

**SOUND TRANSIT  
STAFF REPORT**

**RESOLUTION NO. R2009-03**

**Confirming and Ratifying Actions Taken Pursuant to  
Resolution No. R2008-02**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Finance Committee	2/5/09	Discussion/Possible Action to Recommend Board Approval Action	Ahmad Fazel, Link Executive Director	(206) 398-5389
Board Meeting	2/12/09		<b>Don Vogt, Senior Real Estate Representative, Real Estate Division</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**

Correcting the legal description in Resolution No. R2008-02 Exhibit A for the D to M Track and Signal Project, and ratifying the actions of the chief executive officer with regard to the amended legal description as of the effective date of Resolution No. R2008-02.

**KEY FEATURES of PROPOSED ACTION**

- In February 2008, the Board approved Resolution No. R2008-02, authorizing the chief executive officer to perform certain actions related to real properties necessary for the Sounder D to M Street Track and Signal Project in Tacoma.
- During the acquisition of the Holgate Street Properties, LLC property, it was determined that the legal description attached to Resolution No. R2008-02 required an amendment to conform to precise project boundaries. The chief executive officer amended the legal description pursuant to Section 5 of the resolution, and entered into a Use and Possession Agreement between Sound Transit and Holgate Street Properties, LLC for the area described by the amended legal description and a subsequent temporary leaseback of the property to Holgate Street Properties, LLC.
- The proposed action confirms and ratifies the actions of the chief executive officer taken consistent with Resolution No. R2008-02 as of the effective date of said resolution.

**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 parties other than what is already assumed in the financial plan.

**BUDGET and FINANCIAL PLAN DISCUSSION**

The Adopted 2009 Capital Budget for the project is \$101,024,555. Within that budget, \$47,257,085 has been budgeted in the right of way phase with \$15,237,529 committed through November 30, 2008. The acquisition costs of specific parcels are appropriate for discussion with the Board in executive session.

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)**

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

	2009 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 <b>Agency Administration</b>	\$ 4,111	\$ 4,111		\$ 4,111	\$ -
2 <b>Preliminary Engineering</b>	\$ 1,745	\$ 1,711		\$ 1,711	34
3 <b>Final Design</b>	\$ 14,886	\$ 12,821		\$ 12,821	2,065
4 <b>Right of Way</b>	\$ 47,257	\$ 15,238		\$ 15,238	32,020
5 <b>Construction</b>	\$ 11,572	\$ 103		\$ 103	11,469
6 <b>Vehicles</b>	\$ 8,953	\$ 1,972		\$ 1,972	6,981
7 <b>Contingency</b>	\$ 12,500	\$ -		\$ -	12,500
8 <b>Total Current Budget</b>	\$ 101,025	\$ 35,956	\$ -	\$ 35,956	\$ 65,069

**Notes:**

Project budget is located on page 123 of the Proposed 2009 Budget book. The 2009 Budget was adopted by the Board on December 11, 2008.

<sup>2</sup> Committed to-date amount includes actual outlays and commitments through November 30, 2008.

**SMALL BUSINESS PARTICIPATION**

Not applicable for this action.

**PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION**

The Sounder commuter rail program includes planning, right of way acquisition, design and construction of the infrastructure needed to support a commuter rail system. The capital projects are grouped into three segments, Everett to Seattle, Seattle to Tacoma, and Tacoma to Lakewood. Construction in the Tacoma to Lakewood segment is being completed in two phases; the M Street to Lakewood phase and the D to M Street phase. Proposed improvements in the D to M Street phase 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.

It was determined that alternative alignments of this corridor might be desirable, and 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 that action, three additional parcels were identified as being necessary for the project. These parcels, which are full acquisitions, are listed below. A complete description of these parcels including the amended description for the Holgate Street Properties, LLC properties are listed in Exhibit A to this resolution. There are four businesses located on these properties that may be displaced by these acquisitions.

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 Properties, LLC	Star Ice and Fuel	0320096005

The legal description in the original resolution was incomplete. It is necessary to amend the legal description in order to include all of the property of the Holgate Street Properties, LLC parcel which is needed for the project.

Final design is underway and that 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
R2008-02 2/14/2008	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.

**CONSEQUENCES of DELAY**

The actions taken by the chief executive officer consistent with Resolution No. R2008-02 need to be confirmed and ratified before the agency can proceed with a condemnation action, if such action is required.

**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 with 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 owners) 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.
- On January 21, 2009, Sound Transit mailed a certified letter to the property owner affected by this action, Holgate Street Properties, LLC, which contained a notice that the Board would be considering this matter including authorizing condemnation, and also provided notice by publication in two newspapers on January 29, 2009 and February 5, 2009, in compliance with state law regarding public notification.

### **ENVIRONMENTAL COMPLIANCE**

SSK 1-13-09

### **LEGAL REVIEW**

JB 1/29/09

## **SOUND TRANSIT**

### **RESOLUTION NO. R2009-03**

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority correcting the legal description in Resolution No. R2008-02 Exhibit A for the D to M Track and Signal Project and ratifying the actions of the chief executive officer with regard to the amended legal description as of the effective date of Resolution No. R2008-02.

WHEREAS, the Central Puget Sound Regional Transit Authority, hereinafter referred to as Sound Transit, has been created for the Pierce, King, and Snohomish Counties region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, Sound Transit is authorized to plan, construct, and operate a high-capacity system of transportation infrastructure and services to meet regional public transportation needs in the central Puget Sound region; and

WHEREAS, in general elections held within the Central Puget Sound Regional Transit Authority district on November 5, 1996 and November 8, 2008, voters approved local funding to implement a regional high-capacity transportation system for the Central Puget Sound region; and

WHEREAS, the voter-approved regional high-capacity transportation system includes implementation of commuter rail service between Everett and Lakewood; and

WHEREAS, Sounder commuter rail improvements in the Tacoma to Lakewood segment, D to M Street phase include the construction, operation, and permanent location of an approximately 1.2 mile length of new railroad track; 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 identified certain real properties as necessary for the construction and permanent location of the commuter rail D to M Street Track & Signal Project, ("the Project"), and the Sound Transit Board authorized their acquisition by negotiation or exercise of eminent domain by adopting Resolution No. R2008-02 on February 14, 2008; and

WHEREAS, during project design and development Sound Transit determined that it was necessary to amend the legal description in Resolution No. R2008-02 Exhibit A for the Project construction and operation to conform the area to be acquired to project needs; and

WHEREAS, pursuant to Section 5 of Resolution No. R2008-02, the chief executive officer exercised the authority delegated to her to amend the legal description described in Resolution No. R2008-02 Exhibit A to conform the legal description to the precise boundaries of the property required for the Project; and

WHEREAS, the amended legal description is attached as Resolution No. R2009-03 Exhibit A; and

WHEREAS, on June 5, 2008, Sound Transit entered into a Use and Possession Agreement and short term leaseback with Holgate Street Properties, LLC, for the area described in the amended legal description in Resolution No. R2009-03 Exhibit A; and

WHEREAS, on January 21, 2009, Sound Transit mailed a certified letter to the property owner affected by this action, Holgate Street Properties, LLC, which contained a notice that the Board would be considering this matter including authorizing condemnation, and also provided notice by publication in two newspapers on January 29, 2009 and February 5, 2009, in compliance with state law regarding public notification; and

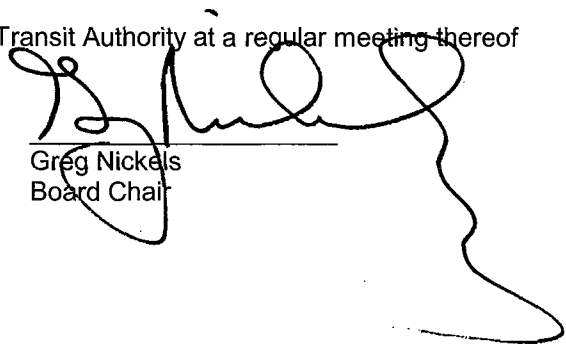
WHEREAS, the Board of the Central Puget Sound Regional Transit Authority wishes to ratify and confirm these actions of the chief executive officer and amend the legal description in Resolution No. R2008-02 Exhibit A.

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

SECTION 1. Resolution No. R2008-02, as adopted by the Board of the Central Puget Sound Regional Transit Authority on February 14, 2008 is hereby amended by replacing Resolution No. R2008-02 Exhibit A with Resolution No. R2009-03 Exhibit A.

SECTION 2. The Sound Transit Board hereby confirms that the actions of the chief executive officer to amend the legal description in Resolution No. R2008-02 Exhibit A as adopted by the Board on February 14, 2008, to conform the legal description to project needs are consistent with the authority delegated by Resolution No. R2008-02. The actions of the chief executive officer taken consistent with the amendment of the legal description, including but not limited to entry into a Use and Possession Agreement and leaseback with Holgate Street Properties, LLC are hereby ratified and confirmed as of the effective date of Resolution No. R2008-02.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on February 12, 2009.



Greg Nickels  
Board Chair

ATTEST:

Marcia Walker  
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 Properties, LLC	Star Ice & Fuel

Legal Description:

PARCEL A:

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

PARCEL B:

PARCEL B OF CITY OF TACOMA BOUNDARY LINE ADJUSTMENT RECORDED JULY 28, 2000 UNDER RECORDING NO. 200007285004, IN PIERCE COUNTY, WASHINGTON

PARCEL C:

A NON-EXCLUSIVE EASEMENT FOR PRIVATE ROAD AND UTILITIES AS CREATED BY THAT INSTRUMENT RECORDED JULY 20, 1987 UNDER RECORDING NO. 8707200091, IN PIERCE COUNTY, WASHINGTON.