

**SOUND TRANSIT
STAFF REPORT**

MOTION NO. M2003-89

Fifth Supplement to Memorandum of Agreement with City of Seattle

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	9/4/03	Discussion	Ahmad Fazel, Link	(206) 398-5328
Finance Committee	9/18/03	Discussion/Possible Action to Recommend Board Approval	Director Ron Lewis, Link Deputy Director	(206) 689-4905
Board	9/25/03	Action		

Contract/Agreement Type:	✓	Requested Action:	✓
Competitive Procurement		Execute New Contract/Agreement	
Sole Source		Amend Existing Contract/Agreement	4
Interlocal Agreement	4	Contingency Funds Required	
Purchase/Sale Agreement		Budget Amendment Required	

3Applicable to proposed transaction.

OBJECTIVE OF ACTION

Execution of the Fifth Supplement to the Memorandum of Agreement (MOA) with the City of Seattle to support the Central Link Light Rail Initial Segment project.

ACTION

Authorize the Chief Executive Officer to execute the Fifth Supplement to the Memorandum of Agreement with the City of Seattle in the amount of \$1,224,204 with a 10% contingency of \$122,420 for a total estimated amount of \$1,346,624, and a revised total of the Memorandum of Agreement not to exceed \$15,099,309. The effective date of this action is September 1, 2003.

KEY FEATURES

- Authorizes a supplement to the agreement between Sound Transit and the City of Seattle (City) reimbursing the City for certain Central Link Light Rail Initial Segment project-related expenses for the period of September 2003 through December 2004.
- Requires Sound Transit to reimburse the City for certain project-related expenses associated with public works, public safety and program management services which directly support the Link project as defined in the MOA.
- Reflects the progress of the project in achieving advanced stages of final design, pre-construction activities and the initiation of major construction.
- The scope of work includes the following activities:

Program Management

Under the proposed Fifth Supplement, the City will provide management, oversight and coordination of City activities to help ensure services are provided in an efficient and effective manner in support of the Initial Segment project. The City has assembled an

experienced team with extensive knowledge of City design, permitting and construction requirements, as well as a thorough understanding of the Initial Segment project. This team will provide oversight for all City activities contained in the Fifth Supplement, as well as the companion Construction Services Agreement.

Design Review

The City of Seattle will complete the scheduled review of Link design submittals. City activities supporting the final design effort include pre-submittal reviews, identifying and resolving conflicting City comments, and preparing and delivering one set of internally consistent City comments to Sound Transit. Permit costs for each construction contract within the street right of way is based on time and materials, which are reimbursed through this agreement and a final processing/filing fee of \$94 for each construction contract.

Other

The City will provide permitting and Right of Way (ROW) support and coordination, including:

- Facilitating the timely review and issuance of project-related permits
- Providing facilitation services for private parties impacted by the project
- Facilitating ROW transfers
- Active participation in resolving specific issues through the efforts of the case management team

BUDGET IMPACT SUMMARY

Project Description: Central Link Initial Segment

Current Status: Final Design

Projected Completion Date: 2009

Action Outside of Adopted Budget:	Y/N	Y	Requires Comment
This Line of Business	N		
This Project	N		
This Phase	N		
This Task	N		
Budget amendment required	N		
Key Financial Indicators:	Y/N	Y	Requires Comment
Contingency funds required	N		
Subarea impacts	N		
Funding required from other parties other than what is already assumed in financial plan	N		

N = Action is assumed in current Board-adopted budget. Requires no budget action or adjustment to financial plan

BUDGET DISCUSSION

The action considered by this motion would increase the amount of the MOA with the City of Seattle by \$1,346,624 (\$1,224,204 plus \$122,420 contingency) for a revised MOA amount not to exceed \$15,099,309. Of this amount, \$192,500 (\$175,000 plus \$17,500 contingency) is for Right of Way transfer coordination and permitting and is budgeted in the Right of Way Phase

Acquisition budget. The remaining \$1,154,124 (\$1,049,204 plus \$104,920 contingency) is for third party activities and is included in the Third Party Phase City of Seattle budget.

It is anticipated that the current approved budget of \$13,752,658 for the City of Seattle MOA through the Fourth Supplement Amendment will be substantially expended by the end of August 2003.

REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS

The proposed action is consistent with the Board-adopted 2003 budget and is affordable within the agency's current long-term financial plan and subarea financial capacity. The action will have no new revenue impacts on Sound Transit.

SUMMARY FOR BOARD ACTION

Action Item: City of Seattle (Additional scope and budget for the Fifth Supplement to the MOA)

(Year of Expenditure \$000)

Initial Segment	Current Board Adopted Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	226,780	108,241		108,241	118,539
2 Preliminary Engineering	35,000	33,392		33,392	1,608
3 Final Design	123,000	113,086		113,086	9,914
4 Right of Way	233,016	102,179	193	102,371	130,645
5 Construction	1,172,633	127,397		127,397	1,045,236
6 Construction Services	82,464	3,707		3,707	78,757
7 Third-Party Agreements	58,800	16,121	1,154	17,275	41,525
8 Vehicles	138,307	-		-	138,307
9 Contingency	-	-		-	-
10 Total Current Budget	2,070,000	504,123	1,347	505,470	1,564,530

ROW Phase Budget Detail

11 Right of Way Administration	33,395	19,778	193	19,971	13,424
12 Other Right of Way	199,621	82,401		82,401	117,220
13 Total Phase	233,016	102,179	193	102,371	130,645

Third Parties Phase Budget Detail

14 City of Seattle	21,277	11,170	1,154	12,324	8,953
15 Other Third Parties	37,523	4,952		4,952	32,572
16 Total Phase	58,800	16,121	1,154	17,275	41,525

(B) Committed to Date amounts are from the Link *Program Cost Summary Report* (HQ Reports) for June 2003.

(B)3 and (B)5 Committed to Date amount includes board motions not yet included in June 2003 report.

	Final Design	Construction	Construction Svcs	Third Parties
Commitments through June 2003	111,696	8,890	3,432	16,121
Other board motions	1,390	118,507	274	-
Total phase commitments	113,086	127,397	3,707	16,121

City of Seattle MOA Contract Budget

	Current Approved Contract Value (F)	Spent to Date (G)	Proposed Action (H)	Proposed Total Contract Value (I)
17 Construction	2,295	1,430		2,295
18 Third Party Agreements	11,170	10,536	1,049	12,219
19 Right of Way	-	-	175	175
20 North Link	50	14		50
21 Third Party Contingency	238	-	105	343
21 Right of Way Contingency	-	-	18	18
22 Total	13,753	11,980	1,347	15,099
23 Percent Contingency	2%	0%	9%	2%

(F) Current Approved Contract Value includes the 4th Supplement Amendment to the MOA.

(G) Spent to Date amounts are from the City of Seattle MOA invoice for 2nd Quarter 2003

M/W/DBE – SMALL BUSINESS PARTICIPATION

In general, City staff will perform the work tasks conducted under this agreement. Any procurement of services by the City will be done consistent with the City of Seattle's M/W/DBE – Small Business Participation Program.

HISTORY OF PROJECT

MOA/Supplement	Amount	Time Period	Services Delivered
4 th Supplement Amendment	\$2,138,937	May – August 2003	Design review, design and construction, utility coordination and relocation, implementation support, construction plan review, permitting, public safety, test shaft rescue, fiscal management, business assistance
4 th Supplement	\$2,935,977 (including \$332,842 contingency)	April 2002-April 2003	Design review, design development support, construction assistance, design and construction services, utility coordination and relocation, implementation coordination, construction plan review, permitting, public safety, fiscal management, business assistance
3 rd Supplement	\$1,590,792	May 2001 – April 2002	Design review, design development support, utility coordination and relocation, implementation coordination, construction plan review, permitting, public safety, fiscal management, business assistance
2 nd Supplement	Not executed	Not executed	Not executed
1 st Supplement	\$4,919,821	1999-2000	Design review, design development support, utility coordination, implementation coordination, mitigation identification and analysis
Original MOA	\$2,500,000	1998	GIS services, environmental review, station area planning, land use planning, design process input

On April 20, 1998, Sound Transit and the City of Seattle entered into a MOA for Intergovernmental Cooperation in the amount of \$2,500,000, authorized by the Sound Transit Board on March 12, 1998.

The First Supplement to the MOA for Intergovernmental Cooperation, adopted by the Sound Transit Board on July 8, 1999, covered project-related services performed by the City during 1999 and 2000. Unexpended resources from the agreement continued to fund project-related City activities through April 2001. The First Supplement included reimbursement to various City departments for services including design review, design development support, utility coordination, implementation coordination, mitigation identification, analysis, and developmental support in an estimated amount not to exceed \$4,919,821.

The City of Seattle and Sound Transit then negotiated the Second Supplement. That agreement was approved by the Seattle City Council, but was never executed by the Sound Transit Board due to the recalibration of the project during the December 2000 and January 2001 timeframe.

The Third Supplement was adopted on May 10, 2001, and included services provided by the City in three major areas: Public Works, Public Safety, and Program Management and Business and Community Assistance from May 2001 through December 2001. Resources from the Third Supplement continued to support these project-related activities during the first quarter of 2002.

The Fourth Supplement, adopted on April 11, 2002, covered services provided by the City in the areas of public works, public safety, business and community assistance and program management, for a total estimated amount not to exceed \$2,935,977 (which includes the amount of \$332,842 remaining from the First Supplement budgeted for contingency purposes under this Agreement) for the period from April 2002 through December 2002.

At the time the Fourth Supplement was adopted, staff anticipated execution of the Full Funding Grant Agreement (FFGA) and the start of construction in late 2002. Staff also planned the execution of a Construction Services Agreement and the Fifth Supplement to follow shortly after execution of the FFGA. (The Construction Services Agreement would be the mechanism for authorizing all future project-related construction services provided by the City. The Fifth Supplement would continue as the mechanism for authorizing non-construction project-related services such as the completion of final design review, program management and permitting services).

Since the FFGA and initiation of construction were delayed, the execution of these other agreements was also delayed. Thus, an amendment to the Fourth Supplement was required to ensure that important project related services provided by the City of Seattle continued uninterrupted. The Fourth Supplement amendment was adopted April 24, 2003 by Motion No. M2003-41. This amendment provided funds for continued City project-related services from May 2003 through August 2003.

Now that the FFGA is anticipated to be executed in the fall, this Fifth Supplement and the companion Construction Services Agreement are being brought before the Board for consideration so that when construction begins, the City services and support necessary for Link construction are authorized.

**Prior Board or Committee Actions
and Relevant Board Policies**

Motion or Resolution Number	Summary of Action	Date of Action
M2003-41	Executed an amendment to the Fourth Supplement to the Memorandum of Agreement with the City of Seattle reimbursing the City for project-related services in support of the Central Link Light Rail project within City of Seattle's jurisdiction. These services will be provided by the City of Seattle in the areas of public works, public safety, and program management, for a total estimated amount not to exceed \$2,138,937, and a revised total Memorandum of Agreement not to exceed \$13,752,684. The effective date of this action will be May 1, 2003.	4/24/03
M2002-41	Authorized the Executive Director to execute the Fourth Supplement to the Memorandum of Agreement (MOA) with the City of Seattle (City) reimbursing the City for project related services in support of the Central Link Light Rail project within the City of Seattle. These services shall be provided by the City in the areas of public works, public safety, and business and community assistance and program management, for a total estimated amount not to exceed \$2,935,977 (which includes the amount of \$332,842 remaining from the First Supplement budgeted for contingency purposes under this Agreement) for the period from April 2002 through December 2002.	4/11/02
M2001-41	Authorized the Executive Director to execute a Third Supplement to the Memorandum of Agreement (MOA) with the City of Seattle reimbursing the City for project related expenses for the Central Link Light Rail project within City of Seattle jurisdiction. These expenses are to be associated with public works, public safety, and program management and business and community assistance services for a total estimated amount not to exceed \$1,590,792.	5/10/01
M99-33	Authorized the Executive Director to execute a First Supplement to the April 20, 1998 Memorandum of Agreement between the City of Seattle and Sound Transit; and providing for reimbursement to City Departments for certain design and design review costs in connection with the Link Light Rail project during calendar years 1999 and 2000, for an estimated amount of \$4,919,821.	7/8/99
M98-15	Authorized the Executive Director to enter into a Memorandum of Agreement with the City of Seattle.	3/12/98

CONSEQUENCES OF DELAY

Funds within the Fourth Supplement amendment are expected to be substantially expended by the end of August 2003. Delay in authorization of the Fifth Supplement and the companion Construction Services Agreement beyond September 2003 could prevent the timely authorization necessary to continue supporting City project-related services once construction on the project begins and would affect Sound Transit's ability to maintain the project schedule.

REGIONAL PARTNERSHIP AND COOPERATION

This agreement reflects the collaborative partnership between Sound Transit and the City in support of the construction of the Initial Segment. The intent of this agreement is to closely coordinate efforts and provide appropriate project management direction to help ensure that project milestones are met in a cost-effective manner. The Seattle City Council is expected to vote on this agreement in early October 2003.

PUBLIC INVOLVEMENT

Not applicable to this agreement.

LEGAL REVIEW

MB 8/20/03

SOUND TRANSIT

MOTION NO. M2003-89

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the Chief Executive Officer to execute the Fifth Supplement to the Memorandum of Agreement with the City of Seattle in the amount of \$1,224,204 with a 10% contingency of \$122,420 for a total estimated amount of \$1,346,624, and a revised total of the Memorandum of Agreement not to exceed \$15,099,309. The effective date of this action is September 1, 2003.

Background:

On April 20, 1998, Sound Transit and the City of Seattle entered into a Memorandum of Agreement (MOA) for Intergovernmental Cooperation in the amount of \$2,500,000, authorized by the Sound Transit Board on March 12, 1998.

The First Supplement to the MOA for Intergovernmental Cooperation, adopted by the Sound Transit Board on July 8, 1999, covered project-related services performed by the City of Seattle during 1999 and 2000. Unexpended resources from the agreement continued to fund project-related City activities through April 2001. The First Supplement included reimbursement to various City of Seattle departments for services including design review, design development support, utility coordination, implementation coordination, mitigation identification, analysis, and developmental support in an estimated amount not to exceed \$4,919,821.

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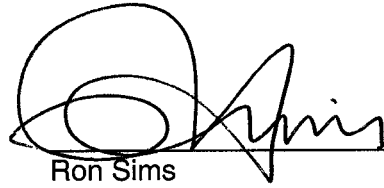
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Now that the FFGA is anticipated to be executed in the fall, this Fifth Supplement and the companion Construction Services Agreement are being brought before the Board for consideration so that when construction begins, the City services and support necessary for Link construction are authorized.

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 the Fifth Supplement to the Memorandum of Agreement with the City of Seattle in the amount of \$1,224,204 with a 10% contingency of \$122,420 for a total estimated amount of \$1,346,624, and a revised total Memorandum of Agreement not to exceed \$15,099,309. The effective date of this action is September 1, 2003.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on September 25, 2003.



Ron Sims
Board Chair

ATTEST:



Marcia Walker
Board Administrator