

April 20, 2015

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT:

Council is considering final action on the proposed Amended and Restated Memorandum of Understanding, Second Amendment to Transit Way Agreement, and Three Party Agreement with Sound Transit and King County. A public hearing was held on these documents on April 13, 2015. A proposed Resolution authorizing execution of the documents is included with these materials for Council consideration.

FISCAL IMPACT:

The proposed Amended and Restated Memorandum of Understanding (MOU) finalizes the terms for the City's financial contribution to the East Link project; outlines design requirements should Sound Transit select the Bel-Red area to site the Operations and Maintenance Satellite Facility (OMSF); defines terms for efficiencies in coordination of City projects to be constructed by Sound Transit, Sound Transit projects to be constructed by the City, and joint projects with shared responsibilities; establishes terms for project certainty through mitigation and project permitting; and outlines details related to property transfers from the City to Sound Transit and from Sound Transit to the City.

In large part, the fiscal impacts of the Amended and Restated MOU are to the timing of anticipated expenditures. The City's current CIP includes authorization for the expenditures that are envisioned by the agreements with Sound Transit. The financial impacts fall into several categories:

Up-front Contribution. The City will make the up-front contribution first identified in the 2011 MOU. The vast majority of this contribution is made up of the contribution of real property, much of which the City already owns. One parcel remains to be acquired, and that acquisition is fully funded in the current Capital Improvement Project (CIP) budget and is underway. Only two other pieces of the City's up-front contribution require expenditure of City funds: the pavement overlay of 112th Avenue SE after completion of Sound Transit construction in that area, which is budgeted in the Pavement Overlay Program (PW-M-1); and, City payment of a share of the cost of relocating certain public utilities in the amount of \$8.855 million which is budgeted in the Utilities Budget for 2015-2016.

Contingent Contribution. This potential future liability in the 2022-2025 timeframe of up to \$60 million per the terms of the 2011 MOU is permanently eliminated, increasing the City's future flexibility to address its own CIP needs.

Project Coordination. The City and Sound Transit agree in the Amended MOU to share in the costs of certain projects. The City's share of these projects is already budgeted in the current CIP, albeit in different years than are now likely as a result of the agreement. Staff will provide detail on potential budget modifications necessary for project coordination at the time the budget amendment is presented.

Other Property Impacts: Sound Transit will be paying the City \$8.6 million by October 2015, as well as transferring its interest in the 130th Park-and-Ride station property in order to compensate the City for property impacts to City Hall, the Metro site, and Lincoln Center. The current CIP assumed a full cash payment by Sound Transit, rather than a combination of cash and property.

in the amount of \$14.5 million. As a result, the current CIP will need to be amended to realize \$8.6 million in revenue, rather than \$14.5 million. Elimination of the City Council contingency on the expenditure side of the current CIP will allow the current CIP to remain in balance.

Other Financial Terms. The Amended MOU also describes the amount that Sound Transit will pay in permit review fees, at \$16.4 million. This amount reflects the City's standard hourly rates and charges for the types of permits and inspections that are described in the MOU. Staff anticipates that the work will be managed within that budget. In addition, the MOU anticipates the City undertaking some additional community outreach and marketing efforts during Sound Transit construction beyond Sound Transit's typical outreach. Finally, the City may need to perform design work on the 120th realignment envisioned by the Three Party Agreement with Sound Transit and King County. Options for funding these additional efforts out of the current CIP will be brought forward for Council consideration at the time the budget amendment is presented.

Staff will return with a budget amendment to implement the agreement as needed in the 2015-2016 Operating and the 2015-2021 Capital Investment Plan Budgets after the Sound Transit Board takes final action on the Amended MOU.

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POLICY CONSIDERATION:

Should the City approve the Amended and Restated MOU, Second Amendment to Transit Way Agreement and Three Party Agreement with Sound Transit and King County in order to finalize the City's financial contribution toward the East Link downtown tunnel, provide protections and requirements for the OMSF in the event the Bel-Red location is selected, and provide for additional certainty and coordination in the delivery of light rail to the Eastside?

BACKGROUND:

In November 2011, Council signed an umbrella Memorandum of Understanding with Sound Transit detailing City financial contributions toward the costs of a downtown light rail tunnel and design modifications to minimize impacts of the rail line on neighborhoods. The City and Sound Transit entered in to a "collaborative design process" intended to reduce costs, comply with codes and regulations, and finish the project on time.

The East Link light rail project is proceeding through to final design, the process that advances design work from approximately 30% to 100% completion. The November 2011 MOU contemplated that the City and Sound Transit would confirm the MOU Baseline and make any adjustments to the City financial contingency in writing at the time of Sound Transit Project Baseline. The Sound Transit Board is expected to baseline the East Link project at their April 23, 2015 Board meeting.

The Council held a public hearing at its April 13 meeting to obtain public input on the draft agreements. Approximately 50 people attended this hearing, with 32 making comment. Additionally, written comments will be accepted until April 19. A summary of the public hearing and copies of all written comments will be provided in the Council's desk packet on Monday. A full copy of the draft amended MOU is publicly available on the City's light rail website at <http://bellevuewa.gov/east-link-mou.htm>.

Operations and Maintenance Satellite Facility (OMSF)

In July 2014, the Sound Transit Board identified a preferred site for a new light rail yard for storage and maintenance of a portion of the system's light rail fleet, called the Operations and Maintenance Satellite Facility. The preferred site was one of three studied through the environmental review process, and is centered on the former International Paper site adjacent to the Eastside Rail Corridor in the City's Bel-Red area. According to Sound Transit, the facility is needed to support the expansion of the light rail system to the north, south and east through the Sound Transit 2 package of system expansions. Two of the three sites studied are in Bellevue's Bel-Red area. The City believes that comprehensive resolution of issues for both East Link and OMSF are intrinsically linked and, as such, are viewed as one project that must be addressed together.

During the July 24, 2014 Sound Transit Board meeting that identified the International Paper site as the Preferred Alternative for the OMSF, the Board also directed staff to maximize transit oriented development on the site and in the vicinity, and to conduct a stakeholder engagement process during the Preliminary Engineering (PE) and Final Environmental Impact Statement (FEIS) phases of the project. The stakeholder group met four times in September and October 2014, and provided a letter to the Sound Transit Board at their November 20, 2014 meeting outlining their recommendations.

Amended and Restated MOU

Under the terms of the November 2011 MOU, at the time of Sound Transit's baseline budget for East Link, the parties were to confirm the City's Contingent Contribution in the project. Sound Transit is reaching the project baseline milestone, and for several months the two agencies have been working toward identifying resolutions to issues related to the MOU, project coordination, and the potential OMSF location in Bel-Red through amendments to the existing MOU.

Key elements that are addressed in the proposed Amended and Restated MOU include:

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| Operations and Maintenance Facility (OMSF) | <p>If, after environmental review, Sound Transit selects the site in the Bel-Red Corridor, an amended MOU would address:</p> <ul style="list-style-type: none">• Design modifications that allow for future transit oriented development (TOD)• Design integration of the OMSF with surrounding architecture and future development |
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| | <ul style="list-style-type: none"> • Non-motorized connections along the future Eastside Rail Corridor (ERC) and connections from the ERC to 120th Avenue NE |
| Project Coordination | Identification of the most efficient delivery strategy for City projects that will be constructed by Sound Transit and certain aspects of the East Link project that will be constructed by the City. |
| Project and Construction Mitigation | <p>Establish clear requirements to minimize disruptions to City businesses and residents, through techniques such as:</p> <ul style="list-style-type: none"> • Working collaboratively with both agencies, representatives of business and neighborhoods • Timing and location of noise mitigation • Goals for maintenance of traffic during construction |
| Project Permitting Fees | <p>The agencies recognize the important role that timely permit application and issuance plays in maintaining the overall project delivery</p> <ul style="list-style-type: none"> • Setting scope and responsibility of construction inspection • Setting parameters for what is and is not covered in permitting fees |
| Financial Reconciliation | <ul style="list-style-type: none"> • Identification of the City's final contribution to the overall East Link Project • Identification of elements or reimbursement between the parties |

Two companion legal agreements are packaged with the Amended and Restated MOU. First, the Second Amendment to Transit Way Agreement is proposed to update the definition of “MOU” in that document, and to include ongoing track maintenance requirements to ensure that noise from a poorly maintained train or track is not a problem in future operations. Second, the City, Sound Transit and King County are proposed to enter into a document called the Three Party Agreement between the City of Bellevue, King County and Sound Transit for the Future Realignment of 120th Avenue NE. This document implements a second phase of responding to a possible OMSF in Bel-Red. It allows the parties to plan for the re-alignment of 120th, creating additional development potential on the OMSF site, and impacting King County's bus facility. The re-alignment of the road helps maintain the active, urban neighborhood along 120th envisioned by the Bel-Red plan.

The agreements described in this memorandum do not affect other work already underway on the East Link project. Most notably, “design & mitigation” permits are currently under review by a Citizen's Advisory Committee and City staff. That permit process and the City's Light Rail Overlay requirements are unaffected by the terms of the proposed agreements.

EFFECTIVE DATE:

If approved, this Resolution becomes effective immediately upon Council adoption.

OPTIONS:

1. Adopt Resolution No. 8903 approving the Amended and Restated MOU, Second Amendment to Transit Way Agreement, and Three Party Agreement.
2. Agree to changes to the Amended and Restated MOU and/or Transit Way Agreement and/or Three Party Agreement and authorize resolution.

3. Provide alternative direction to staff.

RECOMMENDATION:

Option 1.

MOTION:

1. Move to adopt Resolution No. 8903 approving the Amended and Restated MOU, Second Amendment to Transit Way Agreement, and Three Party Agreement.

ATTACHMENT:

Proposed Resolution No. 8903