to be constructed (Alternative 3 Modified).

Prior Board/Committee Actions

Motion/Resolution Number and Date	Summary of Action
M2008-63 7/10/08	Authorizes a contract with Parsons Brinckerhoff, Inc to provide final design services for the D-to-M Street Track & Signal Project.
M2007-126 12/13/07	Selects the Alternative 3 Modified – Grade-Separated option as the project to be built for the D-to-M Street rail connector.

CONSEQUENCES of DELAY

There is no significant delay if the Board does not act on November 12, 2009. Decision could be postponed to the next Board Meeting.

PUBLIC INVOLVEMENT

Sound Transit participated and developed briefing materials for a series of five City of Tacoma Project Advisory Committee kick-off meetings between September and December 2008.

Between November 2006 and January 2009, Sound Transit briefed Tacoma City Council on three occasions:

- 11/22/06: Session for General Council to evaluate preliminary results of feasibility review and AIA options.
- 1/23/09: Project update session for Council's Environmental & Public Works Committee.
- 1/27/09: Project update session for General Council.

On June 8, 2009, Sound Transit held a public Open House to share the proposed alignment for the Lakewood-to-Tacoma stretch. The focus of the meeting was to provide a project update and give opportunity to submit written comment.

ENVIRONMENTAL COMPLIANCE

SK 10/28/09

LEGAL REVIEW

SS 11/04/09

SOUND TRANSIT

MOTION NO. M2009-98

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute three agreements with the City of Tacoma: the Master Utilities Licensing Agreement, the Right of Use Agreement, and the D Street to M Street Track and Signal Development Agreement, and to execute all other subsequent agreements with the City of Tacoma as may be necessary to implement these agreements, for a total authorized expenditure not to exceed \$1,212,349.

Background:

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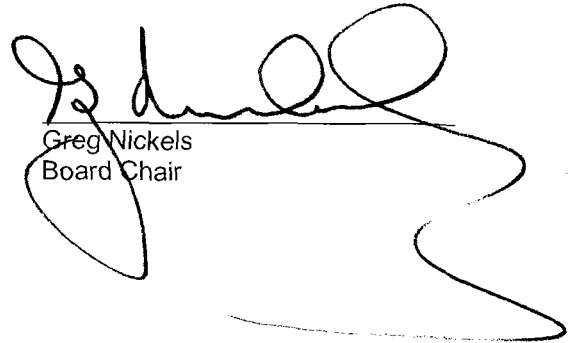
Motion:

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to execute three agreements with the City of Tacoma: the Master Utilities Licensing Agreement, the Right of Use Agreement, and the D Street to M Street Track and Signal Development Agreement, and to execute all other subsequent agreements with the City of Tacoma as may be necessary to implement these agreements, for a total authorized expenditure not to exceed \$1,212,349.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on November 12, 2009.

ATTEST:

Marcia Walker
Marcia Walker
Board Administrator


Greg Nickels
Board Chair