

SOUND TRANSIT

RESOLUTION NO. R2000-10

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 commuter rail facilities for the Everett to Seattle Commuter Rail Project.

WHEREAS, a regional transit authority ("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 high capacity commuter rail service between Everett and Seattle, and further provided for the construction, operation and permanent location of rail facilities in strategic locations, including Edmonds and Mukilteo, Washington; and

WHEREAS, the environmental impacts of the Everett-Seattle commuter rail segment, including stations and track improvements, were evaluated in a Final Environmental Impact Statement (EIS), issued in December 1999 by the Federal Transit Administration ("FTA") in compliance with the National Environmental Policy Act (NEPA) and the State Environmental Policy Act (SEPA); and

WHEREAS, on January 13, 2000, by Motion No. M2000-05, the Sound Transit Board selected the project to be built and transmitted it as the "Locally Preferred Alternative" to the

FTA, and on February 4, 2000, the FTA issued a Record of Decision (ROD) concluding the NEPA process; and

WHEREAS, after issuance of the ROD, Sound Transit has identified certain real properties as necessary to the construction and operation of the Everett to Seattle Commuter Rail Project facilities 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, operation and permanent location of the Everett to Seattle Commuter Rail Project facilities, 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 will commission appraisals to determine the fair market value of the properties, will commission environmental investigations of the properties, and 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 are to 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 be used for the construction of the of the Sounder Commuter Rail components of the Everett to Seattle Commuter Rail Project facilities. Acquisitions will be made in accordance with Sound Transit's adopted Real Property Acquisition and Relocation Policies, Procedures and Guidelines; 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 right-of-way acquisition (plus contingency) for these segments, 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 these facilities 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 upon the recommendation of legal counsel, for amounts deemed to be reasonable, 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 Everett to Seattle Commuter Rail Project facilities 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, operation and

permanent location of said facilities. The Board authorizes that all, or 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, operation of the Everett to Seattle Commuter Rail Project facilities, 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, operation and permanent location of the Everett to Seattle Commuter Rail Project facilities;

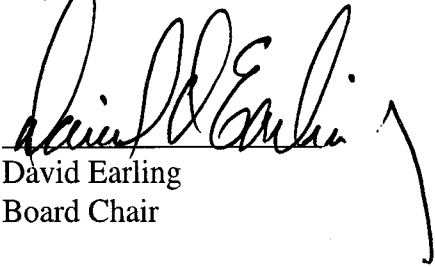
SECTION 5. Sound Transit has complied with the State Environmental Policy Act and the guidelines of WAC Chapter 197-11 with respect to this resolution authorizing condemnation proceedings.

SECTION 6. 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 operating the Everett to Seattle Commuter Rail Project facilities.

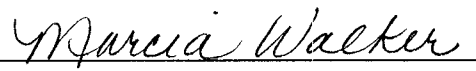
SECTION 7. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

ADOPTED by the Board of the Central Puget Sound Regional Transit

Authority at a regular meeting thereof held on the 8th day of June, 2000.


David Earling
Board Chair

ATTEST:


Marcia Walker
Board Administrator



First American Title Insurance Company

Segment	Owner/Contact	Parcel#	Site Address
Edmonds	Chevron USA Inc	352703301100	20500 Richmond Beach Dr Edmonds, WA 98020

LEGAL DESCRIPTION:

PARCEL A:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 27 NORTH, RANGE 3 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MEANDER CORNER ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER;

THENCE NORTHERLY ALONG THE MEANDER LINE TO THE NORTH LINE OF SAID SOUTHWEST QUARTER;

THENCE EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER TO THE NORTHEAST CORNER THEREOF;

THENCE SOUTH ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER TO A POINT THAT IS 990 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER;

THENCE NORTH 89°00'00" WEST A DISTANCE OF 520.75 FEET;

THENCE SOUTH 0°21'27" WEST 453.27 FEET;

THENCE WEST 580 FEET;

THENCE SOUTH 259.23 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE HEREINAFTER DESCRIBED PARCEL B;

THENCE WEST ALONG THE NORTH LINE OF SAID HEREINAFTER DESCRIBED PARCEL B A DISTANCE OF 130 FEET, MORE OR LESS, TO THE EAST LINE OF HEBERLEIN ROAD;

THENCE SOUTHERLY ALONG THE EAST LINE OF SAID ROAD TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER;

THENCE WEST ALONG THE SOUTH LINE TO THE POINT OF BEGINNING;

EXCEPT THEREFROM THAT PORTION THEREOF LYING WITHIN THE NON-VACATED PORTION OF HEBERLEIN ROAD;

ALSO EXCEPT THOSE PORTIONS THEREOF LYING WITHIN ANY RAILROAD RIGHT OF WAY;

AND ALSO EXCEPT THOSE PORTIONS THEREOF CONVEYED TO SNOHOMISH COUNTY BY DEED RECORDED UNDER RECORDING NO. 311175;

TOGETHER WITH SECOND CLASS TIDELANDS, AS CONVEYED BY THE STATE OF WASHINGTON, ADJOINING AND ABUTTING THEREON.

PARCEL B:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 27 NORTH, RANGE 3 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SUBDIVISION;

THENCE NORTH 0°21'27" EAST ALONG THE EAST LINE THEREOF A DISTANCE OF 247.5 FEET;

THENCE NORTH 89°00'00" WEST PARALLEL WITH THE SOUTH LINE OF SAID SUBDIVISION A DISTANCE OF 1100.27 FEET;

THENCE NORTH 00°21'27" EAST A DISTANCE OF 10 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 0°02'39" EAST A DISTANCE OF 20 FEET;

THENCE WEST 130 FEET, MORE OR LESS, TO THE EAST LINE OF THE FORMER HEBERLEIN COUNTY ROAD;

THENCE SOUTHERLY ALONG THE EAST MARGIN OF SAID ROAD TO A POINT THAT IS NORTH 89°30'46" EAST OF THE TRUE POINT OF BEGINNING;

THENCE SOUTH 89°30'46" WEST A DISTANCE OF 130 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

Segment	Owner/Contact	Parcel#	Site Address
Edmonds	Burlington Northern	232703105700	211 Railroad Avenue Edmonds, WA 98020

LEGAL DESCRIPTION:

THOSE CERTAIN EASEMENT RIGHTS OVER AND ACROSS A STRIP OF LAND VARYING IN WIDTH FROM APPROXIMATELY 300 FEET TO 100 FEET IN WIDTH, AS MEASURED AT RIGHT ANGLES TO THE MAIN TRACK CENTERLINE OF THE RAILROAD RIGHT OF WAY, LOCATED IN GOVERNMENT LOTS 2 AND 3 OF SECTION 23, TOWNSHIP 27 NORTH, RANGE 3 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, AND BEING NORTHERLY OF THE NORTH LINE OF DAYTON STREET EXTENDED, AND BEING SOUTHERLY OF THE SOUTH LINE OF MAIN STREET

EXTENDED (FORMERLY KNOWN AS GEORGE STREET), AND BEING THE RIGHT OF WAY OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, BEING THE SUCCESSOR IN INTEREST TO THE GREAT NORTHERN RAILWAY COMPANY AND THE SEATTLE AND MONTANA RAILROAD 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, IN VOLUME 17 OF DEEDS AT PAGE 130 UNDER RECORDING NO. 9611, IN VOLUME 17 OF DEEDS AT PAGE 132 UNDER RECORDING NO. 9612, IN VOLUME 24 OF DEEDS AT PAGE 108 UNDER RECORDING NO. 15764, AND IN VOLUME 38 OF DEEDS AT PAGE 412 UNDER RECORDING NO. 36038;

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 AND BY DEED RECORDED UNDER RECORDING NO. 7901100036, IN SNOHOMISH COUNTY, WASHINGTON.



First American Title Insurance Company

Segment	Owner/Contact	Parcel#	ORDER NUMBER
CR-NOCorr/Mukilteo		3329-044-005-00	510091

LEGAL DESCRIPTION:

ALL THAT PORTION OF GOVERNMENT LOT 1, SECTION 33, TOWNSHIP 29 NORTH, RANGE 4 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, LYING NORTHERLY OF THE RIGHT OF WAY OF THE GREAT NORTHERN RAILWAY, AND BETWEEN THE WESTERLY LINE OF TRACT 30 OF HAGEN WATERFRONT TRACTS, AND A LINE PARALLEL AND DISTANT 50 FEET WESTERLY FROM THE SAID TRACT 30;

TOGETHER WITH SECOND CLASS TIDELANDS, AS CONVEYED BY THE STATE OF WASHINGTON, ADJOINING AND ABUTTING THEREON.

Segment	Owner/Contact	Parcel#	ORDER NUMBER
CR-NOCorr/Mukilteo	@	4614-000-001-00	510092

LEGAL DESCRIPTION:

TRACTS 1 TO 30, INCLUSIVE, OF HAGEN WATERFRONT TRACTS, ACCORDING TO PLAT RECORDED IN VOLUME 11 OF PLATS AT PAGE(S) 76, IN SNOHOMISH COUNTY, WASHINGTON.

Segment	Owner/Contact	Parcel#	ORDER NUMBER
CR-NOCorr/Mukilteo	UNITED STATES OF AMERICA	042804-1-029-00	506984

LEGAL DESCRIPTION:

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 28 NORTH, RANGE 4 EAST, w.M., IN SNOHOMISH COUNTY, WASHINGTON, LYING NORTHERLY OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD 100 FOOT WIDE RIGHT OF WAY, BEING FORMERLY THE GREAT NORTHERN RAILROAD RIGHT OF WAY, AND LYING EASTEUIY OF PARK AVENUE AS SHOWN ON THE PLAT OF THOMAS ADDITION TO TOWN OF MUIULTEO, ACCORDING TO PLAT RECORDED IN VOLUME 1 OF PLATS AT PAGE(S) 89, IN SNOHOMISH COUNTY, WASHINGTON; EXCEPT THAT PORTION THEREOF LYING NORTHERLY OF THE SOUTHERLY LINE OF FRONT STREET AND SAID STREET PRODUCED:

(SAID PREMISES AFFECT ALL AND/OR PORTIONS OF THE FOLLOWING:

FIRST STREET; LOVELAND AVENUE; BLOCK 14 OF THOMAS ADDITION TO TOWN OF MUKILTEO, ACCORDING TO PLAT RECORDED IN VOLUME 1 OF PLATS AT PAGE(S) 89; BLOCK 1 OF W.R. HASSARD'S ADDITION TO TOWN OF MUIULTEO, ACCORDING TO PLAT RECORDED IN VOLUME 2 OF

PLATS AT PAGE(S) 8; BLOCK 1 OF LEVY'S ADDITION TO THE TOWN OF MUKILTEO, ACCORDING TO PLAT RECORDED IN VOLUME 2 OF PLATS AT PAGE(S) 58; AND BLOCK 1 OF W.R. HASSARDS SECOND ADDITION TO TOWN OF MUIULTEO, ACCORDING TO PLAT RECORDED IN VOLUME 2 OF PLATS AT PAGE(S) 29, IN SNOHOMISH COUNTY, WASHINGTON.)

Segment	Owner/Contact	Parcel#	ORDER NUMBER
CR-NOCorr/Edmonds	@	4548-003-001-00	510090

LEGAL DESCRIPTION:

LOTS 1 THROUGH 6 IN BLOCK 3 OF GEPHART'S FIRST ADDITION TO EDMONDS, ACCORDING TO PLAT RECORDED IN VOLUME 5 OF PLATS AT PAGE(S) 43, IN SNOHOMISH COUNTY, WASHINGTON; EXCEPT THE NORTHWESTERLY 20 FEET THEREOF.

SOUND TRANSIT

RESOLUTION NO. R2000-10

Acquisition of certain Real Property interests, by Purchase or Condemnation, and payment of eligible relocation and re-establishment benefits to affected parties for the Everett to Seattle Commuter Rail Project

STAFF REPORT

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Executive Committee	6/2/00	Discussion/Possible Action to Recommend Board Approval	Kathi Thompson Senior Real Estate Representative	206-689-4916 206-689-4934
Board Meeting	6/8/00	Action	Jeri Cranney Real Estate Manager	

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 real property interests by voluntary agreement or by condemnation and to pay eligible relocation and re-establishment benefits to affected parties as necessary for Sounder Commuter Rail components of the Everett to Seattle Commuter Rail Project. The property acquisition will be within the project budget.

BACKGROUND:

Sound Transit will design, build, and operate the Sounder Commuter Rail system along a 35-mile corridor between Everett and Seattle, Washington. The Everett-to-Seattle Commuter Rail Project will generally be located in existing Burlington Northern and Santa Fe (BNSF) Railway Company right-of-way. The project intends to provide peak-hour commuter rail service between key activity centers along the corridor, including two of the region's largest population and employment centers – Seattle and Everett. The Sounder Commuter Rail line will connect with the proposed Tacoma-to-Seattle Sounder commuter rail service and the proposed Link central light rail transit line between North Seattle and SeaTac, at King Street Station in Downtown Seattle. The project is a component of Sound Move, Sound Transit's 10-year plan for regional high-capacity transportation.

In order to build and operate the Everett-to-Seattle Commuter Rail Project facilities, 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 displacement of property owners, tenants or businesses.

The National Environmental Policy Act (NEPA) requires the Federal Transit Administration (FTA) to undertake environmental review for the Everett-to-Seattle Sounder Commuter Rail Project. As the public agency proposing the project, Sound Transit was required to comply with the State Environmental Policy Act (SEPA). The FTA, as the federal lead agency under NEPA, and Sound Transit, as the state lead agency under SEPA, developed a combined environmental impact statement (EIS) for the project. The EIS evaluated the environmental impacts of the project, including station location alternatives and corridor improvement design variations in sensitive (shoreline and wetland) areas. It addressed

cumulative and additive impacts, as well as direct, indirect, and construction-related impacts. The U.S. Army Corps of Engineers was a cooperating federal agency for this EIS.

The Everett-Seattle Environmental Impact Statement identified the real property areas necessary for the construction and operation of the Everett-to-Seattle Commuter Rail Project facilities. The real properties (“Properties”) identified in this request (Exhibit “A”) are consistent with the Everett-Seattle Environmental Impact Statement for said facility and with the property needs identified through the design process. Please see maps attached that illustrate the location of the various 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 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 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 will return to the Executive Committee or the Board, as stipulated in 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.
- Resolution R99-33, Adoption of Sound Transit 2000 Budget (November 18, 1999).

- Adoption of M2000-05, Selection of Project to be built and “Locally Preferred Alternative” (January 13, 2000.)
- Federal Transit Authority issued Record of Decision concluding NEPA process (February 4, 2000).

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 maintaining overall schedule.

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:

Funding for property acquisition and relocation is included in the right-of-way budgets in the Approved 2000 Budget for the Everett-t- Seattle Commuter Rail Project facilities. This action itself is not committing any funds other than what has already been authorized; therefore this action does not endanger any other project elements that are to be funded out of the right-of-way phase. The specific budgets available for this action are the Right of Way budgets of Projects #205 (Mukilteo Station, p.85) and #207 (Edmonds Station, p.86). The table on the next page presents the available budget.

SOUNDER COMMUTER RAIL EVERETT TO SEATTLE COMMUTER RAIL PROJECT:
RELATED BUDGETS, EXPENDITURES, AND COMMITMENTS

Project and Phase/Project #	Approved 2000 Ten- Year Right- of-Way Budget ¹	Life-to-Date Expenditures ² & Outstanding Commitments	Other Pending Board Action	Budget Available (A – B – C)
	A	B	C	C
Mukilteo Station /#205 Right-of Way Phase	\$ 3,218,000	\$ 2,557	\$ 0	\$ 3,215,443
Edmonds Station /#207 Right-of Way Phase	\$ 3,218,000	\$ 2,558	\$ 0	\$ 3,215,442
Total	\$ 6,436,000	\$ 5,115	\$ 0	\$ 6,430,885

¹Sound Transit 2000 Budget was approved by the Board on 11/18/99 with Resolution R99-33.

²Expenditures are as of December 31, 1999

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 Everett-to-Seattle Commuter Rail Project facilities. Delay in authorization may result in delay of acquisition and vacation of property, which could negatively affect the construction schedule.

LEGAL REVIEW:

MBL 5/18/2000