

**SOUND TRANSIT
STAFF REPORT**

MOTION NO. M2002-49

Tukwila Memorandum of Agreement

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Central Link	5/16/02	Discussion/Possible Action to Recommend Board Approval	Paul Matsuoka, Office of Policy and Planning Officer	(206) 398-5070
Oversight Committee	5/16/02	Discussion/Possible Action to Recommend Board Approval		
Finance Committee	5/16/02	Discussion/Possible Action to Recommend Board Approval		
Board	5/23/02	Action		

Contract/Agreement Type:		Requested Action:	
Competitive Procurement	3	Execute New Contract/Agreement	3
Sole Source		Amend Existing Contract/Agreement	
Memorandum of Agreement	3	Contingency Funds Required	
Purchase/Sale Agreement		Budget Amendment Required	

4 Applicable to proposed transaction.

OBJECTIVE OF ACTION

- To reach an agreement with the City of Tukwila (City) on partnership principles, cost-containment, and expected roles and responsibilities of the parties to implement the Tukwila Freeway Route.

ACTION

- Authorizing the Executive Director to execute the proposed Memorandum of Agreement (MOA) with the City of Tukwila.

KEY FEATURES

Highlights of Action:

- Responds to the Board's request to develop an MOA with the City of Tukwila, pursuant to adoption of the Tukwila Freeway Route alignment (TFR) in Central Link's locally preferred alternative.
- The proposed MOA makes as many commitments as possible given the current level of engineering design for the TFR and prior to Sound Transit applying for an Unclassified Use Permit (UUP) from the City.

BUDGET

Budget section is not applicable to this proposed action. Financial implications are described below.

FINANCIAL IMPACTS

Impact on Current Year Budget: N/A

Impact on Sound Move Budget: see below

Impact on Cost-to-Complete: There is no currently identifiable impact to the financial plan and budget for Central Link that results from this MOA. The MOA identifies areas in which the parties agree that full resolution cannot be reached until additional design work is completed by Sound Transit and when Sound Transit applies for permits from the City under regulations that are in place at that time. Under the existing City regulations and the project scope as identified today, the City generally agrees that the transit improvements and mitigation measures are satisfactory. However, until Sound Transit applies for its permits, absolute certainty cannot be accomplished. The MOA does contain, however, statements of intent that the City of Tukwila will work with Sound Transit to resolve issues within the project budget to the extent practicable. The MOA also commits \$240,000 in exchange for plan/design review at specific milestones of project development. These monies are within the Central Link cost estimates.

Impact on Subarea(s) Budget(s): see above

HISTORY OF PROJECT

Prior Board or Committee Actions and Relevant Board Policies

Motion or Resolution Number	Summary of Action	Date of Action
R2001-16	Board adoption of initial segment and new LPA	11/29/01
M2001-103	Board motion to adopt preferred south initial segment.	9/27/01
M2001-02	Board motion to identify TFR as preferred alignment through Tukwila.	2/8/01
M99-85	Board motion directing staff to evaluate TFR as an alternative to International Boulevard	11/18/99

CONSEQUENCES OF DELAY

- MOA is one of several third party agreements required in order for the Sound Transit Board to apply for a grant agreement with FTA for federal new starts monies.

REGIONAL PARTNERSHIP AND COOPERATION

- Cooperation with the City of Tukwila staff resulted in the development of this MOA. The City has worked cooperatively to make changes to Sound Move that have saved Sound Transit money so that the savings can be applied to the higher cost of the TFR. The City and Sound Transit have worked together to have these changes be endorsed by the Boeing Company, WSDOT, and SCATBoard.

PUBLIC INVOLVEMENT

- A public hearing on the Tukwila Freeway Route's draft SEIS was held in November 2000. Throughout the light rail planning process, the citizens and business community of Tukwila has

voiced opposition to the International Boulevard route and support for the Tukwila Freeway Route.

- The MOA itself will be reviewed and acted upon by the Tukwila City Council.

DESCRIPTION OF POLICY

The MOA puts in place, to the maximum extent possible at this time, the cost/schedule/ partnership certainty sought by the Sound Transit Board in agreeing to change the LPA from the International Boulevard route to the Tukwila Freeway Route. Additional certainty can only be obtained when the Tukwila City Council reviews and approves the Unclassified Use Permit for the project, applying the City's regulations in place at that time. The engineering design for the TFR is currently at the 30% level. More design is necessary before Sound Transit can apply for its permits and that work is expected to begin later this year.

FACTORS TO CONSIDER

In February 2001, the Board identified the TFR as the preferred route subject to the negotiation of an MOA that delivered cost and schedule certainty and subject to identifying cost savings to help offset the higher costs of the TFR. Upon satisfaction of these conditions, the Board would then take action to formally change the Locally Preferred Alternative, substituting the Tukwila Freeway Route for the International Boulevard Route.

Subsequently, the Board began a six-month work program focussed on making progress on the downtown to University District segment of Central Link, and all engineering contracts south of downtown were "paused." Shortly thereafter, the Board gave direction to focus on the south segment and adopted a three-month work program. In late 2001, the Board took action on Link's initial segment from Convention Place to South 154th Street and formally changed the LPA.

During 2001, Sound Transit and Tukwila staff worked together to address the cost issue of the TFR. Sound Transit staff processed several changes to Sound Move that created the cost savings that could be applied to the higher cost of the TFR. The principal change was the deletion of the Southcenter flyer stop project and the transfer of budget to the TFR.

When the Board took action to change the LPA, the Board was apprised of the situation with the Tukwila MOA. Essentially, Sound Transit staff was unable to negotiate an MOA in the fall of 2001 because the engineering design at the time was at such a low level (approximately 5%), due to the pause in the contracts, that developing an MOA would have been very difficult. Since that time, design has progressed to the 30% level. However, even today there are areas where the proposed MOA cannot deliver absolute cost certainty because the design is not at a high enough level that Sound Transit can apply for permits. That notwithstanding, the parties have agreed to work cooperatively to complete future work with the intent to resolve outstanding issues and stay within the budget for the Tukwila segment of Central Link, to the extent practicable.

As noted above, Sound Transit has achieved a 30% design level for the project and during final design will apply for the UUP. Upon review, the Council will take action on issuing the permit. Since the UUP process is a quasi-judicial process, the City cannot make decisions now that prejudices the outcome of a future process. Therefore there are commitments that Sound Transit sought during the negotiations that the City cannot make at this time. The City has agreed, however, that they are willing to negotiate a Development Agreement, which will vest Sound Transit's project under current City codes and regulations, and provide a higher level of certainty for the project, at the time when Sound Transit has sufficient control of the land required to build the project. At this point, Sound Transit staff cannot predict whether we will pursue an early Development Agreement or simply apply for a UUP. That decision will be made during Final Design.

Therefore, this MOA should be regarded as a step in the process that continues building the relationship with the City after years of disagreement over the basic light rail route through the City.

Key features of the MOA include:

- Agreement as to the TFR's scope, including the City's commitment that any additional costs associated with the City's requested scope changes shall be paid for by the City, unless these costs are imposed by outside parties or because of changed city regulations.
- Agreement as to the mitigating measures required to address the project's impacts, including the City's commitment that additional mitigation requirements that are required that exceed the mitigating measures included in the MOA shall be paid for by the City, so long as Sound Transit does not change the scope of the project and unless the requirements are a result of the actions of outside parties or because of changed city regulations.
- Agreement as to an expedited permitting process, station area planning process, and a commitment by the City for a comprehensive and coordinated design review process at the 30%, 60%, 90%, and 100% design level to ensure that there are no surprises during City reviews. Agreement that Sound Transit will pay the City \$240,000 for their work on behalf of the project.
- Agreement that the City shall not require Sound Transit to pay for utility undergrounding that is not in direct physical interference with light rail facilities.
- Agreement to enter into a Development Agreement at a future date so that Sound Transit's project may be vested under City development regulations existing at that time.
- Agreement on the roles and responsibilities related to the acquisition, preservation, and ownership of the Ray-Carrosino Farmstead property.
- Agreement to cooperate to resolve future issues with outside parties, to identify future cost savings on the project, to help in securing federal grants, to lend support when appropriate to implement the project with the City's residents, business community, and stakeholders, and to achieve the project schedule to begin Link service in 2009.
- Agreement that several issues – the size of the park/ride at the 154th Street Station, the extent of street/sidewalk/traffic improvements, and the extent of safety improvements – will be resolved during final design and permitting, and that the parties intend to resolve these issues within Segment E's project budget to the extent practicable.

ALTERNATIVES

1. Direct staff to continue to negotiate specified elements of the MOA to achieve improvements.
2. Reject the MOA and wait until the UUP process is completed to negotiate an MOA and Development Agreement.

RECOMMENDATION

Approve the MOA as proposed since it is a necessary element of our Full Funding Grant Agreement submittal to FTA to secure federal funds for the Initial Segment.

LEGAL REVIEW

JW 4/4/02

SOUND TRANSIT

MOTION NO. M2002-49

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the Executive Director to execute a memorandum of agreement with the City of Tukwila for the development of the Tukwila Freeway Route.

Background:

In February 2001, the Board identified the Tukwila Freeway Route (TFR) as the preferred route subject to the negotiation of an memorandum of agreement (MOA) that delivered cost and schedule certainty and subject to identifying cost savings to help offset the higher costs of the TFR. Upon satisfaction of these conditions, the Board would then take action to formally change the Locally Preferred Alternative, substituting the TFR for the International Boulevard Route.

Subsequently, the Board began a six-month work program focussed on making progress on the downtown to University District segment of Central Link, and all engineering contracts south of downtown were "paused." Shortly thereafter, the Board gave direction to focus on the south segment and adopted a three-month work program. In late 2001, the Board took action on Link's Initial Segment from Convention Place to South 154th Street and formally changed the LPA.

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Motion:


It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the Executive Director be authorized to execute a memorandum of agreement with the City of Tukwila for the development of the Tukwila Freeway Route.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on May 23, 2002.



Ron Sims
Board Chair

ATTEST:



Marcia Walker
Board Administrator