



## Motion No. M2022-05

### Construction Agreement with the Washington State Department of Transportation for the Design-Build Delivery of the I-405/NE 85th Street In-line Freeway Station for the I-405 Bus Rapid Transit Project

Meeting:	Date:	Type of action:	Staff contact:
Board	01/27/2022	Final action	Ron Lewis, Executive Director, DECM <b>Bernard van de Kamp, Program Executive, DECM</b> <b>Paul Cornish, Strategic Projects Director - Bus Rapid Transit</b>

### Proposed action

1) Authorizes the chief executive officer to execute a construction agreement with the Washington State Department of Transportation for the design-build delivery of the I-405/NE 85th Street Interchange and In-line Freeway Station for the I-405 Bus Rapid Transit Project, in the amount of \$271,000,000 with a 6 percent contingency of \$16,260,000 for a total authorized agreement amount not to exceed \$287,260,000 and 2) approves present-value Land Bank credits as reimbursement for fish passage correction in an estimated amount of \$7.1 million included in the amount authorized, that may be paid to mitigation fund in lieu of reconstruction of fish passage at this interchange.

### Key features summary

- This action funds and authorizes execution of a construction agreement with Washington State Department of Transportation (WSDOT) to complete design-build construction of the in-line station and the NE 85th Street Interchange in the City of Kirkland. This is a component of the I-405 Bus Rapid Transit (BRT) project.
- Key project elements include an in-line transit platform pair and pull out, pedestrian and bike access, a passenger pick up and drop off, new stops for local transit service, and Express Toll Lane direct access ramps at the middle level of a new I-405 and NE 85th Street interchange.
- Sound Transit has partnered with WSDOT to develop the Request for Proposals (RFP) to solicit qualified firms to submit proposals.
- The construction agreement amount includes all design, construction, construction management, proposer stipends, and taxes associated with the project. WSDOT will manage this effort.
- Sound Transit must approve the design of and any change orders that impact transit-specific elements of the project. Sound Transit will review and comment on all other change orders that could increase the cost of the contract.
- WSDOT may issue individual change orders in amounts up to \$500,000 without Sound Transit approval for matters not related to transit elements. Sound Transit will be informed of such changes in advance. The aggregate value of WSDOT change orders issued without Sound Transit approval may not exceed \$9,000,000.

- The \$271 million WSDOT agreement amount includes \$9 million (approximately 4 percent of estimated project costs) that WSDOT may use for additional costs, including change orders that do not require Sound Transit approval. This action also authorizes an additional 6 percent of the estimated project costs (\$16 million) contingency that Sound Transit may use in the event the total project costs exceed the \$271 million estimated project costs.
- Sound Transit is not obligated to pay for third party or WSDOT added work unless Sound Transit concurs in advance.
- The project schedule allows sufficient time for Sound Transit to install station elements, such as shelters and passenger information systems before opening for transit service.
- This action requests approval to accept present value Land Bank credits as reimbursement to Sound Transit for any fish passage correction costs, consistent with Board Motion No. M2021-64.
- Because the project will yield highway benefits, it will result with a total of approximately \$260 million (including the \$7.1M for fish passage mitigation) in land bank credits to Sound Transit.

## Background

The Interstate 405 (I-405)/NE 85th Street Interchange and In-line Freeway Station is part of the overall I-405 BRT project identified in the voter-approved ST3 Plan. 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, freeway BRT stations, new park-and-ride capacity, and non-motorized access improvements to the stations. The NE 85<sup>th</sup> Interchange and BRT station is part of the I-405 BRT North line. The NE 85th Street Interchange and BRT stop have independent utility for existing Regional Express and local transit routes. The Interchange and BRT stop will be opened in 2026, before the I-405 BRT North line to serve these existing transit routes. The I-405 BRT connects to the regional transit system at three Link light rail stations and the SR 522/NE 145th BRT line.

The proposed I-405/NE 85th Street Interchange and In-line Station project is located within the City of Kirkland along I-405 between milepost 17.4 to 18.9. The project proposes to replace the existing two-level cloverleaf interchange at NE 85th Street with a three-level interchange and construct local improvements along NE 85th Street and its intersection with 114th Avenue Northeast/Kirkland Way. Key project elements include an in-line transit platform pair and pull out, pedestrian and bike access, a passenger pick up and drop off, new stops for local transit service, and direct Express Toll Lane access ramps at the middle level of the new I-405 and NE 85th Street interchange. Sound Transit is partnered with WSDOT to deliver the NE 85th Street Interchange.

Sound Transit issued a State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) for the I-405 BRT Project (which generally addressed the 85th area) on September 30, 2020. WSDOT issued a SEPA DNS for the I-405/NE 85<sup>th</sup> Street Interchange and in-line station project on August 31, 2020.

Working closely with the Sound Transit BRT team, the City of Kirkland and King County Metro, WSDOT has completed conceptual design and draft Request for Proposals documents through three previous task orders with Sound Transit. WSDOT will procure, award, and oversee design and construction and administer the WSDOT Design-Build contract for the interchange reconstruction.

This agreement sets out the roles and responsibilities of both WSDOT and Sound Transit for the delivery of this project. WSDOT will procure and administer the design build contract in accordance with all WSDOT standard processes and procedures. Sound Transit will be included in decision-making related to transit elements of the project and Sound Transit will pay all costs for the project, such as the

design build contract, WSDOT staff and consultant oversight, third party contracts such as utilities, permits, and local authority reviews.

Sound Transit will have full access to all design and construction management documents and may attend all meetings and activities related to the project. A WSDOT controlled contingency of 4 percent of the estimated total project costs (\$9 million) is included in the amount requested in this action. In administering the design build contract, WSDOT may issue individual change orders for amounts less than \$500,000 without Sound Transit approval, up to the maximum aggregate amount of this contingency.

Sound Transit will review and provide comments on all proposed contract change orders. Any change order in an amount of \$500,000 or greater would require Sound Transit approval. Sound Transit approval is also required for design and for any changes related to transit elements of the project. This action also authorizes an additional Sound Transit controlled contingency that could be used by Sound Transit after the WSDOT contingency is exhausted, if unexpected events increase the total cost of the project.

WSDOT and Sound Transit have agreed that Sound Transit is not obligated to pay for third party or WSDOT added work unless Sound Transit concurs in advance.

This project calls for fish barrier correction of at one fish passage area. In this agreement, WSDOT agrees to reimburse Sound Transit for costs related to fish passage correction, that may be in the form of payment to a mitigation fund in lieu of reconstruction at this site. WSDOT has agreed to grant an equal, present value credit to Sound Transit in the Reinstated Land Bank Agreement of 2003, consistent with Motion No. M2021-64. This action requests approval of this reimbursement.

**Project status**

<b>Project Identification</b>	<b>Alternatives Identification</b>	<b>Conceptual Engineering/ Draft EIS</b>	<b>Preliminary Engineering/ Final EIS</b>	<b>Final Design</b>	<b>Construction</b>
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Conceptual Engineering/Environmental Review and Preliminary Engineering is complete. Projected Contractor Procurement: 1Q 2022

Project scope, schedule, and budget summary is located on page 166 of the November 2021 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 estimates of this project.

The authorized project allocation to date for the I-405 Bus Rapid Transit project is \$703,930,255. Within that amount, \$579,240,000 has been allocated to the construction phase. This action would commit \$287,260,000 to this line item for Design-Build Delivery of the I-405/NE 85th Street In-line Freeway Station and leave remaining budget balance of \$156,987,681.

The current cost estimate for the I-405 Bus Rapid Transit project is \$1,039 million in 2019\$ and is affordable within the Agency’s Finance Plan. Staff is managing the project toward a 2027 delivery (2034 delivery for the parking), consistent with both Affordable and Target Schedules. This action is consistent

with the schedule and financial plan adopted by the Board in Resolution No. R2021-21 and does not impact the affordability of any other system expansion project.

The construction services phase shows a shortfall as a result of a task order commitment recorded in December 2021. However, the project remains in compliance with the budget policy as no spending has occurred on that commitment. The project team will realign phase budget allocation during the budget rebalance process in January 2022 consistent with the Board Budget Policy Resolution No. R2020-24 to cover this task order.

**I-405 Bus Rapid Transit Project**

(in thousands)

Project Phase	Authorized Project Allocation	Board Approvals*	This Action	Board Approved Plus Action	Uncommitted / (Shortfall)
Administration	\$15,046	\$10,135		\$10,135	\$4,911
Preliminary Engineering	53,726	43,323		43,323	10,403
Final Design	17,342	1,744		1,744	15,598
Third Party Agreements	1,690	906		906	784
Right of Way	36,833	28,273		28,273	8,560
Construction	579,240	134,992	287,260	422,252	156,988
Construction Services	53	412		412	(359)
<b>Total Current Budget</b>	<b>\$703,930</b>	<b>\$219,785</b>	<b>\$287,260</b>	<b>\$507,045</b>	<b>\$196,885</b>
<b>Phase Detail - Construction</b>					
Design Build - NE85th Interchange	\$287,260	\$	\$287,260	\$287,260	\$
Other Construction	291,980	134,992		\$134,992	156,988
<b>Total Phase</b>	<b>\$579,240</b>	<b>\$134,992</b>	<b>\$287,260</b>	<b>\$422,252</b>	<b>\$156,988</b>

WSDOT Task Order Details	Board Approvals to Date	Current Approved Contract Status	Proposed Action	Proposed Total for Board Approval
Agreement Amount	\$	\$	\$271,000	\$271,000
Contingency	0	0	16,260	16,260
<b>Total Agreement</b>	<b>\$</b>	<b>\$</b>	<b>\$287,260</b>	<b>\$287,260</b>
Percent Contingency	0%	0%	6%	6%

**Notes:**

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

\* Board Approvals = Commitment and PO Contingency Remaining as of 12/31/21.

For detailed project information, see page 148 of the 2022 Financial Plan & Proposed Budget.

**Disadvantaged and small business participation**

Sound Transit promotes and encourages small business participation, which also includes disadvantaged business enterprises (DBEs). WSDOT anticipates procuring a design-build contractor for the work under this agreement.

**Public involvement**

Sound Transit and WSDOT will continue to jointly lead community outreach. The effort will continue to engage the City of Kirkland, King County Metro, WSDOT, host neighborhood briefings within the City of Kirkland, the community at large and property owners. This effort will include but is not limited to open houses, workshops, customer surveys, City of Kirkland Council, 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 would require re-sequencing with other I-405 BRT Improvements and likely push delivery from 2026 into 2027.

## Prior Board/Committee actions

Motion No. M2021-64: Authorizing 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: Defined and selected the routing, roadway improvements, stations and associated infrastructure to be built between Lynwood City Center and Burien Transit Center, along portions of Interstate 5 (I-5), Interstate 405 (I-405), State Route (SR) 18, and selected local arterial street for the I405 Bus Rapid Transit.

Motion No M2018-167: Authorized the chief executive officer to execute a task order with the Washington State Department of Transportation to provide professional services for project development and environmental review of the I-405/NE 85th Street In-line Freeway Station for the I-405 Bus Rapid Transit Project, in the amount of \$13,627,765 with a 10% contingency of \$1,362,776, for a total authorized agreement amount not to exceed \$14,990,541.

Motion No M2018-33: Authorized the chief executive officer to execute a task order with the Washington State Department of Transportation to provide project development services for the NE 85th Street In-Line Station portion of the I-405 Bus Rapid Transit project in the amount of \$583,690, with a 10% contingency of \$58,369, for a total authorized task order amount not to exceed \$642,059.

Motion No. M2018-16: Authorized the chief executive officer to execute Agreement GCA 3536 Task Order # 34 with the Washington State Department of Transportation to provide professional services coordination for the project development phase of the I-405 Bus Rapid Transit project in the amount of \$202,630, with a 10% contingency of \$20,263, for a total authorized task order amount not to exceed \$222,893.

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**Environmental review – KH 1/6/22**

**Legal review – JSA 1/24/22**



## Motion No. M2022-05

A motion of the Board of the Central Puget Sound Regional Transit Authority 1) authorizing the chief executive officer to execute a construction agreement with the Washington State Department of Transportation for the design-build delivery of the I-405/NE 85th Street Interchange and In-line Freeway Station for the I-405 Bus Rapid Transit Project, in the amount of \$271,000,000 with a 6 percent contingency of \$16,260,000 for a total authorized agreement amount not to exceed \$287,260,000 and 2) approves present-value Land Bank credits as reimbursement for fish passage correction in an estimated amount of \$7.1 million included in the amount authorized, that may be paid to mitigation fund in lieu of reconstruction of fish passage at this interchange.

### 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 execute a construction agreement with the Washington State Department of Transportation for the design-build delivery of the I-405/NE 85th Street Interchange and In-line Freeway Station for the I-405 Bus Rapid Transit Project, in the amount of \$271,000,000 with a 6 percent contingency of \$16,260,000 for a total authorized agreement amount not to exceed \$287,260,000 and 2) present-value Land Bank credits is approved as reimbursement for fish passage correction in an estimated amount of \$7.1 million included in the amount authorized, that may be paid to mitigation fund in lieu of reconstruction of fish passage at this interchange.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on January 27, 2022.

  
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Kent Keel  
Board Chair

**Attest:**

  
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Kathryn Flores  
Board Administrator