

**SOUND TRANSIT  
STAFF REPORT**

**MOTION NO. M2004-40**

**Contract Amendment with Stacy and Witbeck, Inc.  
for Reservation to Freighthouse Square**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Finance Committee	04/15/04	Discussion/Possible Action	Martin Minkoff, Director, Sounder Commuter Rail <b>Barb Gilliland, Deputy Director, Sounder Commuter Rail</b>	(206) 398-5111  (206) 398-5051

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

✓ *Applicable to proposed transaction.*

**OBJECTIVE OF ACTION**

Amend and extend the construction contract with Stacy and Witbeck, Inc. to repair the retained earth fill embankment located on the Sounder Commuter Rail Reservation Junction to Freighthouse Square track segment.

**ACTION**

Authorize the Chief Executive Officer to execute a contract amendment with Stacy and Witbeck, Inc., to fund Phase I repairs to stabilize the earth fill embankment structure and Lock & Load wall system at the Reservation Junction to Freighthouse Square commuter rail track project in the amount of \$780,000, with a contingency of \$87,680, for a new total authorized amount not to exceed \$9,857,000, and to extend the term of the contract to September 30, 2004.

**KEY FEATURES**

- Defines the first phase of work necessary to increase soil and embankment stability which includes installation of piles along the toe of the existing embankment walls.
- The current schedule provided by Stacy and Witbeck for completing this phase of work is June 2004. This schedule assumes necessary street closures occur and there are no construction delays from unforeseen site conditions.
- Extends the contract to September 30, 2004 to allow sufficient time to perform and evaluate the remediation work.
- Goal is to reinstate service as early as possible in June 2004, contingent upon construction phasing and testing of Centralized Train Control service.

## **BUDGET IMPACT SUMMARY**

**Project Description:** Reservation Junction to Freighthouse Square track segment, within the Seattle to Auburn and Auburn to Tacoma Track & Facilities projects (project numbers 110 and 120)

**Current Status:** In construction

**Projected Completion Date:** 2006

<b>Action Outside of Adopted Budget:</b>	<b>Y/N</b>	<b>Y Requires Comment</b>
This Line of Business	N	
This Project	N	
This Phase	N	
This Task	Y	Requested action is outside of the adopted budget for Reservation to Freighthouse Square. The construction phase contains adequate uncommitted budget to fund this action, pending resolution of issues related to reimbursement for remediation work.
Budget amendment required	N	
<b>Key Financial Indicators:</b>	<b>Y/N</b>	<b>Y Requires Comment</b>
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 budget for Reservation to Freighthouse Square is contained within two projects; the Seattle to Auburn and Auburn to Tacoma Track and Facilities projects. The amount included in the project budgets for the Reservation Junction to Freighthouse Square track segment work is \$14.3 million, which includes the \$5.6 million credit from BNSF. The requested contract change is outside the Adopted budget for this task, but the construction phase contains adequate uncommitted budget to fund this action.

Of the \$14.3 million budgeted for Reservation to Freighthouse Square, \$13.9 million has been committed so far. The values of the proposed actions are \$364,000 for HNTB and \$780,000 for the Stacy & Witbeck, for a total requested change of \$1,144,000 for the two contract amendments. These two actions, together with prior commitments, would result in a shortfall of \$837,000 in the Reservation to Freighthouse Square line item of the construction budget. The construction phase contains uncommitted budget that would be available to fund the shortfall, including savings from safety medians in the amount of \$158,000 and \$1,055,000 from the miscellaneous construction line item.

## **REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS**

The proposed action is outside the scope of work included in the current Board-adopted budget, but is affordable within Sound Transit's current long-term financial plan and the subarea financial capacity.

**BUDGET TABLE**

Action Item: Amend Construction Contracts with Stacy & Witbeck and HNTB for Sounder Commuter Rail Reservation Junction to Freighthouse Square track segment, (within projects 110 and 120)

(dollars in thousands)

	2004 Board Adopted Budget <sup>(1)</sup> (A)	Committed To Date <sup>(2)</sup> (B1)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
Agency Administration	22,076	\$ 21,174	\$ -	\$ 21,174	\$ 902
Preliminary Engineering	10,444	10,547	-	10,547	(103)
Final Design	8,835	8,950	-	8,950	(115)
Right of Way	24	40	-	40	(16)
<b>Construction</b>	<b>332,051</b>	<b>330,530</b>	<b>1,144</b>	<b>331,674</b>	<b>377</b>
Vehicles	93,717	87,899	-	87,899	5,818
Contingency	1,225	-	-	-	1,225
<b>Total Current Budget</b>	<b>468,372</b>	<b>\$ 459,140</b>	<b>\$ 1,144</b>	<b>\$ 460,284</b>	<b>\$ 8,088</b>

**Phase Budget Detail - Construction**

BNSF	315,468	315,468	-	315,468	-
Reservation to Freighthouse Square <sup>(3)</sup>	\$ 14,261	\$ 13,954	\$ 1,144	\$ 15,098	\$ (837)
Median Safety Barriers	\$ 800	\$ 642	\$ -	\$ 642	\$ 158
Misc.	1,522	467	-	467	1,055
<b>Total Phase</b>	<b>\$ 332,051</b>	<b>\$ 330,530</b>	<b>\$ 1,144</b>	<b>\$ 331,674</b>	<b>\$ 377</b>

Contract Budgets	Approved Contract Value (F)	Spent to Date (G)	Proposed Action (H)	Proposed Total Contract Value (I)
Stacy & Witbeck	\$ 7,387	\$ 7,387	\$ 692	\$ 8,079
ST Contingency	1,590	1,468	88	1,678
Subtotal	\$ 8,977	\$ 8,855	\$ 780	9,757
Schedule Incentives	100	100	-	100
<b>Total Stacy &amp; Witbeck</b>	<b>9,077</b>	<b>8,955</b>	<b>780</b>	<b>\$ 9,857</b>
Percent Contingency	22%		13%	21%

HNTB <sup>(4)</sup>	\$ 131	\$ 20	\$ 331	\$ 431
ST Contingency	-	-	33	33
<b>Total HNTB</b>	<b>\$ 131</b>	<b>\$ 20</b>	<b>\$ 364</b>	<b>\$ 464</b>
Percent Contingency	0%		10%	8%

<b>Total S&amp;W and HNTB Contracts</b>	<b>\$ 9,208</b>	<b>\$ 8,974</b>	<b>\$ 1,144</b>	<b>\$ 10,321</b>
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**Budget Shortfall**

<b>Level</b>	<b>Shortfall Amt (J)</b>	<b>Potential Funds (K)</b>	<b>Funding Source (L)</b>
<b>Reservation to Freighthouse Square</b>	\$ (837)	158	Safety median savings within Construction phase
		1,055	Miscellaneous construction line item
<b>Total</b>		<b>1,213</b>	

**Notes:**

- (1) The adopted budget amounts reflect two projects combined; Seattle to Auburn Track & Facilities project (#110) and Auburn to Tacoma Track & Facilities project (#120). These project budgets are shown on pages 63 and 64 of the Proposed 2004 budget book.
- (2) Committed to-date includes amounts spent and obligated through April 1, 2004 for projects 110 and 120.
- (3) Reservation to Freighthouse Square budget amount includes the \$5.6 million credit from BNSF.
- (4) In October 2003, the Chief Executive Officer authorized an emergency sole source contract with HNTB Corporation, which was subsequently ratified by action of the Board of Directors on April 8, 2004.

## **M/W/DBE – SMALL BUSINESS PARTICIPATION**

Stacy and Witbeck, Inc. is the prime contractor on this contract. Stacy and Witbeck, Inc. committed to 20.37% M/W/DBE and Small Business participation on the original contract. Stacy and Witbeck, Inc. has also agreed to continue to review M/W/DBE and Small Business opportunities throughout the life of the contract.

The contract to date has involved the work of 27 individual M/W/DBE and Small Business firms, totaling a 48.21% participation level.

### **EEO Commitment:**

The Stacy and Witbeck, Inc. team includes 30% women and 30% minorities. Approximately 48% of Stacy and Witbeck, Inc.'s employees are minorities, women, or persons with disabilities.

### **Apprentice Utilization Commitment:**

Stacy and Witbeck, Inc. has agreed to employ apprentices to perform 20% of the labor hours.

## **HISTORY OF PROJECT**

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

<b>Motion or Resolution Number</b>	<b>Summary of Action</b>	<b>Date of Action</b>
M2003-82	Executed a contract amendment with Stacy and Witbeck, Inc. to increase the contract contingency to fund additional work required to construct a tunnel to maintain business access, utility modifications, and relocations needed to complete the Reservation Junction to Freighthouse Square commuter rail track project.	08/14/03
M2003-48	Executed a contract with Stacy and Witbeck, Inc., to provide construction services for the Reservation Junction to Freighthouse Square track improvements.	05/08/03
M2002-40	Executed an amendment to the Commuter Rail Agreement between Sound Transit and the City of Tacoma for the upgrade, construction, and joint use of the rail facilities located on the City of Tacoma's rail right-of-way for purposes of providing Sounder Commuter Rail service to the Tacoma Dome Station.	04/25/02
M2000-122	Executed an agreement with the City of Tacoma for construction and operation of commuter rail facilities located in the Tacoma Rail right-of-way.	12/14/00

In May 2003, Sound Transit executed a contract with Stacy and Witbeck, Inc. to construct track improvements for the Reservation Junction to Freighthouse Square commuter a rail connection between the Burlington Northern Santa Fe (BNSF) Railway and the Tacoma Eastern Mountain Division (TR) Railway at Reservation Junction, a new railroad bridge over Portland Avenue, storage tracks, loading track at the permanent Tacoma Dome Sounder Station, and repair and upgrade of existing track and timber trestle.

As construction progressed, it was found that the closure of Bay Street would impair the ability of businesses in the area to accommodate heavy industrial traffic. In order to address this impact, the design of the retained earth fill embankment between Bay Street and Portland Avenue was modified to include a concrete box tunnel through the embankment. This also necessitated major changes to underground utilities, including providing for future maintenance of a large sanitary sewer. In order to address these construction modifications, the Board authorized an increase in the contingency amount of the construction contract with Stacy and Witbeck.

Stacy and Witbeck completed the construction of the Reservation Junction to Freighthouse Square Project on schedule and in time for the opening of Sounder's Tacoma Dome Station on September 15, 2003.

In October 2003, Sound Transit engaged HNTB Corporation for engineering services to provide an independent evaluation concerning the short and long-term structural integrity of the earth fill embankment and track bed of the Reservation Freighthouse project. As the result of HNTB's preliminary observations concerning soil settlement and wall deformation and cracking at the embankment site, Sound Transit relocated its commuter rail operations to the BNSF track and temporary loading facilities near the Amtrak station in Tacoma last January.

Sound Transit, the City of Tacoma, URS Construction Services, David Evans and Associates, HNTB, Associated Earth Sciences, and Shannon & Wilson concluded that piles should be installed as an additional safety measure to increase the stability of the embankment. This work is necessary to restore commuter rail service on this track segment. Repairs that are necessary but not critical to the resumption of service on the line will be completed after commuter rail service has been restored.

Because Stacy and Witbeck was the contractor for the Reservation Junction to Freighthouse Square project, it is the only contractor with specific technical knowledge of the constructability issues associated with the repair work, including the proprietary design method used to construct the embankment. The safety issues associated with the repair make Stacy and Witbeck the only practical alternative to perform the repair work within the time required to restore rail operations as soon as possible.

### **CONSEQUENCES OF DELAY**

Until construction of remedial measures at the Reservation Junction to Freighthouse Square project can be completed, Sounder commuters must continue to use a temporary boarding area that is inconveniently located away from the Tacoma Dome Station, and merchants at Freighthouse Square.

### **LEGAL REVIEW**

DB 04/07/04

## **SOUND TRANSIT**

### **MOTION NO. M2004-40**

A motion of the Finance Committee of the Central Puget Sound Regional Transit Authority authorizing the Chief Executive Officer to execute a sole-source contract amendment with Stacy and Witbeck, Inc. to fund repairs to stabilize the earthfill embankment structure and Lock & Load wall system at the Reservation Junction to Freighthouse Square commuter rail track project in the amount of \$780,000, with a contingency of \$87,680, for a new total authorized amount not to exceed \$9,857,000, and to extend the term of the contract to September 30, 2004.

#### **Background:**

In May 2003, Sound Transit executed a contract with Stacy and Witbeck, Inc. to provide construction services for the Reservation Junction to Freighthouse Square track improvements, which included a track connection between the Burlington Northern Santa Fe (BNSF) Railway and the Tacoma Eastern Mountain Division (TR) Railway at Reservation Junction, a new railroad bridge over Portland Avenue, storage tracks, loading track at the permanent Tacoma Dome Sounder Station, and repair and upgrade of existing track and timber trestle.

As construction progressed, it was found that the closure of Bay Street would impair the ability of businesses in the area to accommodate heavy industrial traffic. In order to address this impact, the design of the retained earth fill embankment between Bay Street and Portland Avenue was modified to include a concrete box tunnel through the embankment. This also necessitated major changes to underground utilities, including providing for future maintenance of a large sanitary sewer. In order to address these construction modifications, the Board authorized an increase in the contingency amount of the construction contract with Stacy and Witbeck.

Stacy and Witbeck completed the construction of the Reservation Junction to Freighthouse Square Project on schedule and in time for the opening of Sounder's Tacoma Dome Station on September 15, 2003.

In October 2003, Sound Transit engaged HNTB Corporation for engineering services to provide an independent evaluation concerning the short and long-term structural integrity of the earth fill embankment and track bed of the Reservation Freighthouse project. As the result of HNTB's preliminary observations concerning soil settlement and wall deformation and cracking at the embankment site, Sound Transit relocated its commuter rail operations to the BNSF track and temporary loading facilities near the Amtrak station in Tacoma last January.

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Because Stacy and Witbeck was the contractor for the Reservation Junction to Freighthouse Square project, it is the only contractor with specific technical knowledge of the constructability issues associated with the repair work, including the proprietary design method used to construct the embankment. The safety issues associated with the repair make Stacy and Witbeck the only practical alternative to perform the repair work within the time required to restore rail operations as soon as possible.

**Motion:**


It is hereby moved by the Finance Committee of the Central Puget Sound Regional Transit Authority that the Chief Executive Officer is authorized to execute a sole-source contract amendment with Stacy and Witbeck, Inc. to fund repairs to stabilize the earthfill embankment structure and Lock & Load wall system at the Reservation Junction to Freighthouse Square commuter rail track project in the amount of \$780,000, with a contingency of \$87,680, for a new total authorized amount not to exceed \$9,857,000, and to extend the term of the contract to September 30, 2004.

The amendment is approved solely to complete the repairs and restore commuter rail operations as soon as possible. Approval of this amendment shall not release or waive Sound Transit's right to recover from Stacy and Witbeck or others for negligence, breach of contract, or errors and omissions for past work related to the embankment wall, which claims are expressly reserved for later determination.

APPROVED by the Finance Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on April 15, 2004.

  
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Kevin Phelps  
Finance Committee Chair

ATTEST:

  
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Marcia Walker  
Board Administrator



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**Motion:**

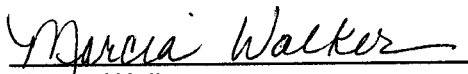
It is hereby moved by the Finance Committee of the Central Puget Sound Regional Transit Authority that the Chief Executive Officer is authorized to execute a sole-source contract amendment with Stacy and Witbeck, Inc. to fund repairs to stabilize the earthfill embankment structure and Lock & Load wall system at the Reservation Junction to Freighthouse Square commuter rail track project in the amount of \$780,000, with a contingency of \$87,680, for a new total authorized amount not to exceed \$9,857,000, and to extend the term of the contract to September 30, 2004.

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APPROVED by the Finance Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on April 15, 2004.

  
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Kevin Phelps  
Finance Committee Chair

ATTEST:

  
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Marcia Walker  
Board Administrator

Ratified by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on January 13, 2005.