



Motion No. M2021-24

Contingency Replenishment for Contributions and Betterments for Federal Way Link Extension Design-Build Construction Contract

Meeting:	Date:	Type of action:	Staff contact:
System Expansion Committee	04/08/2021	Recommend to Board	Ron Lewis, DECM Executive Director
Board	04/22/2021	Final action	Linneth Riley-Hall, Executive Project Director – Federal Way Link Extension

Proposed action

Authorizes the chief executive officer to increase the contract contingency for contributions and betterment work for the Federal Way Link Extension design-build contract with Kiewit Infrastructure West Company in the amount of \$19,777,519, for a new total authorized contract amount not to exceed \$1,533,497,519.

Key features summary

- This action would replenish the contingency for expenditures under the contract in the amount of change orders used for executed reimbursable agreements with third parties. Replenishing contract contingency would occur after all funds have been fully reimbursed from the executed agreements.
- The following reimbursable agreements and associated change orders are accounted for in this request:
 - Incorporated a change order at the Midway Landfill modifying the mainline trackway to an at-grade alignment passing along the perimeter of the retired landfill, versus an elevated guideway passing through the retired landfill. This change order included \$13,768,027 of contributions from by the City of Seattle and WSDOT under separate agreements with Sound Transit.
 - Amend the existing Construction Agreement with WSDOT for Improvements Related to the WSDOT SR 509 Completion Project. This reimbursable agreement will incorporate five WSDOT noise walls in the Federal Way Link Extension (FWLE) project by change order in the amount of \$4,895,000.
 - Temporary relocation of Highline Water District’s existing water mains which are in conflict with the proposed SR 99 Bridge for future SR 509 construction. This utility work is incorporated by change order to the FWLE and reimbursed to Sound Transit by Highline Water District in the amount of \$1,114,492.
- This action would increase the contract contingency for the design-build contract with Kiewit by \$19,777,519 for the above referenced agreements. These agreements are reimbursable, however the expenditures are paid for by the design-build contract contingency to compensate the Design Builder for performing the work. Since these amounts are being fully reimbursed, the requested

action comes at zero net cost to Sound Transit and directs the funds back to the source of expenditure.

Background

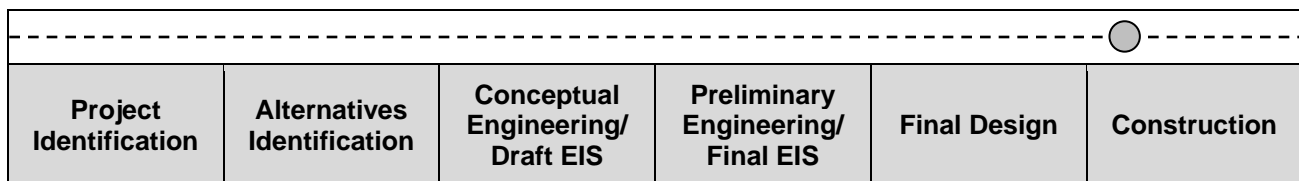
The Federal Way Link Extension adds approximately 7.8 miles of light rail from the Angle Lake light rail station at South 200th Street in the City of SeaTac to the Federal Way City Center area in Federal Way. The extension generally parallels State Route 99 and Interstate 5 and includes stations at Kent/Des Moines, South 272nd/Star Lake, and the Federal Way Transit Center. New parking structures will be constructed at each of the three stations. Revenue service is scheduled to begin in December 2024.

The FWLE Final Environmental Impact Statement was issued on November 18, 2016, pursuant to the State Environmental Policy Act (SEPA) and National Environmental Policy Act (NEPA) and completing the SEPA process. The Sound Transit Board selected the project route, profile, and stations on January 26, 2017. The Federal Transit Administration (FTA) issued a Record of Decision on March 6, 2017, and the Federal Highway Administration issued a Record of Decision on March 9, 2017, completing the NEPA process. In January 2021 Sound Transit and the FTA reviewed additional environmental information for the alternate layout at the Federal Way Transit Center and determined that no additional environmental review is required.

On September 27, 2018, the Sound Transit Board approved the project baseline schedule and budget in Resolution No. R2018-30. On June 7, 2019, Sound Transit executed a design-build contract with Kiewit for design and construction of the FWLE. This contract started with a limited Notice to Proceed (NTP) focusing on the start of the design work. On May 4, 2020, Sound Transit executed a NTP with some conditions, focusing on the start of construction.

The three agreements that provide for the amount to replenish the contract contingency are the SPU Midway Landfill Funding Agreement; WSDOT Midway Landfill Funding Agreement; WSDOT Construction Agreement for Improvements Related to Phase 1 of the WSDOT SR 509 Completion Project – Amendment 1; and Highline Water District SR99 Between S. 204th St. and S. 208th St.

Project status



Projected completion date for Design and Construction: 2024

Project scope, schedule and budget summary are located on page 89 of the January 2021 Link Light Rail Program Progress Report.

Procurement information

A Request for Qualifications (RFQ) was issued on April 12, 2018. On June 7, 2018, three Statements of Qualifications (SOQ) were received. On June 27, 2018, the evaluation panel determined that the three firms that submitted SOQ's were qualified and within the competitive range. On August 17, 2018, Sound Transit issued a draft Request for Proposal (RFP) to the three shortlisted proposers for their review. The final RFP was issued on September 14, 2018.

On March 20, 2019, Sound Transit received proposals from each of the three offerors. An evaluation panel was convened to review technical proposals. Scored criteria included outreach efforts and commitments to small businesses; technical approach to design and construction, organization and

management, and schedule and risk. Additional pass/fail criteria included financial capacity and capability to perform the work. The evaluation of these technical criteria was performed independent of any consideration of price, as the price proposals were not opened until technical evaluations were complete and technical scores were established for each offeror. Proposal prices were scored in accordance with the price scoring equation included in the RFP. Based on the technical evaluation and the price score equation, Kiewit Infrastructure West Co. was determined to be the highest-ranked responsive and responsible proposer.

Fiscal information

This action is within the baseline budget and sufficient funds remain after approval of this action to fund the remaining work in the construction phase as contained in the current cost estimates.

The baseline budget for the Federal Way Link Extension is \$2,451,535,000. Within the construction phase, \$1,496,513,000 has been allocated to the design build contract with Kiewit Infrastructure West Company. This action would increase the contract contingency by \$19,777,519 and this amount will be reimbursed by contribution and betterment agreements from third parties, resulting in no additional financial commitment to the project budget.

Since the costs will be reimbursed to Sound Transit, this action will not impact either the agency's long-term financial plan or subarea financial capacity. If the total cost to perform this work exceeds the estimated reimbursement amount, the agreement will be amended by a future action.

Federal Way Link Extension

(in thousands)

Project Phase	Baseline Budget	Board Approvals	This Action	Board Approved Plus Action	Uncommitted / (Shortfall)
Agency Administration	\$96,520	\$31,008	\$0	\$31,008	\$65,512
Preliminary Engineering	48,951	46,117		46,117	2,834
Final Design	3,085	1,155		1,155	1,930
Third Party	27,741	25,708		25,708	2,033
Right of Way	338,783	200,189		200,189	138,594
Construction	1,829,449	1,501,499	0	1,501,499	327,950
Construction Services	107,006	106,433		106,433	573
Vehicles					
Total Current Budget	\$2,451,535	\$1,912,109	\$0	\$1,912,109	\$539,426

Phase Detail - Construction

F200 DB Angle Lake - FWTC	\$1,496,513	\$1,474,719	\$0	\$1,474,719	\$21,794
ATC/Notice to Designers Allowance	100,000				100,000
Other Construction	232,936	26,780		26,780	206,156
Total Phase	\$1,829,449	\$1,501,499	\$0	\$1,501,499	\$327,950

Contract Detail

Kiewit Infrastructure West Company	Board Approvals to Date	Current Approved Contract Status	Proposed Action	Proposed Total for Board Approval
Contract Amount	\$1,291,206	\$1,291,206	\$0	\$1,291,206
Contingency - Design/Construction	122,514	122,514	6,009	128,523
Contingency - ATC/Notice to Designers	100,000	100,000	13,768	113,768
Total Contract	\$1,513,720	\$1,513,720	\$19,778	\$1,533,498
Percent Contingency	9%	9%	100%	19%
Less Betterments and Cost Contributions	39,001	39,001	19,778	58,779
Sound Transit Share	1,474,719	1,474,719	0	1,474,719

Notes:

Amounts are expressed in Year of Expenditure \$000s.

Board Approvals = Committed and PO Contingency Remaining as of 3/25/2021.

For detailed project information, see page 115 in the 2021 Finance Plan and Adopted Budget Book.

Disadvantaged and small business participation

Participation by small businesses and disadvantaged business enterprises (DBEs)

Sound Transit promotes and encourages small business participation, which also includes disadvantaged business enterprises (DBEs). Consistent with Sound Transit Policies and federal regulations, Sound Transit has established small business/DBE goals for this contract. These goals are based upon an examination of subcontracting opportunities contained in the work of this contract and the number of small businesses/DBEs available to perform such subcontracting work.

For this specific contract, the following Sound Transit goals were set and Kiewit committed to the listed DBE/Small Business participation on the contract.

Small business and disadvantaged business enterprise (DBE) goals (Design)		
	DBE	Small Business
Sound Transit goal	5%	15%
Kiewit commitment	12.03%	15.05%
Payment-to-date	7.38%	9.30%

Apprentice utilization commitment

Apprentice utilization	
Apprentice utilization goal: 20%	Commitment: 20%

Public involvement

Extensive public outreach efforts have taken place on behalf of the Federal Way Link Extension over the last several years. Concurrent with Sound Transit's outreach efforts regarding the FWLE alignment, WSDOT conducted similar efforts to educate the community on the SR 509 Completion Project.

Time constraints

A one-month delay would not create a significant impact to the project schedule.

Prior Board/Committee actions

Motion No. M2021-02: Authorized the chief executive officer to execute an amendment to a construction and funding agreement with the Washington State Department of Transportation (WSDOT) for Sound Transit to design and construct WSDOT noise walls as part of the Federal Way Link Extension, for which WSDOT will reimburse Sound Transit.

Motion No. M2020-54: Authorized the chief executive officer to increase the contract contingency for the Federal Way Link Extension design-build contract with Kiewit Infrastructure West Company in order to incorporate Alternative Technical Concepts and Notices to Designers through cost-effective measures that reduce construction risk, enhance operational safety, and/or improve passenger experience in the amount of \$100,000,000 for a new total authorized contract amount not to exceed \$1,513,720,000.

Motion No. M2019-49: Authorized the chief executive officer to execute a design-build contract with Kiewit Infrastructure West Co. to complete final design and construction of the Federal Way Link Extension in the amount of \$1,285,200,000 with a 10 percent contingency of \$128,520,000 for a total authorized contract amount not to exceed \$1,413,720,000.

Motion No. M2020-48: Authorized the chief executive officer to execute a funding agreement with Washington State Department of Transportation to pay Sound Transit for construction of certain elements of the SR 509 Completion Project work on Washington State Department of Transportation property at the Midway Landfill as part of the Federal Way Link Extension Project for a not to exceed amount of \$420,000.

Motion No. M2020-47: Authorized the chief executive officer to execute a funding agreement with the City of Seattle for the City to pay Sound Transit for removal of landfill material from WSDOT right of way at the Midway Landfill site as part of the Federal Way Link Extension in the amount of \$13,348,027.

Motion No. M2018-109: Authorized the chief executive officer to execute a construction and funding agreement with Washington State Department of Transportation for Sound Transit to design and construct certain elements related to the SR 509 project, as part of the Sound Transit Federal Way Link Extension design-build contract.

Resolution No. R2018-30: Adopted the Federal Way Link Extension baseline schedule and budget by (a) increasing the authorized project allocation to date by \$2,038,910,000 from \$412,625,000 to \$2,451,535,000 (b) lowering the 2018 annual budget by \$52,612,337 from \$116,533,002 to \$63,920,665; and (c) establishing a project revenue service date of December 31, 2024.

Environmental review – KH 3/29/21

Legal review – JSA 4/5/21



Motion No. M2021-24

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to increase the contract contingency for contributions and betterment work for the Federal Way Link Extension design-build contract with Kiewit Infrastructure West Company in the amount of \$19,777,519, for a new total authorized contract amount not to exceed \$1,533,497,519.

Background

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expenditures are paid for by the design-build contract contingency to compensate the Design Builder for performing the work. Since these amounts are being fully reimbursed, the requested action comes at zero net cost to Sound Transit and directs the funds back to the source of expenditure.

Motion

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to increase the contract contingency for contributions and betterment work for the Federal Way Link Extension design-build contract with Kiewit Infrastructure West Company in the amount of \$19,777,519, for a new total authorized contract amount not to exceed \$1,533,497,519.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on April 22, 2021.



Kent Keel
Board Chair

Attest:



Kathryn Flores
Board Administrator