

MOTION NO. M2012-67

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute an Agreement with the City of Bellevue, HEI Bellevue LLC, and White/Peterman Properties Inc., to support construction, operation, and maintenance of the East Link Project.

BACKGROUND:

Sound Transit needs to acquire temporary and permanent property rights for construction, operation, and maintenance of the cut and cover tunnel in downtown Bellevue as part of the East Link Project. In 2010, Sound Transit identified for full acquisition a vacant parcel that is slightly more than approximately one acre on 110th Avenue NE owned by HEI Bellevue LLC (the "HEI site") for construction staging.

In 2008, the city issued permits for a hotel on the HEI site but development did not proceed due to the economic downturn. The site remains vacant; however, HEI is in the process of selling it to White/Peterman Properties (WPPI) who intends to begin construction of a hotel in the fall of 2012.

The Memorandum of Understanding (MOU) executed between Sound Transit and the City of Bellevue on November 15, 2011 provides that the city would acquire the HEI site and provide Sound Transit with the necessary easements for construction, operations, and maintenance of the East Link Project, as part of the city's up-front contribution of \$100 million. The MOU also contemplates that alternative properties of equal function and value could be provided by the city as agreed to by both parties.

Sound Transit, the City of Bellevue, HEI, and WPPI have reached agreement in principle to allow the site to be developed as a hotel in advance of East Link construction, while providing commitments necessary to ensure cost-effective and efficient construction, operation, and maintenance of the East Link Project. Sound Transit and the City of Bellevue acknowledge that the presence of the hotel on the HEI site will result in increased tunnel construction costs, as it will require Sound Transit to utilize more expensive engineering means to support the tunnel excavation.

As provided for in the MOU, Sound Transit and city staffs developed an alternative staging area plan which includes use of city property and property the city will acquire that total approximately one acre. In addition, the city is preparing right-of-way use permits that will allow Sound Transit long-term construction closures of portions of certain adjacent streets.

It is anticipated that the Bellevue City Council will consider the alternative staging area plan September 24, 2012. With City Council approval of the plan and mutual understanding that potential increased tunnel construction costs will be addressed through the collaborative design process and consistent with the MOU, the city and Sound Transit agree that the alternative staging plan is of equal function and value to the HEI site staging plan.

The Agreement includes the following key terms and conditions:

1. The property owner and hotel developer acknowledge the potential impacts of tunnel construction adjacent to the hotel and agree not to request any additional mitigation for

- construction impacts, and will not file any claims or objections against Sound Transit regarding construction impacts.
2. The parties will communicate regularly and work cooperatively throughout construction of both the hotel and Sound Transit projects in reviewing plans and coordinating construction activities.
 3. The hotel will close and relocate its main entry on 110th Avenue NE during construction of the Sound Transit project at its own cost.
 4. The city will acquire all temporary and permanent easements on Sound Transit's behalf and the property owner will convey them to Sound Transit substantially in the form attached to the Agreement
 5. Except as described in the Agreement, Sound Transit and the city agree not to use the HEI site for construction staging; however, Sound Transit and the city do not waive their statutory rights to use their acquisition authority if necessary.
 6. Termination of the Agreement in the event that WPPI does not purchase the HEI site by November 15, 2012.

In the event that the parties are unable to reach final agreement, Sound Transit is prepared to seek acquisition authority for the HEI site under its statutory authority in a separate Board action to allow the East Link Project to proceed on schedule.

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APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on September 27, 2012.



Pat McCarthy
Board Chair

ATTEST:



Marcia Walker
Board Administrator