

**SOUND TRANSIT  
STAFF REPORT**

**RESOLUTION NO. R2006-17**

**Property Acquisition for the Sounder Commuter Rail – Everett Station Project**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Finance Committee	9/7/06	Discussion/Possible Action to Recommend Board Approval	Hamid Qaasim, Acting Director, Project Delivery Support Services	(206) 398-5129
Board	9/14/06	Action	<b>Don Vogt, Sr. Real Estate Representative</b>	(206) 689-3396

<b>Contract/Agreement Type:</b>	✓	<b>Requested Action:</b>	✓
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 - Everett 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 Everett Station Project.

**KEY FEATURES of PROPOSED ACTION**

- This action would authorize the Chief Executive Officer to acquire real property interests in the Burlington Northern and Santa Fe (BNSF) Railway right of way at Everett Station for train layover tracks and pedestrian easements. The properties identified in this action are included in Exhibit A of Resolution No. R2006-17.

**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.

**BUDGET and FINANCIAL PLAN DISCUSSION**

The adopted budget for the Everett Station is \$26,872,032. Within that budget, \$7,349,018 has been budgeted in the right of way phase of which \$181,662 remains uncommitted.

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)

Everett Station - 31201

	2006 Board Adopted Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	\$ 1,593	\$ 782	\$ -	\$ 782	\$ 811
2 Preliminary Engineering	1,195	1,188	-	\$ 1,188	7
3 Final Design	1,360	1,393	-	\$ 1,393	(32)
4 Right of Way	7,349	7,167	-	\$ 7,167	182
5 Construction	14,616	7,362	-	\$ 7,362	7,254
7 Contingency	758	-	-	\$ -	758
8 Total Current Budget	\$ 26,872	\$ 17,893	\$ -	\$ 17,893	\$ 8,979

### Phase Budget Detail

9 Right of Way	\$ 14,616	\$ 7,362	\$ -	\$ 7,362	\$ 7,254
10 Misc.	-	-	-	-	-
11 Total Phase	\$ 14,616	\$ 7,362	\$ -	\$ 7,362	\$ 7,254

### Notes:

Committed to-date amount includes actual outlays and commitments through August 25, 2006.  
Project budget is located on page 101 of the Adopted 2006 Budget book.

## **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.

In compliance with the National Environmental Policy Act (NEPA), the Federal Transit Administration (FTA) and Sound Transit issued the Everett-Seattle Commuter Rail Project Final Environmental Impact Statement (EIS) in December 1999 which included the Everett Station and met both NEPA and State Environmental Policy Act (SEPA) requirements. A Record of Decision (ROD) on the Final EIS was issued by the FTA in February 2000. A NEPA reevaluation was approved by the FTA in June 2005 for additional improvements for the Everett Station East Parking Lot. The properties for acquisition referenced in this Board Action were included in the previous environmental review and documentation done for the EIS.

Everett Station is a multimodal station accommodating Amtrak, Greyhound, Everett Transit, Community Transit, Sound Transit Express Bus, Sounder Commuter Rail, charters, taxis, and shuttles. The initial phase of the project was developed by the City of Everett.

Sound Transit is responsible for construction of the final phase of the station, including demolition and remediation on the east side of the tracks completed in 2005. Yet to be constructed are the east parking lot (440 stalls), a pedestrian bridge over the tracks connecting to the commuter rail platform, pedestrian access plazas on both sides of the tracks, completion of the north portion of the south parking lot (total 300 parking stalls), and a 1040 square foot operations building on the west side of the tracks to house light maintenance supplies, security personnel and BNSF train crews.

Sound Transit identified certain property interests that are necessary to construct layover track for trains 1 and 2, and the pedestrian overpass from the parking lot to Everett Station. In discussions with BNSF concerning this acquisition, Sound Transit proposed an exchange of certain Sound Transit property located in the Everett Station area for these property interests. By Resolution No. R2005-11, the Board confirmed the Chief Executive Officer's Declaration of Surplus Property as to the Sound Transit properties needed for the exchange and authorized the exchange. When the resolution was written, it was incorrectly determined that a previously-adopted resolution (Resolution No. R2003-17) granted the authority to acquire the BNSF properties. This resolution will correct the omission by authorizing the acquisition of the layover track and pedestrian access easements from BNSF.

**Prior Board/Committee Actions on this Project**

<b>Motion/Resolution Number and Date</b>	<b>Summary of Action</b>
R2005-11 5/26/05	Approved the Chief Executive Officer's declaration as surplus certain real property interests acquired for Everett Station, and authorize the exchange of those real property interests for other real property interests required for construction of improvements at Everett Station.
R2003-17 9/25/03	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.

**CONSEQUENCES of DELAY**

A delay in Board action beyond September 14, 2006 may result in a delay in the property acquisition schedule.

**PUBLIC INVOLVEMENT**

Not applicable to this action.

**ENVIRONMENTAL COMPLIANCE**

SK 8/30/06

**LEGAL REVIEW**

JW 8/30/06

## **SOUND TRANSIT**

### **RESOLUTION NO. R2006-17**

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 Everett 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 – Everett Station (the "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 to pay eligible relocation and re-establishment benefits to affected parties; 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, 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 December 1999 which complied with both NEPA and State Environmental Policy Act (SEPA) requirements. A Record of Decision (ROD) was issued by the FTA in February 2000. A NEPA reevaluation was approved by the FTA in June 2005 for additional improvements for the Everett Station East Parking Lot. The properties for acquisition referenced in this resolution were included in the previous environmental review and documentation done for the EIS; 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 is described in Exhibit A and incorporated herein by reference), 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, 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.

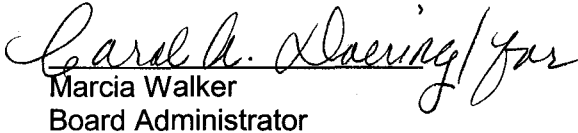
SECTION 6. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on September 14, 2006.



John W. Ladenburg  
Board Chair

ATTEST:



Marcia Walker  
Board Administrator

## **Resolution No. R2006-17**

### **EXHIBIT A**

#### **Property Owned By The Burlington Northern and Santa Fe Railway Company**

That portion of the Northwest quarter of Section 29, Township 29 North, Range 5 East, more particularly described as follows:

A strip of land being the West 15 feet of the West 40 feet of the Burlington Northern Railroad Right of Way as measured from the centerline of the existing mainline tracks as shown on Record of Survey, AFN 200208055005, Records of Snohomish County, Washington, more particularly described as follows: Point of Beginning being 320.98 feet north of the Easterly extension of the south line of said survey; thence continuing Northeasterly 536.15 feet to its terminus.

Area = 8043 square feet more or less; also

A strip of land being the West 18.5 feet of the West 40 feet of the Burlington Northern Railroad Right of Way as measured from the centerline of the existing mainline tracks as shown on Record of Survey, AFN 200208055005, Records of Snohomish County, Washington, more particularly described as follows: Point of Beginning being 857.13 feet north of the Easterly extension of the south line of said survey; thence continuing Northeasterly 727.50 feet to its terminus.

That portion of the West 18.5 feet of the West 40 feet of the above Burlington Northern Railroad Right of Way as measured from the centerline of the existing mainline tracks as shown on the Record of Survey, AFN 200208055005; Beginning 1397.43 feet north of the Easterly extension of the south line of Record of survey, AFN 200208055005, thence continuing Northerly 40 feet to its terminus.

Area = 13459 square feet more or less; also

A strip of land being 20 feet in width, 10 feet each side of the centerline of the existing layover track more particularly described as follows: Point of Beginning being 1584.63 feet north of the easterly extension of the south line of Record of Survey AFN 200208055005, Records of Snohomish County; thence along said centerline 252.27 feet to its terminus.

Area = 5046 square feet more or less; also



That portion of the Northwest quarter of Section 29, Township 29 North, Range 5 East, more particularly described as follows:

A strip of land being the East 15 feet of the West 25 feet of the west 40 feet of the Burlington Northern Railroad Right of Way as measured from the centerline of the existing mainline tracks as shown on The City of Everett Station Record of Survey, AFN 200208055005, Beginning 320.98 feet north of the Easterly extension of the South line of said survey; thence continuing Northerly 536.15 feet to its terminus. At the south end of the Amtrak platform.

Area = 8043 square feet more or less; and also

That portion of the Northwest quarter of Section 29, Township 29 North, Range 5 East, more particularly described as follows:

All airspace rights for the purpose of a pedestrian bridge lying between elevation 85.36 and 102.00, based upon the North American Vertical Datum of 1988, located over that portion of the Burlington Northern Santa Fe Railroad Right of Way located in the Northwest Quarter of Section 29, Township 29 North, Range 5 East, W.M., Snohomish County, Washington more particularly described as follows:

The Point of Beginning being the Southwest corner of ALTA survey # 200110185002, Records of Snohomish County; thence N 89° 00' 51" E, 19.31 feet; thence S 26° 44' 37" W, 114.17 feet, west line of the Burlington Northern Right of Way; thence N 15° 40' 03" W, along said line, 28.17 feet; thence N 26° 44' 37" E, 86.47 feet to the west line of said ALTA survey; thence S 15° 38' 35" E, 2.83 feet to the Point of Beginning.

Area = 1880 square feet more or less