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December 4, 2020

**12/03/2020 Internal Review Draft**  
**BY EMAIL TO [Bio.Park@mercergov.org](mailto:Bio.Park@mercergov.org)**

Bio Park, City Attorney  
City of Mercer Island  
9611 SE 36<sup>th</sup> Street  
Mercer Island, WA 98040

Re: Mercer Island Transit Integration Project – Sound Transit’s reply to your November 5<sup>th</sup> letter

Dear Bio:

I write on behalf of Sound Transit, to reply to your letter to me dated November 5, 2020.

Your letter states that it is responding to my letter dated October 20, 2020, but your letter does not do so. My letter explained at length how the City is violating the Settlement Agreement by asserting that Sound Transit must convey property to the City that Sound Transit does not yet own or the City will require a Conditional Use Permit (CUP) for the Transit Integration Project (“Project”). Your letter’s response is a portion of one sentence on page 2: “. . . we do not believe your interpretation is correct . . .”

The lack of analysis or explanation in your letter simply confirms the violation: the Settlement Agreement says that the City will require only non-discretionary permits and will issue them within ten days of receiving complete applications, but a CUP is a discretionary permit that requires months to process.

Instead of attempting to explain how a CUP does not violate the Settlement Agreement, the bulk of your letter addresses a non-issue: “As you know, the City has, for months, alerted Sound Transit of the need to convey the property as ROW before a ROW permit could be issued.”

Sound Transit needs several permits for Project work that must be constructed both within the City’s existing right-of-way and on two adjacent private properties, the Snethen/Hancock and Woo

FG:54075793.10  
FG:54075793.10

SEATTLE

PORTLAND

WASHINGTON, D.C.

NEW YORK

SPOKANE

BEIJING

properties, that may become right-of-way in the future. When Sound Transit commenced the permitting process with the City, Sound Transit and City staff agreed that the list of permits necessary for the work would include both a ROW permit and Site Development Permit, and staff agreed that the Site Development Permit would serve as a “master permit” for the Project. Both of these are non-discretionary permits. On September 9, however, Patrick Yamashita sent a revised permitting schedule and list to Sound Transit that did not include the Site Development Permit. On September 22, Matthew Below emailed Patrick asking him to confirm that this schedule was correct, and Patrick responded on September 23: “That’s correct. I realized that all of that work should fall under the ROW permit so I removed the Site Development permit from the list.” In other words, the City unilaterally decided not to require a Site Development Permit and to use a ROW permit as a master permit for the Project.

Your letter now asserts that there is a “need to convey the property as ROW before a ROW permit could be issued.” The result of this assertion is that the City now claims it will not issue the ROW permit unless Sound Transit first dedicates to the City private property that it does not yet own. There is no basis in the City code for this assertion. *See, e.g.*, MICC 19.09.A1. City staff made a decision about how to organize its review of Sound Transit’s applications, and this decision is not justification for violating the Settlement Agreement. The issue addressed at length in your letter is a non-issue because the code only requires a ROW permit for work within right-of-way, not within private property that may become right-of-way. The City can use another non-discretionary permit, such as a Site Development Permit, as the master permit for the Project, or can simply proceed without the use of a master permit.

Your letter also states your understanding that “not until September 22, 2020, did Sound Transit staff state their opinion that the lots and improvements related to the right of way (“ROW”) be conveyed after construction was completed.” Sound Transit staff did discuss this issue with City staff on that date, but also in a prior meeting on June 29, 2020, when they also discussed conveying the two private properties by quitclaim deed for the City to maintain.

Sound Transit is working to obtain title to both the Snethen/Hancock and Woo properties in the first quarter of 2021. The construction schedule for East Link requires the City to issue the non-discretionary permits for the Project before acquisition will be complete. Sound Transit has obtained written permission from both private property owners to apply for permits for the Project, and Sound Transit will own or have possession and use of both properties before construction begins. Meanwhile, Sound Transit cannot convey property to the City that Sound Transit does not yet own.

Sound Transit regularly conveys property to cities for right-of-way, along with the improvements that Sound Transit constructs, but Sound Transit does so upon the conclusion of construction and acceptance of the improvements by the city. This timing is manifestly in a city’s interest, since it ensures that the facilities are properly constructed and operational before the city accepts ownership and responsibility.

Attached to this letter are three examples of deeds conveying such properties and improvements to other cities: a 2009 deed to SeaTac; a 2012 deed to Seattle; and a 2020 deed to Bellevue. In each of these examples, Sound Transit conveyed the property as right-of-way after completion of construction and acceptance of the improvements. Sound Transit is prepared to similarly convey the subject properties to the City as right-of-way after completion of construction and acceptance of the improvements by the City. Any such conveyance or dedication must be done in compliance with applicable Federal and State requirements that apply to Sound Transit's disposition of property.

Furthermore, Sound Transit is not, as you assert, "refusing to discuss the terms of Sound Transit's reimbursement to the City of the costs of operating the facilities." Sound Transit staff will discuss this issue with City staff, but this issue is unrelated to the City's obligation to issue permits in compliance with the Settlement Agreement, and it is an issue without urgency since Sound Transit will remain responsible for the facilities until agreement is reached.

Sound Transit has applied for permits for the Project, the City deemed the applications complete as of December 1, and the Settlement Agreement requires the City to issue decisions on the applications by December 10. As stated in my last letter, Sound Transit expects the City to abide by the Settlement Agreement and neither require a CUP nor prohibit construction from beginning pending negotiation of terms and costs of future conveyances.

Sincerely,

FOSTER GARVEY PC



Patrick J. Schneider  
Principal

cc: Stephen Sheehy, Managing Legal Counsel  
Malaika Eaton (by email)

CONFORMED COPY

**20090818001055**

SOUND TRANSIT QCD 67.00  
PAGE-001 OF 006  
08/18/2009 11:42

RECORDING REQUESTED BY AND  
RETURN ADDRESS:

City of SeaTac  
City Clerk's Office  
4800 South 188<sup>th</sup> Street  
SeaTac, WA 98188-8605

**E2404479**

08/18/2009 11:42

TAX \$10.00  
SALE \$0.00

PAGE-001 OF 001

**QUIT CLAIM DEED**

GRANTOR: **CENTRAL PUGET SOUND  
REGIONAL TRANSIT AUTHORITY**

GRANTEE: **CITY OF SEATAC**

ABBREVIATED LEGAL DESCRIPTION: **Portion of Lots 8, 9 & 10, Blk 1, Third  
Addition to the Adams Home Tracts, Vol. 15,  
Pg. 17**

ASSESSOR'S TAX PARCEL NO.: **004300-0013; 004300-0015**

THE GRANTOR, **Central Puget Sound Regional Transit Authority**, a regional transit authority organized under the laws of the State of Washington, for and in consideration of mutual benefits, conveys and quit claims to the **City of SeaTac**, a municipal corporation, all Grantor's right, title and interest in and to that certain real property situated in the County of King, State of Washington, legally described in **Exhibit A** attached hereto and made a part hereof, as such rights, title and interests were conveyed to Grantor in that certain Stipulated Judgment For and Decree of Appropriation and Order Amending: Petition; Order Adjudicating Public Use and Necessity; and Order Granting Immediate Possession and Use. Cause No. 07-2-07470-8 KNT, filed in the Superior Court of Washington for King County on **August 18, 2008**, (hereinafter the "Acquisition Document"), and recorded **August 25, 2008** under **King County Recording No. 20080825000724**.

Dated: July 20, 2009.

**GRANTOR:**  
Central Puget Sound Regional Transit  
Authority

By: 

Ronald J. Taber  
[Printed Name]

Its: Deputy CEO

**Accepted By**  
**GRANTEE:**  
City of SeaTac

By: 

Craig R. Ward, City Manager  
[Printed Name]

Its: \_\_\_\_\_

**Approved as to Form:**



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I know or have satisfactory evidence that Ronald J. Tober is the person who appeared before me, and acknowledged that he/she signed this instrument and acknowledged it to be the free and voluntary act and deed of the Central Puget Sound Transit Authority for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said agreement.

Dated this 20<sup>th</sup> day of July, 2009.



Daphne D. Cross  
(Signature)  
Daphne D. Cross  
(Please print name legibly)

NOTARY PUBLIC in and for the State of  
Washington, residing at Seattle.  
My commission expires: 9-29-10.

STATE OF WASHINGTON )  
 ) ss:  
COUNTY OF King )

I certify that I know or have satisfactory evidence that Craig R. Ward is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the City Manager of the City, to be the free and voluntary act the City of SeaTac for the uses and purposes mentioned in the instrument.

Dated this 13<sup>th</sup> day of August, 2009.



Robbye L. Sanchez  
(Signature)  
Robbye L. Sanchez  
(Please print name legibly)

NOTARY PUBLIC in and for the State of  
Washington, residing at Seattle.  
My commission expires: 11/19/12.

**EXHIBIT A  
City of SeaTac  
Right of Way Dedication  
And  
Legal Description  
Portion of South 154<sup>th</sup>**

R/W # TUK158; 159

4 of 4

Form approved by legal 12/16/04



Legal Description – proposed Right of Way Dedication to City of SeaTac of a portion of South 154<sup>th</sup> Street, on the north side of the street, just west of International Blvd.:

THAT PORTION OF LOTS 8, 9 AND 10, BLOCK 1, THIRD ADDITION TO THE ADAMS HOME TRACTS, ACCORDING TO PLAT RECORDED IN VOLUME 15 OF PLATS, PAGE 17, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING ON THE EXISTING NORTH RIGHT OF WAY LINE OF SOUTH 154<sup>TH</sup> STREET, BEING 34 FEET NORTHERLY MEASURED AT RIGHT ANGLES FROM THE CENTERLINE THEREOF, AT A POINT OPPOSITE HIGHWAY ENGINEER'S STATION 86+70 ON THE S. 154<sup>TH</sup> ST. SURVEY LINE AS SHOWN ON SHEET 6 OF THAT CERTAIN WASHINGTON DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAN ENTITLED SR 518, RIVERTON HEIGHTS, SR 509 TO SR 5, NOW OF RECORD AND ON FILE IN THE OFFICE OF THE SECRETARY OF TRANSPORTATION AT OLYMPIA, WASHINGTON, DATED MARCH 6, 1969;  
THENCE N88°17'22"W, PARALLEL WITH THE CENTERLINE OF SOUTH 154<sup>TH</sup> STREET AND ALONG THE EXISTING NORTH R/W LINE THEREOF AS CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER RECORDING NUMBER 5133875, RECORDS OF KING COUNTY, WASHINGTON, A DISTANCE OF 50 FEET;  
THENCE AT RIGHT ANGLES N01°42'38"E, CONTINUING ALONG SAID NORTH R/W LINE, A DISTANCE OF 6 FEET;  
THENCE AT RIGHT ANGLES N88°17'22"W, CONTINUING ALONG SAID NORTH R/W LINE, A DISTANCE OF 209.36 FEET TO THE EAST LINE OF THE WEST 56 FEET OF SAID LOT 10 (BEING A POINT ON THE NORTH LINE OF THE SOUTH 10 FEET OF SAID LOT, DISTANT 40 FEET NORTHERLY OF THE CENTERLINE OF SOUTH 154<sup>TH</sup> STREET);  
THENCE N00°54'53"E ALONG SAID EAST LINE A DISTANCE OF 2.28 FEET TO THE BEGINNING OF NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1182.50 FEET, TO WHICH POINT A RADIAL LINE BEARS S02°33'23"E;  
THENCE EASTERLY ALONG SAID CURVE, THROUGH AN ANGLE OF 03°17'00", AN ARC LENGTH OF 67.77 FEET TO THE BEGINNING OF A REVERSE CURVE HAVING A RADIUS OF 1239.50 FEET, TO WHICH POINT A RADIAL LINE BEARS N05°50'24"W;  
THENCE EASTERLY ALONG SAID CURVE TO THE RIGHT, THROUGH AN ANGLE OF 07°33'02", AN ARC LENGTH OF 163.34 FEET TO A POINT OF TANGENCY IN A LINE PARALLEL WITH AND DISTANT 60 FEET NORTHERLY MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF SAID SOUTH 154<sup>TH</sup> STREET;  
THENCE S88°17'22"E ALONG SAID PARALLEL LINE A DISTANCE OF 29.13 FEET TO TO A POINT BEARING N01°42'38"E FROM THE POINT OF BEGINNING;  
THENCE AT RIGHT ANGLES S01°42'38"W A DISTANCE OF 26 FEET TO THE POINT OF BEGINNING.

Containing 3924 square feet more or less.

RECORDING REQUESTED BY AND  
RETURN ADDRESS:

Seattle Department of Transportation  
Real Property and Environmental Services  
700 5<sup>th</sup> Avenue, Suite 3900  
PO Box 34996  
Seattle, WA 98124-4996  
Attn: Larry Huggins



**20120618001411**

SOUND TRANSIT GCD 65.00  
PAGE-001 OF 004  
06/18/2012 14:43  
KING COUNTY, WA

**E2549048**

06/18/2012 14:43  
KING COUNTY, WA  
TAX \$10.00  
SALE \$0.00

PAGE-001 OF 001

**QUIT CLAIM DEED  
(CORRECTION DEED)**

GRANTOR: **CENTRAL PUGET SOUND REGIONAL  
TRANSIT AUTHORITY**

GRANTEE: **CITY OF SEATTLE**

REFERENCE NO.: **20110308000319; E2481072**

ABBREVIATED LEGAL DESCRIPTION: **Ptn of SW ¼ of Sec 22, T 24 N, R 4 E**

ASSESSOR'S TAX PARCEL NO.: **222404-1111**

**This deed supersedes that certain Quit Claim Deed recorded on March 8, 2011 under King County Recording No. 20110308000319 and changes the conveyance language only. No change to the legal description.**

THE GRANTOR, **Central Puget Sound Regional Transit Authority**, a regional transit authority organized under the laws of the State of Washington, for and in consideration of mutual benefits, conveys and quit claims to the **City of Seattle**, a municipal corporation, all Grantor's right, title and interest in and to that certain real property, legally described in **Exhibit A** attached hereto, situated in the County of King, State of Washington, as such rights, title and interests

R/W # 165

1 of 4

Form approved by ST Legal 12/20/2011  
Form approved by SDOT 1/12/2012

were conveyed to Grantor in that certain DEED FOR STREET PURPOSES dated February 10, 2004 between Porterfield Development, LLC & James M. Matsuoka and Central Puget Sound Regional Transit Authority, recorded March 2, 2004 under King County Recording No. 20040302001402.

Dated: May 16 20 <sup>cl</sup>12 ~~10~~

**GRANTOR:**  
Central Puget Sound Regional  
Transit Authority

By:   
Celia Kupersmith  
[Printed Name]

Its: Deputy CEO

Accepted By  
**GRANTEE:**  
City of Seattle

By:   
Peter Hahn  
[Printed Name]

Its: Director, SDOT

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I know or have satisfactory evidence that Celia Kupersmith is the person who appeared before me, and acknowledged that she signed this instrument and acknowledged it to be the free and voluntary act and deed of the Central Puget Sound Transit Authority for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said agreement.

Dated this 16<sup>th</sup> day of May, 2012.



[Signature]  
(Signature)

(Please print name legibly)

NOTARY PUBLIC in and for the State of Washington, residing at Seattle.  
My commission expires: 1-3-2015.

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Peter Hahn is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Director of SDOT, City of Seattle, to be the free and voluntary act the City of Seattle for the uses and purposes mentioned in the instrument.

Dated this 8 day of June, 2012.



[Signature]  
(Signature)

Samuel E. Spencer  
(Please print name legibly)

NOTARY PUBLIC in and for the State of Washington, residing at: Seattle, WA.  
My commission expires: 01-15-2015.

## Exhibit A – Legal Description

R/W No. 730 - RV-165

PIN: 222404-1111 (Previously a ptn of 811310-0331)

That portion of Section 22, Township 24 North, Range 4 East, W.M., in King County, Washington, described as follows:

Beginning at the intersection of the West line of Martin Luther King Jr. Way right-of-way and the North line of the East half of the Southeast quarter of the Southwest quarter of the Southwest quarter of said Section 22;

Thence South  $16^{\circ}58'13''$  East along said Westerly line a distance of 343.98 feet to a point which is 317.00 feet North of the North line of said Graham Street;

Thence North  $87^{\circ}44'01''$  West along a line parallel to and 317.00 feet North of the North line of said Graham Street a distance of 12.84 feet;

Thence North  $14^{\circ}42'05''$  West a distance of 152.07 feet;

Thence North  $16^{\circ}50'08''$  West a distance of 174.27 feet;

Thence South  $73^{\circ}01'47''$  West a distance of 4.01 feet;

Thence North  $16^{\circ}58'13''$  West a distance of 5.00 feet;

Thence North  $73^{\circ}01'47''$  East a distance of 4.02 feet;

Thence North  $16^{\circ}50'08''$  West a distance of 10.48 feet to a point on the North line of the East half of the Southeast quarter of the Southwest quarter of the Southwest quarter of said Section 22;

Thence South  $87^{\circ}55'55''$  East along said North line a distance of 5.98 feet to the **POINT OF BEGINNING.**

DocuSign Envelope ID: F1D444A8-9874-43F8-B33A-F67EC87F2B2C

CHICAGO TITLE NCS  
REF # 1358711-06-W

**WHEN RECORDED RETURN TO:**

City of Bellevue  
Real Property Division  
450 110<sup>th</sup> Avenue NE  
Bellevue, WA 98004

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**DEED OF DEDICATION**

Grantor: **CENTRAL PUGET SOUND REGIONAL TRANSIT  
AUTHORITY**

Grantee: **CITY OF BELLEVUE**

Abbreviated Legal Description: **PORTION OF THE SOUTHEAST QUARTER OF THE  
NORTHEAST QUARTER OF SECTION 28-25-5**

Assessor's Tax Parcel No.: **282505-9333** CHICAGO TITLE INSURANCE COMPANY  
has placed the document of record as  
a customer courtesy and accepts  
no liability for the accuracy or validity  
of the document.

ROW No(s): **EL290**

**CR#** 76306 **DATE** 8/18/20 **LOC** D20\_032

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THE **CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY**, a regional transit authority of the State of Washington ("Grantor") for valuable consideration, for public use hereby grants and conveys to the **CITY OF BELLEVUE**, a Washington municipal corporation ("Grantee"), and to the public, the following described real estate and any after acquired interest therein, situated in the County of King, State of Washington:

That certain property described in **Exhibit "A"**, and depicted in **Exhibit "B"**, attached hereto and by this reference incorporated herein. Said dedicated property is to become City of Bellevue public right-of-way, and contains an area of **1,911** square feet more or less.

The covenants herein contained shall run with the land and shall forever bind the Grantor, their successors and assigns.

ROW #: EL290

Deed of Dedication  
Last saved by Chung, James on 8/12/20





DocuSign Envelope ID: F1D444A6-9874-43F8-B33A-F67EC87F2B2C

Dated and signed on this 20<sup>th</sup> day of August, 20 20.

**GRANTEE: City of Bellevue**  
By Toni Call  
Toni Call  
Its: Finance & Asset Management Director

Accepted and Approved:

DocuSigned by:  
By Monica Buck  
Monica Buck  
Its: Assistant City Attorney

STATE OF WASHINGTON }  
COUNTY OF KING } SS.

I certify that I know or have satisfactory evidence that **Toni Call** is the person(s) who appeared before me, and said person(s) acknowledged that she signed this instrument, on oath stated that she is authorized to execute the instrument and acknowledged it as the **Finance & Asset Management Director** of the **City of Bellevue** to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.



Dated: 8/20/20  
Signature: H Peshkov  
Notary Public in and for the State of Washington  
Notary (print name): Hannah Peshkov  
Residing at: Bellevue, WA 98000  
My appointment expires: 10-15-21

ROW#: EL290

Deed of Dedication  
Last saved by Chung, James on 8/12/20

DocuSign Envelope ID: F1D444A6-9874-43F8-B33A-F67EC87F2B2C

**EXHIBIT "A"**

R/W No. EL-290  
PIN 2825059333  
CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (SOUND TRANSIT)

**130<sup>th</sup> Ave NE Dedication:**

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER SECTION 28, TOWNSHIP 25 NORTH, RANGE 5 EAST W.M., THENCE N88°21'09"W ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 30.00 FEET TO THE WEST LINE OF THE EAST 30 FEET OF SAID SOUTHWEST QUARTER, SAID WEST LINE BEING THE WEST MARGIN OF 130<sup>TH</sup> AVE NE PERSUANT TO DEEDS RECORDED UNDER RECORDING NUMBERS 2691143, 5341388, 5341390; THENCE N00°57'18"E ALONG SAID WEST MARGIN A DISTANCE OF 15.16 FEET TO THE **POINT OF BEGINNING**; THENCE LEAVING SAID WEST MARGIN N88°11'38"W A DISTANCE OF 4.50 FEET; THENCE N00°57'18"E PARALLEL WITH AND 4.50 FEET WEST OF SAID WEST MARGIN A DISTANCE OF 416.39 FEET; THENCE N33°15'36"E A DISTANCE OF 3.22 FEET; THENCE N00°57'54"E A DISTANCE OF 9.54 FEET; THENCE S89°02'06"E A DISTANCE OF 2.78 FEET TO SAID WEST MARGIN OF 130<sup>TH</sup> AVENUE NORTHEAST; THENCE S00°57'18"W ALONG SAID WEST MARGIN A DISTANCE OF 428.72 FEET TO THE **POINT OF BEGINNING**.

**APPROVED**  
By Steve Bratz at 11:41 am, Aug 11, 2020

EL290 130th ave dedication\_.doc

 AUG. 06, 2020

Jonathan M. Becker, P.L.S.

08/06/2020

DocuSign Envelope ID: F1D444A6-9874-43F8-B33A-F67EC87F2B2C

