

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2006-10

Property Acquisition for the Sounder Commuter Rail - South Tacoma Station Project

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	6/01/06	Discussion/Possible Action to Recommend Board Approval	Phil O'Dell, Director Project Delivery Support Services	(206) 398-5013
Board	6/08/06	Discussion/Possible Action	James Staudinger, Real Estate Manager Don Vogt, Sr. Real Estate Representative	(206) 398-5026 (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 - 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 parties as necessary for the Sounder Commuter Rail South Tacoma Station Project.

KEY FEATURES of PROPOSED ACTION

- Certain temporary construction easements have been identified as necessary for the construction of the South Tacoma Sounder Station Project, based upon the current level of design. The proposed action would authorize acquiring needed temporary rights in various properties.
- This action would authorize the Chief Executive Officer to acquire real property interests in eleven parcels. The properties identified in this action are included in Exhibit A of Resolution No. R2006-10.
- This action does not expand the area in which the project will be built.
- The acquisition of these temporary rights will not require modification of the right of way budget for the project.

BUDGET IMPACT SUMMARY

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

BUDGET and FINANCIAL PLAN DISCUSSION

The total adopted capital budget for the South Tacoma Station is \$11,514,780. Within that budget, \$1,592,020 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 sub-area 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)

	2006 Board Adopted Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	\$ 796	\$ 796	\$ -	\$ 796	\$ -
2 Preliminary Engineering	544	538	-	538	6
3 Final Design	1,195	1,065	-	1,065	130
4 Right of Way	1,592	591	-	591	1,001
5 Construction	6,499	706	-	706	5,793
7 Contingency	889	-	-	-	889
8 Total Current Budget	\$ 11,515	\$ 3,696	\$ -	\$ 3,696	\$ 7,819

Phase Budget Detail

12 ROW	\$ 1,592	\$ 591	\$ -	\$ 591	\$ 1,001
13 Misc.				-	-
14 Total Phase	\$ 1,592	\$ 591	\$ -	\$ 591	\$ 1,001

Contract Budget	2006 Board Adopted Budget (F)	Spent to Date (G)	Proposed Action (H)	Amended Total Contract Value (I)
15	\$ -	\$ -	\$ -	\$ -
16 Contingency	-	-	-	\$ -
17 Total	-	-	-	-
18 Percent Contingency	10%		10%	0%

Notes:

Project budget is located on page 110 of the Adopted 2006 Budget book.

Committed to-date amount includes actual outlays and commitments through May 10, 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, 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.

Pursuant to Sound Move, Sound Transit proposes to expand the Sounder Commuter Rail system between Lakewood and Tacoma. The improvements involve the construction of the South Tacoma Station. The station will consist primarily of a single-side passenger platform with shelters and other amenities, a park-and-ride lot for approximately 220 vehicles, landscaping and public art. As part of the project, improvements will be made to South 60th, South Adams and South 56th Streets.

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 proposed acquisitions for minor temporary construction easements is consistent with the range of impacts and alternatives evaluated in the Sound Transit Lakewood-to-Tacoma Commuter Rail Project NEPA/SEPA EIS (May 2002). Sound Transit will commission appraisals and environmental investigative studies of the property required for the project. 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 owner, business owners, and/or tenants to acquire the property and to accomplish the relocation of occupants will continue in earnest in an effort to achieve a negotiated agreement to purchase the property and pay relocation benefits to the occupant(s). Pursuant to applicable state and federal law, and consistent with Sound Transit's Real Estate Policy, representatives and staff from Sound Transit will meet with the property owner to explain the acquisition process and negotiate an agreement. The property owner will be afforded reasonable time to consider Sound Transit's offer to purchase. Sound Transit will also negotiate with the legal occupant of the property 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 a condemnation action. 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.

By Resolution No. R2005-22, the Board authorized the acquisition of various property interests for this project. Subsequently, a series of temporary construction easements have been determined to be necessary to support the construction of the project on the property previously

authorized. These temporary construction easements will be located on eleven parcels owned by four different owners. Title reports indicate that parcel number 4695001210 is owned by Walter E. Austin and Sharon L. Austin. Parcel numbers 3690000200, 3690000210, 3690000220, 3690000230, 3690000240, 3690000250, 3690000260 and 3690000470 are owned by G & J Investments, LLC. Parcel number 3690000290 is owned by Paul L. Tegantvoort and Karen J. Tegantvoort. Parcel number 3690000460 is owned by Dennis P. Nyland and Patricia Linda Nyland. The full legal description of these parcels can be found in Exhibit A of Resolution No. R2006-10.

Prior Board/Committee Actions on this Project and Relevant Board Policies

Resolution Number	Summary of Action	Date of Action
R2005-22	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.	9/8/2005
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

CONSEQUENCES of DELAY

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

PUBLIC INVOLVEMENT

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

SK 5/26/06

LEGAL REVIEW

JW 5/26/06

SOUND TRANSIT

RESOLUTION NO. R2006-10

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 Sounder Commuter Rail 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, 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 – South Tacoma Station, 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.

WHEREAS, by Resolution No. R2005-22, the Sound Transit Board authorized the acquisition of various property interests for this project on September 8, 2005; and

WHEREAS, a series of temporary construction easements have been determined to be necessary to support the construction of the Project on the properties previously authorized by Resolution No. R2005-22; and

WHEREAS, Sound Transit has identified certain real property as necessary for the construction and permanent location of the Project and is 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; and

WHEREAS, Sound Transit has commissioned or will commission appraisals to determine the fair market value of the property, and will continue to negotiate in good faith with the owners 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 and the funds necessary to pay eligible relocation and re-establishment costs shall be paid from Sound Transit general funds; and

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 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 June 8, 2006.


John W. Ladenburg
Board Chair

ATTEST:


Marcia Walker
Board Administrator

RESOLUTION NO. R2006-10

EXHIBIT A

SOUTH TACOMA PROPERTIES – LEGAL DESCRIPTION

G & J Investments, L.L.C., a Washington Limited Liability Company

Parcel A (369000-020-0), Parcel B (369000-021-0), Parcel C (369000-022-0), Parcel D (369000-023-0), Parcel E (369000-024-0), Parcel F (369000-025-0), Parcel G (369000-026-0)

LEGAL DESCRIPTION:

PARCEL A:

LOTS 1 TO 9 AND THE NORTH HALF OF LOT 10, INCLUSIVE, IN BLOCK 3 OF ELMWOOD ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE(S) 42, IN PIERCE COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED WASHINGTON STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

PARCEL B:

THE SOUTH HALF OF LOT 10 AND ALL OF LOT 11, INCLUSIVE, IN BLOCK 3 OF ELMWOOD ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE(S) 42, IN PIERCE COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED WASHINGTON STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

PARCEL C:

LOTS 12 AND 13, INCLUSIVE, IN BLOCK 3 OF ELMWOOD ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE(S) 42, IN PIERCE COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED WASHINGTON STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

PARCEL D:

LOTS 14 and 15, INCLUSIVE, IN BLOCK 3 OF ELMWOOD ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE(S) 42, IN PIERCE COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED WASHINGTON STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

PARCEL E:

LOTS 16 AND 17, INCLUSIVE, IN BLOCK 3 OF ELMWOOD ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE(S) 42, IN PIERCE COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED WASHINGTON STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

PARCEL F:

LOTS 18 AND 19, INCLUSIVE, IN BLOCK 3 OF ELMWOOD ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE(S) 42, IN PIERCE COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED WASHINGTON STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

PARCEL G:

LOT 20 IN BLOCK 3 OF ELMWOOD ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE(S) 42, IN PIERCE COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED WASHINGTON STREET ADJOINING OR ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

Paul L. Tegantvoort and Karen J. Tegantvoort, Husband and Wife

Parcel No. 369000-029-0

LEGAL DESCRIPTION:

LOT 6, BLOCK 4, ELMWOOD ADDITION TO TACOMA, W. T. ACCORDING TO PLAT RECORDED IN BOOK 3 OF PLATS AT PAGE 42 IN PIERCE COUNTY, WASHINGTON.

Dennis F. Nyland and Patricia Linda Nyland, Husband and Wife

Parcel No. 369000-046-0

LEGAL DESCRIPTION:

THE WEST 87.5 FEET OF LOTS 1 THROUGH 5, INCLUSIVE, BLOCK 18, ELMWOOD ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN BOOK 3 OF PLATS AT PAGE 42.

SITUATE IN PIERCE COUNTY, WASHINGTON.

G & J Investments, L.L.C., a Washington Limited Liability Company

Parcel No. 369000-047-0

LEGAL DESCRIPTION:

LOTS 1 THROUGH 12, BLOCK 18, ELMWOOD ADDITION TO TACOMA, W.P., ACCORDING TO PLAT RECORDED IN VOLUME 3 OF PLATS AT PAGE 42, IN PIERCE COUNTY, WASHINGTON.

EXCEPT THE WEST 87.5 FEET OF LOTS 1 TO 5.

Walter E. Austin and Sharon L. Austin, Husband and Wife

Parcel No. 469500-121-0

LEGAL DESCRIPTION:

LOTS 1 TO 17, INCLUSIVE, BLOCK 16, HUNT'S PRAIRIE ADDITION TO TACOMA, W.T., ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS AT PAGE 90, RECORDS OF PIERCE COUNTY AUDITOR, WASHINGTON.
