



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

March 17, 2008

Ordinance 16038

Proposed No. 2008-0106.1

Sponsors Ferguson, Constantine and Phillips

1 AN ORDINANCE authorizing the executive to execute an
2 Asset Transfer and Trust Agreement with the Seattle
3 Monorail Project for the transfer to King County of the
4 Seattle Monorail Project's assets remaining upon its
5 dissolution to be used by King County to support
6 transportation uses within the Green Line Corridor.

7
8 BE IT MOVED BY THE COUNTY COUNCIL OF KING COUNTY:

9 SECTION 1. Findings:

10 A. The Seattle Popular Monorail Authority ("the Seattle Monorail Project" or the
11 "SMP") was a duly organized city transportation authority existing under RCW 35.95A.

12 B. The board of directors of the SMP ("the board"), at an open public meeting on
13 September 23, 2005, approved Resolution 05-36A, Submitting Proposition 1 to Seattle
14 voters.

15 C. Resolution 05-36A provided that in the event voters did not approve
16 Proposition 1, "the Board shall terminate [the Seattle Monorail Project] as quickly as

17 practicable, consistent with maximizing the realized value of SMP assets and efficiently
18 discharging all obligations of [the Seattle Monorail Project]."

19 D. On November 8, 2005, Seattle voters rejected Proposition 1.

20 E. The board, at an open public meeting on November 9, 2005, approved
21 Resolution 05-39, authorizing staff to take steps necessary to terminate the Seattle
22 Monorail Project.

23 F. Pursuant to Resolution 05-39, the board took steps necessary to terminate the
24 Seattle Monorail Project.

25 G. RCW 35.95A.120(2) provides, in relevant part, that a city transportation
26 authority is dissolved and terminated if all of the following events have occurred:

27 1. A majority of the qualified electors voting at a regular or special election
28 determine that new public monorail transportation facilities must not be built;

29 2. The governing body of the authority adopts a resolution and publishes a
30 notice of the proposed dissolution at least once every week for three consecutive weeks in
31 a newspaper of general circulation published in the authority area and the resolution and
32 notice : (a) describe information that must be included in a notice of claim against the
33 authority including, but not limited to, any claims for refunds of special motor vehicle
34 excise tax levied under RCW 35.95A.080 and collected by or on behalf of the authority;
35 (b) provide a mailing address where a notice of claim may be sent; (c) state the deadline,
36 which must be at least ninety days from the date of the third publication, by which the
37 authority must receive a notice of claim; and (d) state that a claim will be barred if a
38 notice of claim is not received by the deadline;

39 3. The authority resolves all claims timely made; and

40 4. The governing body adopts a resolution: (a) finding that the conditions
41 required for termination have been met; and (b) dissolving and terminating the authority.

42 H. RCW 35.95A.120(3) provides, in relevant part, that a claim against a city
43 transportation authority is barred if: (a) a claimant does not deliver a notice of claim to
44 the authority by the deadline stated in the newspaper notice; or (b) a claimant whose
45 claim was rejected by the authority does not commence a proceeding to enforce the claim
46 within sixty days from receipt of the notice rejecting its claim.

47 I. In August 2006, the board published a notice in fifteen newspapers in Seattle
48 notifying the public that the SMP would be soon dissolved and that anyone having a
49 claim should file it before December 4, 2006, which date was more than ninety days after
50 the third and last publication of that notice in two newspapers of general circulation in the
51 city.

52 J. All claims identified through the aforesaid process and any and all claims
53 arising from the activities of the Seattle Monorail Project were paid or settled to the
54 satisfaction of the SMP and the claimants.

55 K. The board adopted Resolution 08-02 on January 17, 2008, dissolving and
56 terminating the SMP effective immediately.

57 L. RCW 35.95A.120(4) provides, in relevant part, that the governing body of a
58 city transportation authority may transfer any net assets to one or more other political
59 subdivisions with instructions as to their use or disposition.

60 M. The proposed Green Line, approved by the electors of Seattle in November
61 2002 and for which the motor vehicle excise tax was levied, would have been constructed

62 along a route running from Ballard southerly through Interbay, Downtown and SODO
63 and thence westerly into West Seattle ("the Green Line Corridor").

64 N. King County has existing projects to build and operate bus rapid transit from
65 Ballard to Downtown and from Downtown to West Seattle along the Green Line
66 Corridor. Cash assets will be held in a separate account and transferred to reimburse
67 King County Metro Transit for project expenditures on these two Bus Rapid Transit lines.

68 O. Prior to dissolution, the board, by adopting Resolution 08-01 on January 17,
69 2008, approved an Asset Transfer and Trust Agreement by which the SMP would transfer
70 to the county all remaining assets, both tangible and intangible, currently held by the
71 SMP and the county would hold those assets and apply them solely for the sole purpose
72 of supporting transportation uses in the Green Line Corridor thus acknowledging and
73 supporting of the proposed Green Line route that was approved by the electors in
74 November 2002.

75 P. Pursuant to K.C.C. chapter 2.80, the county council may accept gifts and
76 donations on behalf of King County.

77 SECTION 2. The King County executive is hereby authorized to execute the
78 Asset Transfer and Trust Agreement with the Seattle Monorail Project, attached hereto as
79 Attachment A to this ordinance, for the transfer to King County of the Seattle Monorail
80 Project's assets remaining upon its dissolution to be used by King County to support
81 transportation uses within the Green Line Corridor.

82 SECTION 3. The county council accepts the transfer of the SMP's remaining
83 assets to King County as conditioned by the Asset Transfer and Trust Agreement. The


84 cash assets shall be placed in a designated revenue account in the public transportation
85 operating subfund.

86

Ordinance 16038 was introduced on 2/25/2008 and passed by the Metropolitan King
County Council on 3/17/2008, by the following vote:

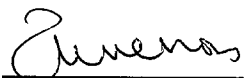
Yes: 9 - Ms. Patterson, Mr. Dunn, Mr. Constantine, Ms. Lambert, Mr. von
Reichbauer, Mr. Ferguson, Mr. Gossett, Mr. Phillips and Ms. Hague
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON




Julia Patterson, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 20 day of MARCH, 2008.



Ron Sims, County Executive

Attachments A. Asset Transfer and Trust Agreement

RECEIVED
2008 MAR 21 PM 3:19
CLERK
KING COUNTY COUNCIL

ASSET TRANSFER AND TRUST AGREEMENT

THIS ASSET TRANSFER AND TRUST AGREEMENT (“**Agreement**”) dated this _____ day of _____, 2008, is between the County of King (“**County**”) and the Seattle Popular Monorail Authority, a city transportation authority doing business as the Seattle Monorail Project (“**SMP**”).

RECITALS

WHEREAS, SMP is being dissolved in accordance with RCW 35.95A.120; and

WHEREAS, SMP will have funds, property, and other assets (“**SMP Assets**”) remaining after its dissolution; and

WHEREAS, SMP’s assets were acquired from the proceeds of a Motor Vehicle Excise Tax levied upon registrations of motor vehicles located in Seattle; and

WHEREAS, the County operates mass transit services in the corridor which was proposed to be served by the SMP, running from Ballard southerly through Interbay, Downtown and SODO and thence westerly into West Seattle (“**Green Line Corridor**”); and

WHEREAS, SMP desires to transfer the SMP Assets to the County for the sole purpose of supporting transportation uses in the Green Line Corridor; and

WHEREAS, the County desires to accept the SMP Assets for the sole purpose of supporting transportation uses in the Green Line Corridor; and

WHEREAS, RCW 39.33.010(1) provides that any municipality or political subdivision of the state may transfer any of its funds, property, or other assets to another municipality or political subdivision of the state upon such terms and conditions as may be mutually agreed upon by the proper authorities of the municipalities or political subdivisions concerned; and

WHEREAS, RCW 35.95A.120(4) authorizes SMP, as the governing body of a city transportation authority, to transfer any net assets to another political subdivision of the state with instructions as to their use or disposition; and

WHEREAS, SMP's governing body has approved the transfer of the SMP Assets to the County for the support of transportation uses in the Green Line Corridor under the terms and conditions agreed to in this Agreement; and

WHEREAS, the County's governing body has approved the acceptance of the SMP Assets for the support of transportation uses in the Green Line Corridor under the terms and conditions agreed to in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

AGREEMENT

1. Transfer and Acceptance of SMP Assets.

- A.** In the resolution dissolving the SMP in accordance with RCW 35.95A.120, SMP has authorized the conveyance, and transfer of all of the SMP Assets to the County, to be held in trust by the County for the sole purpose of supporting transportation uses in the Green Line Corridor. The parties specifically agree that any Motor Vehicle Excise Taxes collected by the Department of Licensing and not previously distributed to SMP shall be SMP Assets and the County shall be entitled to receive them as if they were being distributed to SMP.
- B.** The County has agreed to accept the conveyance, quitclaim and transfer of the SMP Assets and agrees to hold the SMP Assets in trust for the sole purpose of supporting transportation uses in the Green Line Corridor.
- C.** SMP agrees that if any SMP Assets are not in the form of cash, the County may convert the non-cash SMP Assets into cash using any method of conversion the County deems appropriate, including, but not limited to, the sale or other disposition of any real, personal, or intangible property, or any rights therein.
- D.** The County agrees that any cash received by the County as a result of its conversion of non-cash SMP Assets shall be deemed to be SMP Assets.
- E.** A complete list of all SMP Assets being transferred by this Agreement is attached to this Agreement as Exhibit A, and is incorporated into this Agreement by this reference.

- 2. Support of Transportation Uses in the Green Line Corridor.** The County shall use the SMP Assets for the support of transportation uses in the Green Line Corridor in any manner that the County deems appropriate, including, but not

limited to, operation, maintenance, capital repair, overhaul, refurbishment, or improvement of transportation facilities and services in the Green Line Corridor.

3. Trust Agreement.

- A. The County shall hold all SMP Assets in trust for the sole purpose of supporting transportation uses in the Green Line Corridor.
- B. Upon the expenditure or other use of any portion of the SMP Assets for the support of transportation uses in the Green Line Corridor, that portion of the SMP Assets so expended or otherwise used shall be immediately and automatically released from the County's obligation to hold that portion in trust, and all right, title, and interest in and to that portion shall vest irrevocably in the County.

4. Third-Party Claims.

- A. Nothing in this Agreement is intended by the parties to transfer any SMP responsibility, obligation, or liability to the County or to make the County a successor to SMP in any manner.
- B. SMP represents that it has resolved all claims against it, that it has taken the steps required of it by RCW 35.95A.120 to extinguish any claims that may be asserted against it in the future, and that it has taken the steps required of it by RCW 35.95A.120 to dissolve and terminate its existence.
- C. The parties agree that if any claim is made against the County after SMP's dissolution, or any claim is made against the County on the basis of the County's expenditure or other use of the SMP Assets, the County may expend or otherwise use the SMP Assets to defend against, settle, compromise, satisfy, or otherwise dispose of any such claim, as the County deems appropriate. SMP agrees that any such use of SMP Assets shall be deemed to be in support of transportation uses in the Green Line Corridor under this Agreement.
- D. The parties agree that the County shall have no responsibility to defend, indemnify or hold harmless SMP directors and officers against any claim brought against them.

- 5. Additional Documents or Necessary Action.** The parties shall execute any and all documents and take any and all actions necessary to carry out the purposes of this Agreement, including, but not limited to, any documents or actions necessary to sell or otherwise dispose of any real, personal, or intangible property included in

the SMP Assets. The parties agree that any necessary authorization to execute documents or to take action is included in their approval of this Agreement. A copy of this Agreement shall be delivered to the Department of Licensing in order to notify the Department of the requirement hereunder that any Motor Vehicle Excise Taxes collected for SMP, but not distributed to SMP, should be paid to the County as SMP Assets.

6. **Governing Law and Jurisdiction.** This Agreement shall be governed by, and interpreted under, the laws of the State of Washington. Jurisdiction for any action under this Agreement shall be in the Superior Court for King County, Washington.
7. **Duration of Agreement.** This Agreement shall terminate upon the County's expenditure or other use of all of the SMP Assets.
8. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject matter of this Agreement, and it supersedes any and all prior agreements, understandings, or discussions regarding this subject matter, whether written or oral.
9. **Authority and Authorization.** Each party represents that it has all necessary legal authority to enter into and perform this Agreement, that it has obtained the consent of its governing body to enter into this Agreement, and that the person executing this Agreement on its behalf has been duly authorized by its governing body to do so.

IN WITNESS WHEREOF, the parties have executed this Asset Transfer and Trust Agreement, effective as of the date stated above.

COUNTY OF KING

**SEATTLE POPULAR MONORAIL
AUTHORITY (SMP)**

By: _____

By: _____

Name: _____

Name: Beth Goldberg

Title: _____

Title: Board Chair

EXHIBIT A

SMP ASSETS

- 1. Cash in the amount of \$425,963.07, together with any interest income credited to the amount and less any bank fees deducted from the amount between January 17, 2008 and the date of the transfer; and**

- 2. All rights, title and interests of SMP as Grantee under that certain Grant of Easement pursuant to the Decree of Appropriation recorded April 5, 2006 under King County Recording No. 20060405000579 pertaining to Assessor's Property Tax Parcel No. 197720-0990-05 (Assignment of Grantee's Interest in Easement attached).**

AFTER RECORDING RETURN TO:

King County Department of Transportation, Transit Division
Design and Construction Section
M/S KSC-TR-0431
201 S Jackson St
Seattle, WA 98104

Attn: Susan Stewart

ASSIGNMENT OF GRANTEE'S INTEREST IN EASEMENT

Grantor: Seattle Popular Monorail Authority ("Seattle Monorail Project"), a city transportation authority

Grantee: The County of King, a county of the State of Washington

Abbreviated Legal Description: Transit way envelope easement over ptn lots 4 & 5, blk 45, A.A. Denny's 6th Addtn to City of Seattle, Vol 1 Pg 99, King County
Official Legal Description on Exhibit A

Assessor's Tax Parcel ID Number(s): 197720-0990-05

Reference Number(s): 20060405000579

For value received, the undersigned as Grantor, hereby conveys, assigns and transfers without warranty to the THE COUNTY OF KING, a municipal corporation and political subdivision of the State of Washington, all of its right, title and interest as Grantee under that certain Grant of Easement attached as Exhibit 1 to the Stipulated Findings of Fact, Conclusions of Law, Judgment and Decree of Appropriation entered in the Superior Court for the State of Washington in and for King County in Case No. 05-2-08303-4 SEA on March 8, 2006 and as recorded in the records of the King County Recorder's Office on April 5, 2006 at

No. 20060405000579, describing the easement property therein as described on EXHIBIT A attached hereto.

DATED as of this 17th day of January, 2008.

SEATTLE POPULAR MONORAIL AUTHORITY
("SEATTLE MONORAIL PROJECT"), a city
transportation authority

By _____
Beth Goldberg, Board Chair

STATE OF WASHINGTON

COUNTY OF KING

ss.

I certify that I know or have satisfactory evidence that BETH GOLDBERG is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Chair of the Board of the Seattle Popular Monorail Authority (Seattle Monorail Project), a city transportation authority, to be the free and voluntary act of such authority for the uses and purposes mentioned in the instrument.

Dated this 17th day of January, 2008.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington, residing at:

My appointment expires _____

EXHIBIT A

Legal Description of Easement Property

A Permanent Operations Easement within the vertical and horizontal boundaries of the following described property:

A TRANSIT WAY ENVELOPE EASEMENT OVER THOSE PORTIONS OF LOT 4 AND 5, BLOCK 45 OF A.A. DENNY'S 6TH ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 99, RECORDS OF KING COUNTY, WASHINGTON, LYING IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 25 NORTH, RANGE 4 EAST, W.M., BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 4;
THENCE SOUTH $30^{\circ}37'13''$ EAST ALONG THE EASTERLY LINE OF SAID LOT 4, A DISTANCE OF 5.24 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 359.17 FEET, A CENTRAL ANGLE OF $08^{\circ}07'32''$, AND TO WHICH POINT A RADIAL LINE BEARS NORTH $48^{\circ}05'48''$ WEST;
THENCE SOUTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 50.94 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 186.38 FEET, A CENTRAL ANGLE OF $24^{\circ}31'29''$, AND TO WHICH POINT A RADIAL LINE BEARS NORTH $58^{\circ}20'28''$ WEST;
THENCE SOUTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 79.78 FEET TO THE EASTERLY MARGIN OF 2ND AVENUE AND A POINT HEREINAFTER REFERRED TO AS POINT "A";
THENCE NORTH $30^{\circ}37'13''$ WEST ALONG SAID MARGIN A DISTANCE OF 41.60 FEET TO THE SOUTHERLY MARGIN OF STEWART STREET;
THENCE NORTH $42^{\circ}17'29''$ EAST ALONG SAID MARGIN A DISTANCE OF 112.99 FEET TO THE POINT OF BEGINNING:

THE UPPER LIMITS OF THE VERTICAL SPACE CONTAINED WITHIN SAID EASEMENT SHALL BE AN INCLINED PLANE, STARTING AT ELEVATION 221.38 FEET (BASED ON THE NAVD 88 VERTICAL DATUM, PUBLISHED BY THE CITY OF SEATTLE) AT AFOREMENTIONED POINT "A", SAID POINT BEING 70.00 FEET ABOVE THE EXISTING GRADE ELEVATION OF 151.38 FEET;

THENCE NORTH $30^{\circ}37'13''$ WEST ALONG SAID EASTERLY MARGIN OF 2ND AVENUE A DISTANCE OF 41.60 FEET TO ELEVATION 222.91 FEET, SAID POINT BEING 70.00 FEET ABOVE THE EXISTING GRADE ELEVATION OF 152.91 FEET;

THENCE NORTH 42°17'29" EAST ALONG SAID SOUTHERLY MARGIN OF STEWART STREET A DISTANCE OF 112.99 FEET TO THE NORTHEAST CORNER OF SAID LOT 4 TO ELEVATION 218.50 FEET, SAID POINT BEING 70.00 FEET ABOVE THE EXISTING GRADE ELEVATION OF 148.50 FEET.

SITUATE IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON.

THE ABOVE TRANSIT WAY ENVELOPE EASEMENT AREA CONTAINS 1,636 SQUARE FEET, OR 0.04 ACRES, MORE OR LESS.