

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

The City Council is considering final action on the proposed Memorandum of Understanding and Transit Way Agreement that was the subject of a public hearing on November 7, 2011. The City requested, and Sound Transit agreed to, an extension of the original timeline for consideration of these agreements to November 14, 2011. A proposed resolution authorizing execution of the documents is included with these materials for Council consideration, based on previous Council discussions and comments related to East Link.

STAFF CONTACTS

Bernard van de Kamp, 452-6459
Regional Projects Manager, Transportation Department
Mary Kate Berens, 452-4616
Deputy City Attorney, City Attorney's Office

FISCAL IMPACT:

The proposed Memorandum of Understanding (MOU) establishes the framework and terms for the City's contribution to the East Link project in order to fund a downtown tunnel. The total value of the City's contribution, consisting of up-front and contingent contributions, is a maximum of \$160 million. The fiscal impact could be somewhat less, as certain contribution items, like the contribution of city property to the project, represent little or no new additional financial impact.

In addition to the City Contribution described in the MOU, the MOU defines a two-year process of collaboration on advancing East Link design to 60%. This "collaborative design process" will require significant staff time and resources, and may also require consultant expertise for certain portions of the process. If Council approves the MOU, staff will bring forward any necessary budget adjustment to ensure that adequate funds are available through 2012 to allow the City to fully participate in the collaborative design process. Other budget proposals are anticipated in future budget cycles, as the project continues into final design and then construction.

POLICY ISSUES

Should the City enter into agreements with Sound Transit to provide funding toward the East Link downtown tunnel in an amount up to \$160 million, which agreements also establish the framework for cooperatively continuing design and permitting for the East Link project through Bellevue?

BACKGROUND

On August 8, 2011, Council adopted Resolution No. 8276, which authorized the City Manager to sign a Term Sheet with Sound Transit establishing the framework and timeline to develop a binding Memorandum of Understanding addressing tunnel funding and design modifications along 112th Avenue, among other things. Public hearings were conducted on September 26 and

November 7 to consider public comment on the terms of the MOU and revisions to the proposed alignment along 112th Avenue SE.

The Sound Transit Board approved a resolution authorizing Sound Transit's CEO to execute the MOU on October 27, and recognized that the City Council needed additional time to act.

Because of the length of the documents, the proposed Memorandum of Understanding and companion Transit Way Agreement are not reprinted in this agenda. The documents remain unchanged from the November 7, 2011 versions, except for typographical errors that have been corrected, and a minor modification to Section 4.2(c). As indicated in the November 7 agenda materials, staff for the two agencies reached agreement on a minor modification to Section 4.2(c), which was provided to the City Council in a desk packet memorandum last week. That change, which was reviewed by the City's bond counsel, is as follows (marked to show changes reviewed by bond counsel):

The City will identify the revenue source(s) to pay the maximum amount of City Contingency and provide an unconditionally binding agreement including an irrevocable pledge to pay the funds consistent with this MOU and the terms of that agreement.

ALTERNATIVES

1. Adopt Resolution No. ~~8322~~ approving the MOU and Transit Way Agreement and directing the City Manager to take certain actions consistent with those agreements;
2. Agree to changes to the MOU and/or Transit Way Agreement and authorizing resolution; or
3. Provide alternative direction.

MOTIONS

1. Move to adopt Resolution No. ~~8322~~ approving the MOU and Transit Way Agreement and directing the City Manager to take certain actions consistent with those agreements

ATTACHMENTS

Proposed Resolution No. 8322

AVAILABLE IN COUNCIL OFFICE

Updated drafts of proposed MOU and Transit Way Agreements reflecting minor change to Section 4.2(c) and typographical corrections, as noted above.

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 8322

A RESOLUTION related to Sound Transit's East Link light rail project: 1) authorizing the City Manager or his designee to execute an Umbrella Memorandum of Understanding with Sound Transit establishing the terms and conditions for the City's financial contribution to the tunnel portion of East Link; 2) authorizing the City Manager or his designee to execute a Transit Way Agreement with Sound Transit granting rights to use discrete portions of the City Right of Way for East Link; 3) directing the City Manager or his designee to send a letter providing additional comment on the 4(f) process for East Link; 4) directing the City Manager to develop a work program that will identify for Council consideration the potential public uses for properties adjacent to 112th Avenue SE and south of Surrey Downs Park; and 5) directing the City Manager to use the Collaborative Design Process to identify substantial cost savings.

WHEREAS, the Bellevue City Council has a long history of expressing support for regional transportation projects, including high-capacity transit; and

WHEREAS, in 2005, the Bellevue Council updated its Future High Capacity Transit Interest Statement, which articulated the City's principles for an efficient, effective and reliable transit system linking Seattle, Bellevue and Redmond, and

WHEREAS, voters approved ST2 providing funding for a regional high-capacity transit system for the Central Puget Sound region in 2008; and

WHEREAS, the East Link Project was included within ST2 and establishes a high-capacity transit connection between Seattle, Mercer Island, Bellevue and Redmond; and

WHEREAS, the City has invested significant time and resources to identify the potential benefits and impacts of a high-capacity transit system, which efforts have included formation of a Light Rail Best Practices committee and the significant planning efforts for the Bel-Red corridor to complement Sound Transit's role as the regional high-capacity transit provider and to inform all decision-makers with respect to an eastside transportation project; and

WHEREAS, in previous planning work and interest statements, the Bellevue City Council has consistently indicated the importance of serving Downtown Bellevue, the region's most dynamic economic engine, with high-capacity transit; and

WHEREAS, in previous planning work and interest statements, the Bellevue City Council has consistently indicated the importance of protecting our neighborhoods from the negative impacts of high-capacity transit; and

WHEREAS, in previous planning work and interest statements, including Transportation Element Policy TR-75.5, the Bellevue City Council has consistently indicated

the importance of protecting our roadway network capacity from being reduced by the installation of high-capacity transit; and

WHEREAS, the Bellevue City Council has endorsed the C9T tunnel alignment as the appropriate profile through Downtown Bellevue, because of the consistency with the Comprehensive Plan, including Light Rail Best Practices, improved system ridership, better noise mitigation, increased safety, reduced visual impacts, and avoidance of congestion and road capacity impacts offered by such a profile; and

WHEREAS, the City has consistently indicated concerns with impacts of the East Link Project on portions of the City outside of the downtown, particular with respect to impacts related to noise, transportation system impacts, visual impacts and impacts to neighborhood character; and

WHEREAS, by letter dated February 25, 2009 conveying comments on the DEIS, the City requested that Sound Transit explore alternatives to the DEIS alignments identified for the B-segment of East Link; and

WHEREAS, the Supplemental Draft Environmental Impact Statement (SDEIS) published in November 2010 identified additional alignments for the Project, including new alignments within the B-Segment. Among these additional alignments is the alignment that Sound Transit has identified as its preferred alternative (B2M); and

WHEREAS, the Sound Transit Board identified B2M as its preferred B-Segment alignment with the adoption of Resolution 2011-10 on July 28, 2011; and

WHEREAS, in August 2011 the parties executed an updated Term Sheet which established the framework for the Umbrella Memorandum of Understanding (MOU) and Transit Way Agreement, including acknowledgement that certain modifications to the B2M alignment would be further developed and reviewed for incorporation into the project; and

WHEREAS, the City Council, by motion passed on October 24, 2011, indicated its support for modifications to the B2M alignment, which modifications are incorporated into the Umbrella Memorandum of Understanding (MOU) as the "City Requested Modifications" and which result in a light rail alignment that avoids at-grade crossings of right-of-way. The City Requested Modifications ensure that the noise and traffic impacts associated with at-grade crossings are avoided along 112th Avenue SE; and

WHEREAS, the City Council recognizes that even with the City Requested Modifications, East Link will have negative impacts on certain properties adjacent to the alignment along 112th Avenue SE. The Council is committed to continued collaboration with adjacent property owners and Sound Transit to mitigate those impacts. Specifically, the City Council strongly encourages Sound Transit's careful evaluation of the complete range of impacts on such properties and a consideration of whether such impacts result in the requirement to completely acquire such properties. To the extent that it is determined that Sound Transit lacks the legal authority to completely acquire such properties following all necessary review, the City Council is committed to determining whether, given the unique character of the Surrey Downs neighborhood and Surrey Downs Park, additional mitigations or voluntary actions, including but not limited to additional city-funded property acquisitions, are warranted along 112th Avenue SE to create a linear park south of Surrey Downs Park similar to the linear park envisioned north of Surrey Downs Park; and

WHEREAS, the MOU retains the City's permitting authority over East Link, including authority to review the proposed project for compliance with City codes and regulations, and authority to ensure that once constructed, the project operates in compliance with applicable conditions of approval and code requirements; and

WHEREAS, the City has independent obligations, under applicable local and state law, to perform environmental and other reviews of the East Link Project portions which are within the city limits of Bellevue which obligations are not waived or compromised in the MOU and Transit Way Agreement; and

WHEREAS, the cooperative relationship embodied in the MOU and Transit Way Agreement between the City and Sound Transit for the life of the East Link Project represents a significant opportunity to assist Sound Transit to ensure that the Project delivers the level of service expected by the region and City residents and businesses; and

WHEREAS, it is the strong expectation of the City Council that the Collaborative Design Process established in the MOU will lead the parties to identify substantial cost savings for the East Link projects, which savings will serve to reduce the potential overall city contribution to the downtown tunnel; and

WHEREAS, it is the strong expectation of the City Council that in the process of identifying these cost savings, the project will incorporate design features and elements that ensure that the project's design is sensitive to the surrounding neighborhoods and mitigates impacts, including visual and noise impacts, that might otherwise negatively impact the quality of life in the surrounding areas; now, therefore:

**THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES
RESOLVE AS FOLLOWS:**

Section 1. The City Manager or his designee is hereby authorized to execute the Umbrella Memorandum of Understanding for Intergovernmental Cooperation between the City of Bellevue and the Central Puget Sound Regional Transit Authority for the East Link Project, which Memorandum of Understanding has been given Clerk's Receiving No. _____.

Section 2. The City Manager or his designee is hereby authorized to execute the Transit Way Agreement between the City of Bellevue and the Central Puget Sound Regional Transit Authority for the East Link Project, which Transit Way Agreement has been given Clerk's Receiving No. _____.

Section 3. The City Manager shall send a letter to the Federal Transit Administration updating the comments provided in August 2011 to provide details on the mitigation concepts agreed to between the City and Sound Transit with respect to Mercer Slough Nature Park and Surrey Downs Park, and to acknowledge the complexity of applying the 4(f) regulations to the East Link Project's multitude of alignment combinations, with differing impacts on parks throughout the City.

Section 4. The City Manager shall present to the City Council for approval a work plan that will allow the City Council to evaluate the potential public uses of any property along 112th Avenue SE and south of Surrey Downs park, to the extent any property immediately adjacent to 112th Avenue SE is not acquired by Sound Transit for the East Link project. Such work plan should be presented to the City Council at the same time as the Collaborative Design Process Management Plan required by the MOU.

Section 5. The City Manager shall direct any city staff or consultants working with Sound Transit through the Collaborative Design Process to work diligently to identify any and all sources of project cost savings with a goal of realizing \$60 million in savings on the portions of the project within the City. Such cost savings shall not compromise project mitigation that is required under city code to mitigate the impacts of the project from noise, visual impacts and impacts to environmentally critical areas.

Passed by the City Council this _____ day of _____, 2011,
and signed in authentication of its passage this _____ day of _____,
2011.

(SEAL)

Don Davidson, DDS
Mayor

Attest:

Myrna L. Basich, City Clerk