

CITY COUNCIL REGULAR SESSION

Resolution authorizing execution of the Property Exchange Agreement with Sound Transit related to a City owned parcel commonly referred to as the spur parcel; and authorizing the City Manager or his designee to execute documents and exercise certain rights as set forth in the Agreement.

Mac Cummins, Director, 452-6191

Kris Goddard, Public-Private Partnership Manager, 452-7910
Community Development

Monica Buck, Assistant City Attorney, 452-4082
City Attorney's Office

Ira McDaniel, Real Property Manager, 452-4082
Finance & Asset Management

EXECUTIVE SUMMARY

As directed by Council on July 15, staff is returning for Council action to adopt the Resolution authorizing execution of the Property Exchange Agreement with Sound Transit.

RECOMMENDATION

Move to adopt Resolution No. 9649

If approved, effective date: 08/05/2019

BACKGROUND/ANALYSIS**Background**

On November 15, 2011, the City and Sound Transit entered into an Umbrella Memorandum of Understanding (MOU) related to the construction, operation and maintenance of the East Link project. On May 6, 2015, an Amended and Restated MOU (the "MOU") was executed, recognizing major changes and related negotiations in the project, including Sound Transit's identification of a potential location for the Operations Maintenance Facility East (OMF East) in BelRed.

Under the MOU and a subsequent 2016 Implementation Agreement, the City and Sound Transit agreed to work collaboratively to recover the lost development potential of the OMF East site through transit-oriented development (TOD) of Sound Transit's surplus property to the south of the future maintenance facility. Contemplated for inclusion in the future development was a piece of City-owned property (Parcel #1099100104) commonly referred to as the "spur parcel."

To advance the goal of TOD on the surplus property, Sound Transit and the City included the proposed TOD site in the analysis and project planning for the OMF East. The result was an approved 2018 Master Development Plan (MDP) that provided design approval for the OMF East (Phase 1), as well as land use review (without design approval) of the 6.8 acre TOD site (Phase 2). The evaluation and entitlement of the TOD portion of the property in the MDP was done to inform the City and Sound

Transit of the development potential for the site, and to advance Sound Transit's efforts to offer the TOD opportunity via a competitive procurement process to the development community.

With the completion of East Link scheduled for 2023 and the joint goal of enabling development of the TOD as close as possible to the start of rail service, Sound Transit is advancing their development process. Before Sound Transit can proceed with an offering for the site, a decision regarding disposition of the spur parcel is required.

Inclusion in the Development

In preparation for taking the TOD site to market, City staff have worked collaboratively with Sound Transit to ensure City policies and Council-adopted goals for the site are addressed in the offering development process. This includes thorough analysis and negotiation over the future of the spur parcel. As a result, staff is recommending conveyance of the parcel to Sound Transit for incorporation in the development offering.

Both the City and Sound Transit recognize the benefit of assembling the spur parcel with the surplus property adjacent to the OMF East. In addition to meeting the original intent laid out in the MOU and Implementation Agreement, including the spur parcel in the offering will maximize the TOD potential of the site and increase its ability to achieve the MOU's established goal of 1.2 million square feet of development. Furthermore, conveyance of the spur parcel to Sound Transit creates a fully assembled development site offered through one government entity, as opposed to two. This will be more attractive and predictable to the development community and lead to better outcomes for the City.

Disposition Approach

After extensive negotiations with Sound Transit, our recommendation for disposition of the property is to exercise the property exchange contemplated in the MOU, conveying the property with an affordable housing covenant.

In the MOU, an option is available for the City to exchange the spur parcel for Sound Transit-owned frontage property adjacent to the OMF East, running along the west side of 120th Avenue NE, commonly referred to as the "frontage property." Per the MOU, Sound Transit was required to improve this frontage property with an interim multipurpose path and landscaping. The MOU also contemplated utilizing this frontage property for a potential Phase II TOD development. While the frontage property offers no long-term value to Sound Transit, it does offer value to the City related to the future widening of 120th Avenue NE and potential Phase II TOD development. Considering this, Sound Transit requested the City exercise its option to exchange the frontage for the spur parcel. Staff recommends proceeding with the exchange, with the condition that the spur parcel be conveyed with an affordable housing covenant recorded on the property.

Affordable Housing Covenant

The City-owned spur parcel is 46,984 square feet (1.08 acres) and is valued at approximately \$5-6 million. Staff recommends the property exchange be conditioned upon the spur parcel being subject to an affordable housing covenant. The proposed restrictive covenant would require the following:

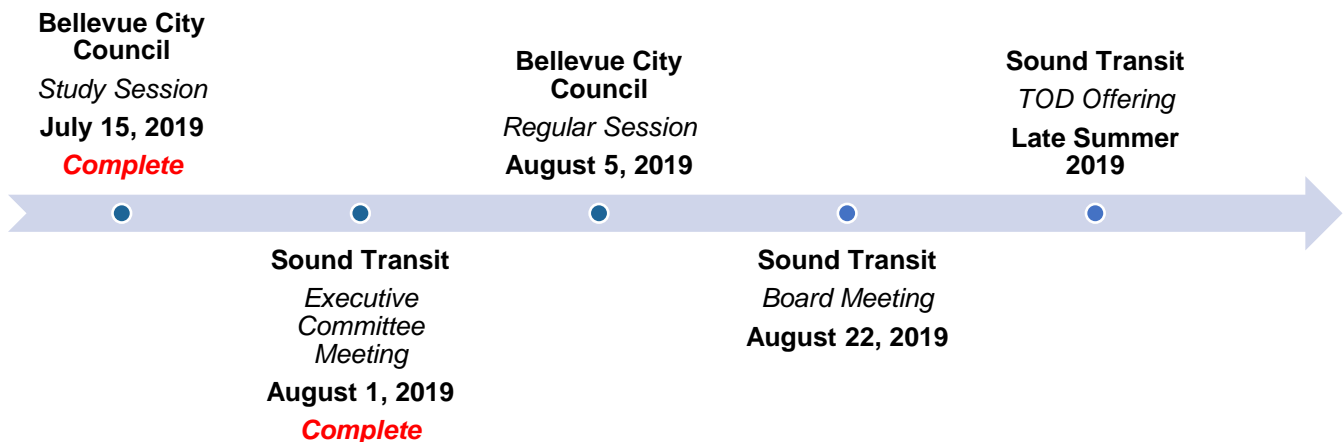
- Sound Transit, or a future owner, to develop, operate and maintain a minimum of 80 affordable housing units on the spur parcel, or another parcel on the site acceptable to the City;
- units would be exclusively available to households earning no greater than 60 percent of Area Median Income (AMI);
- at least 15 percent of the units will be required to have two bedrooms or more;
- at least 10 percent of the units will be required to have three bedrooms or more.

While the restrictive covenant would initially be recorded on the spur parcel, it could be moved to another building site within the TOD development site with the City’s approval.

In consultation with ARCH, staff believes that the guaranteed outcome of 80 units of affordable housing at or below 60 percent AMI represents full recovery of the value of the spur parcel. Through analysis of affordable housing developments across the region, and more specifically across the Eastside, affordable units below 60 percent AMI typically require a total public subsidy of \$100,000 - \$120,000 per unit. If the City were to sell the parcel and apply the value (\$5-6 million) towards an affordable housing development subsidy elsewhere, the contribution would likely only result in 42-60 units at 60 percent AMI or below.

Bellevue City Council and Sound Transit Board Engagement

On July 15, staff presented the terms of the proposed property exchange agreement and affordable housing covenant to the Council. Additionally, staff outlined the closely coordinated approval timeline that Bellevue and Sound Transit staff have agreed to for getting direction from both Council and the Sound Transit Board on the proposed agreement. Council voted unanimously to direct staff to return with legislation approving the proposed property exchange agreement.



At the July 15 Council meeting, a question was raised regarding whether Sound Transit could exercise its powers of eminent domain in the future to eliminate the covenant, and if so whether any revisions to the agreement were necessary to protect the City’s interests. While Sound Transit does have the power of eminent domain, such power is limited to acquiring property for high capacity related purposes. Sound Transit has no current plans to develop high capacity transit on the City parcel, or any of the parcels within the TOD development site. However, in the event Sound Transit exercised its power of

eminent domain in the future to eliminate the affordable housing covenant, the City would be entitled to just compensation. Such proceeding would be governed by state law. As a result, no changes to the agreement are necessary.

Following the July 15 Council meeting, the Sound Transit Executive Committee was presented with the terms of the property exchange agreement and covenant. The Committee recommended approval of the terms to the Sound Transit Board on August 1. The Committee was also presented with Sound Transit staff's proposal for offering two residential sites for affordable housing development in the offering. This too was recommended for approval.

Looking ahead, it is anticipated that Sound Transit will kick-off the competitive procurement process for the TOD opportunity later this summer. It should be noted that in accordance with the 2016 Implementation Agreement, City staff have been deeply involved with Sound Transit in the development of the TOD offering to ensure consistency with the goals of the MOU, BelRed vision and Implementation Agreement. Additionally, after the TOD opportunity is released, City staff will remain involved throughout the procurement process as a voting member of the evaluation committee. Council will be updated on the status of the project as it progresses.

POLICY & FISCAL IMPACTS

Policy Impact

Execution of the property exchange agreement with Sound Transit will have a significant impact on the City's TOD vision for BelRed and affordable housing goals. Conveyance of the spur parcel to Sound Transit for assemblage in the TOD offering will demonstrate the strength of public-private partnerships and the ability to leverage greater public benefit through cooperation.

Fiscal Impact

Moving forward with conveyance of the spur parcel using the property exchange described above will represent a full recovery of the value of the spur parcel. This value will be recouped through the public benefit of the affordable housing guaranteed through the restrictive covenant placed on the spur parcel as a condition of conveyance.

Receipt of the frontage property through the property exchange will have the following fiscal impacts:

1. Receipt will require a nominal allocation of City resources towards maintenance of the interim multipurpose trail and landscaping on the property. This cost is estimated to be \$3,800 annually.
2. Receipt of the frontage property will reduce future land acquisition costs to the City for future widening of 120th Avenue NE, and/or phase II TOD development should 120th Avenue NE ever be realigned to the east.

OPTIONS

1. Adopt the Resolution authorizing execution of the Property Exchange Agreement with Sound Transit related to a City owned parcel commonly referred to as the spur parcel; and authorizing the City Manager or his designee to execute documents and exercise certain rights as set forth in the Agreement.
2. Do not adopt the Resolution and provide alternative direction to staff.

ATTACHMENTS & AVAILABLE DOCUMENTS

A. Property Exchange Agreement
Proposed Resolution No. 9649

AVAILABLE IN COUNCIL LIBRARY

N/A