

**HIGHLINE WATER DISTRICT  
King County, Washington**

**RESOLUTION 16-5-4C**

**RESOLUTION AUTHORIZING PLANNING AND PRELIMINARY ENGINEERING AGREEMENT  
BETWEEN HIGHLINE WATER DISTRICT AND SOUND TRANSIT RELATING TO UTILITY  
WORK FOR THE FEDERAL WAY LINK EXTENSION PROJECT**

**WHEREAS**, Sound Transit is proposing to construct the Federal Way Link Extension Project (Project). On April 10, 2015, Sound Transit published a draft environmental impact statement (EIS) under the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA), and Sound Transit is continuing to evaluate several project alternatives. The Sound Transit Board identified a preferred alternative extension alignment (Preferred Alternative) in Board Motion No. M2015-56 in July 2015, and is expected to select the project to build in late 2016, after publication of the Final EIS; and

**WHEREAS**, the Preferred Alternative would start from the Angle Lake Station located at S. 200th Street and SR 99 in the City of SeaTac and would travel south along the west side of Interstate-5. In the Kent/Des Moines area, the alignment would transition west to be close to Highline College with a station west of 30th Ave S. The alignment would then continue south along I-5 with stations at the S 272nd Star Lake park-and-ride and the Federal Way Transit Center. Construction of the Project is anticipated to occur between 2019 and 2023; and

**WHEREAS**, if the Sound Transit Board selects the Preferred Alternative as the project to build, the Project would require reconfiguration and relocation of HWD water system facilities at and adjacent to the District's Mansion Hill Tank site (see Exhibit A). Given the lead time to accomplish this work, Sound Transit and HWD identified a need to begin the HWD planning and preliminary engineering and design process now; and

**WHEREAS**, the Parties executed a Letter of Understanding establishing a phased process regarding the reconfiguration and relocation of HWD facilities that would also be consistent with the completion of the Project Final EIS. Phase 1 Work refers to planning and preliminary engineering of the reconfiguration and relocation work (defined in greater detail within this Agreement), Phase 2 Work refers to final engineering and design work, and Phase 3 Work refers to procurement and construction of the reconfiguration and relocation of HWD facilities; and

**WHEREAS**, the Parties have agreed that Sound Transit will reimburse HWD for its Phase I Work, including the preliminary planning, preliminary design and engineering work related to the potential reconfiguration and relocation of the HWD facilities required by the Preferred Alternative; and

**WHEREAS**, after the final EIS is issued, the Sound Transit Board selects the project to build, and the Federal Transit Administration (FTA) issues its environmental Record of Decision, the Parties may then enter into future agreements or amendments of this Agreement to address Phase 2 and 3 of the work related to the reconfiguration and relocation of HWD facilities as necessary, including final design, engineering, and construction.

**HIGHLINE WATER DISTRICT  
King County, Washington**

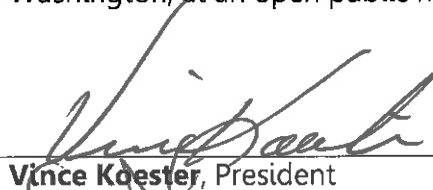
**RESOLUTION 16-5-4C**

**NOW, THEREFORE, BE IT RESOLVED:**

1. The General Manager or designee is authorized to enter into a Planning and Preliminary Engineering Agreement (Attachment-1, incorporated herein by this reference) with Sound Transit relating to utility work for the Federal Way Link Extension Project. at the Mansion Hill site.
2. The General Manager and/or the District's Legal Counsel are authorized to make minor changes to the Interlocal Agreement if required.

**ADOPTED BY THE BOARD OF COMMISSIONERS** of Highline Water District, King County, Washington, at an open public meeting held this **4th** day of **May 2016**.

**BOARD OF COMMISSIONERS**



**Vince Koester**, President



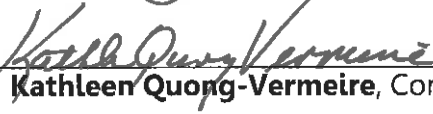
**Todd Fultz**, Secretary



**Daniel Johnson**, Commissioner



**George Landon**, Commissioner



**Kathleen Quong-Vermeire**, Commissioner

**ATTACHMENT 1****Planning and Preliminary Engineering Agreement  
Between Highline Water District and Sound Transit  
Relating to Utility Work  
For the Federal Way Link Extension Project**

This Planning and Preliminary Engineering Agreement (Agreement) is made and entered into by and between Highline Water District, a water-sewer special purpose district organized under chapter 57.04 RCW (HWD), and the Central Puget Sound Regional Transit Authority, a duly organized regional transit authority existing under chapters 81.104 and 81.112 RCW and has powers necessary to implement a high capacity transportation system (Sound Transit). HWD and Sound Transit are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties."

**Recitals**

- A. Sound Transit is proposing to construct the Federal Way Link Extension Project (Project). On April 10, 2015, Sound Transit published a draft environmental impact statement (EIS) under the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA), and Sound Transit is continuing to evaluate several project alternatives. The Sound Transit Board identified a preferred alternative extension alignment (Preferred Alternative) in Board Motion No. M2015-56 in July 2015, and is expected to select the project to build in late 2016, after publication of the Final EIS.
- B. The Preferred Alternative would start from the Angle Lake Station located at S. 200th Street and SR 99 in the City of SeaTac and would travel south along the west side of Interstate-5. In the Kent/Des Moines area, the alignment would transition west to be close to Highline College with a station west of 30th Ave S. The alignment would then continue south along I-5 with stations at the S 272nd Star Lake park-and-ride and the Federal Way Transit Center. The alignment of the Preferred Alternative is generally depicted on Exhibit A attached to this Agreement and incorporated by reference. Construction of the Project is anticipated to occur between 2019 and 2023.
- C. If the Sound Transit Board selects the Preferred Alternative as the project to build, the Project would require reconfiguration and relocation of HWD water system facilities at and adjacent to the District's Mansion Hill Tank site. Given the lead time to accomplish this work, Sound Transit and HWD identified a need to begin the HWD planning and preliminary engineering and design process now.
- D. The Parties executed a Letter of Understanding establishing a phased process regarding the reconfiguration and relocation of HWD facilities that would also be consistent with the completion of the Project Final EIS. Phase 1 Work refers to planning and preliminary engineering of the reconfiguration and relocation work (defined in greater detail within this Agreement), Phase 2 Work refers to final engineering and design work, and Phase 3 Work refers to procurement and construction of the reconfiguration and relocation of HWD facilities.

- E. The Parties have agreed that Sound Transit will reimburse HWD for its Phase I Work, including the preliminary planning, preliminary design and engineering work related to the potential reconfiguration and relocation of the HWD facilities required by the Preferred Alternative.
- F. After the final EIS is issued, the Sound Transit Board selects the project to build, and the Federal Transit Administration (FTA) issues its environmental Record of Decision, the Parties may then enter into future agreements or amendments of this Agreement to address Phase 2 and 3 of the work related to the reconfiguration and relocation of HWD facilities as necessary, including final design, engineering, and construction.

In consideration of the following terms and conditions, the Parties agree as follows:

## AGREEMENT

### **Section 1. Phase 1 - Planning and Preliminary Engineering Work.**

1.1 **Description and Location of HWD Facilities.** HWD's existing facilities that may be impacted by the Preferred Alternative include a large 30-inch HWD transmission main located partly on HWD-owned property in the vicinity of 32nd Avenue South, between S. 212<sup>th</sup> Street and the Highline Water District reservoir site (Transmission Main); and a five million gallon (MG) water storage tank, a 0.25 MG elevated water storage tank (Reservoir) and other water system appurtenances located on HWD-owned property at 21238 31<sup>st</sup> Avenue South, SeaTac, Washington 98198 (the Transmission Main and Reservoir collectively the HWD Facilities). The HWD Facilities are generally depicted on **Exhibit A**.

1.2 **Scope of Work.** HWD will perform Phase 1 Work related to the reconfiguration and relocation of the HWD Facilities to accommodate the Preferred Alternative identified in the Project draft EIS. HWD will retain the services of Stantec Consulting Services Inc., a consulting engineer (Consultant) or another consultant, to perform the Phase 1 Work. HWD will administer the Consultant's contract in accordance with the Scope of Work attached as **Exhibit B** to this Agreement and incorporated by reference. HWD understands that time is of the essence and will work in good faith to complete the Phase 1 by March 1, 2017.

1.3 **Coordination and Review.** HWD will provide to Sound Transit's Contact Person, identified in Section 9.2, documents identified in **Exhibit B** and allow a minimum of 20 business days for Sound Transit to comment on the documents prepared by the Consultant.

1.4 **Environmental Review.** Once the Phase 1 Work is complete, Sound Transit and HWD will evaluate the realignment of the water main to determine if additional environmental review is required. Sound Transit shall be responsible for performing any additional environmental review in coordination with HWD.

1.5 **Deliverables.** HWD shall provide all final deliverables identified in **Exhibit B** to Sound Transit.

## **Section 2. Reimbursement of HWD Costs.**

Sound Transit shall reimburse HWD for all Costs incurred by HWD for the performance the Phase I Work under this Agreement. For purposes of this Agreement, "Cost" or "Costs" mean the eligible reimbursable direct and indirect actual fees, costs, and expenses incurred by HWD for the preparation and performance of this Agreement and the Phase 1 Work, including, but not limited to, HWD labor, personnel, supplies, materials, consultant fees, costs, and expenses, attorney fees and costs of other professional services, overhead, indirect administration and general expenses, taxes, if applicable, and work performed by HWD staff to procure a consultant for the Phase I Work. HWD fees, costs, and expenses related to the design, engineering, or construction of any betterment work are not a Project Cost and are not eligible for reimbursement. Betterment work is defined for the purposes of this Agreement as improvements to HWD's real or personal property including its water system not required due to the Project.

## **Section 3. Budget Estimate.**

3.1 Budget Estimate. HWD's good faith estimate of the Costs to perform the Phase I Work under Section 1 herein is set forth in **Exhibit C** to this Agreement and incorporated by reference (Cost Estimate). HWD will notify Sound Transit before HWD's expenditures reach 75 percent of the Cost Estimate. The Parties agree the Cost Estimate is an estimate only and HWD shall be entitled to reimbursement of its Costs.

3.2 Costs in Excess of Estimate. HWD shall use reasonable efforts to monitor its Costs incurred during the performance of the Phase 1 Work, and, in the event HWD determines that Costs are likely to exceed the Cost Estimate by more than twenty percent (20%), HWD shall provide written notice to Sound Transit's Contact Person identified in Section 9.2 and provide a revised Cost Estimate. Sound Transit shall have the right to review and approve the revised Cost Estimate prior to issuing reimbursement for an amount greater than the Cost Estimate. Upon such notice, Sound Transit may request HWD delay or stop work, or may terminate this Agreement.

## **Section 4. Payment and Accounting.**

4.1 Invoicing. HWD will invoice Sound Transit on a monthly basis for its Costs incurred under this Agreement. Each invoice will be supported by: (1) a progress report or work statement, (2) invoices for support services and materials, (3) certification that the services have been satisfactorily rendered, and (4) copies of original bills, invoices, expense accounts, including, but not limited to work records, rates, material, and equipment costs. HWD's invoices for its staff, consultants, and professionals shall include a summary of the hours and tasks performed supported by the Scope of Work identified in **Exhibit B**. The summary may include administration of procurements, attendance at coordination and design meetings, review of documents, plans and specifications, inspections, and other activities necessary for the completion of the work under this Agreement.

4.2 Payment. Sound Transit shall pay each invoice within 30 days of its receipt of such invoice, unless Sound Transit notifies HWD that there is insufficient cost documentation. Any invoice not paid when due and accompanied by sufficient documentation shall bear interest at the rate of 12 percent per annum from the date due until the date paid.

4.3 Invoices will be sent to Sound Transit at [accountspayable@soundtransit.org](mailto:accountspayable@soundtransit.org), or mail to:

Accounts Payable  
Sound Transit  
401 S. Jackson St.  
Seattle, WA 98104-2826

Reimbursements will be sent to HWD at:

Accounts Receivable  
Highline Water District  
23828 – 30<sup>th</sup> Ave. S.  
Kent, WA 98032

**Section 5. Buy America Requirements.** Phase 3 Work of this Project will be partially financed by FTA grant funding. FTA and Sound Transit may not obligate funds for this Project unless the manufactured products used in the Project are produced in the United States in accordance with 49 U.S.C. § 5323(j) and 49 C.F.R. Part 661. HWD shall specify in its design and engineering work product of Phase 1 Work, Buy America-compliant products where appropriate.

**Section 6. Records and Audit.** HWD shall establish and maintain accounts corresponding to the work performed under this Agreement, and such accounts shall be established and maintained in accordance with generally accepted, accounting principles and practices. Sound Transit shall have the right, on an annual basis throughout the term of the Agreement and for a period of six years thereafter, to request an audit and examination by Sound Transit or the federal government of such accounts, bookkeeping, and related records. HWD shall provide Sound Transit, or its agents, with reasonable and customary access for inspection of such accounts and records within thirty (30) days of such request.

### **Section 7. Indemnity, Insurance**

7.1 Indemnity. Each Party to this Agreement shall protect, defend, indemnify, and save harmless the other Party, and its officers, officials, employees, and agents, while acting within the scope of their employment, from any and all costs, claims, demands, judgments, damages, or liability of any kind including injuries to persons or damages to property, which arise out of, or in any way result from, or are connected to, or are due to any negligent acts or omissions or willful misconduct of the indemnifying Party in connection with the Transit Project or the work or activities under this Agreement. No Party shall be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the Party seeking indemnification. Where such claims, suits, or actions result from concurrent negligence or willful misconduct of the Parties, the indemnity provisions

provided herein shall be valid and enforceable only to the extent of the Party's own negligence or willful misconduct. Each Party agrees that its obligations under this indemnification section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the industrial insurance provisions of Title 51 RCW. This waiver has been specifically and mutually negotiated by the Parties. In the event of any claims, demands, actions and lawsuits, the indemnifying Party upon prompt notice from the other Party shall assume all costs of defense thereof, including legal fees incurred by the other Party, and of all resulting judgments that may be obtained against the other Party. Notwithstanding the foregoing, the indemnified Party may, at its option and at its own cost, retain its own counsel to participate in any such event. This indemnification shall survive the expiration or earlier termination of this Agreement.

7.2 Insurance, Risk of Loss. Each Party will provide its normal insurance coverages for the work that the Party performs under this Agreement.

## **Section 8. Formal Dispute Resolution.**

8.1 Any dispute or claim arising between the Parties from, or relating to, this Agreement or its performance or nonperformance, including either Party's alleged failure to comply with any provision of this Agreement ("Dispute"), shall be settled by the procedures of this Section 9. Neither Party may commence proceedings in a court of law until the requirements of this Section 8 have been satisfied.

8.2 Dispute Resolution Procedure Steps. If a dispute arises under this Agreement, the Contact Person, identified in Section 9.2, of each Party will first attempt to resolve a dispute by consensus.

If the Contact Persons, with the support of technical representatives cannot resolve the dispute within 10 business days, the dispute will be elevated to the Sound Transit Executive Director of the Design, Engineering and Construction Management Division and HWD's General Manager.

If the Executive Director of the Design, Engineering and Construction Management Division and HWD's General Manager cannot resolve the dispute within 10 business days, the dispute will be elevated to the Sound Transit Deputy Chief Executive Officer, and HWD's Board of Commissioners or the Board of Commissioners' designee.

If the Sound Transit Deputy Chief Executive Officer and HWD's Board of Commissioners or the Board of Commissioners' designee cannot resolve the dispute within five business days, then the Parties may bring an action in a court of law.

8.3 The Parties must exhaust the dispute resolution procedure in this Section 9 before bringing any action in a court of law. In addition, the Parties may by mutual agreement submit the dispute to a mediator for non-binding mediation. The Parties shall each bear its own costs at mediation, and the mediation fee and costs will be divided equally between the Parties.





written, among the Parties with respect to such subject matter and supersedes any letters previously executed by the Parties.

9.4 Amendments. This Agreement may not be modified or amended, in whole or in part, except by written consent signed by each of the Parties.

9.5 Nonwaiver. The failure or delay of a Party to insist upon strict performance of any of the provisions of this Agreement, to exercise any rights or remedies provided in this Agreement or by law, or to notify the other Party in the event of breach of this Agreement shall not release or relieve the other Party from any of its obligations under this Agreement. Waiver by any Party of any default by the other shall not be deemed a waiver by such Party of any other default.

9.6 Severability. Interpretation. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted. The headings of sections and subsections of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or subsections. This Agreement shall be construed as a whole, and all provisions and parts of the Agreement are intended to be correlative and complementary.

9.7 No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between HWD and Sound Transit or to impose any partnership obligations or liability upon either Party. Each Party shall take such action (including, but not limited to, the execution, acknowledgment and delivery of documents) as may reasonably be requested by the other Party for the implementation or continuing performance of this Agreement.

9.8 No Third-Party Beneficiaries. This Agreement shall not be interpreted or construed to create any rights, benefits or interests in any person or entity other than the Parties.

9.9 Terms and Conditions Negotiated. The provisions of this Agreement have been negotiated by the Parties in good faith, and with the representation of legal counsel, and consequently in construing this Agreement, neither Party is entitled to any presumption against the other based upon the drafting of this Agreement.

9.10 Termination for Convenience. Sound Transit may terminate this Agreement, in writing, for its convenience. If Sound Transit terminates for convenience, Sound Transit will pay an amount for services satisfactorily performed to the date of termination, and an amount for expenses incurred before the termination, in addition to termination settlement costs that HWD reasonably incurred relating to commitments that had become firm before the termination, unless Sound Transit determines to assume those commitments. Upon receipt of a termination notice, HWD shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) promptly deliver or otherwise make available to Sound Transit all data, drawings, specifications, calculations, reports, estimates, summaries, such other information and materials as the HWD or its contractors may have accumulated in performing this Agreement, whether

completed or in progress, and all equipment and materials purchased specifically for performing the work under this Agreement where Sound Transit has reimbursed HWD for such costs.

9.11 **Governing Law.** This Agreement and all questions concerning the capacity of the parties, execution, validity (or invalidity), and performance of this Agreement, shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Washington. Any legal action brought under this Agreement shall be brought in the Superior Court of King County, Washington, or the U.S District Court, Western District Washington.

9.12 **Recitals.** The Recitals set forth above are incorporated by reference herein and made part of this Agreement.

9.13 **Effective Date.** The Agreement shall be effective on the date by which both Parties have executed this Agreement (Effective Date).

The Parties have authorized their respective representatives to execute this Agreement as of the date first set forth above.

**Highline Water District**

**Central Puget Sound Regional  
Transit Authority**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date:

By: \_\_\_\_\_  
Title: Chief Executive Officer  
Date:

Approved as to Form:	Approved as to Form:
Legal Counsel	Legal Counsel

**EXHIBIT A**  
 General Description of Highline Water District facilities



**Legend**

○ ○ ○ ○ Proposed\_Link\_Rail

**16-3 Mansion Hill Reservoir Relocation**  
**16-4 Water Main Relocation Project**  
**(1,500 LF of existing 30" Main to be relocated)**

**April 11, 2016**

**VICINITY MAP**



## **EXHIBIT B**

### **Scope of Work**

Highline Water District advanced preliminary engineering will include:

1. **Planning** – Develop and analyze reservoir replacement alternatives and select a preferred alternative. This activity will also evaluate any other Highline Water District infrastructures that may be impacted by Sound Transit.
2. **Preliminary Engineering** – Develop preliminary design drawings for the preferred alternative. Preliminary engineering will also include the evaluation of options if the 0.25 MG elevated tanks needs to be replaced; and for the 30-inch water transmission main that are crossing under Sound Transit light rail corridor. The Preliminary Engineering design documents will be submitted to Sound Transit by end of the 2016.
3. **Geotechnical Investigation** – Conduct a geotechnical investigation to develop design parameters for the design of a new reservoir foundation.
4. **Opinion of Probable Construction Costs** – Opinion of costs for the preferred alternative will be developed for negotiations with Sound Transit.
5. **Construction schedule** – Develop a construction schedule based on Sound Transit’s end of 2018 completion date.
6. **Surveying** – Conduct a survey of the necessary areas within the Mansion Hill site. Survey to include topographic, utility locates, and potholing if necessary.
7. **Permitting** – Initiate necessary environmental permits and the permitting process, with the City of SeaTac.
8. **Initiation of the Washington State Department of Health Engineering Project Report, and updating the Highline Water District Water Comprehensive Plan.**
9. **Preliminary Engineering for a 30-inch water transmission main** - The light rail alignment may conflict with the existing 30-inch water main from the Crestview Reservoir and Pump Station to the Mansion Hill site. A section of the 30-inch water main may need to be relocated to avoid the conflict(s). The Crestview Pump Station is located near Military Road South and South 158<sup>th</sup> Street and it serves the 560 Pressure Zone.
10. **Contract negotiations assistance with Sound Transit.**
11. **Separate subtasks for the relocation of 0.25MG Tank, existing AC pipe site assessment and Carollo consulting service.**

**Deliverables:**

1. **Monthly invoices and progress report.**
2. **Technical Memorandum for reservoir and 30-inch water transmission line alternative analysis and final alternative.**
3. **Geotechnical Investigation Report**

4. Preliminary Design documents for reservoir and 30-inch water transmission line.
5. Department of Health Engineering Project Report.



**Agenda Item No.:** 5.3  
**Agenda Date:** 5/04/16  
**Reviewed By:** AD/ME

**SUBJECT:** Federal Way Link Extension Project (HWD Project 16-3 Mansion Hill Relocation)  
Authorize Planning and Preliminary Engineering Agreement with Sound Transit

CATEGORY	
<i>Executive</i>	<input type="checkbox"/>
<i>Administrative</i>	<input type="checkbox"/>
<i>Engineering/Operations</i>	<input checked="" type="checkbox"/>

FINANCIAL						
<i>Expenditures?</i>	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
<i>Budgeted?</i>	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
		<i>Amount:</i> \$ <u>819,699.17</u> <i>Plus WSST</i>				

**ATTACHMENTS:**

1. Resolution 16-5-4C
2. Attachment 1 – Planning and Preliminary Engineering Agreement w/Exhibit(s) A, B and C

**COMMENTS:**

If the Sound Transit Board selects the Preferred Alternative as the project to build, the Project would require reconfiguration and relocation of HWD water system facilities at and adjacent to the District’s Mansion Hill Tank site.

Sound Transit will reimburse HWD for its Phase I Work, including the preliminary planning, preliminary design and engineering work related to the potential reconfiguration and relocation of the HWD facilities required by the Preferred Alternative.

Staff recommends approval of this resolution.