

**RESOLUTION NO. R2012-05**
**Property Acquisition for the Sounder 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>
Capital Committee	02/09/12	Recommendation to Board	Ahmad Fazel, DECM Executive Director	206-398-5389
Board	02/23/12	Final Action	<b>Roger Hansen, Real Property Director</b>	206-689-3366

**PROPOSED ACTION**

Authorizes the chief executive officer to (1) acquire, dispose, or lease certain real property by negotiated purchase, by condemnation (including settlement of condemnation litigation), to the extent permitted by law or by entering into administrative settlements, and (2) to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for property interests for staging and construction staging area for an environmental mitigation project at McKinley Park for the Sounder D to M Street Track and Signal Project.

**KEY FEATURES**

- Authorizes acquisition, disposal or lease of one partial temporary property interest on WSDOT property, located adjacent to McKinley Park in the City of Tacoma for access and construction staging areas for construction of environmental mitigation for the Sounder D to M Street Track and Signal Project.
- The real property identified in this requested action is included in Exhibit A.

**PROJECT DESCRIPTION**

The D Street-to-M Street Track and Signal Project includes a rail connection between the existing Tacoma Dome Station and Sound Transit's Lakeview Subdivision railroad line. The project includes 1.4 miles of track work, a rail bridge over Pacific Avenue, roadway reconstruction, utility relocation and installation of a centralized traffic control system over the entire Lakewood to Tacoma segment.

Sound Transit identified using McKinley Park, a public park located within the City of Tacoma, as a site to implement a wetland mitigation project for these impacts. By teaming with Metro Parks Tacoma, Sound Transit did not have to purchase property and could implement elements of the McKinley Park Master Plan, which included constructing a new wetland area.

**FISCAL INFORMATION**

In accordance with Sound Transit policy, budgets for specific parcels will be discussed with the Board in executive session. Consistent with the current estimate at completion for real property acquisition, this action and acquisitions of remaining certified properties are affordable within the adopted project budget.

**Project Budget**

<b>D Street - M Street Track &amp; Signal</b>	<b>2012 TIP</b>	<b>Board Approvals</b>	<b>This Action</b>	<b>Board Approved Plus Action</b>	<b>Uncommitted/ (Shortfall)</b>
Agency Administration	9,396	7,193	-	7,193	2,202
Preliminary Engineering	1,694	1,695	-	1,695	(1)
Final Design	18,612	18,621	-	18,621	(9)
3rd Party	846	846	-	846	0
Right of Way	45,093	41,257	-	41,257	3,836
Construction	70,468	60,481	-	60,481	9,987
Construction Management	6,218	6,218	-	6,218	-
Vehicles	8,953	8,953	-	8,953	-
Contingency	-	-	-	-	-
<b>Total Project Budget</b>	<b>\$ 161,281</b>	<b>\$ 145,264</b>	<b>\$ -</b>	<b>\$ 145,264</b>	<b>\$ 16,016</b>

Notes:

Amounts are expressed in Year of Expenditure \$000.

Board Approvals = Committed to-date + Contingency, and includes pending Board Actions.

Project budget is located on page 70 of the 2012 Transit Improvement Plan.

**SMALL BUSINESS PARTICIPATION**

Not applicable to this action

**BACKGROUND**

The proposed action would authorize partial property acquisition for construction of environmental mitigation for the Sounder D to M Street Track and Signal Project.

Construction of the Sounder D to M Street Track and Signal Project will fill 0.46 acre of low-quality wetlands and streams to accommodate a change in the railroad grade for commuter trains. Mitigation design was developed and included input from the U.S. Army Corps of Engineers, City of Tacoma, Metro Parks Tacoma, and Friends of McKinley Park. The mitigation project includes constructing 0.45 acre of new wetland, enhancing 0.38 acre of wetland, enhancing 1.75 acres of wetland buffer, creating a new stream channel, constructing a boardwalk and pedestrian walkway, and removing contaminated soil only within the mitigation project area. Sound Transit will also provide direct funding in the amount of \$5,000 for an interpretive sign to be developed and installed by Metro Parks Tacoma. The mitigation project-related work will be included in the Sounder D to M Street Track and Signal Project construction contract.

**ENVIRONMENTAL COMPLIANCE**

SSK 2/2/12

**PRIOR BOARD/COMMITTEE ACTIONS**

Resolution No. R2010-20: Authorized the chief executive officer to execute an agreement with the Metropolitan Park District of Tacoma to allow Sound Transit to construct a wetland mitigation project at McKinley Park, which includes a not to exceed amount of \$5,000 for interpretive signage.

Resolution No. R2003-13: Authorized the Executive Director to 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 reestablishment 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

## **TIME CONSTRAINTS**

A one month delay would not create a significant impact to the project schedule. A delay of more than one month may not provide enough time to have a contractor in place to take advantage of the planting season.

## **PUBLIC INVOLVEMENT**

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.

Community outreach was conducted prior to advertisement of the Sounder D to M Street Track and Signal Project, specifically focusing on construction of the McKinley Park wetland mitigation project. Comments from community were instructive in developing elements of the plan, specifically the pedestrian access to the wetland mitigation project.

In compliance with state law regarding public notification, Sound Transit mailed certified letters to property owners affected by this action on February 6, 2012. Legal notices of this proposed Board action will be published in the Seattle Times newspaper on February 10 and 17, 2012.

## **LEGAL REVIEW**

JB 2/3/12

**RESOLUTION NO. R2012-05**

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) to the extent permitted by law, by condemnation litigation, or by administrative settlement; and to pay eligible relocation and re-establishment benefits to affected parties as necessary for Sounder Commuter Rail D to M Street Facility.

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 permanently 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, in order to acquire the properties determined to be necessary for the construction, operation and maintenance of project improvements required under Sound Move and ST2, 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 access and construction staging for environmental mitigation measures for the D to M Street Facility 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 D to M Street Facility, 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 the D to M Street Facility) 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 D to M Street Facility 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. 78-2, before the acquisition of the property for the D to M Street Facility 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. 78-2.

SECTION 3. The Sound Transit Board deems the D to M Street Facility, 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 D to M Street Facility, 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 D to M Street Facility.

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 D to M Street Facility. 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 23, 2012.



Pat McCarthy  
Board Chair

ATTEST:



Marcia Walker  
Board Administrator

**RESOLUTION NO. R2012-05  
EXHIBIT A**

**Sounder D to M Street Track and Signal Project**

<b>R/W No.</b>	<b>TAX PARCEL No.</b>	<b>OWNER / CONTACT</b>
DM049	9999999110	WSDOT



EXHIBIT "A"

SOUNDER D TO M STREET TRACK AND SIGNAL PROJECT

R/W No.	Owner/Contact	Parcel #	Site Address
DM049	WSDOT	9999999110	No Site Address

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9 AND THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10 ALL WITHIN TOWNSHIP 20 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN IN THE CITY OF TACOMA, PIERCE COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OPPOSITE I-5 HIGHWAY ENGINEER'S STATION (HEREINAFTER REFERRED TO AS HES) 3457+15.19 AND 150 FEET RIGHT, WHEN MEASURED PERPENDICULAR THERETO, THE LINE AS SHOWN ON THAT CERTAIN PLAN TITLED "SR 5, TACOMA AVENUE TO PUYALLUP RIVER BRIDGE VICINITY, PIERCE COUNTY, RIGHT OF WAY AND LIMITED ACCESS PLAN", SHEET 6 OF 11, DATED AUGUST 30, 2002; THENCE NORTHEASTERLY TO A POINT OPPOSITE HES 3470+46.48 AND 145.59 FEET RIGHT THEREOF; THENCE SOUTHEASTERLY TO A POINT OPPOSITE HES 3470+46.48 AND 195.59 FEET RIGHT THEREOF; THENCE SOUTHWESTERLY TO A POINT OPPOSITE HES 3467+93.21 AND 200 FEET RIGHT THEREOF; THENCE SOUTHWESTERLY TO A POINT OPPOSITE HES 3458+24.28 AND 200 FEET RIGHT THEREOF; THENCE WESTERLY IN A STRAIGHT LINE TO THE POINT OF BEGINNING.

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