

**SOUND TRANSIT  
STAFF REPORT**

**MOTION NO. M2004-05**

**Comcast Cost Sharing Agreement for Martin Luther King Jr. Way S. Undergrounding**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Finance Committee	1/22/04	Discussion/Possible Action	<b>Joe Gildner, Link Deputy Director for Technical Services</b> Ahmad Fazel, Director, Link Light Rail	(206) 689-3350  (206) 398-5389

<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 Required	
Purchase/Sale Agreement		Budget Amendment Required	

*3Applicable to proposed transaction.*

**OBJECTIVE OF ACTION**

Establish payment obligations and schedule performance requirements for Comcast, Inc. (Comcast) related to the construction of Comcast facilities along Martin Luther King Jr. Way South (MLK Way) in connection with the Rainier Valley light rail construction.

**ACTION**

Authorizes the Chief Executive Officer to execute an agreement with Comcast, Inc. to pay Sound Transit for the relocation of Comcast's facilities as part of the light rail construction along Martin Luther King Jr. Way South, consistent with the Letter of Concurrence dated July 15, 2003, and establishing construction schedule performance requirements.

**KEY FEATURES**

- Comcast's payment obligation of \$1,750,000 under this agreement is stated in 2003 dollars and will be adjusted to the time of reimbursement in accordance with construction inflation indices maintained by Sound Transit. It is estimated that payments by Comcast under this agreement will total approximately \$1,804,629 in year of expenditure dollars (YOES).
- This utilities relocation reimbursement agreement between Sound Transit and Comcast reflects (a) assumptions established in a letter of concurrence between Sound Transit and Comcast dated July 15, 2003; (b) provisions of Motion No. M2003-90, defining the scope, schedule, and budget for the undergrounding of overhead utilities along MLK Way and establishing cost sharing responsibilities for Comcast; and (c) payment obligations by Comcast (referenced in Motion No. M2004-03 that is pending Board action) in connection with the Rainier Valley light rail construction contract (Contract C735).

- Under this agreement, Sound Transit will provide the physical infrastructure (i.e., ductbank) to house the Comcast lines underground. Comcast will provide the labor, equipment, and materials for the relocation of its wires and cables.
- The cost sharing arrangement reflects Comcast's responsibility for all costs for relocation of its facilities, including any upgrades (i.e., betterments) made to its facilities. Comcast payment obligations include final design, construction management, and construction costs.
- Comcast has reviewed and accepted the construction schedule parameters established in the agreement. The agreement defines schedule performance requirements for Comcast construction crews and establishes Comcast's obligation to reimburse Sound Transit for any delay costs incurred by Sound Transit as a result of Comcast's failure to meet the established performance criteria.
- This agreement secures the third party betterment reimbursement referenced in Motion No. M2004-03 (pending Board action) awarding construction Contract C735 for light rail construction in the MLK corridor to RCI-Herzog, A Joint Venture.

## **BUDGET IMPACT SUMMARY**

**Project Description:** Central Link Initial Segment

**Current Status:** Design / Construction

**Projected Completion Date:** 2009

<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	N	
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	Y	Proposed action is for payment from a private utility (Comcast)

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

## **BUDGET DISCUSSION**

The proposed action would authorize execution of an agreement that provides for Comcast to pay Sound Transit an estimated amount of \$1,804,629 (YOES) for design, construction management, and construction costs incurred by Sound Transit in connection with upgrades to Comcast facilities. This amount assumes a payment schedule through August 2005. Depending on Comcast's actual payments, the total amount paid to Sound Transit may differ slightly.

The funding obligation established under this agreement is in line with budget parameters defined in Motion No. M2003-90 for the undergrounding of utilities along MLK Way, and

Comcast's funding participation for the Rainier Valley light rail construction contract outlined in Motion No. M2004-03, which is pending Board action.

**SUMMARY TABLE:**

<b>MLK Undergrounding</b>	<b>Approved Board Motion M2003-90</b>	<b>Proposed Contracts Under Review</b>	<b>Proposed Action</b>	<b>Proposed Total Contract Value</b>	<b>Revised TOTAL</b>
<b>Contract Amount:</b>					
Comcast Payment			\$1,804,629	\$1,804,629	\$1,804,629
<b>Contracts Under Review:</b>					
Qwest		\$292,371			\$292,371
<b>MLK Undergrounding Budget (including payment by others):</b>					
Sound Transit	\$13,479,000				\$13,479,000
<b>Payments by others:</b>					
City of Seattle	\$15,679,000				\$15,679,000
Private Utilities:	\$2,097,000				
Comcast					\$1,804,629
Qwest					\$292,371
Total payment by others	\$17,776,000	\$0	\$0	\$0	\$17,776,000
<b>Total MLK Undergrounding</b>	<b>\$31,255,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$31,255,000</b>

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

Costs related to the work paid for by Comcast will not be charged to the Link Initial Segment project and will be tracked separately.

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

Not applicable to this action.

**HISTORY OF PROJECT**

On November 29, 2001, the Sound Transit Board adopted Resolution No. R2001-16 selecting the Initial Segment for Link Light Rail to be constructed and operated by 2009. The resolution stated that the project scope includes the potential for relocation of overhead utilities along MLK Way to underground ductbanks. The Sound Transit Board identified a budget of \$13,500,000 (YOES) for this purpose and committed to pursue additional funding sources to supplement this budget and fund the total cost of undergrounding utilities along MLK Way.

On April 25, 2002, the Sound Transit Board adopted Motion No. M2002-57, which authorized the Executive Director to negotiate an agreement with the City of Seattle to identify Sound Transit and City of Seattle funding responsibilities for the undergrounding of certain utilities, determine design and construction parameters in this area, and complete the design of the light rail construction to include the undergrounding of utilities. Additionally, Sound Transit recognized City of Seattle Resolution 30459, adopted on April 22, 2002, as an expression of sincere intent to enter into such an agreement with Sound Transit to share funding responsibilities for undergrounding utilities along MLK Way for up to \$19,800,000 (2002 \$).

On September 12, 2002, the Sound Transit Board adopted Motion No. M2002-97, which authorized the Executive Director to execute a contract amendment with CH2M Hill to incorporate underground utilities into the final design of MLK Way in the amount of \$1,220,000

plus a 3.3% contingency of \$40,000, for a total of \$1,260,000, and a new total authorized contract amount not to exceed \$9,457,572.

Qwest and Comcast have agreed to participate in the undergrounding of utilities project. Final design for undergrounding as part of the scope of the Rainier Valley light rail construction (Contract C735) was completed in June 2003. During final design, staff worked with the City of Seattle, Qwest, and Comcast to determine the scope and cost estimate for undergrounding. Staff has reached agreements in principle with both Qwest and Comcast for their share of the cost to underground their utilities. Qwest, a joint pole owner, is responsible for the cost of an overhead-to-overhead relocation and betterment of their overhead existing plant. Comcast, who does not have joint ownership of the poles, is responsible for all costs associated with the undergrounding of their existing overhead plant, including its share of the costs of an underground infrastructure and its costs for relocating its facilities underground.

On September 25, 2003, the Sound Transit Board approved Motion No. M2003-90 that authorized the Chief Executive Officer to enter into a Memorandum of Agreement with the City of Seattle to construct the City's underground facilities along MLK Way.

On December 15, 2003, Sound Transit staff completed evaluations on the C735 Contract and determined RCI-Herzog, A Joint Venture, to be the top ranked proposer. Award of the C735 Contract is pending Board approval.

**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>
M2003-90	Executing a Memorandum of Agreement with the City of Seattle specifying the cost, terms and conditions for undergrounding utilities in the Rainier Valley along Martin Luther King Jr. Way South in an amount not to exceed \$15,576,000, which includes \$2,097,000 in reimbursements from private utilities.	9/25/03
M2002-57	Negotiating an agreement with the City of Seattle to define terms and conditions for City of Seattle payments for undergrounding utilities on Martin Luther King Jr. Way S (Approximately South McClellan to South Beacon Street) in conjunction with the Link light rail project, and to complete the final design with undergrounding of utilities included.	4/25/02
R2001-16	Selecting the initial segment of the Central Link Light Rail Project to be constructed and operated by 2009..... <u>Section 6.</u> The light rail project scope shall include the potential for relocating and placing the utilities along Martin Luther King, Jr. Way South underground.	11/29/01

**CONSEQUENCES OF DELAY**

Construction of the underground private property services is part of the planned authorized work of the light rail construction in the Rainier Valley (C735 Contract) and scheduled to commence in early 2004. Without approval of the agreement between Sound Transit and Comcast considered under this proposed action, the construction work by Comcast associated with the C735 Contract would not be authorized, resulting in potential delays for Sound Transit's light rail construction along MLK Way.

**PUBLIC INVOLVEMENT**

Not applicable to this action.

**LEGAL REVIEW**

BN 1-12-04

## **SOUND TRANSIT**

### **MOTION NO. M2004-05**

A motion of the Finance Committee of the Central Puget Sound Regional Transit Authority authorizing the Chief Executive Officer to execute an agreement with Comcast, Inc. to pay Sound Transit for the relocation of Comcast's facilities as part of the light rail construction along Martin Luther King Jr. Way South, consistent with the Letter of Concurrence dated July 15, 2003, and establishing construction schedule performance requirements.

#### **Background:**

On November 29, 2001, the Sound Transit Board adopted Resolution No. R2001-16 selecting the Initial Segment for Link Light Rail to be constructed and operated by 2009. The resolution stated that the project scope includes the potential for relocation of overhead utilities along MLK Way to underground ductbanks. The Sound Transit Board identified a budget of \$13,500,000 (YOES) for this purpose and committed to pursue additional funding sources to supplement this budget and fund the total cost of undergrounding utilities along MLK Way.

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On September 12, 2002, the Sound Transit Board adopted Motion No. M2002-97, which authorized the Executive Director to execute a contract amendment with CH2M Hill to incorporate underground utilities into the final design of MLK Way in the amount of \$1,220,000 plus a 3.3% contingency of \$40,000, for a total of \$1,260,000, and a new total authorized contract amount not to exceed \$9,457,572.

Qwest and Comcast have agreed to participate in the undergrounding of utilities project. Final design for undergrounding as part of the scope of the Rainier Valley light rail construction (Contract C735) was completed in June 2003. During final design, staff worked with the City of Seattle, Qwest, and Comcast to determine the scope and cost estimate for undergrounding. Staff has reached agreements in principle with both Qwest and Comcast for their share of the cost to underground their utilities. Qwest, a joint pole owner, is responsible for the cost of an overhead-to-overhead relocation and betterment of their overhead existing plant. Comcast, who does not have joint ownership of the poles, is responsible for all costs associated with the undergrounding of their existing overhead plant, including its share of the costs of an underground infrastructure and its costs for relocating its facilities underground.

On September 25, 2003, the Sound Transit Board approved Motion No. M2003-90 that authorized the Chief Executive Officer to enter into a Memorandum of Agreement with the City of Seattle to construct the City's underground facilities along MLK Way.

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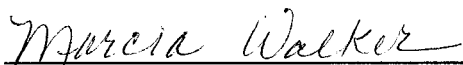
**Motion:**

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 an agreement with Comcast Inc. to pay Sound Transit for the relocation of Comcast's facilities as part of the light rail construction along Martin Luther King Jr. Way South, consistent with the Letter of Concurrence dated July 15, 2003, and establishing construction schedule performance requirements.

APPROVED by the Finance Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on January 22, 2004.

  
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Kevin Phelps  
Finance Committee Chair

ATTEST:

  
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Marcia Walker  
Board Administrator