

**SOUND TRANSIT
STAFF REPORT**

MOTION NO. M2006-74

Contingency Increase for C735 Construction Contract

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	10/19/06	Discussion/Possible Action to Recommend Board Approval Action	Ahmad Fazel, Link Director	(206) 398-5389
Board	10/26/06		Joe Gildner, Deputy Director for Technical Services	(206) 689-3350

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

Central Link Light Rail Initial Segment

PROPOSED ACTION

Authorizes the Chief Executive Officer to increase the contingency for the contract with RCI/ Herzog, Joint Venture for the Rainier Valley light rail construction by \$7,500,000, for a new total authorized contract amount not to exceed \$154,449,260.

KEY FEATURES of PROPOSED ACTION

- This contract includes the reconstruction of Martin Luther King Jr. Way South (MLK Way South) in connection with the construction of an at-grade light rail guideway, three light rail stations, and special trackwork, including crossovers and a turnback track.
- Current remaining contract contingency on this contract is \$185,946 out of an authorized \$18,646,349; the project is 50% complete.
- The proposed action will increase the contract contingency to address remaining potential changes associated with the completion of the Rainier Valley construction project.
- The proposed action will replenish the current contract contingency that has been drawn down to pay the costs associated with remediation of greater than expected quantities of hazardous and contaminated material, construction of betterments, and provisional payments towards the potential settlement of a claim submitted by RCI/Herzog and other contingency draws:
 - The extra hazardous and material remediation costs incurred exceeds \$7.9 million.

- The not to exceed dollar amount of the contract includes \$15,690,798 of betterment work that is being reimbursed by third parties. Therefore, Sound Transit's share of the proposed contract authorization is up to \$138,758,462 out of the \$154,449,260.
- Storm, sewer, joint utility trench, wall, and waterline work have also required draws on the contingency.

BUDGET IMPACT SUMMARY

Current Project Phase: Construction
Projected Completion Date: 2009

Action Outside of Adopted Budget:	✓	Comments on Checked Items
This Project		
This Phase		
This Task	✓	Proposed action requires transfer of funds from unallocated contingency
Budget Amendment Required		

Key Financial Indicators:	✓	Comments on Checked Items
Contingency Funds Required		
Funding required from other parties (other than what is in financial plan)		

Not checked = action is assumed in current Board-adopted budget. No budget action or adjustment to financial plan required.

BUDGET and FINANCIAL PLAN DISCUSSION

The proposed action would authorize increasing the contingency for the contract with RCI/Herzog, Joint Venture for construction of C735 (Rainier Valley Construction) by \$7,500,000, for a new total authorized contract amount not to exceed \$154,449,260.

The adopted budget for the Central Link Light Rail Initial Segment is \$2.07 billion. Within that amount, \$133,250,000 has been set aside in the construction phase for Sound Transit's share of C735 Rainier Valley construction. The proposed action would increase the commitments for C735 to \$139,158,350, and result in a budget shortfall of \$5,908,350 for this line item, which would be funded from unallocated contingency within the construction phase. Should the proposed action be approved, the construction phase unallocated contingency would have a remaining balance of \$40,334,397.

The current authorized contract with RCI/Herzog includes scope for betterment work, which is being reimbursed to Sound Transit by third parties in the amount of \$15,690,798 (\$14,123,336 authorized by Motion No. M2004-03 + \$1,567,462 for Seattle Housing Authority (SHA) betterments authorized by Motion No. M2006-70). Therefore, Sound Transit's share of the proposed contract authorization is up to \$138,758,462 out of the \$154,449,260.

The proposed action is consistent with the current adopted budget, and the Proposed 2007 Budget, and is affordable within the agency's long-term financial plan and subarea financial capacity. The action will have no new revenue impact on Sound Transit.

BUDGET TABLE

Action Item: RCI/Herzog (Increase contingency for the Rainier Valley (C735) construction contract)

(Year of Expenditure \$000)

Initial Segment		Adopted 2006 Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1	Agency Administration	216,780	118,503		118,503	98,277
2	Preliminary Engineering	34,000	33,307		33,307	693
3	Final Design	145,523	144,991		144,991	533
4	Right of Way	223,516	197,545		197,545	25,971
5	Construction	1,170,439	1,058,061	7,500	1,065,561	104,878
6	Construction Services	86,875	88,472		88,472	(1,597)
7	Third Party Agreements	59,560	58,731		58,731	829
8	Vehicles	133,307	131,799		131,799	1,508
9	Total Current Budget	2,070,000	1,831,408	7,500	1,838,908	231,092
Construction Phase Detail						
10	C735 MLK Jr. Way (Rainier Valley)	133,250	131,658	7,500	139,158	(5,908)
11	Other construction contracts	989,464	924,921	-	924,921	64,544
12	Construction unallocated contingency	47,725	1,482	-	1,482	46,243
13	Total Phase	1,170,439	1,058,061	7,500	1,065,561	104,878
Contract Amount						
		Board Approvals to Date (F)	Current Approved Contract Value (G)	Proposed Action (H)	Proposed Total for Board Approval (I)	Proposed Contract Value (J)
14	Contract Amount	112,612	131,073	-	112,612	131,073
15	Contingency	18,646	186	7,500	26,146	7,686
16	Total Sound Transit Share	131,258	131,258	7,500	138,758	138,758
17	Percent Contingency	17%	0%	0%	23%	6%
18	Betterments	15,691	15,691	-	15,691	15,691
19	Total Contract	146,949	146,949	7,500	154,449	154,449
Budget Shortfall						
	Task Level	\$ (K)	Potential Resources (L)	Source (M)		
20	C735 MLK, Jr. Way	5,908	46,243	Unallocated contingency in the construction phase		

(B) COMMITTED TO DATE amounts are from Agency BOE Report as of August 2006 + approved and pending board actions not recorded as of 8/31/06, or submitted after that date.

(G) CURRENT APPROVED CONTRACT VALUE includes approved and pending change orders totalling \$3,444,221 submitted after 8/31/06.

M/W/DBE – SMALL BUSINESS PARTICIPATION

For this project, Sound Transit established contract participation goals of 20% Small Business and 12% M/W/DBE. RCI/Herzog committed to participation goals of 35% Small Business and 20% M/W/DBE.

To date, contract participation goals attainment is 50.9% Small Business and 28.8% M/W/DBE. RCI/Herzog is projected to meet or exceed its committed 35% and 20% participation goals.

EEO Commitment

RCI/Herzog committed to adhere to the established workforce EEO Goals of 21% People of Color and 12% Women. To date, the total workforce is 25.1% People of Color and 9.2% Women.

Apprentice Utilization Commitment

RCI/Herzog committed to a 20% apprentice utilization goal. As a result of a variety of factors outside RCI/Herzog's control, it has been able to attain 8.1% apprentice participation to date. 53.97% of the apprentices are People of Color and 16.29% are Women.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

This project includes construction of the at-grade light rail transit guideway in the median of the widened MLK Way right of way from South Walden Street to South Norfolk Street. Stations are located at Edmunds Street (Columbia City Station), Othello Street (Othello Station), and Henderson Street (Rainier Beach Station). A turnback track is located just south of the Rainier Beach Station.

The construction scope includes construction of a new MLK Way roadway including curb, gutter, and sidewalks; pedestrian crossings; and signalized intersections. Most wet utilities are being replaced including sewer, storm drainage, and water supply. Overhead utilities will be placed underground per an agreement between the City of Seattle and Sound Transit.

The C735 Rainier Valley construction was originally scheduled to be completed by April 9, 2007. The latest schedule update from the contractor indicates a completion date of November 2007.

Construction under this contract is approximately 50% complete. The remediation work for hazardous and contaminated materials has been greater than anticipated. To date, costs associated with these conditions have drawn down more than half of the original contract contingency. The extra hazardous and material remediation costs incurred exceed \$7.9 million of which \$3.25 million was funded through the added contingency approved by Motion No. M2005-28.

In addition to the hazardous and contaminated material costs, other commodities (storm, sewer, joint utility trench, wall, and waterline work) have also required draws on the contingency. The hazardous and contaminated material costs coupled with the draws on the other commodities and one provisional payment on the claim has nearly depleted the contract contingency. The contingency committed to date, including one provisional payment on the claim, is \$18.3M (total contingency is \$18.6M). With this request, the contingency available for the remaining 50% of construction will be \$7.7M (approximately 9% of the remaining work).

In order to complete this segment in a timely and efficient manner, additional contingency is required to deal with potential changes that may still arise. These potential change issues include any necessary modifications to the remaining work.

Prior Board/Committee Actions on this Project

Motion/Resolution Number and Date	Summary of Action
R2006-70 10/05/06	Authorized the Chief Executive Officer to execute an agreement with the Seattle Housing Authority to pay Sound Transit for the betterments of Seattle Housing Authority facilities as part of the light rail construction along Martin Luther King, Jr. Way South, estimated at \$2,212,317.
R2005-08 3/10/05	Transferred uncommitted lifetime capital budget in the amount of \$4 million from the Right of Way Phase to the Construction Phase of the Link Light Rail Initial Segment adopted budget, maintaining the total adopted project capital budget of \$2.07 billion.
M2005-28 3/10/05	Executed a contract amendment with RCI Herzog, Joint Venture in the amount of \$3,250,000 for the Link Light Rail Initial Segment construction in Rainier Valley, for a new total authorized contract amount not to exceed \$146,949,260, which includes reimbursements to Sound Transit by third parties for betterments in the amount of \$14,123,336.
M2004-03 2/12/04	Authorized the Chief Executive Officer to execute a contract with RCI-Herzog, A Joint Venture for the Rainier Valley light rail construction in the amount of \$128,302,911 with a 12% contingency in the amount of \$15,396,349 for a total authorized contact amount not to exceed \$143,699,260.

CONSEQUENCES of DELAY

A delay beyond October 2006 in approval of this action could cause delays and inefficiencies in completion of in the C735 Rainier Valley Construction contract.

PUBLIC INVOLVEMENT

Not applicable to this action.

ENVIRONMENTAL COMPLIANCE

JI 10/2/06

LEGAL REVIEW

JN 10/13/06

SOUND TRANSIT

MOTION NO. M2006-74

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the Chief Executive Officer to increase the contingency for the contract with RCI/Herzog, Joint Venture for the Rainier Valley light rail construction by \$7,500,000, for a new total authorized contract amount not to exceed \$154,449,260.

Background:

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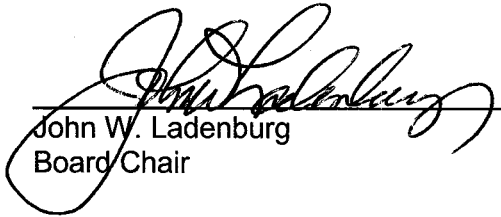
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Motion:

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the Chief Executive Officer is authorized to increase the contingency for the contract with RCI/Herzog, Joint Venture for the Rainier Valley light rail construction by \$7,500,000, for a new total authorized contract amount not to exceed \$154,449,260.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on October 26, 2006.


John W. Ladenburg
Board Chair

ATTEST:



Marcia Walker
Board Administrator