

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2006-04

**Acquisition of Real Property Interests Required for the University Link Segment upon
Grant of an FTA Protective Acquisition Waiver**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	2/2/06	Discussion/Possible Action To Recommend Board Approval	Phil O'Dell, Director, Project Delivery Support Services	(206) 398-5013
Board	2/9/06	Discussion/Possible 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	
Real Estate	✓	Property Acquisition	✓

PROJECT NAME

University Link Segment of the North Link – 45th Street to Convention Place Station

PROPOSED 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 construction staging area for the Capitol Hill Station within 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's Chief Executive Officer to acquire and dispose of a portion of the Ron E. and Edel M. Amundson, "Amundson" property located at 112 Broadway East and 113 10th Avenue East, in the City of Seattle, which is needed for construction staging for the Capitol Hill Light Rail Station.
- The proposed action would authorize the protective acquisition of one (1) partial property acquisition for the easterly parking lot portion of the Amundson property located at 113 10th Avenue East and the payment of eligible relocation and re-establishment benefits to affected parties. Adjacent property at 112 East Broadway is also owned by the property owner but is not proposed for acquisition at this time because redevelopment of this property is not imminent.

- Sound Transit staff will seek approval from the Federal Transit Administration (FTA) for commencement of a “protective acquisition” prior to initiating negotiations for the purchase of the property.

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	✓	Protective acquisition of the identified property would exceed the current Right of Way phase budget for this North Link project. Shortfall to be funded by surplus budget in other phases.
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 the FTA, and upon the grant of the waiver, acquisition and related costs for a construction staging area for the Capitol Hill Station within the University Link segment of the North Link – 45th Street to Convention Place Station project of Central Link.

The total adopted capital budget for the North Link – 45th Street to Convention Place Station project is \$161 million, which includes the new University Link segment (Downtown Seattle Transit Tunnel to University of Washington Station). Within that budget, limited funds have been set aside to acquire property for the University Link segment in advance of board adoption of the final preferred alternative for North Link, which is not expected until March 2006.

This action would create a phase level shortfall in the right of way phase of the current board-adopted budget. Sufficient uncommitted budget remains to fund this acquisition within the project budget, consistent with board budget policy.

The proposed acquisition for the Capitol Hill construction staging area will be included in the design and construction budget and finance plan to implement the preferred alternative. The specific costs for this parcel are appropriate for discussion with Board members in executive session.

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

BUDGET TABLE

Action Item: Upon grant of FTA protective acquisition waiver, acquire property (Amundson) needed for construction staging for the Capital Hill Station within the University Link segment of the North Link - 45th Street to CPS project.

(Year of Expenditure \$000)

North Link 45th Street to CPS	Adopted 2006 Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Administration	14,273	11,011		11,011	3,262
2 Preliminary Engineering	33,106	32,421		32,421	685
3 Final Design	58,796	9,796		9,796	49,000
4 Third Party Agreements	10,056	1,745		1,745	8,311
5 Construction	1,344	1,344		1,344	-
6 Right of Way	34,139	33,158	-	33,158	981
7 Contingency	9,285	-		-	9,285
8 Total Current Budget	161,000	89,475	-	89,475	71,525

ROW Phase Budget Detail

9 ROW historic and other non-study	28,339	28,042		28,042	298
10 ROW North Link study/University	5,800	5,116	-	5,116	684
11 Total Phase	34,139	33,158	-	33,158	981

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	5,116	5,116		5,116	5,116
13 Contingency	-	-	-	-	-
14 Total	5,116	5,116	-	5,116	5,116
15 Percent Contingency	0%	0%	0%	0%	0%

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.

12(G) CURRENT APPROVED CONTRACT VALUE reflects total ROW phase commitments for administration, acquisition and relocation for new University Link segment work.

Budget Shortfall

Task Level	\$ (K)	Potential Resources (L)	Source (M)
16 ROW North Link study/University			Surplus budget in other phases of the project.

M/W/DBE – SMALL BUSINESS PARTICIPATION

Not applicable for this action.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

In order 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 will be 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.

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) partial property acquisition for the easterly parking lot portion of the Amundson property located at 113 10th Avenue East and the payment of eligible relocation and re-establishment benefits to affected parties. Adjacent property at 112 East Broadway is also owned by the same property owner but is not proposed for acquisition at this time because redevelopment of this property is not imminent.

Although the entire property is currently developed as a commercial/retail building facing Broadway East and a parking lot facing 10th Avenue East, the owner/developer, Ron Amundson, is in the process of seeking early design guidance on a project to develop a residential apartment building on the easterly parking lot portion of the site. The owner's proposal would redevelop the parking lot facing 10th Avenue East with an apartment building. The commercial retail building facing Broadway East is not affected by the proposed redevelopment of the parking lot.

The owner's plans for the easterly portion of the property include two levels of underground parking with a total of 60 spaces and a four-story, 60-unit apartment building above the garage. After receipt of the recommendations from the early design guidance hearing held December 7, 2005, the developer could apply for design review in 30-60 days, initiating the master use permit process which typically takes four to six months. The owner/developer could break ground as early as fall of 2006, depending on how aggressively they pursue the design process. The owner/developer presented drawings at his early design guidance meeting with the City on December 7, 2005.

The property is needed as a construction staging area as part of the University Link preferred alternative. If Amundson's proposed residential 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 to rent or lease and may result in financial complications for the owner/developer. Additionally, those people who did occupy the property would have to undergo the disruptive process of relocation.

The development is imminent. The owner/developer, Ron Amundson, is working with the City of Seattle on substantial pre-permitting activities.

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 a protective acquisition 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.

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

On May 20, 2004, the Board directed staff to complete the final Supplemental Environmental Impact Statement for the preferred route and stations for North Link. Certain property is being or may be developed for residential use at 113 10th Avenue East, (the "Amundson" 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 the 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.

The Sound Transit Board approved a similar protective acquisition of a nearby property (the Tinder property) on October 27, 2005 due to imminent development at that site.

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

Motion or Resolution Number	Summary of Action	Date of Action
R2005-24	Board authorizes the protective acquisition and relocation of affected property required in connection with Capitol Hill Light Rail Station Alternative located within the University Link (North Link) project of Central Link.	10/27/05
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.	7/28/05
R2005-06	Board identifies the 12 th Avenue alternative as the preferred Roosevelt route and station location for the North Link Light Rail Project.	1/27/05
R2004-16	Board authorizes 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	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 45 th St. to Convention Place Station.	4/27/00
R99-35	CPSRTA Real Property Disposition Policy, Procedures and Guidelines	1/13/00
R98-20	Approval of the real property acquisition and relocation policy, procedures and guidelines.	4/9/98
78-1	Establishing delegated authority and procurement procedures	5/31/96

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), 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. Additional open houses/public hearings on the North Link Draft Environmental Impact Statement were held on November 9 and 10, 2005.

ENVIRONMENTAL COMPLIANCE

JI 1/20/06

LEGAL REVIEW

JW 1/26/06

SOUND TRANSIT

RESOLUTION NO. R2006-04

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 construction staging area for the Capitol Hill Station within 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 Amundson property located at 113 10th Ave E, 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.

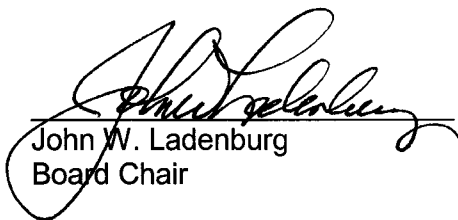
SECTION 3. The Sound Transit Board deems the North Link Project, including the Capitol Hill Station, to be a public use for a public purpose. The Board deems it necessary and in the best interests of the citizens residing within Sound Transit's boundaries to acquire the property identified in Exhibit 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 February 9, 2006.



John W. Ladenburg
Board Chair

ATTEST:



Marcia Walker
Board Administrator

EXHIBIT A
ACQUISITIONS

Segment C-235

R/W #	Tax Parcel #	Owner/Contact
NL-175	6003002025	Ron E. & Edel M. Amundson

EXHIBIT A

C-235

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
	NL-175	Ron E. Amundson & Edel M. Amundson H/W	600300-2025-01	112 Broadway Seattle WA 98122

LOT 3, BLOCK 46, ADDITION TO THE CITY OF SEATTLE AS LAID OFF BY D.T. DENNY, GUARDIAN OF THE ESTATE OF J. H. NAGLE (COMMONLY KNOWN AS NAGLE'S ADDITION TO THE CITY OF SEATTLE) ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 153, IN KING COUNTY, WASHINGTON;

ALSO:

LOT 10, AND THE SOUTH HALF OF LOT 9, BLOCK 46, JOHN H. NAGLE'S SECOND ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 67, IN KING COUNTY, WASHINGTON;

ALSO:

THE NORTH 34 FEET OF LOT 11, BLOCK 46, JOHN H. NAGLE'S SECOND ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 67, IN KING COUNTY, WASHINGTON.