

Motion No. M2023-90

Agreement with City of Auburn for the Acquisition of Certain Parking Easement Rights for the Auburn Station Parking and Access Improvement Project

Meeting:	Date:	Type of action:	Staff contact:
System Expansion Committee	10/12/2023	Recommend to Board	Brooke Belman, Deputy CEO, Chief Expansion Delivery Officer
Board	10/26/2023	Final action	Tracy Reed, Acting DECM Executive Director Jon Mihkels, Director, Buildings and Infrastructure Faith Roland, Director of Real Property

Proposed action

Authorizes the chief executive officer to execute an intergovernmental agreement with the City of Auburn pertaining to the acquisition of certain parking easement rights benefiting certain City-owned condominium units as part of the Auburn Station Parking and Access Improvements project.

Key features summary

- The site for the Auburn Station Parking and Access Improvements project is encumbered by an overlying parking easement for 113 parking stalls associated with off-site office condominium units in the Auburn Professional Plaza that are currently owned by the City of Auburn. This parking easement must be extinguished to allow for the construction of the new transit garage.
- Sound Transit has appraised the value of these parking easement rights and the City of Auburn disagrees with this value. The proposed agreement provides a structured process for the parties to negotiate and mediate a final value for the parking easement rights and, if negotiation and mediation prove unsuccessful, provides for the valuation of the rights to be established through binding arbitration.
- The agreement further establishes a timeline to allow for the Auburn Station Parking and Access Improvements project to advance, providing for a date certain by which the City would give Sound Transit possession and use (i.e., early relinquishment) of the parking rights in the event arbitration is delayed.
- The agreement includes a commitment by the City to relocate their parking from the project site on or before the anticipated closing date of April 30, 2024. Sound Transit will accommodate the displaced City parking in the existing Auburn Station parking garage for a period of three-years with operations and maintenance costs borne by the project with two, optional one-year extensions with operations and maintenance costs borne by the City.

Background

In November 2008, voters approved access improvements to the Puyallup, Sumner, Kent, and Auburn Sounder Stations as part of the ST2 ballot measure to expand mass transit throughout the region. Subsequently, the Sounder Station Access Study was conducted to identify potential access

improvements at Sounder stations. The August 2021 re-alignment action identified the Sumner, Kent and Auburn projects as Tier 1 projects to proceed to implementation.

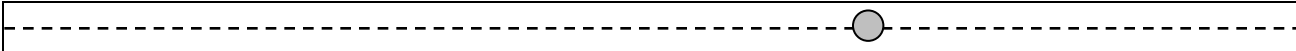
The Auburn project includes design-build construction of an additional structured parking facility with up to 675 stalls and access improvements including pedestrian and bicycle safety and traffic calming (i.e., curb extensions, roadway channelization, and installation of rectangular rapid flashing beacons, crosswalks, and ADA curb ramps). During final design, these amenities would be finalized in collaboration with City of Auburn as part of the permitting and approval process.

During project development and NEPA environmental approval, the parties contemplated that the City-owned parking would be accommodated within the new parking garage, as documented in a letter of concurrence dated February 2020. Subsequent to the 2020 project-to-be-built decision by the Board and after consultation with the FTA, the complexity of accommodating a third-party easement interest within a federally funded transit facility caused the parties to reconsider and agree on a purchase approach for the parking easement rights. Sound Transit provided the City an offer based upon independent appraisal in August 2022. The City provided review of the Sound Transit appraisal in May 2023, indicating significant disagreement with Sound Transit’s appraiser’s valuation analysis. The City proposed a structured path to purchase and sale and valuation in late July 2023, and is currently commissioning a full, independent appraisal.

Specifically, the substantive terms of the proposed agreement are as follows: (1) Sound Transit will place its initial offer for the easement interest into escrow; (2) Upon receipt of the City’s full appraisal report, the parties will negotiate, then mediate if necessary, in an effort to come to agreement on valuation; (3) If mediation is unsuccessful, the parties will enter into binding arbitration with an arbitrator with significant experience presiding over real property valuation disputes; (4) If arbitration does not take place by a date certain, the City will grant possession and use of the easement interest no later than the anticipated closing date of April 30, 2024 and as early as February 1, 2024, in exchange for disbursement to the City of Sound Transit’s initial offer; (5) Upon relinquishment of the City’s easement interest, either via possession and use or final agreement or arbitration award, Sound Transit will accommodate the City’s parking needs in the existing Auburn parking garage, with an initial term of three years to be free of charge, and two additional one-year extensions during which time the City would pay its proportionate share of operating costs; (6) Mirroring the condemnation statute RCW 8.25.070, Sound Transit will make a final offer to the City 30 days before arbitration, and if the arbitration award is 10 percent or more higher than such final offer, Sound Transit will pay the City’s reasonable attorneys’ fees.

The Auburn project was combined with the Kent and Sumner projects as part of Resolution No. R2023-02 project baseline which the Board approved on January 26, 2023.

Project status



Project Identification	Project Refinements	Conceptual Engineering/ Environmental Review	Preliminary Engineering	Final Design	Construction
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Projected Open for Service baseline milestone: Q2 2027

Project scope, schedule and budget summary are located on page 166 of the August 2023 Agency Progress Report.

Fiscal information

Although there is no direct fiscal action associated with the action, the approval of the agreement granting does establish conditions of which fiscal actions may be required.

This action does not have an impact on the affordability of the Agency's Finance Plan.

Disadvantaged and small business participation

Not applicable to this action.

Public involvement

The project also hosts information booths at community events in Auburn, including the Auburn Farmers Market and "Hot Summer Nights" market. Moving forward during project delivery, our external engagement plans include keeping neighboring property owners and tenants updated; a preconstruction open house (online and in-person) to share final designs and what to expect during construction; and regular updates to the community during construction.

Time constraints

Execution of this agreement is meant to precede issuance of the Notice to Proceed to the design-build team delivering the Auburn Parking and Access Improvements Project, the proposal for which was extended to February 26, 2024.

Prior Board/Committee actions

Motion 2023-46: Authorizes the chief executive officer to execute a design-build contract with Absher Construction Co. for the Auburn Station Parking and Access Improvement Project in the amount of \$60,000,000, with a 15 percent contingency of \$9,000,000 and authorizes an alternative concept allowance not to exceed \$2,000,000 to fund maximum cost of added value improvements for the Auburn Station Parking and Access Improvements Project for a total authorized contract amount not to exceed \$71,000,000, contingent upon resolution of any protest received.

Resolution No. R2023-02: Adopted the Sumner, Kent, and Auburn Stations Parking and Access Improvements Projects baseline schedule and budget by (a) combining the three project budgets into one project budget (b) increasing the authorized project allocation to date by \$299,119,865 from \$60,530,135 to \$359,650,000 (c) increasing the annual allocated budget by \$34,989,000 from \$16,516,000 to \$51,505,000. (d) establishing project open for service dates of Q1 2026 for Sumner, Q2 2027 for Kent and Q1 2027 Auburn.

Resolution No. R2021-10: Authorized the chief executive officer to acquire certain real property interests, including acquisition by condemnation to the extent authorized by law, and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants as necessary for the Auburn Station Parking and Access Improvements project.

Resolution R2020-08: Selected the non-motorized, transit and parking improvements to be built to improve access to the Auburn Sounder Station as part of the Auburn Station Parking and Access Improvements project.

Resolution No. R2019-05: Authorized the chief executive officer to acquire certain real property interests, including acquisition by condemnation to the extent authorized by law, and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants as necessary for the potential parking garage for the Auburn Station Parking and Access Improvements project.

Environmental review – KF (for Kent Hale) 9/29/23

Legal review – PM 10/6/23



Motion No. M2023-90

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute an intergovernmental agreement with the City of Auburn pertaining to the acquisition of certain parking easement rights benefiting certain City-owned condominium units as part of the Auburn Station Parking and Access Improvements project.

Background

In November 2008, voters approved access improvements to the Puyallup, Sumner, Kent, and Auburn Sounder Stations as part of the ST2 ballot measure to expand mass transit throughout the region. Subsequently, the Sounder Station Access Study was conducted to identify potential access improvements at Sounder stations. The Auburn project includes the addition of a structured parking facility with up to 675 stalls and access improvements including pedestrian and bicycle safety and traffic calming. The August 2021 re-alignment action identified the Sumner, Kent and Auburn projects as Tier 1 projects to proceed to implementation. The Auburn project was combined with the Kent and Sumner projects as part of Resolution No. R2023-02 project baseline which the Board approved on January 26, 2023.

The site for the Auburn project is encumbered by an overlying parking easement for 113 parking stalls associated with off-site office condominium units in the Auburn Professional Plaza that are currently owned by the City of Auburn. This parking easement must be extinguished to allow for the construction of the new transit garage.

During project development and NEPA environmental approval, the parties contemplated that the City-owned parking would be accommodated within the new parking garage, as documented in a letter of concurrence dated February 2020. Subsequent to the 2020 project-to-be-built decision by the Board and after consultation with the FTA, the complexity of accommodating a third-party easement interest within a federally funded transit facility caused the parties to reconsider and agree on a purchase approach for the parking easement rights. Sound Transit provided the City an offer to extinguish the easement interest based upon independent appraisal in August 2022. The City provided review of the ST appraisal in May 2023, indicating significant disagreement with Sound Transit's appraiser's valuation analysis. The City proposed a structured path to purchase and sale and valuation in late July 2023, and is currently commissioning a full, independent appraisal.

The proposed agreement provides a structured process for the parties to negotiate and mediate a final value for the parking easement rights and, if negotiation and mediation prove unsuccessful, provides for the valuation of the rights to be established through binding arbitration.

The agreement further establishes a timeline to allow for the Auburn Station Parking and Access Improvements project to advance, providing for a date certain by which the City would give Sound Transit possession and use (i.e., early relinquishment) of the parking rights in the event arbitration is delayed.

The agreement includes a commitment by the City to relocate their parking from the project site on or before the anticipated closing date of April 30, 2024. Sound Transit will accommodate the displaced City parking in the existing Auburn Station parking garage for a period of three-years with operations and maintenance costs borne by the project with two, optional one-year extensions with operations and maintenance costs borne by the City.

Specifically, the substantive deal terms of the proposed agreement are as follows: (1) Sound Transit will place its initial offer for the easement interest into escrow; (2) Upon receipt of the City's full

appraisal report, the parties will negotiate, then mediate if necessary, in an effort to come to agreement on valuation; (3) If mediation is unsuccessful, the parties will enter into binding arbitration with an arbitrator with significant experience presiding over real property valuation disputes; (4) If arbitration does not take place by a date certain, the City will grant possession and use of the easement interest in exchange for disbursement to the City of Sound Transit's initial offer; (5) Upon relinquishment of the City's easement interest, either via possession and use or final agreement or arbitration award, Sound Transit will accommodate the City's parking needs in the existing Auburn parking garage, with an initial term of three years to be free of charge, and two additional one-year extensions during which time the City would pay its proportionate share of operating costs; (6) Mirroring the condemnation statute RCW 8.25.070, Sound Transit will make a final offer to the City 30 days before arbitration, and if the arbitration award is 10% or more higher than such final offer, Sound Transit will pay the City's reasonable attorneys' fees.

Motion

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority approving the key business terms of an intergovernmental agreement with the City of Auburn pertaining to the acquisition of certain parking easement rights benefiting certain City-owned condominium units as part of the Auburn Station Parking and Access Improvements project; and delegating to the chief executive officer the authority to execute and subsequently amend as necessary an intergovernmental agreement and associated documents, all subject to the Board-approved substantive terms.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on October 26, 2023.


Dow Constantine
Board Chair

Attest:


Kathryn Flores
Board Administrator