



Motion No. M2023-55

Amending the Construction Funding Agreement with the Washington State Department of Transportation for the Design-Build Delivery of the I-405 Stride Bus Rapid Transit Brickyard to SR 527 Improvement Project

Meeting:	Date:	Type of action:	Staff contact:
System Expansion Committee	07/13/2023	Recommend to Board	Brooke Belman, Deputy CEO, Chief Expansion Delivery Officer
Board	07/27/2023	Final action	Ron Lewis, DECM Executive Director Bernard van de Kamp, Program Executive, Bus Rapid Transit Paul Cornish, Strategic Projects Director – Bus Rapid Transit

Proposed action

(1) Authorizes the chief executive officer to amend the existing Funding Agreement with Washington State Department of Transportation for the Design-Build Delivery of the I-405 BRT Brickyard to SR 527 Improvement Project in the amount of \$70,570,000 with a 6% Sound Transit controlled Contingency of \$4,230,000, totaling \$74,800,000 for a new total authorized agreement amount not to exceed \$215,992,000 and (2) approves present-value Land Bank credits as reimbursement from WSDOT to Sound Transit for fish passage correction in a new estimated amount of \$42 million included in the amount authorized.

Key features summary

- Sound Transit has an existing funding agreement (authorized under Motion No. M2022-32) with Washington State Department of Transportation (WSDOT) in an amount not to exceed \$141,192,000 (including a 6 percent contingency) to build four BRT stations and related facilities in conjunction with WSDOT's I-405 Brickyard to SR 527 Improvement Project which creates an express toll lane system along I-405.
- On June 22, 2023, WSDOT opened the project design-build construction price proposals and identified the apparent best value proposal.
- WSDOT has experienced construction price increases of 20-30% recently. For this procurement, the apparent best value proposal price exceeded initial estimates by 59%.
- Per the existing funding agreement, WSDOT is responsible for 80% of design and construction costs and Sound Transit is responsible for 20%. As a result of the procurement, Sound Transit's portion increased by approximately \$75 million.
- The proposed action reflects the apparent best value design build contract proposal amount as well as certain additional project costs reflected in the funding agreement. Additional project costs include items such as the WSDOT managed contingency and any oversight costs to accommodate a longer construction schedule.
- Costs for Juanita Creek fish passage correction within the project costs are expected to increase by \$17 million and this action requests that increase to the amount authorized by the Board in Motion No. M2022-32 for fish passage correction to be reimbursed from WSDOT to Sound Transit with present-value Land Bank credits.

Background

The I-405 BRT project will establish a BRT system from the Lynnwood Transit Center to the Burien Transit Center via I-5, I-405, and SR 518. The project consists of several elements, including new and upgraded transit centers, new park-and-ride capacity, freeway BRT stations, and non-motorized access improvements to the stations. Sound Transit components that are within WSDOT's Brickyard to SR 527 Improvement Project are part of the I-405 BRT north line (S2). The I-405 BRT will connect to the regional transit system at three Link light rail stations and the SR 522/NE 145th BRT line.

The WSDOT I-405/Brickyard to SR 527 Improvement Project is located in the Cities of Kirkland and Bothell along I-405. The WSDOT project proposes to extend the existing dual express toll lanes from south of I-405/SR 522 to north of I-405/SR 527. To take advantage of the speed and reliability benefits of the express toll lane extension, three I-405 BRT stations will be located in the center of I-405 as in-line stations at Brickyard, SR522 Transit Hub and Canyon Park. These three stations were initially proposed to be located on existing on- and off-ramps.

Key transit-related project elements include the three in-line transit platform pairs and pull outs for the I-405 BRT project, one terminus station for the SR 522/145th BRT project, non-motorized access and pedestrian bridges, a passenger pick-up and drop-off, new platforms for connecting service, and direct access ramps to the express toll lane at the I-405/SR 522 and I-405/527 interchanges that will also accommodate the BRT stations at these locations. Sound Transit partnered with WSDOT to deliver the Brickyard to SR 527 Improvement Project.

Working closely with the Sound Transit BRT team, the City of Kirkland, City of Bothell, the University of Washington Bothell, Cascadia College, Community Transit, and King County Metro, WSDOT completed conceptual design and draft Request for Proposal (RFP) documents for the project; two previous task orders with Sound Transit funded these tasks for the Brickyard Station. WSDOT will procure, award, and oversee design and construction and administer the WSDOT design-build contract for the project.

Motion No. M2022-32 authorized Sound Transit to enter into the existing Construction Agreement for Design -Build Project Delivery of the WSDOT project including three I-405 BRT Inline Stations and one SR 522/523 station that was finalized and executed on June 28, 2022. Pursuant to that agreement, Sound Transit will pay 20% of the total project design-build construction costs. The Motion also approved Sound Transit receipt of present-value land bank credits in the amount of the Sound Transit expenditure for WSDOT fish passage correction at Juanita Creek. The fish passage costs included in the Design Build contract are now anticipated to increase. This Action would authorize receipt of present-value land bank credits to reimburse from WSDOT to Sound Transit for fish passage correction at Juanita Creek, within the total amount authorized.

Sound Transit has partnered with WSDOT to develop the RFP to solicit qualified firms to submit proposals. Both proposers requested additional time to complete the project due to the discovery during the procurement process of more complex geotechnical conditions that will need to be addressed by the project. Both WSDOT and Sound Transit have agreed to a longer schedule as a result of the discovery. Sound Transit will have full access to all design and construction management documents and may attend meetings and activities related to the transit-related elements of the project.

The construction cost estimate to support the construction agreement for the Brickyard to SR 527 project was completed in the Fall of 2021, and the total project construction estimate was \$525M. When the apparent best value price proposal was opened on June 22, 2023, the total contract cost proposal was \$834 million, with Sound Transit's portion of the contract costs increasing to \$167 million and additional project costs increasing to approximately \$37 million.

In response to the apparent best value significantly exceeding the estimate, Sound Transit and WSDOT staff collaborated to consider options. One path was to consider rebidding the project. This option was rejected because it would cause significant delay and would offer no cost certainty given the current construction market. Another option considered was to revert to the ST2 Representative Project that

would place the Stride BRT stations on the outside of I-405 on general purpose on and off ramps. This option was rejected because it would have a severe and permanent negative effect on BRT travel times, operational reliability, and access. It would also cause significant delays because a new environmental review, revised design, and approvals would be required. Staff therefore recommends proceeding with this motion.

Project status

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Project Identification	Alternatives Identification	Conceptual Engineering/ Draft EIS	Preliminary Engineering/ Final EIS	Final Design	Construction

Conceptual Engineering/Environmental Review and Preliminary Engineering is complete.

Design-Build Contractor Procurement: 2Q 2022 to 2Q 2023. Design-Build contract award: July 2023

Project scope, schedule, and budget summary is located on page 151 of the May 2023 Agency Progress Report.

Fiscal information

This action is within the authorized project allocation to date and sufficient funds remain after approval of this action to fund the remaining work in the construction phase as contained in the current cost estimate of this project. The current cost estimate for the I-405 Bus Rapid Transit project, \$1.3B in 2023\$, and 2027 delivery date will be modified in the anticipated July baseline action. This action occurs prior to the baseline action and does not currently impact the affordability of the Agency’s Financial Plan.

However, as described earlier, the apparent best value proposal price exceeded initial estimates by 59%. Baselining at or moving forward with costs that exceed the project’s current Financial Plan estimate will have a negative impact to affordability, which will be described in the baseline action. In general, a trend of higher costs than currently assumed in the Financial Plan could impair overall program timelines.

The authorized project allocation for the I-405 Bus Rapid Transit project before the project baseline action is \$866,381,877. Within the construction phase, \$217,000,000 has been allocated to the WSDOT - SR527-Brickyard line item. This action would commit an additional \$74,800,000 to this line item for Design-Build Delivery of the I-405/SR527-Brickyard segment and leave a remaining budget balance of \$1,008,000.

I-405 Bus Rapid Transit Project
(in thousands)

Project Phase	Authorized Project Allocation	Board Approvals*	This Action	Board Approved Plus Action	Uncommitted / (Shortfall)
Administration	\$24,214	\$19,271		\$19,271	\$4,943
Preliminary Engineering	43,458	44,395		44,395	(937)
Final Design	21,365	11,925		11,925	9,440
Third Party Agreements	4,647	1,608		1,608	3,039
Right of Way	47,103	32,278		32,278	14,825
Construction	664,779	566,257	74,800	641,057	23,722
Construction Services	2,816	1,789		1,789	1,027
Vehicles	58,000	0			58,000
Total Current Budget	\$866,382	\$677,522	\$74,800	\$752,322	\$114,060

Phase Detail - Construction					
WSDOT - SR527-Brickyard	\$217,000	\$141,192	\$74,800	\$215,992	\$1,008
Other Construction	447,779	425,065	0	425,065	22,714
Total Phase	\$664,779	\$566,257	\$74,800	\$641,057	\$23,722

WSDOT Task Order Details	Board Approvals to Date	Proposed Action	Proposed Total for Board Approval	Current Approved Contract Status
Agreement Amount	\$133,200	\$70,570	\$203,770	\$133,200
Agreement Contingency	7,992	4,230	12,222	7,992
Total Agreement	\$141,192	\$74,800	\$215,992	\$141,192
Percent Contingency	6%	6%	6%	6%

Notes:

Amounts are expressed in Year of Expenditure \$000s.
 * Board Approvals = Commitment and PO Contingency Remaining as of 6/14/2023.
 For detailed project information, see page 145 of the 2023 Financial Plan & Adopted Budget Book.

Disadvantaged and small business participation

Sound Transit promotes and encourages small business participation, which also includes disadvantaged business enterprises (DBEs).

WSDOT has established goals for this project as follows: 5% small business enterprise, 3% veteran owned business, 6% women owned business, and 10% minority business enterprise.

Public involvement

Sound Transit and WSDOT will continue to jointly lead community outreach. The effort will continue to engage the City of Kirkland, City of Bothell, the University of Washington Bothell, Cascadia College, Community Transit, King County Metro, WSDOT, host neighborhood briefings within the City of Kirkland, the City of Bothell, the community at large and property owners. This effort will include but is not limited to open houses, workshops, customer surveys, City Councils, Planning and Transportation Commission briefings and ongoing education as needed to support the project outreach efforts.

Time constraints

A one-month delay in Board approval may have a significant impact on the project cost and schedule by delaying WSDOT's awarding the contract to the Design Build team, as well as the opening of the SR 522 BRT S3 Line. The milestone for the contractor to handover the SR 522/I-405 Transit Hub to Sound Transit is stated in a number of days from the Notice to Proceed date. The Transit Hub serves as the terminus, layover, and battery electric bus charging facility for SR 522 S3 Line. This facility is on the critical path to open S3 for service.

Prior Board/Committee actions

Motion No. M2022-32: (1) Authorized the chief executive officer to execute a construction agreement with the Washington State Department of Transportation to share costs for the design-build delivery of WSDOT's Brickyard to SR 527 Improvement Project as part of the Bus Rapid Transit Program in the amount of \$133,200,000 with a 6 percent contingency of \$7,992,000 for a total authorized agreement amount not to exceed \$141,192,000; and (2) approved present-value Land Bank credits as reimbursement for fish passage correction in an estimated amount of \$25 million included in the amount authorized.

Motion No. M2021-64: Authorized the chief executive officer to proceed with the project development, design, and environmental work approved in Motion No. M2019-88 and Motion No. M2021-51, and accept present value Land Bank Credits as reimbursement for fish passage betterments at the Brickyard Park and Ride Station and the Tukwila International Boulevard Inline station, and (2) delegating authority to the System Expansion Committee to approve present-value Land Bank Credits as reimbursement for fish passage betterments required by the Permanent Injunction Related to Culvert Correction.

Resolution No. R2021-08: Selected the route, and station locations for the I-405 Bus Rapid Transit Project.

Motion No. M2019-88: Authorized the chief executive officer to execute a task order with Washington State Department of Transportation to provide professional services for project development and environmental review of the I-405/Brickyard In-line BRT station, in the amount of \$6,804,027 with a 10 percent contingency of \$680,403 for a total authorized amount not to exceed \$7,484,430, contingency upon Board approval of Resolution No. R2019-22.

Environmental review – KH 6/5/23

Legal review – JSA 7/11/23



Motion No. M2023-55

A motion of the Board of the Central Puget Sound Regional Transit Authority (1) authorizing the chief executive officer to amend the existing Funding Agreement with Washington State Department of Transportation for the Design-Build Delivery of the I-405 BRT Brickyard to SR 527 Improvement Project in the amount of \$70,570,000 with a 6% Sound Transit controlled Contingency of \$4,230,000, totaling \$74,800,000 for a new total authorized agreement amount not to exceed \$215,992,000 and (2) approving present-value Land Bank credits as reimbursement from WSDOT to Sound Transit for fish passage correction in a new estimated amount of \$42 million included in the amount authorized.

Background

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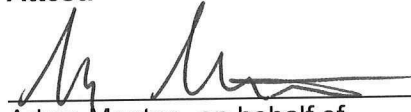
Motion

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that (1) the chief executive officer is authorized to amend the existing Funding Agreement with Washington State Department of Transportation for the Design-Build Delivery of the I-405 BRT Brickyard to SR 527 Improvement Project in the amount of \$70,570,000 with a 6% Sound Transit controlled Contingency of \$4,230,000, totaling \$74,800,000 for a new total authorized agreement amount not to exceed \$215,992,000 and (2) present-value Land Bank credits are approved as reimbursement from WSDOT to Sound Transit for fish passage correction in a new estimated amount of \$42 million included in the amount authorized.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on July 27, 2023.


Dow Constantine
Board Chair

Attest:


Adam Montee, on behalf of
Kathryn Flores
Board Administrator