

SOUND TRANSIT

RESOLUTION NO. R2000-03

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 Sounder Commuter Rail components of a transportation center located at Smith Avenue and Pacific Avenue in Everett.

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 high capacity commuter rail service between Everett and Seattle, and further provided for the construction, operation and permanent location of rail stations in strategic locations, including Everett, 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 in compliance with the National Environmental Policy Act (NEPA) and Sound Transit in compliance with the State Environmental Policy Act; and

WHEREAS, on January 13, 2000, by Motion No. M2000-05, the Sound Transit Board selected the project to be build and transmitted it as the "Locally preferred alternative" to FTA,

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

WHEREAS, after consideration of the finding of no significant environmental impact, and public and governmental comments, Sound Transit has identified certain real properties as necessary to the construction and operation of the of Everett Multimodal Station Sounder Commuter Rail facility 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, operation and permanent location of the of the Everett Multimodal Station Sounder Commuter Rail facility in Everett, Washington, 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 of the Sounder Commuter Rail components of a transportation center in Everett, Washington. 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) in Everett, 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 that station 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 Multimodal Station Sounder Commuter Rail facility 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, operation and permanent location of said facility in Everett, Washington. 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, operation of the **Everett Multimodal Station Sounder Commuter Rail facility** in Everett, Washington, 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 Multimodal Station Sounder Commuter Rail** in Everett, Washington;

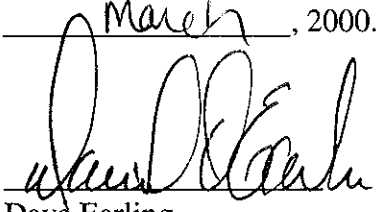
SECTION 5. Sound Transit has complied with the State Environmental Policy Act and the guidelines of WAC Chapter 197-11 with respect to this resolution authorizing condemnation proceedings.

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 Multimodal Station Sounder Commuter Rail facility** in Everett, Washington.

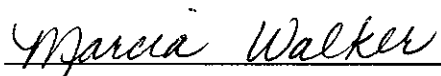
SECTION 7. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

ADOPTED by the Board of the Central Puget Sound Regional Transit

Authority at a regular meeting thereof held on the 23rd day of March, 2000.


Dave Earling
Board Chair

ATTEST:


Marcia Walker
Board Administrator

R2000-03 - EXHIBIT A

Station	Owner/Contact	Parcel #	Site Address
Everett	Burlington Northern Santa Fe Railway Company <i>(Everett Land Company, the Directors of)</i>	292905 2 013 0000	Former 33 rd Street Right of Way West of Hill Avenue, East of Smith Avenue

LEGAL DESCRIPTION:

THAT PORTION OF SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF BLOCK 801 OF PLAT 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;
THENCE WEST ALONG THE SOUTH LINE OF THE FORMER 33RD STREET RIGHT OF WAY TO THE NORTHEAST CORNER OF BLOCK 800, SAID PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT;
THENCE NORTHWESTERLY ALONG AN EXTENSION OF THE EAST LINE OF SAID BLOCK 800 TO THE SOUTHEAST CORNER OF BLOCK 758, SAID PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT;
THENCE EAST ALONG NORTH LINE OF THE FORMER 33RD STREET RIGHT OF WAY TO THE SOUTHWEST CORNER OF BLOCK 757, SAID PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT;
THENCE SOUTHEASTERLY ALONG AN EXTENSION OF THE WEST LINE OF SAID BLOCK 757 TO THE POINT OF BEGINNING.

R2000-03 - EXHIBIT A

Station	Owner/Contact	Parcel #	Site Address
Everett	Dur-Nel, Inc.	4390 746 001 0007	3102 Hill Avenue Everett, WA 98201

LEGAL DESCRIPTION:

LOTS 1,2,3,4,5,1A, 2A, 3A, AND 4A OF BLOCK 746 OF PLAT 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.

R2000-03 - EXHIBIT A

Station	Owner/Contact	Parcel #	Site Address
Everett	Kim, Song W. & Young Sook	4390 745 000 0000	2402 Pacific Avenue Everett, WA 98201
Everett	<i>Kim (Everett Land Company, the Directors of)</i>	4390 745 000 0208	2402 Pacific Avenue Everett, WA 98201

LEGAL DESCRIPTION:

PARCEL A:

ALL OF BLOCKS 745 AND 758 OF PLAT 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 VACATED 32ND STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW;

EXCEPT THAT PORTION OF BLOCKS 745, 758 AND VACATED 32ND STREET LYING SOUTHWESTERLY OF A LINE DRAWN PARALLEL WITH AND DISTANT 50 FEET NORTHEASTERLY OF B.N.R.R. MAIN TRACK CENTERLINE.

PARCEL B:

A STRIP OF LAND ADJACENT TO THE EAST OF BLOCKS 745 AND 758 OF PLAT 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 AND ADJACENT TO VACATED 32ND STREET ADJOINING SAID BLOCKS 745 AND 758; BOUNDED ON THE NORTHEAST BY A LINE DRAWN PARALLEL WITH AND DISTANT 80 FEET NORTHEASTERLY OF, AS MEASURED BY RIGHT ANGLES TO, THE NORTHEAST LINE OF SAID BLOCKS 745 AND 758, AND BOUNDED ON THE NORTH BY THE SOUTH LINE OF PACIFIC AVENUE, ACCORDING TO SAID PLAT, AND BOUNDED ON THE SOUTH BY THE NORTH LINE OF 33RD STREET ACCORDING TO SAID PLAT.

R2000-03 - EXHIBIT A

Station	Owner/Contact	Parcel #	Site Address
Everett	Panama Machinery & Equipment, Inc.	292905 2 015 0008	Former 33 rd Street Right of Way West of Hill Avenue, East of Smith Avenue

LEGAL DESCRIPTION:

THAT PORTION OF VACATED 33RD STREET LYING WITHIN THE PLAT 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, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF BLOCK 800 OF SAID PLAT OF EVERETT LAND COMPANY'S FIRST ADDITION TO EVERETT;
THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID BLOCK 800, TO A POINT ON A LINE DRAWN PARALLEL WITH AND DISTANT 50.0 FEET EASTERLY OF, AS MEASURED AT RIGHT ANGLES TO BURLINGTON NORTHERN RAILROAD COMPANY'S MAIN TRACK CENTER LINE, AS NOW LOCATED AND CONSTRUCTED;
THENCE NORTHWESTERLY ALONG SAID PARALLEL LINE TO A POINT ON THE SOUTHERLY LINE OF BLOCK 758 OF SAID PLAT;
THENCE EASTERLY ALONG SAID SOUTHERLY LINE TO THE SOUTHEASTERLY CORNER OF SAID BLOCK 758;
THENCE SOUTHEASTERLY ALONG A LINE DRAWN PARALLEL WITH AND DISTANT 140.0 FEET EASTERLY OF, AS MEASURED AT RIGHT ANGLES TO SAID MAIN TRACK CENTERLINE TO THE POINT OF BEGINNING.

R2000-03 - EXHIBIT A

Station	Owner/Contact	Parcel #	Site Address
Everett	Trillium Corporation	4390 745 000 0109	Pacific Avenue and Smith Street

LEGAL DESCRIPTION:

ALL OF BLOCKS 745 AND 758 OF PLAT 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 VACATED 32ND STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW;

EXCEPT THAT PORTION OF BLOCKS 745, 758 AND VACATED 32ND STREET LYING NORTHEASTERLY OF A LINE DRAWN PARALLEL WITH AND DISTANT 50 FEET NORTHEASTERLY OF B.N.R.R. MAIN TRACK CENTERLINE.

SOUND TRANSIT

RESOLUTION NO. R2000-03

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 Multimodal Station Commuter Rail Project

BACKGROUND AND COMMENTS

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Executive Committee	3/17/00	Discussion/Possible Action to Recommend Board Approval	Kathi Thompson Senior Real Estate Rep Jeri Cranney Real Estate Manager	689-4916 689-4934
Board Meeting	3/23/00	Action		

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 Sounder Commuter Rail components of a transportation center located at Smith Avenue and Pacific Avenue in Everett within the project budget as described on page 3.

BACKGROUND:

The Everett Multimodal facility will include property owned and developed by the City of Everett as Everett Station. The center will accommodate a variety of transportation modes currently operating or potentially operating into Everett. The modes include inter-city rail (Amtrak); Inter-city bus (Greyhound); public transit bus (Everett Transit, Community Transit, Sound Transit); commuter rail (Sound Transit); park-and-ride; charters, taxis, shuttles; and non-motorized travel (bicycling and walking). The center will include a passenger terminal and park-and-ride lot(s). This proposed acquisition is to provide parking lots to support Sound Transit Commuter Rail.

In order to build and operate a high capacity transit system consisting of commuter rail service, regional bus service, and park-and-ride facilities at the Everett Multimodal Station Sounder Commuter Rail facility, 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 Everett-Seattle Environmental Impact Statement identified the real property areas necessary for the construction and operation of the Everett Multimodal Station

Sounder Commuter Rail facility. 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, 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 Resolution No. R98-40 Memorandum of Agreement (MOA) with the City of Everett for Cooperation Regarding the Funding, Design, and Construction of the Pacific Avenue Overpass (July 23, 1998).
- Resolution R99-33, Adoption of Sound Transit 2000 Budget (November 18, 1999).
- Adoption of Motion M99-88, First supplemental Agreement to MOA with the City of Everett Related to the Pacific Avenue Overpass Project (December 3, 1999).
- Adoption of M2000-05, Selection of Project to be built and “Locally Preferred Alternative” (January 13, 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 Multi-modal Commuter Rail station (project 201, p.83). 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 following table presents the available budget.

**SOUNDER COMMUTER RAIL EVERETT MULTI-MODAL STATION RIGHT-OF-WAY:
RELATED BUDGETS, EXPENDITURES, AND COMMITMENTS**

Project/Description Project #	Approved 2000 Ten- Year Right- of-Way Budget ¹	Life-to-Date Expenditures² & Outstanding Commitments	Other Pending Board Action ³	Budget Available (A – B – C)
	A	B	C	C
Right-of Way Phase	\$ 7,577,000	\$ 1,113	\$ 1,355,059	\$ 6,220,828
Contingency Phase ³	\$ 142,900	\$ 0	\$ 0	\$ 142,900
Total	\$ 7,719,900	\$ 1,113	\$ 1,355,059	\$ 6,363,728

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

²Expenditures are as of November 30, 1999

²See Motion M2000-29, contract with Arthur Anderson; amount shown is proportional estimate for property characterization and acquisition/relocation services

⁴Contingency shown is for all project phases

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 Multimodal Station Sounder Commuter Rail facility in Everett. Delay in authorization may result in delay of acquisition and vacation of property, which could negatively affect the construction schedule.

LEGAL REVIEW:

MBL 3/02/00