

RESOLUTION NO. R2017-04
To Acquire Real Property Interests Required for the Lynnwood Link Extension

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:
Capital Committee	01/12/2017	Recommend to Board	Ahmad Fazel, DECM Executive Director
Board	01/26/2017	Final Action	Rod Kempkes, Executive Project Director – Lynnwood Link Extension Kevin Workman, Real Property Director

PROPOSED ACTION

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

KEY FEATURES SUMMARY

- Authorizes the full acquisition of three parcels for the Lynnwood Link Extension.
- The properties are needed for construction, maintenance, and operation of the light rail project located near the Lynnwood Transit Center.
- The legal descriptions of the real property identified in this requested action are included in Exhibit A.

BACKGROUND

The Lynnwood Link Extension is an 8.5 mile light rail extension from Northgate to Lynnwood with service to the cities of Shoreline, Mountlake Terrace, and Lynnwood. The extension will travel primarily along I-5 and include four stations at NE 145th Street, NE 185th Street, Mountlake Terrace Transit Center, and Lynnwood Transit Center. New parking structures will be provided at NE 145th Street, NE 185th Street, and Lynnwood Transit Center. The project began Final Design in 2016 and is scheduled to open for service in 2023.

Sound Transit will acquire the property, by condemnation if necessary, as needed for the construction, operation, and maintenance of the Lynnwood Link Extension and will reimburse relocation expenses 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 Lynnwood Link Extension Final Environmental Impact Statement was issued in April 2015, in compliance with the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA). The Sound Transit Board selected the project route, profile, and stations on April 23, 2015. The Federal Transit Administration issued a NEPA Record of Decision (ROD) for the project on July 10, 2015 and the Federal Highway Administration issued a ROD on August 31, 2015.

PROJECT STATUS

Project Identification	Alternatives Identification	Conceptual Engineering	Preliminary Engineering	Final Design	Construction
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Projected Completion Date for Final Design Phase: Q1 2018

Project scope, schedule, and budget summary located on page 31-37 of the October 2016, Link Progress Report.

FISCAL INFORMATION

There is sufficient authorized project allocation to date in the right-of-way phase of the project to fund this action. However, there is a risk that the current allocation to this phase is insufficient to complete all future property acquisitions needed for the project. In mid-2017, project baseline costs are expected to be established and a request to increase the authorized project allocation for the right-of-way phase is likely.

The table below does not include the expected cost of this action however, costs may be discussed with Board members in executive session.

Lynnwood Link Extension	2017 TIP	Board Approvals	This Action	Board	Uncommitted / (Shortfall)
				Approved Plus Action	
Agency Administration	88,305	12,108		12,108	76,197
Preliminary Engineering	42,000	41,252		41,252	748
Final Design	111,453	84,208		84,208	27,245
Right of Way	123,779	19,348		19,348	104,430
Construction	500	-		-	500
Construction Services	104,925	19,835		19,835	85,090
Third Party Agreements	17,400	7,266		7,266	10,134
Vehicles	-	-		-	-
Contingency	-	-		-	-
Total Current Budget	488,361	184,017	-	184,017	304,344

Notes:

Amounts are expressed in Year of Expenditure \$000s.

Board Approvals = Committed To-Date + Contingency, and includes pending Board actions.

2017 TIP = Lynnwood Link Extension Authorized Project Allocation to Date, located on page 13 of the Proposed 2017 of the Transit Improvement Plan (TIP), as amended by resolution of the ST Board in December 2016 (R2016-37, adopted 12/15/16).

SMALL BUSINESS/DBE PARTICIPATION AND APPRENTICESHIP UTILIZATION

Not applicable to this action.

PUBLIC INVOLVEMENT

Sound Transit staff has worked closely with the property owners throughout the environmental and preliminary engineering phases. Sound Transit staff has met regularly with the owners about the Lynnwood Link Extension in relation to their properties along the corridor and specifically the properties under consideration. Sound Transit also sent letters to potentially impacted property owners prior to the publication of the Draft and Final Environmental Impact Statements.

In compliance with state law regarding public notification, Sound Transit mailed certified letters to property owners affected by this action on January 10, 2017. Legal notices of this proposed Board

action will be published in the Seattle Times and The Herald of Everett newspapers on January 13 and 20, 2016.

TIME CONSTRAINTS

A one-month delay would not significantly impact the timing of this project.

PRIOR BOARD/COMMITTEE ACTIONS

Resolution R2016-27: Authorized 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 Lynnwood Link Extension.

Resolution R2016-24: Authorized 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 Lynnwood Link Extension.

Resolution R2015-31: Authorized 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 Lynnwood Link Extension.

Resolution No. R2015-30: Amended the 2015 Adopted Budget by (1) increasing the lifetime capital budget for the Lynnwood Link Extension project by \$423,742,313 from \$64,118,687 to \$487,861,000, (2) increased the 2015 Annual Budget by \$2,329,890 from \$16,324,776 to \$18,654,671, and (3) authorized the project to advance through Gate 4 within Sound Transit's Phase Gate Process.

Resolution R2015-18: Authorized 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 Lynnwood Link Extension.

Resolution R2015-05: Selected the route, profile, and stations for the Lynnwood Link Extension.

Resolution R2014-35: Amended Resolution R2012-18 to also authorize the chief executive officer to acquire certain real property interests as necessary for the Lynnwood Link Extension project, in addition to the previously authorized Northgate Link Extension.

Motion No. M2013-96: Identified the preferred light rail routes and station locations for the Lynnwood Link Extension Final Environmental Impact Statement.

ENVIRONMENTAL REVIEW

JI 12/30/2016

LEGAL REVIEW

JV 1/6/2017

RESOLUTION NO. R2017-04

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to acquire or lease certain real property interests, including acquisition by condemnation and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants as necessary for the Lynnwood 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, environmental compliance pursuant to the State Environmental Policy Act (SEPA) for Lynnwood Link was completed with the Lynnwood Link Project Final Environmental Impact Statement (EIS) issued on April 1, 2015; the Federal Transit Administration issued a Record of Decision (ROD) for the project on July 10 2015, completing the National Environmental Policy Act (NEPA) process; and

WHEREAS, Sound Transit has identified certain real properties as necessary for the construction and permanent location of the Lynnwood 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 Lynnwood 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 the 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 or lease of interests in the real property described in Exhibit A (said property to be used for Lynnwood 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 Lynnwood 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 No. 78-2, before the acquisition of the property for the Lynnwood 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 to 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 or the Board, per Resolution No. 78-2.

SECTION 3. The Sound Transit Board deems the Lynnwood 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 Lynnwood 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 Lynnwood 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 of the properties described in Exhibit A to the extent permitted by law, for the purpose of constructing, owning, and operating a permanent location of the Lynnwood 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 January 26, 2017.



Dave Somers
Board Chair

ATTEST:



Kathryn Flores
Board Administrator



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EXHIBIT A

LYNNWOOD LINK EXTENSION PROJECT

ROW ID	TAX PARCEL NO.	OWNERS
LL314	00372600600703	CLS OFFICE BUILDING, LLC
LL315	00372600600702	PATRICK J. J. KELLY
LL316	00372600601406	K & F CHANG, LLC

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EXHIBIT A

LYNNWOOD LINK EXTENSION PROJECT

R/W No.	Owner/Contact	Parcel #	Address
LL314	CLS OFFICE BUILDING, LLC	00372600600703	4720 200 TH ST. SW LYNNWOOD, WA 98036

THE WEST 1.00 ACRE OF THAT PORTION OF LOT 7, BLOCK 6, ALDERWOOD MANOR, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 9 OF PLATS, PAGE 71, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING SOUTH OF 200TH STREET SOUTHWEST AS CONVEYED TO THE CITY OF LYNNWOOD BY DEED RECORDED UNDER RECORDING NO. 1895092;

(ALSO KNOWN AS PARCEL A OF SHORT PLAT NO. 79-3-2 AS RECORDED UNDER RECORDING NO. 7902260302);

EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF LYNNWOOD BY DEED RECORDED UNDER RECORDING NO. 7912190201;

AND EXCEPT THAT PORTION THEREOF CONVEYED TO CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY BY DEED RECORDED UNDER RECORDING NO. 200303280264.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

R/W No.	Owner/Contact	Parcel #	Address
LL315	PATRICK J. J. KELLY	00372600600702	4630 200 TH ST. SW LYNNWOOD, WA 98036

THAT PORTION OF LOT 7, BLOCK 6, ALDERWOOD MANOR, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 9 OF PLATS, PAGE 71, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING SOUTH OF 200TH STREET S.W., AS CONVEYED TO THE CITY OF LYNNWOOD BY DEED RECORDED UNDER RECORDING NUMBER 1895092;

EXCEPT THE EAST 30 FEET, AS CONVEYED TO THE CITY OF LYNNWOOD BY DEED RECORDED UNDER RECORDING NUMBER 2131815, AND SUBSEQUENTLY CONVEYED TO SNOHOMISH COUNTY BY DEED RECORDED UNDER RECORDING NUMBER 7910050175; AND

EXCEPT THE WEST 1.00 ACRE THEREOF AS CONVEYED BY DEED RECORDED UNDER RECORDING NUMBER 7903060076; AND

(ALSO KNOWN AS PARCEL B OF CITY OF LYNNWOOD SHORT PLAT NO. 79-S-2, RECORDED UNDER RECORDING NUMBER 7902260302);

EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF LYNNWOOD BY DEED RECORDED UNDER RECORDING NUMBER 8007250095, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION ON THE SOUTH MARGIN OF SAID 200TH ST. S.W. WITH THE WEST LINE OF THE EAST 30 FEET OF SAID LOT 7, AS CONVEYED TO THE CITY OF LYNNWOOD FOR 46TH AVENUE WEST BY DEED RECORDED UNDER RECORDING NUMBER 2131815; THENCE WESTERLY, ALONG SAID SOUTH MARGIN, 20 FEET;

THENCE SOUTHEASTERLY TO A POINT ON THE WEST LINE OF THE EAST 30 FEET OF SAID LOT 7 DISTANT 20 FEET FROM THE POINT OF BEGINNING;

THENCE NORTHERLY, ALONG SAID WEST LINE, 20 FEET TO THE POINT OF BEGINNING, AS CONVEYED TO THE CITY OF LYNNWOOD BY DEED RECORDED UNDER RECORDING NUMBER 8007250095.

R/W No.	Owner/Contact	Parcel #	Address
LL316	K & F CHANG, LLC	00372600601406	4520 200 TH ST. SW LYNNWOOD, WA 98036

THAT PORTION OF LOT 14, BLOCK 6, ALDERWOOD MANOR, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 9 OF PLATS, PAGE 71, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 14; THENCE SOUTH 87°47'40" EAST ALONG THE SOUTH LINE OF SAID LOT 14, A DISTANCE OF 30.01 FEET;

THENCE NORTH 00°30'22" EAST PARALLEL WITH THE WEST LINE OF SAID LOT 14, A DISTANCE OF 12.56 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 00°30'22" EAST A DISTANCE OF 189.94 FEET TO AN INTERSECTION WITH THE SOUTH MARGIN OF 200TH STREET SOUTHWEST;

THENCE SOUTH 88°07'20" EAST ALONG SAID SOUTH MARGIN, A DISTANCE OF 357.75 FEET TO AN INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND LYING 200.00 FEET WEST OF THE WESTERLY MARGIN OF PRIMARY STATE HIGHWAY 1-E AS CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER AUDITOR'S FILE NUMBER 1616068;

THENCE SOUTH 00°18'10" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 181.37 FEET TO A POINT FROM WHICH THE TRUE POINT OF BEGINNING BEARS NORTH 89°29'38" WEST; THENCE NORTH 89°29'38" WEST A DISTANCE OF 358.30 FEET TO THE TRUE POINT OF BEGINNING;

EXCEPT THE NORTH 2 FEET THEREOF CONDEMNED BY THE CITY OF LYNNWOOD IN JUDGMENT AND DECREE OF APPROPRIATION ENTERED FEBRUARY 10, 1981 IN SNOHOMISH COUNTY SUPERIOR COURT CAUSE NO. 80-2-01472-1;

AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF LYNNWOOD BY DEED RECORDED UNDER AUDITOR S FILE NUMBER 8007250096.

EXCEPT THAT PORTION CONVEYED TO CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY BY DEED RECORDED UNDER AUDITOR S FILE NUMBER 200301220939, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

TOGETHER WITH THOSE EASEMENT RIGHTS SET FORTH IN THE DECLARATION OF COVENANTS AND RESTRICTIONS AND GRANT OF EASEMENTS RECORDED MARCH 23, 1979 AS RECORDING NO. 7903230319.