

**SOUND TRANSIT  
STAFF REPORT**

**MOTION NO. M2007-68**

**Amend GCA 3361 Task Order A-2 with WSDOT for  
Construction of the Ash Way Transit Access Project**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
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

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**

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

**PROPOSED ACTION**

Authorizes the chief executive officer to execute an amendment to the GCA 3361 task order agreement with the Washington State Department of Transportation to provide construction and construction management services for the Ash Way Transit Access/164<sup>th</sup> SW project in the amount of \$2,211,985, with no contingency, for a new total authorized agreement amount not to exceed \$14,799,105.

**KEY FEATURES of PROPOSED ACTION**

- The amendment of the Sound Transit task order agreement with the Washington State Department of Transportation (WSDOT) is necessary to reimburse WSDOT's actual costs to construct the Ash Way Transit Access project and to close out WSDOT's construction contracts with Tri-State Construction, Inc., and Mowat Construction Company.
- The Ash Way Transit Access project was placed into service in September 2005 and provides direct access for transit to and from the HOV lanes on I-5 and the bus loop at the Ash Way Park-and-Ride, north of 164<sup>th</sup> Street SW in Snohomish County.
- 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 \$2,211,985. This amount also includes the closeout costs of the Mowat contract.

## **BUDGET IMPACT SUMMARY**

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

There is no action outside of the Board-adopted budget; there are no contingency funds required, no subarea impacts, or funding required from other parties other than what is already assumed in the financial plan.

## **BUDGET and FINANCIAL PLAN DISCUSSION**

The 2007 Board-adopted budget for this project is \$18,875,050, with a Board-adopted construction phase budget of \$15,122,819. The proposed action would leave a remaining construction phase budget of \$ 0.00 and a remaining uncommitted balance for the project budget of \$ 0.00.

There are sufficient funds to complete this action within the project's construction phase budget. 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 (Year of Expenditure \$000)

Project: 105 - Ash Way Transit Access/164th SW

	2007 Adopted Budget <sup>1</sup> (A)	Committed To Date <sup>2</sup> (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	\$ 1,088	\$ 1,088	\$ -	\$ 1,088	\$ -
2 Preliminary Engineering	\$ 1,144	\$ 1,144	\$ -	\$ 1,144	\$ -
3 Final Design	\$ 1,639	\$ 1,639	\$ -	\$ 1,639	\$ -
4 Right of Way	\$ -	\$ -	\$ -	\$ -	\$ -
5 Construction	\$ 15,123	\$ 12,911	\$ 2,212	\$ 15,123	\$ -
6 Contingency	\$ -	\$ -	\$ -	\$ -	\$ -
7 Total Current Budget	\$ 18,993	\$ 16,781	\$ 2,212	\$ 18,993	\$ -

Phase Budget Detail

8 Construction	\$ 15,123	\$ 12,911	\$ 2,212	\$ 15,123	\$ -
9 Misc. Activity	\$ -	\$ -	\$ -	\$ -	\$ -
10 Total Phase	\$ 15,123	\$ 12,911	\$ 2,212	\$ 15,123	\$ -

Contract Budget	Current Approved Contract Value (F)	Spent to Date (G)	Proposed Action (H)	Proposed Total Contract Value (I)
11 GCA 3361 Task Order	\$ 11,988	\$ 11,253	\$ 2,212	\$ 14,200
12 Contingency	\$ 599	\$ 599	\$ -	\$ 599
13 Total	\$ 12,587	\$ 11,852	\$ 2,212	\$ 14,799
14 Percent Contingency	5%		0%	4%

**Notes:**

<sup>1</sup> Project budget is located on page 135 of the Adopted 2007 Budget book. The Adopted 2007 Budget was approved by the Board on December 14, 2006 and amended by Resolution R2007-09 which is being taken concurrently with this action.

<sup>2</sup> Committed to date amount includes actual outlays and commitments through June 13 2007.

## **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.

The amendment of the Sound Transit task order agreement with the Washington State Department of Transportation (WSDOT) is necessary to allow reimbursement of 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 through a task order issued under the WSDOT construction umbrella agreement (GCA 3361), and Tri-State Construction, Inc. was awarded the construction contract by WSDOT. 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. This amount also includes costs of closing out the Mowat construction contract.

## Prior Board/Committee Actions on this Project

Motion/Resolution Number and Date	Summary of Action
M2003-05 Jan 23, 2003	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 Jun 13, 2002	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**

SK 6/26/07

### **LEGAL REVIEW**

BN 6/25/07

## SOUND TRANSIT

### MOTION NO. M2007-68

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute an amendment to the GCA 3361 task order agreement with the Washington State Department of Transportation to provide construction and construction management services for the Ash Way Transit Access/164<sup>th</sup> SW project in the amount of \$2,211,985, with no contingency, for a new total authorized agreement amount not to exceed \$14,799,105.

#### **Background:**

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.

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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 execute an amendment to the GCA 3361 task order agreement with the Washington State Department of Transportation to provide construction and construction management services for the Ash Way Transit Access/164<sup>th</sup> SW project in the amount of \$2,211,985, with no contingency, for a new total authorized agreement amount not to exceed \$14,799,105.

APPROVED by 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