

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 6a
Date of Meeting July 14, 2009

DATE: June 19, 2009

TO: Tay Yoshitani, Chief Executive Officer

FROM: James R. Schone, Director, Aviation Business Development
Jude P. Barrett, Manager, Acquisitions and Relocation

SUBJECT: Acquisition by purchase and/or condemnation of real property at 14211 Des Moines Memorial Drive South in Burien (Resolution No. 3623, Second Reading and Final Passage)

ACTION REQUESTED: Resolution No. 3623, Second Reading and Final Passage. Providing for acquisition by purchase and/or condemnation of certain real property located at 14211 Des Moines Memorial Drive South, (King County Tax ID Number 172304-9219), in the City of Burien, Washington.

LEGAL AUTHORITY: Certain areas around airports experience airport noise. Under federal land use compatibility guidelines, residences are generally not compatible with noise levels measured in day-night sound levels of 65 decibels or greater. To reduce or eliminate incompatible uses, an airport may acquire property that falls within the 65 decibel Day Night Limit and convert it to a zoning that is more compatible with airport operations. Under RCW 14.08.030, such acquisition would be for an airport purpose. The Port of Seattle is authorized by the State Legislature to acquire property by purchase or through condemnation for airport purposes.

BACKGROUND/SYNOPSIS: The Environmental Impact Statement (EIS) for the Third Runway Master Plan update and the latest Federal Aviation Regulation (FAR) Part 150 Noise and Land Use Compatibility Study called for residential acquisition in Burien's Northeast Redevelopment Area (NERA) due to airport noise and operational impacts associated with the Third Runway. Port staff, in cooperation with Burien planning staff and the Federal Aviation Administration (FAA), developed an acquisition boundary for the North Burien Approach Transition Zone (ATZ) buy-out area based on the following acquisition/relocation criteria:

- Residential parcels within the 65 decibel Day Night Limit noise contour.
- Residential parcels within the North ATZ.

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- Residential parcels within natural boundaries that preserve and support neighborhood integrity, including streets and physical boundaries.

Seventy-two residential parcels (Parcels) met the acquisition/relocation criteria and were identified as eligible for federal funds. The real property at 14211 Des Moines Memorial Drive South (see Exhibit A) is comprised of land and improvements including a 16-unit residential apartment building called Sun Villas (Property). The Property is one of the Parcels that meet the acquisition/relocation criteria and lie within the boundary of the North Burien ATZ buy-out area. The owner of the property is Sandra Oellien. Ms. Oellien has been aware of the Port's need to acquire noise impacted residential properties, including her Property since at least March 2008. On December 12, 2008, the Port presented Ms. Oellien with a written offer to purchase the property for its fair market value, based on an appraisal. Along with the offer, Ms. Oellien was provided with a copy of the appraisal as well as notice that the Port would reimburse her up to \$750 for actual and reasonable costs incurred to evaluate the Port's offer. More than five months have passed without a response to the Port's offer. Negotiations have stalled without agreement on the purchase price. Commission's authorization to condemn may facilitate negotiations. If negotiations fail, the Port would have authority to initiate condemnation proceedings without further delay.

FINANCIAL IMPLICATIONS/SOURCE OF FUNDS

The costs associated with acquiring this Property (Project) is included in the 2009-2013 Capital Budget and Plan of Finance under Capital Improvement Project (CIP) number C200015 (Third Runway Overflights Acquisition). This Project is eligible for federal funding by Airport Improvement Program (AIP) grants, which will reimburse eighty percent of eligible costs such as acquisition, relocation and demolition. The funding plan for this Project includes a combination of federal grants, passenger facility charges and revenue bonds.

PROJECT COST BREAKDOWN

Fair Market Value	\$1,000,000
Estimated Tenant Relocation Cost	\$94,250
Administrative/Overhead Costs	\$20,000
Total	\$1,114,250*

* Previously budgeted and authorized under the Third Runway capital project.

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KEY DATES:

September 28, 2005	General notice sent
March 12, 2008	Informational Open House
March 20, 2008	Initial property acquisition notice
August 12, 2008	Appraisal inspection
December 12, 2008	Offer presented for \$1,000,000
January 29, 2009	Port requested an update from Ms. Oellien as to whether she has selected an appraiser to provide a counter offer
February 17, 2009	Owner retained counsel of Daryl Deutsch to represent her in all matters related to Port's efforts to acquire apartment building

STRATEGIES AND OBJECTIVES

This Project supports the Port's strategy to "Ensure Airport and Seaport Vitality".

ALTERNATIVES CONSIDERED/RECOMMENDED ACTION

Do not acquire. Existing residential property and its occupants would continue to be exposed to aircraft noise and effects of the Third Runway. This is contrary to the runway Master Plan Update and recommendations of the EIS. **This is not the recommended alternative.**

Acquire by purchase and/or condemnation. This would be in compliance with FAA regulations and recommendations of the EIS. **This is the recommended alternative.**

PREVIOUS COMMISSION ACTION

- Resolution No. 2943, As Amended, adopted January 8, 1985 – Created the first Seattle-Tacoma International Airport Part 150 program, which authorized outright acquisition of all incompatible land uses.
- Resolution No. 3212, As Amended, adopted August 1, 1996 – After further review and after receiving public input during the Part 150 study, this Resolution adopted a Master Plan Update for the Airport that identified the potential for mitigation action involving the acquisition of residential parcels in the Third Runway Approach Transition Zones.
- Resolution No. 3125, adopted December 31, 1997 – Committed to a number of mitigation actions, including acquisition and relocation of homes in the North Approach Transition Zone.

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- Resolution No. 3443, adopted December 12, 2000 – Amended the Port’s FAR Part 150 program to require a plan for acquisition and relocation of residential properties in the Third Runway North and South Approach Transition Zones and acquisition and relocation of mobile/manufactured home parks within the 1998 70 DNL noise contour.
- On July 25, 2006, the Commission authorized the Managing Director of the Aviation Division and the Manager of Acquisitions to execute all documents necessary to implement the acquisition of 13 residential properties located within the City of Burien’s 2010 65 Day-Night Level noise contour and North Approach Transition Zone boundaries and relocate the occupants of said properties.
- The Commission authorized the expenditure of funds for acquisition of the subject Property when it approved the 2006-2010 Capital Budget and Plan of Finance under CIP#200015.
- First Reading of Resolution No. 3623 – June 23, 2009.