

SOUND TRANSIT

RESOLUTION NO. R2000-01

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the Executive Director to acquire, dispose, or lease certain real property interests by negotiated purchase or by condemnation and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the construction and operation of the Pacific Avenue Overpass (Everett) Regional Express Project.

WHEREAS, a Regional Transit Authority ("RTA"), 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, Central Puget Sound area voters approved local funding for *Sound Move*, the ten-year plan for regional high-capacity transit in the Central Puget Sound Region; and

WHEREAS, Sound Move provided for the implementation of a series of Regional Express bus routes and transit improvements, and further provided for the construction of an overpass over the Burlington Northern Santa Fe Railway at Pacific Avenue in Everett, Washington, which will improve access to the proposed Everett Multimodal Station (Everett Station) and passenger, bus and rail operations in the vicinity of the Station; and

WHEREAS, in compliance with the State Environmental Policy Act, Chapter 43.21 RCW, and the implementing regulations set forth in WAC 197-11 and Sound Transit Resolution R7-1, Sound Transit prepared an environmental checklist and issued a Determination of Nonsignificance (DNS) for the Project on October 27, 1999; and

WHEREAS, Sound Transit and the City of Everett entered into a Memorandum of Agreement for Cooperation Regarding the Funding, Design, and Construction of the Pacific Avenue Overpass on July 23, 1998; and

WHEREAS, Motion M99-88 authorized execution of the First Supplemental Agreement to Memorandum of Agreement with the City of Everett Related to Roles and Responsibilities for construction of the Pacific Avenue Overpass Project; and

WHEREAS, Sound Transit has identified certain real properties as necessary for the construction of the Pacific Avenue Overpass in Everett, Washington, which properties are reasonably described in Exhibit A attached hereto; and

WHEREAS, in order to acquire the properties determined to be necessary for the construction of the Pacific Avenue Overpass, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain lands and rights in property for public purposes, and to pay eligible relocation and re-establishment benefits to affected parties; and

WHEREAS, Sound Transit has commissioned appraisals to determine the fair market value of the properties, and will continue to 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.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority as follows:

SECTION 1. The Executive Director 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 used for the construction of the Pacific Avenue Overpass in Everett, Washington. 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 for the Pacific Avenue Overpass exceeds Sound Transit's approved budget for right-of-way acquisition (plus contingency), then the Executive Director shall obtain approval from the

Executive Committee or the Board, per Resolution 78-1, before the acquisition of the property for the Pacific Avenue Overpass by purchase or by condemnation and the payment of eligible relocation and re-establishment costs.

SECTION 2. The Executive Director 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." Such settlements shall be made only upon the recommendation of legal counsel, for amounts deemed to be a reasonable estimation of fair market value, and shall not exceed established budgets. For all other settlements proposed, the Executive Director shall obtain prior approval of the Executive Committee or the Board, per Resolution 78-1.

SECTION 3. The Sound Transit Board of Directors deems the Pacific Avenue Overpass Project to be constructed in Everett, Washington, to be a public use for a public purpose. The Board deems it necessary and in the best interests of the citizens residing within Sound Transit's boundaries to acquire the property identified herein as being necessary for the construction and permanent location of the Pacific Avenue Overpass. The Board directs that all, any portion thereof, of the property identified herein be immediately acquired by voluntary agreement, or in lieu of agreement, that said properties be condemned, appropriated, taken and damaged for the construction and permanent location of the Pacific Avenue Overpass, 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 above-described properties be immediately acquired, condemned, appropriated, taken and damaged for the construction and permanent location of the Pacific Avenue Overpass in Everett, Washington.

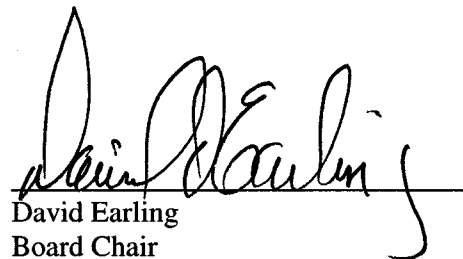
SECTION 5. In addition to the authority granted the Executive Director in Section 1 above, condemnation proceedings are hereby authorized to acquire all, or any portion thereof, of the properties

and property rights and/or rights in the properties described in the attached Exhibit "A" for the purpose of constructing, owning and permanent location of the Pacific Avenue Overpass in Everett, Washington.


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 Executive Director is authorized to execute all documents necessary to acquire and subsequently assign and convey to the City of Everett necessary property interests for the construction of the Pacific Avenue Overpass.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on the 13th day of January, 2000.


David Earling
Board Chair

ATTEST:


Marcia Walker
Board Administrator

**RESOLUTION NO. R2000-01
EXHIBIT A**

Project Area	Owner/Contact	Parcel #	Site Address
Everett – Pacific Overpass	Everett Eagle, L.L.C., a Washington Limited Liability Company	4390 691 000 0006	2505 Pacific Avenue, Everett, WA

LEGAL DESCRIPTION:

LOTS 1 TO 6 IN BLOCK 690 1/2 OF EVERETT DIVISION I, ACCORDING TO PLAT RECORDED IN VOLUME 5 OF PLATS AT PAGE(S) 11, IN SNOHOMISH COUNTY, WASHINGTON;

TOGETHER WITH BLOCKS 692 AND 692 1/2 AND A PORTION OF BLOCKS 691 AND 10A IN SAID PLAT;

TOGETHER WITH THAT PORTION OF SPRUCE STREET AS VACATED BY CITY OF EVERETT ORDINANCE NO. 3690 ABUTTING SAID BLOCKS 692 AND 692 1/2, AND THAT PORTION OF HILL AVENUE AS VACATED BY CITY OF EVERETT ORDINANCE NO. 428, ABUTTING SAID BLOCK 691 AND 692, AND A PORTION OF DAKOTA STREET AS VACATED BY CITY OF EVERETT ORDINANCE NO. 3421 ABUTTING SAID BLOCKS 691, 692, 692 1/2 AND 10A, AND VIRGINIA AVENUE AS VACATED BY CITY OF EVERETT ORDINANCE NO. 1352-87 ABUTTING SAID BLOCK 690 1/2 AND BLOCK 690 IN SAID PLAT;

TOGETHER WITH BLOCKS 690, 691, 692 AND 692 1/2 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 SPRUCE STREET AS VACATED BY CITY OF EVERETT ORDINANCE NO. 3690 ABUTTING SAID BLOCKS 692 AND 692 1/2 AND HILL AVENUE AS VACATED BY CITY OF EVERETT ORDINANCE NO. 428 ABUTTING SAID BLOCKS 691 AND 692 OF PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT;

TOGETHER WITH THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, AND THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, THE WHOLE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 690, PLAT OF EVERETT DIVISION 1;
THENCE SOUTH 2*00'51" WEST ALONG THE EAST LINE OF SAID BLOCK AND THE SOUTHERLY PROLONGATION THEREOF AND THE WEST MARGIN OF VACATED VIRGINIA AVENUE, AS ESTABLISHED BY MONUMENTATION IN VIRGINIA AVENUE BETWEEN HEWITT AVENUE

AND CALIFORNIA STREET, A TOTAL DISTANCE OF 210.00 FEET;
THENCE NORTH 87°59'35" WEST, PARALLEL WITH THE NORTH LINE OF SAID BLOCK 690 AND THE SOUTH MARGIN OF HEWITT AVENUE A DISTANCE OF 254.68 FEET TO INTERSECT A LINE PARALLEL WITH AND 50 FEET EASTERLY OF THE CENTERLINE OF THE BURLINGTON NORTHERN RAILROAD COMPANY'S (FORMERLY GREAT NORTHERN RAILWAY COMPANY'S) MAIN TRACK AS NOW CONSTRUCTED AND MAINTAINED;

THENCE SOUTH 15°36'47" EAST ALONG SAID PARALLEL LINE 599.04 FEET TO A POINT ON THE NORTH MARGIN OF PACIFIC AVENUE;

THENCE NORTH 89°19'37" EAST ALONG THE SOUTH LINE OF BLOCKS 690 AND 691 OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT, THE SOUTHERLY TERMINUS OF VACATED HILL AVENUE AND SAID NORTH MARGIN OF PACIFIC AVENUE A TOTAL DISTANCE OF 358.20 FEET TO AN ANGLE POINT THEREON;

THENCE NORTH 89°18'39" EAST ALONG THE SOUTHERLY TERMINUS OF VACATED HILL AVENUE, THE SOUTH LINE OF BLOCK 692 AND CONTINUING ALONG SAID NORTH MARGIN OF PACIFIC AVENUE A DISTANCE OF 55.66 FEET TO AN ANGLE POINT THEREON;

THENCE SOUTH 87°56'26" EAST, CONTINUING ALONG SAID SOUTH LINE OF BLOCK 692, THE SOUTHERLY TERMINUS OF SPRUCE STREET AS VACATED BY SAID ORDINANCE NO. 3690, SAID NORTH MARGIN OF PACIFIC AVENUE AND THE EASTERLY PROLONGATION THEREOF A TOTAL DISTANCE OF 151.56 FEET TO INTERSECT THE SOUTHERLY PROLONGATION OF THE WEST MARGIN OF FULTON STREET;

THENCE NORTH 1°45'39" EAST ALONG THE SOUTHERLY PROLONGATION OF THE EAST LINE OF BLOCK 692 1/2 OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT, SAID EAST LINE THE EAST LINE OF BLOCK 692 1/2 OF PLAT OF EVERETT DIVISION 1, THE NORTHERLY PROLONGATION THEREOF, AND SAID WEST MARGIN OF FULTON STREET A TOTAL DISTANCE OF 616.90 FEET TO INTERSECT THE CENTERLINE OF VACATED DAKOTA STREET;

THENCE NORTH 88°00'57" WEST ALONG SAID CENTERLINE 290.86 FEET TO INTERSECT THE SOUTHERLY PROLONGATION OF THE EAST LINE OF LOT 6 IN BLOCK 690 1/2 OF PLAT OF EVERETT DIVISION 1;

THENCE NORTH 2°00'16" EAST ALONG SAID SOUTHERLY PROLONGATION AND THE EAST LINE OF SAID LOT A TOTAL DISTANCE OF 145.00 FEET TO THE NORTHEAST CORNER OF SAID LOT AND THE SOUTH MARGIN OF HEWITT AVENUE;

THENCE NORTH 88°00'57" WEST ALONG THE NORTH LINE OF SAID BLOCK 690 1/2, THE NORTHERLY TERMINUS OF VACATED VIRGINIA STREET, SAID SOUTH MARGIN OF HEWITT AVENUE AND THE WESTERLY PROLONGATION THEREOF A TOTAL DISTANCE OF 188.09 FEET TO AN ANGLE POINT;

THENCE NORTH 87°59'35" WEST CONTINUING ALONG SAID NORTHERLY TERMINUS OF VACATED VIRGINIA AVENUE AND SAID WESTERLY PROLONGATION OF THE SOUTH MARGIN OF HEWITT AVENUE A DISTANCE OF 10.00 FEET TO RETURN TO THE NORTHEAST CORNER OF BLOCK 690 OF PLAT OF EVERETT DIVISION 1 AND THE POINT OF BEGINNING.

SOUND TRANSIT

RESOLUTION NO. R2000-01

Acquisition of certain Real Property interests, including temporary construction easements, by Purchase or Condemnation, and payment of eligible relocation and re-establishment benefits to affected parties for Pacific Avenue Overpass (Everett) Regional Express Project

BACKGROUND AND COMMENTS

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Executive Committee	1/7/2000	Discussion and Recommendation	Don Vogt	206-689-3396
Board	1/13/2000	Discussion/Possible Action	Jeri Cranney	206-689-4934

ACTION:

The Board of the Central Puget Sound Regional Transit Authority is requested to authorize and to delegate authority to the Executive Director to acquire, dispose, or lease all real property interests by voluntary agreement or by condemnation and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the construction and operation of the Regional Express Pacific Avenue Overpass (Everett) Project (the Project).

BACKGROUND:

The Pacific Avenue Overpass will be a five-lane, grade-separated crossing of the Burlington Northern-Santa Fe (BNSF) mainline tracks along Pacific Avenue in Everett, with touchdown points at McDougall Avenue on the west and Fulton Street on the east. Pacific Avenue is a major east-west gateway corridor between I-5 and downtown Everett, providing access to the Port of Everett and the United States Naval Station. Construction of the proposed grade-separated crossing will improve pedestrian and vehicular movement along Pacific Avenue; transit, automobile, and pedestrian access to the proposed Everett Multimodal Station (Everett Station); and passenger and freight rail operations in the vicinity of the Station.

In order to build and operate a high capacity transit system consisting of commuter rail service, light rail service, and a program of regional 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 provides the agency with the power of eminent domain to accomplish such acquisitions. The acquisition of real property will, in some cases, result in the temporary displacement of property owners, tenants or businesses.

The Pacific Avenue Overpass SEPA Environmental Checklist identified the real property necessary for the construction and operation of the overpass. The real properties (Properties) identified in this request (Exhibit "A") are consistent with the SEPA Environmental Checklist for the Project and with the property needs identified through the design process. Temporary construction easements will be acquired from all properties adjacent to Pacific Avenue on the north from Fulton Street west to McDougall Street. In addition, it will be necessary to acquire from all the Properties listed in Exhibit A, the right of access to Pacific Avenue from their properties, together with their rights to light, view, and air that will be affected

by the construction of the Overpass. (Please see Exhibit A to this Background and Comments document for a drawing that illustrates the location of the various Properties.) Consistent with Motion M99-88, as provided in the First Supplemental Agreement to Memorandum of Agreement with the City of Everett, adopted by the Board on December 3, 1999, Property interests acquired by Sound Transit and necessary for construction of the Project will be assigned and conveyed to the City of Everett, which will construct and own the Overpass Property.

Since issuance of the SEPA Environmental Checklist on October 27, 1999, Sound Transit has commissioned appraisals and environmental investigative studies of each of the Properties. Fair market value will be established according to the Sound Transit's Real Property Policy, Procedures and Guidelines ("Real Estate Policy") adopted by the Board on April 23, 1998. Discussions with the property owners, business owners, and tenants to acquire property and accomplish any needed temporary relocation are underway. These discussions will continue in earnest in an effort to achieve negotiated agreements to purchase the Properties and carry out any required relocations.

Pursuant to applicable state and Federal law, and consistent with Sound Transit's Real Estate Policy, representatives and staff from Sound Transit will meet individually with each property owner to explain the acquisition process and negotiate agreements. Property owners will be afforded reasonable time to consider Sound Transit's offer to purchase.

Sound Transit may not always be able to acquire necessary real property by negotiated agreement. In these cases, it will be important that Sound Transit be able to move forward expeditiously to file condemnation actions. Each anticipated condemnation action would be considered on a case-by-case basis. Real estate staff and legal counsel will work closely together and with the property owner and their representatives to assure alternatives for reaching mutual agreement have been considered. Settlements of condemnation litigation and administrative settlements in lieu of litigation would be authorized based on legal counsel recommendation for amounts reasonably approximating fair market value and within authorized budgets.

Consistent with Sound Transit's Real Estate Policy and applicable state and federal law, Sound Transit will also negotiate with each legal occupant of the Properties to establish eligibility and identify assistance for any required relocation and re-establishment expenses.

Staff will continue to inform the Executive Director and Board members regularly on the status of any condemnation case(s) prior to filing, completed voluntary acquisitions and relocation agreements reached. Staff would return to the Executive Committee or the Board, according to Resolution 78-1, if negotiated purchases, relocation agreements, condemnation litigation settlements, or administrative settlements (settlements in lieu of filing condemnation) exceed the authorized budget amounts.

RELEVANT BOARD POLICIES AND PREVIOUS ACTIONS TAKEN:

- Adoption of Sound Move, the Ten-Year Regional Transit System Plan (May 31, 1996).
- Adoption of the Implementation Guide (May 22, 1997).
- Resolution No. 78-1
- Approved Real Property Acquisition and Relocation Policies, Procedures and Guidelines on April 23, 1998.
- Adoption of Motion No. M98-53, Contract to Harding Lawson Associates to conduct Preliminary Engineering/Environmental Design work for the Pacific Avenue Overpass project (July 16, 1998).

- Adoption of Resolution No. R98-40 Memorandum of Agreement with the City of Everett for Cooperation Regarding the Funding, Design, and Construction of the Pacific Avenue Overpass (July 23, 1998).
- Adoption of Resolution No. R99-14, Reallocation of \$10M (1995 dollars) from East Everett Park-and-Ride project to Pacific Avenue Overpass (July 8, 1999).
- Adoption of Motion No. M99-49, Contract to Harding Lawson Associates for Final Design Work for the Pacific Avenue Overpass Project (August 5, 1999).
- 2000 Budget, adopted by Resolution 99-33, November 18, 1999
- Adoption of Motion M99-88, First Supplemental Agreement to Memorandum of Agreement with the City of Everett Related to Roles and Responsibilities for construction of the Pacific Avenue Overpass Project (December 3, 1999).

FUNDING:

Funding for acquisition and relocation is included in the estimated Right-of-Way acquisition cost for the Pacific Avenue Overpass, which is part of the overall Regional Express budget.

EXECUTIVE SUMMARY:

In accordance with Sound Transit's Real Estate Policy, the acquisition price of the Properties will be based upon an appraisal of fair market value, as determined by a formal appraisal process including a review of the appraisal. In some cases, Sound Transit's purchase offer may not be deemed acceptable to the Seller and efforts to acquire the property through negotiation may prove unsuccessful. In order to acquire the Properties and to meet the schedule and budget for the Project, Sound Transit may need to rely upon its power of eminent domain. Condemnation litigation can be a lengthy process and the ability to file the suit in a timely manner is crucial to our overall success.

In accordance with Sound Transit's Real Estate Policy, staff is committed to reaching agreements with all parties through negotiated settlement and avoiding prolonged litigation whenever possible. Negotiations with property owners to purchase property voluntarily would continue up until trial whenever possible.

COST:

The total acquisition price of the Properties will be based upon appraisals of fair market value. Pursuant to Sound Transit's Real Estate Policy cost for reimbursement of eligible relocation and re-establishment expenses will be determined based upon the displaced parties' relocation plan and the actual costs incurred.

Funding for property acquisition and relocation is included in the estimated Right-of-Way acquisition cost for the Pacific Avenue Overpass Project as part of the overall Regional Express Budget.

PACIFIC AVENUE OVERPASS RIGHT-OF-WAY BUDGET	
2000 Approved Budget	Right-of-Way \$923,000
2000 Approved Budget	Project Contingency \$1,592,000 (YOE)

LEGAL REVIEW:

The Background and Comments and Resolution have been reviewed and approved by the Legal Department.

ALTERNATIVES:

- Seek Board or Executive Committee approval for each real property acquisition, relocation agreement, condemnation action and/or settlement of litigation.

CONSEQUENCES OF DELAY:

The timely acquisition, by negotiation or condemnation, of real property together with the relocation of businesses, tenants and residents, is necessary for the successful completion of the Pacific Avenue Overpass Project. Delay in authorization will result in delay of acquisition and vacation of property, which could negatively affect the construction schedule of the Regional Express project.