

**HIGHLINE WATER DISTRICT  
King County, Washington**

**RESOLUTION 16-4-26A**

**RESOLUTION AUTHORIZING A LETTER OF UNDERSTANDING BY AND BETWEEN  
HIGHLINE WATER DISTRICT AND SOUND TRANSIT RELATING TO THE FEDERAL  
WAY LINK LIGHT RAIL EXTENSION**

**WHEREAS**, Sound Transit is endeavoring the design and construction of the Federal Way Link Light Rail Extension between S 200th Street and the City of Federal Way; and

**WHEREAS**, the proposed alignment conflicts with existing District water system facilities; and

**WHEREAS**, the District and Sound Transit desire to establish a mutual understanding to accommodate the relocation of these water system facilities; and

**WHEREAS**, the initial step is to define the work elements necessary through a non-binding Letter of Understanding, referenced as Attachment 1 and incorporated herein.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The General Manager or designee is authorized to execute the non-binding Letter of Understanding with Sound Transit.
2. The General Manager and/or the District's Legal Counsel are authorized to make minor changes to the non-binding Letter of Understanding if required.


**ADOPTED BY THE BOARD OF COMMISSIONERS** of Highline Water District, King County, Washington, at an open public meeting held this **26th** day of **April 2016**.

**BOARD OF COMMISSIONERS**

  
\_\_\_\_\_  
**Vince Koester**, President

  
\_\_\_\_\_  
**Daniel Johnson**, Commissioner

  
\_\_\_\_\_  
**Kathleen Quong-Vermeire**, Commissioner

  
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**Todd Fultz**, Secretary

  
\_\_\_\_\_  
**George Landon**, Commissioner



**ATTACHMENT 1**

April 19, 2016  
Matt Everett  
General Manager  
Highline Water District  
23828 - 30th Ave. S.  
Kent, WA 98032

RE: Letter of Understanding regarding possible relocation of Highline Water District facilities to accommodate construction of Federal Way Link Extension

Dear Mr. Everett:

This Letter of Understanding sets forth the understanding of the Highline Water District ("HWD") and Sound Transit regarding the possible relocation of HWD water system facilities to accommodate the construction of Sound Transit's Federal Way Link Extension Project ("Project") with the goal of reaching an agreement or agreements establishing roles and responsibilities, including funding, for the possible relocation of the water system facilities, i.e., a Utility Relocation Agreement.

The Sound Transit Board identified a preferred alternative for the Project in Board Motion No. M2015-56 in July 2015, and is expected to select the project to be built in late 2016, after publication of the Final EIS. The preferred alternative would start from the Angle Lake Station located at S 200th Street and 28th Avenue South in the City of SeaTac and would travel south along the west side of Interstate-5. In the Kent/Des Moines area, the alignment would transition west to be close to Highline College with a station west of 30th Ave. S. The alignment would then continue south along I-5 with stations at the S 272nd / Star Lake park-and-ride and the Federal Way Transit Center. Construction of the Project is anticipated to occur between 2019 and 2023. If the Sound Transit Board decides to advance the preferred alternative as the project to build, the Project could require reconfiguration and relocation of HWD facilities. This relocation effort would include several phases as follows:

- Phase 1 – Planning and Preliminary Engineering
- Phase 2 – Final Engineering and Design
- Phase 3 – Procurement and Construction

Given Sound Transit's anticipated construction schedule for the Project, the utility relocation work, which could include relocation of a large water transmission main, a 5 million gallon water storage tank, and related improvements, would need to be completed by 2019. As such, given the lead time to accomplish the relocation work, Sound Transit and HWD have

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**Peter von Reichbauer**  
*King County Councilmember*

**CHIEF EXECUTIVE OFFICER**

**Joni Earl**

identified the need to begin the planning and preliminary engineering effort now.

The following steps have been identified as necessary to complete the relocation effort, including potential betterment work.

1. HWD acceptance and signature of this Letter of Understanding
2. Execution of the Relocation Agreement regarding planning and preliminary engineering activities including:
  - Conduct survey and geotechnical study for site
  - Procure consultant to conduct Preliminary Engineering
  - Update to HWD Water Comprehensive Plan
  - Complete Preliminary Engineering and Design Activities and submit to the Washington State Department of Health
3. Execution of an amendment to the Relocation Agreement, or a new agreement, regarding final design activities
  - Complete SEPA compliance related to the utility relocation work, if warranted.
  - Procure consultant to conduct Final Design
  - Obtain construction permits and other development permits for the relocation work, primarily through the City of SeaTac
  - Obtain Conditional Use Permit
4. Execution of an amendment to the Relocation Agreement, or a new agreement, regarding procurement and construction of the water system facilities

Until the Final EIS for the Project is completed and the Sound Transit Board selects the project to build, any agreement or work under any agreement would be limited to Phase 1 activities. This Letter of Understanding does not limit the issues that may be addressed in the Relocation Agreement or other future agreements. HWD will provide the necessary resources and work cooperatively in good faith to develop the Utility Relocation Agreement and engage in timely and open communication regarding issues, changes, and problems that arise during negotiations.

A summary of the work elements that may be applicable to this potential utility relocation work is attached as Exhibit A. The Utility Relocation Agreement may be in two forms: HWD typically uses a developer extension agreement to provide for a party requesting a utility relocation to perform such work at their own cost, as approved by HWD. However, due to the nature and extent of the utility relocation work that Sound Transit is considering, HWD may elect to perform the utility relocation work and be reimbursed by Sound Transit. If the utility relocation work includes betterment work (such as the betterment work described in Exhibit A) to the HWD water system, which is not required for the Project, HWD will be responsible for the cost of that work and any additional environmental review of that work in the Utility Relocation Agreement. In that event, the Utility Relocation Agreement will address the allocation of cost responsibility for the utility relocation work.

Please sign below to indicate your agreement to the terms of this Letter of Understanding. This Letter of Understanding is not a binding contract regarding the relocation work contemplated above; rather this Letter will serve as an outline for the Utility Relocation Agreement and an expression of HWD's and Sound Transit's good faith in negotiating the Utility Relocation Agreement.

We look forward to working with Highline Water District.

If you have any questions please contact Paul Riemann at 206-903-7013.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a long horizontal stroke that tapers to the right.

Cathal Ridge, AICP  
South Corridor Development Manager  
Sound Transit

Enclosure: Exhibit A

AGREED:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Exhibit A

### Work Elements

The utility relocation work may be done in a number of scenarios to be included in relocation agreement(s) between the Parties: (1) HWD performs the design and construction of the relocation work and the costs of such work is reimbursed by Sound Transit as appropriate and mutually agreed by the Parties; (2) Sound Transit performs the design and construction of the relocation work as appropriate and mutually agreed to by the Parties, or (3) the responsibility for the relocation work is allocated between the Parties including having Sound Transit design or construct portions of the relocation work.

The relocation agreement will provide for the proper amount of advance notice to schedule shut downs or disconnects. In some instances, HWD may be required to perform certain work such as the shutoff, disconnection or reconnection of its facilities.

- *Engineering and Design Development by Sound Transit* – Where relocation of HWD facilities is necessary, and where it is determined that Sound Transit will develop the engineering design for said work, Sound Transit will complete plans and specifications for the relocation work. It is expected that the development of the relocation plans and specifications will involve “over the shoulder” reviews in addition to formal reviews of intermediate and final design submittals. Sound Transit will facilitate formal design submittals at 30%, 60%, and 100% completion to be submitted for review by HWD and local permitting authorities having jurisdiction for timely review and approval. It is expected that HWD staff will return comments to Sound Transit within twenty (20) business days of receipt of the design submittals.
- *Engineering and Design Development by HWD* – Where relocation of HWD facilities is necessary, and where it is determined that HWD will develop the engineering design for said work, HWD will complete plans and specifications for the relocation work. HWD will facilitate formal design submittals at 30%, 60%, and 100% completion to be submitted for review by Sound Transit and local permitting authorities having jurisdiction for timely review and approval. It is expected that Sound Transit staff will return comments to the HWD within twenty (20) business days of receipt of the design submittals.
- *Betterments* – HWD “Betterment” work may be undertaken with the relocation of the 5 MG water tank and the relocation of the transmission main. Sound Transit may agree to perform Betterment work provided the work does not delay or make the Project less efficient. Betterments are work, materials and equipment requested by HWD that are not necessary to functionally restore the operational capabilities of the HWD's relocated utility facilities or that increase the value of the utility facilities<sup>1</sup>. HWD is responsible for the cost of all betterments to the HWD facilities whether constructed by HWD or by Sound Transit. Betterment work must be compatible with the Project design and feasible within the Project schedule to be added to the Project work. Any additional environmental review required for betterment work is the responsibility of HWD and shall be complete prior to Sound Transit performing the work.

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<sup>1</sup> For example, adding facilities for future service or the incremental cost of increasing material size shall be considered a Betterment; provided replacing utility facilities with the same materials and material size regardless of the age and condition of the original/existing utility facilities shall not be considered a Betterment as defined herein.

- ***Property Rights*** – In the event that additional property rights are required to construct the relocation work, the Relocation Agreement will specify the rights required and designate the Party responsible for completing the acquisition of the needed property rights and the cost responsibility of the Parties. If property rights are required for placement of betterments, HWD will be responsible for acquisition of such rights. If property rights are required for the relocation of existing facilities, Sound Transit will be responsible for the cost of acquiring of such rights. HWD will be responsible for compliance with other operating, franchise and permitting requirements of the state and local jurisdictions.
- ***Payment and Cost Estimates*** – All of HWD's administrative, engineering and consulting engineering and legal fees, costs and expenses incurred related to the Relocation Work will be reimbursed to HWD by Sound Transit in the manner to be described in the Relocation Agreement executed by the Parties. In the event the Parties determine that HWD will perform the relocation work for which Sound Transit will reimburse HWD, HWD will develop appropriate cost estimates for such reimbursements which will be reviewed and approved by Sound Transit. If Sound Transit performs Betterment work for HWD under Sound Transit's construction contracts, the Relocation Agreement will describe work to be reimbursed by HWD .
- ***Federal Buy America Provisions*** – Sound Transit projects are subject to Federal Transit Administration (FTA) contracting requirements, and the FTA's Buy America provisions are applicable to all work performed by HWD and its contractors under utility relocation agreements executed by Sound Transit and to all work performed by Sound Transit in its Project.
- ***Record keeping*** – Both Parties shall be responsible for keeping records and cost documentation for all reasonable and verifiable costs associated with the relocation work for all fees, costs and expenses to be paid by and reimbursed to HWD by Sound Transit. The Relocation Agreement will include provisions so that properly documented fees, costs and expenses incurred by HWD will be paid and reimbursed to HWD by Sound Transit.

**Agenda Item No.:** 5.1  
**Agenda Date:** 4/26/16  
**Reviewed By:** [Signature]

**Subject:** Authorize Non-binding Letter of Understanding between HWD and Sound Transit  
Federal Way Light Rail Extension

CATEGORY	
<i>Executive</i>	<input type="checkbox"/>
<i>Administrative</i>	<input type="checkbox"/>
<i>Engineering/Operations</i>	<input checked="" type="checkbox"/>

FINANCIAL			
<i>Expenditures?</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<i>Budgeted?</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<i>Estimated Amount:</i> \$ _____			Excludes sales tax

**ATTACHMENTS:**

1. Resolution 16-4-26A
2. Attachment 1 – Non-binding Letter of Understanding

**COMMENTS**

The District and Sound Transit desire to establish a mutual understanding to accommodate the relocation of the District’s water system facilities that are in conflict with Sound Transit’s proposed alignment.

Staff recommends approval of this resolution.