

**SOUND TRANSIT  
STAFF REPORT**

**RESOLUTION NO. R2009-12**

**Property Acquisition for the Sounder 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	6/4/09	Discussion/Possible Action to Recommend Board Approval	Ahmad Fazel, Link Executive Director	(206) 398-5389
Board	6/11/09	Action	Jim Edwards Director of Capital Projects <b>Don Vogt, Senior Real Estate Representative</b>	(206) 398-5436  (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 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 Sounder Commuter Rail D to M Street Track and Signal Project.

**KEY FEATURES of PROPOSED ACTION**

- The proposed action authorizes the acquisition of three parcels for the Sounder Commuter Rail D to M Street Project. These property acquisitions include temporary construction easements (TCE).
- These additional parcels have been identified during final design for the revised alignment.
- The parcels and property interests are described in Exhibit A to this Resolution.

**BUDGET IMPACT SUMMARY**

Current Project Phase: FD  
Projected Completion Date: 2012

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 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 \$25,517,174 committed through March 31, 2009. The acquisition costs of specific parcels are appropriate for discussion with Board members in Executive Session.

In December 2007, the Board selected the Alternative 3 Modified – Grade-Separated alternative alignment for this project. The selection of this alternative created a budget shortfall. The shortfall will require outside funding, with possible funding coming from grants, partnerships with WSDOT, Amtrak and other parties that also benefit from this project. However, 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 Street - M Street 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)
Agency Administration	\$ 4,111	\$ 4,111	\$ -	\$ 4,111	\$ -
Preliminary Engineering	\$ 1,745	\$ 1,714	\$ -	\$ 1,714	\$ 31
Final Design	\$ 14,886	\$ 10,418	\$ -	\$ 10,418	\$ 4,468
Right of Way	\$ 47,257	\$ 25,517	\$ -	\$ 25,517	\$ 21,740
Construction	\$ 11,572	\$ 133	\$ -	\$ 133	\$ 11,439
Vehicles	\$ 8,953	\$ 8,953	\$ -	\$ 8,953	\$ -
Contingency	\$ 12,500	\$ -	\$ -	\$ -	\$ 12,500
<b>Total Current Budget</b>	<b>\$ 101,025</b>	<b>\$ 50,846</b>	<b>\$ -</b>	<b>\$ 50,846</b>	<b>\$ 50,178</b>

**Notes:**

<sup>1</sup> Project budget is located on page 126 of the Adopted 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 March 31, 2009.

**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 north of Tacoma Avenue South.

As a result of community interest in the route for the D to M section of the Tacoma to Lakewood Sounder line, the Board authorized consideration of various alternative alignments for this segment in April 2006. Initially, it had been contemplated that the alignment would run primarily in public right of way. However, as further design alternatives were considered, Alternative 3 Modified, which provided for a grade-separated crossing of Pacific Avenue emerged as a the alignment preferred by the community, and this option was endorsed by the Tacoma City Council. The Board directed staff in February 2007 to conduct a feasibility study of this alignment, and the Board approved it on December 13, 2007. As a result of that action, additional parcels have been identified as being necessary to acquire for the project. The Board had previously authorized acquisitions in this corridor. Now that final design is underway, additional real estate

interests in other parcels that need to be acquired have been identified. A complete description of these parcels is listed in Exhibit A to this proposed Resolution No. R2009-12.

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 was issued by FTA in December 2002. On November 28, 2007, FTA approved a 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. This is the alignment to be constructed by Sound Transit. The SEPA Addendum and NEPA Reevaluation for Modified Alternative 3 disclosed and evaluated impacts on additional properties not affected as a part of the alternatives studied in the previous EIS. NEPA and SEPA documentation and approvals are complete for the set of proposed Lakewood to Tacoma commuter rail improvements authorized to date by the Sound Transit Board. The request for authorization of property rights in this staff report is intended to acquire temporary construction easements (TCEs) and other similar easement rights. The type and range of impacts anticipated from the project in regard to the parcels identified in this staff report have been disclosed in the previous NEPA/SEPA environmental documentation.

**Prior Board/Committee Actions**

Motion/Resolution Number and Date	Summary of Action
R2009-08 4/23/2009	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 D to M Street Track & Signal Project
R2008-13 11/13/2008	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 Sounder Commuter Rail D to M Street Track & Signal Project.
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
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**

Timely approval of acquisitions is essential to meet project deadlines.

**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.
- In compliance with state legislation regarding public notification, Sound Transit has mailed certified letters to property owners affected by this action. Legal notices of this proposed Board action also have been published in the Tacoma area newspapers.

### **ENVIRONMENTAL COMPLIANCE**

SSK 5-19-09

### **LEGAL REVIEW**

LA 5/29/09

## **SOUND TRANSIT**

### **RESOLUTION NO. R2009-12**

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 D to M Street Track & Signal Project.

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 4, 2008, voters approved local funding to implement a regional high-capacity transportation system for 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, Washington, 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 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 Sounder Commuter Rail D to M Street Track & Signal Project, and they are reasonably described in Exhibit A of this resolution; and

WHEREAS, on May 26, 2009, Sound Transit mailed certified letters to property owners affected by this action and also published newspaper notices in compliance with state law regarding public notification; 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 the Sounder 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 Sounder 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 Sounder 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 Sounder 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 Sounder Commuter Rail D to M Street Track & Signal Project, parties be paid relocation and re-establishment costs associated with displacements from the properties.

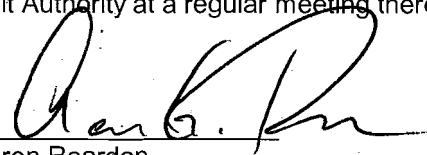
SECTION 4. The Sound Transit Board of Directors finds that the public health, safety, necessity, convenience, and welfare demand and require that the properties described in Exhibit A be immediately acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location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

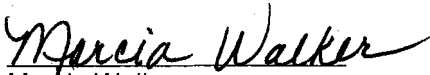
SECTION 6. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on June 11, 2009.



Aaron Reardon  
Board Vice Chair

ATTEST:



Marcia Walker  
Board Administrator



**EXHIBIT A  
RESOLUTION NO. R2009-12  
Commuter Rail D to M Street Track and Signal Project**

<b>Order No.</b>	<b>R/W No.</b>	<b>Owner/Contact</b>	<b>Parcel #</b>	<b>Site Address</b>
692901	DM033	TT Turner Properties, L.L.C.	207617 005 0	East C Street Tacoma WA

Lots 10 to 12, inclusive, Block 7617, The Tacoma Land Company's First Addition to Tacoma, W.T., according to the plat thereof recorded July 7, 1884, in Pierce County, Washington.

<b>Order No.</b>	<b>R/W No.</b>	<b>Owner/Contact</b>	<b>Parcel #</b>	<b>Site Address</b>
698411	DM041	The City of Tacoma	202710 003 1	S Tacoma Wy Tacoma WA

That portion of Lots 12 through 16, inclusive, Block 2710 ½, Tacoma Land Company's First Addition to Tacoma, W.T., according to the map thereof filed for record July 7, 1884, in the Office of the Pierce County Auditor, in Pierce County, Washington, lying northwesterly of a line described as beginning at the northwest corner of Lot 8 in said block;

Thence southwesterly to a point on the dividing line between Lots 12 and 13 in said block, said point being 30 feet measured along said dividing line from the northwesterly line of said Block 2710 ½; Thence southeasterly to a point on the dividing line between Lots 13 and 14 in said block 27.50 feet measured along said dividing line, from the southeasterly line of said block;

Thence southwesterly to a point on the easterly line of Tacoma Avenue, 65 feet north of the southwest corner of said Block 2710 ½, being a point 65 feet from the northwesterly line of Holgate Street and the terminus of said line;

EXCEPT that portion of Lot 12 lying northeasterly of a line extending from the northwesterly corner of said Lot 12 southeasterly to the southwesterly corner of Lot 2, Block 2810 of Tacoma Land Company's First Addition to Tacoma.

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
698412	DM042	Tacoma Armour Building LLC	207615 004 0	E 26 St Tacoma WA

That part of Lots 3, 4, 5, 6, 7 and 8, Block 7615, The Tacoma Land Company's First Addition to Tacoma, W.T., according to the plat filed for record July 7, 1884, in the office of the County Auditor, Pierce County, Washington, lying easterly of the easterly line of that certain property described in deed to Armour LTD., a Washington limited partnership, recorded October 19, 1992, recorded under Recording Number 9210190176, in Pierce County, Washington;

TOGETHER WITH all right, title and interest of grantor in and to that portion of the alley lying between Blocks 7615 and 7616 of said subdivision, described as being westerly of a line described as beginning at a point opposite Highway Engineer's Station (hereinafter referred as to HES) 129+31.14 on the SB line survey of SR 705, Tacoma Spur and 177.62 feet southwesterly therefrom;

Thence southerly to a point opposite 129+16.35 on said SB line survey and 180.13 feet southwesterly therefrom;

Thence continuing southerly along the extension of the afore described line to a point on the north line of said Block 7615 and the end of the described line;

EXCEPT from said alley any part lying within the description of said deed to Armour LTD., a Washington limited partnership; AND EXCEPT from said alley any part lying westerly of the description of said deed to Armour LTD., a Washington limited partnership