

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2006-23

**Property Acquisition for the Sounder Commuter Rail –
M Street to Lakewood Track and Signal Project**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	12/7/06	Discussion/Possible Action to Recommend Board Approval	Ahmad Fazel, Director Link Light Rail	(206) 398-5389
Board	12/14/06	Action	Roger Hansen, Real Estate Division Manager Don Vogt, Sr. Real Estate Representative	(206) 689-3366 (206) 689-3396

Contract/Agreement Type:	✓	Requested Action:	✓
Competitive Procurement		Execute New Contract/Agreement	
Sole Source		Amend Existing Contract/Agreement	
Agreement with Other Jurisdiction(s)		Budget Amendment	
Real Estate	✓	Property Acquisition	✓

PROJECT NAME

Sounder Commuter Rail – M Street to Lakewood Track and Signal Project

PROPOSED ACTION

Authorizes the chief executive officer to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), condemnation litigation, or by entering into administrative settlements, and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the Sounder Commuter Rail - M Street to Lakewood Track and Signal Project.

KEY FEATURES of PROPOSED ACTION

- This action would authorize the chief executive officer to acquire real property interests in two properties needed for the M Street to Lakewood Track and Signal Project. The properties identified in this action are included in Exhibit A of Resolution No. R2006-23 and are located in the City of Tacoma, Washington.

BUDGET IMPACT SUMMARY

There is no action outside of the Board-adopted budget; there are no contingency funds required, no subarea impacts, or funding required from other parties other than what is already assumed in the financial plan.

BUDGET and FINANCIAL PLAN DISCUSSION

The adopted budget for the Tacoma - Lakewood Track and Signal project is \$148,125,922. Within that budget, \$28,236,861 has been budgeted in the right of way phase of which \$5,582,844 remains uncommitted.

The proposed action is consistent with those amounts, and is affordable within the Agency's current long-term financial plan and subarea financial capacity. The action will have no new revenue impact on Sound Transit. The acquisition costs of specific parcels are appropriate for discussion with Board members in executive session.

BUDGET TABLE

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

Project: 35130 - Tacoma-Lakewood Track & Signal

	2006 Board Adopted Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	\$8,908	\$8,908	\$0	\$8,908	\$0
2 Preliminary Engineering	\$3,063	\$2,980	\$0	\$2,980	\$84
3 Final Design	\$7,018	\$4,908	\$0	\$4,908	\$2,110
4 Right of Way	\$28,237	\$22,654	\$0	\$22,654	\$5,583
5 Construction	\$73,743	\$4,924	\$0	\$4,924	\$68,818
6 Vehicles	\$19,783	\$17,767	\$0	\$17,767	\$2,016
7 Contingency	\$7,374	\$0	\$0	\$0	\$7,374
8 Total Current Budget	\$148,126	\$62,141	\$0	\$62,141	\$85,985

Phase Budget Detail

9 Right of Way	\$28,237	\$22,654	\$0	\$22,654	\$5,583
10 Misc.	\$0	\$0	\$0	\$0	\$0
11 Total Phase	\$28,237	\$22,654	\$0	\$22,654	\$5,583

Notes:

Project budget is located on page 97 of the Adopted 2006 Budget book.

Committed to-date amount includes actual outlays and commitments through November 7, 2006.

M/W/DBE – SMALL BUSINESS PARTICIPATION

Not applicable for this action.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

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 central Puget Sound, it is 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. The temporary construction easements referred to in this staff report are within the range of impacts evaluated in the Final EIS.

The M Street to Lakewood Track and Signal Project consists of improvements to the Sound Transit-owned line, including replacement of track ballast, ties and rail, various grade crossing improvements, layover track, and various signal improvements as needed.

As part of the track and signal improvement work, it has been determined that interest in two properties will need to be acquired to support project construction. Temporary Construction Easements will be needed from two parcels, Pierce County tax parcels #0320073046 and #5160000630, owned by tenants in common Christine Edmonds, et al., and Raymond H. and Jennifer B. Kepner, respectively. They are located at 3133 South Cedar Street and 4854 South Adams Street, in the City of Tacoma.

Prior Board/Committee Actions on this Project

Motion/Resolution Number and Date	Summary of Action
R2005-22 9/8/05	Authorized the Chief Executive Officer to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), by condemnation litigation, or by administrative settlement; and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the Lakewood to Tacoma Track and Facilities Project and the South Tacoma Station Project.
M2005-61 6/23/05	Executing a contract amendment with HDR Engineering Inc., to include final design services for track and signal work for the Lakewood to Tacoma commuter rail segment, in the amount of \$3,929,927 with a 10% contingency of \$392,997, for a new total authorized contract amount not to exceed \$5,429,916 and to extend the term of the contract to November 22, 2009.
M2003-135 12/13/03	Executed the Joint Use Agreement with the BNSF Railway for the Tacoma to Nisqually railroad right-of-way and properties.
R2003-13 6/26/03	Authorized 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.
R2002-21 12/12/02	Selecting the corridor improvements, station facilities, train storage facility, and park-and-ride improvements to be built for the Lakewood-to-Tacoma Commuter Rail and SR-512 Park-and-Ride Expansion project
M2001-44 5/3/01	Executed a contract with Berger-Abam for services related to Lakewood to Tacoma Commuter Rail Final Environmental Impact Statement.
M2001-13 2/8/01	Selected the preferred alternative for the Lakewood to Tacoma Commuter Rail Project.
M2000-36 4/27/00	Executed a contract with BNSF for preliminary engineering of track and signal improvements for the Lakewood to Tacoma Commuter Rail project on right-of-way owned by BNSF.

Motion/Resolution Number and Date	Summary of Action
M2000-13 2/17/00	Executed a change order to contract RTA CR 98-99 with David Evans and Associates, Inc. for Phase II Preliminary Engineering work for the connection via South Tacoma Way to the BNSF Lakeview Subdivision for the eventual extension of Sounder service to Lakewood.
M98-14 4/6/98	Executed a contract with Berger-Abam for services on the environmental review process for the Lakewood to Tacoma Commuter Rail project.

CONSEQUENCES of DELAY

A delay in Board action beyond December 14, 2006 may result in a delay in the property acquisition schedule.

PUBLIC INVOLVEMENT

Not applicable to this action.

ENVIRONMENTAL COMPLIANCE

SSK 11/22/06

LEGAL REVIEW

JW 12/1/06

SOUND TRANSIT

RESOLUTION NO. R2006-23

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), by condemnation litigation, or by entering into administrative settlements; and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the Sounder Commuter Rail – M Street to Lakewood Track and Signal Project.

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 high capacity transit in the Central Puget Sound Region; and

WHEREAS, Sound Transit is authorized to acquire and dispose of property for the construction of high capacity transportation facilities under RCW 81.112.080; and

WHEREAS, in order to acquire the properties determined to be necessary for the construction, operation, and maintenance of the Sounder Commuter Rail – M Street to Lakewood Track and Signal Project (the "Project"), 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, in compliance with the National Environmental Policy Act (NEPA), the Federal Transit Administration (FTA) and Sound Transit issued a Final Environmental Impact Statement (EIS) in May 2002 which complied with both NEPA and SEPA requirements. A Record of Decision (ROD) was approved by the FTA in December 2002. The temporary

construction easements referred to in this staff report are within the range of impacts evaluated in the Final EIS.

WHEREAS, Sound Transit has identified certain real properties as necessary for the construction and permanent location of the Project and they are reasonably described in Exhibit A of this resolution; and

WHEREAS, Sound Transit has commissioned or will commission 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 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. In accordance with Sound Transit's adopted Real Property Acquisition and Relocation Policies, Procedures and Guidelines, the acquisition price of the property shall not exceed the fair market value to be determined through the appraisal process or as provided in Section 2 herein; provided that in the event the total of the acquisition, relocation, and re-establishment costs of the property for the Project exceeds Sound Transit's approved budget for right-of-way acquisition (plus contingency), then the chief executive officer shall obtain

approval from the appropriate committee or the Board, per Resolution No. 78-1, before the acquisition of the property for the Project by purchase or by condemnation and the payment of eligible relocation and re-establishment costs.

SECTION 2. The chief executive officer or her designee is hereby authorized to settle condemnation litigation or enter into 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 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 of Directors, per Resolution No. 78-1.

SECTION 3. The Sound Transit Board deems the Project 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 in Exhibit A as being necessary for the construction, operation, and permanent location of the Project (said property is described in Exhibit A and incorporated herein by reference), parties be paid relocation and re-establishment costs associated with displacements from the property.

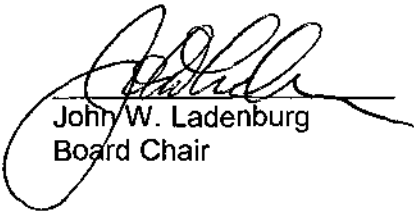
SECTION 4. The Sound Transit Board of Directors finds that the public health, safety, necessity, convenience, and welfare demand and require that the property described in Exhibit A be immediately acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location of the Project.

SECTION 5. In addition to the authority granted the chief executive officer in Section 1, condemnation proceedings are hereby authorized to acquire all, or any portion thereof, of the property and property rights and/or rights in those properties described in Exhibit A, for the purpose of constructing, owning, and operating a permanent location of the Project. The chief

executive officer is also authorized to make minor amendments to the legal description of the property 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.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on December 14, 2006.



John W. Ladenburg
Board Chair

ATTEST:



Marcia Walker
Board Administrator

Resolution No. R2006-23

EXHIBIT A

Tax Parcel No. 0320073046 (Christine Edmonds, et al.)

LEGAL DESCRIPTION:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF THE RIGHT OF WAY OF THE NORTHERN PACIFIC RAILWAY COMPANY WITH THE EXTENSION NORTH OF THE WEST LINE OF PINE STREET IN JUNETTS ADDITION TO TACOMA, W.T., AS PER MAP THEREOF RECORDED IN VOLUME 2 OF PLATS, AT PAGE 66, RECORDS OF PIERCE COUNTY, WASHINGTON, BEING A LINE PARALLEL WITH AND 40 FEET WEST OF THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 20 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN; THENCE ON SAID LINE OF PINE STREET, NORTH 634.41 FEET TO THE SOUTHERLY LINE OF THE RIGHT OF WAY OF THE OREGON AND WASHINGTON RAILWAY; THENCE ON SAID OREGON AND WASHINGTON RAILWAY LINE, SOUTH 57°08' WEST 728.30 FEET TO THE EAST LINE OF SOUTH CEDAR STREET AS LAID OUT BY THE CITY OF TACOMA PRIOR TO ITS VACATION BY THE CITY OF TACOMA UNDER ORDINANCE NO. 12145, RECORDED JANUARY 7, 1942 UNDER RECORDING NO. 1292821; THENCE ON SAID LINE OF SOUTH CEDAR STREET, SOUTH 731.07 FEET TO SAID NORTHERLY LINE OF NORTHERN PACIFIC RAILWAY COMPANY'S RIGHT OF WAY'; THENCE ON SAID RIGHT OF WAY LINE NORTHEASTERLY TO THE PLACE OF BEGINNING; TOGETHER WITH THE EAST 45 FEET OF CEDAR STREET VACATED BY THE CITY OF TACOMA UNDER ORDINANCE NO. 12145, RECORDED JANUARY 7, 1942 UNDER RECORDING NO. 1292821; EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF TACOMA, A MUNICIPAL CORPORATION BY DEED RECORDED JANUARY 10, 1968 UNDER RECORDING NO. 222205, RECORDS OF PIERCE COUNTY, WASHINGTON.

Tax Parcel No. 5160000630 (Raymond and Jennifer Kepner)

LEGAL DESCRIPTION:

LOT 26, BLOCK 12, OF LATSHAWS, MANNING AND HAYS ADDITION TO TACOMA, WASHINGTON, ACCORDING TO PLAT RECORDED IN VOLUME 4 OF PLATS, PAGE 28, RECORDS OF PIERCE COUNTY, WASHINGTON.