

STAFF REPORT

SOUND TRANSIT MOTION NO. M2001-52

Contract Amendment with Anchor Environmental LLC for Environmental Engineering and Permitting Services for the Sounder Commuter Rail Project

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	6/07/01	Discussion/Possible Action	Paul Price, Director Kimberlee Brackett, Project Manager	(206) 398-5111 (206) 398-5415

PROPOSED ACTION

The proposed action would authorize the Executive Director to execute a contract amendment to Contract No. RTA/CR 14-99 with Anchor Environmental LLC for environmental engineering and permitting services related to the Everett-to-Lakewood commuter rail project, adding \$553,040 to the original authorized contract amount of \$644,500, plus a 5% contingency of \$27,652, for a new total authorized contract amount not to exceed \$1,225,192.

KEY FEATURES

Highlights of Proposed Action:

- ◆ Increases the scope of the existing professional services contract to include environmental engineering and permit support of the Seattle-to-Lakewood segment.
- ◆ Extends the contract 24 months beyond the original timeline to manage unforeseen project changes which have occurred as a consequence of the listing of chinook salmon and bull trout under the Endangered Species Act (ESA) and the resulting consultation process.
- ◆ Allows Sound Transit to modify permit documents and ESA support for corridor improvements impacting natural resources as identified in the Everett- to-Seattle Commuter Rail Project Final Environmental Impact Statement (Everett-to-Seattle EIS).
- ◆ Allows Sound Transit to expeditiously identify and evaluate alternate mitigation sites to replace Point Wells as a mitigation site due to Chevron's recent change from willing seller to unwilling seller.
- ◆ Establishes a programmatic approach to manage certain ESA approvals for the 82-mile Sounder alignment, such as those items which are determined to have a "no effect" designation.

DISCUSSION:

Pursuant to Board Motion No. M99-54 (September 2, 1999), Sound Transit executed a contract with Anchor Environmental LLC (Anchor) to provide environmental engineering and permit support services for the Everett-to-Seattle segment of the commuter rail project. The original contract budget was assigned to north line activities of Sounder; however, the original request

for proposals and the initial contract were intentionally written broadly enough to allow Anchor to perform contract services throughout the entire 82-mile Everett-to-Lakewood corridor. The additional budget requested through this action does not represent cost overruns of the originally planned work, but reflects increased scope to the Anchor contract. Section 4 of the contract (Changes in, and Additional Work) specifically allows Sound Transit to “at any time, request that the Consultant perform additional work.” The additional scope requests are summarized below.

Seattle-to-Lakewood Segment

At the time of original contract approval, the exact scope of environmental engineering and permit requirements for the track, signal, structures and grade crossing elements of the southern Seattle to-Tacoma segment were unknown due to ongoing negotiations with BNSF; therefore scope and budget for that segment were not included in the initial Anchor contract. Sound Transit executed the Construction Agreement with BNSF in May 2000 for the Seattle to Tacoma corridor; it requires Sound Transit to acquire all necessary environmental permits and ESA approvals for the negotiated track and signal improvements valued at approximately \$300 million. In addition, the Federal Transit Administration (FTA) required Sound Transit to re-evaluate this segment for natural resource impacts related to the May 1999 ESA listing of Chinook Salmon and Bull Trout. FTA’s re-evaluation request of the Tacoma-to-Seattle Commuter Rail Environmental Assessment (June 1998) was unexpected; however, FTA justified its request by noting that this segment was not originally evaluated for ESA impacts because Sound Transit’s environmental review process occurred prior to the listing of the chinook salmon and bull trout.

Sound Transit is currently proceeding with environmental review of the Tacoma-to-Lakewood segment, which also includes evaluation of ESA impacts.

Endangered Species Act Issues

Contract Extension

At this stage, the Sounder Commuter Rail project encompasses 12 or 13 stations along an 82-mile rail corridor. This is a long-term, dynamic project, evolving and maturing through design and construction processes. The myriad of federal, state and local environmental regulations affecting the project also are dynamic and coordinating the related environmental permits and approvals through the phases is a complex and time-consuming task. The recent ESA listing of the Chinook Salmon and Bull Trout triggered numerous regulatory changes which require multiple aspects of this project to undergo ESA consultation with the resource agencies, National Marine Fisheries Service (NMFS) and United States Fish and Wildlife Service (USFWS). The consultation process is lengthy, averaging six months to one year. Sound Transit is currently in consultation with NMFS and USFWS for the Sounder project. Our goal is to complete ESA consultation within the proposed 24-month extension to the contract (April 2001 through March 2003).

Corridor Improvements

To be consistent with the Everett-to-Seattle EIS and Record of Decision, FTA requested that Sound Transit expand the north line draft Biological Assessment to include all corridor improvements identified therein. This request, coupled with minor corridor improvement revisions, such as the decision to include track and signal upgrades near Lowell after initially deciding to exclude the same, necessitates modification of applicable ESA and permit documents.

Point Wells

Sound Transit, with Anchor's assistance, is prudently reassessing its environmental strategy for the north line track and signal improvements due to Chevron's recent change of position from an agreeable seller of the Point Wells property to that of unwilling seller. In addition, King County recently identified Point Wells as one of seven proposed sites for the BrightWater wastewater treatment facility.

The acquisition of the Point Wells property is inextricably linked to the north line environmental review and permitting processes as it is the designated on-site, in-kind mitigation site for those track and signal improvements which require placing fill into Puget Sound. The existing environmental permit and ESA documentation identifies Point Wells as a viable mitigation site.

Sound Transit and Anchor are researching and assessing other alternate mitigation site locations in the Everett-to-Seattle corridor which meet the criteria for intertidal, near-shore marine habitat, and/or estuarine habit. The goal is to find an alternate mitigation site which meets the scientific criteria for salmonid habitat without impacting scope, budget and schedule. The positive benefits of having to conduct this exercise is that recently released salmonid habitat studies reveal an increase in the number and type of restoration opportunities available. For example, several years ago the restoration of estuarine habitat was thought to be of less value to salmonids than restoration of near-shore, marine habitat. Today's science indicates that estuarine habitat is highly functional and viable for salmonid recovery and restoration efforts.

Programmatic ESA Approach

In an effort to streamline the ESA consultation process, Souder and the agency's legal department are evaluating specific actions which do not exceed the "no effect" ESA threshold. For example, grade crossing improvements typically do not impact endangered or threatened species, however, FTA policy requires ESA review of these items. The goal is to work cooperatively with FTA, NMFS and USFWS to identify and reach agreement on a comprehensive list of station and track and signal improvements which result in a "no effect" ESA determination. These items would then be precluded from future ESA review, becoming part of a programmatic approach to managing ESA consultations. Given the tremendous backlog of consultations in queue at the resource agencies, the implementation of such a program will benefit Sound Transit by reducing ESA compliance costs, and minimizing schedule delays and scope changes.

Anchor Environmental has provided, and continues to provide, excellent and timely support to Souder. The company has been responsive to Sound Transit's needs, working cooperatively with us to find innovative and affordable solutions to challenging situations. For example, the ESA process required Sound Transit to conduct a full wetlands delineation of the Tacoma-to-Seattle corridor within a very short timeframe. Anchor performed the delineation within the two-week window pursuant to budget and scope provisions. This project also required significant coordination with our partner, the Burlington Northern and Santa Fe Railway, to work within the railroad's right-of-way.

BUDGET

Table 1 - Impact of Action on Anchor Environmental Contract

Description	Current Contract Value Not to Exceed ¹ (A)	Proposed Action Cost for Amendment (B)	Proposed Total Contract Value - Not to Exceed (C) = (A+B)
Total	\$ 644,500	\$ 580,692	\$ 1,225,192
Contingency	\$ 107,417	\$ 27,652	\$ 135,069
Percentage²	20%	5%	\$ 12.4%

¹ See Motion M99-54 from 9/2/99 (Board authorization for \$644,500 of which \$634,743 has been committed).

² Contingency is calculated as a percentage of the base (total less contingency).

By this action, the existing budget for the Sounder projects shown in the table below (found on pages 84-102 of the Proposed 2001 Budget document), will be increased by \$580,692. Committing these funds does not endanger any other project elements that are to be funded out of the respective projects. The following table displays the associated budget, obligations and the corresponding impact of this action to those figures.

Table 2 – Seattle-Lakewood Environmental/PE Budget, Obligations and Impact of Action

Project Name / No.	Total Project Budget ¹	Budget for PE/Env. Phase (A)	Expenditures to Date ² (B)	Commitments to Date ² (C)	This Action (D)	Shortfall* or Surplus (A-B-C-D)
<i>Projects with Shortfall:</i>						
Sea-Aub T&F #110	\$ 269.8m	\$ 5,712,000	\$ 5,607,941	\$ 202,416	\$ 138,407	-\$236,764
Aub-Tac T&F #120	\$ 183.6m	\$ 4,636,000	\$ 4,583,719	\$ 146,889	\$ 98,234	-\$192,842
<i>Subtotal</i>	<i>\$ 183.6m</i>	<i>\$10,348,000</i>	<i>\$10,191,660</i>	<i>\$ 349,305</i>	<i>\$ 236,641</i>	<i>-\$429,606</i>
<i>Other Projects with No Shortfall:</i>						
Everett Station #201	\$ 17.0m	\$ 2,166,000	\$ 1,269,524	\$ 97,139	0	\$ 799,337
Mukilteo Sta. #205	\$ 8.0m	\$ 1,081,000	\$ 392,408	0	0	\$ 688,592
Edmonds Sta. #207	\$ 8.1m	\$ 1,072,000	\$ 140,898	0	0	\$ 931,102
Evt-Sea T&F #100	\$ 76.1m	\$ 3,615,000	\$ 1,605,864	0	\$ 289,847	\$1,719,289
Tac-Lak T&F #130	\$ 65.3m	\$ 1,320,000	\$ 729,295	\$ 330,333	0	\$ 260,372
Tacoma Dome ³ #245	\$ 15.6m	\$ 281,000	\$ 219,141	0	\$ 40,000	\$ 21,859
S. Tac. Sta. #251	\$ 10.7m	\$ 570,000	\$ 149,812	\$ 3,735	\$ 4,953	\$ 411,500
Lakewood Sta. #253	\$ 13.3m	\$ 800,000	\$ 216,618	\$ 4,837	\$ 6,407	\$ 572,138
Lakew. CBD #255	\$ 5.1m	\$ 152,000	\$ 81,712	\$ 29,765	\$ 2,844	\$ 37,679
<i>Subtotal Other:</i>	<i>N/A</i>	<i>\$11,057,000</i>	<i>\$ 4,805,272</i>	<i>\$ 465,809</i>	<i>\$ 344,051</i>	<i>\$5,441,868</i>
<i>Total All Projects</i>	<i>N/A</i>	<i>\$21,405,000</i>	<i>\$14,996,932</i>	<i>\$ 815,114</i>	<i>\$ 580,692</i>	<i>\$5,012,262</i>
*Amount of Shortfall		Potential Revenues				
\$429,606	Shortfall for projects #110 and #120 have been addressed in the recent Sounder Cost-to-Complete discussion (identified as \$462,300 of environmental related costs) and will be detailed in a forthcoming budget amendment.					

¹ Resolution R2000-14 of 12/17/00, pages 84-102.

² Expenditures and commitments are through 3/31/01.

ALTERNATIVES

1. Perform all environmental engineering and permit duties using in-house staff resources instead of consultant support.

Not Recommended: Sounder currently lacks adequate staff resources and environmental engineering expertise to perform this work.

2. Hire a new consulting team to provide environmental engineering and permit support services.

Not Recommended: The Anchor team has performed very well and in a manner sensitive to and consistent with Sounder's scope, schedule and budget criteria. The effort of procuring and involving another team at this stage of the project will pose delays to the program.

3. Allow the contract to expire.

Not Recommended: The Sounder commuter rail program would be significantly disadvantaged by this action. The 82-mile rail corridor is located within an environmentally-sensitive geographic area. The ability of Sounder to team with experienced environmental engineering and permit support is crucial to the successful completion of this program.

CONSEQUENCES OF DELAY

Anchor Environmental has a current contract with Sound Transit and is satisfactorily performing its tasks. A delay or denial of this action by the Finance Committee may result in a disruption of work flow which could be detrimental to the environmental review process currently underway, thereby interrupting the construction schedule of commuter rail stations and track and signal improvements.

REGIONAL PARTNERSHIP AND COOPERATION

The environmental review process successfully incorporates federal, state and local agencies, tribes, partners and citizens. Sounder is pleased that its relationships with these entities are collegial, attributable in part to Anchor's expertise and participation in the process.

Anchor Environmental was recently awarded the City of Seattle Small Business Award for 2000.

PUBLIC INVOLVEMENT

Not only does the environmental review process involve a labyrinth of federal, state, and local agencies, and tribes, but it also is a very public process. Citizens located within the geographic parameters of the commuter rail project have the opportunity to participate in the environmental review process. As noted in the EIS documents for the north and south corridors, numerous public comments have been received and evaluated.

LEGAL REVIEW

MBL 5/23/01

SOUND TRANSIT

MOTION NO. M2001-52

A motion of the Finance Committee of the Central Puget Sound Regional Transit Authority authorizing the Executive Director to execute a contract amendment to Contract No. RTA/CR 14-99 with Anchor Environmental LLC for environmental engineering and permitting services related to the Everett-to-Lakewood commuter rail project, adding \$553,040 to the original authorized contract amount of \$644,500, plus a 5% contingency of \$27,652, for a new total authorized contract amount not to exceed \$1,225,192.

Background:

Pursuant to Board Motion No. M99-54 (September 2, 1999), Sound Transit executed a contract with Anchor Environmental LLC (Anchor) to provide environmental engineering and permit support services for the Everett-to-Seattle segment of the commuter rail project. The original contract budget was assigned to north line activities of Sounder; however, the original request for proposals and the initial contract were intentionally written broadly enough to allow the successful bidder to perform contract services throughout the entire 82-mile Everett-to-Lakewood corridor. The additional budget requested through this action does not represent cost overruns of the originally planned work, but reflects increased scope to the Anchor contract.

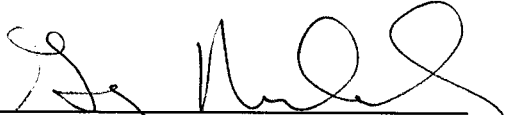
This action extends the contract 24 months beyond the original timeline to manage unforeseen project changes which have occurred as a consequence of the listing of chinook salmon and bull trout under the Endangered Species Act (ESA) and the resulting consultation process.

Committing these funds does not endanger any other project elements that are to be funded out of the respective projects.

Motion:

It is hereby moved by the Finance Committee of the Central Puget Sound Regional Transit Authority that the Executive Director be authorized to execute a contract amendment to Contract No. RTA/CR 14-99 with Anchor Environmental LLC for environmental engineering and permitting services related to the Everett-to-Lakewood commuter rail project, adding \$553,040 to the original authorized contract amount of \$644,500, plus a 5% contingency of \$27,652, for a new total authorized contract amount not to exceed \$1,225,192.

APPROVED by the Finance Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on the 7th day of June 2001.



Greg Nickels
Finance Committee Chair

ATTEST:



Marcia Walker
Board Administrator