



## Resolution No. R2022-32

### Protective acquisition of a Potential Site for the Everett Link Extension Project

Meeting:	Date:	Type of action:	Staff contact:
System Expansion Committee Board	11/10/2022 11/17/2022	Recommend to Board Final action	Bria Knowles, Acting PEPD Executive Director <b>Faith Roland, Real Property Director</b>

### Proposed action

Authorizes the chief executive officer to acquire certain real property interests, contingent on receipt of any necessary federal approvals, 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 in order to secure a potential site for construction, operation, and maintenance of the Everett Link Extension project.

### Key features summary

- Authorizes the protective acquisition of one parcel of real property located in the City of Lynnwood.
- The property is needed to accommodate the future guideway of the Everett Link Extension along Alderwood Mall Boulevard.
- The property that is the subject of this action is identified in Exhibit “A” attached. Sound Transit wishes to acquire this property now because of the threat of imminent development to a use that would preclude Sound Transit’s use of the property to facilitate shifting Alderwood Mall Boulevard north to accommodate the future Everett Link Extension guideway.
- Sound Transit is scheduled to complete environmental review for the project in 2026.
- If determined to be necessary, Sound Transit will seek federal approval to carry out the “protective acquisition” in advance of acquiring the property, and Board authorization to acquire will be contingent on receiving any such necessary approvals.
- There are no relocations necessitated by the acquisition of this property as the property is currently vacant.

### Background

The Everett Link Extension (EVLE) is part of the ST3 Plan, funding for which was approved by voters. The EVLE ST3 representative alignment extends Link light rail transit approximately 16 miles from Lynnwood City Center station to Everett Station. The project includes six stations; one unfunded provisional station; two parking facilities; an operations and maintenance facility (OMF); and allowances for system access, sustainability and TOD. The Board adopted target schedule for the project is 2037; the affordable schedule is 2037 to SW Everett Industrial Center and 2041 to Everett Station, with an affordability gap of \$500 million in 2022\$. The project is currently in Phase 1: Alternatives Development and is anticipated to begin Phase 2: Draft EIS and Conceptual Engineering in Q2 2023.

As part of the Alternatives Development process, the EVLE team has studied how to extend the guideway from the Lynnwood Link Extension terminus north on Alderwood Mall Boulevard. During this review, staff identified that the future EVLE guideway would impact a newly opened 239-unit apartment building, Kinect @ Lynnwood (4200 Alderwood Mall Blvd) located on the south side of Alderwood Mall Boulevard. To avoid the new building, the proposed guideway alignment for all alternatives under consideration would need to be located within the existing Alderwood Mall Blvd roadway. Staff have identified a design that avoids this impact shifting the existing Alderwood Mall Blvd to the north to avoid overlap between the existing travel lanes and proposed aerial guideway. The shift in Alderwood Mall Blvd to the north requires additional right-of-way on private property on the north side of Alderwood Mall Boulevard.

The property identified in Exhibit “A” attached, located on the north side of Alderwood Mall, is under immediate threat of development that would preclude Sound Transit’s use of the property to accommodate the future EVLE guideway. The property, located at 4301 Alderwood Mall Boulevard is currently vacant and a 190-unit multi-family apartment building is proposed on the property, for which permit applications have been submitted to the City of Lynnwood. The roadway widening needed to accommodate the EVLE guideway would conflict with the proposed building footprint.

Sound Transit has requested NEPA approval from the Federal Transit Administration (FTA) for this protective acquisition. The FTA approval would allow Sound Transit to proceed with an acquisition of the property even though the environmental review process for EVLE has not yet been completed under the State and National Environmental Policy Acts (SEPA and NEPA). The acquisition will not limit the Board’s final choice of alternatives. Documentation in support of the protective acquisition has been submitted to the FTA for approval.

Following Board approval of necessity and FTA approval of the protective acquisition, staff will pursue acquisition of the property.

Sound Transit will acquire the property, by condemnation if necessary, as needed for the construction, operation, and maintenance of the EVLE project. 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 reach an impasse.

**Project status**

<b>Project Identification</b>	<b>Alternatives Identification</b>	<b>Conceptual Engineering/ Draft EIS</b>	<b>Preliminary Engineering/ Final EIS</b>	<b>Final Design</b>	<b>Construction</b>
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Projected completion date for Phase 1: Alternatives Development: 2Q 2023

Project scope, schedule and budget summary are located on page 46 of the August 2022 Agency Progress Report.

**Fiscal information**

The authorized project allocation for the Everett Link Extension project is \$187,942,000. Within that amount, \$11,100,000 has been allocated to the right of way phase, of which \$342,511 has been previously committed. There is \$10,757,489 of uncommitted funds in the right of way phase, which is sufficient to complete the proposed action.

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.

The current cost estimate for the Everett Link Extension project is \$5.882 billion in 2022\$ and is affordable within the Agency's Finance Plan by 2041. Staff are managing the project toward the Target Schedule of 2037, while working to close an affordability gap of \$500 million. This action is in alignment with Resolution R2021-05 and does not impact the affordability of any other system expansion project.

### **Disadvantaged and small business participation**

Not applicable to this action.

### **Public involvement**

Not applicable to this action.

### **Time constraints**

As the property owner is planning to start construction in December 2022, a one-month delay could result in increased costs associated with the acquisition.

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**Environmental review** – KH 11/2/22

**Legal review** – MV 11/7/2022



## Resolution No. R2022-32

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to acquire certain real property interests, contingent on receipt of any necessary federal approvals, 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 in order to secure a potential site for construction, operation, and maintenance of the Everett Link Extension project.

WHEREAS, the Central Puget Sound Regional Transit Authority, commonly known as Sound Transit, was formed under chapters 81.104 and 81.112 of the Revised Code of Washington (RCW) 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 Sound Transit district on November 5, 1996, November 4, 2008, and November 8, 2016, 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, Sound Transit has identified certain real property as necessary for the potential construction and permanent location of the Everett Link Extension Project and such property is reasonably described in Exhibit A of this resolution; and

WHEREAS, in order to use the property determined to be necessary for the potential construction, operation, and permanent location of the Everett Link Extension Project, 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 property, and will negotiate in good faith with the owners of the property 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:

- A. 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 Everett Link Extension Project) 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 property 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 Everett Link Extension Project 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. R2018-40, before the acquisition of the property for the Everett Link Extension Project by purchase or by condemnation and the reimbursement of eligible relocation and reestablishment expenses.
- B. 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. R2018-40.
- C. Make minor amendments to the legal description of the property 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.
- D. Execute agreements for the disposition of interests in the real property identified in Exhibit A for: (1) the relocation of utilities as necessary or desirable for the Everett Link Extension Project; (2) the satisfaction of permit conditions or mitigation requirements; (3) the curing of damages to real property acquired pursuant to Exhibit A and caused by the implementation of the Everett Link Extension Project; or (4) returning real property identified in Exhibit A to previous owners for the purpose of minimizing Sound Transit's costs of operations and maintenance; provided that the foregoing dispositions of real property must be compatible with and must not interfere with regional transit system uses and must avoid the creation of unbuildable, residual parcels whenever possible.

SECTION 2. The Sound Transit Board deems the Everett Link Extension Project, 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 Everett Link Extension Project, and affected owners and tenants be reimbursed eligible relocation and reestablishment expenses associated with displacements from the property.

SECTION 3. The Sound Transit Board 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 Everett Link Extension Project.

SECTION 4. 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 property described in Exhibit A to the extent permitted by law, for the purpose

of constructing, owning, and operating a permanent location of the Everett Link Extension Project.

SECTION 5. 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.

SECTION 6. The authority granted to the chief executive officer in this Resolution may be exercised only upon receipt of any federal “protective acquisition” approvals determined to be necessary by any entity that may provide funding for the Everett Link Extension Project.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on \_\_\_\_\_.

\_\_\_\_\_  
Kent Keel  
Board Chair

**Attest:**

\_\_\_\_\_  
Kathryn Flores  
Board Administrator



**Resolution No. R2022-32**  
**Exhibit A**

**Everett Link Extension**

<b>Item:</b>	<b>Row #:</b>	<b>Tax Parcel #:</b>	<b>Tax Payer(s):</b>	<b>Property Address:</b>
1		00372600701905	KOZ DEVELOPMENT LLC	4301 ALDERWOOD MALL BLVD , LYNNWOOD, WA 98036-6769