

RESOLUTION NO. R2015-12

To Acquire Real Property Interests Required for the Point Defiance Bypass Project

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:
Capital Committee	06/11/15	Recommendation to the Board	Ahmad Fazel, DECM Executive Director Mark Johnson, Project Director Kevin Workman, Director of Real Property
Board	06/25/15	Final Action	

PROPOSED ACTION

Authorizes the chief executive officer to acquire or lease certain real property interests, including acquisition by condemnation, and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants as necessary for the Point Defiance Bypass Project.

KEY FEATURES SUMMARY

- Authorizes the partial property acquisition of one property for a temporary construction and demolition easement.
- Board authorization to acquire this partial property interest is needed in order to construct the Point Defiance Bypass project.
- The real property identified in this action is included in Exhibit A.

BACKGROUND

Sound Transit will administer the construction of the Point Defiance Bypass Project which will construct a new second track adjacent to Sound Transit’s existing main line between South Tacoma (South 66th Street Bridge) and Lakewood (Bridgeport Way) and install new rails, ties, and ballast on Sound Transit’s existing track between Lakewood and Nisqually. Improvements will be made at the connection to BNSF’s main line near Nisqually and safety improvements will be made at some existing at-grade crossings within the project corridor.

The project started in 2014 with a \$6.4 million lifetime budget to be used for the procurement of a construction services contract, right-of-way acquisition, and associated staff costs to administer the same in support of the construction of a second track between South Tacoma and Lakewood. These costs are reimbursable through the Federal High Speed Rail grant administered by the Washington State Department of Transportation (WSDOT).

Certain property interests have been identified as necessary for construction of the Point Defiance Bypass project. The proposed action would authorize partial property acquisition for a temporary construction easement right to demolish a building. Sound Transit will acquire the property, by condemnation if necessary, as needed for the construction, operation and maintenance of the Point Defiance Bypass project and will reimburse relocation expenses to eligible affected owners and tenants. Sound Transit’s authorizing legislation grants the agency the power of eminent domain to accomplish such acquisitions when efforts to reach agreement with property owners are unsuccessful.

Environmental review under the National Environmental Policy Act (NEPA) and State Environmental Policy Act (SEPA) was completed by WSDOT and the Federal Railroad Administration through an Environmental Assessment and Finding of No Significant Impact in

March 2013. WSDOT issued a SEPA checklist and determination of non-significance in March 2013. An SEPA addendum to the checklist was also published in November 2014.

FISCAL IMPACT

This action is within the adopted budget and sufficient funds remain after approval of this action to fund the remaining work in the Right of Way Phase as contained in the current cost estimates.

In accordance with Sound Transit policy, budgets for specific parcels will be discussed with the Board in executive session. Consistent with the current estimate at completion for real property acquisition, this action and acquisitions of remaining certified properties are affordable within the adopted project budget.

Point Defiance Bypass

	Amended 2015 TIP	Board Approvals	This Action	Board Approved Plus Action	Uncommitted / (Shortfall)
Agency Administration	2,700	510		510	2,190
Preliminary Engineering					
Final Design	200	126		126	74
Third Party Agreements					
Right of Way	1,000	43		43	957
Construction	114,500				114,500
Construction Services	9,600	1,309		1,309	8,291
Vehicles					
Total Current Budget	128,000	1,988		1,988	126,012

Phase Detail

Right of Way

Right of Way	1,000	43		43	957
Total Phase	1,000	43		43	957

Notes:

Amounts are expressed in Year of Expenditure \$000s.

Board Approvals = Committed To-Date + Contingency, and includes pending Board actions.

Project budget page is located on page 55 of 210 of the Adopted 2015 Transit Improvement Plan (TIP).

SMALL BUSINESS/DBE PARTICIPATION

Not applicable to this action.

PUBLIC INVOLVEMENT

No public involvement until invitation for bid (IFB) pursuant to construction and management agreement between WSDOT and Sound Transit.

In compliance with state law regarding public notification, Sound Transit mailed certified letters to property owners affected by this action on June 8, 2015. Legal notices of this proposed Board action was published in The News Tribune on June 12 and 19, 2015.

TIME CONSTRAINTS

A one-month delay would not significantly impact the timing of this project.

PRIOR BOARD/COMMITTEE ACTIONS

Not applicable to this action.

ENVIRONMENTAL REVIEW

JI 5/22/2015

LEGAL REVIEW

JB 06/05/2015

RESOLUTION NO. R2015-12

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to acquire or lease certain real property interests, including acquisition by condemnation, and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants as necessary for the Pt. Defiance Bypass.

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

WHEREAS, Sound Transit is authorized to plan, construct, and permanently operate a high-capacity system of transportation infrastructure and services to meet regional public transportation needs in the Central Puget Sound region; and

WHEREAS, in general elections held within the Central Puget Sound Regional Transit Authority district on November 5, 1996 and November 4, 2008, voters approved local funding to implement a regional high-capacity transportation system for the Central Puget Sound region; and

WHEREAS, in order to use the property determined to be necessary for the construction, operation and maintenance of project improvements required under the voter approved high capacity transportation system plans, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain rights in the property for public purposes; and

WHEREAS, Sound Transit has identified a certain real property as necessary for the construction and permanent location of the Pt. Defiance Bypass Project and such property is reasonably described in Exhibit A of this resolution; and

WHEREAS, in order to use the property determined to be necessary for the construction, operation and maintenance, and permanent location of the Pt. Defiance Bypass 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

WHEREAS, Sound Transit has commissioned or will commission an appraisal to determine the fair market value of the property, and will negotiate in good faith with the owner of the property

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 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 or lease of interests in the real property described in Exhibit A (said property to be used for the Pt. Defiance Bypass Project). In accordance with Sound Transit's Real Property Acquisition and Relocation Policies, Procedures and Guidelines, the acquisition price of the property may not exceed the fair market value to be determined through the appraisal process; provided that in the event the total of the acquisition, costs of the property for the Pt. Defiance Bypass Project exceeds Sound Transit's approved budget for right-of-way acquisition (plus contingency), then the chief executive officer must obtain approval from the appropriate committee or the Board, per Resolution No. 78-2, before the acquisition of the property for the Pt. Defiance Bypass Project by purchase or by condemnation to the extent permitted by law.

SECTION 2. The chief executive officer or her designee is hereby authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of interests in the real property 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 may not exceed established project budgets. For all other settlements proposed, the chief executive officer must obtain prior approval of the appropriate committee or the Board, per Resolution No. 78-2.


SECTION 3. The Sound Transit Board deems the Pt. Defiance Bypass 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 interests in the real property identified in Exhibit A as being necessary for the demolition of certain encroaching structures necessary for the construction, operation and maintenance, and permanent location of the Pt. Defiance Bypass Project.

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

SECTION 5. In addition to the authority granted the chief executive officer in Section 1 above, condemnation proceedings are hereby authorized to acquire all, or any portion thereof, of the property and property rights and/or rights in those of the property described in Exhibit A to the extent permitted by law, for the purpose of removing encroaching structures necessary to construct the Pt. Defiance Bypass 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 June 25, 2015.


Dow Constantine
Board Chair

ATTEST:


Kathryn Flores
Board Administrator

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**POINT DEFIANCE BYPASS
TRACK & SIGNAL IMPROVEMENT PROJECT**

EXHIBIT A

R/W No	Tax Parcel No	Owner
PD001	0219113016	Lakewood Lumber Company

R/W No.	Owner/Contact	Parcel #	Address
PD001	LAKWOOD LUMBER COMPANY	0219113016	12708 - 12710 Pacific Hwy SW Lakewood, WA 98499

THAT PORTION OF THE SW1/4 OF SECTION 11, TOWNSHIP 19N, RANGE 2 E, W.M. DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF PACIFIC HIGHWAY WITH THE SOUTH LINE OF SAID SECTION; THENCE NORTHERLY 48⁰44' EAST A DISTANCE OF 164.53 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTHWESTERLY 41⁰16' WEST 120 FEET TO THE SOUTHEASTERLY LINE OF THE NORTHERN PACIFIC RIGHT OF WAY; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID RAIL ROAD RIGHT OF WAY A DISTANCE OF 200 FEET; THENCE SOUTHEASTERLY 41⁰16' EAST A DISTANCE OF 120 FEET TO THE INTERSECTION OF THE NORTHWESTERLY LINE OF PACIFIC HIGHWAY; THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE A DISTANCE OF 200 FEET TO THE TRUE POINT OF BEGINNING.