

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2008-01

Property Acquisition for Everett Layover Track for Trains 3 and 4

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	1/3/08	Discussion/Possible Action to Recommend Board Approval Action	Ahmad Fazel, Link Executive Director	(206) 398-5839
Board	1/10/08		Don Vogt, Sound Transit Sr. Real Estate Representative	(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

Layover Track Project

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 by entering administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the construction of the Everett Station Layover Track for Trains 3 and 4.

KEY FEATURES of PROPOSED ACTION

- Certain additional property has been identified as necessary for the Everett Station Layover Track (the "Layover Track Project"). The proposed action would authorize the acquisition of a temporary construction easement on one parcel, owned by Smith Street Properties No. 1 LLC. The subject parcel is identified on Exhibit A.
- This action does not expand the area in which the project will be built.
- The acquisition of the temporary rights will not require modification of the right of way budget for the project.

BUDGET IMPACT SUMMARY

Current Project Phase: Final Design
Projected Completion Date: 2010

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 total Adopted 2008 Capital Budget for the Layover project is \$24,423,735. Within that budget, \$870,350 has been budgeted in the right of way phase with \$589,900 committed through November 30, 2007.

The proposed action is consistent with the current board-adopted budget, and is affordable within the agency's long-term financial plan and subarea financial capacity. The action will have no new revenue impact on Sound Transit.

BUDGET TABLE

Summary for Board Action (Year of Expenditure \$000)

Action Item: 140 - Layover

	2008 Board Adopted Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	\$ 808	\$ 808		\$ 808	\$ -
2 Preliminary Engineering	\$ 315	\$ 183		\$ 183	132
3 Final Design	\$ 503	\$ 324		\$ 324	179
4 Right of Way	\$ 870	\$ 590		\$ 590	280
5 Construction	\$ 21,720	\$ 15,829		\$ 15,829	5,892
6 Contingency	\$ 207	\$ -		\$ -	207
7 Total Current Budget	\$ 24,424	\$ 17,733	\$ -	\$ 17,733	\$ 6,690

Notes:

(A) Project budget is located on page 116 of the Proposed 2008 Budget book, the budget was adopted by the board on November 29, 2007. Amounts shown reflect the combined Layover budget for Snohomish, South King and Pierce counties.

(B) Committed to-date amount includes actual outlays and commitments for the Layover project in Snohomish, South King and Pierce counties combined, through November 30, 2007.

SMALL BUSINESS PARTICIPATION

Not applicable to 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.

This segment of Sounder is located in the 35-mile BNSF Railway corridor between Everett and Seattle. Sound Transit and BNSF executed an agreement in December 2003 to implement commuter rail service in the corridor by providing up to four round-trip trains per day and special event trains. Under the agreement terms, Sound Transit will purchase a service easement from BNSF for each round-trip train.

Improvements to the Sounder Commuter Rail system between Seattle and Everett involve the Layover Track Project, the construction of additional train storage area at Everett Station for trains 3 and 4. The additional property required for the layover track project is identified on Exhibit A. This proposed acquisition is necessary to resolve an encroachment issue by the adjacent property owner on the BNSF property. The BNSF acquisition was previously authorized under Resolution No. R2006-13.

The proposed property acquisition was identified in the Sound Transit Everett-to-Seattle Commuter Rail Project NEPA/SEPA Final EIS (FTA and Sound Transit, December 1999).

Prior Board/Committee Actions

Motion/Resolution Number and Date	Summary of Action
R2006-13 6/22/06	Authorized the Chief Executive Officer to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), condemnation litigation, or by entering administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for (a) the construction of the Everett Station Layover Track for Trains 3 and 4, and (b) the Everett-Seattle Permitting/Mitigation Project related to Burlington Northern Santa Fe's shoreline track and facilities construction between Everett and Seattle, and rescinding Resolution No. R2005-23
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.
R2000-10 6/8/00	Authorized the Chief Executive Officer to acquire, dispose, lease and transfer certain real property interests by negotiated agreement, negotiated purchase, by condemnation and to pay eligible relocation and reestablishment costs as needed for the construction and operation of commuter rail facilities for the Everett-to-Seattle Commuter Rail Project.

CONSEQUENCES of DELAY

Design and construction schedules for the Project assume the availability of the specific properties when needed for construction. Delay in Board approval could affect the timely acquisition of the property and of the layover project, which must be completed by September 2008 for start of service for the fourth train.

PUBLIC INVOLVEMENT

The Everett Station layover site has been selected to reflect the written and oral testimony collected during the public involvement period for the EIS process, in meetings held with community members of Everett and with elected officials and the Technical Advisory Committees of Everett.

ENVIRONMENTAL COMPLIANCE

SSK 12-20-07

LEGAL REVIEW

JW 12/28/07

SOUND TRANSIT

RESOLUTION NO. R2008-01

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 construction of the Everett Station Layover Track for Trains 3 and 4.

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 Sound Move, the ten-year plan 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 RCS 81.112.080; and

WHEREAS, Sound Transit is constructing layover track for Trains 3 and 4 of the Everett-Seattle Corridor in the project known as the Everett Layover Track Extension for Trains 3 and 4 project; and

WHEREAS, Sound Transit has identified certain real properties as necessary for the construction and permanent location of the Layover Track Project ("the Project") and is 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 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 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, the proposed acquisitions are consistent with the range of impacts and alternatives evaluated in the Sound Transit Everett-to-Seattle Commuter Rail Project Environmental Impact Statement prepared under the National and State Environmental Policy Acts.

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 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 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, 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 Project, parties be paid relocation and re-establishment costs associated with displacements from the properties.

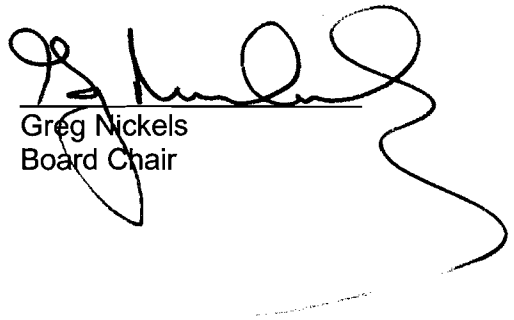
SECTION 4. The Sound Transit Board of Directors finds that the public health, safety, necessity, convenience, and welfare demand and require that the properties described in Exhibit A be immediately acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location of the 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 properties and property rights and/or rights in those of the 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 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.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held January 10, 2008.



Greg Nickels
Board Chair

ATTEST:

Marcia Walker
Marcia Walker
Board Administrator

EXHIBIT 'A'

Smith Street Properties No. 1 LLC
Snohomish County Tax Parcel No. 290529-002-012-00

LEGAL DESCRIPTION:

All that portion of the West half of Section 29, Township 29 North, Range 5 East, W.M. in Snohomish County, Washington, lying North of 36th Street; East of the West line of Old Great Northern Railroad right-of-way; West of the Burlington Northern Railroad right-of-way as defined by a line 40 feet West of the centerline of the Burlington Northern Railroad Main Line Tracks existing and maintained as of March 13, 1990; and Southeast of the following described line:

Commencing at the centerline intersection of Smith Avenue, as constructed and monumented for road deed recorded under Recording Number 1192858 and 36th Street as Platted; thence North $00^{\circ}45'36''$ East 345.16 feet along said centerline of Smith Avenue to the centerline of said Section 29; thence South $88^{\circ}18'35''$ East along said centerline of Section 29 a distance of 30.06 feet to the East line of said Smith Avenue and the Point of Beginning; thence continue South $88^{\circ}18'35''$ East 79.37 feet to a 1/2" inside diameter iron pipe; thence North $04^{\circ}26'00''$ West 200.00 feet; thence North $86^{\circ}14'39''$ East 83.40 feet; thence North $76^{\circ}18'21''$ East 113.80 feet to said line 40 feet West of the centerline of the existing Burlington Northern Mainline Tracks and the terminus of said line;

Except that portion conveyed to the State of Washington Department of Transportation by that deed recorded February 6, 2006 under Recording No. 200602060551.