

**SOUND TRANSIT  
STAFF REPORT**

**RESOLUTION NO. R2008-02**

**Property Acquisition for the Commuter Rail D to M Street Track and Signal Project**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Finance Committee	2/7/08	Discussion/Possible Action to Recommend Board Approval	Ahmad Fazel, Link Executive Director	(206) 398-5389
Board	2/14/08	Action	<b>Don Vogt, Senior 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**

D to M Street Track and Signal Project

**PROPOSED ACTION**

Authorizes 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 Commuter Rail D to M Street Track and Signal project in Tacoma, Washington.

**KEY FEATURES of PROPOSED ACTION**

- Authorizes the acquisition of three additional parcels for the D to M Street project, including authority to pay eligible relocation and re-establishment benefits to owners and tenants as necessary.
- The identity of parcels to be acquired is listed under the project description of this report.

**BUDGET IMPACT SUMMARY**

Current Project Phase: PE/ED  
Projected Completion Date: TBD

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 2008 Capital Budget for the project is \$76,024,555. Within that budget, \$16,551,207 has been budgeted in the right of way phase with \$12,211,644 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. 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)

Project: 135 - D St. - M St. Track & Signal

	2008 Board Adopted Budget <sup>1</sup> (A)	Committed To Date <sup>2</sup> (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	\$ 3,243	\$ 3,243		\$ 3,243	\$ -
2 Preliminary Engineering	\$ 1,742	\$ 1,418		\$ 1,418	324
3 Final Design	\$ 4,708	\$ 2,605		\$ 2,605	2,103
4 Right of Way	\$ 16,551	\$ 12,212		\$ 12,212	4,340
5 Construction	\$ 3,603	\$ 23		\$ 23	3,580
6 Vehicles	\$ 9,891	\$ 8,953		\$ 8,953	938
7 Contingency	\$ 36,286	\$ -		\$ -	36,286
8 Total Current Budget	\$ 76,025	\$ 28,454	\$ -	\$ 28,454	\$ 47,571

**Notes:**

Project budget is located on page 115 of the Proposed 2008 Budget book. The 2008 Budget was adopted by the Board on November 29, 2007.

<sup>2</sup> Committed to-date amount includes actual outlays and commitments through November 30, 2007.

<sup>3</sup> Although the current project budget is sufficient to complete final design and fund right of way acquisition, there is a budget shortfall in the project for construction. Construction will not commence until this shortfall has been eliminated. It should also be noted that the phase allocations of the budget do not currently reflect the actual needs of the different phases. Moneys will be redistributed between phases as is appropriate.

### **SMALL BUSINESS PARTICIPATION**

Not applicable to this action.

### **PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION**

Pursuant to Sound Move, Sound Transit proposes to design, build and operate the Sounder Commuter Rail system between Tacoma and Lakewood, Washington. The proposed improvements include a new rail connection beginning at East D Street, immediately west of the Tacoma Dome Station, and extending to the existing BNSF track at East M Street.

The Board previously authorized acquisition in this corridor, and some parcels have been acquired through Resolution No. R2003-13.

It was determined that alternative alignments of this corridor might be desirable. On April 20, 2006 the Board authorized further studies of various alternatives. On December 13, 2007 the Board selected Alternative 3 Modified. As a result of this action, three additional parcels have been identified as being necessary for the project. These parcels, which would be full acquisitions, are listed below, and a complete description of these parcels is listed in Exhibit A to proposed Resolution No. R2008-02.

Property Owner	Current Business On Site	Pierce County Tax Parcel No.
Linda J. Evans	Travel Inn	2025040031
Wakefield Investments	Paramount Electric American Denture Studio	2025050040
Holgate Street LLC	Star Ice and Fuel	0320096005

There are four businesses located on these properties that may be displaced by these acquisitions.

It is anticipated that a contract for final design will be out later this year. The final design process may identify additional real estate interests in other parcels that need to be acquired. At that time further Board action will be requested.

In compliance with the National Environmental Policy Act (NEPA) and the State Environmental Policy Act (SEPA), the Federal Transit Administration (FTA) and Sound Transit prepared and issued a Final Environmental Impact Statement (FEIS) for the Lakewood to Tacoma Commuter Rail and SR-512 Park and Ride Expansion in May 2002 which covered the proposed locations for the two commuter rail stations in South Tacoma and Lakewood, track and signal improvements and extensions from Tacoma to Lakewood, and a new layover yard at Camp Murray. A Record of Decision (ROD) was issued by FTA in December 2002. FTA approved a NEPA Reevaluation in February 2007 which evaluated, among other design changes and new information, the proposed change of location of the layover facility from Camp Murray to Lakewood after Camp Murray became unavailable. On November 28, 2007, FTA approved another NEPA Reevaluation which evaluated the impacts of a new alignment in the D to M Street segment in Tacoma (Modified Alternative 3 with a grade separated railroad bridge at Pacific in Tacoma). In compliance with SEPA, a SEPA Addendum was issued on December 4, 2007 which also evaluated the impacts of Modified Alternative 3. As a result NEPA and SEPA documentation and compliance are complete for the set of proposed Lakewood to Tacoma commuter rail improvements authorized to date by the Sound Transit Board.

### Prior Board/Committee Actions

Motion/Resolution Number and Date	Summary of Action
M2007-126 12/13/2007	D to M Street Track & Signal Project Preferred Alternative
M2007-94 8/23/2007	Identification of a Preferred Alternative for Purposes of Environmental Documentation for the D to M Street Track & Signal Project
M2007-36 2/22/2007	Expand scope of feasibility study of the proposed grade separation of the Sounder Commuter Rail track across Pacific Street
M2006-34 4/20/2006	Feasibility Study on the Proposed Grade-Separated Track between D and M Street
R2003-13 6/26/2003	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, and to execute all documents necessary to convey certain of those interests to the City of Tacoma

## **CONSEQUENCES of DELAY**

A short deferral of action on this resolution will not affect project timeline.

## **PUBLIC INVOLVEMENT**

During the period beginning February 2006, when Sound Transit began to study the feasibility of different alternatives for the D to M Street segment and December 2007, when the route to be constructed was confirmed, extensive community outreach was conducted to community and neighborhood groups, individual property and business owners, community stakeholders and residents. Activities included the following:

- Community and neighborhood groups were briefed at each juncture of the project and as new alternatives were introduced.
- Public open house and workshops regarding D-M alternatives were held October 2006 and November 2007.
- Staff participated in American Institute of Architects sponsored D-M design workshops in September 2006.
- Project update letters were sent to community contacts (stakeholders, adjacent and impacted businesses/property owner) in April 2006 and July 2007.
- Individual meetings with potentially impacted business/property owners and adjacent businesses were held in February/March 2006, May/June 2006 and April/May 2007. Real Estate staff participated in the April/May 2007 meetings to address any preliminary questions about the potential acquisition process.
- A letter was sent to community contacts in January 2008 informing stakeholders, businesses and property owners of the Board's decision on the route. A map of the route and Board motion was included.

## **ENVIRONMENTAL COMPLIANCE**

SSK 1-30-08

## **LEGAL REVIEW**

JW 1/31/08

## **SOUND TRANSIT**

### **RESOLUTION NO. R2008-02**

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 Commuter Rail D to M Street Track & Signal 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 Sound Move, the ten-year plan for high capacity transit in the Central Puget Sound Region; and

WHEREAS, Sound Move provided for the implementation of high capacity commuter rail service between Tacoma and Lakewood, and further provided for the construction, operation, and permanent location of an approximately 1.2 mile length of new railroad track in Tacoma from D Street to M Street; and

WHEREAS, in compliance with the National Environmental Policy Act (NEPA) and the State Environmental Policy Act (SEPA), the Federal Transit Administration (FTA) and Sound Transit prepared and issued a Final Environmental Impact Statement (FEIS) for the Lakewood to Tacoma Commuter Rail and SR-512 Park and Ride Expansion in May 2002 which covered the proposed locations for the two commuter rail stations in South Tacoma and Lakewood, track and signal improvements and extensions from Tacoma to Lakewood, and a new layover yard at Camp Murray. A Record of Decision (ROD) was issued by FTA in December 2002. FTA approved a NEPA Reevaluation in February 2007 which evaluated, among other design

changes and new information, the proposed change of location of the layover facility from Camp Murray to Lakewood after Camp Murray became unavailable. On November 28, 2007, FTA approved another NEPA Reevaluation, which evaluated the impacts of a new alignment in the D to M Street segment in Tacoma (Modified Alternative 3 with a grade separated railroad bridge at Pacific in Tacoma). In compliance with SEPA, a SEPA Addendum was issued on December 4, 2007, which also evaluated the impacts of Modified Alternative 3. As a result, NEPA and SEPA documentation and compliance are complete for the set of proposed Lakewood to Tacoma commuter rail improvements authorized to date by the Sound Transit Board; 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, Sound Transit has identified certain real properties as necessary for the construction and permanent location of the Commuter Rail D to M Street Track & Signal project, and they 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 Commuter Rail D to M Street Track & Signal 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.

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 Commuter Rail D to M Street Track & Signal project) 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 properties shall not exceed the fair market value to be determined through the appraisal process; provided that in the event the total of the acquisition, relocation, and re-establishment costs of the properties for the Commuter Rail D to M Street Track & Signal 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 Commuter Rail D to M Street Track & Signal 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 Commuter Rail D to M Street Track & Signal 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 Commuter Rail D to M Street Track & Signal project, parties be paid relocation and re-establishment costs associated with displacements from the properties.

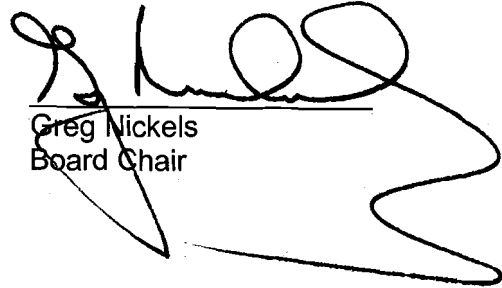
SECTION 4. The Sound Transit Board of Directors finds that the public health, safety, necessity, convenience, and welfare demand and require that the properties described in Exhibit A be immediately acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location of the Commuter Rail D to M Street Track & Signal 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, not owned by a public entity, for the purpose of constructing, owning, and operating a permanent location of the Commuter Rail D to M Street Track & Signal 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 on February 14, 2008.



Greg Nickels  
Board Chair

ATTEST:



Marcia Walker  
Board Administrator

**EXHIBIT A**

<b>Pierce County Parcel Id</b>	<b>Property Owner</b>	<b>Business On-Site</b>
2025040031	Linda J. Evans	Travel Inn

Legal Description:

LOTS 5, 6, 7 AND 8, BLOCK 2504, TACOMA LAND COMPANY'S FIRST ADDITION TO TACOMA, W.T., ACCORDING TO THE PLAT THEREOF FILED FOR RECORD JULY 7, 1884, RECORDS OF PIERCE COUNTY, WASHINGTON;  
EXCEPT THE NORTHERLY 3 INCHES OF LOT 5.

<b>Pierce County Parcel Id</b>	<b>Property Owner</b>	<b>Business On-Site</b>
2025050040	Wakefield Investments	Paramount Electric American Denture Studio

Legal Description:

LOTS 7 TO 21 INCLUSIVE IN BLOCK 2505 OF THE TACOMA LAND COMPANY'S FIRST ADDITION TO TACOMA, W.T., AS PER MAP THEREOF FILED FOR RECORD JULY 7, 1884, IN PIERCE COUNTY, WASHINGTON;  
EXCEPT THAT PORTION APPROPRIATED BY THE CITY OF TACOMA UNDER SUPERIOR COURT CAUSE NO. 61287, DESCRIBED AS FOLLOWS:  
BEGINNING AT A POINT ON THE EAST LINE OF BLOCK 2505 OF THE TACOMA LAND COMPANY'S FIRST ADDITION TO TACOMA, W.T.; SAID POINT BEING 2.725 FEET SOUTH OF THE NORTHEAST CORNER OF LOT 17 IN SAID BLOCK;  
THENCE IN A SOUTHWESTERLY DIRECTION MAKING AN ANGLE FROM SOUTH *TO* WEST OF 52°22'04" WITH THE EAST LINE OF SAID BLOCK A DISTANCE OF 90.515 FEET *TO* A POINT. OF CURVE;  
THENCE ON A CURVE *TO*. THE RIGHT HAVING A RADIUS OF 30 FEET A DISTANCE OF 66.828 FEET *TO* A POINT ON THE WEST LINE OF SAID BLOCK 2505, SAID POINT BEING 9.234 FEET *SOUTH* OF THE NORTHWEST CORNER OF LOT 18 IN SAID BLOCK 2505;  
THENCE SOUTHERLY ALONG THE WEST LINE OF SAID BLOCK A DISTANCE OF 168.603 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK;  
THENCE IN A NORTHEASTERLY DIRECTION ALONG THE SOUTHERLY LINE OF SAID BLOCK A DISTANCE OF 176.736 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK;  
THENCE NORTHERLY ALONG THE EAST LINE OF SAID BLOCK A DISTANCE OF 72.275 FEET TO THE PLACE OF BEGINNING.

<b>Pierce County Parcel Id</b>	<b>Property Owner</b>	<b>Business On-Site</b>
0320096005	Holgate Street LLC	Star Ice & Fuel

Legal Description:

PARCEL B OF BOUNDARY LINE ADJUSTMENT RECORDED OCTOBER 17, 1997 UNDER RECORDING: NO. 9710170137, IN PIERCE COUNTY, WASHINGTON.