

## RESOLUTION NO. 3649

**A RESOLUTION** of the Port Commission of the Port of Seattle declaring surplus and no longer needed for Port District purposes approximately 3,350 square feet, 25 feet in width, of Port-owned real property formerly owned by BNSF, commonly known as the Woodinville Subdivision, and located in Bellevue, Washington, and authorizing the Chief Executive Officer to execute all documents necessary to transfer title of the property as part of settlement of adverse possession lawsuit filed on December 11, 2009 by plaintiffs Jie Ao and Xin Zhou.

**WHEREAS**, the voters of King County, pursuant to the provisions of enabling legislation adopted by the Legislature of the State of Washington, Chapter 92, Laws of 1911, RCW 53.04.010, authorized and approved at a special election held in King County on the 5th day of September 1911, the formation of a Port District coextensive with King County to be known as the Port of Seattle; and

**WHEREAS**, the Port of Seattle was thereupon established as a port district and has since been and now is a duly authorized and acting port district of the State of Washington; and

**WHEREAS**, Burlington Northern Santa Fe Railway Company (“BNSF”) was the former owner of the Seattle Belt Line Branch Line right of way located in King County; and

**WHEREAS**, the Port owns the real property described on attached Exhibit A (“BNSF/Port Property”) which it acquired from BNSF, as part of the Port’s acquisition of the Woodinville Subdivision rail corridor, on or about December 18, 2009; and

**WHEREAS**, Jie Ao and Xin Zhou (“Ao-Zhou”) own real property located at 6333 Hazelwood Lane, Bellevue, Washington 98006 in King County on the eastern shore of Lake Washington; and

**WHEREAS**, Ao-Zhou filed an adverse possession claim in King County Superior Court on December 11, 2009 which claimed an ownership interest in a thirty-five (35) foot wide portion of the BNSF/Port Property and a prescriptive easement interest in the roadway (Hazelwood Lane) serving the Ao-Zhou Property; and

**WHEREAS**, Ao-Zhou alleged, among other things, in their lawsuit that 1) the Ao-Zhou parcel abuts the western boundary of the BNSF/Port Property north and south of SE 64<sup>th</sup> Street; 2) to the north of SE 64<sup>th</sup> Street in Bellevue, the Ao-Zhou Parcel is currently developed with Ao-Zhou’s home; 3) Ao-Zhou and their predecessors have maintained a detached single-story garage, a concrete driveway, rockery, and other improvements within that portion of the BNSF/Port Property abutted by SE 64<sup>th</sup> Street for over ten years; and 4) they and their predecessors have also maintained a concrete driveway, rockery and other improvements (namely a retaining wall) within that portion of the BNSF/Port Property abutting the Ao-Zhou Parcel to the north of SE 64<sup>th</sup> Street; and

**WHEREAS**, the eastern boundary of the 3,350 square feet of land that is the subject of this Resolution lies at the toe of a fairly steep slope down from existing railroad tracks in the Bellevue section of the Woodinville Subdivision rail corridor; and

**WHEREAS**, Ao-Zhou originally claimed 35 feet (east-west), including part of the property to the east of the top of the slope toward the tracks, but Ao-Zhou has indicated

they will agree to accept 25 feet beginning at the top of the slope and running westward;  
and

**WHEREAS**, the Port and Ao-Zhou wish to resolve the adverse possession claim without the expense and risk of further litigation; and

**WHEREAS**, the Port wishes to convey, via quit claim deed, to Ao-Zhou, as part of the settlement of Ao-Zhou's lawsuit, a portion of the BNSF/Port Property twenty-five (25) feet in width and approximately 3350 square feet in area as legally described in Exhibit B and as depicted in Exhibit C (the "Adverse Possession Property"); and

**WHEREAS**, any agreement to settle Ao-Zhou's lawsuit will have acknowledgment and agreement by Ao-Zhou that under the Rails-to-Trails Act (16 U.S.C. Section 1247(d)), the Quit Claim Deed from BNSF to the Port and that certain Donation Agreement dated May 12, 2008, BNSF/Port Property is "railbanked" which means that rail service may be reactivated over the BNSF/Port Property, which means that Ao-Zhou may be required to remove or relocate Ao-Zhou's improvements, if any, in or on the BNSF/Port Property at Ao-Zhou's sole cost and/or negotiate with the person or entity that reactivates rail service to make other arrangements or Ao-Zhou's continued use of the BNSF/Port Property; and

**WHEREAS**, the market value of the Adverse Possession Property, based on review of sales data for adjacent properties, range between \$28.47 and \$66.45 per square foot;  
and

**WHEREAS**, the value of the Adverse Possession Property thus ranges from approximately \$95,374.50 to \$222,607.50, which amount falls under the \$300,000

settlement authority delegated to the CEO under Section 9.4 of Resolution No. 3628 amending Resolution No. 3605; and

**NOW, THEREFORE, BE IT RESOLVED** by the Port Commission of the Port of Seattle that:

Section 1. The Adverse Possession Property legally described on Exhibit B and depicted on Exhibit C, attached to this Resolution is no longer needed for Port purposes and is declared surplus to Port needs.

Section 2. The CEO is authorized to take all steps and execute all documents necessary to transfer title of the Adverse Possession Property via quit claim deed to plaintiffs Jie Ao and Xin Zhou as part of the settlement of their adverse possession lawsuit filed on December 11, 2009.

**ADOPTED** by the Port Commission of the Port of Seattle at a regular meeting thereof, held this \_\_\_\_ day of \_\_\_\_\_, 2011 and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the seal of the Commission.

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Port Commissioners

**EXHIBIT “A” to Resolution No. 3649**

**LEGAL DESCRIPTION OF BNSF/PORT PROPERTY**

Tax Parcel Nos. 2024059014 & 2924059005.

The BNSF Railway Company's (formerly Northern Pacific Railway Company) 100.0 foot wide Renton to Woodinville, Washington Branch Line Right of Way, being 50.0 feet wide on each side of said Railway Company's relocated main track centerline, as located and constructed upon, over and across Government Lot 4 of Section 20 and Government Lot 1 of Section 29, all in Township 24 North, Range 5 East, Willamette Meridian, Situate in the County of King and State of Washington.

**EXHIBIT “B” to Resolution No. 3649**

**LEGAL DESCRIPTION OF ADVERSE POSSESSION PROPERTY**

THE WESTERLY 25.0 FEET IN WIDTH OF THE BNSF RAILWAY COMPANY'S (FORMERLY NORTHERN PACIFIC RAILWAY COMPANY) 100.0 FOOT WIDE RENTON TO WOODINVILLE, WASHINGTON BRANCH LINE RIGHT OF WAY, BEING 50.0 FEET WIDE ON EACH SIDE OF SAID RAILWAY COMPANY'S RELOCATED MAIN TRACK CENTERLINE, AS LOCATED AND CONSTRUCTED UPON, OVER AND ACROSS GOVERNMENT LOT 4 OF SECTION 20 AND GOVERNMENT LOT 1 OF SECTION 29, ALL IN TOWNSHIP 24 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN,  
LYING SOUTHERLY OF THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 35, BLOCK “A” AND NORTHERLY OF THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 1, BLOCK “B” ALL IN C.D. HILLMAN'S LAKE WASHINGTON GARDEN OF EDEN ADDITION TO THE CITY OF SEATTLE, DIVISION NO. 3, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 11 OF PLATS, PAGE 81, RECORDS OF KING COUNTY, WASHINGTON;

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

*CONTAINING 3350 SQUARE FEET, MORE OR LESS.*

# EXHIBIT "C" to Resolution No. 3649

## MAP OF ADVERSE POSSESSION PROPERTY

