

**SOUND TRANSIT  
STAFF REPORT**

**RESOLUTION NO. R2008-12**

**Confirming and Ratifying the Actions of the Chief Executive Officer Taken Pursuant to  
Resolution No. R2006-13**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Board Meeting	9/11/08	Discussion/Possible Action	Ahmad Fazel, Director, Link Light Rail Roger Hansen, Real Property Manager <b>Don Vogt, Sr. Real Estate Representative</b>	(206) 398-5389 (206) 689-3366 (206) 689-3396

<b>Contract/Agreement Type:</b>	<input checked="" type="checkbox"/>	<b>Requested Action:</b>	<input checked="" type="checkbox"/>
Competitive Procurement		Execute New Contract/Agreement	
Sole Source		Amend Existing Contract/Agreement	
Agreement with Other Jurisdiction(s)		Budget Amendment	

**PROJECT NAME**

Everett-to-Seattle Track and Signals, Layover Tracks for Trains 3 and 4

**PROPOSED ACTION**

Confirming the previously delegated authority of the chief executive officer to amend a legal description contained in Resolution No. R2006-13 Exhibit A for the Everett Station Layover Track Extension for Trains 3 and 4, and confirming and ratifying the actions of the chief executive officer with regard to the amended legal description as of the effective date of Resolution No. R2006-13.

**KEY FEATURES of PROPOSED ACTION**

- The proposed action confirms and ratifies the actions of the chief executive officer taken consistent with Resolution No. R2006-13 as of the effective date of said resolution.
- During development of the Everett Station Layover it was determined that the legal description attached to the resolution required an amendment to conform to precise project boundaries. The chief executive officer amended the legal description pursuant to the Section 5 of the resolution, and entered into a lease agreement between Sound Transit and BNSF for the area described by the amended legal description.
- An adjacent property owner has asserted a claim of interest in the property leased from BNSF and Sound Transit has instituted condemnation proceedings to clear title of the claimed interest.

**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 total adopted capital budget for the Layover Track project is \$23.1 million. Within that budget, \$750,000 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 in executive session.

**BUDGET TABLE**

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

Action Item: Property Acquisition for Everett Layover Track for Trains 3 and 4 and for Sounder Everett-Seattle Permitting/Mitigation Project

System-wide Layover (3X140) page 92, Adopted 2005 Budget	Current Board Adopted Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	509	2	-	2	507
2 Pre-Engineering	156	35	-	35	121
3 Final Design	375	0	-	0	375
4 Right of Way	750	-	-	-	750
5 Construction	20,653	14,931	-	14,931	5,722
6 Contingency	650	-	-	-	650
7 Total Current Budget	23,092	14,968	-	14,968	8,124

Permitting and Environmental Mitigation (31131) page 91, Adopted 2005 Budget	Current Board Adopted Budget (A)	Committed To Date (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
8 Agency Administration	1,091	1	-	1	1,090
9 Pre-Engineering	683	882	-	882	(199)
10 Final Design	762	-	-	-	762
11 Right of Way	1,934	0	-	0	1,934
12 Construction	5,819	14	-	14	5,805
13 Contingency	-	-	-	-	-
14 Total Current Budget	10,288	897	-	897	9,391

## **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.

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. The agreement makes BNSF responsible for the construction of track and signal improvements needed to accommodate commuter rail service. It also makes Sound Transit responsible for acquisition of any regulatory permits required to construct track improvements, the mitigation of construction impacts along the abutting waterfront, and the construction of stations and layover facilities.

Improvements to the Sounder Commuter Rail system between Seattle and Everett involve the Layover Track Project consisting of construction of additional train storage area at Everett Station for trains 3 and 4. The property required for the layover track project is identified as amended in Exhibit A of this resolution.

An adjacent owner has asserted a claim of interest in the property Sound Transit has leased from BNSF Railway and condemnation proceedings have been initiated to acquire the claimed property interest of the adjacent owner. This action will conform the legal description with the area of the property leased from BNSF with the property interest claimed by the adjacent owner so the adjacent owner's claimed interest will be extinguished for the entire area leased by Sound Transit from BNSF.

The proposed acquisitions are consistent with the range of impacts and alternatives evaluated in the Sound Transit Everett-to-Seattle Commuter Rail Project NEPA/SEPA EIS.

## **Prior Board or Committee Actions and Relevant Board Policies**

<b>Motion or Resolution Number</b>	<b>Summary of Action</b>	<b>Date of Action</b>
R2006-13	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 (a) the construction of the Everett Station Layover Track for Trains 3 & 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.	06/22/06
R2003-17	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.	09/25/03

### **CONSEQUENCES of DELAY**

Design and construction schedules for the projects assume the availability of the specific properties when needed for construction.

### **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. The sites for the North Line Mitigation Project have been selected after considerable consultation with representatives of the Tulalip Tribes, FTA, US Fish & Wildlife Services, NOAA, Army Corp of Engineers, Washington Dept. of Ecology, and local jurisdictions such as Snohomish County, and the cities of Everett, Mukilteo, Edmonds, Woodway, and Shoreline.

### **ENVIRONMENTAL COMPLIANCE**

PW 9/26/2005

### **LEGAL REVIEW**

JB 9/4/08

## SOUND TRANSIT

### RESOLUTION NO. R2008-12

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority confirming the previously delegated authority of the chief executive officer to amend a legal description contained in Resolution No. R2006-13 Exhibit A for the Everett Station Layover Track Extension for Trains 3 and 4, and confirming and ratifying the actions of the chief executive officer with regard to the amended legal description as of the effective date of Resolution No. R2006-13.

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, 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 (the "Layover Track Project"); and

WHEREAS, Sound Transit identified certain real properties as necessary for the construction and permanent location of the Layover Track Project ("the Project") and the Sound Transit Board authorized their acquisition by negotiation or exercise of eminent domain by adopting Resolution No. R2006-13 on June 22, 2006;

WHEREAS, during project design and development Sound Transit determined that it was necessary to amend the legal description contained within Exhibit A to Resolution No. R2006-13 for layover track construction and operation to conform the area to be acquired to project needs; and

WHEREAS, the chief executive officer exercised the authority delegated to her pursuant to Section 5 of Resolution No. R2006-13 and amended the legal description contained in Exhibit A of that resolution to conform the legal description to the precise boundaries of the property required for the Project; and

WHEREAS, the amended legal description is attached hereto as Exhibit A; and

WHEREAS, on August 15, 2007, Sound Transit entered into a lease with BNSF Railway for the area described in the amended legal description contained in Exhibit A attached hereto, and

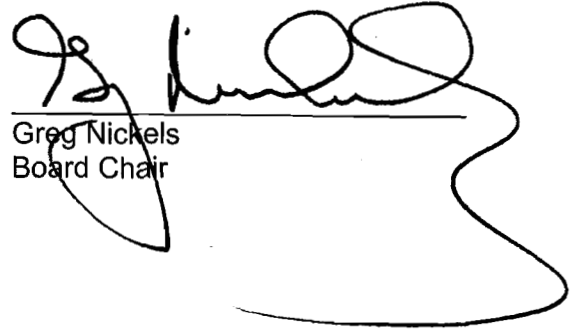
WHEREAS, on August 12, 2008, Sound Transit began eminent domain proceedings to clear title to the area described in the amended legal description contained in Exhibit A attached hereto because an adjacent property owner has asserted a claim of interest in the property;

WHEREAS, the Board of the Central Puget Sound Regional Transit Authority wishes to ratify and confirm these actions of the chief executive officer.

NOW THEREFORE BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority as follows:

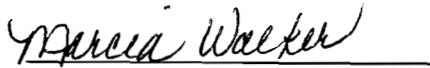
SECTION 1. The Sound Transit Board hereby confirms that the actions of the chief executive officer to amend the legal description contained within Resolution No. R2006-13, as adopted by the Board of the Central Puget Sound Regional Transit Authority on June 22, 2006 to conform said legal description to project needs were consistent with the authority delegated by Resolution No. R2006-13. The actions of the chief executive officer taken consistent with the amendment of the legal description, including but not limited to entry into a lease and commencing eminent domain litigation are hereby ratified and confirmed as of the effective date of Resolution No. R2006-13.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on September 11, 2008.



Greg Nickels  
Board Chair

ATTEST:



Marcia Walker  
Board Administrator

## **Legal Description for Layover Tracks 3 and 4 – Everett Track & Facilities**

### **Exhibit A**

#### **Legal Description**

THE WESTERLY 30 FEET OF THE WESTERLY 40 FEET 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 TRACK EXISTING AND MAINTAINED AS OF MARCH 13, 1990 INCLUDED WITHIN SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, LYING NORTH OF THE NORTH MARGIN OF 36<sup>TH</sup> STREET AND LYING SOUTHERLY OF A LINE THAT BEARS NORTH 74°19'57" EAST FROM THE MOST EASTERLY SOUTHEASTERLY CORNER OF THE EVERETT STATION BOUNDARY AS SHOWN ON A RECORD OF SURVEY FILED UNDER AUDITOR'S FILE NO. 200208055005, RECORDS OF SAID SNOHOMISH COUNTY.