

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2005-24

**To Acquire Real Property Interests Required for the University Link Segment upon the
Grant of a Federal Transit Administration Protective Acquisition Waiver**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	10/20/05	Discussion/Possible Action To Recommend Board Approval	Phil O'Dell, Director, Project Delivery Support Services	(206) 398-5013
Board	10/27/05	Action	Roger Hansen, Link Sr. Real Estate Representative	(206) 689-3366

Contract/Agreement Type:	✓	Requested Action:	✓
Competitive Procurement		Execute New Contract/Agreement	
Sole Source		Amend Existing Contract/Agreement	
Agreement with Other Jurisdiction(s)		Budget Amendment	

PROJECT NAME

University Link - Downtown Seattle Transit Tunnel to University of Washington Station

PROPOSED ACTION

To authorize the Chief Executive Officer, or her designee, to acquire, dispose, or lease certain real property by negotiated purchase, by condemnation, (including settlement of condemnation litigation), or entering into administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary to secure property required in connection with the University Link segment of the preferred alternative identified by the Sound Transit Board within the North Link project of Central Link.

KEY FEATURES of PROPOSED ACTION

- Authorizes Sound Transit Chief Executive Officer to acquire and dispose of the Cheryl Tinder "Tinder" property located at 1821 and 1827 Broadway, in the City of Seattle which is needed for construction staging for the Capitol Hill Light Rail Station.
- Sound Transit staff will seek approval from FTA for commencement of a "protective acquisition" prior to initiating negotiations for the purchase of the property.
- Authorizes Sound Transit Chief Executive Officer to pay relocation and re-establishment benefits to eligible property owners and tenants.

BUDGET IMPACT SUMMARY

Current Project Phase: Preliminary Engineering
Projected Completion Date: 2009

Action Outside of Adopted Budget:	✓	Comments on Checked Items
This Project		
This Phase	✓	This action may require funding from another phase within the project
This Task		
Budget Amendment Required		

Key Financial Indicators:	✓	Comments on Checked Items
Contingency Funds Required		
Funding required from other parties (other than what is in financial plan)		

Not checked = action is assumed in current Board-adopted budget. No budget action or adjustment to financial plan required.

BUDGET and FINANCIAL PLAN DISCUSSION

The proposed action would authorize application for a protective acquisition waiver by FTA, and upon the grant of the waiver, acquisition and related costs for a staging area for the Capitol Hill Station within the University Link - Downtown Seattle Transit Tunnel to University of Washington Station project of Central Link.

The total adopted capital budget for the University Link - Downtown Seattle Transit Tunnel to University of Washington Station project is \$101,000,000. Within that budget, sufficient surplus exists for the acquisition of the identified property. The specific costs for this parcel are appropriate for discussion with Board members in executive session. Depending on the final cost for this proposed acquisition, this action could potentially require the use of unallocated contingency funds.

The proposed action is consistent with the 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 and dispose of property needed for construction staging for the Capital Hill Light Rail Station within the North Link - 45th Street to Convention Place Station (CSP) project of Central Link.

(Year of Expenditure \$000)

North Link 45th Street to CPS		Adopted 2005 Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1	Administration	14,273	11,007		11,007	3,266
2	Preliminary Engineering	33,106	31,526		31,526	1,580
3	Final Design	9,796	9,796		9,796	-
4	Third Party Agreements	2,056	1,688		1,688	369
5	Construction	1,344	1,344		1,344	-
6	Right of Way	30,501	27,807	-	27,807	2,694
7	Contingency	9,923	-		-	9,923
8	Total Current Budget	101,000	83,167	-	83,167	17,833
ROW Phase Budget Detail						
9	ROW historic and other non-study	30,201	27,611	-	27,611	2,590
10	ROW North Link Study	300	196		196	104
11	Total Phase	30,501	27,807	-	27,807	2,694
Contract Amount						
		Board Approvals to Date (F)	Current Approved Contract Value (G)	Proposed Action (H)	Proposed Total for Board Approval (I)	Proposed Contract Value (J)
12	Contract Amount	27,611	27,611		27,611	27,611
13	Contingency	-	-		-	-
14	Total	27,611	27,611	-	27,611	27,611
15	Percent Contingency	0%	0%	0%	0%	0%
<p>6(C),9(C), and (H) In accordance with Sound Transit policy, budgets for specific parcels will be discussed with Board members in executive session.</p> <p>12(G) CURRENT APPROVED CONTRACT VALUE reflects total ROW phase historic and other non-study commitments for administration, acquisition and relocation.</p>						
Budget Shortfall						
Task Level		\$ (K)	Potential Resources (L)		Source (M)	
16	ROW historic and other non-study			9,923	Phase 90 Project Contingency	

M/W/DBE – SMALL BUSINESS PARTICIPATION

Not applicable for this action.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

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

Certain property has been identified as necessary for the Capitol Hill Light Rail Station construction and for construction staging based upon the current level of design. The proposed action would authorize the protective acquisition of one (1) full property acquisition for the "Tinder" property located at 1821 and 1827 Broadway and the payment of relocation benefits to eligible affected owners and tenants.

Although the property is currently developed as a restaurant site and pay parking lot, developer, Steve Smith Development Company, has obtained an option to purchase the property and is in the process of seeking early design guidance on a project to develop a mixed-use building on the site.

The developer's plans for the property include 2 levels of underground parking with a total of 85 spaces, ground level retail space and 85 condominium units above the first floor. The developer plans to move forward with sales and pre-sales in February or March of 2006. Ground breaking is planned for the summer of 2006 with occupancy in the fall of 2007. The developer has prepared drawings for an early design guidance meeting with the City.

As discussed above, the property is needed as a construction staging area and possible entrance for the Capitol Hill Station, as part of the University Link preferred alternative. If Steve Smith Development's proposed mixed-use development goes forward, it would create a situation that would cause significant problems for the developer, future occupants and the community. The developer would have to disclose to prospective occupants that the property will be acquired for Link construction, making it difficult for sales to conclude, and may result in financial complications for the developer. Additionally, those people who did occupy the property would have to undergo the disruptive process of relocation. The community would suffer because it would have to go through the disruption of demolition and construction of a property not once, but twice.

The development is imminent. Steve Smith Development is working to finalize the architectural and design plans for the Property and is working with the City of Seattle on substantial pre-permitting activities. NEPA regulations do not allow the purchase of property prior to the Record of Decision, thus, a protective acquisition waiver from FTA is required prior to acquisition.

Sound Transit's protective acquisition of the Property will prevent the "imminent development of a parcel needed for a proposed transportation . . . site."

Prior Board/Committee Actions on this Project and Relevant Board Policies

Motion or Resolution Number	Summary of Action	Date of Action
R2005-20	Modified the preferred route, profiles, and station locations for the North Link Light Rail Project; and identified "University Link" as the preferred segment of North Link for purposes of the final SEIS and for obtaining a New Starts rating from the Federal Transit Administration participation.	07/28/05
R2005-06	Identified the 12 th Avenue alternative as the preferred Roosevelt route and station location for the North Link Light Rail Project.	01/27/05
R2004-16	Authorized the acquisition and relocation of affected property required in connection with the First Hill Light Rail Station Alternative located within the North Link project of Central Link.	10/28/04
R2004-08	Identified First Hill to Modified Montlake route alternative as preferred alternative including a station at First Hill.	05/20/04
M2003-33	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.	03/13/03
M2002-69	Authorized staff to modify the set of route alternatives in the North Link Draft Supplemental Environmental Impact Statement.	05/23/02
M2002-13	Selected route alternatives for inclusion and study in the North Link Draft Supplemental Environmental Impact Statement excluding less promising route alternatives for further study	02/24/02
M2001-104	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.	09/27/01
R2000-04	Approved acquisition and relocation of affected properties along segment 235 NE 45 th St. to Convention Place Station.	04/27/00

CONSEQUENCES of DELAY

If acquisition of the property is delayed, imminent private development may preclude or greatly complicate transit use of the property.

PUBLIC INVOLVEMENT

Maps of the proposed construction staging areas in the north corridor were published in the Central Link Final Environmental Impact Statement (EIS) and made available to the public in November 1999, and again in the North Link Draft Supplemental EIS in November 2003. Additionally, the public has had numerous opportunities to attend meetings related to the following topics: station design, noise, EIS, public comments on preferred route choices, and Station Area Planning (in coordination with the City of Seattle). These meetings took place in the University District, Capitol Hill, and First Hill neighborhoods.

Opportunity for public comment was also given at Board meetings in September 2001, February 2002, May 2002, March 2003 and May 2004 as the Board was briefed on alternatives and options leading up to the identification of a preferred alternative.

Sound Transit project development and real estate staff continue to meet with property owners, business owners and tenants adjacent to the route and stations in Capitol Hill, the University District, Roosevelt and Northgate to discuss light rail project progress and design, real estate acquisition and relocation processes and listen to individual and neighborhood concerns about the project. Several public open houses were held in October 2004 and January 2005 in the University District, Northgate, Montlake, First Hill and Capitol Hill neighborhoods to seek input on station design and other issues. Public hearings on the North Link Draft Environmental Impact Statement are scheduled for November 9 and 10, 2005.

ENVIRONMENTAL COMPLIANCE

On May 20, 2004, the Board directed staff to complete the final Supplemental Environmental Statement for the preferred route and stations for North Link. Certain property is being or may be developed for mixed use at 1821 and 1827 Broadway, (the "Tinder" property). This parcel is at the location of the Capitol Hill Station identified in the Preferred Alternative. Since the environmental review is not expected to be completed until sometime in early 2006, Sound Transit needs approval from FTA for a protective acquisition in order to preserve the site for transit use. The protective acquisition of the property would not limit the evaluation of alternatives in the ongoing North Link environmental process.

Property acquisition prior to the completion of the environmental review process is not permitted under the National Environmental Policy Act ("NEPA"), however, FTA may grant a waiver for 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 Federal Transit Administration's approval will be required prior to commencement of negotiations by Sound Transit staff. The real property identified in this requested action is included in Exhibit "A" attached.

LEGAL REVIEW

JW 10/13/05

SOUND TRANSIT

RESOLUTION NO. R2005-24

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 University Link segment of the preferred alternative identified by the Sound Transit Board within the North Link project of Central Link.

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, 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, on November 5, 1996, at a general election held within the Central Puget Sound Regional Transit Authority district, the voters approved local funding for high capacity transit in the Central Puget Sound Region; and

WHEREAS, in order to acquire the properties determined to be necessary for the construction, operation and maintenance of project improvements required under Sound Move, 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, 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 staff have ascertained that the Cheryl Tinder property located at 1821 and 1827 Broadway, in the City of Seattle, is needed for construction staging for the Capitol 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, a Federal Transit Administration (FTA) waiver is required before Sound Transit may commence the "protective acquisition" of the identified properties in advance of FTA's issuance of a final Record of Decision; 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 Capitol Hill Station. 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.

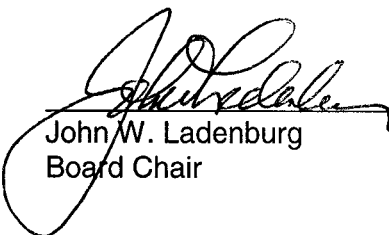
SECTION 3. The Sound Transit Board deems the North Link Project, including the Capitol Hill Station, to be a public use for a public purpose. The Board deems it necessary and in the best interests of the citizens residing within Sound Transit's boundaries to acquire the property identified in Exhibit 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 Capitol 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 Capitol Hill Station 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 Capitol 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.

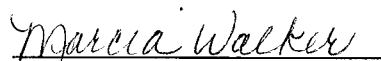
SECTION 6. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on October 27, 2005.



John W. Ladenburg
Board Chair

ATTEST:



Marcia Walker
Board Administrator

DESCRIPTION:

EXHIBIT A

LOTS 8 AND 9 IN BLOCK 34 OF AN ADDITION TO THE CITY OF SEATTLE AS LAID OFF BY D.T. DENNY, GUARDIAN OF THE ESTATE OF J.H. NAGEL (COMMONLY KNOWN AS NAGEL'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO PLAT RECORDED IN VOLUME 1 OF PLATS AT PAGE(S) 153, IN KING COUNTY, WASHINGTON.