

SOUND TRANSIT

RESOLUTION NO. R2003-17

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the Chief Executive Officer to acquire, dispose, lease, and transfer certain real property interests by negotiated agreement, negotiated purchase, by condemnation (including settlement), condemnation litigation, or entering administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the acquisition of various properties owned by Burlington Northern Santa Fe Railway and required for the Everett-to-Seattle Segment, the Lakewood-to-Tacoma Segment, and its possible extension.

WHEREAS, a Regional Transit Authority, hereinafter referred to as Sound Transit, has been created for the Pierce, King, and Snohomish County region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, on November 5, 1996, at a general election held within the Central Puget Sound Regional Transit Authority district, the voters approved local funding for Sound Move, the ten-year plan for high-capacity transit in the Central Puget Sound Region; and

WHEREAS, Sound Move provided for the implementation of high capacity commuter rail service between Everett and Seattle, and further provided for the construction, operation, and permanent location of three rail stations in the Cities of Everett, Mukilteo, and Edmonds, and a layover yard in the City of Everett, collectively referred to hereafter as the Everett-to-Seattle Commuter Rail Service; and

WHEREAS, Sound Move provided for the implementation of high capacity commuter rail service between Tacoma and Lakewood, and further provided for the construction, operation, and permanent location of two rail stations in Tacoma and Lakewood, as well as a 1.2 mile length of new railroad track in Tacoma and a layover yard in Camp Murray, collectively referred to hereafter as the Tacoma-to-Lakewood Commuter Rail Service; and

WHEREAS, in compliance with the National and State Environmental Policy Acts (NEPA and SEPA), an Environmental Impact Statement was prepared for the proposed locations for the two commuter rail stations, and the track extension and layover yard for Tacoma-to-

Lakewood Commuter Rail Service. On December 30, 2002, the Federal Transit Administration issued its Record of Decision to complete the NEPA process; and

WHEREAS, in order to acquire the properties determined to be necessary for the construction, operation, and maintenance of the above described rail and property improvements, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain rights in the property described in Exhibit A for public purposes, and to pay eligible relocation and re-establishment benefits to affected parties; and

WHEREAS, the properties have been or will be appraised to determine the fair market value of the properties and Sound Transit will 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 Sound Transit general funds; and

WHEREAS, authorization for the condemnation, if necessary, of property rights in Burlington Northern Santa Fe Railway's (BNSF) Seattle-to-Everett Corridor and its Lakeview Subdivision as authorized by this resolution will leave BNSF with sufficient property rights to conduct common carrier rights and obligations under 49 USC §11101 and with sufficient rights of access to maintain, operate, and renew the railroad line; and

WHEREAS, Sound Transit has no intention or ability to assume such common carrier obligations; and

WHEREAS, Sound Transit seeks to acquire certain property rights in BNSF's Seattle-to-Everett Corridor and its Lakeview Subdivision for its Sounder Commuter Rail Project; and

WHEREAS, the Sounder Commuter Rail Project alleviates major congestion and safety concerns and thereby promotes public health and safety in a manner consistent with federal rail transportation policy, 49 USC §10101; and

WHEREAS, acquisition and use of certain property rights in BNSF's Seattle-to-Everett Corridor and Lakeview Subdivision, the properties at the City of Everett, and the properties at the City of Edmonds, by Sound Transit pursuant to this resolution for the Sounder Commuter Rail Project will not unreasonably burden interstate commerce because BNSF's rail service will not be adversely affected or interrupted and because no costs are imposed on BNSF; and

WHEREAS, the extension from Camp Murray to Nisqually was not covered in the Sounder Lakewood-Tacoma EIS; and

WHEREAS, the Sound Transit Board may authorize the acquisition of the extension from Camp Murray to Nisqually at this time without prior environmental review because the SEPA exempts the purchase or acquisition of any right to real property; and

WHEREAS, environmental review will be required before any work or service is undertaken on the extension from Camp Murray to Nisqually; and

WHEREAS, if federal funds are used for the acquisition of the extension, then the NEPA requirements must be satisfied prior to acquisition; and

WHEREAS, staff is working with the Federal Transit Administration to obtain the necessary approval to meet NEPA requirements.

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 and for the payment of eligible relocation and re-establishment costs, said property to be used for improvements required for the Tacoma-to-Lakewood Commuter Rail Service and its possible extension to Nisqually, Washington, and the Everett-to-Seattle Commuter Rail Service, except for the acquisition of certain property interests in BNSF's Everett-to-Seattle Corridor and Lakeview Subdivision for which additional Board

authorization is necessary for approval of any such agreements. Further, 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; provided that in the event the total of the acquisition, relocation, and re-establishment costs of the properties exceeds Sound Transit's approved budget for the Everett-to-Seattle Commuter Rail Service and Tacoma-to-Lakewood Commuter Rail Service, then the Chief Executive Officer shall obtain approval from the Board, per Resolution No. 78-1, before the acquisition of the property by purchase or by condemnation and the payment of eligible relocation and re-establishment costs.

SECTION 2. The Chief Executive Officer is 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, except for the acquisition of certain property interests in BNSF's Everett-to-Seattle Corridor and Lakeview Subdivision for which additional Board authorization is necessary for approval of any such settlements. 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 No. 78-1.

SECTION 3. The Sound Transit Board deems the siting and construction of the improvements required for the Tacoma-to-Lakewood Commuter Rail Service (as well as its possible extension to Nisqually, Washington) and the Everett-to-Seattle Commuter Rail Service, to be a public use for a public purpose. The Board deems it necessary and in the best interests of the citizens residing within the Sound Transit district boundaries to acquire the property identified herein as being necessary for the construction, operation and maintenance, of the above described commuter rail services. The Board directs that all, or any portion or interest

thereof, of the property described in Exhibit A be immediately acquired by voluntary agreement, except as provided above, or in lieu of agreement, that said properties be condemned, appropriated, taken and damaged for the construction, operation, and maintenance of commuter rail service, said properties being described in Exhibit A incorporated herein by reference and that eligible parties be paid relocation and re-establishment costs associated with displacement from the properties.

SECTION 4. The Sound Transit Board of Directors 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 maintenance of the improvements related to the Tacoma-to-Lakewood Commuter Rail Service and the Everett-to-Seattle Commuter Rail Service.

SECTION 5. In addition to the authority granted the Chief Executive Officer in Section 1 above, condemnation proceedings are hereby authorized and the authority is hereby delegated to the Chief Executive Officer to take action as related to such condemnation proceedings to acquire all, or any portion thereof, of the properties and property rights and/or rights in the properties described Exhibit A for the purpose of constructing, operating, and maintaining the Tacoma-to-Lakewood Commuter Rail Service, its possible extension, and the Everett-to-Seattle Commuter Rail Service. Notices shall be given to property owners/tenants/occupants regarding the intent to acquire their properties, in compliance with Sound Transit's adopted Real Property Acquisition and Relocation Policies, Procedures, and Guidelines. The Chief Executive Officer is also authorized to make minor amendments to the legal descriptions of 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 6. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

SECTION 7. The acquisition of BNSF property from Camp Murray to Nisqually is made subject to the performance of all environmental reviews and other requirements of the NEPA, as well as any other controlling state or federal requirements.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting held on September 25, 2003.



Ron Sims
Board Chair

ATTEST:



Marcia Walker
Board Administrator

EXHIBIT A

Everett Commuter Rail Station

| Order No. | Owner/Contact | Parcel # | Site Address |
|-----------|---|--------------------|-----------------|
| 500745 | BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, A DELAWARE CORPORATION FORMERLY BURLINGTON NORTHERN RAILROAD COMPANY, (FORMERLY BURLINGTON NORTHERN, INC.), A WHOLLY OWNED SUBSIDIARY OF BURLINGTON NORTHERN, INC., THE SUCCESSOR IN INTEREST AND TITLE BY MERGERS WITH SNOHOMISH, SKYKOMISH AND SPOKANE RAILWAY AND TRANSPORTATION COMPANY, A WASHINGTON CORPORATION | 29 0529 002 013 00 | BN Right of Way |

LEGAL DESCRIPTION:

THAT PORTION OF SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF BLOCK 801 OF PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT, ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE(S) 20, IN SNOHOMISH COUNTY, WASHINGTON;
THENCE WEST ALONG THE SOUTH LINE OF THE FORMER 33RD STREET RIGHT OF WAY TO THE NORTHEAST CORNER OF BLOCK 800, SAID PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT; THENCE NORTHWESTERLY ALONG AN EXTENSION OF THE EAST LINE OF SAID BLOCK 800 TO THE SOUTHEAST CORNER OF BLOCK 758, SAID PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT; THENCE EAST ALONG NORTH LINE OF THE FORMER 33RD STREET RIGHT OF WAY TO THE SOUTHWEST CORNER OF BLOCK 757, SAID PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT; THENCE SOUTHEASTERLY ALONG AN EXTENSION OF THE WEST LINE OF SAID BLOCK 757 TO THE POINT OF BEGINNING

| Order No. | Owner/Contact | Parcel # | Site Address |
|-----------|--|--------------------|--------------|
| 500744 | TRILLIUM CORPORATION, A WASHINGTON CORPORATION | 00 4390 745 000 01 | None |

LEGAL DESCRIPTION:

ALL OF BLOCKS 745 AND 758 OF PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT, ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE(S) 20, IN SNOHOMISH COUNTY, WASHINGTON;

TOGETHER WITH THAT PORTION OF VACATED 32ND STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW; EXCEPT THAT PORTION CONVEYED TO SONG W. KIM AND YOUNG SOOK KIM, HUSBAND AND WIFE, BY DEED RECORDED UNDER RECORDING NO. 9206040653, DESCRIBED AS FOLLOWS: THAT PORTION OF BLOCKS 745, 758 AND VACATED 32ND STREET LYING NORTHEASTERLY OF A LINE DRAWN PARALLEL WITH AND DISTANT 50 FEET NORTHEASTERLY OF B.N.R.R. MAIN TRACK CENTERLINE.

Edmonds Commuter Rail Station

| Order No. | Owner/Contact | Parcel # | Site Address |
|-----------|---|--------------------|-----------------|
| 506981 | THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, A DELAWARE CORPORATION FORMERLY BURLINGTON NORTHERN RAILROAD COMPANY, (FORMERLY BURLINGTON NORTHERN INC.), A WHOLLY OWNED SUBSIDIARY OF BURLINGTON NORTHERN, INC., AND THE SUCCESSOR IN INTEREST AND TITLE BY MERGERS WITH GREAT NORTHERN RAILWAY COMPANY, SEATTLE AND MONTANA RAILROAD COMPANY, AND SEATTLE AND MONTANA RAILWAY COMPANY | 27 0323 001 057 00 | BN Right of Way |

LEGAL DESCRIPTION:

THOSE PORTIONS OF GOVERNMENT LOTS 2 AND 3 OF SECTION 23, TOWNSHIP 27 NORTH, RANGE 3 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, LYING NORTHERLY OF THE NORTH LINE OF DAYTON STREET EXTENDED, AND LYING SOUTHERLY OF THE SOUTH LINE OF MAIN STREET EXTENDED (FORMERLY KNOWN AS GEORGE STREET), BEING THE RIGHT OF WAY OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, AND BEING ESTABLISHED BY DEEDS RECORDED IN VOLUME 100 OF DEEDS AT PAGE 414 UNDER RECORDING NO. 112923, IN VOLUME 94 OF DEEDS AT PAGE 436 UNDER RECORDING NO. 112719, AND IN VOLUME 17 OF DEEDS AT PAGE 132 UNDER RECORDING NO. 9612, AND BEING ESTABLISHED BY DECREES OF APPROPRIATION FILED IN SNOHOMISH COUNTY SUPERIOR COURT CASE NO. 390, BEING RECORDED IN VOLUME 24 OF DEEDS AT PAGE 108 UNDER RECORDING NO. 15764, AND CASE NO. 8360, BEING RECORDED IN VOLUME 27 OF MISCELLANEOUS DOCUMENTS AT PAGE 572 UNDER RECORDING NO. 121720;

EXCEPT THEREFROM THOSE PORTIONS THEREOF CONVEYED TO THE CITY OF EDMONDS BY DEED RECORDED IN VOLUME 120 OF DEEDS AT PAGE 404 UNDER RECORDING NO. 165756.

Everett-Seattle Corridor (Commuter Rail)

| Order No. | Owner/Contact | Parcel # | Site Address |
|-----------|---|-----------------|-----------------|
| None | BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, A DELAWARE CORPORATION FORMERLY BURLINGTON NORTHERN RAILROAD COMPANY, (FORMERLY BURLINGTON NORTHERN, INC.), A WHOLLY OWNED SUBSIDIARY OF BURLINGTON NORTHERN, INC. | BN Right of Way | BN Right of Way |

LEGAL DESCRIPTION:

IN KING COUNTY: A STRIP OF LAND, NOT TO EXCEED 100 FEET IN WIDTH, RUNNING FROM THE KING STREET STATION, SEATTLE, WASHINGTON NORTHERLY TO NORTHWEST 205TH STREET, SHORELINE, WASHINGTON.

IN SNOHOMISH COUNTY: A STRIP OF LAND, NOT TO EXCEED 100 FEET IN WIDTH, RUNNING FROM NORTHWEST 205TH STREET, SHORELINE, WASHINGTON, NORTHERLY TO 33RD STREET, EVERETT, WASHINGTON.

Lakeview Subdivision (Commuter Rail)

| Order No. | Owner/Contact | Parcel # | Site Address |
|-----------|---|--|------------------------|
| None | BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, A DELAWARE CORPORATION FORMERLY BURLINGTON NORTHERN RAILROAD COMPANY, (FORMERLY BURLINGTON NORTHERN, INC.), A WHOLLY OWNED SUBSIDIARY OF BURLINGTON NORTHERN, INC. | BN Right of Way and Parcel #021912-2-144 | BN Right of Way |

LEGAL DESCRIPTION:

IN PIERCE COUNTY: A STRIP OF LAND, NOT TO EXCEED 100 FEET IN WIDTH, RUNNING FROM 11TH STREET, TACOMA, WASHINGTON, SOUTHERLY/SOUTHEASTERLY TO ITS INTERSECTION WITH THE BURLINGTON NORTHERN SANTA FE RAILWAY MAIN LINE IN NISQUALLY, WASHINGTON. TOGETHER WITH PIERCE COUNTY PARCEL NO. 021912-2-144.

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2003-17

Authorization to Acquire Various Property Interests for Commuter Rail Service

| Meeting: | Date: | Type of Action: | Staff Contact: | Phone: |
|-------------------|--------------|---|---|----------------|
| Finance Committee | 9/18/03 | Discussion/Possible Action to Recommend Board Approval Action | Joann H. Francis, Chief Administrative Officer | (206) 689-4934 |
| Board | 9/25/03 | | John T. McLean Senior Real Estate Representative | (206) 689-4916 |

| Contract/Agreement Type: | ✓ | Requested Action: | ✓ |
|---------------------------------|---|-----------------------------------|---|
| Competitive Procurement | | Execute New Contract/Agreement | |
| Sole Source | | Amend Existing Contract/Agreement | |
| Interlocal Agreement | | Contingency Funds Required | |
| Purchase/Sale Agreement | | Budget Amendment Required | |

3Applicable to proposed transaction.

OBJECTIVE OF ACTION

To acquire various property interests required for Sounder Commuter Rail service between Everett and Seattle and between Tacoma and Nisqually.

ACTION

Authorize the Chief Executive Officer to acquire, dispose, lease, and transfer certain real property interests by negotiated agreement, negotiated purchase, by condemnation (including settlement), condemnation litigation, or entering administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the acquisition of various properties owned by Burlington Northern Santa Fe Railway and required for the Everett-to-Seattle Segment, the Lakewood-to-Tacoma Segment, and its possible extension.

KEY FEATURES

- Authorizes the acquisition, by condemnation if necessary, of certain Burlington Northern Santa Fe Railway (BNSF) property interests needed for the Edmonds Station, the Lakeview Subdivision, and the Everett-to-Seattle Corridor for commuter rail service.
- Authorizes the transfer to BNSF a portion of certain surplus Sound Transit property at the Everett Station, in exchange for several property interests required by Sound Transit at that station.
- A list of real properties identified in this requested action is attached as Exhibit A.

BUDGET IMPACT SUMMARY

Project Description: Sounder Everett to Seattle and Tacoma to Lakewood segments

Current Status:

Projected Completion Date:

| Action Outside of Adopted Budget: | Y/N | Y | Requires Comment |
|--|------------|----------|-------------------------|
| This Line of Business | N | | |
| This Project | N | | |
| This Phase | N | | |
| Budget amendment required | N | | |
| Key Financial Indicators: | Y/N | Y | Requires Comment |
| Contingency funds required | N | | |
| Subarea impacts | N | | |
| Funding required from other parties other than what is already assumed in financial plan | N | | |

N = Action is assumed in current Board-adopted budget. Requires no budget action or adjustment to financial plan

BUDGET DISCUSSION

Properties identified in Exhibit A of this resolution span four Sounder Commuter Rail projects: Everett-to-Seattle Track and Facilities, Everett Station, Edmonds Station, and Tacoma-to-Lakewood Track and Facilities. The adopted 2003 budget for these projects is identified in the summary for Board action table.

The Proposed 2004 Budget identifies added budget for right of way acquisition for the Everett-to-Seattle Track and Facilities and the Tacoma-to-Lakewood Track and Facilities projects. It is anticipated that these budgetary amounts will be sufficient to complete all anticipated right of way acquisitions for these projects, including those identified in this action.

In accordance with Board-adopted budget policy, if any of the activities authorized under this resolution would result in a budget shortfall, prior to Board adoption of the 2004 budget, staff will return to the Board to obtain a formal budget authorization.

REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS

The proposed action is affordable within Sound Transit's current long-term financial plan and the subareas' financial capacity.

BUDGET TABLE

Summary for Board Action (Year of Expenditure \$000)

Action Item: ROW acquisition

Projects:

Everett - Seattle Track & Facilities

Everett Station

Edmonds Station

Tacoma - Lakewood Track & Facilities

| | Current Board Adopted Budget (A) | Committed To Date (B) | This Action (C) | Total Committed & Action (D) | Uncommitted (Shortfall) (E) |
|----------------------------|---|--------------------------|--------------------|---------------------------------------|-----------------------------------|
| 1 Maintenance Yard/Layover | 7,235 | 5,862 | | 5,862 | 1,373 |
| 2 Agency Administration | 17,248 | 12,211 | - | 12,211 | 5,037 |
| 3 Pre-Engineering | 9,113 | 7,911 | - | 7,911 | 1,202 |
| 4 Final Design | 11,741 | 2,349 | - | 2,349 | 9,392 |
| 5 ROW Acquisition | 18,596 | 7,915 | | 7,915 | 10,681 |
| 6 Construction | 195,446 | 6,602 | | | 195,446 |
| 7 Vehicles | 49,859 | 48,910 | - | 48,910 | 949 |
| 8 Contingency | 4,519 | - | - | - | 4,519 |
| 9 Total Current Budget | 313,757 | 91,760 | - | 85,158 | 228,599 |

Phase Budget Detail

| | | | | | |
|---|--------|-------|---|-------|--------|
| 10 Seattle - Everett Track & Facilities | 0 | 8 | | 8 | (8) |
| 11 Everett Station | 7,386 | 6,996 | | 6,996 | 390 |
| 12 Edmonds Station | 3,410 | 107 | | 107 | 3,303 |
| 13 Tacoma - Lakewood Track & Facilities | 7,800 | 804 | | 804 | 6,996 |
| 14 Total Phase | 18,596 | 7,915 | - | 7,915 | 10,681 |

| Contract Budget | Current Approved Contract Value (F) | Spent to Date** (G) | Proposed Action (H) | Proposed Total Contract Value (I) |
|------------------------|--|------------------------|---------------------------|---|
| 15 Contract Amount | N/A | N/A | N/A | N/A |
| 16 Contingency | N/A | N/A | N/A | N/A |
| 18 Total | N/A | N/A | N/A | N/A |
| 19 Percent Contingency | N/A | N/A | N/A | N/A |

Budget Shortfall

| Level | \$ (J) | Potential Revenues (K) | Funding Source (L) |
|-------|-----------|---------------------------|-----------------------|
| | | | |

Committed-to-date includes actuals and commitments through August 31, 2003 (HQ).

M/W/DBE – SMALL BUSINESS PARTICIPATION

Not applicable to this action.

HISTORY OF PROJECT

In order to build and operate a high-capacity-transit-system consisting of commuter rail service, light rail service, and a program of regional express bus service, HOV improvements, and park-and-ride facilities throughout the central Puget Sound region, it will be necessary for Sound Transit to acquire real property. Sound Transit's authorizing legislation grants the agency the power of eminent domain to accomplish such acquisitions.

Pursuant to Sound Move, Sound Transit proposes to design, build, and operate the Sounder Commuter Rail system along the I-5 corridor, extending service both between Seattle and Everett (the Everett-to-Seattle Segment), and between Tacoma and Camp Murray (the Lakewood-to-Tacoma Segment). Sound Transit further proposes to protect the possibility of extending the commuter rail further south by acquisition of the southerly remainder of the BNSF owned Lakeview Subdivision (the Protected Extension).

The Everett-to-Seattle Segment improvements include stations in the Cities of Everett, Edmonds, and eventually in the City of Mukilteo, as well as the construction of a new train storage area at the Everett Station and track and signal improvements along the existing BNSF rail corridor. The portions of the Lakewood-to-Tacoma Segment under consideration relate to the acquisition from BNSF of a portion of the Lakeview Subdivision. The Protected Extension refers to the acquisition from BNSF of the portion of the Lakeview Subdivision between Camp Murray and Nisqually.

This Staff Report addresses by project order the following proposed property acquisitions by condemnation if necessary:

1. Everett Station - Acquisition of property rights sufficient to site its platform, storage track and a portion of the pedestrian sky bridge, in exchange for Sound Transit property rights required by BNSF.
2. Edmonds Station - Acquisition of the property rights needed for parking and platforms.
3. Everett-Seattle Corridor - Acquisition of real property rights required to use the BNSF Everett-Seattle Corridor for commuter rail service.
4. Lakeview Subdivision - Acquisition of portions of the Lakeview Subdivision for operation of commuter rail service between Tacoma and Lakewood, as well as the ability to extend service as far south as Nisqually, the Protected Extension.

Everett Station

Based on the current level of design, certain property has been identified as necessary for the Everett-to-Seattle Segment. Authorization to acquire most of the required property was granted in the later referenced Resolutions No. R2000-03 and R2000-10. This action seeks authority to transfer to BNSF a portion of property Sound Transit has already acquired in exchange for a long-term lease of property needed for the platform and storage track area in the City of Everett. Sound Transit will transfer in fee to BNSF a 12-foot 5-inch strip of property, comprising an area of 11,223 square feet, subject to an airspace corridor easement of about 140 square feet. The

strip represents surplus property, not included in Sound Transit's design for the future parking lot to be constructed east of the tracks at Everett Station. The disposition will be made pursuant to Central Puget Sound Regional Transit Authority Real Property Disposition Policy, Procedures and Guidelines. In exchange, Sound Transit is to receive a long-term lease of 40 years for 73,270 square feet on the west side of the BNSF track, which will be used to site our track, platform, and layover yard, together with an airspace corridor easement comprising 1,880 square feet. The transfers of these various property interests are not expected to result in the relocation of any businesses. Nevertheless, if any relocation assistance is needed, it will be provided to affected owners and tenants (if any) in the order needed to meet the project construction schedule.

Edmonds Station

At the City of Edmonds, Sound Transit seeks authority to acquire in fee all the BNSF property to the east of our permanent platform for parking, as well as other interests necessary to site Sounder platforms at the station. While the Board approved the acquisition of the BNSF property interests required at the City of Edmonds in Resolution No. R2000-10, a property description was missing. This Resolution supplements that approval and does not reflect an increase in scope for that project.

Everett-to-Seattle Corridor

Sound Transit seeks authority to acquire four commuter rail easements over BNSF's Everett-to-Seattle mainline corridor sufficient to enable Sound Transit to run four round trips per weekday, with each easement for a train running in the commuter window's primary direction with no reverse commutes. Acquisition of these easements will leave BNSF with full authority and capacity to operate its freight lines and will not impact any of BNSF's common carrier rights or obligations under federal law.

Lakeview Subdivisions

Sound Transit seeks authority to acquire an approximately 100-foot wide railroad right of way along the Lakeview Subdivision, from Tacoma to Nisqually. The rail corridor is approximately 20.3 miles long and will remain subject to a freight easement to be retained by BNSF. The corridor serves almost the entire Lakewood-to-Tacoma Segment, from several hundred yards northeast of M Street in Tacoma to Camp Murray. It could also serve a seven-mile extension of that line from Camp Murray to Nisqually. Although the extension from Camp Murray to Nisqually was not covered in the Sounder Lakewood-Tacoma EIS, the Board may authorize the acquisition of the extension at this time without prior environmental review because the SEPA exempts the purchase or acquisition of any right to real property. (Environmental review will be required, however, before any work or service is undertaken on this portion of the segment). If federal funds are used for the acquisition of the extension, then the NEPA requirements must be satisfied prior to acquisition. Staff is working with the Federal Transit Administration to obtain the necessary approval.

Sound Transit has commissioned or expects to commission appraisals and environmental investigative studies of the properties. These various evaluations will be completed and fair market value established according to the Sound Transit's Real Property Policy, Procedures and Guidelines (Real Estate Policy) as adopted by the Sound Transit Board in Resolution No. R98-20 on April 23, 1998. Discussions with BNSF and tenants to acquire property and accomplish the relocation of occupants will continue in earnest in an effort to achieve negotiated agreements to purchase the properties and pay relocation benefits (if any) to the occupants.

Federal law, which gives jurisdiction over railroads operating as common carriers for interstate commerce, may in some cases preempt Sound Transit's authority to condemn property. The federal Surface Transportation Board (STB) exercises this federal jurisdiction over railroads. The STB has stated that its "primary jurisdiction over railroads preempts state laws that could operate to unreasonably burden interstate commerce" but that "state laws that do not impose such a burden are not preempted." Staff will not negotiate to purchase, nor condemn, any of BNSF's property rights that will impact BNSF's ability to continue carrying freight, its common carrier rights, or its obligations under federal law.

Staff will return to the Board, according to Resolution No. 78-1, if negotiated purchases, relocation agreements, condemnation litigation settlements, or administrative settlements (settlements in lieu of filing condemnation) exceed the authorized amounts. Staff will also return for Board approval of any negotiated agreement or settlement for the purchase of the above-referenced property interests in the Lakeview Subdivision and the Everett-to-Seattle Corridor.

Prior Board or Committee Actions and Relevant Board Policies

| Motion or Resolution Number | Summary of Action | Date of Action |
|-----------------------------|---|----------------|
| R2003-13 | Authorizing the Executive Director to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), condemnation litigation, or entering administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the construction of the Lakewood and South Tacoma Commuter Rail Stations, the new Lakewood Connector railroad line to be constructed from D Street to M Street in Tacoma, and the Layover Yard at Camp Murray, and to execute all documents necessary to convey certain of those interests to the City of Tacoma | 06/26/03 |
| R2000-10 | Authorized the Executive Director to acquire, dispose, or lease certain real property interests by negotiated purchase or by condemnation and to pay eligible relocation and reestablishment costs as needed for the construction and operation of commuter rail facilities for the Everett to Seattle Commuter Rail Project. | 06/08/00 |
| R2000-03 | Authorized Executive Director to acquire, dispose, or lease certain real property interests by negotiated purchase or by condemnation for the construction of a transportation center located at Smith Avenue and Pacific Avenue in Everett. | 03/03/00 |
| M2000-05 | Selected the project to be built and transmitted it to the FTA as the "Locally Preferred Alternative." | 01/13/00 |
| R99-35 | CPSRTA Real Property Disposition Policy, Procedures and Guidelines | 1/13/00 |
| R98-20 | Approval of the real property acquisition and relocation policy, procedures and guidelines. | 4/9/98 |
| (Res.) 78-1 | Establishing delegated authority and procurement procedures | 5/31/96 |

CONSEQUENCES OF DELAY

A delay beyond November 13, 2003, may delay construction of improvements at the Everett and Edmonds Stations such that the stations might not be ready for service on or before January 1, 2004.

REGIONAL PARTNERSHIP AND COOPERATION

Not applicable to this action.

PUBLIC INVOLVEMENT

Not applicable to this action.

LEGAL REVIEW

JW 9/15/03