

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2005-22

Property Acquisition for Lakewood to Tacoma Track and Facilities Project and the South Tacoma Sounder Station Project

| Meeting: | Date: | Type of Action: | Staff Contact: | Phone: |
|-------------------|--------------|---|--|----------------|
| Finance Committee | 9/01/05 | Discussion/Possible Action to Recommend Board Approval Action | Phil O'Dell, Director, Project Delivery Support Services James Staudinger, Real Estate Manager John McLean, Sr. Real Estate Representative | (206) 398-5013 |
| Board Meeting | 9/08/05 | | | (206) 398-5026 |
| | | (206) 689-4916 | | |

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

PROJECT NAME

- Lakewood to Tacoma Track and Facilities
- South Tacoma Station

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 entering administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the purpose of constructing the Lakewood to Tacoma Track and Facilities project and the South Tacoma Station Project.

KEY FEATURES of PROPOSED ACTION

- Certain additional property has been identified as necessary for the Track and Facilities Project based upon the current level of design. The proposed action would authorize acquiring a portion of a single parcel at the intersection of 26th Street and Pacific Avenue in Tacoma, as well as the payment of eligible relocation benefits to affected owners and tenants. Sound Transit will then convey the property acquired to the City of Tacoma, as a portion of street right of way.
- Certain additional property has been identified as necessary for the South Tacoma Station Project, based upon the current level of design. The proposed action would authorize acquiring a portion of a two separate BNSF parcels at the intersection of 56th Street and Adams Street Sound Transit will then convey the properties acquired to the City of Tacoma, as a portion of street right of way.
- A list of real properties identified in this requested action is attached as Exhibit A.

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.

| Action Outside of Adopted Budget: | ✓ | Comments on Checked Items |
|--|----------|----------------------------------|
| This Project | | |
| This Phase | | |
| This Task | | |
| Budget Amendment Required | | |

| Key Financial Indicators: | ✓ | Comments on Checked Items |
|---|----------|----------------------------------|
| Contingency Funds Required | | |
| Funding required from other parties (other than what is in financial plan) | | |

Not checked = action is assumed in current Board-adopted budget. No budget action or adjustment to financial plan required.

BUDGET and FINANCIAL PLAN DISCUSSION

The total adopted capital budget for the Lakewood to Tacoma Track and Facilities project is \$136.037 million. Within that budget, \$28.237 million has been budgeted in the right of way phase. The total adopted capital budget for the South Tacoma Station project is \$10.922 million. Within that budget, \$1.047 million has been budgeted in the right-of-way phase.

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)

Action Item: Property Acquisition for Lakewood to Tacoma Track and Facilities project and for the South Tacoma Station project

| Lakewood to Tacoma Track and Facilities (35130) page 90, Adopted 2005 Budget | Current Board Adopted Budget (A) | Committed To Date (B) | This Action (C) | Total Committed & Action (D) | Uncommitted (Shortfall) (E) |
|---|---|-----------------------------|--------------------|---------------------------------------|-----------------------------------|
| Agency Administration | 10,174 | 4,437 | - | 4,437 | 5,738 |
| Pre-Engineering | 2,989 | 2,862 | - | 2,862 | 127 |
| Final Design | 5,855 | 4,156 | - | 4,156 | 1,699 |
| Right of Way | 28,237 | 25,818 | - | 25,818 | 2,419 |
| Construction | 68,874 | 14 | - | 14 | 68,860 |
| Vehicles | 19,783 | 17,767 | - | 17,767 | 2,016 |
| Contingency | 124 | - | - | - | 124 |
| Total Current Budget | 136,037 | 55,054 | - | 55,054 | 80,983 |

| South Tacoma Station (35251) page 106, Adopted 2005 Budget | Current Board Adopted Budget (A) | Committed To Date (B) | This Action (C) | Total Committed & Action (D) | Uncommitted (Shortfall) (E) |
|---|---|-----------------------------|--------------------|---------------------------------------|-----------------------------------|
| Agency Administration | 823 | 614 | - | 614 | 210 |
| Pre-Engineering | 591 | 538 | - | 538 | 53 |
| Final Design | 1,150 | 987 | - | 987 | 163 |
| Right of Way | 1,047 | 418 | - | 418 | 629 |
| Construction | 6,461 | 156 | - | 156 | 6,305 |
| Contingency | 850 | - | - | - | 850 |
| Total Current Budget | 10,922 | 2,713 | - | 2,713 | 8,210 |

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 will be 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.

Pursuant to Sound Move, Sound Transit proposes to expand the Sounder Commuter Rail system between Lakewood and Tacoma. The improvements here involve the construction of track connecting Tacoma Dome Station to the former BNSF right of way (the Track and Facilities Project) and the construction of the South Tacoma Station (the South Tacoma Project).

The proposed acquisitions are consistent with the range of impacts and alternatives evaluated in the Sound Transit Lakewood-to-Tacoma Commuter Rail Project NEPA/SEPA EIS. Sound Transit will commission appraisals and environmental investigative studies of each of the properties required for the Projects. These evaluations will be completed and fair market value established according to the Sound Transit's Real Property Policy, Procedures and Guidelines (Real Estate Policy), Revision 2. Discussions with the property owners, business owners and tenants to acquire property and to accomplish the relocation of occupants will continue in earnest in an effort to achieve negotiated agreements to purchase the Properties and pay relocation benefits to the occupants. 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 will also negotiate with each legal occupant of the properties to establish eligibility and identify assistance for the relocation and re-establishment expenses associated with moving to a new location.

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. The Chief Executive Officer would be authorized to settle condemnation litigation and enter administrative settlements in lieu of litigation, based on legal counsel recommendation for amounts reasonably approximating fair market value and within authorized budgets. Staff will inform the Chief Executive Officer and Board members regularly on the status of any condemnation case(s) prior to filing, completed voluntary acquisitions and relocation agreements reached, and the status of the acquisition and relocation budget.

Staff would return to 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 amounts.

A list of the real properties identified in this requested action is on file with Sound Transit Board Administration office.

Prior Board or Committee Actions and Relevant Board Policies

| Resolution Number | Summary of Action | Date of Action |
|--------------------------|--|-----------------------|
| R2003-13 | 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. | 6/26/03 |
| R2002-21 | Selected 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. | 12/12/02 |
| R99-35 | Adopted the Real Property Disposition Policy, Procedures and Guidelines. | 1/13/00 |
| R98-20 | Approved of the real property acquisition and relocation policy, procedures and guidelines. | 4/9/98 |
| R78-1 | Established delegated authority and procurement procedures. | 5/31/96 |

CONSEQUENCES of DELAY

Delaying Board action may result in a delay in the property acquisition schedule.

PUBLIC INVOLVEMENT

The City of Tacoma has been heavily involved in developing issues and solutions for both projects. The Dome District has been consulted regularly on matters related to the Track and Facilities Project. Presentations have been given to the South Tacoma Business District and an open house was held in South Tacoma on July 21, 2005.

ENVIRONMENTAL COMPLIANCE

PW 8/19/05

LEGAL REVIEW

JW 8/24/05

SOUND TRANSIT

RESOLUTION NO. R2005-22

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 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.

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, in order to acquire the properties determined to be necessary for the construction, operation and maintenance of project improvements required under Sound Move, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain rights in the property for public purposes, and to pay eligible relocation and re-establishment benefits to affected parties; and

WHEREAS, Sounder Commuter Rail must make certain street improvements in Tacoma, Washington in conjunction with its Lakewood to Tacoma Track and Facilities Project and the South Tacoma Station Project (collectively, the "Projects"); and

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

WHEREAS, in order to acquire the properties determined to be necessary for the construction, operation, and permanent location of the Projects, 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 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 (said property to be used for the Projects), 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 properties 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 properties for the Projects 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 Projects 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 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 Projects, 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 Projects (said properties are described in Exhibit A and incorporated herein by reference), parties be paid relocation and re-establishment costs associated with displacements 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 properties described in Exhibit A be immediately acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location of the Projects.

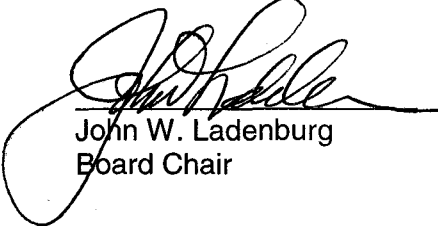
SECTION 5. In addition to the authority granted the Chief Executive Officer in Section 1, condemnation proceedings are hereby authorized to acquire all, or any portion thereof, of the properties and property rights and/or rights in those of the properties described in Exhibit A, not owned by a public entity, for the purpose of constructing, owning, and operating a permanent location of the Projects. The Chief Executive Officer is also authorized to make minor

amendments to the legal descriptions of the properties 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.

SECTION 7. The Chief Executive Officer is authorized to execute all documents necessary to sell and convey to the City of Tacoma those property interests acquired pursuant to this resolution that will become part of the City of Tacoma right of way as part of the Projects.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on September 8, 2005.



John W. Ladenburg
Board Chair

ATTEST:

Marcia Walker
Marcia Walker
Board Administrator

Exhibit A

Pingco Management LLC

Lots 1 and 2, Block 7613, The Tacoma Land Company's First Addition to Tacoma W.T. and that portion of Lot 3, Block 7613, The Tacoma Land Company's First Addition to Tacoma W.T. according to plat filed for record July 7, 1884 in the Office of the County Auditor, described as follows:
Beginning at the Northeast corner of said Lot 3, thence Southerly along the Easterly side of said Lot 3, a distance of 20.62 feet, thence through an angle to the right of 94°40'10", thence Westerly 75.18 feet, thence through an angle to the right of 02°42'04"; thence continue Westerly 55.53 feet to a point on the Westerly side of said Lot 3, thence Northerly along the Westerly side of said Lot 3 a distance of 7.30 feet to the Northwest corner thereof, thence Easterly along the Northerly line of said Lot 3, 130 feet to the point of beginning.

Situate in Pierce County, Washington.

Tax Parcel ID 2783010251 (Abbreviated Legal – Pierce Co Tax Records)

Section 24 Township 20 Range 02 Quarter 14 BURLINGTON NO TAC IND CTR # 1: BURLINGTON NO TAC IND CTR # 1: OF LOT 25 BURLINGTON NORTHERN TACOMA INDUSTRIAL CENTER #1 DESC AS FOLL BEG AT SE COR OF SD LOT 25 21 MIN 40 SEC W ALG S LI OF SD LOT 25 DIST OF 281.42 FT TH N 01 DEG 34 MIN 25 SEC E TO N LI OF SD LOT 25 1 21 MIN 47 SEC E TO NE COR OF SD LOT 25 TH S 02 DEG 00 MIN 23 SEC E ALG E LI OF SD LOT 25 DIST OF 200.26 F OF NE 24-20-02E APPROX 56,357 SQ FT OUT OF 025-0 SEG M-0819 GD EMS OP PROP DC8/7/00M]

Tax Parcel ID 2783010010 (Abbreviated Legal – Pierce Co Tax Records)

Section 24 Township 20 Range 02 Quarter 14 BURLINGTON NO TAC IND CTR # 1: BURLINGTON NO TAC IND CTR # OF RECORD SE 13-20-02E OUT OF 278310-001-0 SEG M0262 SI EMS OP PROP DC8/7/00 MJ