

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2004-10

**Property Acquisition for Regional Express
Eastgate Transit Access Project**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	8/19/04	Discussion/Possible Action to Recommend Board Approval	Agnes Govern, Director, Capital Projects	(206) 398-5037
Board	8/26/04	Action	James Staudinger, Real Estate Manager Don Vogt, Sr. Real Estate Representative	(206) 398-5026 (206) 689-3396

ACTION

Authorizes the Chief Executive Officer to acquire, dispose, or lease certain real property interests by negotiated purchase, or by condemnation and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the construction and operation of the Regional Express Eastgate Transit Access Project and to execute all documents necessary to transfer those interests acquired to the Washington State Department of Transportation.

KEY FEATURES

- Authorizes the acquisition of interests in three tax parcels for the Eastgate Transit Access Project.
- Authorizes the Chief Executive Officer to convey to the Washington State Department of Transportation (WSDOT) all necessary property rights acquired as part of the project.

BUDGET IMPACT SUMMARY

There is no action outside of the Board-adopted budget; there are no contingency funds required, no subarea impacts, or funding required from other parties other than what is already assumed in the financial plan.

BUDGET DISCUSSION

The proposed action authorizes the execution of agreements to acquire certain property rights to allow for the completion of the Eastgate Transit Access/142nd Ave SE project (#160).

The adopted capital budget for the project is \$38.9 million. Commitments to date total \$7.5 million. \$375,000 was budgeted for right-of-way acquisition and permits. None of that budget has been committed or spent to date.

The acquisition costs of specific property rights are appropriate for discussion with the Board in executive session.

REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS

The proposed action is consistent with the current Board-adopted budget and is affordable within Sound Transit's current long-term financial plan and the subarea financial capacity. The action will have no new revenue impacts on Sound Transit.

BUDGET TABLE

The impact of this action on the phase and project budgets is illustrated below:

Summary for Board Action (Year of Expenditure \$000)

Action Item: Acquire access restrictions for the Eastgate Transit Access/142nd Ave SE project (#160), \$s in thousands

	2004 Adopted Budget ¹ (A)	Committed To Date ² (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
Agency Administration	\$ 2,425	\$ 2,005	\$ -	\$ 2,005	\$ 420
Preliminary Engineering	2,787	2,637	-	2,637	150
Final Design	4,320	2,621	-	2,621	1,700
Right of Way/Permits	375	-	-	-	375
Construction	25,508	224	-	224	25,284
Contingency	3,492	-	-	-	3,492
Total Current Budget	\$ 38,908	\$ 7,487	\$ -	\$ 7,487	\$ 31,421

Phase Budget Detail

Right of Way/Permits	\$ 375	\$ -	\$ -	\$ -	\$ 375
Total Phase	\$ 375	\$ -	\$ -	\$ -	\$ 375

Contract Budget	Current Approved Contract Value (F)	Spent to Date (G)	Proposed Action (H)	Proposed Total Contract Value (I)
Property Rights ³	\$ -	\$ -	\$ -	\$ -
ST Contingency	-	-	-	-
Total	\$ -	\$ -	\$ -	\$ -
Percent Contingency	0%	0%	0%	0%

Notes:

¹ Adopted Budget is taken from Page 155 of the Adopted 2004 Budget

² Committed to-date includes actual outlays and commitments through July 13, 2004 (HQ). Committed amount includes contract contingencies.

³ In accordance with Sound Transit policy, budgets for specific parcels will be discussed with the board in executive session.

M/W/DBE – SMALL BUSINESS PARTICIPATION

Not applicable for this action.

HISTORY OF PROJECT

Prior Board or Committee Actions and Relevant Board Policies

Motion or Resolution Number	Summary of Action	Date of Action
M2003-53	Executed an amendment to the WSDOT agreement for final design to increase the total authorized contract amount.	5/15/03
M2000-54	Executed a contract with the WSDOT for the preliminary engineering and environmental documentation for Eastgate Transit Access project.	7/6/00
M2000-53	Executed a contract with HNTB for the preliminary engineering and environmental documentation for Eastgate Direct Access Project.	7/6/00

The I-90 at Eastgate Direct Access project provides for the construction of a direct access ramp serving the Eastgate Park-and-Ride Lot. It is intended to provide convenient transit access between the I-90 HOV lanes and the Eastgate Park-and-Ride Lot via the 142nd Place SE bridge and connecting streets increasing transit speed and reliability.

This project is defined in Sound Move as an HOV direct access, which can include transit as well as carpools and vanpools. Preliminary Engineering and Environmental Documentation (PE/ED) work was initiated in the fall of 2000 based on this definition. A Project Management Team composed of the City of Bellevue, Sound Transit, and WSDOT identified three alternatives for providing the full HOV direct access connection (to include transit and carpools) at the 142nd Place SE bridge ranging in costs from \$32.9 million to \$41.5 million. This exceeded the available construction and contingency budget of \$32 million with the higher cost alternatives including widening of the 142nd Place SE bridge and extensive improvements to local roadways. As a consequence, about 12 months of additional time and effort was required to work through alternative design options to bring the project within budget.

In the fall of 2002, the Executive Committee endorsed staff's approach to proceed with the direct access ramps without widening the 142nd Place SE bridge. At the November 21, 2002, Finance Committee meeting, Motion No. M2002-117 was presented to increase funding to the existing WSDOT contract for completion of PE/ED. No action was taken based on the City of Bellevue's concerns with the proposed improvements. Sound Transit staff was directed to reach consensus on a preferred alternative that addressed the city's concerns.

In March 2003, an agreement was reached with the City of Bellevue and WSDOT to construct a transit-only direct access project that will not preclude future widening of the 142nd Place SE bridge or negatively impact connecting roadways. This alternative eliminated widening of the 142nd Place SE bridge as part of Sound Transit's project. The design process for the HOV Direct Access ramps identified the need for certain property rights consistent with the requirements of the WSDOT. The rights need to be acquired from three parcels located near the intersection of 142nd Place SE and SE 35th Street in the City of Bellevue. These are the Rhoady and Jeanne Lee property, parcel no. 102405-908405, the 14100 Building, LLC property, parcel no. 102405-9132-07, and the Benaroya Co., LLC, parcel no. 102405-9131-08. The rights acquired would be transferred to WSDOT.

A Documented Categorical Exclusion under the National Environmental Policy Act (NEPA) was approved by the co-lead agencies (FTA and FHWA) on January 2, 2004. This completed the NEPA compliance process for the Eastgate Transit Access Project

A State Environmental Policy Act checklist for the project was prepared and a Determination of Nonsignificance (DNS) was issued on October 10, 2003. Copies of the DNS were sent to area residents and partner agencies. No public comments were received. The appeal period was closed on October 24, 2003, with no appeals.

CONSEQUENCES OF DELAY

Delay in action of two to four weeks would have no immediate impact.

LEGAL REVIEW

BN 7/28/04

SOUND TRANSIT

RESOLUTION NO. R2004-10

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the Chief Executive Officer to acquire, dispose, or lease certain real property interests by negotiated purchase, or by condemnation and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the construction and operation of the Regional Express Eastgate Transit Access Project and to execute all documents necessary to transfer those interests acquired to the Washington State Department of Transportation.

WHEREAS, a Regional Transit Authority, hereinafter referred to as Sound Transit, has been created for the Pierce, King, and Snohomish County region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, on November 5, 1996, Central Puget Sound area voters approved local funding for Sound Move, the ten-year plan for regional high-capacity transit in the Central Puget Sound Region; and

WHEREAS, Sound Move provided for the implementation of a series of Regional Express bus routes and transit improvements, and further provided for the construction, operation, and permanent location of the Eastgate Transit Access Project; and

WHEREAS, an environmental checklist was prepared for this site and a Determination of Nonsignificance (DNS) was issued on October 10, 2003, in compliance with the State Environmental Policy Act (SEPA). Copies of the DNS were sent to area residents and partner agencies. Comments from the public were received and responded to by Sound Transit during the comment period. The appeal period closed on October 31, 2003, with no appeals. A Documented Categorical Exclusion (DCE) under the National Environmental Policy Act (NEPA) was approved by the co-lead agencies (FTA and FHWA) on January 2, 2004. This completed the NEPA compliance process for the Eastgate Transit Access Project; and

WHEREAS, Sound Transit has identified certain real properties as necessary for the construction and permanent location of the Eastgate Transit Access Project in Bellevue, Washington, which properties are reasonably described in Exhibit A attached hereto; and

WHEREAS, in order to acquire the properties determined to be necessary for the construction, operation, and permanent location of the Eastgate Transit Access Project, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn

certain rights in the property for public purposes, and to pay eligible relocation and re-establishment benefits to affected parties; and

WHEREAS, the property rights required for the construction of the Eastgate Transit Access Project will be transferred to the Washington State Department of Transportation (WSDOT) ; and

WHEREAS, Sound Transit has commissioned or will commission appraisals to determine the fair market value of the properties, and will continue to negotiate in good faith with the owners of the properties authorized to be acquired by negotiated purchase or condemned, with the intent of reaching agreements for the voluntary acquisition of the property for fair market value; and

WHEREAS, the funds necessary to acquire the property by voluntary purchase or to pay just compensation adjudged due after condemnation and the funds necessary to pay eligible relocation and re-establishment costs shall be paid from Sound Transit general funds.

NOW THEREFORE BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority that:

SECTION 1. The Chief Executive Officer is hereby authorized to execute such agreements as are customary and necessary for the acquisition, lease, or disposal of the real property interests described in Exhibit A, and for the payment of eligible relocation and re-establishment costs, said property to be used for the construction of the Eastgate Transit Access Project in Bellevue, Washington. In accordance with Sound Transit's adopted Real Property Acquisition and Relocation Policies, Procedures, and Guidelines, the acquisition price of the properties shall not exceed the fair market value to be determined through the appraisal process; provided that in the event the total of the acquisition, relocation, and re-establishment costs of the properties for the Eastgate Transit Access Project exceeds Sound Transit's approved budget for right-of-way acquisition (plus contingency), then the Chief Executive Officer shall obtain approval from the appropriate committee or the Board, per Resolution No. 78-1, before the acquisition of the property for the Eastgate Transit Access Project by purchase or by condemnation and the payment of eligible relocation and re-establishment costs.

SECTION 2. The Chief Executive Officer is hereby authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of the real property interests described in Exhibit A. Such settlements shall be made only upon the finding of legal counsel that the settlement is consistent with the law and is reasonable, prudent, and in the public interest. Such settlements shall not exceed established project budgets. For all other settlements proposed, the Chief Executive Officer shall obtain prior approval of the appropriate committee or the Board, per Resolution No. 78-1.

SECTION 3. The Sound Transit Board deems the Eastgate Transit Access Project to be constructed in Bellevue, Washington, to be a public use for a public purpose. The Board deems it necessary and in the best interests of the citizens residing within Sound Transit's boundaries to acquire the property identified in Exhibit A as being necessary for the construction, operation, and permanent location of Eastgate Transit Access Project. Said properties being described in Exhibit A incorporated herein by reference and that the eligible parties be paid relocation and re-establishment costs associated with displacements from the properties.

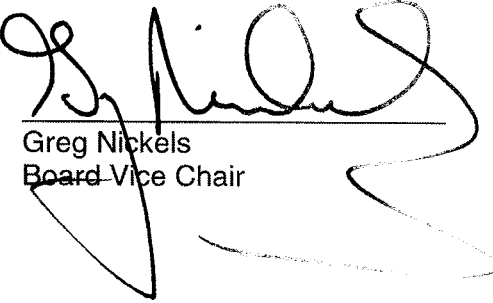
SECTION 4. The Sound Transit Board finds that the public health, safety, necessity, convenience, and welfare demand and require that the properties described in Exhibit A be immediately acquired, condemned, appropriated, taken, and damaged for the construction, operation, and permanent location of the Eastgate Transit Access Project in Bellevue, Washington.

SECTION 5. In addition to the authority granted the Chief Executive Officer in Section 1 above, condemnation proceedings are hereby authorized to acquire all, or any portion thereof, of the properties and property rights and/or rights in those of the properties described in Exhibit A for the purpose of constructing, owning, and operating a permanent location of the Eastgate Transit Access Project in Bellevue, Washington. The Chief Executive Officer is also authorized to make minor amendments to the legal descriptions of the properties described in Exhibit A, as may be necessary to correct scrivener's errors and/or to confirm the legal description to the precise boundaries of the property required for the Project.

SECTION 6. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

SECTION 7. The Chief Executive Officer is authorized to execute all documents necessary to transfer and convey to WSDOT the necessary property interests acquired pursuant to this resolution.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on August 26, 2004.



Greg Nickels
Board Vice Chair

ATTEST:

Marcia Walker
Marcia Walker
Board Administrator

SOUND TRANSIT

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EXHIBIT A

Lee – Parcel No. 102405-908405

Lot 2 of City of Bellevue Short Plat No. 84-04, according to plat recorded December 5, 1984 under Recording No. 8412059001, in King County, Washington.

Benaroya – Parcel No. 102405-9131-08

Lot 1 of City of Bellevue Short Plat No. 84-04, according to plat recorded December 5, 1984 under Recording No. 8412059001, in King County, Washington.

Except the Westerly 5 feet thereof conveyed to the City of Bellevue by deed recorded under Recording No. 8509130605.

14100 Building – Parcel No. 102405-9132-07

That portion of the Northwest Quarter of the Southeast Quarter of Section 10, Township 24 North, Range 5 East of the Willamette Meridian, in King County, Washington, lying Southerly of SR-90, Westerly of the 136th Street undercrossing and Northerly of a line 30 feet Northerly of and parallel to the FR-6 line, all as shown on sheets 4, 5 and 6 of 25 sheets, SR-90 M.P. 7.71 to M.P. 11.73 (Richard Road to Lake Sammamish).