

## STAFF REPORT

### SOUND TRANSIT MOTION NO. M2000-127

#### Right of Use Agreement with the City of Tacoma

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Board	1/11/01	Discussion, Possible Action	Mary Jo Porter, Deputy Director	(206) 398-5210

#### **PROPOSED ACTION**

Authorizes the Executive Director to execute a Right of Use Agreement with the City of Tacoma granting Sound Transit the right to use Tacoma public rights of way for the construction, operation and maintenance of the Link Light Rail system. No payment is required from Sound Transit.

#### **KEY FEATURES**

##### **Highlights of Proposed Action:**

- ◆ Authorizes the Executive Director to execute a Right of Use Agreement with the City of Tacoma granting Sound Transit the right to use Tacoma public rights of way for the construction, operation and maintenance of the Tacoma Link Light Rail system.
- ◆ Requires no performance bond at this time, although the parties agree to meet every ten years to determine if a performance bond would be required then.
- ◆ Provides for notification of the City of Tacoma in the event that historical or cultural artifacts are discovered during construction.
- ◆ Requires no payment from Sound Transit to the City of Tacoma for the rights granted.
- ◆ Specifies minimum and maximum levels of service (train schedules) along with a procedure for consultation on schedule revisions. These levels are in conformance with the Tacoma Link Operations Plan presented to the Sound Transit Executive Committee on September 15, 2000.
- ◆ Provides for potential relocation of light rail facilities following a mutual agreement on the allocation of costs to be borne by the parties.

##### **Discussion of Proposed Action:**

On July 8, 1999 through Motion 99-28, the Sound Transit Board adopted the final alignment and station locations for the Tacoma Link Light Rail project. This at grade alignment is primarily in City of Tacoma right of way in public streets. It is customary for a City to grant a right of use to Sound Transit to use the right of way area.

This Right of Use agreement will allow Sound Transit to construct, operate, maintain, and own the light rail system in Tacoma. The agreement will remain in effect for 25 years.

A performance bond is not required at this time, although the parties agree to meet every ten years to determine if a performance bond would be required then. Should artifacts be found during construction, the agreement provides for notification to the City. The procedure for historical and archeological finds is that specified in the construction contract documents.

The agreement specifies a minimum level of service that is the same as the Tacoma Light Rail Operations Plan which was presented to the Sound Transit Executive Committee on September 15, 2000. It also specifies a maximum level of service of 5-minute headways 24 hours a day. Sound Transit shall determine the schedule for passenger rail and provide regular service to the city. The agreement includes a procedure for changes to the schedule. Should the City of Tacoma desire relocation of a portion of the light rail facilities due to, for example, some vital City project, the City may direct Sound Transit to relocate a portion of the facilities, but both parties must agree on the allocation of costs.

### **BUDGET**

There are no direct costs associated with this right of use agreement.

### **ALTERNATIVES**

There are no other reasonable alternatives to an agreement with the City of Tacoma on the use of City right-of-way.

### **CONSEQUENCES OF DELAY**

Notice to proceed will not be given to the contractor selected to construct the light rail line and stations until there is a signed agreement between Sound Transit and the City of Tacoma for use of the City right of way. Any delay in the approval of this agreement could delay the start of work on the line section construction contract. A delay in the start of work would jeopardize the ability of the contractor to complete the work on schedule and jeopardize the opening of the light rail line as scheduled for fall 2002.

### **REGIONAL PARTNERSHIP AND COOPERATION**

Sound Transit and the City of Tacoma have entered into a partnership to accomplish the needs of both entities. The existing Memorandum of Agreement for the Tacoma Link Light Rail Project provides that the City shall grant a Right of Use for the system. This agreement is that right of use. A number of meetings at the staff level were held to reach consensus on the details and language of the agreement. These meetings culminated in a Tacoma Sound Transit Policy Committee meeting on July 17, 2000. (The Policy Committee consists of the City Councilperson/Sound Transit Board Member, City Manager, Sound Transit Executive Director, and Pierce Transit Executive Director.) The Policy Committee made final policy recommendations at this meeting, which are reflected in this agreement.

### **PUBLIC INVOLVEMENT**

The use of Tacoma right of way for the light rail line and stations has been discussed with the Tacoma community since early 1998. An extensive public involvement process was used that included numerous public meetings and mailings, including mailings to all property owners and utility payers in downtown Tacoma. All public meetings were advertised in local newspapers as well. The use of the right of way was discussed extensively in the Draft and Final Environmental Impact Statements (EIS). A public hearing was held on the Draft EIS; and the Final EIS was published in January 1999.

### **LEGAL REVIEW**

MBL 11/20/00

## SOUND TRANSIT

### MOTION NO. M2000-127

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the Executive Director to execute an agreement with the City of Tacoma granting Sound Transit the right to use Tacoma public rights of way for the construction, operation and maintenance of the Link Light Rail system.

#### Background:

On July 8, 1999, through Motion No. M99-28, the Sound Transit Board adopted the final alignment and station locations for the Tacoma Link Light Rail Project. This at-grade alignment is primarily in the City of Tacoma right of way in public streets. It is customary for the City to grant a right of use agreement for Sound Transit to use the right of way area.

This Right of Use agreement will allow Sound Transit to construct, operate, maintain, and own the light rail system in Tacoma. The agreement will remain in effect for 25 years.

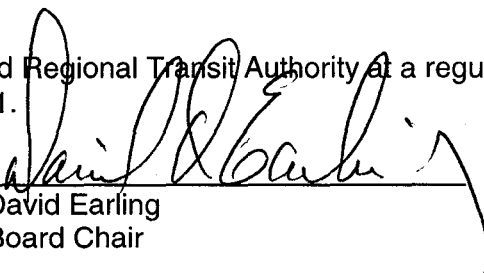
A performance bond is not required at this time, although the parties agree to meet every ten years to determine if a performance bond would be required. Should artifacts be found during construction, the agreement provides for notification to the City of Tacoma. The procedure for historical and archeological finds is specified in the construction contract documents.

The agreement specifies a minimum level of service which is the same as the Tacoma Light Rail Operations Plan that was presented to the Sound Transit Executive Committee on September 15, 2000. It also specifies a maximum level of service of 5-minute headways 24 hours a day. Sound Transit shall determine the schedule for passenger rail and provide regular service to the City of Tacoma. The agreement includes a procedure for changes to the schedule. Should the City of Tacoma desire relocation of a portion of the light rail facilities due to, for example, some vital City project, the City may direct Sound Transit to relocate a portion of the facilities, but both parties must agree on the allocation of costs.

#### Motion:

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the Executive Director is authorized to execute an agreement with the City of Tacoma granting Sound Transit the right to use Tacoma public rights of way for the construction, operation and maintenance of the Link Light Rail system with no payment required of Sound Transit as related to the grant of said rights.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on the 11<sup>th</sup> day of January, 2001.

  
David Earling  
Board Chair

ATTEST:

  
Marcia Walker  
Board Administrator