

RESOLUTION NO. R2010-16
Acquire Real Property Interests Required for the Central Link Initial Segment Project

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:	PHONE:
Capital Committee	08/12/10	Recommendation to Board	Ahmad Fazel, DECM Executive Director	206-398-5389
Board	08/26/10	Final Action	Roger Hansen, Real Property Director	206-689-3366

PROPOSED ACTION

Authorizes the chief executive officer to acquire, dispose, or lease certain real property by negotiated purchase, by condemnation (including settlement of condemnation litigation), or entering into administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for Beacon Hill tunnel void investigation and remediation within the Central Link Initial Segment project.

KEY FEATURES

- Provides for the acquisition of property rights for the continuing investigation, identification, and remediation of voids above the Beacon Hill tunnels immediately east of the Beacon Hill Station.
- Sound Transit needs to acquire property rights to enable the contractor to enter private property to perform work, including investigation into the existence and extent of subsurface voids, and the remedial work necessary to fill the voids.

PROJECT DESCRIPTION

The 14-mile Initial Segment of the Central Link light rail line has a northern terminus in the Pine Street Stub Tunnel, with passenger service beginning at Westlake Station serving downtown Seattle, the SODO industrial area, Beacon Hill, Rainier Valley, and Tukwila. Passenger stations include Westlake, University Street, Pioneer Square, International District/Chinatown, Stadium, SODO, Beacon Hill, Mount Baker, Columbia City, Othello, Rainier Beach, and Tukwila International Boulevard. The Operations and Maintenance Facility and Yard is located south of South Forest Street.

FISCAL INFORMATION

The Adopted 2010 Lifetime Capital Budget for the Central Link Initial Segment project is \$2.07 billion. Within that amount, \$205.7 million has been set aside for acquisition and related costs within the right of way phase. Approval of the proposed action may result in a budget shortfall to this phase, which would be funded from surplus budget funds within other phases of the project. Transfer of surplus budget funds to the right of way phase is being requested in the Proposed 2011 Lifetime Capital Budget.

Budget Table

(Year of Expenditure \$000)

Initial Segment	Adopted 2010 Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
Agency Administration	186,233	181,576		181,576	4,657
Preliminary Engineering	33,289	33,275		33,275	14
Final Design	147,436	147,141		147,141	295
Right of Way	205,713	205,512	-	205,512	200
Construction	1,198,822	1,176,451		1,176,451	22,371
Construction Services	104,912	105,049		105,049	(137) (1)
Third Party Agreements	61,739	62,075		62,075	(336) (2)
Vehicles	131,857	131,803		131,803	54
Total Current Budget	2,070,000	2,042,882	-	2,042,882	27,118
Right of Way Phase Detail					
Initial Segment ROW	205,713	205,512		205,512	200
Total Phase	205,713	205,512	-	205,512	200
Budget Shortfall					
Task Level	\$Amount (K)	Potential Resources (L)	Source (M)		
Initial Segment ROW		27,118	Surplus budget within other phases of the Initial Segment project.		

(B) COMMITTED TO DATE amounts are from Agency WBS Report as of June 2010 + approved and pending board actions not recorded as of 6/30/10, or submitted after that date, and include allocated contingencies.

(1) "SHORTFALL" to the Adopted 2010 Budget for Construction Services phase of the Initial Segment project: "Committed to Date" amount shown here includes unused funds authorized for allocated contract contingencies that will be decommitted as these contracts complete.

(2) "SHORTFALL" to the Adopted 2010 Budget for Third Party Agreements phase of the Initial Segment project: "Committed to Date" amount shown here includes unused funds authorized for allocated contract contingencies that will be decommitted as these contracts complete.

SMALL BUSINESS PARTICIPATION

Not applicable to this action.

APPRENTICE UTILIZATION COMMITMENT

Not applicable to this action.

EQUAL EMPLOYMENT WORKFORCE PROFILE

Not applicable to this action.

BACKGROUND

Sound Transit was notified by a Beacon Hill property owner in March 2009 of the discovery of a subsurface void on her property near the corner of 18th Avenue South and South Lander Street in Seattle. Sound Transit took immediate action to fill and stabilize the void, and set about investigating the underlying cause of the void and the possible existence of other voids. Target areas were determined by correlating incidents of over-excavation with locations along the alignments, as reflected in records maintained by Sound Transit and the contractor during the project.

From April 2009 to approximately mid-July 2009, Sound Transit staff, with its consultants, worked with the contractor, Obayashi Corporation, to fill the voids and stabilize the ground in the vicinity immediately east of the Beacon Hill Station (approximately 250-350 feet along the length of the tunnel bores). The remedial work was accomplished in two phases. All of the above-described work was undertaken on an immediate,

emergency basis. The primary concern of Sound Transit staff and consultants was to ensure the public safety and the integrity of the infrastructure previously constructed.

Overall, the consultants estimate that approximately 87% of the theoretical volumes of the voids were found and filled during the first two phases. In light of this estimate and the fact that any immediate danger to persons and property was eliminated by the work accomplished in these first phases, and because of the difficulties inherent in finding and filling the remaining 13% of the voids, Sound Transit's contractor, Shannon & Wilson, was directed to develop a proposed program to expeditiously and economically complete the void remediation work. The results of Shannon & Wilson's work are compiled in a report that recommended implementing a progressive program of investigative drilling and subsequent filling of any and all voids encountered. The program is being implemented in phases. This phasing first addresses the areas of highest probability. The termination of this work will occur when the voids have been found and filled to an acceptable degree or a prudent investigation has been conducted and it is determined that the likelihood of voids does not exist. The work being performed constitutes the final phase of the investigative and remedial work necessary to resolve the situation with the voids.

Property interests, such as temporary construction easements are needed from the properties identified in Exhibit A to enable the contractor to enter onto the properties to conduct additional exploratory drilling and to fill voids, consolidate loose zones and restore the properties upon completion of the work.

ENVIRONMENTAL COMPLIANCE

JI 7/27/2010

PRIOR BOARD/COMMITTEE ACTIONS

Motion No. M2010-53 – Authorized the chief executive officer to execute a sole source contract with Shannon & Wilson, Inc. for geotechnical support services above the Beacon Hill tunnels to provide specific tasks associated with investigations into the potential existence of remaining subsurface voids and the remedial work necessary to fill any remaining voids above the Beacon Hill tunnels.

Resolution No. R2003-04 – Authorized the Executive Director to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation, by settling condemnation litigation or entering administrative settlements, and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the Central Link Light Rail Project.

TIME CONSTRAINTS

A one month delay would not affect the proposed schedule for investigative and remediation effort for the voids. A longer delay could affect the schedule for the investigative and remedial work.

PUBLIC INVOLVEMENT

Sound Transit's Community Outreach and Real Property division have been actively involved in discussions with the property owners and residents in the area impacted by the voids in order to provide up-to-date information concerning the situation and actions being taken or to be taken by Sound Transit.

In compliance with state law regarding public notification, Sound Transit mailed certified letters to property owners affected by this action on August 10, 2010. Legal notices of this proposed Board action have been published in the Seattle Times and Puget Sound Business Journal newspapers on August 12 and 19, 2010.

LEGAL REVIEW

JB 8/06/10

RESOLUTION NO. R2010-16

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to acquire, dispose, or lease certain real property by negotiated purchase, by condemnation (including settlement of condemnation litigation), or entering into administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for Beacon Hill tunnel void investigation and remediation within the Central Link Initial Segment project.

WHEREAS, the Central Puget Sound Regional Transit Authority, commonly known as Sound Transit, was formed under RCW Chapters 81.104 and 81.112 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 8, 2008, voters approved local funding to implement a regional high-capacity transportation system for the Central Puget Sound region; and

WHEREAS, Sound Transit is authorized to acquire and dispose of property for the construction of high capacity transportation facilities under RCW 81.112.080; and

WHEREAS, in order to acquire the properties determined to be necessary for exploratory drilling and remediation of voids associated with the Beacon Hill tunnel of the within the Central Link Initial Segment 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 to pay eligible relocation and re-establishment benefits to affected parties; and

WHEREAS, by Motion No. M2010-53 the Sound Transit Board authorized the chief executive officer to execute a sole source contract with Shannon & Wilson, Inc. for geotechnical support services above the Beacon Hill tunnels to provide specific tasks associated with investigations into the potential existence of remaining subsurface voids and the remedial work necessary to fill any remaining voids above the Beacon Hill tunnels; and

WHEREAS, Sound Transit has identified certain real properties as necessary for exploratory drilling and remediation of voids associated with the Beacon Hill tunnel within the Central Link Initial Segment project that are reasonably described in Exhibit A of this resolution; and

WHEREAS, Sound Transit has conducted public outreach including, but not limited to direct contact with affected property owners affected by the Beacon Hill voids exploratory and remediation project area; and

WHEREAS, on August 10, 2010 Sound Transit mailed certified letters to property owners affected by this action in compliance with state law regarding public notification; and

WHEREAS, Sound Transit has commissioned or will commission appraisals to determine the fair market value of the properties, and will continue to 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 pay eligible relocation and re-establishment costs shall be paid from the Central Link Initial Segment project budget.

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, lease, or disposal of the real property interests described in Exhibit A (said property to be used for exploration for and remediation of voids associated with the Beacon Hill tunnel project) and for the payment of eligible relocation and re-establishment costs. In accordance with Sound Transit's adopted Real Property Acquisition and Relocation Policies, Procedures and Guidelines, the acquisition price of the properties shall not exceed the fair market value to be determined through the appraisal process or as provided in Section 2 herein; provided that in the event the total of the acquisition, relocation, and re-establishment costs of the properties for the project exceeds Sound Transit's approved budget for right-of-way acquisition (plus contingency), then the chief executive officer shall obtain approval from the appropriate committee or the Board, per Resolution 78-1, before the acquisition of the property for the project by purchase or by condemnation and the payment of eligible relocation and re-establishment costs.

SECTION 2. The chief executive officer or her designee are hereby authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation

litigation) for the acquisition of the real property interests described in Exhibit A. Such settlements shall be made only upon the finding of legal counsel that the settlement is consistent with the law and is reasonable, prudent, and in the public interest. Such settlements shall not exceed established project budgets. For all other settlements proposed, the chief executive officer shall obtain prior approval of the appropriate committee or the Board, per Resolution 78-1.

SECTION 3. The Board deems the Beacon Hill tunnel void remediation 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 the property described in Exhibit A as being necessary for the construction, maintenance and operation of a light rail system in the Beacon Hill tunnel, and that eligible parties be paid relocation and re-establishment costs associated with displacement from the properties.

SECTION 5. The Board finds that the public health, safety, necessity, convenience, and welfare demand and require that the properties described in Exhibit A be immediately acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location of the Project.

SECTION 6. In addition to the authority granted the chief executive officer in Section 1 above, to the extent permitted by law, condemnation proceedings are hereby authorized to acquire all, or any portion thereof, of the properties and property rights and/or rights in those of the properties described in Exhibit A, for the purpose of constructing, owning, and operating a permanent location of the project. 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 7. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from the Central Link Initial Segment project budget.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on August 26, 2010.



Fred Butler
Board Vice Chair

ATTEST:



Marcia Walker
Board Administrator

EXHIBIT "A"
BEACON HILL TUNNEL ACQUISITIONS

R/W No.	Tax Parcel No.	Owner / Contact
BHT-123	3079500015	Tien Kook Cheung et al
BHT-127	7319900116	Alexander Porter & Ryan M. Fitzgibbons
BHT-128	3079500040	Dennis Dong & Diana Yamane
BHT-129	3079500035	Christine Miller- Panganiban

EXHIBIT "A"
Beacon Hill Tunnel

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
None	BHT-123	Tien Kook Cheung, unmarried and Rob Schanz and Shirley Y Kook Schanz, husband & wife	307950-0015-02	2608 17 th Avenue South Seattle WA 98144

PARCEL A OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 9804617 RECORDED UNDER KING COUNTY RECORDING NO. 9811029014, KING COUNTY, WASHINGTON.

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
None	BHT-127	Alexander W. Porter and Ryan M. Fitzgibbon, both single persons	731990-0116-03	1709 South Lander Street Seattle WA 98144

THE EAST 44 FEET OF LOT 3, EXCEPT THE SOUTH 10 FEET THEREOF AND THE EAST 44 FEET OF LOTS 4 AND 5, IN BLOCK 59 OF RILEY'S ADDITON TO SOUTH SEATTLE, AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 71, RECORDS OF KING COUNTY, WASHINGTON.

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
None	BHT-128	Dennis Dong; Diana Yamane, each separate estate, tenants in common	307950-0040-01	2609 18 th Avenue South Seattle WA 98144

LOT 8, BLOCK 1, CLARENCE HANFORD'S FIRST ADDITON TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 199, RECORDS OF KING COUNTY, WASHINGTON.

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
704078	BHT- 129	Christine Miller- Panganiban, who acquired title as Christine Miller, her separate estate	307950-0035-08	2605 18 th Avenue South Seattle WA 98144

LOT 7, BLOCK 1, CLARENCE HANFORD'S 1ST ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 199, IN KING COUNTY, WASHINGTON