

**SOUND TRANSIT  
STAFF REPORT**

**RESOLUTION NO. R2007-09**

**Amending the Adopted 2007 Budget  
for the Ash Way Transit Access Project**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Finance Committee	7/5/07	Discussion/Possible Action to Recommend Board Approval	Jim Edwards, Acting Director, Capital Projects	(206) 398-5436
Board	7/12/07	Action	<b>Christine Engler, Construction Manager, Capital Projects</b>	(206) 398-5056

<b>Contract/Agreement Type:</b>	✓	<b>Requested Action:</b>	✓
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**

Ash Way Transit Access/164<sup>th</sup> SW

**PROPOSED ACTION**

Amends the Adopted 2007 Budget for the Ash Way Transit Access/164<sup>th</sup> SW project from \$18,427,941 to \$18,993,363 to reflect a budget transfer from the Regional Express Snohomish County Program Reserve in the amount of \$565,422.

**KEY FEATURES of PROPOSED ACTION**

- This action resolves the estimated funding shortfall for the construction phase for the Ash Way Transit Access/164<sup>th</sup> SW project.
- This action revises the Adopted 2007 Budget for the project to reflect the allocation of a budget increase funded by a transfer from the Regional Express Snohomish County Reserves to the project.

**BUDGET IMPACT SUMMARY**

Current Project Phase: In Service  
 Projected Completion Date: In Service

<b>Action Outside of Adopted Budget:</b>	<b>✓</b>	<b>Comments on Checked Items</b>
This Project		
This Phase		
This Task		
Budget Amendment Required	✓	\$565K will be transferred to the project from the Snohomish County program reserve to cover the budget shortfall.
<b>Key Financial Indicators:</b>	<b>✓</b>	<b>Comments on Checked Items</b>
Contingency Funds Required	✓	Project contingency funds in the amount of \$1.7M will be used to cover phase level shortfalls.
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**

This action would amend the Adopted 2007 Budget for the project from \$18,427,941 to \$18,993,363 which reflects the total estimated cost of this project. The increased budget reflects a budget transfer from the Regional Express Snohomish Program Reserve in the amount of \$565,422. The transfer and the use of the project contingency in the amount of \$1,730,410 will be sufficient to cover the remaining payments to WSDOT to close out the contract. Revised phase level budgets are being made consistent with the project budget increase. The transfer from the program reserve and the revised phase level budgets are illustrated in the table below. This action would result in a new Snohomish County Program Reserve balance of \$3,759,408, there is no change to the total Snohomish County subarea program budget.

There are sufficient funds to complete this action. Committing these funds will not endanger any other project elements that are to be funded out of the overall project.

## **BUDGET TABLE**

### **Summary for Board Action**

#### **LIFETIME BUDGET**

Ash Way Transit Access (105)	2007 Board Adopted Lifetime Budget	Budget Adjustment	Amended Board Adopted Lifetime Budget
Agency Administration	\$ 1,010,315	\$ 77,221	\$ 1,087,537
Preliminary Engineering	\$ 1,143,605	\$ -	\$ 1,143,605
Final Design	\$ 1,639,403	\$ (1)	\$ 1,639,403
Right of Way	\$ -	\$ -	\$ -
Construction	\$ 12,904,207	\$ 2,218,611	\$ 15,122,819
Contingency	\$ 1,730,410	\$ (1,730,410)	\$ -
Total Current Budget	\$ 18,427,941	\$ 565,422	\$ 18,993,363

Snohomish County Reserve			
Snohomish County Reserve	\$ 4,324,830	\$ (565,422)	\$ 3,759,408

**Net Change to Snohomish County Program Budget**      **\$ -**

#### **Notes:**

The Ash Way Transit Access project budget is located on page 135 of the Adopted 2007 Budget book and the Snohomish Country Program Reserve is located on page 170. The Adopted 2007 Budget was approved by the Board on December 14, 2006.

## **SMALL BUSINESS PARTICIPATION**

Not applicable to this action.

## **PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION**

The Ash Way Transit Access/164<sup>th</sup> SW project provides transit-only direct access ramps at 164<sup>th</sup> Street SW and I-5 in Snohomish County. The ramps connect the Ash Way Park-and-Ride lot to the HOV lanes on I-5 for Community Transit and Sound Transit Express buses to service points south, including Lynnwood and Seattle. The direct access ramps are in service. This project also includes mitigation within the city limits of Kenmore for the loss of 0.41 acres of wetlands within the Swamp Creek basin. Construction of the mitigation is underway.

This action is needed in order to amend Sound Transit's construction task order agreement with the Washington State Department of Transportation (WSDOT) for WSDOT's actual costs to construct the project and to close out WSDOT's construction contracts with Tri-State Construction, Inc. and Mowat Construction Company.

The Board authorized construction of the Ash Way Transit Access project in January 2003, and Tri-State Construction, Inc. was awarded the construction contract. As construction progressed into the winter of 2004, WSDOT noted a large number of over-height vehicles failing to detour around the project, as construction to place bridge girders over I-5 would have required.

This construction safety issue was brought to the Board in March 2004, as was a joint Sound Transit/WSDOT recommendation to delete the bridge work from Tri-States' contract, and to re-design and re-bid the bridge work in a separate contract. In December 2004, the Board was again briefed on the status of the overall project. WSDOT had advertised the follow-on bridge contract, opened bids, and was poised to award the follow-on contract to Mowat Construction Company. Staff estimated that the bridge contract could be awarded to Mowat and administered by WSDOT within the original Board authority for the project.

At that time, Tri-States' contract was not closed out. Staff informed the Board that from Tri-State's viewpoint, not all potential cost issues had been resolved and that the magnitude of the cost attached to these issues was not known. Staff committed to returning to the Board should additional payment to Tri-State be justified, whether supplemental funding authority was required or not. Consistent with this commitment, Sound Transit has not reimbursed WSDOT for construction task order invoices for this project since July 2005.

However, throughout the last two years, WSDOT, with input from and participation by Sound Transit, has been involved in a contractual dispute resolution process with Tri-State. This process has resulted in a determination of merit on a number of issues related to the impacts of schedule delays and deletion of work, and to bid item under-runs and over-runs. The additional costs of WSDOT's payments to Tri-State and the additional costs for WSDOT to administer the contract and the closeout process will require that Sound Transit's task order with WSDOT be supplemented by \$2.212 million.

Supplementing the agreement by this amount will require the transfer of the entire unallocated project contingency in the amount of \$1.730 million to the construction phase of the project, with a resulting shortfall of \$565,422 in the construction phase and in the project.

**Prior Board/Committee Actions on this Project**

Motion/Resolution Number and Date	Summary of Action
M2003-05 1/23/03	Authorized execution of a task order with the Washington State Department of Transportation in accordance with the Board approved "Umbrella Agreement," GCA-3361, to provide construction and construction management for the I-5 at 164th Ash Way Direct Access Project in the amount of \$11,987,733 plus a 5% contingency of \$599,387 for a total authorized amount not to exceed \$12,587,120.
M2002-72 6/13/02	Authorized the execution of an Umbrella Agreement with WSDOT for construction administration of Sound Transit projects to be constructed on WSDOT right-of-ways.

**CONSEQUENCES of DELAY**

Staff committed to returning to the Board should additional payment to Tri-State be justified, whether supplemental funding authority was required or not. Consistent with this commitment, Sound Transit has not reimbursed WSDOT for construction task order invoices for this project since July 2005. However, WSDOT has been incurring legitimate costs and making payments for the work of the task order without reimbursement from Sound Transit since that time. Per the terms of the construction task order agreement with WSDOT, Sound Transit agreed to pay all actual and valid costs incurred by WSDOT in its administration of the task order. If Sound

Transit does not reimburse WSDOT for the costs as described in this staff report, Sound Transit will be violating the terms of its agreement with WSDOT.

**PUBLIC INVOLVEMENT**

Not applicable to this action.

**ENVIRONMENTAL COMPLIANCE**

Not applicable to this action.

**LEGAL REVIEW**

BN 6/28/07

## **SOUND TRANSIT**

### **RESOLUTION NO. R2007-09**

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority amending the 2007 Adopted Budget for the Ash Way Transit Access/164<sup>th</sup> SW project from \$18,427,941 to \$18,993,363 to reflect a budget transfer from the Regional Express Snohomish County Program Reserve in the amount of \$565,422.

WHEREAS, a Regional Transit Authority, hereinafter referred to as Sound Transit, has been created for the Pierce, King, and Snohomish County region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, on November 5, 1996, at a general election held within the Central Puget Sound Regional Transit Authority district, the voters approved local funding for high capacity transit in the Central Puget Sound Region; and

WHEREAS, by Resolution No. R2006-24, the Sound Transit Board adopted the 2007 budget on December 14, 2006; and

WHEREAS, on January 23, 2003, through Motion No. M2003-05, the Sound Transit Board authorized a task order with the Washington State Department of Transportation in accordance with the Board approved "Umbrella Agreement," GCA-3361, to provide construction and construction management services for the I-5 at 164th Ash Way Direct Access Project.

WHEREAS, the need has arisen to amend Sound Transit's construction task order agreement with the Washington State Department of Transportation (WSDOT) for WSDOT's actual costs to construct the project and to close out WSDOT's construction contracts with Tri-State Construction, Inc. and Mowat Construction Company.

WHEREAS, there is insufficient budget to fund the additional costs of WSDOT's payments to Tri-State and the additional costs for WSDOT to administer the contract and the closeout process; and

WHEREAS, said budget amendment is consistent with and affordable under Board-adopted financial policies as established by Resolution No. R72-1; and

WHEREAS, a two-thirds affirmative vote of the entire membership of the Sound Transit Board is required to amend the Adopted 2007 Budget.

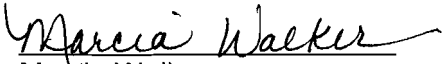
NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority that:

Section 1. The Adopted 2007 Budget is hereby amended for the Ash Way Transit Access/164<sup>th</sup> SW project to include a transfer of \$565,422 from the Regional Express Snohomish County Program Reserve for a new project budget of \$18,993,363. The amended budget shall serve as a planning document and is not an authorization of expenses.

ADOPTED by a 2/3 majority of the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on July 12, 2007.

  
John W. Ladenburg  
Board Chair

ATTEST:

  
Marcia Walker  
Board Administrator