

**IMPLEMENTATION AGREEMENT
PURSUANT TO UMBRELLA MEMORANDUM AND UNDERSTANDING
FOR EAST LINK PROJECT**

This IMPLEMENTATION AGREEMENT (“Agreement”), effective this ____ day of _____, 2016, is entered into between the CITY OF BELLEVUE, a Washington municipal corporation (the “City”) and the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a regional transit authority (“Sound Transit”, and together with the City, the “Parties”). For and in consideration of the mutual covenants contained herein, the City and Sound Transit do hereby agree as follows regarding the Sound Transit East Link Project.

RECITALS

WHEREAS, Sound Transit, by Motion No. M2014-51 approved on July 24, 2014, identified the BNSF site in Bellevue as the preferred site for its Link Operations and Maintenance Satellite Facility (the “OMSF”) Final Environmental Impact Statement and directed staff, among other things, to prioritize and incorporate Agency and Community Transit-Oriented Development consistent with Sound Transit TOD Policy (Resolution No. R2012-24) and based on the following: to maximize transit oriented development (“TOD”) on the site and in the vicinity of the OMSF, to minimize the effect of OMSF on the TOD potential in the vicinity of the OMSF, and design the project to maximize compatibility with the Bel-Red plan, to consider site modifications recommended by the Urban Land Institute Advisory Services Panel and the response to those recommendations developed by the OMSF design team, and to obtain and carefully consider input from stakeholder workshops with the goal of developing a design that integrates OMSF with the surrounding land uses;

WHEREAS, the City and Sound Transit entered into an Amended and Restated Umbrella Memorandum of Understanding for the East Link Project, dated as of May 6, 2015 (the “MOU”), which includes terms to address items of mutual concern in the event that the Sound Transit Board ultimately selected an OMSF site in Bellevue after completion of the Final EIS;

WHEREAS, Sound Transit, by Resolution No. R2015-26 adopted on October 22, 2015, formally selected the BNSF alternative located in Bellevue as the project to be built for the OMSF;

WHEREAS, the Parties acknowledge that various parcels generally described in the MOU as the Phase I Parcels 1-3 (the “Phase I Parcels”) are required for construction of the OMSF, and after construction of the OMSF is sufficiently complete, all or portions of the Phase I Parcels are expected to become surplus to Sound Transit to the extent that they are no longer necessary to support said construction or operation of the OMSF;

WHEREAS, the Parties confirm their common interest in providing TOD opportunities on the Phase I Parcels as expressed in Section 20.4 of the MOU, and Sound Transit has agreed, pursuant to Section 20.2 of the MOU, to include certain design elements in the appropriate phases of engineering design of the OMSF which support and complement the Bel-Red Subarea Plan vision and further agrees herein that the Phase 1 Parcel development will be consistent with the

Bel-Red TOD Planning Principles and 120th Station Area/OMSF TOD Planning Principles, subsequently approved by the Bellevue City Council on January 25, 2016;

WHEREAS, in furtherance of the Parties' common overall goal, expressed in Section 20.4(h) of the MOU, of enabling timely development of TOD concurrent with or as close in time as practicable with commencement of East Link operation, the Parties agreed in the MOU to work cooperatively and expeditiously to negotiate in good faith the final form and contents of a development agreement;

WHEREAS, at the time the MOU was executed, the parties contemplated that the development agreement would be completed and executed concurrent with OMSF project baselining during final design as expressed in Section 20.5 of the MOU;

WHEREAS, Sound Transit has determined to procure design and construction services for the OMSF through the process generally known as "design-build" where multiple teams compete through the design concept phase for the work of completing final design and constructing the OMSF project, as opposed to the process generally known as the "design-bid-build" process;

WHEREAS, the use of the design-build process and Sound Transit's policies around project development require that the Sound Transit Board take an action to establish the OMSF project baseline scope, budget and schedule prior to the release of the Request for Proposals (the "RFP"). Sound Transit anticipates the Initial Baselining in July 2016;

WHEREAS, the Parties acknowledge that a final development agreement as contemplated by the MOU cannot be completed by the time of OMSF baselining since, among other reasons, the nature of the design-build process is such that there is insufficient design at this time to identify those OMSF project components necessary to satisfy the intent of the MOU. Thus, the baselining of the OMSF is not at the appropriate phase of engineering design to set forth the development agreement provisions as contemplated in the MOU;

WHEREAS, the RFP for the design-build procurement for the OMSF will include language that requires proposers to respond to the commitments of the MOU, optimize integration of the OMSF with TOD, and identify the type of development envisioned for the Phase I Parcels so as to create marketable lots, including the appropriate mixture of Sound Transit and other uses, housing affordability, and additional design elements that support that vision;

WHEREAS, in due consideration of the above, the Parties have negotiated this Implementation Agreement to establish a process by which Baseline A for the OMSF, design, and permitting may proceed as provided in the MOU, with Baseline B occurring later in the process to allow the incorporation of additional design elements in the OMSF project scope consistent with the commitments of the MOU; and

WHEREAS, the Parties have agreed to continue to work cooperatively to realize the potential of the OMSF, including the Phase I Parcels, as set forth in the MOU.

NOW, THEREFORE, in consideration of mutual promises and covenants contained herein, the Parties hereby agree to the terms and conditions as follows:

Section 1. Definitions.

a. Baseline A means the setting of the scope, schedule and budget for construction of the OMSF project, including design and construction of the elements identified in Section 20.2 of the MOU.

b. Baseline B means the outcome of the process of presenting to the Sound Transit Board necessary amendments to the Baseline A to include additional design elements identified to be constructed as part of the OMSF project in order to create marketable lots for TOD generally consistent with Section 20.4 of the MOU.

c. “Participate in a meaningful way” for the purposes of this Agreement, means that through the collaboration process established by the parties, including technical advisory groups, the Steering Committee, and the dispute resolution process in Section 11 of the MOU, the parties will seek to reach consensus on the scope, qualifications, evaluation criteria, timing, and other key elements of the RFQ, RFP and TOD Offering as defined in this Agreement. In addition, it means that the City will have a voting member on any team or committee charged with selecting the design-build contractors applying to the RFQ, evaluating proposals in response to the design-build RFP and overseeing procurement processes related to the future TOD Offering.

d. Unless otherwise defined herein, capitalized terms shall have the meanings set forth in the MOU.

Section 2. Process for Establishment of Design Elements and Development.

a. The Parties agree that the development goal for the Phase I Parcels should be to support an aggregate amount of development on the Phase I Parcels (not including a relocation of 120th Avenue NE) of 1.2 million gross square feet. The Parties agree that a suitable development on the Phase I Parcels is a mix of uses consistent with the Bel-Red vision for a compact, mixed use and walkable center focused on office with retail, education and housing, including affordable and market rate housing, with a goal of achieving at least 50,000 square feet of retail or other uses that activate the ground plane, and not less than 20% gross square feet (GSF) for housing.

b. The Parties agree that the Phase I Parcels shall be prepared with infrastructure and site preparation work to a level estimated to competitively position and price the Phase I Parcels in the marketplace. The scope, cost and feasibility of preparing the Phase I Parcels as marketable lots for TOD cannot be estimated at this time, but upon its determination as discussed herein, such cost shall be considered for inclusion within the Baseline B by Sound Transit. It is understood that part of the work of the responders to the RFP will be to identify those potential design elements that will optimize integration of the OMSF with TOD for future consideration by the Sound Transit Board as described in this Agreement.

c. Any utilities and other amenities provided to the Phase I Parcels in accordance with Section 20.2 of the MOU shall be sized to support the feasible level of TOD development identified in this Agreement.

d. The Parties acknowledge and agree that Baseline A scheduled for July 2016 includes the design elements described in Section 20.2 of the MOU. The Parties acknowledge that additional design elements may be necessary to advance the Parties' common interest in providing timely TOD opportunities on the potential Phase I Parcels. The Parties agree to work collaboratively to identify additional TOD enabling design elements after Baseline A occurs, so that these elements are considered by the Sound Transit Board in Baseline B.

Section 3. Process and Respective Roles in the Design-Build Process.

a. The Parties have worked collaboratively to draft certain provisions of the RFP to ensure that the Parties common interest to optimize potential TOD on the Phase I Parcels is clearly weighed and evaluated as part of the RFP evaluation and selection process, including points allocated to scoring criteria. To that end, Sound Transit shall include in the RFP provisions that generally direct that proposals include the following:

- (i) Optimize operational integration of the OMSF with TOD to create overall efficiencies to enable future development parcels that are competitively positioned as marketable lots.
- (ii) An approach to permitting under the applicable Master Development Plan provisions of the City's Land Use Code ("MDP") that includes the entire site, including both OMSF and future potential Phase I Parcels. Proposers to explain how such MDP resolves the site and construction challenges identified in the market and feasibility studies commissioned pursuant to Section 20.4 of the MOU.
- (iii) Define TOD parcels that enable future development parcels that are competitively positioned as marketable lots ("TOD Offering") and establish a schedule for disposition of such TOD Offering to meet Parties goal for TOD concurrent with, or as close in time as practicable with, commencement of East Link operations as set forth in Section 20.4(h) of the MOU.
- (iv) Demonstrate how the proposal meets the requirements set forth in Sections 20.2 and 20.4 of the MOU.
- (v) Identification and recommendation of additional design elements necessary to create marketable lots.

b. The RFP is scheduled to be issued following execution of this Agreement. The Parties acknowledge that the draft RFP dated [INSERT DATE] (the "Agreed RFP") satisfies the above provisions of this Agreement. Sound Transit agrees that the RFP that is issued shall be substantially in the same form as the Agreed RFP. In the event that substantive changes to the RFP are necessary that affect the TOD the provisions of this Agreement, the parties will work together to achieve consensus on such changes.

c. The City has had and will have a voting member participate in a meaningful way in the selection of the design-build contractors applying pursuant to the Request for Qualifications (RFQ).

d. The City will have a voting member participate in a meaningful way in the proposals evaluation submitted in response to the RFP.

Section 4. Actions Upon Award of the Design Build Contract.

a. During the concept validation period, MDP application preparation and review, shown on the attached Implementation Process diagram, Exhibit A, Sound Transit and the City will negotiate in good faith and will work cooperatively and expeditiously to define the scope of Baseline B. Sound Transit's contractor will submit an application for a MDP and Design Review for the entire site inclusive of the future Phase I Parcels and the proposed additional design elements. Sound Transit agrees to amend the MDP application to include those additional design elements included in Baseline B, and any future amendments or modifications to the MDP shall be consistent with Baseline B.

b. Sound Transit agrees to present the proposed Baseline B to the Sound Transit Board prior to the issuance of the MDP by the City to reflect, among other things, the scope and cost of preparing the Phase I Parcels, and implementing any additional design elements identified by the design builder and by Sound Transit to competitively position the parcels.

c. Under Section 22.3 of the MOU, the City and Sound Transit agreed to negotiate a property conveyance and construction agreement for the transfer of the 130th Avenue NE parcels from Sound Transit to the City by October 1, 2016. The Parties mutually agree to extend the October 1, 2016 date to October 1, 2017 for either final agreement on the property conveyance and construction agreement originally outlined in the MOU or mutually agreeable revisions to the MOU.

d. The provisions of this Section 4, and this Agreement, are intended to implement and not supersede the MOU, and the obligations set forth in MOU shall remain in full force and effect notwithstanding the terms of this Agreement.

Section 5. Process and Respective Roles for Request for Proposals for TOD Offering.

a. The parties mutually agree that the City's final approval of the MDP, which will provide legal description and development entitlements for the Phase 1 Parcels, initiates the TOD RFP process by Sound Transit.

b. The parties shall seek to reach consensus on the scope and evaluation process of a separate request for proposals ("TOD RFP") for the TOD Offering to maximize development on the Phase I Parcels consistent with the MOU, Bel-Red vision, and this Agreement. The Parties anticipate that such TOD RFP would seek proposals for a master developer who could be granted an exclusive right to acquire all of the Phase I Parcels available for sale or lease at market rates. The Parties also anticipate exploring pursuit of joint development opportunities to facilitate TOD, which may include FTA, public and private developers and non-profit housing

providers. In the event the Parties cannot reach consensus on the scope or evaluation process for the TOD RFP, the Parties shall utilize the dispute resolution process set forth in Section 11.0 of the MOU. In addition, Sound Transit will bring necessary expertise, including but not limited to separately commissioning specialized development advisory services, to the OMSF design and MDP process to ensure that site and infrastructure design considerations for the Phase 1 Parcels may be integrated.

c. The City will have a voting member participate in a meaningful way in evaluating the responses to the request for proposals for the TOD Offering for consistency with the MOU, Bel-Red vision, and this Agreement.

d. The City has and will participate in a meaningful way in developing and evaluating any technical studies or agreements that involve TOD on the Phase I Parcels.

Section 6. General Provisions.

The provisions contained in Sections 11, 12, 13, 14, 18, 19 and 25 of the MOU are incorporated herein by this reference and shall apply herein as if fully set forth.

IN WITNESS WHEREOF, each of the Parties has executed this implementation Agreement by having its authorized representative affix his/her name in the appropriate space below:

CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY

THE CITY OF BELLEVUE

By: _____

By: _____

Date: _____

Date: _____

Authorized by Motion No. _____

Authorized by Resolution No. _____

Approved as to form:

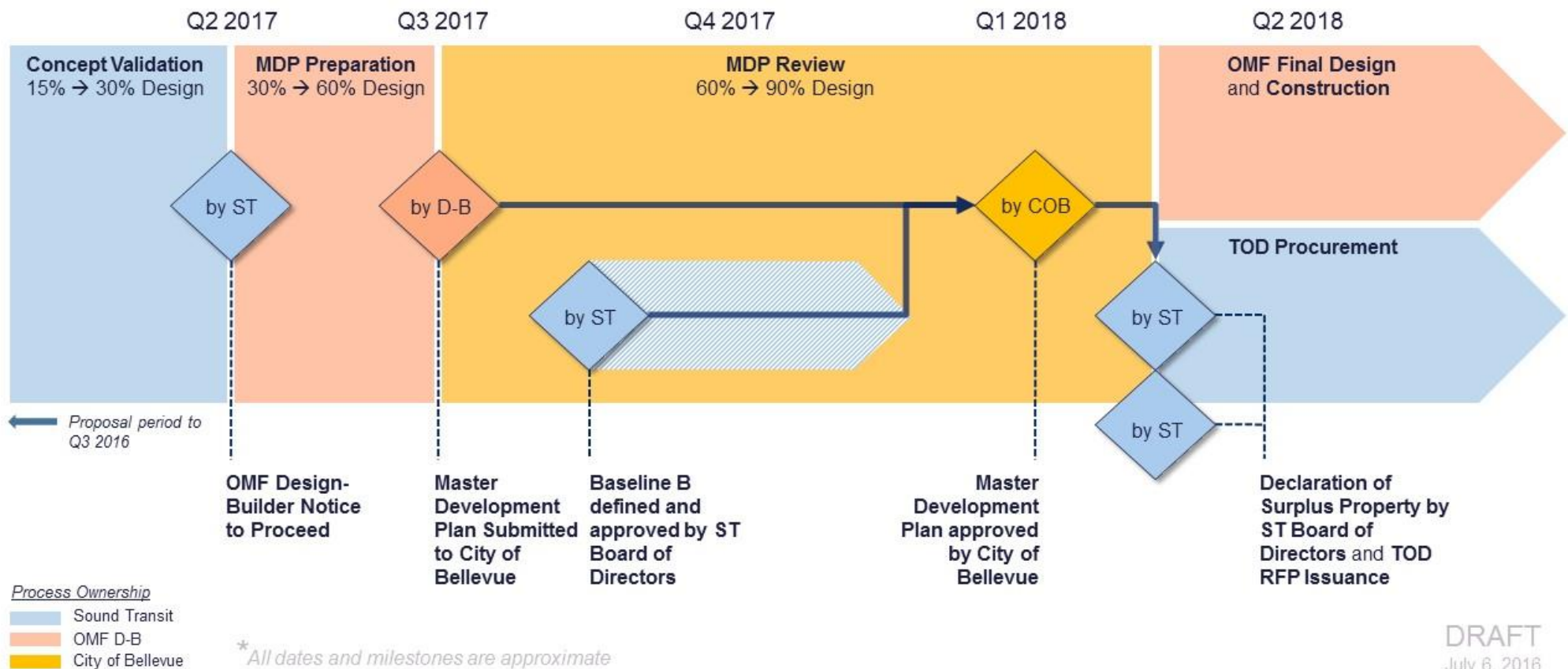
Approved as to form:

By: _____

By: _____

Exhibit A

Implementation Process as presented in I.A.*



DRAFT
July 6, 2016