

**CITY COUNCIL REGULAR SESSION**

Ordinance 1) amending the 2019-2025 General Capital Investment Program (CIP) Plan to increase the budget for the Mountains to Sound Greenway Trail – 132nd Avenue SE to 142nd Place SE project (CIP Plan No. PW-W/B-84) by \$5,930,000 and decreasing the budgets for the 124th Avenue NE – NE Spring Boulevard to Ichigo Way project (CIP Plan No. PW-R-166) by \$2,395,000 and the NE Spring Boulevard (Zone 1) – 116th to 120th Avenues NE project (CIP Plan No. PW-R-172) by \$1,500,000; 2) rejecting the bid protest of Johansen Construction Company; and 3) awarding Bid No. 20007, Mountains to Sound Greenway Trail – 132nd Avenue SE to 142nd Place SE (CIP Plan No. PW-W/B-84) to Active Construction, Inc. as the lowest responsible and responsive bidder, in the amount of \$7,570,570.00, plus all applicable taxes.

Andrew Singelakis, Director, 452-6468  
Ron Kessack, Assistant Director, 452-4631  
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*Transportation Department*

**EXECUTIVE SUMMARY**

This Ordinance will increase the project budget for the Mountains to Sound Greenway Trail – 132<sup>nd</sup> Avenue SE to 142<sup>nd</sup> Place SE project and decrease the budget for the 124<sup>th</sup> Avenue NE – NE Spring Boulevard to Ichigo Way project and the NE Spring Boulevard (Zone 1) – 116<sup>th</sup> to 120<sup>th</sup> Avenues NE project; reject the bid protest of Johansen Construction Company and award Bid No. 20007 to Active Construction, Inc.

**RECOMMENDATION**

Move to adopt Ordinance No. 6544

**BACKGROUND/ANALYSIS**

The Mountains to Sound Greenway Trust was organized in 1991 to set aside from urbanization the forested corridor of I-90 from Seattle through the Cascade Mountains so that current and future generations could always enjoy the scenic, recreational, and historic qualities/amenities along the 100-mile corridor. The Trust's success in conserving more than 130,000 acres of scenic and recreational lands led to the designation of the Mountains to Sound Greenway as a National Scenic Byway in 1998.

On March 24, 2008, staff provided Council with a Management Brief on the partnership with the Mountains to Sound Greenway Trust to apply for a grant from the National Scenic Byways program for a Feasibility and Design study for the three-mile long gap in the Mountains to Sound Greenway regional trail that runs adjacent to I-90 within the Eastgate area of Bellevue.

On September 6, 2011, Council accepted a \$158,312 federal grant (Ordinance No. 6017) for Feasibility and Design study on the three-mile Mountains to Sound Greenway regional trail alignment through the Eastgate/I-90 area. The study was completed in December 2012 and included public outreach, conceptual engineering work, and development of an implementation strategy to complete an

alternatives analysis for the alignment selected by the Eastgate/I-90 Land Use and Transportation Plan Technical Advisory Committee in 2011.

On July 15, 2014, Council accepted a \$470,000 federal Transportation Alternatives Program grant (Ordinance No. 6165) to advance design and environmental work on the at-grade segments of trail between Factoria Boulevard and 150<sup>th</sup> Avenue SE. This grant advanced the design to completion in 2015.

On February 2, 2015, Council accepted a \$796,000 federal Congestion Management and Air Quality Mitigation (CMAQ) grant (Resolution No. 8875) to advance the design of multiple trail segments, including the segment for design of the structures to allow grade-separated trail crossings of I-405/I-90 interchange ramps and Factoria Boulevard.

On December 5, 2016, Council adopted Ordinance No. 6333 adopting the 2017-2023 CIP Plan which includes funding to advance the design and environmental analysis for the “grade-separated” Factoria Crossing segment of the Mountains to Sound Greenway Trail and all of the “at grade” trail segments of the project between Factoria Boulevard and Lakemont Boulevard (CIP Plan No. PW-W/B-78).

On May 21, 2018, Council adopted Ordinance No. 6413 which authorized the execution of a state funding agreement with WSDOT for acceptance of \$14,000,000 in state Connecting Washington Account (CWA) funding for the construction phase of the Mountains to Sound Greenway Trail project from I-405 to 132<sup>nd</sup> Avenue SE. The Ordinance also authorized execution of a separate Interlocal (Participating) Agreement with WSDOT for acceptance of \$2,055,000 in state I-405/Renton to Bellevue project funds for the construction of a joint benefit retaining wall required by the project; and amended the 2017-2023 General Capital Investment Program (CIP) Plan to add a new project, Mountains to Sound Greenway Trail – Factoria Crossing (CIP Plan No. PW-W/B-83).

On April 20, 2020 Council Adopted Resolution No. 9745 which authorized the execution of a Federal funding agreement with WSDOT for acceptance of \$2,725,030 in federal Surface Transportation Program (STP) funding for the construction phase of the Mountains to Sound Greenway Trail project from 132<sup>nd</sup> Ave SE to 142<sup>nd</sup> PI SE (CIP Plan No. PW-W/B-84). The Resolution also authorized the execution of a funding agreement with Sound Transit to accept \$1,000,000 in regional transit System Access Fund (SAF) Funding.

On May 28, 2020, the Puget Sound Regional Council’s (PSRC) Executive Board approved a \$2,034,970 increase in federal STP funding for the construction phase of the project, for a total grant award of \$4,760,000. This funding was approved for ready-to-go projects to ensure the region will meet its 2020 delivery target for using Federal Highway Administration (FHWA) funds. Regions across the state are required to achieve annual delivery targets for FHWA funds. If the delivery targets are not met, regions may lose some portion of their federal funds. PSRC’s project selection process is merit-based and helps to identify the highest priority projects that will improve local and regional mobility and help achieve the goals of the long-range Regional Transportation Plan.

Following verification of bid submittals, the bids received were as follows:

Active Construction, Inc	\$7,570,570.00
Interwest Construction, Inc.	\$7,777,777.00
Johansen Construction Co.	\$8,355,906.15

Pivetta Brothers Construction	\$8,384,901.50
Rodarte Construction, Inc.	\$8,513,182.50
R. L. Alia Company	\$8,913,840.00
Granite Construction Co.	\$10,205,914.55
Premier Landcare	\$951,092.00
<b>Engineer's Estimate</b>	<b>\$8,299,776.00</b>

The bid received from Premier Landcare was incomplete and was deemed to be non-responsive.

On October 18, 2020, staff received a formal bid protest from Johansen Construction Co. contending that the first and second low bids (Active Construction, Inc. and Interwest Construction, Inc.) had some unbalanced unit prices and the bids should be considered not responsible.

After a thorough review of the contractors bid, qualifications, background, references and experience on previous City projects, staff believes that the bids from both Active Construction, Inc. and Interwest Construction, Inc, are responsible, meet the requirements of the project specifications and are capable of performing the work per the plans and specifications. Staff recommends awarding the contract to Active Construction Inc as the lower responsible and responsive bidder.

To the best of our knowledge and professional judgment, all factors that typically contribute to construction expenses have been accounted for in the Plans, Specifications and Estimate. Based on our experience, projects of this type may result in some field changes. All claims are rigorously reviewed and only those that are clearly necessary to accomplish the intent of the contract, but have not previously been provided for, will be paid.

## POLICY & FISCAL IMPACTS

### Policy Impact

Bellevue City Code 4.30.020 requires Council approval for leases of more than one year in duration.

#### Comprehensive Plan

The overall Mountains to Sound Greenway Trail project is specifically listed in the Comprehensive Plan's Comprehensive Transportation Project List (CPTL No. 61). The project is also listed specifically within the 2009 City of Bellevue Pedestrian & Bicycle Transportation Plan (Project No. O-137-N). The project and the actions proposed in this memorandum will advance multiple Comprehensive Plan Policies, including:

- TR-20 directs that the City, "Scope, plan, design, implement, operate, and maintain the multimodal transportation system in a corridor approach within and across Mobility Management Areas."
- TR-40 directs that the City, "Work actively and cooperatively with other Eastside jurisdictions and regional and state agencies to plan, design, fund and construct regional transportation projects that support the City's Comprehensive Plan."
- TR-45 directs that the City, "Develop and implement inter-local agreements for cooperative solutions for mutual land use and transportation concerns."
- TR-68 directs that the City, "Integrate pedestrian and bicycle access to transit as a means to serve neighborhoods."

- TR-105 directs that the City, “Implement the Pedestrian and Bicycle Transportation Plan and prioritize projects that:
  1. Address safety issues;
  2. Provide access to activity centers;
  3. Provide access to the transit and school bus systems;
  4. Complete and connect planned pedestrian or bicycle facilities;
  5. Develop primary north-south and east-west bicycle routes through the City;
  6. Improve multimodal level of service along travel corridors; and
  7. Serve residents who have special accessibility needs.”
- TR-124 directs that the City, “Support including facilities for pedestrians and bicycles when planning, designing and constructing enhancements to I-90, I-405 and SR-520.”

### Fiscal Impact

This is one of three actions tonight related to the Mountains to Sound Greenway (MTSG) Trail. The other two actions include 1) Resolution to increase the contract with KPG, PS for structural design engineering and construction support services; 2) Resolution to increase the contract with HNTB Corporation for structural design engineering and construction support services.

Awarding this bid will obligate the City to \$7,570,570.00, plus all applicable taxes, to the next phase of the Mountains to Sound Greenway Trail from 132<sup>nd</sup> Avenue SE to 142<sup>nd</sup> Place SE (CIP Plan No. PW-W/B-84). This amount is approximately 8.7 percent under/over the Engineer’s Estimate.

CIP Plan No.	Description	Amount
PW-W/B-84	MTSG Trail - 132nd Avenue SE to 142nd Place SE	\$7,170,570
PW-R-199	Neighborhood Safety and Connectivity (Levy)	400,000
	<b>Total Funding</b>	<b>\$7,570,570</b>

There is a projected funding gap in PW-W/B-84 of approximately \$5,930,000 as shown in the table below.

	(\$000)					
	Current Budget	Life-to-Date Expenditures	Total Projected Expenditures	Projected Balance	<i><b>This Action</b></i>	Actual / Projected Completion Date
Phase I (Design)	\$0	\$109	\$153	(\$153)	<b>\$0</b>	Q4-2020
Phase II (Right-of-Way)	0	0	0	0	<b>0</b>	N/A
Phase III (Construction)	3,725	0	9,502	(5,777)	<b>7,171</b>	Q4-2022
<b>Total</b>	<b>\$3,725</b>	<b>\$109</b>	<b>\$9,655</b>	<b>(\$5,930)</b>	<b>\$7,171</b>	

The total projected cost to complete the project is \$9,655,000, which assumes full expenditure of project contingencies. Reporting the contingencies in this manner illustrates the City’s potential ultimate financial exposure on this project.

Staff proposes that this funding gap be covered by an increase in Federal Highway Administration (FHWA) grant funds awarded by the Puget Sound Regional Council (PSRC) totaling approximately \$2,035,000 (for a total grant award of \$4,760,000) and \$3,895,000 in budget savings identified from two Transportation projects that are substantially complete and any significant financial risks have been eliminated.

CIP Plan No.	Description	Amount
<u>Grant Increase</u>		
PW-W/B-84	FHWA Grant awarded by PSRC	\$2,035,000
<u>Budget Transfers from:</u>		
PW-R-166	124th Avenue NE - NE Spring Blvd to Ichigo Way	2,395,000
PW-R-172	NE Spring Blvd (Zone 1) - 116th to 120th Aves NE	1,500,000
Total Funding		<u>\$5,930,000</u>

## OPTIONS

1. Adopt the Ordinance 1) amending the 2019-2025 General Capital Investment Program (CIP) Plan to increase the budget for the Mountains to Sound Greenway Trail – 132nd Avenue SE to 142nd Place SE project (CIP Plan No. PW-W/B-84) by \$5,930,000 and decreasing the budgets for the 124th Avenue NE – NE Spring Boulevard to Ichigo Way project (CIP Plan No. PW-R-166) by \$2,395,000 and the NE Spring Boulevard (Zone 1) – 116th to 120th Avenues NE project (CIP Plan No. PW-R-172) by \$1,500,000; 2) rejecting the bid protest of Johansen Construction Company; and 3) awarding Bid No. 20007, Mountains to Sound Greenway Trail – 132nd Avenue SE to 142nd Place SE (CIP Plan No. PW-W/B-84) to Active Construction, Inc. as the lowest responsible and responsive bidder, in the amount of \$7,570,570.00, plus all applicable taxes.
2. Do not adopt the Ordinance and provide alternative direction to staff.

## ATTACHMENTS & AVAILABLE DOCUMENTS

- A. Vicinity Map
  - B. CIP Project Description (PW-W/B-84)
  - C. CIP Project Description (PW-R-166)
  - D. CIP Project Description (PW-R-172)
  - E. CIP Project Description (PW-R-199)
- Proposed Ordinance No. 6544

## AVAILABLE IN COUNCIL LIBRARY

Final Contract Plans