

RESOLUTION NO. R2016-28
To Acquire Real Property Interests Required for the East Link Extension

| MEETING: | DATE: | TYPE OF ACTION: | STAFF CONTACT: |
|----------|------------|-----------------|--|
| Board | 11/29/2016 | Final Action | Ahmad Fazel, DECM Executive Director Ron Lewis, Executive Project Director – East Link Extension Kevin Workman, Real Property Director |

PROPOSED ACTION

Authorizes the chief executive officer to acquire certain real property interests, including acquisition by condemnation to the extent authorized by law, and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants as necessary for the East Link Extension.

KEY FEATURES SUMMARY

- Authorizes the acquisition of one property and temporary construction easement identified for the East Link Extension.
- The property is needed for construction, maintenance, and operation of light rail in the vicinity of NE 8th Street and 116th Avenue NE in close proximity to the future Wilburton Station in Bellevue.
- The legal description of the real property identified in this requested action is included in Exhibit A.
- In 2015, the Board authorized acquisition of this parcel, but at that time the legal description and Tax Parcel ID number did not yet reflect the sale of the parcel to the current owners. This new authorization is requested to provide the property owner with notice of this Board action with the correct parcel number and legal description for the subject property.

BACKGROUND

The East Link Extension extends light rail 14 miles from downtown Seattle to downtown Bellevue and the Overlake area of Redmond via I-90, with stations serving Judkins Park/I-90, Mercer Island, South Bellevue, Downtown Bellevue, Overlake Hospital, the Bel-Red Corridor, Overlake Village, and the Overlake Transit Center. The East Link Extension project route, profiles, and station locations were selected by the Sound Transit Board on July 28, 2011, and amended on April 25, 2013. Light rail service between Seattle and the Overlake Transit Center is forecasted to begin in 2023.

Certain property interests have been identified as necessary for construction of the East Link Extension. The proposed action would authorize the acquisition of one property interest from a commercial property, by condemnation if necessary, and to the extent permitted by law, as needed for the construction, operation, and maintenance of the East Link Extension and will reimburse relocation benefits to eligible affected owners and tenants.

Sound Transit’s authorizing legislation grants the agency the power of eminent domain to accomplish such acquisitions when efforts to reach agreement with property owners are unsuccessful.

- The parcel identified in Exhibit A is in the vicinity of NE 8th Street and 116th Avenue NE in close proximity to the future Wilburton Station along the light rail alignment identified in the East Link Extension. A previous Board action (Resolution No. R2015-21) authorized the acquisition of this parcel. However, that action contained an incorrect legal description and Tax Parcel ID number for this parcel. This occurred because at the time of the previous Board action King County had yet to reflect the sale of this parcel to the current owners. The County subsequently recognized the sale and assigned a new Tax Parcel number to this parcel. This new authorization is requested to provide the property owner with notice of this Board action with the correct parcel number and legal description for the subject property.

FISCAL IMPACT

This action is within the adopted budget and sufficient funds remain after approval of this action to fund the remaining work in the Right-of-Way Phase as contained in the current cost estimates.

| East Link Extension | 2016 TIP | Board Approvals | This Action | Board Approved Plus Action | Uncommitted / (Shortfall) |
|-----------------------------|------------------|------------------------|--------------------|-----------------------------------|----------------------------------|
| Agency Administration | 186,200 | 50,852 | 0 | 50,852 | 135,348 |
| Preliminary Engineering | 55,900 | 54,839 | 0 | 54,839 | 1,061 |
| Final Design | 283,000 | 239,004 | 0 | 239,004 | 43,996 |
| Third Party Agreements | 52,150 | 36,929 | 0 | 36,929 | 15,221 |
| Right of Way | 298,150 | 186,496 | 0 | 186,496 | 111,654 |
| Construction | 2,544,300 | 769,598 | 0 | 769,598 | 1,774,702 |
| Construction Services | 257,450 | 150,228 | 0 | 150,228 | 107,222 |
| Vehicles | 0 | 0 | 0 | 0 | 0 |
| Total Current Budget | 3,677,150 | 1,487,946 | 0 | 1,487,946 | 2,189,204 |

| Phase Detail - Right of Way | | | | | |
|------------------------------------|----------------|----------------|----------|----------------|----------------|
| ROW Phase | 298,150 | 186,496 | 0 | 186,496 | 111,654 |
| Total Phase | 298,150 | 186,496 | 0 | 186,496 | 111,654 |

| Property Acquisition Details | Board Approvals to Date | Current Approved Contract Status | Proposed Action | Proposed Total for Board Approval |
|-------------------------------------|--------------------------------|---|------------------------|--|
| Property Acquisition Contract | 0 | 0 | 0 | 0 |
| Contingency | 0 | 0 | 0 | 0 |
| Total Contract Amount | 0 | 0 | 0 | 0 |
| Percent Contingency | 0% | 0% | 0% | 0% |

Notes:

Amounts are expressed in Year of Expenditure \$000s.
 Board Approvals = Committed to-date + Contingency.
 Board Approvals to Date includes amounts through October 31, 2016 plus any pending Board Actions.
 East Link Extension Project budget is located on page 24 of the 2016 Adopted Transit Improvement Plan (TIP).

In accordance with Sound Transit policy, budgets for specific parcels will be discussed with the Board in executive session. Consistent with the current estimate at completion for real property acquisition, this action and acquisitions of remaining certified properties are affordable within the adopted project budget.

SMALL BUSINESS/DBE PARTICIPATION

Sound Transit promotes and encourages small business participation, which also includes Disadvantaged Business Enterprises (DBEs). Small Business and DBE goals are based upon an examination of subcontracting opportunities contained in the work of this contract and the number of Small Businesses/DBEs available to perform such subcontracting work.

Sound Transit determined that Small Business and DBE subcontracting opportunities are infeasible or improbable based upon the work described in this contract, so Small Business/DBE goals were not established or required.

PUBLIC INVOLVEMENT

Public outreach on the East Link Extension project has taken place over the last ten years. Outreach activities have included meeting with communities, property owners, businesses, stakeholders, local jurisdictions, and agencies. Since the project kickoff in 2006, Sound Transit has hosted 35 public meetings, while also holding nearly 300 briefings with property owners and stakeholders.

Sound Transit has utilized an extensive community outreach effort to ensure that potentially affected property owners and community members have had opportunities to be engaged in the decision-making process.

In compliance with state law regarding public notification, Sound Transit mailed certified letters to property owners affected by this action on November 14, 2016. Legal notices of this proposed Board action will be published in the Seattle Times newspaper on November 16 and November 23, 2016.

TIME CONSTRAINTS

A one-month delay would significantly impact the timing of this project.

PRIOR BOARD/COMMITTEE ACTIONS

Resolution No. R2013-09: Selected the route, profiles, and station locations for the East Link Extension and superseding Resolution No. R2011-10.

ENVIRONMENTAL REVIEW

JI 11/21/2016

LEGAL REVIEW

JB 11/23/2016

RESOLUTION NO. R2016-28

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to acquire certain real property interests, including acquisition by condemnation to the extent authorized by law, and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants as necessary for the East Link Extension.

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

WHEREAS, Sound Transit is authorized to plan, construct, and permanently operate a high-capacity system of transportation infrastructure and services to meet regional public transportation needs in the Central Puget Sound region; and

WHEREAS, in general elections held within the Central Puget Sound Regional Transit Authority district on November 5, 1996 and November 4, 2008, voters approved local funding to implement a regional high-capacity transportation system for the Central Puget Sound region; and

WHEREAS, in order to use the property determined to be necessary for the construction, operation and maintenance of project improvements required under the voter approved high capacity transportation system plans, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain rights in the property for public purposes, and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants; and

WHEREAS, the identified property is necessary for the East Link Extension; and

WHEREAS, Sound Transit has identified certain real properties as necessary for the construction and permanent location of the East Link Extension and such properties are reasonably described in Exhibit A of this resolution, and

WHEREAS, in order to use the property determined to be necessary for the construction, operation and permanent location of the East Link Extension, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain lands and rights in property for public purposes, and reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants; and

WHEREAS, Sound Transit has commissioned or will commission appraisals to determine fair market value of the properties, and will 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 reimburse eligible relocation and reestablishment expenses shall be paid from Sound Transit general funds.

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

Section 1. The chief executive officer is hereby authorized to execute such agreements as are customary and necessary for the acquisition of interests in the real property described in Exhibit A (said property to be used for the East Link Extension) and incorporated herein by reference, and for the reimbursement of eligible relocation and reestablishment expenses. In accordance with Sound Transit's Real Property Acquisition and Relocation Policies, Procedures and Guidelines, the acquisition price of the properties may 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 reestablishment costs of the properties for the East Link Extension exceeds Sound Transit's approved budget for right-of-way acquisition (plus contingency), then the chief executive officer must obtain approval from the appropriate committee or the Board, per Resolution 78-2, before the acquisition of the property for East Link Extension by purchase or by condemnation and the reimbursement of eligible relocation and reestablishment expenses.

Section 2. The chief executive officer or his designee is hereby authorized the settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of interests in the real property 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 may not exceed established project budgets. For all other settlements proposed, the chief executive officer must obtain prior approval of the appropriate committee of the Board, per Resolution 78-2.

Section 3. The Sound Transit Board deems the East Link Extension 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 interests in the real property identified in Exhibit A as being necessary for the construction, operation, and permanent location of the East Link Extension, and affected owners and tenants be reimbursed eligible relocation and reestablishment expenses associated with displacements from the properties.

Section 4. The Sound Transit Board of Directors finds that the public health, safety, necessity, convenience, and welfare demand and require that interests in the real property described in Exhibit A be immediately acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location of the East Link Extension.

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 properties described in Exhibit A to the extent permitted by law, for the purpose of constructing, owning, and operating a permanent location of the East Link Extension. 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 conform 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 November 29, 2016.



Paul Roberts
Board Vice Chair

ATTEST:



Kathryn Flores
Board Administrator



RESOLUTION NO. R2016-28
EXHIBIT A

EAST LINK EXTENSION PROJECT

| ROW ID | TAX PARCEL NO. | OWNERS |
|---------------|-----------------------|---------------------|
| EL256.3 | 2825059328 | RCJ PROPERTIES, LLC |

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EXHIBIT A

EAST LINK EXTENSION PROJECT

| R/W No. | Owner/Contact | Parcel # | Address |
|---------|---------------------|------------|---|
| EL256.3 | RCJ PROPERTIES, LLC | 2825059328 | VACANT LAND 116xx NE 8 TH BELLEVUE, WA 98004 |

THAT PORTION OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY'S (FORMERLY NORTHERN PACIFIC RAILWAY COMPANY) SEATTLE BELT LINE RIGHT OF WAY AT BELLEVUE, WASHINGTON, SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 25 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING AT A POINT ON THE NORTH RIGHT OF WAY LINE OF N.E. 8TH STREET, AS ESTABLISHED BY EASEMENT FROM NORTHERN PACIFIC RAILWAY COMPANY TO THE CITY OF BELLEVUE DATED SEPTEMBER 23, 1968, DISTANT 80.0 FEET WESTERLY, AS MEASURED RADIALLY FROM SAID RAILWAY COMPANY'S MAIN TRACK CENTERLINE, AS NOW LOCATED AND CONSTRUCTED, SAID POINT BEING 40.0 FEET NORMALLY DISTANT NORTH OF THE SOUTH LINE OF SAID SECTION 28; THENCE NORTHERLY ALONG A LINE DRAWN CONCENTRIC WITH AND DISTANT 80.0 FEET WESTERLY AS MEASURED RADIALLY FROM SAID MAIN TRACK CENTERLINE A DISTANCE OF 250 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF THAT CERTAIN 0.18 ACRE PARCEL OF LAND DESCRIBED IN WARRANTY DEED FROM LEONIDES D. GODSEY, ET UX, TO NORTHERN PACIFIC RAILWAY COMPANY FILED FOR RECORD MARCH 4, 1920 IN BOOK 736 OF DEEDS, PAGE 131 IN AND FOR SAID COUNTY;

THENCE DUE EAST (DEED) ALONG THE NORTH LINE OF SAID 0.18 ACRE PARCEL OF LAND 30.0 FEET TO THE WESTERLY LINE OF SAID SEATTLE BELT LINE RIGHT OF WAY; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT OF WAY LINE TO THE INTERSECTION WITH A LINE DRAWN RADIALLY TO SAID MAIN TRACK CENTERLINE AT A POINT DISTANT 640.5 FEET NORTHERLY OF THE SOUTH LINE OF SAID SECTION 28, AS MEASURED ALONG SAID MAIN TRACK CENTERLINE;

THENCE EASTERLY ALONG SAID RADII 20.0 FEET TO THE INTERSECTION WITH A LINE DRAWN CONCENTRIC WITH AND DISTANT 30.0 FEET WESTERLY, AS MEASURED RADIALLY FROM SAID MAIN TRACK CENTERLINE;

THENCE SOUTHERLY ALONG SAID CONCENTRIC LINE 470.0 FEET; THENCE SOUTHWESTERLY 30.0 FEET TO A POINT 40.0 FEET WESTERLY, AS MEASURED RADIALLY FROM SAID MAIN TRACK CENTERLINE;

THENCE SOUTHEASTERLY TO A POINT ON THE NORTH RIGHT OF WAY LINE OF N.E. 8TH STREET, AS ESTABLISHED BY EASEMENT FROM NORTHERN PACIFIC RAILWAY COMPANY TO THE CITY OF BELLEVUE DATED SEPTEMBER 23, 1968, DISTANT 65.0 FEET EAST OF THE POINT OF BEGINNING, AS MEASURED ALONG SAID NORTH RIGHT OF WAY LINE;

THENCE WEST ALONG SAID NORTH RIGHT OF WAY LINE 65.0 FEET TO THE POINT OF BEGINNING.