

MOTION NO. M2014-23

**Reciprocal Agreement for the Mutual Waiver of Indirect Costs with Washington State Department of Transportation**

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:
Capital Committee	04/10/14	Recommendation to Board	Ahmad Fazel, DECM Executive Director
Board	04/24/14	Final Action	<b>Eric Beckman, Deputy Executive Director, Construction and Business Services</b>

PROPOSED ACTION

Authorizes the chief executive officer to execute a reciprocal agreement for mutual waiver of indirect costs with the Washington State Department of Transportation on projects that the agencies perform for each other.

KEY FEATURES SUMMARY

- Authorizes the chief executive officer to execute a Reciprocal Agreement for Mutual Waiver of Indirect Costs with Washington State Department of Transportation (WSDOT), allowing both agencies to waive indirect and overhead charges when the agencies perform or oversee work on the other agency's behalf.
- The previous Reciprocal Agreement for Overhead Charges (OH 00190) was executed in 1998 and ended in 2011 due to a State Attorney General Office opinion that required WSDOT to charge its indirect costs when performing work for public agencies.
- In 2013, RCW 47.28.260 was enacted by the Legislature and allows WSDOT to enter into reciprocal agreements with other public agencies to mutually waive their indirect costs on projects or work that agencies perform for each other.
- Sound Transit frequently enters into agreements and task orders with WSDOT for the design, construction, maintenance activities, and other work or services that WSDOT performs for Sound Transit, and less frequently, Sound Transit performs similar work for WSDOT.
- The proposed agreement would reduce project costs and administrative costs associated with recordkeeping.

BACKGROUND

On June 26, 1998, Sound Transit executed a Reciprocating Agreement for Overhead Charges with WSDOT in which the two agencies waived the application of indirect and overhead charges for work that the agencies perform or oversee on the other agency's behalf. In April 2011, WSDOT notified Sound Transit that the agreement conflicts with state law and is no longer valid and that WSDOT would no longer enter into new agreements waiving the application of indirect and overhead charges beginning July 1, 2011.

In 2013, the state legislature passed SHB 1420 (codified as RCW 47.28.260) authorizing WSDOT and public agencies to mutually waive the application of indirect costs when one agency performs or oversees another agency's work. This change to state law provides a method for WSDOT and public agencies to satisfy the reimbursement obligations of state law by entering into reciprocal agreements to mutually waive indirect costs for work described in such agreements.

Sound Transit frequently enters into agreements and task orders with WSDOT for the design, construction, maintenance activities, and other work or services that WSDOT performs for Sound Transit. Sound Transit performs similar work for WSDOT, although less frequently. The arrangement has been beneficial in the past for projects such as South Everett Freeway Station and Eastgate Direct Access, and will provide benefit in the future for construction of Eastlink and Lynwood Link Extension. WSDOT currently applies an indirect cost rate of approximately 10 to 11 percent (adjusted annually) of the project cost. Agency efforts to recoup indirect costs currently require the development of recordkeeping and tracking mechanisms, imposing an administrative burden and resulting in inefficient use of tax dollars. By waiving indirect and overhead charges, the proposed action would reduce project costs and administrative costs associated with recordkeeping.

#### FISCAL INFORMATION

There are no direct savings or costs to any projects or services with this action. However, the mutual agreement to waive overhead and indirect costs when performing work on the other agency's behalf should allow more efficient tracking of costs and less administrative work to calculate cost sharing for indirect costs and overhead.

#### PUBLIC INVOLVEMENT

Not applicable to this action.

#### TIME CONSTRAINTS

A one to two-month delay would not cause significant delay to any project schedules.

#### ENVIRONMENTAL REVIEW

JI 3/24/2014

#### LEGAL REVIEW

BN 4/1/14



## **MOTION NO. M2014-23**

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute a reciprocal agreement for mutual waiver of indirect costs with the Washington State Department of Transportation on projects that the agencies perform for each other.

### **BACKGROUND:**

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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 a reciprocal agreement for mutual waiver of indirect costs with the Washington State Department of Transportation on projects that the agencies perform for each other.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on April 24, 2014.

  
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Dow Constantine  
Board Chair

ATTEST:

  
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Marcia Walker  
Board Administrator