

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NOS. R2004-16 & 17

**Acquire Real Property Interests for North Link Light Rail
Upon the Grant of a FTA Protective Acquisition Waiver**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	10/21/04	Discussion/Possible Action to Recommend	Phil O'Dell, Director, Project Delivery Support Services	(206) 398-5013
Board	10/28/04	Board Approval Action	Roger Hansen, Link Sr. Real Estate Representative	(206) 689-3366

ACTION

Authorizes the Chief Executive Officer, subject to the grant of a Federal Transit Administration protective acquisition waiver, to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), by condemnation litigation, or by administrative settlement; and to pay eligible relocation and re-establishment benefits to affected parties as necessary in order to secure property required in connection with the First Hill station of the preferred alternative identified by the Sound Transit Board and the Roosevelt station alternative located at 12th Avenue within the North Link project of Central Link. Acquisition of these properties will not limit the evaluation of North Link alternatives in the National Environmental Policy Act or Washington State Environmental Policy Act process.

KEY FEATURES

- This resolution would authorize the acquisition, disposal, or lease of three properties that are needed in connection with the construction of North Link light rail stations:

Resolution No. R2004-16

- The Korr Development property located at 1401 Spring Street in the City of Seattle (Korr property) is needed for construction staging for the First Hill station of the preferred alternative identified by the Sound Transit Board. Current development plans for this property are in conflict with the construction staging plans for this station site.

Resolution No. R2004-17

- The 1026 NE 65th, LLC property located at 1026 NE 65th Street in the City of Seattle (1026 NE 65th property) would be needed for station facilities and construction staging for the 12th Avenue alternative for the Roosevelt station. Ongoing construction activity is in conflict with the station facility and construction-staging plans developed for the 12th Avenue Roosevelt station alternative.
- The Stuart B. Ayres property located at 6600 Roosevelt Way NE in the City of Seattle (Ayres property) would be needed for station facilities and construction staging for the 12th Avenue alternative for the Roosevelt station. Ongoing development plans are in conflict with the station facility and construction staging plans developed for the 12th Avenue Roosevelt station alternative.

- Upon authorization by the Sound Transit Board and prior to initiating negotiations for the purchase of the identified properties, Sound Transit would seek approval from the Federal Transit Administration (FTA) to proceed with protective acquisitions.
- The protective acquisition of properties will not limit the evaluation of alternatives as part of the ongoing North Link National Environmental Policy Act (NEPA) and Washington State Environmental Policy Act (SEPA) process.
- Certain property is being or may be developed at sites that have been identified as station locations or construction staging areas for the First Hill Station and the Roosevelt Station identified for the 12th Avenue alternative. Since the NEPA and SEPA environmental review is not expected to be completed until 2005, staff is requesting approval for a protective acquisition to preserve these sites for transit use. The protective acquisition of the property would not limit the evaluation of alternatives in the ongoing North Link NEPA and SEPA process.
- Property acquisition prior to completion of the environmental review process is not permitted under NEPA; however, the FTA may grant a waiver for a protective acquisitions under 23 CFR 771.117(d)(12) to prevent imminent development of a parcel which is needed for a proposed transportation project. A protective acquisition is allowed only for a particular parcel or a limited number of parcels where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. As a protective acquisition, the FTA's approval will be required prior to commencement of negotiations. Real properties identified in this requested action are included in Exhibit A.

BUDGET IMPACT SUMMARY

Project Description: Central Link North Link
Current Status: Advanced Construction Engineering
Projected Completion Date: 2005

Action Outside of Adopted Budget:	Y/N	Y Requires Comment
This Line of Business	N	
This Project	N	
This Phase	N	
This Task	N	
Budget amendment required	Y	Protective acquisition of all three identified properties would require use of funds beyond the current North Link project budget.
Key Financial Indicators:	Y/N	Y Requires Comment
Contingency funds required	Y	Acquisition of the three identified properties would require use of contingency funds.
Subarea impacts	N	
Funding required from other parties other than what is already assumed in financial plan	N	

N = Action is assumed in current Board-adopted budget. Requires no budget action or adjustment to financial plan

BUDGET

The proposed resolution would authorize acquisition and related costs for real property required for facilities and construction staging areas for the First Hill station and the 12th Avenue alternative for the Roosevelt station in the North Link project. The total 2004 adopted capital

budget for North Link is \$110 million. Within the adopted North Link project budget, sufficient surplus budget exists for the acquisition of two of the three identified properties. Acquisition of all three properties would exceed the available North Link budget and would require use of additional North King County financial capacity. The acquisition costs of specific parcels are appropriate for discussion with Board members in executive session.

REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS

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

BUDGET TABLE

Action Item: Acquire real property interests within the North Link projects of Central Link

(Year of Expenditure \$000)

North Link Northgate to 45th St.		FY2004 Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1	Administration	2,280	2,218		2,218	61
2	Preliminary Engineering	5,462	4,731		4,731	730
3	Final Design	1,034	1,034		1,034	-
4	Third Party Agreements	225	93		93	132
5	Construction	-	-		-	-
6	Right of Way	-	40		40	(40)
7	Total Current Budget	9,000	8,116	-	8,116	884

North Link 45th to CPS		FY2004 Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1	Administration	21,259	10,894		10,894	10,365
2	Preliminary Engineering	35,289	31,599		31,599	3,690
3	Final Design	9,797	9,796		9,796	1
4	Third Party Agreements	2,206	1,470		1,470	737
5	Construction	1,344	1,344		1,344	-
6	Right of Way	31,105	27,524		27,524	3,581
7	Total Current Budget	101,000	82,626	-	82,626	18,374

Total North Link		FY2004 Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1	Administration	23,539	13,112		13,112	10,427
2	Preliminary Engineering	40,751	36,331		36,331	4,420
3	Final Design	10,831	10,830		10,830	1
4	Third Party Agreements	2,431	1,562		1,562	869
5	Construction	1,344	1,344		1,344	-
6	Right of Way	31,105	27,564		27,564	3,541
7	Total Current Budget	110,000	90,743	-	90,743	19,257

Total North Link ROW Phase Budget Detail		FY2004 Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
8	ROW historic and other non-study	31,105	27,564		27,564	3,541
9	ROW North Link Study	-	-		-	-
10	Total Phase	31,105	27,524	-	27,564	3,541

Contract Budget	Current Approved Contract Value (F)	Spent to Date (G)	Proposed Action (H)	Proposed Total Contract Value (I)
11	Contract Amount	27,564	27,528	27,564
12	Contingency	-	-	-
13	Total	27,564	27,528	27,564
14	Percent Contingency	0%	0%	0%

8(C),(H) In accordance with Sound Transit policy, budgets for specific parcels will be discussed with Board members in executive session.

11(F) CURRENT APPROVED CONTRACT VALUE reflects total ROW phase commitments for administration, acquisition, and relocation for the North Link projects.

Budget Shortfall Task Level	\$ (K)	Potential Resources (L)	Source (M)
15	ROW historic and other non-study	-	Unallocated contingency within North Link projects and NKC financial capacity

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
R2004-08	Board identifies First Hill to Modified Montlake route alternative as preferred alternative including a station at First Hill.	5/20/04
M2003-33	Board directed staff to complete additional work on North Link route alternatives in order to provide the Board with more comprehensive information for its North Link route decision-making process.	3/13/03
M2002-69	Board authorized staff to modify the set of route alternatives in the North Link Draft Supplemental Environmental Impact Statement.	5/23/02
M2002-13	Board selected route alternatives for inclusion and study in the North Link Draft Supplemental Environmental Impact Statement excluding less promising route alternatives for further study	2/24/02
M2001-104	Board directed staff to reevaluate route alternatives from Convention Place Station to Northgate and approved the North Link work program and budget needed to complete this effort.	9/27/01
R2000-04	Approval of acquisition and relocation of affected properties along segment 235 NE 45th St. to Convention Place Station. The Korr property is one of the properties identified for acquisition.	4/27/00

BACKGROUND

To build and operate a high capacity transit system consisting of commuter rail service, light rail service, and a program of regional bus service, HOV improvements, and park-and-ride lot facilities throughout the Central Puget Sound region, it is necessary for Sound Transit to acquire real property. Sound Transit's authorizing legislation grants the agency the power of eminent domain to accomplish such acquisitions.

On May 20, 2004, the Sound Transit Board identified the First Hill to Modified Montlake alternative as its preferred North Link alternative and directed staff to complete the final Supplemental Environmental Impact Statement (SEIS). At that time, the Board identified two alternative routes through the Roosevelt area: continuing in a tunnel to a cut-and-cover station in the Roosevelt neighborhood near 12th Avenue NE and NE 65th Street or continuing in a tunnel to a portal near Ravenna Boulevard NE and an elevated station west of 8th Avenue NE and south of NE 65th Street.

Korr Property

The Korr property is needed for construction staging for the First Hill station of the preferred alternative identified by the Sound Transit Board. The acquisition of the Korr property was originally authorized by the Board in April 2000 along with a number of other properties in the

First Hill neighborhood. Offers were made to a number of property owners, including Korr, and two adjacent properties have been acquired. Korr property negotiations were protracted and Sound Transit's offer was not accepted. On September 21, 2001, staff notified Korr that Sound Transit was withdrawing the previous offer and suspending negotiations. On February 11, 2002, staff notified Korr that it was free to continue to use or develop the property.

The Korr property is currently used as a parking lot. The property owner, Korr Development, has taken steps to develop a mixed-use, 13-story building on the site, including development of architectural plans, attendance of an August 2003 City of Seattle permitting pre-conference, preparation of marketing materials, and establishment of contacts with potential building contractors and tenants. In late 2003, the owner of Korr Development indicated that he was applying for permits and that architectural plans would be completed within two weeks. On February 25, 2004, the property was the subject of an Early Design Guidance meeting of the City of Seattle Design Review Board for Capitol Hill/First Hill. At the February 25, 2004, meeting, it was noted that the board and public were generally pleased with the architect's presentation and responses provided to public and board comments on the project.

Korr Development's development efforts could proceed at any time with the submittal of a Master Use Permit (MUP) application. The construction of a 13-story mixed use building at the site is believed to be imminent and would effectively preclude Sound Transit's proposed transit use at this location. Sound Transit's protective acquisition of the property would prevent the imminent development of a property needed for a proposed transportation site.

1026 NE 65th Property

The 1026 NE 65th property would be needed for station facilities and construction staging for the 12th Avenue alternative for the Roosevelt station. The owner of the 1026 Property has taken steps to develop a six-story, 76-unit, mixed condominium and retail use building on the site, including completion of the design review process, receipt of the MUP, site preparation and clearing, excavation, and the start of the foundation construction for the underground parking facility. Completion of the construction of a six-story building at this location would effectively preclude Sound Transit's potential transit use of this property.

Ayres Property

The Ayres property would be needed for station facilities and construction staging for the 12th Avenue alternative for the Roosevelt station. The owner of the Ayres Property has taken steps to develop a mixed use building at this location, including initiating the public design review required for application for the Master Use Permit which is expected to extend through the end of 2005. The proposed development would include retail space such as a grocery store, approximately 176 units of new housing, and below grade parking. The proposed mixed-use development would effectively preclude the potential transit use of the properties. Sound Transit's protective acquisition of this property would prevent the imminent development of a property needed for a proposed transportation site.

CONSEQUENCES OF DELAY

Delayed action poses the risk that the proposed and ongoing development activities on one or more of the three properties advance to the point where they effectively preclude the transit facilities defined in North Link alternatives, thereby limiting the alternatives considered under the environmental process.

REGIONAL PARTNERSHIP AND COOPERATION

There are no regional partnering activities that would be associated with the actual acquisition and relocation of property associated with this Segment.

PUBLIC INVOLVEMENT

Maps of the proposed property acquisition needs in the north corridor were published in the Final Environmental Impact Statement (EIS) and were made available to the public in November 1999, and also in the North Link Draft Supplemental EIS in November 2003. Additionally, the public has had numerous opportunities to attend meetings addressing station design, noise, the EIS, public comment on route decisions, and station area planning (in coordination with the City of Seattle). Meetings were held in the University District, Capitol Hill, and First Hill neighborhoods between 1999 and 2001. Additional opportunity for public comment was provided at Sound Transit Board meetings in September 2001, February 2002, May 2002, March 2003, and May 2004 in connection with Board briefings on route alternatives and station options leading up to the identification of the North Link preferred alternative in May 2004.

Sound Transit staff continues to meet with property owners, business owners, and tenants adjacent to the route and stations in the First Hill, Capitol Hill, University District, Roosevelt, and Northgate neighborhoods to discuss light rail project progress, design issues, real estate acquisition, relocation processes, and to listen to individual and neighborhood concerns. A public open house for the Roosevelt Station Alternatives was held October 14, 2004, and an open house for the First Hill station will be held on October 26, 2004, to seek further input on station design and other issues. Four other open houses are planned elsewhere along the North Link corridor to gather additional public comment.

ACQUISITIONS

Contract Segment

LB235 Staging Area

R/W #	Tax Parcel #	Owner/Contact
NL-130	1978201140	Korr Development

LB235 - Roosevelt 12th Avenue Station

R/W #	Tax Parcel #	Owner/Contact
NL-675	3658700090	1026 NE 65th LLC
NL-677	3658700100	1026 NE 65th LLC
NL-679	3658700105	1026 NE 65th LLC
NL-685	3658700025	1026 NE 65th LLC
NL-697	3658700030	1026 NE 65th LLC
NL-705	3658700135	Stuart B. Ayres; Heirs and Devisees of Elaine Ayres Decd

LEGAL REVIEW

BN 10-18-04

SOUND TRANSIT

RESOLUTION NO. R2004-16

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the Chief Executive Officer, subject to the grant of a Federal Transit Administration protective acquisition waiver, to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), by condemnation litigation, or by administrative settlement; and to pay eligible relocation and re-establishment benefits to affected parties as necessary in order to secure property required in connection with the First Hill station of the preferred alternative identified by the Sound Transit Board within the North Link project of Central Link. Acquisition of these properties will not limit the evaluation of North Link alternatives in the National Environmental Policy Act or Washington State Environmental Policy Act process.

WHEREAS, a Regional Transit Authority, hereinafter referred to as Sound Transit, has been conducting an evaluation of alternatives as part of its ongoing North Link National Environmental Policy Act (NEPA) and Washington State Environmental Policy Act (SEPA) process; and

WHEREAS, Sound Transit is authorized to acquire and dispose of property for the construction of high capacity transportation facilities under RCW 81.112.080; and

WHEREAS, Sound Transit staff have ascertained that the Korr Development property located at 1401 Spring Street, in the City of Seattle, is needed for construction staging for the First Hill Station within the preferred alternative identified by the Sound Transit Board; and

WHEREAS, Sound Transit staff have confirmed that development is imminent on this property and such development would effectively preclude the potential transit use of the property; and

WHEREAS, the acquisition of the property is necessary in order to preserve the alternatives identified in Sound Transit's environmental process for consideration; and

WHEREAS, Sound Transit staff, upon adoption of this Resolution, will seek approval from the Federal Transit Administration (FTA) for commencement of a "protective acquisition" prior to initiating negotiations for the purchase of the identified properties; and

WHEREAS, the protective acquisition of the property will not limit the evaluation of alternatives as part of the ongoing North Link NEPA and SEPA process, and the Board by authorizing such acquisition does not indicate a pre-selection or determination of any particular alternative in the environmental process.

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, subject to the grant of a FTA protective acquisition waiver, 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 of said property that has been identified as necessary to construct the First Hill Station alternative. 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.

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 of Directors, per Resolution No. 78-1.

SECTION 3. The Sound Transit Board deems the North Link Project, including the First Hill Station Station alternative, 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 purpose of preserving the alternative identified in the environmental process, and for the purpose of construction, operation, and permanent location of the First Hill Station alternative if selected by the Board after completion of the Final Supplemental Environmental Impact Statement (EIS). Said properties being described in Exhibit A incorporated herein by reference and that 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 property described in Exhibit A be immediately acquired, condemned, appropriated, taken, and damaged for the purpose of preserving the alternative identified in the environmental process, and for the purpose of construction, operation, and permanent location of the First Hill Station alternative if selected by the Board after completion of the Final Supplemental EIS.

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 preserving the alternative identified in the environmental process, and for the purpose of constructing, owning, and operating a permanent location of the First Hill Station. 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.

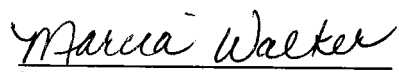
SECTION 6. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on October 28, 2004.



John W. Ladenburg
Board Chair

ATTEST:



Marcia Walker
Marcia Walker
Board Administrator

SOUND TRANSIT

RESOLUTION NO. R2004-16 & 17

EXHIBIT A

LB 235 Staging Area

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
107891	NL-130	Korr Development, Inc., a Washington Corporation	197820-1140- 01	Spring and Boylston

LOT 1, BLOCK 135, A.A. DENNY'S BROADWAY ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 6 OF PLATS, PAGE 40, RECORDS OF KING COUNTY, WASHINGTON.

LB 235 Roosevelt 12th Avenue Station

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
119284	NL-675	1026 NE 65th LLC, a Washington Limited Liability Company	365870-0090- 05	1016 NE 65th Street Seattle WA 98115

LOTS 18 AND 19, BLOCK 1, JAMES' DIVISION OF GREEN LAKE ADDITION TO SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 41, IN KING COUNTY, WASHINGTON.

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
119285	NL-677	1026 NE 65th LLC, a Washington Limited Liability Company	365870-0100- 03	1022 NE 65th Street Seattle WA 98115

LOT 20, BLOCK 1, JAMES' DIVISION OF GREEN LAKE ADDITION TO SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 4 OF PLATS, PAGE 41, IN KING COUNTY, WASHINGTON.

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
119286	NL-679	1026 NE 65th LLC, a Washington Limited Liability Company	365870-0105- 08	1026 NE 65th Street Seattle WA 98115

LOT 21, BLOCK 1, JAMES' DIVISION OF GREEN LAKE ADDITION TO SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 41, IN KING COUNTY, WASHINGTON.

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
119210	NL-685	1026 NE 65th LLC, a Washington Limited Liability Company	365870-0025- 05	1019 NE 66th Street Seattle WA 98115

WEST 1 FOOT OF LOT 5; AND ALL OF LOT 6, EXCEPT THE WEST 1 FOOT, ALL IN BLOCK 1, JAMES' DIVISION OF GREEN LAKE ADDITION TO SEATTLE, ACCORDING TO THE PLAT RECORDED IN VOLUME 4 OF PLATS, PAGE 41, IN KING COUNTY, WASHINGTON.

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
120925	NL-697	1026 NE 65th LLC, a Washington Limited Liability Company	365870-0030- 08	1017 NE 66th Street Seattle WA 98115

THE WEST 1 FOOT OF LOT 6 AND ALL OF LOT 7, BLOCK 1, JAMES DIVISION OF GREEN LAKE ADDITION, ACCORDING TO THE PLAT THEROF, RECORDED IN VOLUME 4 OF PLATS, PAGE 41, IN KING COUNTY, WASHINGTON.

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
119208	NL-705	Stuart B. Ayres, his Separate Estate and the Heirs and Devises of Elaine Ayres, Decd.	365870-0135- 02	6600 Roosevelt Way NE Seattle WA 98115

LOTS 1 THROUGH 24, IN BLOCK 2, JAMES' DIVISION OF GREEN LAKE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, AT PAGE 41, RECORDS OF KING COUNTY, WASHINGTON.