

**RECORD OF DECISION**  
**FOR**  
**CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY'S**  
**(SOUND TRANSIT)**  
**EAST LINK LIGHT RAIL TRANSIT PROJECT**  
**KING COUNTY, WASHINGTON**

**DECISION**

The Federal Transit Administration (FTA), pursuant to 23 CFR Section 771.127, hereby issues this East Link Light Rail Transit Project Record of Decision (ROD) finding that the requirements of the National Environmental Policy Act (NEPA) have been satisfied for the construction and operation of the East Link Light Rail Project (Project). This ROD also provides findings on other related federal statutory requirements.

This ROD is based on FTA's close monitoring and independent evaluation of the process followed by Sound Transit in setting forth and considering the effects of the Project and the available alternatives. This process included the preparation of the *East Link Draft Environmental Impact Statement* (December 2008) (Draft EIS), *East Link Supplemental Draft Environmental Impact Statement* (November 2010) (Supplemental Draft EIS), and *East Link Final Environmental Impact Statement* (July 2011) (Final EIS) (all collectively referred to as the "Environmental Review Documents" or "EIS"), and the determinations and evaluations made therein.

This ROD describes the Project, the Project's background and planning, the alternatives considered, the public opportunity to comment, the public comments and responses thereto, and the basis for the decision and mitigation measures required. The summary descriptions included herein do not supersede or negate any of the information, descriptions, or evaluations provided in the Environmental Review Documents, except as may be expressly noted below. This ROD and the associated published Environmental Review Documents, incorporated herein by reference, constitute the FTA environmental record for the project.

The Project is the Preferred Alternative (PA), identified in the Final EIS, as refined under the description herein, which extends Sound Transit's current light rail system by 18 miles and includes 12 stations, four park-and-ride lots, and other supporting facilities. It runs from Downtown Seattle to Mercer Island and Bellevue along Interstate 90 (I-90)

and then through Bellevue to Overlake and Redmond. It also includes storage tracks and facilities located just north of the Hospital Station to allow for overnight storage of vehicles and daily startup operations. The PA Phasing Implementation section of this ROD describes how the easternmost segment of the PA, Segment E, will be constructed when funding is available.<sup>1</sup>

## **BASIS FOR DECISION**

### **BACKGROUND AND PROCESS**

Consistent with the memorandum titled *Integration of Planning and NEPA Processes* (Appendix A to 49 CFR Part 613), FTA's decision process for the Project follows comprehensive studies completed in cooperation with state and local agencies and with broad public input. Local, regional, and state agencies have been studying high-capacity transportation alternatives to connect Seattle with the Eastside of King County since the mid-1960s. The history and outcomes of these plans, studies, and public involvement processes are summarized in Section 1.3 of the Final EIS and fully described in the report titled *East Corridor High-Capacity Transit Mode Analysis History* (Sound Transit, 2006). This history forms the basis of the Purpose and Need statement for the East Link Project EIS. In particular, the Sound Transit Board made the following two major decisions after extensive evaluation and review – see the discussion below, including the Board's consideration and adoption of the updated Long-Range Plan in 2005 – with other agencies and the public before beginning this East Link Project EIS:

- Regional High-Capacity Transit (HCT) to the Eastside via I-90 is necessary.
- Light rail is the preferred HCT technology for the I-90/East Corridor connecting Seattle, Mercer Island, Bellevue, Overlake, and Redmond.

In 1976, after extensive review and discussion, a memorandum agreement was signed that confirmed the configuration of the I-90 roadway and specified that the I-90 center roadway should be designed and constructed for future conversion to high-capacity transit. Signatories were the Cities of Seattle, Mercer Island, and Bellevue; King County; Metro Transit; and the State Highway Commission. (See also USDOT Secretary Brock Adams Decision dated September 20, 1978 describing the I-90 center roadway as “reserved for transit vehicles, carpools and Mercer Island general traffic” and approving the I-90 project (freeway improvements from I-5 to I-405) on the explicit

---

<sup>1</sup> *A separate record of decision from the Federal Highway Administration will cover its approvals required for the East Link project that include, but may not be limited to: Interchange Justification Report; airspace lease for use of interstate right-of-way; breaks-in-access, including those determined necessary during the design process as well as those requested during construction; operations and maintenance agreement related to interstate highway use; approval of conversion of highway lanes to high capacity transit; and approval of bridge expansion joint design.*

condition that “public transportation shall permanently have first priority in the use of the center lanes.”)

Additional plans and studies in the 1980s and 1990s by the Puget Sound Council of Governments and the Joint Regional Policy Committee affirmed the need for regional high-capacity transit via I-90 and rail as a feasible and preferred mode on I-90. The Central Puget Sound Regional Transit Authority (Sound Transit) was formed in 1993. The Sound Transit Board adopted Sound Move, the first phase of regional HCT investments and the *Regional Transit Long-Range Vision* in 1996 and it identified the I-90 corridor as a potential future light rail corridor.

Starting in 1998, the Washington State Department of Transportation (WSDOT) and Sound Transit served as co-leads on the *Trans-Lake Washington Study*, which identified a set of solutions to improve transportation across and around Lake Washington (WSDOT and Sound Transit, 2002). This study reaffirmed I-90 as the first priority for crossing Lake Washington with HCT.

In 2001, the Puget Sound Regional Council (PSRC) adopted *Destination 2030*, the regional metropolitan transportation plan, which again recommended HCT across I-90. In 2004, the PSRC prepared the *Central Puget Sound Regional High Capacity Transit Corridor Assessment* to establish a basis for more detailed planning studies and environmental analysis. Applying the adopted land use and metropolitan transportation plan, the report found that the cross-lake corridor, connecting the urban centers of Seattle, Bellevue, Overlake and Redmond, had the highest potential for near-term development of high-capacity transit alternatives.

The Sound Transit Board adopted the updated Long-Range Plan in 2005, which identified two alternative HCT modes on exclusive right-of-way for further consideration in the I-90 corridor between Downtown Seattle, Downtown Bellevue, Overlake, and Redmond: light rail transit and rail-convertible bus rapid transit. Sound Transit then undertook additional transportation analysis of the I-90 corridor for consideration in the development of the next phase of HCT system investments. Based on the results of the analysis, the Sound Transit Board identified light rail as the preferred HCT transportation mode for the East Corridor on July 13, 2006 (Seattle to Bellevue to Redmond via I-90).

Sound Transit and the FTA initiated the East Link Project NEPA process by publishing a Notice of Intent (NOI) in the Federal Register on August 22, 2006. The environmental scoping process conducted in September 2006 included extensive community outreach, formal scoping meetings, and public hearings to solicit input on the project purpose and need, alternative alignments, profiles, and station locations for detailed analysis in the Environmental Impact Statement (EIS). In November 2008, the Sound Transit 2 (ST2) plan was approved by voters. ST2 is the next phase of mass transit improvements in the Puget Sound region, and includes the East Link Project. The Draft EIS was issued on December 12, 2008. On May 14, 2009, following review of the Draft EIS, and after consideration of public and agency comments received, and other information, the Sound Transit Board identified preferred light rail routes and station locations for

inclusion in the Final EIS. In response to public and agency comments, Sound Transit evaluated more design options in downtown Bellevue and the Board subsequently modified the preferred light-rail routes and station locations. A Supplemental Draft EIS analyzing these modifications was issued on November 12, 2010. The Final EIS was published on July 15, 2011, and the Sound Transit Board selected the preferred alignment (PA) for the project on July 28, 2011.

The PA described in this Record of Decision reflects the alignment, stations and other elements included in the Sound Transit Board's July 28, 2011 decision and includes the three subsequent alignment refinements decisions, as noted below.

## **PURPOSE AND NEED**

**Project purpose.** The purpose of the East Link Project is to expand the Sound Transit Link light rail system from Seattle to Mercer Island, Bellevue and Redmond via Interstate 90 (I-90) and to provide a reliable and efficient alternative for moving people throughout the region.

**Project need.** Current and projected population and employment trends reveal a need to provide light rail transit between Seattle and the Bellevue and Redmond urban centers. Existing transit will not be able to serve the future transit needs in the project corridor for several reasons:

- Increased demand for transit services across Lake Washington is expected to double by 2030 as a result of residential and employment growth on both sides of Lake Washington.
- Regional urban center growth plans are supported by HCT investments in accordance with PSRC's adopted *Transportation 2040*.
- Increased congestion on I-90 will further limit transit performance as the I-90 corridor reaches maximum vehicle capacity during peak-hour travel as early as 2015.
- Operating deficiencies in regional bus transit service will worsen due to lower speeds and decreasing reliability.
- Constraints of the current road system will limit transit capacity and connectivity between the areas of highest employment density in the region.

(See Final EIS, Chapter 1.2, for detailed discussion on Project need.)

## **OTHER NEPA CONSIDERATIONS**

The Final EIS includes a record of the comments submitted on the Draft EIS and Supplemental Draft EIS. The Final EIS included responses to these comments along with additional environmental analysis. The Final EIS also included consideration of, and findings related to, the requirements of the Endangered Species Act and Magnuson-Stevens Act, the National Historic Preservation Act (Section 106), the Clean Air Act, the Clean Water Act, Section 4(f) of the Department of Transportation Act,

Section 6(f) of the Land and Water Conservation Fund Act, and Executive Orders on environmental justice and floodplains, all of which are summarized below and detailed in the Final EIS.

On the basis of FTA's consideration of the Project Environmental Review Documents' evaluations and findings, as well as the Project's purpose and need, FTA finds that the Project has met all applicable requirements under NEPA and that this ROD is complete and supports this determination.

## **RECORD OF DECISION PROJECT DESCRIPTION**

The project for which this Record of Decision is issued is the Preferred Alternative (PA), which includes the route alignment and station locations described in the Final EIS and as selected by the Sound Transit Board on July 28, 2011, which includes the three refinements decisions related to Sound Transit's selection of alternatives presented in the Final EIS, as described below. A map of the PA is included as Attachment A.

### **Preferred Alternative (PA)**

Summary Route Description: The Project is described in Section 2.3.2 Build Alternatives of the Final EIS (with three refinements noted here). The Project is divided into five geographic segments. Segment A, Interstate 90, connects downtown Seattle to Mercer Island and South Bellevue via I-90. The Final EIS described and evaluated the portion along the D2 busway in Seattle as being either being shared between bus and light rail operations or exclusively light rail. The first refinement of the PA noted here is Sound Transit's decision that the D2 busway would operate as light rail only.. Segment B, South Bellevue, connects I-90 to downtown Bellevue along Bellevue Way SE and 112th Avenue SE. Segment C, Downtown Bellevue, includes a tunnel through downtown Bellevue and an elevated I-405 crossing at NE 6th Street. The Final EIS described and evaluated both the tunnel and optional surface street alignment. The second refinement noted here is Sound Transit's decision to select the tunnel as the PA alignment. The third refinement relates to Sound Transit selection of this tunnel alignment, C9T, as the preferred alignment for Segment C. Under alignment C9T, the East Main Station is selected. Segment D, Bel-Red/Overlake, would travel from the I-405 crossing to the Overlake Transit Center, along the Bel-Red corridor. Segment E, Downtown Redmond, would travel from Overlake Transit Center to Downtown Redmond via the SR 520 corridor and then proceed to Downtown Redmond via the former BNSF Railway corridor. (Attachment A.)

Electric light rail technology was chosen for the East Link Light Rail Project because of its versatility to operate at-grade with mixed traffic or in an exclusive right-of-way on the surface, on elevated tracks, or in tunnels. Because of the varied geographic conditions along the proposed corridor, the East Link extension combines tunnel, elevated, and surface profiles in an exclusive right-of-way. Standard features of the stations include boarding platforms that would be approximately 400 feet long to accommodate four-car trains. Transit stations at Rainier, Mercer Island, East Main Street, 130<sup>th</sup> Avenue, Overlake Village, Overlake Transit Center, SE Redmond and Downtown Redmond are

at-grade stations. Elevated stations include South Bellevue and Hospital Stations. The 120<sup>th</sup> Avenue Station is below grade and the Bellevue Transit Center Station is underground in a tunnel. All grade separated stations have escalator, elevator and stair accesses.

Detailed Route Description: The project's route, profile, and station locations are identified in the following paragraphs:

- A. The route begins in the existing Downtown Seattle Transit Tunnel and connects to the Central Link light rail system at the International District/Chinatown Station. It enters I-90 via the existing D2 roadway, a ramp between downtown Seattle and Rainier Avenue. The D2 roadway will operate as light rail only. The route continues east in the center reversible lanes of I-90 across Lake Washington. There will be one station in the City of Seattle between Rainier Avenue and 23<sup>rd</sup> Avenue and one in the City of Mercer Island with entrances at 77<sup>th</sup> and 80<sup>th</sup> Avenues SE.
- B. The route includes an elevated exit from the I-90 center roadway at the Bellevue Way Interchange in the City of Bellevue and will preserve HOV access to and from the west on I-90. It proceeds along the east side of Bellevue Way with an elevated station at the existing South Bellevue Park-and-Ride. This station will include a new parking garage with approximately 1400 stalls as well as bus-transfer facilities. The route descends from the elevated profile and continues north along the east side of Bellevue Way and 112<sup>th</sup> Avenue NE toward downtown Bellevue.
- C. The route crosses to the west side of 112<sup>th</sup> Avenue and includes an East Main Station with at-grade entrances. It then enters a tunnel portal at Main Street and proceeds north under 110<sup>th</sup> Avenue NE to a Bellevue Transit Center subway station under 110<sup>th</sup> Avenue NE. The station will include entrances near NE 6<sup>th</sup> Street and NE 2<sup>nd</sup> Place. The route then turns east on NE 6<sup>th</sup> Street and transitions onto an elevated structure over 112<sup>th</sup> Avenue NE, I-405, and 116<sup>th</sup> Avenue NE. It then turns north into the former BNSF Railway corridor and continues to an elevated Hospital Station on the north side of NE 8<sup>th</sup> Street, with entrances also on the north side of NE 8<sup>th</sup> Street.
- D. The route turns east into the Bel-Red corridor in a retained cut configuration between 120<sup>th</sup> and 124<sup>th</sup> Avenues, with a retained cut 120<sup>th</sup> Avenue Station. It transitions onto an elevated structure over the West Tributary of Kelsey Creek and then back to grade at the 130<sup>th</sup> Avenue Station. This station, located between 130<sup>th</sup> Avenue NE and 132<sup>nd</sup> Avenue NE, includes a new 300 stall park-and-ride on its north side. The alignment continues at-grade in the median of NE 16<sup>th</sup> Street and 136<sup>th</sup> Place NE and across NE 20<sup>th</sup> Street. It then returns to an elevated structure along the south side of SR 520 and into the City of Redmond. It again transitions to grade with an Overlake Village Station at 152<sup>nd</sup> Avenue NE and then continues along SR 520 in a partially retained cut profile to the Overlake

Transit Center Station, which will be rebuilt to accommodate light rail and approximately 320 parking stalls as well as bus-transfer facilities. This will be the interim terminus until additional funding is available.

- E. The route continues along SR 520 to an at-grade Southeast Redmond Station southeast of the SR 520/SR 202 intersection. This station includes a parking garage with approximately 1,400 stalls as well as bike parking and bus-transfer facilities. The route turns west through the SR 520/SR 202 interchange into the former BNSF Railway corridor to the terminal Downtown Redmond station west of Leary Way. The terminal station includes tail tracks past the station for train layover and turnback operations.
- F. The Project will include storage tracks in the former BNSF Railway Corridor north of NE 12<sup>th</sup> Street with lead tracks and light maintenance facilities adjacent to the corridor.

### **PA Phased Implementation:**

The Project described and covered under this ROD is the eventual full build-out (i.e., Segments A through E) of the PA. The PA would be linked to create a complete, operable light rail system from Redmond and that would connect with Sound Transit's light rail system at the Chinatown/International District Station in downtown Seattle. However, the voter-approved ST2 Plan does not provide sufficient funding for the construction of Segment E. This requires a phased build-out of the PA and, therefore, Sound Transit defers building Segment E until funding is available. While all stations including and east of the Hospital Station were analyzed in the Final EIS as potential interim stations in the EIS, ST selected the Overlake Transit Center Station as the East Link interim terminus until additional funding is available through cost savings achieved under ST2 or future voter-approved phases.

The PA does not include a light rail storage and light maintenance base to support the system-wide expansion of light rail that will occur under the ST2 Program. However, five potential sites were evaluated in the East Link corridor in the Final EIS. Sound Transit must identify a preferred maintenance base site and prepare additional environmental documentation before FTA will approve construction of Segment E.

## **DESCRIPTION OF OTHER ALTERNATIVES EVALUATED IN THE FINAL EIS**

Alternatives considered were evaluated under the Project's stated purpose and need, first to ensure that route and station locations proposed would fit within the whole Link light rail system (including future expansions), and second to compare advantages and disadvantages of route alternatives. Criteria included community compatibility, cost, environmental impacts, political and community acceptance, ridership, and transportation impacts. Alternatives considered include 24 build alternatives (one in Segment A, six in Segment B, ten in Segment C, four in Segment D, and three in Segment E), the No Build Alternative, and five maintenance facility alternatives (three in

Segment D and two in Segment E). Each alternative route includes one to four stations per segment. A total of 19 station alternatives, some with multiple location options, exist in the five segments.

Attachment B to this ROD summarizes the build alternatives evaluated for Segments A, B, C, D and E. Light rail alternative routes and stations are also described in Chapter 2 of the Final EIS and conceptual engineering drawings of the alternatives are provided in Appendix G1 of the Final EIS. Chapter 6 of the Final EIS evaluates the ability of the alternatives, including the PA, to meet the Project purpose and need, and analyzes their overall benefits, environmental impacts and cost-effectiveness. This summary of alternatives does not include those alternatives that were not evaluated in the Final EIS through the screening of alternatives that did not meet the Project purpose and need. (See Final EIS, Section 2.2.5.)

### **No-Build Alternative:**

In addition to evaluating build alternatives described above, the Final EIS evaluated the No-build Alternative, which represents the transportation system and the environment as they would exist without the proposed Project. This alternative provides a baseline condition for comparing impacts of the build alternatives and includes two future transportation forecast years, 2020 and 2030.

This alternative assumes implementation of a variety of projects, funding packages, and proposals in the central Puget Sound region. The projects primarily consist of funded or committed roadway and transit actions by state, regional, and local agencies, combined with other projects that are considered likely to be implemented, including the express bus, high-occupancy vehicle (HOV), and Transportation System Management projects described in Sound Move (Sound Transit, 1996) and the Rapid Ride and other transit enhancements in the King County *TransitNow Program*. Chapter 2 of the Final EIS provides detailed information about the alternative.

The Final EIS looked at two No Build Alternatives related to Segment A (I-90). They arise from two possible ways of implementing the I-90 Two-Way Transit and HOV Operations Project. In either scenario, Stages 1 and 2 of that project would improve I-90 between Bellevue and Mercer Island by placing HOV lanes in the outer roadway and building or improving HOV direct access ramps. Stage 3 would place HOV lanes in the outer roadway between Seattle and Mercer Island and further improve HOV direct access on Mercer Island. Due to uncertainties regarding funding for Stage 3, one No Build Alternative analyzes construction and operation of Stages 1 and 2 only, while the other assumes Stages 1 through 3.

## **PUBLIC OPPORTUNITY TO COMMENT**

NEPA encourages lead agencies to make diligent efforts to involve the public in preparing and implementing NEPA procedures that involve decisions that would affect the community. As documented in Appendix B to the Final EIS, public input has been an essential element of the Project's alternatives development, environmental analysis, documentation, and review process. Sound Transit used a variety of methods to reach out to the public, including briefings, open houses, workshops, and public meetings.

The lead agencies published notices of intent and availability of Environmental Review Documents in the Federal Register, ran legal notices in the Seattle Times and Daily Journal of Commerce, and posted legal notices near proposed transit stations. Sound Transit also made the Environmental Document Materials available for viewing at regional and local libraries, at the Sound Transit office and on its website.

In addition to mailing thousands of postcards to study area residents, Sound Transit held public hearings, open houses and workshops; provided information at community fairs and festivals and community meetings; and placed informational ads in community newsletters. Outreach to social services organizations included providing notices of meetings and mailing of environmental documents. Information was also made available in different languages and Braille.

### **East Link EIS Scoping Process**

The scoping process started with the issuance of Notice of Intent in the Federal Register on August 22, 2006 with a 30-day comment period. Sound Transit sent more than 154,000 postcards to residents and businesses announcing the beginning of the scoping process, the public meetings, and the availability of the Environmental Scoping Information Report.

The Environmental Scoping Information Report was available at four public open houses, at one tribal and agency scoping meeting, and on the Sound Transit website for the public's review and input. Sound Transit also met or corresponded with affected local, regional, state, and federal agencies; tribes; and other organizations about issues within their jurisdiction or concern.

Sound Transit received both oral and written comments at all these meeting and received comments directly by mail and email. About 300 comments were received during the scoping comment period and summarized in the East Link EIS Scoping Summary Report in October 2006.

### **East Link Draft EIS Process**

Notification of the availability of the Draft EIS was issued in the Federal Register on December 12, 2008. The Executive Summary and a compact disc (CD) of the complete Draft EIS were distributed to agencies, organizations, businesses, and stakeholders. The Draft EIS documents were available to the public as described on the Draft EIS Fact Sheet and at public meetings. An electronic copy of the Draft EIS was also posted on the Sound Transit website.

More than 67,000 postcards announcing the availability of the Draft EIS materials along with an invitation to attend five public hearings/open houses were sent to residents and businesses located within a half mile of the proposed alternatives and to individuals in the project database. Each hearing was preceded by an open house where project team members were on hand to answer questions and talk to the public, and a court reporter documented the formal hearing. Email notifications were sent, public notices were placed in community newspapers, and documents were posted on the Sound

Transit website. At the close of the 75-day comment period, 765 comments had been submitted.

### **Design Options Review**

Sound Transit continued seeking public comment from the community as part of a process to refine design options. Areas of focus included options along 112<sup>th</sup> Avenue SE, Hospital Station, and Downtown Bellevue. Several community workshops/open houses were held, along with drop-in informational sessions and several briefings scheduled with various community and stakeholders. Public input opportunities were advertised in local newspapers and postcards were mailed to residents and businesses within the design area.

This focused review led to three studies: the *Downtown Bellevue Light Rail Alternatives Concept Design Report* (February 2010), the *112th Avenue Design Options Concept Design Report* (June 2010), and the *Evaluation of Hospital Station Options* (June 2010). Sound Transit also coordinated with City of Redmond and community stakeholders about changes in Segments D and E, which are reflected in the Final EIS alternatives for those segments.

### **East Link Supplemental Draft EIS Process**

Notification of the availability of the Supplemental Draft EIS issued in the Federal Register on November 12, 2010. The Executive Summary and a compact disc (CD) of the complete Supplemental Draft EIS were distributed to agencies, organizations, businesses, and stakeholders. The Supplemental Draft EIS documents were available to the public as described on the Fact Sheet and at public meetings. An electronic copy of the Supplemental Draft EIS was also posted on the Sound Transit website.

Sound Transit mailed more than 65,000 postcards announcing the availability of the Supplemental Draft EIS materials along with an invitation to attend a regional public hearing. Email notifications were sent, public notices were placed in community newspapers, and documents were made available for viewing on the Sound Transit website. At the close of the 60-day comment period, 822 comments were submitted.

A summary of the comments and responses received as part of the Draft and Supplemental Draft EIS can be found in Chapter 7 of the Final EIS, and all the comment letters, including hearing testimony comments and responses to the comments are included in Appendix J of the Final EIS.

### **Comments on the Final EIS and Responses to Comments**

Comments were submitted to Sound Transit and FTA regarding the East Link Final EIS. Comments and responses to comments are included in Appendix D to this ROD.

### **MITIGATION MEASURES TO MINIMIZE HARM**

Attachment C establishes the mitigation measures that are required of Sound Transit under this ROD. The mitigation measures were identified in the Final EIS.

Implementation of the mitigation measures in Attachment C are material conditions of this East Link ROD and will be incorporated in any future grant agreement that the FTA may award Sound Transit for the construction of East Link.

FTA finds that with the accomplishment of these mitigation measures Sound Transit will have taken all reasonable, prudent and feasible means to avoid or minimize impacts from the Preferred Alternative.

### **Mitigation Monitoring Program to Ensure Compliance**

To ensure compliance with required mitigation and to assist with FTA oversight, Sound Transit shall establish a mitigation-monitoring program, to be approved by FTA, to track, monitor and report the status of the environmental mitigation commitments identified in this ROD. The mitigation-monitoring program may, upon approval of FTA, be revised as necessary during the permitting process in order to facilitate implementation of those measures during final design and construction. Under this program, Sound Transit's Environmental Affairs and Sustainability Deputy Director will conduct regular reviews for compliance with environmental mitigation commitments with corrective actions as may be required.

On a quarterly basis, Sound Transit will submit to FTA an East Link Environmental Mitigation Program Status Report describing the status of the mitigation-monitoring program. Implementation of identified mitigation measures during final design, construction and operation will be the responsibility of Sound Transit.

## **DETERMINATIONS AND FINDINGS**

### **National Environmental Policy Act, Environmental Quality Improvement Act and Executive Order 11514, Protection and Enhancement of Environmental Quality**

Title 42, sections 4321 through 4347 and 4371 through 4375 of the United States Code, as well as Executive Order 11514, Protection and Enhancement of Environmental Quality, require that federal agencies evaluate the environmental impacts of their actions and integrate such evaluations into their decision-making processes, and that each federal department and agency affecting the environment implement appropriate policies. The environmental record for the East Link Light Rail Project includes the previously referenced Final EIS (July 2011) as well as earlier NEPA documents cited and referenced as the Environmental Review Documents and this ROD. These documents, all incorporated herein by reference, represent the detailed statements required by NEPA and by 49 U.S.C. Section 5324(b) on:

- The environmental impacts of the proposed project;

- The adverse environmental effects which cannot be avoided should the proposed Project be implemented;
- Alternatives to the proposed project; and
- Irreversible and irretrievable impacts on the environment which may be caused by the Project should it be implemented.

Having carefully considered the environmental record noted above and findings below, the mitigation measures as required in Appendix C herein, and the written and oral comments offered by other agencies and the public on this record, pursuant to 49 U.S.C. Section 5324(b) for consideration of economic, social, and environmental interests, FTA has determined that:

- The environmental project review application includes a record of the environmental impact of the proposal; adverse environmental effects that cannot be avoided; alternatives to the proposal; and irreversible and irretrievable impacts on the environment.
- FTA has cooperated and consulted with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on the Project.
- Public hearings on the Project have been held, and FTA has reviewed each transcript of a public hearing submitted under 49 U.S.C. Section 5323(b) to establish that an adequate opportunity to present views was given to all parties having a significant economic, social or environmental interest in the Project.

FTA now makes the following findings:

- a. An adequate notice and opportunity to present views was given to all parties with a significant economic, social, or environmental interest;
- b. The preservation and enhancement of the environment and to the interest of the community in which the project is located were considered;
- c. All reasonable steps and practical means have been taken to avoid or minimize adverse environmental effects of the proposed project;
- d. Where adverse environmental effects are likely to result from the Project, no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect; and
- e. The Project meets its purpose and need and the requirements of NEPA and 49 U.S.C. Sections 5323(b) and 5324(b) have been met.

## **Executive Order 12372 Intergovernmental Review of Federal Programs**

This order directs federal agencies to consult and solicit comments from state and local governments whose jurisdictions would be affected by a federal action.

During the course of the environmental review, the project team directly involved state and local agencies in the project. Consistent with SAFETEA-LU, Sound Transit developed a Coordination Plan and sent it to potentially interested agencies for review and comment during the environmental impact statement (EIS) public scoping period. Agency staff, executive and elected / appointed officials were coordinated with during each project phase, as document in Chapter 7 and Appendix B of the Final EIS. Accordingly, FTA concludes that the Project has complied with Executive Order 12372.

## **Executive Order 13175 Consultation and Coordination with Indian Tribe Governments**

FTA consulted with the following Native American tribes on the Project: Muckleshoot Indian Tribe, Snoqualmie Indian Tribe, Suquamish Indian Tribe, Duwamish Tribal Services, Tulalip Tribes of Washington, and Confederated Bands and Tribes of the Yakama Nation. Accordingly, FTA finds that the Project has complied with Executive Order 13175.

## **Endangered Species Act (ESA) Consultation with Resource Agencies**

The ESA of 1973, as amended, provides a means to conserve the ecosystems on which threatened and endangered species depend and a program to conserve such species. The ESA requires federal agencies to ensure that any action authorized, funded or carried out by them is not likely to jeopardize the continued existence of any listed species or result in direct mortality or destruction or adverse modification of critical habitat of listed species. This requirement is fulfilled by consultation and review of the proposed actions and mitigation with the appropriate agency responsible for the conservation of the affected species.

The ESA consultation requirements were implemented for the East Link light rail project by the FTA in consultation with the National Oceanic and Atmospheric Administration - National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS). A review of listed species and critical habitats that may occur in the project area was completed based on lists provided by NMFS and USFWS. FTA determined that the project's potential for effects on Chinook salmon (*Oncorhynchus tshawytscha*) and Chinook critical habitat, bull trout (*Salvelinus confluentus*) and bull trout critical habitat, and steelhead (*Oncorhynchus mykiss*) should be evaluated in a Biological Assessment (BA). Chinook, bull trout, and steelhead are listed as threatened under the ESA.

FTA prepared a BA for these species and critical habitats and submitted it to the NMFS and to the USFWS on November 9, 2010. The BA requested concurrence with the determination of "may affect, not likely to adversely affect" for Chinook, bull trout, and

steelhead as well as Chinook and bull trout critical habitat. FTA received letters of concurrence from NMFS on December 7, 2010 and the USFWS on February 23, 2011.

Accordingly, FTA finds that the consultation under the Endangered Species Act is complete and, subject to the conservation measures and other terms and conditions as contained in the NMFS and USFWS concurrence determinations, the Project is not likely to jeopardize the continued existence of any listed species or result in direct mortality or destruction or adverse modification of critical habitat of listed species.

### **Magnuson-Stevens Act Finding**

The Project area includes habitat for various life stages of Pacific salmon designated as Essential Fish Habitat (EFH) under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). NMFS determined that the habitat requirements for the MSA-managed species in the project area are similar to those of the ESA-listed species. The conservation measures developed to address ESA concerns are adequate to avoid, minimize, or otherwise offset potential adverse effects to designated EFH. Additional conservation recommendations pursuant to MSA are not necessary.

Accordingly, FTA finds that the consultation under MSA is complete and, subject to the conservation measures and other terms and conditions as contained in the NMFS concurrence determination, the Project will not adversely affect Essential Fish Habitat.

### **Migratory Bird Treaty Act, Executive Order 13186 on Migratory Birds, and the Bald and Golden Eagle Protection Act**

The Migratory Bird Treaty Act (MBTA) generally prohibits the taking, killing, or possessing of native migratory birds. Executive Order 13186 directs federal agencies to support the conservation intent of the migratory bird treaties and the MBTA by integrating bird conservation principles, measures, and practices into agency activities and by avoiding or minimizing, to the extent practicable, adverse impacts on migratory bird resources when conducting agency actions. Separately, the Bald and Golden Eagle Protection Act prohibits the taking or possessing of Bald or Golden Eagles.

Eagles and migratory birds use the general project area. However, the Final EIS demonstrates that the Project should not improperly affect such birds.

Accordingly, FTA finds that the project has complied with the Migratory Bird Treaty Act, Executive Order 13186 on Migratory Birds, and the Bald and Golden Eagle Protection Act.

### **Coastal Zone Management Act**

Coastal Zone Management (CZM) certification is required for all federally licensed development including Army Corps of Engineers, Section 10 and Section 404 permits, and U.S. Coast Guard Bridge permits. In Washington State, the project proponents

prepare the Coast Zone Certification and submit it to the Washington State Department of Ecology (WDOE) to review. WDOE reviews the information based on state environmental and shoreline requirements. Before WDOE issues CZM certification, it requires approved water quality certification (which is done by WDOE) and shoreline permits from the local jurisdictions. Consistency with CZM will be demonstrated no later than ninety days before the start of the proposed project construction in the coastal zone. Sound Transit is required to comply with all CZM requirements.

## **Clean Air Act**

The Project is subject to conformity requirements imposed by the Clean Air Act (CAA). The CAA (42 U.S.C. 7506(c)) requires that transportation projects conform to the purposes of the State Implementation Plan (SIP) or Maintenance Plan (SIP/MP). Conformity to a SIP/MP means that the transportation project will not produce new violations of the National Ambient Air Quality Standards (NAAQS) established by the U.S. Environmental Protection Agency, worsen existing violations, or delay timely attainment of the NAAQS.

The EPA conformity regulation (40 CFR part 93) establishes criteria that a transportation project must meet in order to be found by FTA to conform to the SIP/MP. The conformity criteria are that the project be included in a conforming Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP), and that the project not cause or contribute to any localized exceedances of the NAAQS, known as "hot spots." The East Link Project is included in the region's Metropolitan Transportation Plan, Transportation 2040, and in the Regional Transportation Improvement Plan, both of which have been found by FTA, FHWA, and the Puget Sound Regional Council (PSRC) to conform, in accordance with the aforementioned EPA regulation.

A project-level conformity determination was performed by conducting a carbon monoxide (CO) hot spot analysis on affected intersections in the project vicinity. For project level conformity, the 2030 horizon year is consistent with the RTP that was adopted at the time the East Link analysis began in 2006 (PSRC, 2001). The hot spot analysis found no intersections that would exceed the CO NAAQS with any of the build alternatives. Therefore, the project meets conformity requirements for CO. A PM<sub>10</sub> project-level hot spot analysis was not required for the East Link Project because it is not a project of air quality concern as defined in 40 CFR 93.123(b)(1). Finally, the Final EIS identifies best management practices to reduce construction-related emissions, which are incorporated into this ROD as mitigation measures.

Accordingly, FTA finds that the project has complied with the Clean Air Act.

## **Executive Order on Floodplain Management**

Executive Order 11988 on Floodplain Management describes measures to prevent a reduction in the capacity of floodplains to absorb runoff. The Project would generally employ elevated guideways to cross water bodies at a number of locations. The exact

location of columns to support the elevated guideway would be determined during design, but columns would be located outside the stream channel floodway or floodplain when it is possible to span these areas. In general, an elevated guideway crossing of a stream, floodplain, or floodway would cause little or no impact. Where fill would be needed within the floodplain, Sound Transit will create compensatory storage.

Accordingly, for purposes of the project review under NEPA and this ROD, FTA finds that the Project has complied with Executive Order 11988 on Floodplain Management.

### **Wetlands: Clean Water Act (Section 404), Executive Order 11990 on the Protection of Wetlands**

The Clean Water Act (Section 404) and Executive Order 11990 on the Protection of Wetlands apply to federally permitted projects that affect wetlands and other waters of the United States. Section 404 of the Clean Water Act, administered by the US Army Corps of Engineers (USACE) and EPA, regulates placement of dredge or fill material in waters of the U.S., including wetlands.

The Project would have permanent (operational) and temporary (construction) impacts on wetlands. The build alternatives, including the PA, were designed to avoid and minimize impacts on wetlands to reduce overall impacts. The alternatives would require placing fill or retained cut/fill for at-grade tracks, and building columns for elevated guideways that could remove or shade wetlands.

Sound Transit will be required to achieve no net loss of wetland function and area on a project-wide basis. Sound Transit will apply the interagency wetland mitigation guidance prepared by WDOE, USACE, and EPA (2006). Compensatory mitigation sites will be identified within the same drainage basin and compensate for lost functions in-kind, and will be identified during final design and project permitting. Compensatory mitigation-to-impact ratios for replacement of wetlands will comply with the requirements of the local critical area ordinances and the interagency wetland mitigation guidance. Additional compensatory mitigation will be required for any impacts to existing wetland mitigation sites identified during final design and permitting.

Accordingly, for the purposes of the project review under NEPA and this ROD, FTA finds that that Project has addressed the Clean Water Act (Section 404) and Executive Order 11990 on Protection of Wetlands. Sound Transit must obtain the project-specific Section 404 permit from the USACE.

### **Water Quality: Clean Water Act (Sections 401 and 402)**

Discharges of water are addressed in the Clean Water Act (CWA) in Section 401 and Section 402. Under Section 402, a discharge of domestic or industrial wastewater into marine or fresh surface water requires a National Pollutant Discharge Elimination System (NPDES) permit (including a General Construction Permit for applicable construction activities). The project will not discharge any runoff from new point sources

into a surface water body. In general, stormwater management would meet the requirements of the Washington State Dept. of Ecology Stormwater Management Manual for Western Washington (Ecology Manual). Within WSDOT right-of-way, Sound Transit will meet the requirements of the most recent *Highway Runoff Manual*. Sound Transit will meet also local jurisdictions' requirements for stormwater management.

Runoff from pollutant generating impervious areas (PGIS) will require basic water quality treatment. In accordance with the Ecology Manual, Sound Transit will provide enhanced stormwater treatment for all roadways where the average daily traffic volume exceeds 7,500 vehicles per day. Sound Transit will provide enhanced stormwater treatment for runoff from any new or replaced pavement on these streets.

The Project's mitigation measures include a number of actions to prevent construction impacts to water quality. Sound Transit shall comply with the requirements of EPA's General Construction Permit and the most recently updated WSDOT *Highway Runoff Manual* provisions on erosion and sediment control, spill prevention, and other construction practices.

Accordingly, for the purposes of the project review under NEPA and this ROD, FTA finds that the Project has addressed Sections 401 and 402 of the CWA. Sound Transit must obtain a project-specific NPDES permit and any other required water quality permits and/or certifications.

### **Noise Control Act of 1972, Quiet Communities Act**

Several federal regulations require protection from noise impacts. These regulations include the Noise Control Act of 1972 and the Quiet Communities Act, which require federal agencies to develop programs to promote an environment free of noise that jeopardizes public health or welfare and that agencies comply with state and local noise ordinances. FTA consequently developed criteria, most recently documented in Transit Noise and Vibration Impact Assessment Manual (May 2006), for measuring, assessing, and mitigating noise impacts from transit and transit/highway projects. The Final EIS identified impacts consistent with these methods; mitigation measures to address impacts are documented in Appendix C to this ROD.

Short-term construction-related noise impacts would occur with the Project. Appendix C to this ROD includes mitigation measures to minimize those impacts.

Accordingly, FTA finds that the Project has complied with these acts.

### **National Historic Preservation Act (Section 106)**

Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, requires that federal agencies identify and assess the effects of federally assisted undertakings on historic resources, archaeological sites, and traditional cultural

properties, and that they consult with interested parties to find acceptable ways to avoid or mitigate adverse effects.

To comply with Section 106 regulations, FTA and Sound Transit consulted with the Washington State Historic Preservation Officer (SHPO) in the Department of Archaeology and Historic Preservation (DAHP) during the investigations concerning historic and archaeological resources. FTA sought government-to-government consultation with the Muckleshoot Indian Tribe, Snoquamie Indian Tribe, Suquamish Indian Tribe, Tulalip Tribes of Washington, and Confederated Bands and Tribes of the Yakama Nation. In addition, Sound Transit consulted with staff from cooperating agencies including the Washington State Department of Transportation (WSDOT), the Cities of Seattle, Mercer Island, Bellevue, and Redmond. Additional consultation occurred with interested nonprofit organizations including the Eastside Heritage Center and the Redmond Historic Society.

Project historians and archaeologists analyzed 439 buildings or structures and investigated two archaeological sites. Of these, 12 historic resources have been determined to be listed in or eligible for listing in the National Register of Historic Places (NRHP). FTA, in consultation with the SHPO, has made a determination of adverse effect for the project. This determination results from the PA's potential impacts on the Winters House, a listed property in Bellevue. Pursuant to 36 CFR 800.6(c), a Memorandum of Agreement (MOA) specifies how the Project can resolve the adverse effect. The MOA includes measures to be implemented that will avoid or mitigate the impacts. The executed MOA is included as Attachment E to this ROD.

Several portions of the preferred alignment have a high likelihood of containing prehistoric archaeological sites. Archaeological investigations were conducted on 25 survey tracts. The surveys located no NRHP-eligible prehistoric or historic-period archaeological sites. The MOA provides for additional archaeological pre-construction investigation, and for monitoring and/or treatment of resources during construction.

Accordingly, based on the cultural resources analysis and coordination with the Tribes, SHPO, and agencies with jurisdictions, FTA finds that, with the execution of the MOA and compliance with its terms and conditions, consultation required under Section 106 has been fulfilled and the Project has complied with NHPA and the related regulations and executive orders.

#### **Department of Transportation, Section 4(f)**

Section 4(f) of the Department of Transportation (DOT) Act of 1966, 49 U.S.C. 303(c) prohibits, with limited exceptions, the use of land for USDOT projects from a significant publicly owned park, recreation area, wildlife and waterfowl refuge, or historic site unless: 1) There is no feasible and prudent alternative to the use of the land; and 2) The project includes all possible planning to minimize harm to the site. A Section 4(f) evaluation must be prepared that describes the affected resources; discusses the direct impacts and the proximity impacts that would substantially impair the use of these resources; identifies and evaluates alternatives that avoid such impacts; and identifies

measures to minimize or mitigate for unavoidable adverse effects. The Project's Section 4(f) Evaluation is included in the Final EIS, Appendix D.

One exception to Section 4(f) applies where a use has only minor, or *de minimis*, impacts. Based on the analysis of park impacts, the determination of effect to historic resources, and coordination with officials having jurisdiction, FTA has made a *de minimis* finding for the 4(f) resources in the study area for all park resources used by project alternatives under the jurisdiction of the City of Seattle, City of Mercer Island, City of Redmond, and King County. During consultation with the City of Bellevue for Section 4(f) park resources under its jurisdiction, the City did not provide a determination that impacts from project alternatives would be *de minimis*. Therefore, FTA was not able to make a *de minimis* determination for these resources.

The 4(f) Evaluation also addressed historic resources, with an analysis supporting FTA's determination, in consultation with SHPO, that the Project will have an adverse effect under Section 106 due to potential impacts on the Winters House.

The Section 4(f) Evaluation found that no project alignment alternative provided a prudent and feasible alternative that avoids all protected resources. Therefore, pursuant to 23 CFR 774.3(c), FTA conducted a Least Harm Analysis as part of the 4(f) Evaluation for both park and historic resources.

Five Section 4(f) resources would be used and therefore were considered in the Least Harm Analysis: Mercer Slough Nature Park, Surrey Downs Park, the NE 2nd Pocket Parks, McCormick Park, and the Winters House.

After conducting all possible planning to minimize harm to property resulting from a project's use and concluding that there is no feasible and prudent alternative, FTA regulations require both a qualitative and quantitative analysis of the least harm factors and a comparison of each alternative being considered. Through this qualitative and quantitative analysis, as provided under 23 CFR Section 774.3(c), FTA determined that 11 alternative alignments had an equal level of "least harm". As shown in the Section 4(f) Evaluation comparative matrix, FTA determined that these 11 alternative segment alignments all satisfy the criteria of being alternatives that cause the least overall harm to protected resources.

The Section 4(f) Evaluation has been reviewed by the Department of the Interior (DOI) pursuant to 23 CFR Section 774.5. DOI has found that appropriate consultation with state and local agencies has occurred. The DOI further stated that it "concur[s] with the 'least overall harm' analysis that has been completed and concludes that there is no feasible or prudent alternative to the composite preferred alternative identified by the Sound Transit Board and FTA." Finally, DOI stated, "With due consideration of the consultations completed with the State Historic Preservation Officer, DOI finds that all reasonable measures to minimize or avoid harm (e.g., environmental commitments) to the Section 4(f) property have been identified."

In addition to prior consultation with the City of Bellevue, the City submitted comments on the Section 4(f) evaluation. FTA carefully considered these Bellevue comments, along with their comments provided throughout project consultation, and will continue

ongoing consultation with the City in order to minimize impacts. Responses to the City's initial comment letter are included in Appendix D to this ROD.

Accordingly, based on the Section 4(f) Evaluation, coordination and consideration of comments as noted above and documented in the Final EIS and this ROD, and in consideration of mitigation commitments for Section 4(f) resources documented in this ROD, FTA finds that, for the East Link project, there is no feasible and prudent alternative that does not use a Section 4(f) resource; that the 11 alternatives noted above and in the Section 4(f) Evaluation are those alternatives that have equal least harm to Section 4(f) resources; that the development of the PA includes all possible planning to minimize such harm that may result from such use; that this ROD identifies all reasonable measures to minimize or avoid harm to the PA's Section 4(f) resources; and that the requirements of Section 4(f) of the DOT Act of 1966 have been met.

### **Land and Water Conservation Fund Act of 1965, Section 6(f)**

Section 6(f) of the Land and Water Conservation Fund Act (LWCF Act) prohibits the conversion of property acquired or developed with LWCF funds to a non-recreational purpose without the approval of the Department of Interior's National Park Service (NPS). The Washington State Recreation and Conservation Office (RCO) administers Section 6(f) of the LWCF Act.

Mercer Slough Nature Park has benefited from LWCF monies. The LWCF Act requires that before Section 6(f) properties are converted to another purpose, the agency proposing the conversion must ensure that "all practical alternatives" to conversion have been evaluated. The avoidance alternative analysis and least harm analysis have been conducted and detailed in the Final EIS, Appendix D. Sound Transit will provide replacement property for Section 6(f) conversion consistent with NPS requirements.

In its review of the project's Section 6(f) analysis, the NPS specified that any temporary use of Section 6(f) properties for a period longer than 180 days must be treated as a permanent conversion. It also stated that any mitigation requiring a replacement site may not be limited to three acres; rather, in accordance with regulations, mitigation properties must exceed the fair market value of the impact, and be of sufficient quality and size to provide a viable park unit. NPS also reserved the right to increase the required mitigation footprint should the project's actual light and sound impacts be greater than predicted, and advised that NPS would not issue its NEPA determination on the mitigation site until such site is identified.

Accordingly, based upon the analysis and determinations above and the mitigation (which includes mitigation as required by DOI) as described in Attachment C to this ROD, FTA concludes that the provisions of Section 6(f) have been addressed. Upon project development and prior to the start of construction, Sound Transit shall identify the acceptable mitigation site(s) and obtain approval of DOI/NPS under Section 6(f).

## Environmental Justice

Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority and Low-Income Populations" (February 11, 1994), provides that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations." The Department of Transportation Order (No. 5680.1) to Address Environmental Justice in Minority Populations and Low-Income Populations requires agencies to 1) explicitly consider human health and environmental effects related to transportation projects that may have a disproportionately high and adverse effect on minority and low-income populations; and 2) implement procedures to provide "meaningful opportunities for public involvement" by members of these populations during project planning and development.

As part of the public project planning process and through completion of the East Link Draft EIS, Supplemental Draft EIS and the Final EIS, Sound Transit and FTA implemented meaningful outreach efforts to minority and low-income communities to assure their active participation. The outreach efforts are described in the Environmental Justice analyses included in these environmental documents.

FTA's analysis finds that the Project would not have disproportionately high and adverse effects on the minority or low-income populations of the Sound Transit District, particularly in light of the offsetting benefits to minority and low-income populations. The Project would provide improved access to transit, reduced travel time, and improved accessibility to employment and services.

Accordingly, FTA finds that the Project will not have a disproportionately high and adverse effect on minority or low-income populations and that appropriate outreach has been conducted such that meaningful opportunities for public involvement for those populations have been achieved and, therefore, that the requirements of Executive Order 12898 and DOT Order 5680.1 have been met.



---

Date 11/16/11

R. F. Krochalis, Regional Administrator  
Region X  
Federal Transit Administration