

MOTION NOS. M2010-37, 38, 39
Railroad Right-of Way Agreement Extensions

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:	PHONE:
Operations & Administration Committee	3/18/10	Recommendation to Board	Ahmad Fazel, Executive Director	(206) 398-5389
Board	3/25/10	Final Action	Nancy Bennett, Property Manager	(206) 398-5401

PROPOSED ACTION

- Ratifies the agreement with Harmon Manufacturing from December 19, 2008 through March 25, 2010.
- Ratifies the agreement with Asian Market from December 19, 2008 through March 25, 2010.
- Delegate authority to the chief executive officer to extend lease agreements beyond five years on properties located within the railroad right-of-way from Tacoma to Lakewood that include a 90-day notice (or less) termination clause.

KEY FEATURES of PROPOSED ACTION

- Per Resolution No. R78-1, Board authorization is needed to extend a lease agreement beyond five years (including options). Approval of this motion would authorize the CEO to extend existing lease agreements without Board action.
- Approval of this motion would also authorize the CEO to enter into future lease agreements that exceed five years on properties located within the railroad right-of-way from Tacoma to Lakewood that include a 90-day notice (or less) termination clause.
- These agreements are located on right-of-way that has no planned project or business need. The benefits of these agreements include creating revenue, reducing maintenance costs and creating good will with our neighbors.

PROJECT DESCRIPTION

The Sounder Commuter Rail, Tacoma to Lakewood Project required 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.

FISCAL INFORMATION

Revenue of \$219,716 since acquisition.

SUSTAINABILITY AND LIFECYCLE ANALYSIS

Not applicable for this action.

SMALL BUSINESS PARTICIPATION

Not applicable for this action.

EQUAL EMPLOYMENT WORKFORCE PROFILE

Not applicable for this action.

BACKGROUND for PROPOSED ACTION

In 2003, the Board approved Resolution No. R2003-17 to acquire property from Burlington Northern Santa Fe Railroad for Sounder commuter rail, Tacoma to Lakewood project. Sound Transit purchased the railroad right-of-way station sites in December 2003, railroad right-of-way north of Bridgeport Way in September 2004, railroad right-of-way south of Bridgeport Way in October 2005, and the 1.5 mile segment for the D-M project in December 2009. These agreements generate revenue for the agency on land that would otherwise cost the agency to maintain. Sound Transit assumed approximately 20 lease agreements, approximately 300 permits, and approximately 100 encroachments (use of Sound Transit land without an agreement) with the acquisition of the right-of-way. Many of these agreements or encroachments have existed on the right-of-way for up to 75 years.

Both of the leases requiring ratification were assumed from BNSF in December 2003. In December 2004, Sound Transit entered into a new agreement with Harmon Management Company, and in January 2005 Sound Transit entered into a new agreement with Asian Market. The term of the agreements was backdated to the BNSF ROW acquisition date of December 18, 2003. These leases were mistakenly scheduled for board approval five years after their signature date instead of five years after the backdated date of Sound Transit's acquisition of the right-of-way (i.e., December 18, 2008).

PRIOR BOARD/COMMITTEE ACTIONS

Resolution No. R2003-17 – Authorized 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.

Resolution No. R78-1 – Established revised delegated authority and procedures for the procurement of materials, work and services and for the acquisition and use of property and property rights for the Authority and superseding Resolution No. 78.

TIME CONSTRAINTS

None.

LEGAL REVIEW

JW 3/12/10

MOTION NO. M2010-39

A motion of the Board of the Central Puget Sound Regional Transit Authority delegating authority to the chief executive officer to enter into and to extend lease agreements for terms in excess of five years on properties located within the railroad right-of-way from Tacoma to Lakewood that include a 90-day notice (or less) termination clause, and are located on property for which Sound Transit has no anticipated future needs.

BACKGROUND:

In 2003, the Board approved Resolution No. R2003-17 to acquire property from Burlington Northern Santa Fe Railroad for Sounder commuter rail, Tacoma to Lakewood project. Sound Transit purchased the railroad right-of-way station sites in December 2003, railroad right-of-way north of Bridgeport Way in September 2004, railroad right-of-way south of Bridgeport Way in October 2005, and the 1.5 mile segment for the D-M project in December 2009. These agreements generate revenue for the agency on land that would otherwise cost the agency to maintain. Sound Transit assumed approximately 20 lease agreements, approximately 300 permits, and approximately 100 encroachments (use of Sound Transit land without an agreement) with the acquisition of the right-of-way. Many of these agreements or encroachments have existed on the right-of-way for up to 75 years.

Per Resolution No. R78-1, Board authorization is needed to enter into or to extend a lease agreement beyond a term of five years (including options). Approval of this motion would authorize the CEO to extend existing lease agreements without Board action.

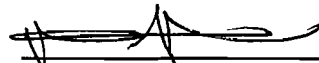
Approval of this motion would also authorize the CEO to enter into future lease agreements that exceed five years on properties located within the railroad right-of-way from Tacoma to Lakewood that include a 90-day notice (or less) termination clause.

These agreements are located on right-of-way that has no planned project or business need. The benefits of these agreements include creating revenue, reducing maintenance costs and creating good will with our neighbors.

MOTION:

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that authority is delegated to the chief executive officer to enter into and to extend lease agreements for terms in excess of five years on properties located within the railroad right-of-way from Tacoma to Lakewood, provided such agreements include a 90-day notice (or less) termination clause, and are located on property for which Sound Transit has no anticipated future needs.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on March 25, 2010.



Fred Butler
Board Vice Chair

ATTEST:



Marcia Walker
Board Administrator