



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

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**MEMORANDUM**

Date: February 21, 2017

To: Public Disclosure Commission Members

From: Phil Stutzman, Sr. Compliance Officer

Subject: 45-Day Citizen Action Complaint  
Sound Transit Officials, and Josh Benaloah, and Pat McCarthy  
PDC Case 11906

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**I. Background, Complaint Allegations, Request for PDC Review, and Statutes/Rules**

Central Puget Sound Regional Transit Authority (Sound Transit) is a public agency that constructs and operates a regional system of interconnected commuter rail, light-rail and express bus services in King, Pierce, and Snohomish counties. Sound Transit currently operates a commuter rail line from Everett to Lakewood; express busses on routes connecting cities between Everett, Issaquah, and Lakewood; and light-rail stations between Husky Stadium and SeaTac Airport. The light-rail system will extend to Northgate mall in 2021, and will further extend to Mercer Island, Bellevue, Redmond, Shoreline, Mountlake Terrace, Lynnwood, and Kent/Des Moines by 2023.

Voters approved funding for Sound Transit's regional transportation system in the general elections of 1996 (Sound Move) and 2008 (ST2). On June 23, 2016, the Sound Transit board adopted Sound Transit 3 (ST3) and passed Resolution R2016-17, which incorporated ST3 and served as the ballot proposition that sought voter approval and funding. ST3 proposed transit system expansion including approximately 62 miles of new light-rail with 37 stations serving Everett, South Lake Union, Ballard, West Seattle, Federal Way, Tacoma, downtown Redmond, South Kirkland, and Issaquah; improvements to commuter rail including two new stations and higher capacity trains; and bus rapid transit service along I-405/SR 518 between Lynnwood and Burien, and on SR 522 from Bothell to Shoreline.

The ballot title language read:

The Sound Transit Board passed Resolution No. R2016-17 concerning expansion of mass transit in King, Pierce, and Snohomish counties. This

measure would expand light-rail, commuter-rail, and bus rapid transit service to connect population and growth centers, and authorize Sound Transit to levy or impose: an additional 0.5% sales and use tax; a property tax of \$0.25 or less per \$1,000 of assessed valuation; an additional 0.8% motor-vehicle excise tax; and use existing taxes to fund the local share of the \$53.8 billion estimated cost (including inflation), with continuing independent audits, as described in the Mass Transit Guide and Resolution No. R2016-17.

ST3 was approved by voters on the November 8, 2016 ballot.

On November 17, 2016, the Attorney General received a Citizen Action Notice from Will Knedlik, filed under RCW 42.17A.765(4), alleging that officials of Sound Transit, and Josh Benaloh, and Pat McCarthy violated provisions of RCW 42.17A. Mr. Knedlik alleged that these individuals violated RCW 42.17A.555 by using public facilities to promote the passage of ST 3 (**PDC Exhibit 1**).

On December 2, 2016, the Attorney General's Office (AGO) informed the Public Disclosure Commission (PDC) of the Citizen Action Complaint and asked the PDC to review and possibly investigate the allegations as needed. The 45 days under RCW 42.17A.765(4) expired January 1, 2017, and on January 5, 2017, Mr. Knedlik submitted a 10-day final notice to the AGO. However, Mr. Knedlik agreed to take no further action until after the Commission had an opportunity to review staff's report on February 23, 2017.

**RCW 42.17A.555** states, in part: "No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities: ... (3) Activities which are part of the normal and regular conduct of the office or agency."

**RCW 42.17A.655(2)(b)** states:

(2) A person required to register as a lobbyist under RCW 42.17A.600 shall not: ...

(b) Knowingly deceive or attempt to deceive a legislator regarding the facts pertaining to any pending or proposed legislation;

**RCW 42.17A.750(1)** In addition to the penalties in subsection (2) of this section, and any other remedies provided by law, one or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(a) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of that election may be held void and a special election held within sixty days of the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended

that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

## II. Complaint

Mr. Knedlik's Citizen Action Complaint included the following allegations:

1. Sound Transit improperly hired a PR consultant EnviroIssues to promote the ST3 ballot proposition. (RCW 42.17A.555)
2. Sound Transit's public statements, including its Mass Transit Guide vastly understate the cost and life of the ST3 tax, and mislead the public. (RCW 42.17A.555)
3. Josh Benaloh, the immediate past Chair of Sound Transit's Citizen Oversight Panel (COP), misused Sound Transit facilities to promote the ST3 ballot proposition by making promotional statements at a COP meeting, including encouraging advocacy for the ballot proposition through social media. (RCW 42.17A.555)
4. Sound Transit engaged in deceitful lobbying of the state legislature when it "*beguiled legislators into believing that only \$15 billion in new state tax authority was being demanded in 2015 to finance its ST3 plan instead of at least \$308 to \$345 billion...*" (RCW 42.17A.655(2)(b))
5. Pat McCarthy, in her capacity as a member of the Executive Board of the Puget Sound Regional Council, used Sound Transit facilities to promote the ST3 ballot proposition, when she "deliberately misused public facilities, and other taxpayer-funded resources, to urge her fellow Executive Committee members ... to support the ST3 tax ballot ..." (RCW 42.17A.555)

Mr. Knedlik's allegation about Sound Transit's use of EnviroIssues was included in a complaint he filed May 26, 2016, and supplemented on July 4, 2016, that the PDC returned without action on September 14, 2016. Mr. Knedlik's allegation about Sound Transit's "Mass Transit Guide" was included in a complaint filed by John Niles on October 20, 2016, that the PDC returned without action on December 6, 2016.

## III. Staff Investigative Review and Analysis

### A. Staff Review of Complaint

PDC staff reviewed the following documents:

- Will Knedlik's November 17, 2016 Citizen Action Complaint filed with the Attorney General's Office.
- Sound Transit's response to November 17, 2016 complaint.
- Will Knedlik's May 26, 2016 and July 4, 2016 complaints concerning Sound Transit 3.

- Sound Transit's response to the May 26, 2016 and July 4, 2016 complaints, and staff's complaint return letter dated September 14, 2016.
- John Niles' October 20, 2016 complaint concerning Sound Transit 3 "Mass Transit Guide."
- Sound Transit's response to October 20, 2016 complaint, and staff's complaint return letter dated December 6, 2016.
- Pat McCarthy's response to allegations concerning comments made during the September 22, 2016 PSRC Executive Board meeting.

## **B. PDC Staff Investigative Review Findings and Analysis**

Mr. Knedlik's complaint referenced Exhibits A, E, and F, but no exhibits were provided with the complaint. PDC staff and the AGO asked Mr. Knedlik to provide the exhibits referenced in his complaint, but he provided no exhibits. Sound Transit responded to the complaint on January 31, 2017 by letter (**PDC Exhibit 2**), supplemented with its Exhibits A-F (**PDC Exhibits 3-8**).

Allegation 1: The allegations made in Mr. Knedlik's November 17, 2016 complaint repeated, in part, allegations he made in complaints filed May 26, 2016, and supplemented July 4, 2016. This included his allegation that Sound Transit's contract with EnviroIssues was inappropriate and was entered into to promote an upcoming ballot proposition. Sound Transit entered into a contract with EnviroIssues in August 2015. The contract served two functions: informing and involving community members and jurisdictions prior to the time when the Sound Transit Board decided which projects to include in its transit plan, and providing support to the Board in disseminating factual information that would allow the Board to collect public feedback on the needs of the region. The scope of the work in Sound Transit's contract with EnviroIssues describes the consultant's role including involvement in public meetings, public input, graphic design, and copy editing (**PDC Exhibits 2 and 3**). EnviroIssues engaged in activities that were part of the normal and regular conduct of Sound Transit. On September 14, 2016, PDC staff returned Mr. Knedlik's May 26, 2016 complaint making this same allegation (**PDC Exhibit 9**).

Allegation 2: Mr. Knedlik claims that Sound Transit has misrepresented the cost of the ST3 measure, and that this misrepresentation is sufficient grounds for a court to order reballoting pursuant to RCW 42.17A.750. In August 2016, in a ballot title action, Mr. Knedlik alleged that Sound Transit misrepresented at least \$308 billion in tax authority over 65 years (**PDC Exhibit 4**). This amount appears to be based on Mr. Knedlik's belief that Sound Transit will impose the authorized taxes at the full rates from 2017-2081. According to Sound Transit, this assumption conflicts with the express terms of the tax rollback provision in Resolution R2016017, which calls for taxes to be eliminated or reduced after the transit plans are completed. Sound Transit states it would have been misleading and inappropriate to assume collection of the taxes through 2081, and include the \$308 billion number in the ballot title or in any other materials generated by Sound Transit (**PDC Exhibits 2 & 5**).

On September 1, 2016, Judge Bill Bowman heard arguments from Mr. Knedlik and Sound Transit, and signed an order that denied and dismissed Mr. Knedlik's petition to include the

higher amounts in the ballot title (**PDC Exhibit 6**). It appears that Sound Transit properly represented the cost of the ST3 ballot measure in its Mass Transit Guide. On December 6, 2016, PDC staff returned John Niles' October 18, 2016 complaint making this same allegation (**PDC Exhibit 10**).

Allegation 3: The Citizen Oversight Panel (COP) was created in 1997 to independently monitor Sound Transit. COP members are appointed by the Sound Transit board to review Sound Transit's activities and report their findings to the board. Josh Benaloah serves as a COP member. Mr. Knedlik alleged that at virtually every meeting from February 18, 2016 to November 3, 2016, COP members "*have coached a framing of ST3 taxes to lure citizens and taxpayers,*" and that during the November 3, 2016 meeting, Josh Benaloah urged fellow COP member Robin Gold to support the ST3 ballot measure by the use of Facebook tools. A review of the COP Meeting Notes from February 18, 2016 through November 3, 2016 did not reveal these types of promotional comments. The following comments were found in the Meeting Notes:

The September 15, 2016 COP Meeting Notes say COP member Josh Benaloah noted that there have been increasing numbers of articles about ST3 in various local media, some of which are inaccurate. He said he wrote a quick correction to one piece and encouraged other COP members to do the same when appropriate.

The November 3, 2016 COP Meeting Notes say COP member Dave Russell noted that the *Seattle Times* has been running a series of carefully written and generally positive articles about ST3, including one in the morning's paper regarding the impacts of Lynnwood Link. The November 3, 2016 COP Meeting Notes also say Josh Benaloah noted that prior to previous Sound Transit ballot measures, COP members had offered their own informal predictions about outcomes. He said several COP members offered their written projections to be tallied after the election. He said the winning prediction would be announced at the November 17, 2016 COP meeting (**PDC Exhibit 7**).

Sound Transit stated that COP did not support ST3 in violation of state law, and that Mr. Knedlik's recollections of the meetings are inconsistent with the records on file as well as the recollections of others present. No evidence was found that the comments made by COP members were a prohibited use of public facilities under RCW 42.17A.555.

Allegation 4: RCW 42.17A.655(2)(b) prohibits a person required to register as a lobbyist under RCW 42.17A.600 from knowingly deceiving or attempting to deceive a legislator regarding the facts pertaining to any pending or proposed legislation. Mr. Knedlik alleged that Sound Transit lobbyists deceived legislators into believing Sound Transit was asking for only \$15 billion in new taxing authority, in 2015, instead of \$308 to \$345 billion, but he did not provide facts to substantiate his allegation. Sound Transit denied that any of its staff or contracted lobbyists deceived or attempted to deceive any legislator regarding any aspect of ST3. The complaint lacked evidence to support this allegation.

Allegation 5: Mr. Knedlik alleged that at a Puget Sound Regional Council (PSRC) Executive Board meeting, Former Pierce County Executive Pat McCarthy, misused public facilities to urge other people "to support the ST3 ballot measure in every way possible ..." It appears that Mr.

Knedlik is referring to comments made by Ms. McCarthy at the September 22, 2016 PSRC Executive Board meeting. Ms. McCarthy spoke under the Agenda Item New Business (Sound Transit's Adopted Phase 3 (ST3) System Plan) (**PDC Exhibit 8**).

A review of the video recording of the September 22, 2016 PSRC Executive Board meeting did not reveal comments by Ms. McCarthy as described by Mr. Knedlik. In responding to the complaint, Ms. McCarthy stated, "My support of the Sound Transit 3 (ST3) initiative is a matter of public record. Although I do not have a recollection of what I specifically said about the ST3 initiative at a Puget Sound Regional Council (PSRC) meeting, any statement I would have made would have been in response to an agenda/action item on the agenda of a regularly scheduled, open public meeting of the PSRC. Any statements I would have made during a meeting were made as part of my normal and regular conduct as a member of the PSRC and as part of my duties and powers as the Pierce County Executive."

The PSRC is responsible under state law for determining whether Sound Transit's system plans confirm to the region's growth strategy, VISION 2040, and long-range transportation plan, Transportation Plan 2040. The Executive Board was being asked whether the ST3 System Plan conformed with the region's long range plans. Sound Transit stated that comments made by members of the Executive Board regarding the ST3 system plan at the September 22, 2016 meeting were normal and regular conduct for the PRSC.

#### **IV. Conclusion**

A review of Mr. Knedlik's complaint, and documentation provided by Sound Transit in response to the complaint, did not show evidence that Sound Transit officials, and Josh Benaloah, and Pat McCarthy, violated RCW 42.17A.555, or that Sound Transit's staff and contracted lobbyists violated RCW 42.17A.655(2)(b).

1. Based on the factors identified in staff's investigative review and described above, staff has determined that enforcement action would not be appropriate concerning the allegations in the complaint.
2. Staff found no evidence that would support seeking a court order under RCW 42.17A.750(1) to hold the ST3 election results void and order that a special election be held within sixty days of the finding.

#### **Investigative Review Exhibits**

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|------------------|---|
| <b>Exhibit 1</b> | Will Knedlik's November 17, 2016 Citizen Action Complaint                             |
| <b>Exhibit 2</b> | Sound Transit's Response to Will Knedlik's November 17, 2016 Citizen Action Complaint |
| <b>Exhibit 3</b> | Sound Transit's Exhibit A to its Response (EnviroIssues)                              |
| <b>Exhibit 4</b> | Sound Transit's Exhibit B to its Response (Knedlik Petition)                          |

- Exhibit 5**      Sound Transit's Exhibit C to its Response (Response to Knedlik Petition)
- Exhibit 6**      Sound Transit's Exhibit D to its Response (Order Re Petition)
- Exhibit 7**      Sound Transit's Exhibit E to its Response (COP Meeting Notes)
- Exhibit 8**      Sound Transit's Exhibit F to its Response (PSRC Agenda)
- Exhibit 9**      PDC's September 14, 2016 Complaint Return Letter to Will Knedlik
- Exhibit 10**     PDC's December 6, 2016 Complaint Return Letter to John Niles

## Will Knedlik

November 16, 2016

Honorable Bob Ferguson  
Office of State Attorney General  
1125 Washington Street Southeast  
Olympia, Washington 98504

Honorable Daniel T. Satterberg  
Office of King County Prosecutor  
King County Courthouse  
Seattle, Washington 98104

Re: Reballoting for Sound Transit 3 tax ballot election pursuant to RCW 42.17A.750

Honorable General and Honorable Prosecuting Attorney:

This correspondence requests each or both of your offices to exercise respective statutory authority, as provided by RCW 42.17A.765, to file civil litigation to compel a reballoting for the Sound Transit 3 tax ballot election held on November 8, 2016, originally, due to: (1) extremely egregious and enormously extensive misuses of government assets paid for with taxpayer dollars by a variety of Sound Transit Board members and officers, in King County, which influenced the results of that election through misfeasance in public office or worse (as well as by one-or-more other government-funded employees or agents), and (2) gross abuse of local, regional and state taxpayers thereby (including the undersigned *qua* a taxpayer of and to the Central Puget Sound Regional Transit Authority), *inter alia*.

Particulars as to massive wrongdoing occurring within King County is documented in an attached complaint for declaratory-and-injunctive relief, including but not limited to fraud on the King County Superior Court, on September 1, 2016, as to \$308-to-\$345 billion that simple fifth-grade arithmetic and standard financial heuristics render easily ascertainable.

If your offices determine **not** to commence litigation to compel such reballoting before or on January 2, 2017 pursuant to RCW 42.17A.765(4)(a)(i), then written notice required by RCW 42.17A.765(4)(a)(ii) shall be delivered to your respective offices on *circa* January 3, 2017 as to a citizen action to be filed on *circa* January 18, 2017 as provided by statute.

If any further information would be helpful in evaluating this request – so that citizens of this state can be protected as voters and as taxpayers – my plans are to have returned from Philadelphia by November 29, 2016 and I would be pleased to cooperate fully thereafter.

Respectfully yours,



Will Knedlik  
Post Office Box 99  
Kirkland, Washington 98083  
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425-822-1342



## INTRODUCTION

1. The Sound Transit 3 tax ballot submitted to state citizens in parts of three of 39 counties, at the General Election held on November 8, 2016, is intended to finalize **diversion** of at least **\$308-to-\$345 billion** in finite state tax authority, from 2017 to 2082, and **expropriation** of state revenue capacity otherwise available, then, so as to preclude use of judicially restricted state taxes indispensable to discharge, belatedly, “the paramount duty of the state to make ample provision for the education of all children residing within its borders” (Washington State Constitution, Article IX, sec. 1, Preamble).

2. If state taxes could be thus diverted, legally, to benefit **one** junior taxing district located in **parts** of three counties, as intended, the **diversion** of judicially constricted state tax authority from **all** common schools would far more probably exceed one half trillion dollars, over those 65 years, if not in reality far more, since duration of that **expropriation** of judicially narrowed state revenue capacity from basic education would likely be perpetual, given huge capital reserves forever needed to replace costly rail systems, so as thereby permanently to remove trillions of dollars quintessential to execute Defendant STATE OF WASHINGTON’s “paramount duty,” as outlined in greater detail hereinafter.

3. Such **diversion** of judicially constrained state dollars from **every** child **statewide**, despite Defendant STATE’s constitutionally referenced “paramount duty” to fund public instruction **amply**, was nominally **granted** by Interested Party 64th State Legislature, on July 1, 2015, while it was not merely acting under a formal **Order for contempt of court** entered nine months earlier, due to serial failures by legislatures across several decades to perform that “paramount duty of the state to make ample provision for the education of all children,” but was also then defying unprecedented court orders, during regular-and-special legislative sessions in 2015, resulting in a \$100,000-per-day penalty imposed by the Washington State Supreme Court to punish **its ongoing contempt** less-than-45 days **after** Interested Party 64th Legislature’s **expropriation** of at least **\$308-to-\$345 billion** from public

schools, over-half-a-trillion dollars more likely and trillions beyond most probably (which fine is to be paid **statewide** by **all** citizens, **all** other residents, **all** businesses and **all** nonprofit organizations).

4. These astonishingly irregular legislative circumstances derive from Interested Party 64th Legislature's approval of Second Engrossed Substitute Senate Bill 5987, during its Third 2015 Special Session, based on Interested Party Sound Transit's strong-arm lobbying (**nominally** to seek **\$15 billion in new tax authority over 15 years**), on said former Interested Party's failure to direct preparation of **ANY** Fiscal Note analysis of ST3 tax impacts (despite patent crowding-out effects due to judicially restricted state revenue capacity) and on the latter Interested Party's no-holds-barred tactics to **take hostage**, in 2015, the total state transportation budget essential for **much-too-long-deferred** maintenance of hence rapidly deteriorating bridges, highways, roads and streets, **statewide**, to coerce acquiescence to its **\$15 billion ransom** (instead of a giant \$11 billion option fully on offer to it then).

5. **NO** Fiscal Note on Sound Transit 3's highly adverse effects on state tax authority was **ever** prepared for, or reviewed by, Interested Party 64th Legislature as an entity acting with obliviousness to state Supreme Court orders, to its own practices mandating fiscal analysis, for sums over \$50,000, and to common sense, before casual removal of hundreds of billions of dollars available to fulfill "the paramount duty of the state" – albeit then dishonestly misrepresented as *only* **\$15 billion** by taxpayer-funded lobbyists – **NOR was that huge tax diversion ever reported to the high court as ordered.**

6. If lawful, ST3 taxation is so huge that approval would effectively render "ample" school funding impossible statewide, **politically**, and thus exacerbate devolving *proto*constitutional peril.

7. Taken together with all violations of the United States Constitution in multiple regards, the federal Enabling Act of 1889, the Washington State Constitution in numerous respects and various federal-and-state statutes, gross wrongdoing thus made out yields a rare legal instance wherein a certification of election may be enjoined under *Philadelphia II v. Gregoire*, 128 Wn.2d 707 (1996).

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### PARTIES AND INTERESTED PARTIES

8. Plaintiff WILL KNEDLIK is a United States and state citizen residing within Kirkland and a voter registered in King County; he is a taxpayer domiciled in the East King County subarea of Interested Party Sound Transit's junior taxing district; he was appointed by said Interested Party's Board of Directors, in mid 2007, to prepare formal opposition statements for each official Voters' Pamphlet (together with Kemper Freeman, Jr. and with Phil Talmadge), but he has been excluded from that service, in 2008 and in 2016, due to his expertise in state-and-local finance as a former chair of the Revenue Resources Subcommittee in the Washington State House of Representatives and as a previous Executive Secretary of the National Conference of State Tax Judges, and due to his Board-appointed role in defeating Sound Transit 2 in 2007; he was prevented from testifying in respect to Sound Transit 3's lack of compliance with explicit statutory requirements for a lawful ballot, under RCW 81.104.110, through its unconstitutional **prior restraint** to exclude his testimony on June 23, 2016; and he challenged said Interested Party's devious Sound Transit 3 ballot title (revised by the King County Superior Court in the form attached hereto as Exhibit A).

9. Defendant STATE OF WASHINGTON is a state possessed of equal footing in its limited sovereignty as authorized under and subject to the United States Constitution, the Enabling Act of 1889 and the Washington State Constitution, but operating under a formal **Order for contempt of court** against it since the Washington State Supreme Court's entry thereof on September 11, 2014.

10. Defendant KIM WYMAN is chief elections officer for Defendant STATE possessed of certification functions for ballot proposals submitted at the General Election of November 8, 2016.

11. Interested Party 64th State Legislature is the 64th legislative body of Defendant STATE; is authorized to enact legislation from January 12, 2015 until January 8, 2017; did thereby nominally adopt Second Engrossed Substitute Senate Bill 5987 on July 1, 2015 **while under a contempt order**;

thereafter failed to report its huge **diversion** to the state Supreme Court so as to violate court orders; and shall be replaced by a 65th State Legislature comprised of 98 state citizens elected on November 8, 2016 to serve as its House of Representatives and of 49 others elected as senators then and before.

12. Interested Party Randy Dorn is the elected Superintendent of Public Instruction and thus possessed of pivotal constitutional obligations in regard to “the paramount duty of the state to make ample provision for the education of all children residing within its borders” (Article IX, sec. 1), and in respect to explicitly assigned responsibilities *cum* prerogatives *in re* “supervision over all matters pertaining to public schools” (Article III, sec. 22); he has, in that capacity, presented *amicus* briefing in *McCleary v. State* litigation and filed an action against Defendant STATE and seven of its school districts pending at present; and he publicly opposed the ST3 tax ballot due to his stated concerns as to its crowding-out effects upon finite state tax authority and thereby limited state revenue capacity.

13. Interested Party American Federation of Teachers is an affiliate in Washington state for the American Federation of Teachers, a national AFL-CIO union, and is a plaintiff in civil litigation presently challenging the constitutionality of tax financing for charter schools in this state due to, in part, its crowding-out effects on finite state tax authority and thereby limited state revenue capacity.

14. Interested Party Eastside Transportation Association is a nonprofit organization legally established for research-and-educational purposes with principal *foci* on the 18th Amendment to the Washington State Constitution and on associated transportation-finance and cost-effectiveness issues and was lead petitioner in a challenge to constitutional-and-legal adequacy of a ballot title proposed for the Sound Transit 3 tax ballot, including failure to state, therein, full tax dimensions thereof (*cum* plaintiff as an officer of said organization and chair of its James W. MacIsaac Research Committee).

15. Interested Party El Centro de la Raza is a nonprofit organization and is now a plaintiff in civil litigation presently challenging the constitutionality of tax financing for charter schools in this

state due to, in part, crowding-out effects upon finite state tax authority, and thereby limited state revenue capacity, from the resulting diversion thereof for education other than common schools.

16. Interested Party League of Education Voters is a nonprofit organization and was lead plaintiff in civil litigation previously challenging, successfully, constitutionality of Initiative 1053, for its two-thirds requirement for fiscal legislation, and hence adverse effects on finite state tax authority, and thus limited state revenue capacity, due to fiscal constraints negative for school funds.

17. Interested Party League of Women Voters is a nonprofit organization; was a plaintiff in civil litigation previously challenging, successfully, constitutionality of state tax funding for charter schools; and is lead plaintiff in follow-on litigation presently, with other interested parties herein, in part based on concerns respecting crowding-out effects on finite state revenue authority, and thereby already limited state tax capacity, from diversion thereof for education other than common schools.

18. Interested Party Network for Excellence in Washington Schools is a nonprofit organization and was and remains a party in *McCleary v. State* due to its interests in the “paramount duty.”

19. Interested Party Paramount Duty is a nonprofit organization focused on that “paramount duty” and has recently submitted *amicus* briefing in the state Supreme Court’s ongoing processes for *McCleary v. State* litigation *vis-à-vis* a follow-on contempt hearing conducted on September 7, 2016.

20. Interested Party Central Puget Sound Regional Transit Authority, also known as “Sound Transit” presently and as the “RTA” previously, is a junior taxing district charged in two statutes, *i.e.* RCW 81.104 and to RCW 81.112, with certain legally mandatory responsibilities owed, thereunder, as conditions precedent, absolute, preliminary to any-and-all lawful tax-ballot propositions, which its ST3 tax ballot has failed to meet in squarely crucial fiscal respects, at issue herein, including the primary requirement for completion of central obligations imposed on the state’s Expert Review Panel, so as to prevent this Honorable Court from approving a lawful ballot title or any unlawful tax ballot,

COMPLAINT FOR DECLARATORY-AND-INJUNCTIVE RELIEF - 6

pursuant to mandatory requirements of RCW 81.104.110 (together with its disqualifying violations of Article IX, sec. 1, Article VII, sec. 5 and Article II, sec. 19, *inter alia*, as well as of provisions of the federal constitution, of sec. 4 of the Enabling Act of 1889 and of other federal-and-state statutes).

21. Interested Party Washington School Administrators Association is a nonprofit organization and was and is a plaintiff in litigation challenging constitutionality of tax financing for charter schools based in part on crowding-out effects on finite state revenue available for basic education.

22. Interested Party Washington Education Association is a nonprofit organization and was and is a plaintiff in civil litigation challenging constitutionality of tax funding for charter schools in part based on crowding-out effects on restricted state revenue hence available for common schools.

23. Interested Party Washington State School Directors' Association is an official agency of state government established through RCW 28A.345 for several functions useful for persons elected to local school boards (who all become, statutorily, members of said association during board terms).

### **JURISDICTION, VENUE AND STANDING**

24. This Honorable Court has valid jurisdiction over causes herein pursuant to the Uniform Declaratory Judgments Act (codified at RCW 7.24), RCW 2.08 and RCW 7.40, together with broad inherent judicial authority of every trial court of general jurisdiction to determine same and to enjoin Defendant STATE's egregious violations of Article IX, sec. 1, Article VII, sec. 5 and Article II, sec. 19, *inter alia* (as well as of the federal constitution, sec. 4 of the Enabling Act of 1889 and multiple federal-and-state laws), *cum* venue proper in this court based on residency of plaintiff in Kirkland.

25. Plaintiff has standing on several bases *qua* a citizen and a taxpayer; has asked the state Attorney General to prosecute this litigation to prevent **diversion** of at least **\$308-to-\$345 billion** from Defendant STATE's "paramount duty"; and, as identified in paragraph 8 *supra*, is informed as to constitutional-and-statutory matters of vital public import at issue, which also yield standing.

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## FACTUAL BACKGROUND

26. The Sound Transit 3 tax ballot's **diversion** of at least **\$308-to-\$345 billion** in finite state tax authority, long judicially limited, and in restricted state revenue capacity, therefore quintessential to fulfill, belatedly, "the paramount duty of the state to make ample provision for the education of all children residing within its borders" – and more likely over-half-a-trillion dollars and most probably trillions more – is readily documentable from the junior taxing district's present-and-planned taxes with no complexities beyond **simple** fifth-grade arithmetic and **standard** public-finance heuristics.

27. Simplicity of the basic mathematics necessary and straightforwardness of customary fiscal rules-of-thumb employed by governmental agencies to project future tax-receipts stand in stark contrast with Interested Party Sound Transit's able chief financial officer, Brian McCartan, having earlier sworn on his oath that such core fiscal calculations of the authentic dimensions of previous multibillion-dollar Sound Transit 2 tax ballots were **never** undertaken for the junior taxing district's colossal ST2 proposals in 2007 and in 2008, with such huge tax-revenue information having **never** been studied by any Fiscal Note for Interested Party 64th Legislature's Second Engrossed Substitute Senate Bill 5987 in 2015, with that immense taxation reality having **never** been disclosed to the Washington State Supreme Court or to citizens about the ST3 tax ballot in 2016, with that transit agency's highly capable attorney, Paul Lawrence, having dismissively urged the King County Superior Court that "Mr. Knedlik, I'm sorry, I don't understand where he gets his numbers," on September 1, 2016, and with Hon. Bill Bowman having seemingly been thus misled by that open-court averment, then, in erroneously concluding that "ultimately how much would it cost and for how long that [tax] cost is going to be incurred, I think, is an impossible question to answer" in deciding the ballot-title challenge identified in his Order attached as Exhibit A hereto (with further matters identified *supra* evidenced *infra* within, respectively, Exhibits B, C and D).

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28. In fact, as demonstrated in following paragraphs squarely, finite state tax authority to be diverted by the ST3 tax ballot for no-less-than 65 years and for likely far longer – by means both *sub rosa* and also *sub silentio* – can be established with **substantial accuracy** using **simple** grade-school arithmetic and **standard** public-finance heuristics, but has **not** been supplied for taxpayers within the ballot title due to the junior taxing district’s **failures**, or **refusals**, to do quite elementary **counting** as required (along with its above-quoted financial pretenses to mislead the King County Superior Court and, through its bold tactical misrepresentation to one judge on September 1, 2016, to chump voters on November 8, 2016), and due to its deceitful bait-and-switch insertion of a \$53.8 billion figure into the ballot title that is not only **nongermane** to a tax ballot, but in fact constructed with numbers based on **often unreliable estimates** for construction-and-other nonstable costs and on **totally speculative hopes** for federal grants, neither of which is a valid part of a tax ballot, but both of which have been substituted for **reliable-and-nonspeculative** revenue data wholly germane to the sole purpose of the ST3 ballot (so as to manifest inherent purpose as to intentional deception on *res ipsa loquitur* bases).

29. In particular, given Interested Party Sound Transit’s tax-take of more-than-\$778 million, in 2015, by its own accounting for combined car-rental, motor vehicle excise and sales tax receipts (as nominally authorized by its Sound Move tax ballot in 1996 and by its Sound Transit 2 tax ballot in 2008), given that the proposed ST3 tax ballot would nominally empower **both** extending all now existing taxes from 2017 to 2082 (due to ST3 plans to float bonds in its 25th year based on statutory authority for that junior taxing district to issue 40-year debt) and **also** adding still greater tax burdens from new motor vehicle excise, property and sales taxes (for six-and-one-half decades) and given its estimated rate for future tax growth under ST3 (at 3.8 percent), basic arithmetic yields **\$77.1 billion** as the indicated level of combined Sound Move, ST2 and ST3 tax burdens in the next 25 years (*q.v.* Appendix 1), with the basic Rule of 72 heuristic thus yielding **\$308 billion** projected over 65 years.

30. In further particular, given that Interested Party Sound Transit's finance department has reported a 10 percent growth in tax receipts, in 2016, from \$778 million, in 2015, so as to indicate a need to adjust Sound Move and ST2 revenues from a base of *circa* \$855 million annually, and given that a more-precise Rule of 69.3 heuristic can be applied to that higher starting figure, with all other fiscal-and-mathematical parameters unchanged, **\$345 billion** in combined 2017-81 taxes thus result.

31. Near certainty also exists that Interested Party Sound Transit **shall reap a huge windfall from sales taxes shortly** – so as to **add \$135-to-\$195 billion to its already gigantic tax haul even if** its leaders cannot finally lure state citizens, as voters and as taxpayers, into handing at least **\$308-to-\$345 billion** in combined Sound Move, ST2 and ST3 taxes over to it – from planned-for-expansions of sales taxes **both** to more types of service businesses located in this state so as to acquire, thereby, some portion of myriad billions of dollars in added state tax collections quintessential, **promptly**, to pay for basic education, **amply**, as Defendant STATE's "paramount duty" under Article IX, sec. 1 (probably rather early-on in the ST3 plan's 65-year term and despite such a 13th-or-14th-best approach thus rendering the state tax system **yet more regressive** than its current rank among the **most unfair** revenue structures of all 50 states extant today) and **also** to sales made over the internet as all states reliant on sales taxation, and as most bricks-and-mortar enterprises located therein, cooperate to press the United States Congress to level the playing field as to sales taxes, which are essential for state finances here, but which create a titanic *circa*-10 percent advantage for every internet merchant now able to skirt them (likely somewhat later in the ST3 plan's 65 years), with combined tax receipts from Sound Move, ST2 and ST3 taxes hence in the **\$443-to-\$540 billion** range (and trillions more if such combined taxes prove to be **perpetual** due to huge permanent costs for replacing rail facilities).

32. Hence, simple arithmetic documenting a massive **diversion** of judicially restrained state tax authority from "all children," **statewide**, to benefit a single junior taxing district, operating in but

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**parts** of three of 39 counties, is as patently obvious as are clearly destructive consequences for basic education through common schools already financed inadequately, **statewide**, even before **\$443-to-\$540 billion**, in judicially restricted state revenue capacity, is thus yanked away from public instruction, *sui generis*, and becomes crystalline with context essential for judicial declarations prayed *infra*.

33. A *proto*constitutional crisis has been percolating within Washington state government for more-than-eight decades as to state tax authority and thereby *in re* all state-and-local finances – in fits and starts but inexorably nonetheless – largely, but not exclusively, between 147 state legislators and more-than-4 million registered voters entrusted with **all** legislative power and **each** policy obligation associated therewith (under Article II of the Washington State Constitution) and nine Supreme Court justices possessed of **final** judicial authority and **every** resultant privilege (under Article IV thereof).

34. Outsize legal origins of such often-halting, but long-devolving, constitutional risks arise from a deeply riven, but markedly irresolute, outcome in *Culliton v. Chase*, 174 Wash. 363 (1933), 83 years ago, whereby a then wavering 5-to-4 majority spurned clear legislative determinations made in 1932 that then-“[e]xisting methods of taxation, primarily based on property holdings, are inadequate, inequitable and economically unsound” – since **not** reliably “based on the ability to pay” – in negating income taxation drafted by the people to pay for public-school costs through Initiative 69, four score and four years ago, and overwhelmingly approved by more-than-70 percent of state voters, then, so as thus to preclude stability, sufficiency and sustainability for a state tax system, **judicially**, as revenue structures, based on a foundation of 19th century ways, provided inadequate means to fund common schools in the 1930s (and ever-more lacking to finance basic education from then until today).

35. The unusual *Culliton v. Chase* decision to void a graduated net state income tax, in 1933, followed and preceded several other likewise conflicted state Supreme Court opinions that stifled **all** legislative efforts recurring between 1929 and 1935 to adjust state tax methodologies devised initially

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for largely agricultural-and-extractive commerce with assets concentrated in property owners (then abating in dominance since the late 19th century) to substantially altered conditions applicable for manufacturing, milling and other wage-based employment (then evolving quite rapidly, and ongoing still, albeit with a so-called “gig economy” upending decades of employer-employee constructs, now, as smart phones facilitate access to online platforms quickly shifting and shattering older paradigms).

36. Along with economic adversities from the Great Depression, those judicial negations left the 24th Legislature unable to finance common schools, from court-restricted state General Fund revenues available in 1935, and \$10 million was therefore simply **expropriated**, for state children, from **user fees** paid by state motorists and held in the Motor Vehicle Fund as a then-**state statutory trust**.

37. A \$10 million **diversion** of charges levied on motorists for bridges, highways, roads and streets, in good faith, to rescue public schools, in then genuinely dire fiscal straits, came to be viewed as an outright theft by many state motorists – particularly since that \$10 million was **never** repaid to the Motor Vehicle Fund – with that initial filching and those ongoing failures to restore **user fees** to the MVF resulting in nearly a decade of efforts, as then spearheaded by the Washington State Good Roads Association and by the Washington State Grange, to amend the state constitution to protect all MVF monies and “all other state revenue intended to be used for highway purposes” (18th Amendment as codified at Article II, sec. 40) through far stronger legal protections of a **state constitutional trust** “to be used exclusively for highway purposes” (in order to so guarantee that **NO** asset dedicated “exclusively for highway purposes” can **again** be expropriated from beneficiaries of that trust **EVER**).

38. Following the Great Depression and World War II, judicial negations from 1929 to 1935 have continued to leave one state legislature after another with insufficient state tax authority to meet, **completely**, “the paramount duty of the state to make ample provision for the education of all children,” **fiscally**, and hence with inadequate flexibility as to state revenue capacity to do so, **politically**.

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39. Inevitable-but-intermittent constitutional percolations, ever burbling within the state fisc, have risen to higher decibel levels when pushed upward, time after time, including *via* litigation that **demonstrated**, nearly four decades ago, then-already-long-standing failures by state government to develop reliable state tax authority to underwrite public-school costs, **fully**, in *Seattle School District v. State*, 90 Wn.2d 476 (1978), albeit with judicial deference to state traditions of comity weakening its legal potency over decades that have followed, and *via* follow-on litigation that **redemonstrated**, nearly five years ago, such continuing abject failures to develop state revenue capacity able to cover total immense costs of a statewide public-instruction program through a system of common schools, in *McCleary v. State*, 173 Wn.2d 477 (2012), also with certain-but-less deference than earlier comity.

40. In particular, the majority opinion in *McCleary v. State* determined, once again, to “defer to the legislature’s chosen means of discharging its article IX, section 1 duty” (as was done in 1978), but held, **without** the Chief Justice initially, that “the judiciary will retain jurisdiction over the case to help ensure progress in the State’s plan to fully implement education reforms by 2018” (at 547), so as to maximize justices’ leverage over legislators, albeit subject to substantial risks, well known, *qua* a submission for then-Speaker, John Bagnariol, and for then-House of Representatives Revenue Committee chair, Helen Sommers, had brought to the high court’s notice, as *amici curiae*, in *Seattle School District v. State* (regarding core realities that foster comity and respecting hazards attendant).

41. Through a series of formal orders, the state Supreme Court has held, *inter alia*, that “the state is in contempt of court for violating the court’s order dated January 9, 2014,” due to its failures yet to submit “a complete plan for fully implementing its program of basic education for each school year between now and the 2017-18 school year” (Order dated September 11, 2014, at its page 4, as signed for the court majority by the Chief Justice); “[e]ffective immediately, the State of Washington is assessed a remedial penalty of one-hundred thousand dollars (\$100,000) per day until it adopts a  
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complete plan for complying with article IX, section 1 by the 2018 school year” (Order dated August 13, 2015, at its page 9, as signed by all nine justices); and “[t]he monetary sanction of \$100,000 per day shall remain in place” (Order dated October 6, 2016, at its page 13, as signed by seven justices).

42. Neither the formal determination that Defendant STATE is in **contempt of court**, issued more-than-two years ago, nor a remedial fine imposed in 2015, and extended in 2016, can fix a state tax system’s patent inability to yield stable, sufficient and sustainable revenue capacity quintessential to cover massive costs required for basic education, **statewide**, through a system of common schools, given that negational jurisprudence from 1929 to 1935 arrested repeated legislative efforts to replace tax structures based on a 19th century economy (then receding in relevance) in order to reduce their property-tax emphases with revenue foundations applicable for wage-based earnings (then evolving rapidly), and given that **judicially** arrested development of state fiscal policymaking has not just be-gotten, but has effectively driven, a highly regressive sales-tax-reliant hodgepodge therefore cobbled together (which has proven itself unable either to finance public schools **fiscally**, or to resolve those deep-seated problems of state revenue capacity that can only achieve a genuine solution **politically**).

43. Hence, a dire foundational dilemma leaving state revenue capacity inadequate to pay for public schools necessary and sufficient for the 21st century – and, thus, increasing constitutional peril devolving over almost five years now, on periodic installment bases, as our state Supreme Court has followed its retention of jurisdiction with order after order, entered *seriatim*, with the previous 63rd Legislature and Interested Party 64th Legislature being chided, repeatedly, but acting without actual compliance in major regards, with Defendant STATE being subsequently held in contempt of court, in 2014, and being thereafter sanctioned unanimously with a daily penalty of \$100,000, in 2015, but with its most recent judicial response to policymakers’ truculence, clearly in view, lacking unanimity when issued on October 6, 2016 – derives from injurious constraints imposed, **judicially**, on essential

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**legislative** power as to *sine qua non* state tax authority by repeated nullifications of multiple variants on state income taxation, including but not limited to a 20th century tax presented as Initiative 69 by state citizens, in 1932, and approved overwhelming by more-than-70 percent of state voters, then, so as thereby to thwart design of a state tax system with stability, sufficiency and sustainability, for over eight decades, through an irregular opinion reliant upon 19th century jurisprudential precepts for state taxation applicable to agriculture and extraction (then receding), rather than to income earned under employment modalities coming into place well before the Great Depression (and instituted for some decades following World War II, *cum* extended transition to a peace-time economy, albeit constructs being adjusted in nontrivial respects as various consulting-and-contracting methods wax, today, *qua* proxies now replacing certain previous wage-income norms of prior employer-employee structures).

44. Thus, the state Supreme Court has shaped a “Catch 22” revenue quandary for Defendant STATE, across eight decades, with its **judicial** preclusions of development of **normal** state income-taxing modalities, and it has likely exacerbated that morass, over the last half decade, in its effective slide down a slippery judicial slope with Article IV-branch seizures of ever more Article II-taxation power without an evident competency in state-and-local public finance (at present), and without the considerable array of analytic tools developed by and available to Article II and Article III elements of state government (albeit largely abandoned by most members of those branches *vis-à-vis* sec. 318 *et sequens* of 2nd ESSB 5987, in 2015, as outlined more fully in following paragraphs), but, in fact, likewise available to justices (*e.g.*, *via* a “special master” along lines implicated in *McCleary* at 546).

45. This long-debilitating state fiscal predicament is a consequence of multiple factors but is, at its core, due to **judicial** denials of **standard** plenary state taxing power for the **legislative** function, and to decisions to hold Defendant STATE in contempt of court, for over two years, because both **all** legislatures and also **the** people have been gainsaid access, **judicially**, to a flow of revenue necessary  
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and sufficient to allow **actual** obedience to “the paramount duty of the state to make ample provision for the education of all children”; to impose a “remedial penalty” of \$100,000, each day, on **all** state taxpayers, last year, and to extend it, last month, chiefly because **ordinary** state income-tax authority requisite for **true** compliance with Article IX has been denied; and to hoist a *proto*constitutional crisis now hazarding still more peril, with each court order entered, as demands are thus being escalated for levels of expenditures currently infeasible, **politically**, without access to **all three usual state tax resources** available nationwide, for nearly every state legislature, to a substantial degree: **except here**.

46. While the judicial branch of state government has shaped a highly contradictory revenue snare into its foundation – which has simultaneously operated for eight-plus decades, so far, **both** as a trap preventing **ample** monies for public schools and for basic education through orderly design of a state tax system able to deliver stable, sufficient and sustainable revenue capacity reliably, and **also** as an impetus effectively driving ever-less fairness and ever-more regressivity for those state citizens often least able to pay sales taxes despite inescapable needs to consume and motor vehicle taxes due to unavoidable necessity for private transport in order to work at two, three, four or even more part-time jobs impossible using public transit – the legislative branch of state government has engineered unconstitutional and otherwise-unlawful structures for Interested Party Sound Transit so as, thereby, to **allow it to bleed at least \$443-to-\$540 billion of such judicially restricted state tax authority** from Defendant STATE’s “paramount duty” (owed to every child statewide), and so as, thus, to drain finite state revenue capacity quintessential to fund Article IX (*via* a colossal tax ballot for **one** junior taxing district on November 8, 2016); to do so in 2015 both *via* hard-ball coercion of Interested Party 64th Legislature and also *via* deceitful lobbying for **\$15 billion in new taxes** (instead of \$11 billion on offer); to do so with **no** Fiscal Note analysis of, **nor** reports on, highly adverse effects for the state treasury (despite **all** lobbying and **each** legislative action being undertaken while Defendant STATE COMPLAINT FOR DECLARATORY-AND-INJUNCTIVE RELIEF - 16

was operating under a formal **Order for contempt of court** for extended failure to pass “a complete plan for fully implementing its program of basic education for each school year between now and the 2017-18 school year” [Order dated September 11, 2014]); and, yet, to be electorally **unanswerable** to state citizens because that **one** junior taxing district has been devised in order to prevent core one-person, one-vote rights of the people under federal-and-state constitutions (as well as several further state constitutional guarantees since, *inter alia*, **no** eligible citizen can vote for or against **any** person on Interested Party Sound Transit’s Board *qua* a Board member, **nor** exercise the state constitutional right of recall for **two-of-three** Board officers from counties other than that of said voter’s residence).

47. Among several legislative irregularities underlying Interested Party 64th Legislature’s gigantic **diversion** of finite state tax authority to **that** junior taxing district, in 2015, while under an **Order for contempt of court** entered due to Defendant STATE’s **repeatedly adjudicated violations** of its constitutional “paramount duty” – including property-tax and sales-tax revenues long pivotal for funding costs of common schools – were reviews solely by its legislative transportation committees with genuine revenue expertise in car-and-truck license charges, gasoline-and-other-fuel taxes, tolls and weight fees, but **without** jurisdiction normally involving giant sums of property-and-sales taxes, **without** any Fiscal Note as to Sound Transit 3 impacts during 15 years then nominally at issue, much less the minimum of 65 years then legally applicable, and **without** any referral of those *sine qua non* state-finance issues either to fiscal committees with property-and-sales tax expertise or to education committees delegated substantive responsibility for discharge of that “paramount duty” (**NONE of which appears EVER to have been reported to the state Supreme Court as ordered**).

48. After spending virtually the entirety of Interested Party 64th Legislature’s regular-and-special sessions in the first half of 2015 both **opposing** \$11 billion in finite state revenue capacity on offer readily, then, as added state tax authority for an ST3 tax ballot (while also covering up at least

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**\$297-to-\$334 billion** of judicially limited state tax resources made available to it in reality, thereby, as Defendant STATE acted under an **Order for contempt of court** for its failures to finance **every** child's education statewide **amply** from judicially limited state tax authority), and also **holding** over 5.7 million drivers **hostage** statewide to ever-less-well-maintained and hence ever-more-dangerous bridges, highways, roads and streets to extract its **\$15 billion ransom demand** for new tax authority (while concealing at least \$297-to-\$334 billion in judicially restricted state revenue), Interested Party Sound Transit quickly abandoned its **initial** trickery as to *just* **\$15 billion in added taxes**, as soon as improvidently granted on July 1, 2015, for its **real** ST3 plans, whereby a ballot title proposed for its ST3 election and related propaganda show **\$36.3 billion** (\$27.7 billion in **new** taxes and \$8.6 billion in **extended** Sound Move and ST2 taxes), but without identifying, in a comprehensible form, **either** at least **\$308-to-\$345 billion** in tax authority yielded by the ST3 election, *sub rosa and sub silentio*, **or** that the partial "tax rollback" promised to voters, both in 1996 and also in 2008, is to be extended, **yet again**, to no-earlier-than-2082: so that **no** person voting in 1996, based on that **key** promise, can hope to see one pence of tax relief, without reaching her or his 103rd birthday, due to a public-sector *ponzi* scheme utilized by Interested Party Sound Transit, which relies on greatly over-hyping Sound Move transit benefits, with inadequate funds to develop them, then continuing its *ponzi* by repeating the same-albeit-even-more-deceptive process to mislead citizens, in turn, into voting for ST2 taxes in 2007-08 to cover Sound Move's huge shortfall by exaggerating ST2 benefits, again with insufficient monies to deliver ST2, and then extending its second *ponzi* through a like-albeit-ever-more-devious scam by enticing voters to approve ST3 taxes, in 2016, to cover ST2's shortfall by over-stating ST3 benefits, while therein laying groundwork for its next ST4 *ponzi*, already planned *qua* its future (and which is feasible, in fact, **only** through **still larger invasions** of finite state tax authority long used to fund basic education, **busting a state constitutional trust** created by the 18th Amendment or **both**).

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49. Consistent with the *modus operandi* utilized for Sound Move and ST2, Interested Party Sound Transit has repeatedly covered up **both** the enormous amounts of finite state tax authority it is trying to tie up through its ST3 tax ballot, and **also** very long duration thereof, each *sub rosa* and *sub silentio*, **first** with frauds since 2014 against all 147 citizens now constituting Interested Party 64th Legislature (even before its members were thereafter sworn in officially); **later** with its subsequent misconduct toward persons now comprising a *state-appointed* Expert Review Panel to oversee ST3 planning (despite **in-state** panelists substantially chosen from *recommendations* made by the junior taxing district legally to be afforded “Independent system plan oversight,” pursuant to terms of RCW 81.104.110, by a body effectively *selected* by its own officers, and senior managers, in a fashion that compromises that entity’s **independence**, including Mark Hallenbeck, as manager of a state program **directly** reliant in part on financing received from Interested Party Sound Transit, who at least **twice** urged his fellow panelists to assist his bad-faith shifting of blame, for a major ST3 fiscal defect, onto Interested Party 64th Legislature, and who thereafter appeared in *pro*ST3 campaign advertising); and **since** with exploitation of citizens living in the junior taxing district, as voters and as taxpayers, with its falsified ST3 propaganda hugely understating gargantuan combined taxing authority under Sound Move, ST2 and ST3 being pursued through ST3 balloting, **anew** and **via extensions**, and an at-least-65-year-and-likely-**perpetual** duration of a hence-immense-but-masked ST3 tax proposal, *inter alia* (**both** through omissions of constitutionally required ballot-title information and **also** through failure to complete, timely, Expert Review Panel oversight functions statutorily mandated before its Board of Directors voted unanimously, but **unlawfully**, to adopt its *ultra vires* Resolution No. R2016-17).

50. Interested Party Sound Transit’s numerous misrepresentations to Interested Party 64th Legislature include, but are not limited to, bad faith sleights-of-hand that both its officers and also its tax-funded lobbyists utilized to beguile legislators into believing that *only* **\$15 billion** in new state tax

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authority was being demanded in 2015 to finance its ST3 plan (ahead of common schools from 2017 to 2032), instead of at least **\$308-to-\$345 billion** to over half a trillion dollars being thereby beguiled (ahead of basic education from the start of 2017 throughout all of 2081), and probably many trillions of dollars (ahead of every child statewide, **forever**, since ST3 tax authority would likely be perpetual, while past-and-present verbiage as to a partial “tax rollback” is a wholly **if-and-when** trope, entirely “**at will**,” in the sole discretion of an **unelected** Board, whose repeated “tax rollback” guarantee has proven to be **legally illusory**, for 20 years, and is quite certain to become **legally impossible**, rather soon, due to enormous costs of replacing rail infrastructure, **in perpetuity**, which was identified as a great-and-growing problem for rail transit systems nationwide, on May 18, 2010, as a major focus of the Federal Transit Administration’s “National Summit on the Future of Transit”: *q.v.* Exhibit E).

51. Said wrongful acts by Interested Party Sound Transit were funded with taxpayer dollars, in patent violation of state election statutes, so as to afford reballoting pursuant to RCW 42.17A.750.

52. Interested Party Sound Transit’s conduct toward members of a formally *state-appointed*, but effectively *self-selected*, Expert Review Panel has been every bit as abusive, given that the junior taxing district’s senior managers **directly refused** to supply pivotal fiscal data sought by **out-of-state** panelists on February 9, 2016 (despite those experts noticing that statutory oversight functions could **not** likely be finished in time for the General Election on November 8, 2016, if requested information was withheld then, with that key identified statutory problem being restated, again, in a fiscal conference call held on March 31, 2016, as official minutes identify), and given its Board’s **utter defiance** for the prime directive in that panel’s letter to it on June 20, 2016 (stating therein squarely that – due to core fiscal matters necessary to allow said panel to complete its demanding statutory duties being then **incompletable**, factually and legally, pursuant to “sound industry practice – crucial ST3 “analysis should be updated and shared prior to board action”), in voting to adopt Resolution No. R2016-

17 on June 23, 2016 (even though legislatively required “Independent system plan oversight” under RCW 81.104.110 **had not been**, and **COULD NOT BE**, finished prior to that **unlawful** Board vote to rush forward **before** when that state panel might discharge its statutorily ordered fiscal “review”).

53. Hence, Resolution No. R2016-17 was and is *ultra vires*, and thus null and void *ab initio*, as a matter of law, such that the *Philadelphia II v. Gregoire* holding affords a valid legal basis to **withhold**, or to **withdraw**, official certification of nominal tax-ballot results for the ST3 election.

54. Rather detailed and highly substantive fiscal determinations established as state policy by the legislature were **not** completed – as statutorily mandatory planning functions required **before** a thus-validated ST3 tax plan could be adopted lawfully – through a “process [that] cannot guarantee appropriate decisions unless key study assumptions are reasonable” (RCW 81.104.110[1]), **whereby** “[t]o assure appropriate system plan assumptions and to provide for review of system plan results, an expert review panel shall be appointed to provide independent technical review” thereof (RCW 81.104.110), which “expert panel **shall review all** reports required in RCW 81.104.100(2) and **shall concentrate on** service modes and concepts, **costs**, patronage and **financing evaluations**” (RCW 81.104.110[8], emphases added), and “shall provide timely reviews and comments on individual reports and study conclusions” (RCW 81.104.110[9]), and **whereunder** major obligations of the panel remained **INCOMPLETE**, both because Interested Party Sound Transit’s staff refused to supply fiscal data requested explicitly by **out-of-state** panel members, on February 9, 2016, and also because, on June 23, 2016, not only was the state panel’s **core finding of inadequacies in analyses** provided to all panelists for their statutorily mandatory “review,” as of the date of its June 20, 2016 letter, then **totally disregarded** by the junior taxing district’s Board, unanimously, but that body’s *sine qua non* follow-on directive was **willfully also defied: i.e. that said junior taxing district’s Board take NO official action until basic reliability of its staff’s overly hasty ST3 Finance Plan could be vetted!**

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55. Specifics of the state panel's critical financial determination and crucial prime directive that the junior taxing district **withhold** action, *via* its letter of June 20, 2016, were stated as follows:

*Sensitivity Analysis:* At our June 6 meeting Sound Transit staff reviewed the analysis they had done to test the sensitivity of several key assumptions embedded in the Finance Plan: potential capital cost increases, lower than anticipated sales tax revenues, a recession early in the ST3 program, higher than anticipated interest rates, and increased inflation. This analysis represents sound industry practice. **However**, the sensitivity analysis and Monte Carlo runs presented to the panel did **not** include all of the most recent project delivery schedules. **The analysis should be updated and shared PRIOR TO board action** (emphases added).

56. On information and belief – from queries put by plaintiff on August 8, 2016 to Interested Party Sound Transit's able CFO McCartan – the junior taxing district had even then still **NOT** fully completed the pivotal "sensitivity analysis," essential for "sound industry practice," 45 days **after** Board action, on June 23, 2016, in clear disregard for and in utter defiance toward detailed statutory requirements for "Independent system plan oversight" in RCW 81.104.110 (albeit likely before **yet later release** of a false benefit-to-cost study outlined in paragraphs 60-71 *infra* and within Exhibit F).

57. Said wrongful acts by Interested Party Sound Transit were funded with taxpayer dollars, in patent violation of state election statutes, so as to afford rebalotting pursuant to RCW 42.17A.750.

58. In addition to Interested Party Sound Transit's gargantuan misrepresentations to deceive Interested Party 64th Legislature in key part through willful omission of paramount fiscal parameters in 2015 (in order, thereby, **to crowd financially in front of** Defendant STATE's "paramount duty," as constitutionally owed to "all children" statewide, and, thus, **to crowd out public schools** by tying up colossal sums of finite state tax authority through misfeasant-or-malfeasant means, in 2016, before school funding can be addressed, under a formal **Order for contempt of court**, in 2017), and in addition to its defiance for a *state-appointed*, but largely *self-selected*, Expert Review Panel in breach of that body's prime directive plainly stated, **in writing**, on June 20, 2016 (so as, thereby, to undermine chief purposes for and core terms of RCW 81.104.110 and, thus, to disqualify the ST3 tax ballot under

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both RCW 81.104.110 and also the holding of *Philadelphia II v. Gregoire*), it has since exploited further misfeasance or worse necessarily intended to mislead citizens, courts, elected officials, journalists and reporters for electronic media as to immense **diversion** of limited state revenue capacity, and, so, gargantuan amounts of state taxes that would be grabbed, through its ST3 tax ballot, from a **judicially** restricted state tax authority and therefore from finite state tax dollars legally available to finance public education **amply**, along with further strategic omissions about duration therefore, and highly adverse effects thereof, including in a recently court-approved ballot title for the ST3 tax election that failed to identify vital elements, **as constitutionally required** pursuant to Article II, sec. 19, and to Article VII, sec. 5, *inter alia* (which, if complied with, legally, would evidence, as a matter of law, its multiple subjects in proposing, thereby, **both** to impose added taxes, for at least 65 years, and **also** to delay, yet again, the large partial “tax rollback” first guaranteed to state citizens, as voters and as taxpayers, in 1996, and repeatedly repromised, in serial-deceiver fashion, in 2007, 2008 and 2016).

59. For example, during September, 2016, Interested Party Sound Transit squarely acted to mislead the King County Superior Court into accepting its falsification that the total amount of finite state tax authority to be diverted to that junior taxing district, through its ST3 ballot, **cannot** be made comprehensible, even though simple fifth-grade arithmetic and standard fiscal heuristics can, and do, readily yield **at least \$308-to-\$345 billion** for everyone able to read and to employ arithmetic basics (which require counting but **no** complex mathematics, **whatsoever**, as paragraphs 26-to-30 outline), even though state-and-local governments across our state project future revenues every business day (which include many small jurisdictions lacking that Interested Party’s huge daily cash flow of well-over-\$2 million each 24 hours) and even though Interested Party Sound Transit has done so **ITSELF**, for **its** ST3 Finance Plan, albeit **suppressing** reliable-and-straightforward calculations of its gigantic tax-take in all matters for the ST3 tax ballot required to obtain enormous taxing power and, **instead**,  
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**substituting** often **unreliable cost estimates**, and wholly **speculative hopes** for federal grants (each **nongermane** for a tax ballot only deformed by its certainly purposeful **\$53.8 billion sleight-of-hand**).

60. For further example, also in recent months, Interested Party Sound Transit presented its “Conformity Report” to the Puget Sound Regional Council’s Transportation Policy Board, pursuant to RCW 81.104.040(2) nominally, based on falsified ST3 taxes, which thus purports to document a benefit-to-cost ratio above 1.1-to-1, but which was publicly challenged by Hon. Ron Lucas based on his review of the ST3 tax ballot’s far higher receipts, his initial projection that ST3’s tax-haul would be *circa* \$150 billion (and therefore **greatly** beyond \$36.3 billion thereby being thus **misrepresented** to the TPB by the junior taxing district) and his conclusion that such benefit-cost claim is **overstated**.

61. While Interested Party Sound Transit’s Executive Director Ric Ilgenfritz acknowledged, on September 8, 2016, to TPB members, others attending that vital meeting and everyone viewing a live webcast, thereof, that ST3 tax receipts would thus be **well above** its \$36.3 billion **misdirection** to the TPB, Hon. Bill Bowman, citizens, elected officials, journalists and other reporters, *inter alia* – before and since Mayor Lucas’ rudimentary math forced that key **admission**, then, apparently for the first and only time – the junior taxing district did **not** withdraw its so-undercut “Conformity Report,” for review, due to far greater taxes implicating that a miniscule **positive** benefit-cost ratio (as therein claimed) is likely **negative** (in reality); the TPB vote did bless it notwithstanding **gross** inadequacies (with just Mayor Lucas opposed); and said Interested Party continued promoting \$36.3 billion as the ST3 plan’s **tax-cost** term (despite Mr. Ilgenfritz’s explicit concession that it is greatly **understated**), including but not limited to fiscal **disinformation** in its ballot title, its related materials and its *Mass Transit Guide* (to deceive citizens, as voters and as taxpayers, as well as to mislead media and press).

62. Said wrongful acts by Interested Party Sound Transit were funded with taxpayer dollars, in patent violation of state election statutes, so as to afford rebalotting pursuant to RCW 42.17A.750.

63. For still further example, two weeks thereafter on September 22, 2016, the “Conformity Report” was presented to the Puget Sound Regional Council’s Executive Committee (which like the TPB is chaired by an officer of Interested Party Sound Transit), for endorsement based on prior TPB blessing (with only Mayor Lucas opposed), following a brief discussion, wherein Hon. Don Gerend noted that the *de minimis* 1.1-to-1 benefit-cost claim made for the ST3 plan, now, is **far** lower than a 2.7-to-1 ratio proffered for the earlier ST2 plan, in 2008, and whereafter Mayor Lucas raised his first projection of \$150 billion in ST3 taxes, two weeks earlier, to \$200 billion, based on further study, so as to implicate greater defects as to its apparent 1.1-to-1 benefit-to-cost fraud (after Mr. Ilgenfritz had directly admitted to **much larger** ST3 collections), before unanimous approval but for Mayor Lucas (with Mayor Gerend acting then as an alternate and, hence, without a right to vote either *yea* or *nay*).

64. Said wrongful acts by Interested Party Sound Transit were funded with taxpayer dollars, in patent violation of state election statutes, so as to afford reballoting pursuant to RCW 42.17A.750.

65. In addition to apparent irregularities that result from such PSRC Executive Committee’s perfunctory rubber-stamping of the “Conformity Report” presented by Interested Party Sound Transit (at a meeting chaired by an officer of said Interested Party and reliant on multiple votes cast in favor thereof by other members of said Interested Party’s Board), and from its far-too-cursory approval of same (given serious defects identified as to reliability of that statutorily required benefit-cost study), Hon. Pat McCarthy then deliberately misused public facilities, and other taxpayer-funded resources, to urge her fellow Executive Committee members and alternates, other meeting participants, persons in the audience and those citizens viewing the proceedings by webcast to support the ST3 tax ballot in every way possible (as well as anyone who has since viewed that rump session over the internet).

66. Such highly dubious acts by Interested Party Sound Transit’s officers and directors were financed with taxpayer dollars, as seeming violations of state law, and said clearly misfeasant act by

County Executive McCarthy was funded with taxpayer dollars, in patent violation of state election statutes, so as to afford a right for citizens to obtain reballoting pursuant to RCW 42.17A.750, and to recall her from public office pursuant to Article I, sec. 33, and pursuant to RCW 29A.56, *inter alia* (albeit leaving plaintiff, and all other residents of the junior taxing district who live in King County and in Snohomish County, without legal ability to exercise that constitutional right to recall her, for said misfeasance *qua* a member of Interested Party Sound Transit's Board, if not far worse, since the Pierce County Prosecutor rejects petitions seeking recall by any citizen **not** residing in such county).

67. Further, also during this key period, Interested Party Sound Transit's fiscal staff directly misrepresented, **in writing**, the amount of ST3 taxes to be collected during the 65-year period to be authorized by the ST3 tax ballot, *sub rosa and sub silentio*, by falsely claiming that the oft-promised partial "tax rollback" would be in effect by or before 2060 **despite**, under standard terms of its bond covenants, the **total** amount of taxes received through the ST3 election, if lawful in spite of frauds on all voters, being required to be collected in full, **constitutionally**, until the last ha'penny of debt to be floated subject thereto is repaid fully (which high-replacement costs for rail likely render **impossible**), in replying to Mayor Gerend's inquiries as to those far greater tax receipts admitted by Mr. Ilgenfritz (which exchange of written correspondence referenced hereinabove is attached as Exhibit G hereto).

68. Said wrongful acts by Interested Party Sound Transit were funded with taxpayer dollars, in patent violation of state election statutes, so as to afford reballoting pursuant to RCW 42.17A.750.

69. On information and belief, Interested Party Sound Transit has **not** employed such major financial frauds regarding its ST3 tax ballot merely against elected officials, but has exploited those-and-related fiscal misrepresentations against **all** ordinary citizens, as voters and as taxpayers, due to its **disinformation** about ST3 taxes; against **all** members of the working press who sought tax data; and against **all** representatives of various electronic media outlets who covered its ST3 tax election.

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70. Said wrongful acts by Interested Party Sound Transit were funded with taxpayer dollars, in patent violation of state election statutes, so as to afford reballoting pursuant to RCW 42.17A.750.

71. Yet further, even ignoring huge subarea inequities, Interested Party Sound Transit's chief 1.1-to-1 benefit-cost claim, as promulgated, is deliberately falsified and plainly fraudulent, **given its exclusion of enormous sums legally owed to the state constitutional trust** created through a core requirement of the 18th Amendment that **all** user-fee-financed highway assets must be held, **forever**, "exclusively for highway purposes": such that rail-transit operations, reliant on ST3 ballot taxation, bear responsibility to pay full-and-fair market value to said trust for **all** uses of Interstate 90 highway infrastructure, including at least \$2-to-\$4 billion *qua* full-and-fair market rent for planned rail usage of the trust's valuable I-90 center lanes (which was not reviewed within its sham benefit-cost study), and at least \$4-to-\$8 billion for considerable shortening of the useful lives of very high-cost bridge assets held in trust, including but not limited to that key roadway, due to **microfracturing** of encased steel from endless fluxions caused by massive weight movements, as each laden 81-ton rail car drops onto and rebounds from floating bridge structures, and due to **separation** of concrete aggregate from internal rebar, as loading constantly transfers, **abruptly**, as all 162,000-pound "light rail" vehicles so flex bridge decks and thus hammer pontoons (which was also omitted from its benefit-cost charade), **whereby** billions of dollars in **rail-transit** expenses are to be expropriated, *sub rosa and sub silentio*, from a **state constitutional trust**, through ST3 taxes' fusion of ST2-and-ST3 plans so as to transfer \$6-to-\$12 billion in **rail** costs, for **non**-"highway purposes" of providing **rail** service for portions of three of 39 counties, to be covered with giant subsidies extracted from 5.7 million drivers **statewide** (as legal beneficiaries of a **state constitutional trust** dedicated "exclusively for highway purposes").

72. Said wrongful acts by Interested Party Sound Transit were funded with taxpayer dollars, in patent violation of state election statutes, so as to afford reballoting pursuant to RCW 42.17A.750.

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73. In addition, Interested Party Sound Transit has failed to conform its very costly Sound Move, ST2 and ST3 rail plans with the junior taxing district's multiple **cost-effectiveness** duties in state law – established as pivotal state policies through a variety of legislative measures adopted to **ensure, legally, that good value is received for tax dollars** – and, on information and belief, such misfeasance if not worse occurs in major part because genuine compliance with those statutes' quite demanding terms would preclude substantial rail elements of Sound Move, ST2 and ST3 plans and, instead, would result in far-less-expensive and far-more-cost-effective transit than said high-cost triad (*i.e.* one rather similar to what is urged for medium-sized metropolitan areas by Hon. Peter Rogoff, in his chief statement thereof attached as Exhibit E hereto, as Administrator for the United States Department of Transportation's Federal Transit Administration, who, as the appointee of Hon. Barack Obama, very strongly opposed costly rail-centric transit of types now pursued by him for Interested Party Sound Transit, as its chief executive officer since exiting the federal government's revolving door, **in seeking to destroy his own acumen by evading state policies likewise focused on costs**).

74. At least four statutory cost-effectiveness duties to **ensure good value for tax dollars** for ST3 are violated by Interested Party Sound Transit's repeated **failures**, or **refusals**, to make factually adequate and legally sufficient "least cost planning methodology" analysis required before **any** valid tax election (RCW 47.80.030); factually adequate and legally sufficient "benefit-cost" analysis also required before **any** lawful tax ballot (RCW 81.104.040); factually adequate and legally sufficient "Independent system plan oversight" analysis further required before **any** valid tax election (RCW 81.104.110[2]); and factually adequate and legally sufficient "reasonable alternative transit mode" analysis, based on the statutory definition of "reasonable alternative" wherein **all** "passenger costs per mile" must be "equal to or less than comparable bus, entrained bus, trolley, or personal rapid transit systems," similarly required before to **any** lawful tax ballot (RCW 81.104.120), *inter alia*.

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75. On information and belief, **each** such **failure**, or **refusal**, to comply with these principal statutory **cost-effectiveness** requirements – which establish pivotal state policies repeatedly enacted by our state legislature, over and over, so as to apply squarely to Interested Party Sound Transit – **is because** adopted Sound Move, ST2 and ST3 plans **cannot fulfill those pivotal statutes**, legally, and **so must rely on rubber-stamp approvals, despite patent defects, as the PSRC granted recently in a game wherein nominal assent came from advocates voting to approve their own ST3 plan** (as Executive McCarthy’s spotlighted by then misusing public assets to promote the ST3 tax ballot).

76. Said wrongful acts by Interested Party Sound Transit were funded with taxpayer dollars, in patent violation of state election statutes, so as to afford reballoting pursuant to RCW 42.17A.750.

77. Beyond multiple breaches of federal-and-state constitutions above referenced, Interested Party Sound Transit’s legislated structure, including junior taxing district powers, and its *ultra vires* ST3 tax ballot, as well as related matters, violate sec. 4 of the federal Enabling Act of 1889 as to the mandate that **all** state-and-local governance as thereunder established, through state constitutions, “shall be republican in form,” and must “not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence,” inclusive of the core one-person, one-vote obligation pursuant to the former, and of required prerequisites in law for equality pursuant to the latter, so nominal state legislative authority for **unequal representation** of citizens by members of the junior taxing district’s Board of Directors is, hence, null and void *ab initio* as a matter of law.

78. Interested Party Sound Transit is the antithesis of a democracy, “republican in form,” despite superficial devices suggestive of *representation* but preclusive thereof in major *respects*.

79. Beyond Interested Party Sound Transit’s numerous violations of central provisions of federal-and-state constitutions, of the controlling federal enabling act and of state election laws (identified by a limited sampling of relevant examples drawn, chiefly, from agency wrongdoing just since

its Board's *ultra vires* vote to adopt Resolution No. R2016-17, on June 23, 2016, after willful denial of core First Amendment rights, and in utter defiance toward mandatory duties under statutory laws authorizing its existence), and beyond its debasing influence on appointments of experts to serve on an Expert Review Panel obligated to provide demanding "Independent system plan oversight" under RCW 81.104.110 (such that Dr. Hallenbeck, who directs a University of Washington center that has received funds **directly** from the district which he was so misappointed to oversee, exploited at least **two** of its public sessions to urge other panelists to join his scapegoating of Interested Party 64th Legislature, for what he insists is a defective ST3 fiscal plan, before later appearing in *pro*ST3 campaign advertising), the junior taxing district has corrupted principal aspects of planning required statutorily for any valid ST3 tax ballot, including through misuses of public facilities, public monies and related public resources to aid and to abet it in gaining voter approval for ST3 taxes (including **repeated coaching** of agency managers by him, and by other **in-state** panelists, as to **how** best to frame ST3 to appeal to citizens, as voters and taxpayers, instead of honoring his, their and its vital oversight duties, at all or nearly all of that state panel's publicly financed and needlessly costly sessions).

80. Leaders of the junior taxing district's Citizen Oversight Panel have **likewise coached** a framing of ST3 taxes to lure citizens as voters and taxpayers – instead of discharging its critical oversight role – at virtually every meeting since February 18, 2016, when Josh Benaloh, as COP's immediate past chair, squarely asked Mr. Rogoff, as a then-new chief executive officer, precisely "how far do you want us [COP] to stray into politics," and was then informed by him just "to be a little bit careful," up to and including its last pre-election session, on November 3, 2016, wherein Dr. Benaloh urged follow panelist, Robin Gold, to **support** the ST3 tax ballot by use of Facebook tools, instead of discharging proper oversight functions owed to all district residents (which COP misconduct was rewarded with \$345,000, later on that day, through Board Motion No. 2016-110).

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81. Such egregious misfeasance in public office by individuals purportedly appointed to positions of public trust, as to the junior taxing district, wherein each is responsible for oversight **duties** – but whereby abandonment thereof has occurred, **repeatedly**, in order to exploit million-dollar misuses of public assets to **advance** the ST3 tax election by violating state election laws – derives from Interested Party Sound Transit’s intentional acts to corrupt **both** purposes for, and **also** functions of, legally required oversight by ensuring appointment of people so totally lacking in objectivity as to make oversight impossible due to *pro*agency bias required of **in-state** experts, nominally to **oversee** that district, as necessarily intended by its officers and by its directors (who can themselves be cashiered from its Board, or from the one state position yielding a Board seat, if **any** probing question is **ever** asked, as were Hon. Rob McKenna and Hon. Doug MacDonald).

82. Nor is gross misfeasance in public office by Interested Party Sound Transit’s officers, directors and senior managers to **further** the ST3 tax ballot, through their illegal misuses of public facilities, public monies and related public resources, limited merely to improper influence by that Interested Party as to its choices for **in-state** residents to act as its Expert Review Panel appointees (or as to packing the COP with rail advocates incapable of objectivity required to meet key duties under the Sound Move ballot title pursuant to the district’s Resolution No. 75), **since** its Board has intentionally engaged in yet-more-egregious wrongdoing to **promote** ST3, through misuses of tax dollars, *inter alia*, **both** authorizing through Motion No. M2015-74, on August 18, 2015, “public involvement consultant services supporting the Sound Transit 3 ballot measure in the amount of \$560,000 for a new total authorized amount not to exceed \$1,360,000” (which certainly unlawful “consultant services” to **support** its ST3 tax election have resulted, **exactly as intended**, in push-polling and in other misuses of public assets repeatedly identified to the Washington State Public Disclosure Commission by *The Seattle Times* in 2016), and **also** authorizing the hiring of a CEO,

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who lacks experience in day-to-day operations of a junior taxing district (functioning under state law), who has been either unable or else unwilling to end repeated violations of state election laws put into motion by that agency's Board (through its Motion No. M2015-74) and who was certainly engaged to exploit, immediately following a revolving-door exit from the Obama Administration, ongoing relations with, and thus-hoped-for-continued influence over, his former staff at USDOT (in seeking federal funds both for the present ST3 *ponzi* and also for an already-plotted ST4 *ponzi*).

83. Not only was Interested Party Sound Transit's promotion of its ST3 tax ballot **illegal** in willful misuses of public facilities, public monies and related public resources to aid and to abet it, in obtaining voter approval for that tax ballot, not only was its **suppression** of half-a-trillion dollars in tax costs for its ST3 plan also fraudulent, as a matter of law, and not only did it **violate spirit-and-letter** of the federal Truth in Lending Act of 1968, *inter alia*, but its immense **disinformation** makes it **impossible** for businesses located in the junior taxing district to disclose **full** tax costs, as required to comply with core truth-in-lending obligations under federal law, due to its frauds by withholding disclosure of hundreds of billions of dollars in combined Sound Move, ST2 and ST3 taxes (based in part on its contrary-to-fact, and oblivious-to-logic, position that **NO** Sound Transit tax, if paid **first** by **any** business, is passed on to individuals and to families in the Puget Sound area, despite much, if not nearly all, such Sound Transit taxes imposed on commerce being paid, **ultimately**, by those who live in the area through higher prices, for goods and for services, as a result of its gigantic tax grabs).

### CONCLUSION

84. Sound Transit 3 is a clear-and-present fiscal danger, **statewide**, both to **every** child as a legal beneficiary of the Enabling Act of 1889, of its huge unfunded federal mandate **forever** thereby imposed on all state taxpayers, as a condition precedent absolute for Statehood and for entry into the Union, and of a constructive **state constitutional trust** devolved legally pursuant to Article IX, sec.

1, and also to **all** licensed motorists as legal beneficiaries of a **state constitutional trust** as explicitly created by the 18th Amendment and as thus dedicated “exclusively for highway purposes” **forever**.

85. Notwithstanding egregious misconduct outlined hereinabove – which, for each elected official involved, constitutes both the tort of misfeasance in public office at common law and also a basis necessary and sufficient **for recall** from public office, and which, for each senior manager involved, affords grounds for termination **for cause** – injuries only start with **diversion** of finite state tax authority and thus limited state revenue capacity, and do not stop even with corrupted state-and-local governance, since resulting wrongdoing imposes its greatest cost through opportunities permanently laid waste, **statewide**, and thereby lost for **all** children, for **each** motorist and for **every** other resident: particularly when the state Supreme Court, **after** having directly found Defendant STATE to be in contempt on September 11, 2014 due to defiance toward court orders by the 63rd Legislature over most of the term for its lawful policymaking authority, **specifically** “held sanctions in abeyance because the State pledged to reach the ‘grand agreement’ in 2015” (Order dated October 6, 2016 at 10), whereafter Interested Party 64th Legislature entirely “failed to do so,” then, and, in reality, “did not address funding sources at all” (*Ibid.*), even while **it diverted at least \$308-to-\$345 billion** from **every** public school to **one** junior taxing district, over-half-a-trillion dollars more likely and trillions beyond most probably, and even while **it failed to report its enormous diversion** of finite state tax authority and thus limited state revenue capacity to the high court, both after regular-and-special sessions in 2015 and also after such sessions in 2016, even though ST3 taxes, *qua* nominally authorized by contemner, are so huge that approval, if lawful, would effectively render “ample” school funding impossible statewide, **politically**, and hence deepen growing state constitutional peril now at hand.

86. Inherent in untold opportunity costs from crucial potentials wasted through misfeasance, or worse, is a colossal price for **our** state and for **all** of the people living in every inch of 39 counties.

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## RESERVATION OF CONSTITUTIONAL, STATUTORY AND OTHER LEGAL RIGHTS

87. All of plaintiff's constitutional, statutory and other legal rights regarding Interested Party Sound Transit, and respecting its Sound Transit 3 tax ballot, are hereby reserved, including but not limited to unconstitutionality of same in denying a United States and state citizen's rights to: one-person, one-vote guarantees (under federal and state constitutions); recall power granted by Article I, sec. 33 (including for Executive McCarthy, now, and hereafter); initiative authority granted by Article II, sec. 1 (including Initiative 69 as to certain irregular circumstances indicative of constitutionality unresolved in 1933); a single-subject and an expression-thereof within a title for every legislative enactment, at all levels of state-and-local governance, granted by Article II, sec. 19 (including not-less-than-**two** subjects in Interested Party Sound Transit's Resolution No. R2016-17 *cum* lack of identification of delays for a partial "tax rollback" under the ballot title for its ST3 ballot); all protections inherent in a **state constitutional trust** dedicated "exclusively for highway purposes" granted in Article II, sec. 40 (including as a licensed driver and so a motorist-beneficiary of that **state constitutional trust**); greater specificity in tax-and-revenue acts than for non-fiscal legislation granted by Article VII, sec. 5 (including violations thereof *vis-à-vis* the ST3 tax election); and "the paramount duty of the state to make ample provision for the education of all children residing within its borders," as referenced by Article IX, sec. 1's Preamble in so formally acknowledging, for state implementation, the ultimate **particular** in sec. 4 of the Enabling Act of 1889 (which irrevocably requires that a "provision shall be made for establishment and maintenance of systems of public schools, which shall be open to all the children of said States, and free from sectarian control," in constitutions for Washington, Montana and both Dakotas, as a titanic unfunded federal mandate imposed as a legal condition precedent absolute); along with, *inter alia*, other rights as to Interested Party Sound Transit's multiple violations of its **cost-effectiveness** duties.

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## PRAYERS FOR DECLARATORY-AND-INJUNCTIVE RELIEF

Plaintiff prays this Honorable Court to state, and to enter, as formal judicial declarations that:

- A. Defendant STATE OF WASHINGTON – acting largely but not exclusively through Interested Party 64th State Legislature, since January 12, 2015, when state legislators swore or affirmed their oaths of office – has undertaken a series of highly irregular acts that, if allowed to stand by this Honorable Court, purport through Chapter 44 (Second Engrossed Substitute Senate Bill 5987), under its sec. 318 *et sequens* (as made subject to judicial removal pursuant to its sec. 425), to authorize diversion of at least \$308-to-\$345 billion in finite state tax authority, and thus in limited state revenue capacity, to **one** junior taxing district, located within parts of three of 39 counties, for its exclusive use, from 2017 to 2082, more likely over-half-a-trillion dollars, during those 65 years, and most probably trillions of dollars beyond, *in perpetuo*, so as thereby to prevent any-and-all other uses of those state taxes constricted **judicially** by *Culliton v. Chase*, 174 Wash. 363 (1933), and by several other like Supreme Court negations, yet indispensable to discharge, belatedly, “the paramount duty of the state to make ample provision for the education of all children residing within its borders” (Article IX, sec. 1, Preamble);
- B. Defendant STATE’s rather irregular acts that underlie its thereby colossal **diversion** of its finite state tax authority, and thus of its limited state revenue capacity, to **one** junior taxing district – inclusive of property-tax and sales-tax revenues long foundational for all state financing of common schools – patently include, but may not be necessarily limited to, six pivotal actions on its behalf, through Interested Party 64th Legislature, as follows:
  1. Interested Party 64th Legislature’s exclusive parliamentary reviews, before enormous **diversion** of finite state tax authority, and hence of limited state revenue capacity, by that Legislature’s two transportation committees possessed of genuine revenue expertise as to car, truck and other vehicle license charges, gasoline, diesel and other fuel taxes, bridge-and-road tolls and weight fees, but without jurisdiction normally involving a gargantuan amount of property-and-sales taxes, and without jurisdiction in regard to Article IX, sec. 1, core elements of basic education or legislative reporting obligations through orders as issued serially by the Washington State Supreme Court, pursuant to jurisdiction retained in *McCleary v. State*, 173 Wn.2d 477 (2012), along with several follow-on court actions;
  2. Interested Party 64th Legislature’s failures to obtain, **ANY** Fiscal Note as to either the gigantic **diversion** of finite state tax authority at issue, and thus of limited state revenue capacity, or else potentially adverse effects thereof, for resolution of *McCleary v. State*;
  3. Interested Party 64th Legislature’s failures to refer **ANY** aspect of immense **diversion** of finite state tax authority, and so of limited state revenue capacity, as to the *McCleary* decision, to **fiscal** legislative committees with genuine property-and-sales tax expertise;
  4. Interested Party 64th Legislature’s failures to refer **ANY** aspect of massive **diversion** of finite state tax authority, and thus of limited state revenue capacity, respecting the *Mc-*

*Cleary* decision, to **nonfiscal** legislative committees with delegated jurisdiction over **all** functions that involve substantive responsibilities for discharge of the “paramount duty”;

5. Interested Party 64th Legislature’s failures to refer **ANY** aspect of outsize **diversion** of finite state tax authority, and thereby of limited state revenue capacity, to the Joint Select Committee on Article IX Litigation charged with making annual reports to the Supreme Court on progress, as made, toward honoring constitutional duties under *McCleary*; and
  6. Interested Party 64th Legislature’s simple, negligent or gross failures to **report** to the state Supreme Court, **repeatedly**, in regard to its such vast **diversion** of finite state tax authority, and thus of limited state revenue capacity, notwithstanding serial court orders, so as to constitute not simply further, but likely altogether egregious, **contempt of court**;
- C. The Sound Transit 3 tax-ballot proposal submitted to state citizens in portions of three of 39 counties at the General Election conducted on November 8, 2016 – pursuant to Interested Party Sound Transit’s Resolution No. R2016-17 as nominally authorized in sec. 318 *et sequens* of Chapter 44 (from Enrolled 2nd ESSB 5987) – thus and thereby violates the formal **Order for contempt of court** entered against Defendant STATE, on September 11, 2014, and is null and void *ab initio* on that basis; is unconstitutional also for violations of Article IX, sec. 1, Article VII, sec. 5 and Article II, sec. 19, *inter alia*, and is further null and void *ab initio* on those bases; and is *ultra vires* for failures to comply with central statutory duties as to the Expert Review Panel imposed legally as a condition precedent, absolute, on that agency through RCW 81.104.110, and with multiple other statutory **cost-effectiveness** obligations also imposed as further conditions precedent, absolute, pursuant to RCW 47.80.030, RCW 81.104.040(2) and RCW 81.104.120, *inter alia*, and is still further null and void *ab initio* on such further bases;
- D. The Sound Transit 3 tax-ballot proposal thus presented through a ballot title in the form approved by the King County Superior Court on September 1, 2016, *qua* attached hereto as Exhibit A and incorporated herein for all purposes, if lawful for citizens to approve on November 8, 2016 as established herein, would legally authorize **one** junior taxing district to collect certain motor vehicle excise, property and sales taxes, in perpetuity, most probably, if not with total certainty (but in no case for less than 65 years based upon statutory authority to bond against those revenues for four decades), and to extend further already nominally approved car-rental, motor vehicle excise and sales taxes, perpetually, most probably, if not with total certainty (but in no case for less than those 65 years), all based on the ST3 tax ballot (including *sub rosa* and *sub silentio* deferrals of past crucial partial “tax rollback” guarantees made to district voters repeatedly, in 1996, regarding a Sound Move tax ballot in that year, and, in 2008, respecting a Sound Transit 2 tax ballot then); and thus to receive at least \$308-to-\$345 billion in combined Sound Move, ST2 and ST3 taxes, over an initial 65 years after ballot-box action, more likely to collect \$443-to-\$540 billion, over those initial six-and-one-half decades, and most probably to collect multiple trillions of dollars, through perpetual taxing authority, since replacement costs for expensive rail-system elements render its serial guarantees of a partial “tax rollback” illusory legally (despite junior taxing district claims in 1996, in 2008 and, again, in 2016);

- E. The Sound Transit 3 tax-ballot proposal, if lawful despite huge deceit on November 8, 2016, would thus divert, to **one** junior taxing district, at least \$308-to-\$345 billion in finite state revenue capacity, during the first 65 years thereafter, more likely \$443-to-\$540 billion, in that period, and most probably trillions of dollars beyond, through perpetual taxing authority, so as thereby to remove those enormous sums from finite state tax authority and thus to preclude Defendant STATE's uses of those limited state tax dollars for any other end, likely forever, and for no-less-than-65 years (which thus includes but is not limited to fulfillment, belatedly, of "the paramount duty of the state");
- F. The Sound Transit 3 tax-ballot proposal thereby violates both the **Order for contempt of court** as formally entered against Defendant STATE by the state Supreme Court, on September 11, 2014, and also follow-on orders requiring serial reporting on progress as made each year, through fiscal legislation, so as thereby necessarily to include its wholly gigantic **diversion** of finite state tax authority and thus of limited state revenue capacity;
- G. The Sound Transit 3 tax ballot thus falls within the central holding of *Philadelphia II v. Gregoire*, 128 Wn.2d 707 (1996), whereunder Defendant KIM WYMAN can be and hereinafter is enjoined to **withhold**, or to **withdraw**, certification of nominal-but-non-lawful results of the ST3 tax election (absent a Supreme Court order to the contrary);
- H. Interested Party Sound Transit's myriad thefts and numerous misuses of public facilities, public monies and related public resources, in order and so as thereby to advance its Sound Transit 3 tax-ballot proposal, through numerous violations of state election statutes, therefore afford a statutory right to reballoting pursuant to RCW 42.17A750, and thereby yield a still-further legal basis for application of the central *Philadelphia II v. Gregoire* holding to multiple instances of willfully interrelated wrongdoing by its officers, its directors and its other agents, inclusive of its senior managers, who have withheld, or allowed withholding of, pivotal fiscal information requested by the state-appointed Expert Review Panel on February 9, 2016, who **could not** and thus **did not** fulfill multiple statutory **cost-effectiveness** responsibilities and who have submitted a benefit-to-cost claim to the Puget Sound Regional Council falsely positing a **positive** 1.1.-to-1 benefit-cost ratio based on its willful suppression of several billion dollars in rail costs for Interstate 90 use **legally owed to a state constitutional trust**), *inter alia*;
- I. When the purpose of a tax ballot is to request local voters to approve taxes that would divert at least \$308-to-\$345 billion in judicially restricted state tax authority, and thus legally limited state revenue capacity to be made unavailable, thereby, for any-and-all other governmental uses, including but not limited to "the paramount duty of the state" (and far more likely well-over-half-a-trillion dollars and most probably trillions more beyond); when statutory authority for the tax ballot is limited solely either to approval of such tax-ballot **diversion** or else to rejection (since initial state policies have been legislatively modified to strip **every** other power, from **all** state citizens, as voters and as taxpayers); when the amount of such taxes to be so approved or thus rejected, as the **only** lawful purpose for a huge tax ballot, can be projected with **substantial accuracy** with **simple** fifth-grade arithmetic and with **standard** public-finance heuristics (but is

withheld from citizens in the ballot title); and when a figure based on often **unreliable cost estimates** and on totally **speculative hopes** for federal grants (**ungermane** in tax ballots) is stated in a ballot title in place of **reliable-and-nonspeculative** financial data (**germane** to the sole purpose of the tax ballot), *inter alia*, then this Honorable Court can, and does, declare that necessarily intended purposes for it to withhold **germane-and-reliable** tax-cost information (and to substitute **ungermane-and-unreliable** fiscal information) include willful frauds on state citizens, as voters and as taxpayers, based on intentionally concealing essential facts so constituting either the tort of misfeasance in public office at common law, criminal malfeasance in public office, both or further gross wrongdoing, and that the Sound Transit 3 tax ballot and its ballot title have been constructed by such wrongful means, for those bad-faith purposes, by Interested Party Sound Transit's present-and-past officers, directors, senior managers and other agents;

- J. The Sound Transit 3 tax ballot is thus a **core** element of a public-sector *ponzi* scheme reliant on Interested Party Sound Transit's misuses of public resources to defraud Interested Party 64th Legislature, Judge Bowman and over 3.1 million district residents as to at least **\$308-to-\$345 billion** in finite state tax authority in order thereby to harm, **statewide**, nearly 1.1 million school children and over 5.7 million state motorists; and
- K. Interested Party Sound Transit is unconstitutional and, hence, null and void *ab initio*.

Plaintiff further prays this Honorable Court to issue and to enter each injunction that proves necessary in order to halt all such formally so-declared wrongdoing, and every consequence thereof, including but not necessarily limited to an order in a form substantially as identified in Prayer G; and

Plaintiff finally prays this Honorable Court for all other-and-further relief deemed just and equitable herein, based on each premise to be proven up hereafter with any and all financial-and-other information obtained through depositions taken on oath, and through other formal discovery, including but not necessarily limited to sequencing elements of this cause to foster orderly development of all constitutional, legal and other issues noticed *supra*, inclusive of rights *qua* reserved.

DATED this 16th day of November, 2016.

\_\_\_\_\_  
Will Knedlik, plaintiff, *pro se*  
Post Office Box 99  
Kirkland, Washington 98083  
wknedlik@aol.com  
425-822-1342



January 31, 2017

Mr. Phil Stutzman  
Public Disclosure Commission  
711 Capitol Way  
Room 206  
Olympia, WA 98504-0908

Re: Sound Transit Response to Knedlik Complaint

Dear Mr. Stutzman,

The purpose of this letter is to respond to the complaint filed by Will Knedlik alleging that Sound Transit violated Chapter 42.17A RCW in connection with the passage of the Sound Transit 3 ("ST3") ballot proposition. Your January 20, 2017 email asks that we respond to the following five allegations in Mr. Knedlik's complaint:

1. Sound Transit improperly hired a PR consultant-EnviroIssues-to promote the ST3 ballot proposition.
2. Sound Transit's public statements, including its "Mass Transit Guide" vastly understate the cost and life of the ST2 tax, and mislead the public.
3. Josh Benaloh, the immediate past Chair of Sound Transit's Citizen Oversight Panel (COP), misused Sound Transit facilities to promote the ST3 ballot proposition by making promotional statements at a COP meeting, including encouraging advocacy for the ballot proposition through social media.
4. Sound Transit engaged in "deceitful lobbying" of the legislature. This allegation falls under RCW 42.17A.655(2)(b), for the lobbying activities of David Foster, Michael Shaw, and Martin Flynn Public Affairs.
5. Please provide any information you have concerning the allegation that Pat McCarthy, in her capacity as a member of the Executive Board of the Puget Sound Regional Council, used Sound Transit facilities to promote the ST3 ballot proposition.

We appreciate the PDC's attention to the matter and the opportunity to respond to Mr. Knedlik's allegations. Sound Transit's position is that the complaint should be closed with no further action for the reasons outlined below.

**1. Sound Transit contracted with EnviroIssues as part of the normal and regular conduct of the agency pursuant to RCW 42.17A.555.**

In his May 2016 complaint to the PDC, Mr. Knedlik made the same allegations regarding the supposed inappropriateness of the EnviroIssues contract. Sound Transit's contract with EnviroIssues was executed in August 2015 before the Sound Transit Board authorized the ST3

ballot measure. As outlined in Sound Transit's previous response to Mr. Knedlik's allegations, the contract served two important governmental functions: informing and involving community members and jurisdictions before the Sound Transit Board decided which projects to include in the transit plan, and providing support to the Sound Transit Board in disseminating factual information in order to collect public feedback on the needs of the region. Mr. Knedlik appears to be confusing Sound Transit's regular and standard public involvement process for disseminating information with advocacy for a ballot measure that had not yet been drafted.

The scope of work, attached as Exhibit A, articulates the consultant role including involvement in public meetings, public input, graphic design, and copy editing. Given staffing and project scope, Sound Transit staff at the time could not have supported such a short-term intense project, and consultant use was appropriate. EnviroIssues work did not and could not promote a ballot measure that did not yet exist. And even if the ballot measure had existed, RCW 42.17A.555 specifically provides an exception to the general prohibition of using public resources for promoting or opposing a ballot proposition "activities which are part of the normal and regular conduct of the office or agency." See RCW 42.17A.555(3). In this case, the ballot proposition was not yet drafted or approved, and the activities the contractor was engaging in was part of the normal and regular conduct of Sound Transit. The PDC previously took no action on Mr. Knedlik's allegation, and Sound Transit requests the same outcome in this instance.

## **2. Sound Transit provided accurate cost estimates in its ST3 ballot measure.**

Much like the EnviroIssues contract, Mr. Knedlik has previously claimed that Sound Transit has misrepresented the cost of the ST3 measure. In a ballot title action filed in August 2016, Mr. Knedlik alleged that Sound Transit misrepresented at least \$308 billion in tax authority over 65 years. Mr. Knedlik's \$308 billion number apparently derives from his own guess that Sound Transit will impose the authorized taxes at the full rates from 2017-2081. This assumption conflicts with the express terms of the tax rollback provision in Resolution R2016-17, which calls for taxes to be eliminated or reduced after the transit plans are completed. As a result, it would be misleading and inappropriate to include the \$308 billion number in the ballot title or any other materials generated by Sound Transit when those forecasts assume collection of the taxes through 2081, a result not permitted by the ballot measure.

On September 1, 2016, the Honorable Judge Bill Bowman heard arguments from Sound Transit and Mr. Knedlik on this claim and signed an order that denied and dismissed Mr. Knedlik's petition. After reviewing all of the documents submitted during this matter, which included the Mass Transit Guide, Judge Bowman ordered that the ballot title include the \$53.8 billion estimated cost figure. Copies of Mr. Knedlik's petition, Sound Transit's response, and Judge Bowman's order are attached as Exhibits B, C, and D, respectively.

**3. Sound Transit has no knowledge of any misuse of its facilities by any member of the Citizen Oversight Panel.**

The Citizen Oversight Panel (“COP”) was created in 1997 to independently monitor Sound Transit. COP members are appointed by the Sound Transit Board to review the details of Sound Transit activities and to report their findings back to the Board. The Board purposefully selects a wide array of members, representing different geographic areas and professional backgrounds. Mr. Knedlik has previously alleged violations based on actions of the COP, and the PDC has determined that no further action was necessary.

The COP’s activities are open to the public and documented. The COP meeting summaries accurately reflect its process. Meeting summaries can be found on Sound Transit’s website at [www.soundtransit.org/About-Sound-Transit/Accountability/Citizen-Oversight-Panel-COP/COP-document-archive](http://www.soundtransit.org/About-Sound-Transit/Accountability/Citizen-Oversight-Panel-COP/COP-document-archive). Attached to this letter as Exhibit E is a copy of the November 3, 2016 minutes from the COP meeting, which was prepared by Shelly Brown, an attorney and independent consultant that provides administrative support to the COP.

The COP did not support ST3 in violation of state law. Rather, the COP continues to perform its intended function of learning about Sound Transit’s activities to perform its public oversight role and to provide feedback to the Sound Transit Board. Mr. Knedlik’s recollections of the meetings are inconsistent with the records on file as well as the recollections of others present. The COP is performing an important and appropriate function for Sound Transit and does not act in violation of RCW 42.17A.555.

**4. Sound Transit has not engaged in deceitful lobbying of the legislature.**

RCW 42.17A.655(2) sets forth prohibited activities of lobbyists. Mr. Knedlik appears to be claiming that Sound Transit lobbyists knowingly deceived or attempted to deceive a legislator regarding the facts pertaining to ST3 in violation of RCW 42.17A.655(2)(b). Mr. Knedlik, however, includes no facts to support this claim. He makes one conclusory statement that Interested Party Sound Transit attempted “to bleed” “judicially restricted state tax authority” “via deceitful lobbying for \$15 billion in new taxes,” but does not cite to any facts to support this conclusion. Sound Transit has no information that would support this claim and denies that any of its staff or contracted lobbyists deceived or attempted to deceive any legislator regarding any aspect of ST3.

**5. Sound Transit has no knowledge that any member of the Sound Transit Board used Sound Transit facilities to promote the ST3 ballot proposition.**

In paragraph 65 of his complaint, Mr. Knedlik alleges that Former Pierce County Executive Pat McCarthy misused public facilities to urge other people “to support the ST3 tax ballot in every way possible...” Based on information contained in paragraph 63 of his complaint, Mr. Knedlik appears to be referring to the September 22, 2016 meeting of the Puget Sound Regional Council (PSRC) Executive Board.

Mr. Phil Stutzman  
Public Disclosure Commission  
January 31, 2017  
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On September 22, 2016, the Executive Board of the PSRC held its regular meeting at the PSRC Board Room in Seattle, Washington. A copy of the agenda for this meeting is attached as Exhibit F to this response. Item 8(a) on the agenda was the Conformity Report for Sound Transit's adopted Phase 3 (ST3) System Plan. The PSRC keeps video recordings of its meetings on its website. The video from the September 22, 2016 meeting is located at this web address: <http://psrcwa.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1469&Format=Agenda>.

As noted above, RCW 42.17A.555 specifically provides an exception to the general prohibition of using public resources for promoting or opposing a ballot proposition "activities which are part of the normal and regular conduct of the office or agency." See RCW 42.17A.555(3). In this case, the PSRC is responsible under state law and through the 2009 Memorandum of Understanding with the transit agencies for determining whether Sound Transit's system plans conform to the region's growth strategy, VISION 2040, and long-range transportation plan, Transportation 2040. The Executive Board was being asked to find that the ST3 System Plan conformed with the region's long range plans as part of the PSRC's normal and regular conduct. As a result, the comments made by members of the Executive Board regarding the ST3 system plan at the September 22, 2016 meeting were made to provide information requested by the PSRC to make its determination regarding compliance with the region's greater strategy, and fell within the exception outlined in RCW 42.17A.555(3).

For the reasons stated above, Sound Transit respectfully requests that the Commission determine that Sound Transit did not violate the state's campaign finance laws and close the complaint with no further action. If you require any additional information regarding any of the areas discussed above, please let me know.

Sincerely,



Amy Jo Pearsall  
Senior Legal Counsel

Enclosures



**AGREEMENT**

This agreement is made this 23rd day of August, 2013 between Sound Transit and EnviroIssues, Inc. (the "Consultant"), who, in consideration of the mutual promises contained herein, agree to the following terms and conditions:

**A. TERM**

The initial term of this agreement will be three years effective **August 28, 2013** through **August 27, 2016**, subject to the "Time of Performance" and the Termination provisions of Paragraph O of this Agreement. At Sound Transit's sole discretion, the contract may be renewed for two options for additional one-year periods.

**B. SCOPE OF WORK**

The Scope of Work is attached hereto as Attachment A. To accomplish the Scope of Work, Consultant shall do, at a minimum, the work described in each negotiated task order. In the event of any discrepancy or conflict between the Scope of Work and each negotiated task order, the requirements of each negotiated task order will govern, at no additional cost to Sound Transit.

Vendor shall perform work or sell products only as permitted within the contract scope and shall not accept orders or provide services not within the contract scope.

**C. EXTRA WORK**

Sound Transit may request additional work or services other than that expressly provided for in the "Scope of Work" section of this agreement. This will be considered extra work, supplemental to this agreement, and shall not proceed unless authorized by a written change order. Any costs incurred due to the performance of extra work prior to execution of a written change order will not be reimbursed.

**D. ERRORS AND OMISSIONS; DUTY TO CORRECT**

The Consultant is responsible for the professional quality of all work performed under this agreement. The Consultant, without additional compensation, will correct any errors or omissions immediately upon notice by Sound Transit. This obligation will survive termination and expiration of this agreement.

**E. PRICE**

Total compensation for this agreement will not exceed **\$800,000**. Sound Transit is not liable for any compensation to the Consultant in excess of this amount unless otherwise approved and agreed in writing by Sound Transit.

Consultant will be compensated upon Sound Transit's acceptance of Consultant's performance of the unit-priced item, as described in Section A (Scope of Work). Where multiple unit-priced items are performed, total compensation for the unit priced item will be the unit price for the item multiplied by the number of units of that item performed. The unit price for each item will be as follows:

	Fully Burdened Hourly Rate
Principal / Director	\$178.00
Associate	\$158.00
Project Manager	\$129.00
Coordinator / Administrative	\$67.00
Design Lead	\$106.00
Web / Technology Lead	\$150.00



F. PRICE ESCALATION / PAYMENT / INVOICES

The unit prices indicated in Section E, above, will remain constant throughout the first year of the agreement – no price escalation will apply regardless of market conditions. Escalation for Years 2 and 3 of the agreement shall be 2 percent. If Sound Transit exercises any contract options, price escalation for the option years shall be 2 percent for each option year exercised.

Payment will be net 30 days following receipt of a properly completed invoice, which must include the Purchase Order number, be fully itemized, and sent to:

[Accountspayable@soundtransit.org](mailto:Accountspayable@soundtransit.org)

OR

Sound Transit  
Attn: Accounts Payable  
401 South Jackson Street  
Seattle, WA 98104

Incorrect invoices or invoices without the Purchase Order number may be returned to Contractor.

G. PROMPT PAYMENT PROVISION

Consultant, after receiving payment from Sound Transit, must make prompt payment to its subconsultants, for work completed in accordance with this agreement. This provision applies to all tiers of subcontracts.

1. Consultant's invoices must include payments for subconsultants whose work was performed in accordance with this agreement. The Consultant may not request payment for subconsultant work until the Consultant has determined that the subconsultant is entitled to the payment for the work completed.
2. Within five working days of receipt of payment from Sound Transit, the Consultant must pay such subconsultants.
3. The requirements of this section must be included in subcontracts of all tiers and must include a provision requiring payment be made to the lower tiered subconsultant within five working days after receipt of payment by the higher tiered subconsultant.
4. In the event of any claim or demand made against any Indemnified Party hereunder, Sound Transit may reserve, retain or apply any monies due to the Consultant for the purpose of resolving such claims; provided, however, that Sound Transit may release such funds if the Consultant provides adequate assurance of the protection of the Indemnified Parties' interests.

H. NOTICE

Notice will be effective upon the earlier of (i) actual receipt by the individual identified below or (ii) 24 hours after mailing to the address below:

Sound Transit:	Consultant: EnviroIssues, Inc.
401 S Jackson Street	101 Steward Street, Suite 1200
Seattle, WA 98104-2826	Seattle, WA 98101
Attn: Sue Craven, Senior Contracts Specialist	Attn: Diane Adams, Principal



#### J. CONSULTANT EMPLOYEES

Consultant will ensure that its employees assigned to this agreement are properly licensed, trained and/or skilled and familiar with the laws and regulations pertaining to the services being provided. Consultant must replace any employee who, in the reasonable opinion of Sound Transit, acts improperly, is not qualified or licensed, or is not needed to perform assigned work. The Consultant will not transfer or reassign any individual designated in this agreement as essential to the work, without the express written consent of Sound Transit.

#### K. DIVERSITY PROGRAM REQUIREMENTS

1. Sound Transit is committed to a policy of providing fair and representative employment and business opportunities for minorities and women in the procurement of non-professional and professional services, consistent with Sound Transit's policies, procedures and guiding principles for employment and contracting.
2. The Consultant shall fully comply with all federal, state and local laws, regulations and ordinances pertaining to non-discrimination, equal employment and affirmative action, including but not limited to the Washington State "law against discrimination", Chapter 49.60 RCW.
3. The Consultant shall not, on the basis of race, religion, color, creed, national origin, marital status, sex, sexual orientation, ancestry, age or the presence of any sensory, mental or physical disability in an otherwise qualified person, deny any person the benefits of, or exclude any person from participation in, the award and performance of any work under this Agreement and shall afford equal, non-discriminatory opportunities to potential joint venture partners, subconsultants, subcontractors and suppliers.
4. The Consultant shall not, on the basis of race, religion, color, creed, national origin, marital status, sex, sexual orientation, ancestry, age or the presence of any sensory, mental or physical disability in an otherwise qualified person, discriminate against any employee or applicant for employment. The Consultant shall make efforts to ensure that applicants are employed, and employees are treated during employment, without regard to their race, religion, color, creed, national origin, marital status, sex, sexual orientation, ancestry, age or the presence of any sensory, mental or physical disability. The Consultant shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination provision.
5. Participation by Subconsultants or Subcontractors.
  - a. Sound Transit did not anticipate that participation by subconsultants or subcontractors would be required by the Consultant to satisfactorily perform the work under this Agreement. Accordingly, Sound Transit did not establish any goal for participation by Small Businesses in the work under this Agreement.
  - b. If the Consultant determines that subcontracting is necessary to satisfactorily perform the work under this Agreement, the Consultant shall take all necessary affirmative steps to assure that Small Businesses are used when possible. The definition of Small Businesses is set forth in Sound Transit's Small Business Program.
  - c. If requested by the Consultant, Sound Transit will assist the Consultant to identify available and capable Small Businesses for subcontract work.
  - d. Affirmative steps related to participation by Small Businesses could include the following actions, as applicable:
    - (1) placing qualified Small Businesses on solicitation lists;



- (2) assuring that Small Businesses are solicited whenever they are potential sources;
    - (3) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by Small Businesses;
    - (4) establishing delivery schedules, where the requirement permits, which encourage participation by Small Businesses; and
    - (5) using the services and assistance of Sound Transit and the Washington State Office of Minority and Women Business Enterprises.
  - e. The Consultant shall provide periodic reports concerning its affirmative efforts and the actual participation by Small Businesses, as such reports are deemed necessary by Sound Transit.
  - f. The provisions in this Paragraph J are in addition to the provisions elsewhere in this Agreement related to participation by Disadvantaged Business Enterprises (DBEs). In the event subconsultants or subcontractors are necessary, the Consultant shall comply with the provisions in this Paragraph J and the DBE provisions.
6. Equal Employment Opportunity (EEO)
- a. The Consultant shall implement and carry out the obligations regarding EEO submitted as part of its Proposal to perform this Agreement and the nondiscrimination in employment provisions included in this Agreement.
  - b. The Consultant shall prepare and maintain records of employment, employment advertisements, application forms and other pertinent data and records to demonstrate compliance with its EEO obligations under this Agreement. The Consultant shall permit reasonable access by Sound Transit to such records.
  - c. The Consultant shall provide periodic reports concerning its efforts related to EEO, as such reports are deemed necessary by Sound Transit.
- L. DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS
1. As a recipient of financial assistance from the federal Department of Transportation (DOT), through the Federal Transit Administration (FTA), Sound Transit developed and administers a Disadvantaged Business Enterprise (DBE) Program in accordance with 49 Code of Federal Regulations (CFR) Part 26 (the "DBE Regulations"). The Consultant shall review and comply with applicable provisions in the DBE Regulations.
  2. In the performance of work under this Agreement, the Consultant shall afford DBEs an equal, non-discriminatory opportunity to compete for business as joint venture partners, subconsultants, subcontractors and suppliers and shall ensure its subconsultants and subcontractors also afford DBEs such opportunities.
  3. Sound Transit did not anticipate that participation by subconsultants or subcontractors would be required by the Consultant to satisfactorily perform the work under this Contract. Accordingly, Sound Transit did not establish any goal for participation by DBEs in the work under this Agreement.
  4. If the Consultant determines that subcontracting is necessary to satisfactorily perform the work under this Agreement, the Consultant shall make good faith efforts to assure that DBEs are used when possible. The Consultant shall make good faith efforts to reach out to DBEs to solicit and achieve participation by DBEs



under this Agreement and maintain documentation of its efforts. The description of "good faith efforts" is set forth in the DBE Regulations.

5. The definition of DBEs is set forth in the DBE Regulations. Only firms that have been certified as eligible to participate as DBEs by the Washington State Office of Minority and Women Business Enterprise (MWBE) shall be considered to be DBEs under this Agreement. A listing of DBEs certified by OMWBE is available on the Internet at <http://www.omwbe.wa.gov/certification> or by contacting OMWBE at 360-753-9693.
6. In each subcontract it awards under this Agreement, the Consultant shall include the following assurance:

"The Subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Subcontract. The Subconsultant shall carry out applicable requirements of 49 CFR Part 26 in the award of contracts under this Subcontract. Failure by the Subconsultant to carry out these requirements is a material breach of this Subcontract, which may result in the termination of this Subcontract or such other remedy as the Consultant or Sound Transit shall deem appropriate."
7. The Consultant shall provide periodic reports concerning its good faith efforts and the actual participation by DBEs, as such reports are deemed necessary by Sound Transit.
8. The provisions in this Paragraph K are in addition to the provisions elsewhere in this Agreement related to participation by Small Businesses. In the event subconsultants or subcontractors are necessary, the Consultant shall comply with the provisions in this Paragraph K and the provisions pertaining to Small Businesses.

#### M. PROHIBITED INTERESTS

No member, officer, or employee of Sound Transit or its governing body, or of any of its component agencies during such person's tenure or one year thereafter, may have any interest, direct or indirect, in this agreement or the proceeds thereof, unless such interest has been disclosed in writing to Sound Transit and Sound Transit has determined that no prohibited conflicts of interest or ethical violations inhere in the circumstances.

#### N. INSURANCE REQUIREMENT

##### 1. Description

- a. Except as otherwise specified, the Consultant, shall at its sole cost and expense, obtain and maintain during the entire term of this Agreement the minimum insurance set below.
- b. In the event the Consultant is a Joint Venture, these insurance requirements shall apply to each Joint Venture member separately.
- c. By requiring such minimum insurance, Sound Transit shall not be deemed or construed to have assessed the risks that may be applicable to the Consultant under this Agreement. The Consultant shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.
- d. The fact that insurance is obtained by Consultant shall not be deemed to release or diminish the liability of the Consultant, including without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Sound Transit shall not be limited to the amount of the required insurance coverage.



## 2. Insurance Coverages

- a. **General Liability:** Commercial General Liability for bodily injury including death, personal injury, and property damage, with a contractual liability endorsement, and Employer's Liability coverage, utilizing insurers and coverage forms acceptable to Sound Transit, with limits of at least \$2,000,000 per occurrence and \$2,000,000 general aggregate.
- b. **Automobile Liability:** Commercial Auto Liability coverage for bodily injury and property damage utilizing insurers and coverage forms acceptable to Sound Transit, with a limit of at least \$1,000,000 combined single limit.

Such liability insurance, identified in 2.a and 2.b above, shall name Sound Transit, its officers, directors, agents, and employees as additional insured with respect to the work under this Agreement.

- c. **Workers Compensation:** The Consultant will secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. The Consultant will be responsible for Workers Compensation insurance for any subconsultant who provides work under subcontract.

If the Consultant is qualified as a self-insurer under Chapter 51.14 of the Revised Code of Washington, it will so certify to Sound Transit by submitting a letter signed by a corporate officer, indicating that it is a qualified self-insurer, and setting forth the limits of any policy of excess insurance covering its employees.

- d. **Professional Liability:** Whenever the work under this Agreement includes "professional services", the Consultant shall maintain the appropriate Professional Liability insurance, with limits of liability of at least \$2,000,000 per claim, for damages sustained by reason of or in the course of operations under this Agreement, whether occurring by reason of acts failing to meet the standard of care required by this Agreement, negligent acts, errors, or omissions of the Consultant.
- e. **Other Insurance:** Other insurance as may be deemed appropriate by Sound Transit; costs of which shall be borne by contracting parties as mutually agreed.

## 3. General Provisions

- a. **Certificates and Policies:** Prior to commencement of Work for this Agreement, the Consultant shall provide Sound Transit with certificates of insurance showing insurance coverage in compliance with the foregoing paragraphs. All insurance coverage outlined above shall be written by insurance companies meeting Sound Transit's financial security requirements, (A.M. Best's Key Rating A-; VII or higher). **Such certificates shall reference Sound Transit's contract number, RTA/RP 0092-13 and title, ST3 Public Involvement and Community Outreach Consultant Services**, and will state that the Consultant will provide 30 calendar days' advance written notice to Sound Transit in the event the Consultant's insurance policies are cancelled, not renewed, or materially reduced in coverage. Should the Consultant neglect to obtain and maintain in force any of the insurance required in this Section, Sound Transit may suspend or terminate this Agreement. Suspension or termination of this Agreement shall not relieve the Consultant from insurance obligations hereunder.



- b. Taking into account the scope of work and services to be performed by a subconsultant, the Consultant shall prudently determine whether, and in what amounts, each subconsultant shall obtain and maintain commercial general liability and any other insurance coverage. Any insurance required of subconsultants shall, where appropriate and/or applicable, name Sound Transit as an additional insured.
- c. Consultant's insurance shall be primary as respects Sound Transit, and any other insurance maintained by Sound Transit shall be excess and not contributing insurance with the Consultant's insurance.
- d. The Consultant and its insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against Sound Transit. The Consultant and its insurers also waive their right of subrogation against Sound Transit for loss of its owned or leased property or property under its care, custody and control.
- e. Complete copies of the Additional Insured Endorsement(s) required in 2.a and 2.b above, the Waiver of Subrogation Endorsements, and the Primary and Non-Contributory Endorsements, or policy provisions, from the General Liability and Automobile Liability policies shall be attached to the Certificates of Insurance required in this Section.
- f. No provision in this Section shall be construed to limit the liability of the Consultant for work not done in accordance with the Agreement, or express or implied warranties. The Consultant's liability for the work shall extend as far as the appropriate periods of limitation provided by law and up to any legal limits.
- g. The Consultant may obtain any combination of coverage or limits that effectively provides the same or better amounts and types of coverage as stipulated above, subject to review and approval by Sound Transit.
- h. The Consultant warrants that this Agreement has been thoroughly reviewed by the Consultant's insurance agent(s)/broker(s), who have been instructed by the Consultant to procure the insurance coverage required by this Agreement.

O. TERMINATION

1. Termination for Default

Sound Transit may terminate this agreement, in whole or in part, in writing if the Consultant substantially fails to fulfill any or all of its obligations under this agreement through no fault of Sound Transit. Insofar as practicable, the Consultant will be given: (1) not less than 10 calendar days' written notice of intent to terminate; and, (2) an opportunity for consultation with Sound Transit before termination. An opportunity for consultation shall not mean the Consultant can prohibit Sound Transit's termination of the agreement.

2. Termination for Convenience

Sound Transit may terminate this agreement in writing, in whole or in part, for its convenience and/or lack of appropriations.

If Sound Transit terminates for convenience, Sound Transit will pay an amount for services satisfactorily performed to the date of termination, a reasonable profit for such services or other work satisfactorily performed, and an amount for expenses incurred before the termination, in addition to termination settlement costs the Consultant reasonably incurs relating to commitments that had become firm before the termination, unless Sound Transit determines to assume said commitments.



P. INDEMNIFICATION AND HOLD HARMLESS

1. The Consultant must comply with all applicable federal, state and local laws, regulations, ordinances, and resolutions applicable to the performance of services under this agreement
2. Consultant and its subconsultants, employees, agents, and representatives will be independent consultants and will not be deemed or construed to be employees or agents of Sound Transit.
3. To the maximum extent permitted by law or the provisions of this section, the Consultant agrees to release, indemnify, defend (with counsel acceptable to Sound Transit), and save harmless Sound Transit, its successors and assigns, and its and their shareholders, officers, officials, directors, contractors, and employees, (collectively "the Indemnified Parties") from and against any liability including any and all suits, claims, actions, losses, costs, penalties, response costs, attorneys' fees, expert witnesses' fees, and damages of whatsoever kind or nature to the extent arising out of, in connection with, or incident to the Consultant's performance of this agreement or the work; provided, however, that if the provisions of RCW 4.24.115 apply to the work and any such injuries to persons or property arising out of performance of this agreement are caused by or result from the concurrent negligence of the Consultant or its subconsultants, agents or employees, and an Indemnified Party, the indemnification applies only to the extent of the negligence of the Consultant, its subconsultants, agents or employees.

**THE CONSULTANT SPECIFICALLY ASSUMES POTENTIAL LIABILITY FOR ACTIONS BROUGHT BY THE CONSULTANT'S OWN EMPLOYEES OR FORMER EMPLOYEES AGAINST ANY INDEMNIFIED PARTY, AND FOR THAT PURPOSE THE CONSULTANT SPECIFICALLY WAIVES ALL IMMUNITY AND LIMITATIONS ON LIABILITY UNDER THE WORKERS COMPENSATION ACT, RCW TITLE 51, OR ANY INDUSTRIAL INSURANCE ACT, DISABILITY BENEFIT ACT OR OTHER EMPLOYEE BENEFIT ACT OF ANY JURISDICTION THAT WOULD OTHERWISE BE APPLICABLE IN THE CASE OF SUCH CLAIM. THIS INDEMNITY OBLIGATION SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONSULTANT OR A SUBCONSULTANT UNDER WORKERS' COMPENSATION, DISABILITY BENEFIT OR OTHER EMPLOYEE BENEFITS LAWS. THE CONSULTANT RECOGNIZES THAT THIS WAIVER WAS SPECIFICALLY ENTERED INTO AND WAS THE SUBJECT OF MUTUAL NEGOTIATION. PROVIDED, HOWEVER, CONSULTANT'S WAIVER OF IMMUNITY BY THE PROVISIONS OF THIS PARAGRAPH EXTENDS ONLY TO CLAIMS AGAINST CONSULTANT BY SOUND TRANSIT, AND DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY CONSULTANT'S EMPLOYEE(S) DIRECTLY AGAINST CONSULTANT.**

4. In the event of litigation between the parties to enforce the rights under this section, reasonable attorney fees will be allowed to the prevailing party.
5. The foregoing indemnities and duties to defend shall survive the termination of this agreement and final payment hereunder.
6. The Consultant may not assign any interest, obligation, or benefit in this agreement or transfer any interest in the same without prior written consent by Sound Transit.
7. This agreement is governed by Washington law, and exclusive venue for any action arising out of or relating to the performance of this agreement is in the Superior Court of King County, Washington.



**Q. INTELLECTUAL PROPERTY AND WORK PRODUCT**

1. All work (preliminary, draft, and final) performed by the Consultant under this agreement is the property of Sound Transit. Sound Transit will own any and all data, documents, working papers, computer programs, photographs, and other material produced by the Consultant pursuant to this agreement, and the Consultant hereby assigns and transfers to Sound Transit any and all intellectual property rights for such materials. The Consultant will provide Sound Transit with copies of all such materials including, without limitation, any research memoranda prepared under this agreement. Under no circumstances, including pending disputes between Sound Transit and Consultant, will Consultant fail to deliver possession of said documents and materials to Sound Transit upon demand.
2. The Consultant must indemnify, pay the defense costs of, and hold Sound Transit harmless from any and all claims, demands, costs, liabilities, losses, expenses and damages (including attorneys' fees, costs, and expert witnesses' fees) arising out of or in connection with this agreement that sounds in an intellectual property claim (including but not limited to patent, copyright, trademark, trade name, or trade secret infringement).
3. This Section will survive any expiration or termination of this agreement.

**R. AUDIT AND ACCESS TO RECORDS**

For a period of six years following final payment by Sound Transit to the Consultant under this agreement, the Consultant must maintain all books, records, documents and other evidence related to performance of the services under this agreement. Sound Transit and its authorized representatives will have access to such materials for the purpose of inspection, copying, cost review, and audit during the consultant's normal business hours. Substantially all of the foregoing paragraphs must be included in each subcontract agreement.

**S. RECYCLED PRODUCTS**

To the extent practicable, the Consultant will provide a competitive preference for recycled products to be used in performing the services pursuant to the U.S. EPA Guidelines at 40 CFR Parts 247-253. Where practical, the Consultant will use both sides of paper sheets and recycled/recyclable products.

**T. PRIVACY ACT**

To the extent it applies, Consultant and its subconsultants, or their employees must comply with the Privacy Act of 1974, 5 USC § 552a.

If the Scope of Work involves the operation of a system of records on individuals to accomplish a government function, Sound Transit and any consultants, third-party consultants, subconsultants, and their employees involved therein are considered to be government employees with respect to the government function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the terms of the Act or this provision of this agreement will make this agreement subject to termination.

The Consultant agrees to include this clause in all subcontracts awarded under this agreement that require the design, development, or operation of a system of records on individuals subject to the Act.

**U. CHANGES IN GOVERNMENTAL REGULATIONS**

1. In the event local, state or federal laws or regulations that were not announced or enacted at the time of submittal of Proposals, and such laws or regulations make standards more stringent or compliance more costly under this agreement, the Consultant must notify Sound Transit in writing of such changes and their effects on the pricing or delivery schedule promptly after the Consultant first became aware of the changes and prior to incurring any such expenses.



2. Sound Transit will make a determination as to whether the Consultant should be reimbursed for any such expenses or any time extensions should be granted in accordance with the provisions of Paragraph B, Scope of Work.
3. The Consultant shall be deemed to have had notice of any Federal, state, or local law or regulation announced or enacted at the time of contract award, even though such law or regulation did not take effect or become operative until some date after the contract award.
4. The Consultant must, immediately upon becoming aware of any such imposition or change of requirement, provide Sound Transit with full and detailed particulars of the changes required in the equipment and of costs involved therein, or it will be deemed to have waived any rights under this Section. In the event any governmental requirements are removed, relaxed or changed in any way after the date of contract award so as to make the Consultant's performance less expensive, or less difficult, then Sound Transit will have the option either to require the Consultant to perform pursuant to the more rigorous requirements or to receive a reduction in the price for all savings in direct costs which may be realized by the Consultant by reason of such change and appropriate adjustments in deductions for overhead and profit made so as to reflect actual savings made by the Consultant. Sound Transit will give the Consultant notice of Sound Transit's determination, and anticipated savings.

#### V. CONSULTANT EMPLOYEES

Consultant will ensure that its employees assigned to this agreement are properly licensed, trained and/or skilled and familiar with the laws and regulations pertaining to the services being provided. Consultant must replace any employee who, in the reasonable opinion of Sound Transit, acts improperly, is not qualified or licensed, or is not needed to perform assigned work.

#### W. TASK ORDER PROCESS

1. The type of work to be performed under this contract is generally described in Exhibit A, Scope of Work. The Consultant shall be responsible for the quality, technical accuracy, and the coordination of all services furnished under this Agreement.
2. Sound Transit shall make available to the Consultant, without cost, copies of any reference documents mentioned in Task Orders that are readily available and on file at Sound Transit. Except as specifically provided herein or in the individual Task Orders, these documents are available solely as additional information to the Consultant and do not relieve the Consultant of its duties and obligations under the Agreement nor constitute any representation or warranty by Sound Transit.
3. Work shall be authorized by issuance of a written Task Order. A Task Order shall be initiated by the Sound Transit Project Manager through a letter, e-mail, or fax with a description of the proposed work, including the estimated timeframe that the task must be completed.
4. Prior to issuance of any Task Order, Consultant shall meet with the Project Manager to review and confirm the Scope of Work, deliverables, allocation of level of effort, performance schedule, and estimated cost. Any changes to Scope of Work or reallocation of level of effort within each Task Order will result in a modified Task Order. In such instances, the Project Manager will transmit in writing a proposed task modification to the Consultant detailing the anticipated scope, schedule, and budget changes.
5. Each Task Order shall delineate the specific Scope of Work to be performed, deliverables, period of performance with milestone dates, and a not-to-exceed budget.



- 6. No reference to the terms and conditions of this Agreement is necessary in the Task Order as the terms and conditions stated in this Contract are incorporated into, are part of, each and every Task Order issued through this Contract.

X. MISCELLANEOUS PROVISIONS

- 1. Amendments: Modification of this agreement must be in writing signed by both parties.
- 2. Remedies Cumulative: Rights under this agreement are cumulative and nonexclusive of any other remedy at law or in equity.
- 3. Severability: If any term or provision of this agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this agreement will not be affected thereby, and each term and provision of this agreement will be valid and enforceable to the fullest extent permitted by law.
- 4. Waiver: No covenant, term or condition or the breach thereof will be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition will not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition.
- 5. Entire Agreement: This document, along with any exhibits and attachments, constitutes the entire agreement between the parties with respect to the Work.
- 6. Negotiated Contract: The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this agreement reviewed by their respective legal counsel, and that the terms and conditions of this agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.
- 7. The person signing this agreement is authorized to sign this agreement on behalf of the Consultant.

In consideration of the terms and conditions contained herein, the parties have executed this agreement by signing below.

Envirolssues, Inc.  
(Consultant)

Central Puget Sound  
Regional Transit Authority

By:   
Title: President

By:   
Michael Harbour  
Deputy Chief Executive Officer

APPROVED AS TO FORM:  
By:   
Legal Counsel



## **Attachment A Scope of Work**

### **Project Background**

In November 2012 the Sound Transit Board began the process for planning a future ST3 measure that could be submitted to regional voters any time from 2016 onward. Starting this fall, the residents of the Puget Sound region will have a change to guide the further growth of regional mass transit in the 2020s, 2030s and beyond through a major public process to update the Regional Transit Long Range Plan.

The Long Range Plan is the vision for transit expansions in the coming decades from which the projects forming ST3 as well as subsequent ballot measures will be drawn. Sound Transit is operating and building light rail, commuter rail and express bus services for the more than 40 percent of Washington's population that live in the urban areas of Snohomish, King and Pierce counties, an area with more than 50 cities.

Since 1980 the population of this region has grown more than 30 percent, creating major congestion and demand for fast, frequent and reliable transit. By 2040 it is expected to climb about another 30 percent above today's level.

The ST3 planning process that is getting underway will give residents the chance to advise the Sound Transit Board on when and how construction of mass transit expansions should continue. To continue expanding regional transit without a pause the region will need new revenue sources identified by the Legislature. Public involvement will engage stakeholders on options for paying for future transit investments.

### **Needs and Opportunities**

By 2023, the regional mass transit measures approved in 1996 and 2008 will serve more than 300,000 daily riders. However, the services and facilities that are currently funded will not be enough to meet long-term demand.

Following intensive construction over the next decade, existing voter-approved Link light rail extensions will provide a total of more than 50 miles of light rail service along the I-5 corridor from Lynnwood to Seattle and south to Kent/Des Moines, and east to Mercer Island, Bellevue and Redmond's Overlake area. ST3 planning will evaluate potential future extensions to other areas including but not limited to Everett, Tacoma, Federal Way, Downtown Redmond, Kirkland, Issaquah, Ballard, West Seattle and Burien.

Areas not served by rail are served by ST Express buses. Many ST Express routes and facilities are at or near their capacity, with no revenue source in place to expand service from today's levels. The ST3 planning process will determine the extent to which the region moves more bus riders on the highest-demand routes onto congestion-free light rail service, or alternately provides funds for additional bus services.

The capacity of Sounder commuter rail's southline service, linking cities in Pierce County, South King County and Seattle, is on track to grow 40 percent in the next decade. However, with parking at or near capacity at most stations, the accessibility of the system is a rising challenge.

In addition to expanding the geographic reach of fast and reliable transit services, ST3 planning will consider population growth's strain on existing services and facilities by looking at options for increasing access, including expanded or brand new stations on existing lines.

The Long Range Plan that the Sound Transit Board will update under an environmental review process that gives voice to the region's residents is a very long-term blueprint for a ST3 ballot measure and beyond that does not need to be constrained by currently available funding sources. As the Long Range Plan is updated, the Sound Transit Board will consider public input in deciding when and how to proceed with shaping a ballot measure, drawing from projects included in the Long Range Plan. The Board has not decided the timing of a future measure but directed planning to enable a measure as soon as 2016 if it chooses. Shaping a ST3 measure and determining its timing will include continuing extensive involvement of community members and jurisdictions.



### **General Scope of Work**

Public involvement is a vital component of the work identified above. The Consultant will play a major role in carrying out that work.

Public involvement will take place in a fluid and politically dynamic environment and must both support and respond to future planning work and policy decisions at the staff and board levels. To maintain necessary flexibility, this RFP does not include a detailed scope of work, and it does not call for proposers to submit a detailed task-by-task description of a work program. Work under this contract will be negotiated and approved in phases, which may overlap, along the lines of the following. A separate Notice to Proceed will be issued for task orders supporting each phase.

- Phase 1: Preparation for Public Involvement on Long Range Plan
- Phase 2: Implementation of Public Involvement on Long Range Plan
- Phase 3: Preparation for Public Involvement on ST3 options
- Phase 4: Implementation of Public Involvement on ST3 options
- Phase 5: Pre-election Public Information on Board-approved ST3 package

The general description of the work below is intended to provide a sufficient understanding of Sound Transit's general expectations of the Consultant to develop an appropriate team, think about innovative approaches, and make some preliminary judgments about the level of effort required.

### Project Goals and Approach

The Consultant will play a key role in the ST3 Communications and Outreach team. The team is comprised of internal Sound Transit staff and external consultant resources from multiple disciplines at the intersection of planning and communications. Represented disciplines include but are not limited to planning, environmental compliance, public involvement, government and community relations, media relations, customer outreach, marketing, web development, graphic design, writing, and the agency's Speakers Bureau. The team has identified the following goals for public involvement:

- Position the Sound Transit Board to update the Long Range Plan and shape a possible ST3 measure based on ample and informed public opinion;
- Encourage community members to get involved in shaping the future of transportation in our region;
- Communicate transit benefits and the roles of transit in addressing expected population growth, economic growth and environmental challenges;
- Provide "Transit 101" information that enables people to evaluate the benefits, costs, strengths and weaknesses of various modes and options;
- Establish an understanding of the long-term nature of the region's challenges and decisions
- Incorporate case studies of how other regions are using transit to keep people moving and their economies thriving;
- Anticipate and quickly respond to incomplete, misleading and inaccurate information disseminated by transit opponents;
- Utilize a broad and innovative array of communications channels to achieve public awareness and involvement;
- Promptly and accurately respond to public and stakeholder inquiries; and
- Ensure diverse populations have an opportunity to engage.



### Public Involvement Consultant Roles

While the final detailed work plan will be prepared in consultation with the Consultant, the Consultant's activities during different phases are assumed to include, but will not be limited to, vital roles in the following areas.

- Public meetings – The Consultant will play key roles in public involvement events such as open houses, with responsibility for tasks including but not limited to scheduling, booking, planning (agenda, floor layout, staffing plan, etc.), promotion/notification, content development and post-meeting summaries.
- Public input, contacts and correspondence management – The Consultant will be responsible for compiling, analyzing, summarizing and packaging public input for review by the Sound Transit Board and interested parties, in compliance with environmental review requirements. Input will come from multiple sources including meetings, online channels, phone, e-mail and writing. Input and inquiries will be organized within a comprehensive and well-organized database or Customer Relations Management (CRM) framework. The Consultant will manage a process for assigning responses to comments and inquiries to relevant individuals and tracking final responses. The Consultant will directly respond to many basic inquiries using agreed public information, while those inquiries that are more complex or sensitive will generally be handled by agency staff.
- Graphic design and materials development – Sound Transit has a strong desire to maximize opportunities for communicating visually. The Consultant will be responsible to assist in proposing and implementing creative and effective strategies and tools. In many cases the Consultant will design and produce materials from conception to delivery. In some instances the Consultant will provide graphic assets for use by the agency's in-house design staff, and in others the agency will provide assets for use by the Consultant. The Consultant responsibilities will be identified in task orders for the various phases of outreach and are envisioned to include maps; information graphics; website and social media content including interactive content and visual simulations; direct mailers; printed and electronic newsletters; brochures; facts sheets; public meeting materials including boards and way-finding signage; PowerPoint presentations; photography; and potentially video. Sound Transit in-house staff will oversee, review, critique and approve products created by the Consultant.
- Writing, copy editing and message development – The Consultant must demonstrate and maintain capability to efficiently produce clear and compelling written content for the broad range of identified materials, as well as internal resource such as messages, talking points and Q&A documents.
- Community events – Sound Transit participates in existing community events such as fairs and festivals to provide information to large audiences. Other venues include meetings and events hosted by community and partner organizations. Consultant roles will include identifying potential venues; making all logistical arrangements; staffing events; transporting materials and displays; and summarizing interactions with attendees.
- Environmental justice – The Sound Transit district includes people of diverse economic, cultural, racial and ethnic backgrounds. This includes immigrant populations with an extensive range of first spoken languages and communities with special needs associated with age, health and disabilities. The Consultant will be responsible for identifying social service providers and groups representing minority/low income populations. The Consultant will develop a plan that provides specific opportunities and materials to reach these communities and demonstrates methods and tools to include these groups and populations throughout each of the project's phases.
- Website and electronic communications – The Consultant and agency staff will work together to develop, post and continually update compelling verbal and visual content for



the agency's website. The Consultant must be prepared to provide both technical and content development support where requested. Interested stakeholders will periodically receive electronic newsletters/e-mails and other communications providing updates and detailing involvement opportunities.

- Social media – The Consultant will work with agency staff to support the development and implementation of appropriate, effective and efficient means for informing and involving regional residents through social medial channels such as Twitter, Facebook and/or others.
- Close collaboration with technical/planning staff and consultants – The Consultant will be required to work closely and directly with planners. Because much of the information Sound Transit communicates publicly will be technical, the Consultant will be required to distill complex and technical information related to environmental impacts into clear and easily understood materials and displays.
- Environmental support and documents – Updating the Long Range Plan will require compliance with SEPA. During this work, the Consultant will be required to ensure requirements are not only met, but exceeded. This will include planning, publicity and execution for all public meetings/hearings. The Consultant will also be responsible to support the environmental compliance team to draft language that pertains to public involvement and any additional required documentation. The Consultant will not be required to write the scoping public comment summary or track and respond to the comments received during the formal draft EIS public hearing period but could be asked to provide assistance to the lead for those tasks.

Sound Transit has internal staff to assist the project with media, political and elected official outreach. The Consultant may be asked to provide support on a case-by-case basis but will not be responsible for leading these efforts.

#### **Project Requirements**

The Consultant's team will be expected to work closely in a team relationship with Sound Transit staff and other consultants on the design team. To facilitate this requirement for teamwork, Sound Transit may require that some individuals such as the project manager and key staff to co-locate with the Sound Transit staff in Seattle during some phases of the project, particularly at key milestones.

#### **Invoices**

The Consultant shall submit monthly invoices that show the specific hours worked by each individual and the nature of the work. Each invoice shall break down the work conducted during the given billing period by task order, and include the cumulative amount per each task that has been billed to date and track the authorized balance remaining for the task. Receipts and documentation must be provided for reimbursement of costs that the agency has approved.





In order to defend against this lawsuit, you must respond to the Petition by stating your defenses, in writing, and by serving a copy of that pleading on the person signing this Summons within twenty (20) days after the service of this Summons, excluding the day of service, or within sixty (60) days, also excluding the day of service, if said service is made upon you outside of the State of Washington, or a default judgment may be entered against you without any further notice.

A default judgment is one whereby Petitioner is entitled to what is asked for because you have not responded to this Summons and to the attached Petition. If you serve a notice of appearance on the undersigned person, then you are entitled to further notice before a default judgment may be entered against you.

If this Summons and the attached Petition have not been filed in the above-entitled Court already, then you may demand that the Petitioner file this lawsuit with the Court. If you do so, then the demand must be in writing, and it must be served upon the person who signed this Summons. Within fourteen (14) days after you serve such written demand, Petitioner must either file this lawsuit with the above-entitled Court, or else service on you of this Summons and of the attached Petition will then become and shall thereafter be void *ab initio*.

If you wish to seek the advice of an attorney in this matter, then you should do so promptly so that your written response, if any, may be served on time. This Summons is issued pursuant to Rule 4 of Superior Court Rules of the State of Washington, and pursuant to R.C.W. 4.28.180.

DATED this 18th day of August, 2016.



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Will Knedlik, Petitioner, *Pro Se*  
Post Office Box 99  
Kirkland, Washington 98083  
425-822-1342

SUMMONS - 2



## INTRODUCTION

1. The Sound Transit 3 tax ballot, as appealed to this Honorable Court, violates both the Washington State Constitution and also the paramount requirement of the junior taxing district's authorizing statutes, continuing legal obligations created through previous ballot titles and related materials for prior Sound Move and Sound Transit 2 tax measures and various statutory duties for cost effectiveness imposed on Sound Transit and on other state-authorized transportation entities, such that ST3 constitutes an unconstitutional and otherwise illegal ballot proffer lacking *sine qua non* elements required as conditions precedent for a legitimate ballot title quintessential for voting and thus should logically and must legally be denied a ballot title required for valid tax elections.

2. Were this Honorable Court to determine that both judicial oaths of office and also RCW 29A.36.090 allow it to turn a blind eye to violations of our state constitution, of the junior taxing district's paramount statutory requirement as to its finances, of major legal obligations created by earlier ballot titles and of several other statutory duties, then the ballot title drafted by the King County Prosecutor nonetheless fails to meet minimum legal requirements due to clear lack of the most pivotal information necessary to allow each citizen to ascertain, as a voter and as a taxpayer, that he or she is being asked to authorize at least \$308 billion, over 65 years, in combined Sound Transit taxes under Sound Move, Sound Transit 2 and Sound Transit 3 tax ballots (as a requisite undisclosed in the ballot title); to forfeit partial tax rollbacks initially promised in 1996, thereafter repromised a second time in 2008 and now repromised a third time in 2016 (thus rendering same entirely illusory for every voter in the 1996 tax election, who cannot live to be at least 103 years of age, also undisclosed in the ballot title); and to pay for \$15-to-\$20 billion in long-term debt so great as to endanger state-and-local borrowing capacity thereby (likewise undisclosed), *inter alia*.

3. This Honorable Court shall either aid and abet or end this cover-up of fiscal essentials.

PETITION - 2

4. Thus, far-more-than \$308 billion in tax dollars to be taken from local residents over 65 years by the junior taxing district are on appeal to this Honorable Court, now, since tax growth in the three-score-and-five-year duration of taxation authorized by the ballot title, *sub rosa* and *sub silentio* in the form drafted by the King County Prosecutor, rests on a projected rise in taxes that is lower than the 3.8 percent rate used by Sound Transit, and since a likely extension of sales taxes to services in order to finance public schools “amply” pursuant to the core mandate of *McCleary v. State*, 173 Wn.2d 477 (2012), shall almost certainly lift resulting local taxes to \$400 billion in the applicable 65-year period, with the likewise-probable extension of state sales taxes to internet sales, within those decades, hiking cumulative tax burdens to fully or nearly half a trillion dollars.

5. Sound Transit’s Sound Move, Sound Transit 2 and Sound Transit 3 tax ballots appear, when taken together, to constitute the largest public-sector ponzi scheme in all of “united States” history, since our country’s foundation more-than-240 years ago, and certainly the by-far-biggest such fraud since the *Crédit Mobilier* of America rail scandal, immediately before and during the Gilded Age, with that discredited rail financing scheme reliant, then, on acts with major parallels to the junior taxing district, now, provided that local tax dollars being paid, currently, to grossly underperforming consultants, notwithstanding patently inadequate performances of professional services, reappear presently in a somewhat less clear form of kick-backs repurposed as campaign contributions to promote the ST3 tax ballot to be voted on at the General Election, on November 8, 2016, rather than in only slightly more obvious forms of cash and of stock paid to members of the U.S. Congress; and provided further that present-day influence peddling through recent hiring of a prior Administrator of the Federal Transit Administration as Sound Transit’s chief executive officer, in order to tap the U.S. Treasury by exploiting his ongoing connections with that pivotal federal agency, is but a tad bit more subtle than less-sophisticated 19th century back-room deals.

6. While misfeasance in public office during the last two decades by Sound Transit’s Board members, Board-and-committee officers and senior-level bureaucrats is breathtaking, and while that and other wrongdoing unprecedented in 163 years of territorial-and-state history affords key context for the vital statutorily assigned judicial task of necessary-and-sufficient review of a draft ballot title under RCW 29A.36.90 – which adequacy “decision of the superior court is final” – those duties start with a **lawful** ballot before progressing to the *sine qua non* **purpose** of every ballot title reasonably to inform, with just 75 words explicitly limited by statute, all citizens, as voters and as taxpayers, of the central policy questions presented for policy-issue ballot measures, the core tax proposals made by tax ballots and several kinds of questions presented by various other types of ballot propositions.

7. Since our state legislature initially granted authority to citizens both over Sound Transit’s broad policymaking directions through local ballot matters to be presented for voter endorsement or for voter rebuff, and also over its tax proposals for voter approval or for voter rejection, and since broader policy oversight was subsequently removed by legislative amendment so as to strip citizens of any role except to grant or to deny tax ballots, a particular judicial responsibility exists to ensure that the ST3 ballot title’s highly constrained word-count respecting truly enormous amounts of tax dollars, state tax capacity and local tax burden – for more than the full adult lifetime of almost every state citizens now eligible to vote on ST3 taxes – is utilized to reasonably inform us, as voters and as taxpayers, including not merely those financially sophisticated and fiscally informed, but also those mathematically challenged in understanding at least \$308 billion dollars in local option taxes (who, under federal law, **must** receive fuller disclosures for a \$308 loan from a pawn shop in a strip mall).

8. Thus, no sentient being can doubt that the foremost issues for a \$308 billion-or-larger tax ballot are **how much** it shall cost and **how long** it shall continue, nor fail to notice that the draft tax-ballot title lacks both in its substitution of public-relations verbiage for pivotal **tax cost** information.

PETITION - 4

### **PARTIES AND JURISDICTION**

9. Petitioner WILL KNEDLIK is a United States citizen residing in this state and a voter registered in King County at Kirkland; he is a taxpayer domiciled in the East King County subarea of Interested Party Central Puget Sound Regional Transit Authority's junior taxing district; he was appointed by said Interested Party's Board of Directors, in 2007, to write formal opposition statements for all three official Voters' Pamphlets, along with Phil Talmadge and with Kemper Freeman, Jr., but he was excluded from that service, in 2008 and in 2016, due to his expertise in state-and-local finance as a chairman of the Revenue Resources Subcommittee in the Washington State House of Representatives and as the first Executive Secretary of National Conference of State Tax Judges and due to his Board-appointed role in defeating Sound Transit 2 in 2007; and he was prevented from testifying as to Sound Transit 3 through its unconstitutional prior restraint.

10. Respondent DANIEL SATTERBERG is the Prosecuting Attorney for King County charged with ascertaining legal adequacy of, and with drafting of a ballot title for, a tax ballot to authorize at least \$308 billion in local-option transit taxes, over 65 years, on November 8, 2016.

11. Respondent JULIE WISE is chief elections officer for King County charged with conduct of balloting on at least \$308 billion in local-option taxes scheduled for November 8, 2016, along with various other functions related to preparations for an official Voters' Pamphlet therefore.

12. Interested Party Julie Anderson is the auditor for Pierce County likewise charged with conduct of balloting on at least \$308 billion in local-option taxes scheduled for November 8, 2016, along with various other functions related to preparations for an official Voters' Pamphlet therefore.

13. Interested Party Carolyn Weikel is the auditor for Snohomish County also charged with conduct of balloting on at least \$308 billion in local-option taxes scheduled for November 8, 2016, along with various other functions related to preparations for an official Voters' Pamphlet therefore.

14. Interested Party Kim Wyman is chief elections officer for the State of Washington with ultimate authority over balloting on at least \$308 billion in local-option taxes at the General Election on November 8, 2016, along with other major supervisory functions over all elections in our state.

15. Interested Party Central Puget Sound Regional Transit Authority, also known as “Sound Transit” currently and as the “RTA” previously, is a junior taxing district charged in statutory law, pursuant to RCW 81.104 and pursuant to RCW 81.112, with certain mandatory legal obligations thereunder as conditions precedent, absolute, preliminary to any legally valid tax ballot, which the tax ballot at issue herein has failed to fulfill in several central statutory respects, including the paramount requirement for fulfillment of core duties imposed as to the state’s Expert Review Panel, which prevents a valid ballot-title to be approved by this Honorable Court for an unlawful tax ballot.

16. The Uniform Declaratory Judgments Act, codified in this state as RCW 7.24, applies to this appeal with RCW 29A.36.090 and with Respondent WISE’s statutory responsibilities with respect to tax ballots and to supervision of this applicable tax election, as do broad inherent judicial powers of any trial court of general jurisdiction to prevent Interested Party Sound Transit from its misleading of citizens *vis-à-vis* an at-least-\$308 billion tax ballot and from its other legal violations.

17. Judicial oaths of office required for service on this Honorable Court, inherent powers of courts of general jurisdiction and the holding of *Philadelphia II v. Gregoire*, 128 Wn.2d 707 (1996), afford authority for and necessitate withholding of approval of a ballot title for an illegal ballot, while procedures applicable under RCW 29A.36.090 authorize judicial amendments for a defective ballot title herein; the declaratory judgment statute authorizes judicial amendments for inaccurate-and-deceptive representations in a nominal explanatory ballot statement therefore; and this Honorable Court’s inherent powers allow Interested Party Sound Transit to be enjoined to prevent, and to rectify, its several violations of federal-and state constitutions and state statutory law.

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## FACTUAL AND STATUTORY BACKGROUND

18. A dispositive question precedent, absolute, exists for this Honorable Court before it can proceed, logically and legally, to perform the ordinary adequacy review statutorily mandated under terms of RCW 29A.36.090, and a proper resolution of this query must terminate the ST3 tax ballot with its denial of a ballot title pursuant to state jurisprudence for preclusion of any ballot access in rare factual circumstances established by *Philadelphia II* in 1996, two decades ago, and explained in *Huff v. Wyman*, 184 Wn.2d 643 (2015), late last year, for legislative proposals that are not within legal “power to enact” (*Philadelphia II* at 719-20 and *Huff* at 652), as the tax ballot herein clearly is.

19. In particular, based on explicit policy determinations that statutorily required planning for the ST3 tax ballot herein requires a highly detailed “process [that] cannot guarantee appropriate decisions unless key study assumptions are reasonable” (RCW 81.104.110[1]), and that “[t]o assure appropriate system plan assumptions and to provide for review of system plan results, an expert review panel shall be appointed to provide independent technical review” (RCW 81.104.110[2]), which “expert panel shall review all reports required in RCW 81.104.100(2) and shall concentrate on service modes and concepts, costs, patronage and financing evaluations” (RCW 81.104.110[8]), and “shall provide timely reviews and comments on individual reports and study conclusions” (*per* RCW 81.104.110[9]), and which pivotal tasks have yet to be completed by the Panel both because Interested Party Sound Transit’s staff refused to supply vital fiscal information directly requested by Panel members in a public session, on March 9, 2016, and also because, on June 23, 2016, not only was the state Panel’s explicit determination of inadequate financial information having been given to its members for their statutorily mandated review, as of the date of its June 20, 2016 letter, totally disregarded by the junior taxing district’s Board, **unanimously**, but also the state Panel’s follow-on directive that action **not** be taken until financial reliability could be established was patently defied.

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20. Specifics of the state Panel's critical fiscal determination and crucial follow-on directive that the junior taxing district withhold action, within its letter of June 20, 2016, are stated as follows:

*Sensitivity Analysis:* At our June 6 meeting Sound Transit staff reviewed the analysis they had done to test the sensitivity of several key assumptions embedded in the Finance Plan: potential capital cost increases, lower than anticipated sales tax revenues, a recession early in the ST3 program, higher than anticipated interest rates, and increased inflation. This analysis represents sound industry practice. However, the sensitivity analysis and Monte Carlo runs presented to the panel did not include all of the most recent project delivery schedules. The analysis should be updated and shared prior to board action.

21. On information and belief, from direct questions put to Interested Party Sound Transit's Chief Financial Officer, Brian McCartan, by Petitioner on August 8, 2016, the junior taxing district had not completed the full "sensitivity analysis" required by "sound industry practice" fully 45 days **after** Board action on June 23rd in its total disregard for and its complete defiance toward our state's detailed requirements for an "Independent system plan oversight" (RCW 81.104.110) both long disregarded and recently defied to advance the largest public-sector ponzi scheme in all U.S. history.

22. Given that Interested Party Sound Transit's extended disregard for and recent defiance of the state panel appointed to provide "Independent system plan oversight" have created those rare circumstances wherein the junior taxing district Board's misfeasance or malfeasance legally yields a situation in which it lacked any lawful "power to enact" its nominal Resolution No. R2016-79 (due to its willful failure to comply with a paramount requirement for its enabling statutory authority for purported adoption of same, on June 23, 2016, following its intentional prior restraint on Petitioner violative of the First Amendment of the United States Constitution, and of Article I, secs. 4-5 of the Washington State Constitution, in order to prevent testimony placing that information on the public record prior to a unanimous Board vote then), and given that the date for a valid Board vote for any lawful adoption of that resolution has expired (on the date of the Primary Election held on August 2, 2016), this Honorable Court should hold the ST3 tax ballot void *ab initio* for its central illegalities.

23. In addition, the ballot title as proposed by Sound Transit through its lawless Resolution No. R2016-79 on June 23, 2016, and as endorsed by the King County Prosecutor on August 4, 2016 with but one word changed after an utterly needless delay of six weeks – so as to prevent a genuine opportunity for this Honorable Court to examine the wide variety of factual-and-fiscal irregularities that, taken together, appear to evidence the largest public-sector ponzi scheme in American history since 1776, and certainly from the substantially parallel *Crédit Mobilier* of America rail financing scheme a century later – provides neither type of fiscal information essential for every tax ballot: **how much** is to be imposed in taxes, if voters assent, and for **how long** shall taxes be collected, as two *sine qua non* data required for all citizens to calculate the share each family would supply.

24. Our state’s ballot-title jurisprudence is a subset of the broader legislative-title set of intertwined single-subject and subject-in-title questions that, in turn, reflect two sides of one state policy intended to ensure adequate inquiry notice to citizens when exercising our constitutionally reserved legislative authority and to our legislators when employed for us by our representatives.

25. In this matter, the draft ballot title for a tax ballot omits all **how much** and **how long** information of pivotal relevance to **every** tax ballot – particularly one as to which voters have **no** authority whatsoever to vote on anything except taxing authority, thus intentionally concealed, because broader legislative powers over Interested Party Sound Transit that were earlier available to local voters have been stripped from us through the junior taxing district’s use of our own tax dollars to lobby state legislators to reduce us to tax-cow status – and inserts promotional verbiage to “connect population, employment and growth centers” suitable for a booster’s flier but not for the ballot title for a tax measure; misrepresents at least \$308 billion in tax authority over 65 years with the highly misleading figure of \$53.8 billion; omits notice that a thrice-promised “partial tax rollback” would be forfeited for at least 65 years and perhaps forever; distorts continuation of all

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Sound Move and Sound Transit 2 taxes for another 65 years while omitting the pivotal duration-and-forfeiture facts; and attempts to mask, *sub rosa and sub silentio*, abandonment of its pivotal continuing statutory contractual obligation, through its Sound Move ballot title, to “conduct an annual comprehensive performance through independent audit services” under Section 5 of its Resolution No. 75 as legally specified therein for at least another 65 years thereunder, *inter alia*.

26. This intended violation of the statutory contract between state citizens and the junior taxing district, through ballot-title terms of Sound Move, thus implicates but one of several major federal-and-state constitutional violations underlying core issues reserved in paragraph 45 *infra*.

27. The misleading draft ballot title also omits minimally necessary-and-sufficient notice and disclosures that the Sound Transit 3 tax ballot – for at least \$308 billion in combined Sound Move, Sound Transit 2 and Sound Transit 3 taxes with a legal duration of no-less-than-65 years – constitutes, and is in substantial part due to, a third element of the junior taxing district’s public-sector variant of a “classic” ponzi scheme through its first ponzi element (when its initial Sound Move projects could not be completed within the timeline and with the budget misrepresented to its district residents, through its Sound Move ballot title and each associated document, so as then to require it to obtain and to divert ST2 taxes to backfill shortfalls from that Sound Move ponzi), and through its second ponzi (when its Sound Transit 2 projects, in turn, could not be completed within the timeline and with the budget misrepresented to citizens, through its ST2 ballot title and every associated document, so as now to require passage of Sound Transit 3 taxes to backfill shortfalls from its initial Sound Move ponzi and from its follow-on ST2 ponzi with its diversion of ST3 taxes), which in turn would compel an ST4 ponzi (when Sound Transit 3 taxes are, again, inadequate due to its diversions of Sound Move, ST2 and ST3 taxes to finance its initial, follow-on and now-pursued-third ponzis as serial frauds that so define them as a “classic” ponzi scheme).

28. Reasonably conservative tax-growth assumptions underlying the \$308 billion in local tax costs to be authorized by the tax ballot at issue *sub rosa and sub silentio* – in substantial part due to Interested Party Sound Transit’s intentional cover-up thereof through critical omissions of *sine qua non* **how much** and for **how long** financial information from the draft ballot title that it proposed and that the King County Prosecutor has endorsed with the change of but one word that makes it yet more misleading for citizens – can be legally established through sworn-declaration testimony from one or more experts, but the junior taxing district’s hide-the-tax *modus operandi*, in withholding pivotal financial information first from the state-appointed Expert Review Panel, and now from all citizens as voters and as taxpayers, in regard to its veiled plans for \$15-to-\$20 billion in long-term borrowing and for other quintessential financial matters identified within the motion for an evidentiary hearing stated in paragraph 43 *infra*, can and would be resolved most efficiently and most reliably through such an evidentiary hearing, including but not limited to all genuinely enormous tax costs for district residents currently unknowable, such as final incidence of a major portion of total Sound Transit taxes initially paid by businesses located and operating within the agency’s boundaries, but subsequently passed on by such enterprises to purchasers of their respective goods and services, and thus borne fiscally by local taxpayers in substantial part, in addition to taxes paid directly by us to Sound Transit, and such as enormous tax costs recently identified to be perpetual, rather than for simply no-less-than-65 years pleaded herein, by a highly knowledgeable recent chairman of the Finance Committee of the Washington State House of Representatives, who indicated in writing, a week ago today, that \$15-to-\$20 billion in long-term debt, which is totally undisclosed in the draft ballot title so far, “can never be reversed,” *inter alia*.

29. In particular, Hon. Reuven Carlyle written statement, as attached hereto at Exhibit A, avers that the Sound Transit 3 “financing plan locks up the taxes through bonding in perpetuity

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and the decision can never be reversed. Ever.” (which, if financially and legally correct, would mean that not only is the \$308 billion projection over 65 years far too low, but that \$400 billion and half-trillion dollar estimates, based on likely extensions of sales taxes to services to resolve public school funding in a constitutional fashion under Article IX and under asserted continuing jurisdiction over our state, its three branches of government and its citizens by the state Supreme Court *via* its *McCleary* decision and to internet sales, would likewise understate the full tax load).

30. Given the central disclosure purpose of legislative titles as a matter of law – including ballot titles as a subset thereof – no reasonable doubt can exist, and no rational argumentation can deny, that voters need to know whether a tax ballot would authorize \$308 billion, \$400 billion or half a trillion dollars in local taxes over 65 years, or whether it would authorize taxes running to trillions and trillions, in perpetuity, as Senator Carlyle avers, and that this Honorable Court is thus judicially obligated to ensure provision of the quintessential **how much** and **how long** financial information required to know the paramount questions being presented and may not assist Sound Transit in advancing its public-sector ponzi scheme through its proposed tax ballot title for ST3.

31. While no good faith dispute can abide about legal-and-logical necessity for disclosure of tax costs to taxpayers within the ballot title for a tax ballot authorizing likely the largest local-option revenue measure in the 240-year history of the United States, realities are that a statutory limit of 75 words is operative for the ballot title at issue, and that statutory-and-decisional law do not appear to provide explicit legal-and-financial guidance in state legislation and-court opinions.

32. Fortunately, in addition to our state’s guiding jurisprudential principles’ focus upon rational judicial decisionmaking from the first months following statehood (“where there are no governing provisions of the written laws, the courts of the late territory, and of this state, are, in all matters coming before them, to endeavor to administer justice according to the promptings of

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reason and common sense,” *Sayward v. Carlson*, 1 Wash. 27, 41 [1890], as well as in numerous follow-on judicial statements of like import over the last 125 years), the federal Truth in Lending Act and implementing regulations supply useful standards for determining *sine qua non* financial information that must be provided, both by simple logic and also by basic legal decency, to every borrower, each consumer and any other person taking on monetary obligations, whether for \$308 to purchase an extremely low-end vehicle or \$308 billion to fund components of a high-capacity-transit system, and these federal standards have direct application, regarding Sound Transit taxes, since TILA requirements for “period payments that the consumer will make over the life of the loan” specifically include all “Estimated Taxes, Insurance, & Assessments, even if not paid with escrow funds,” together with “whether taxes, insurance, and other assessments will be paid with funds in the consumer escrow account” (See *TILA-RESPA Integrated Disclosure*, Section 2.2.3: “Projected Payments,” at page 21, as promulgated by the Consumer Financial Protection Bureau).

33. Thus, beyond the core obligation of trial courts in this state for more-than-125 years to “administer justice according to the promptings of reason and common sense,” banking-and-businesses institutions will not be able to comply with their TILA responsibilities, under federal law, were this Honorable Court to allow Interested Party Sound Transit to withhold disclosures, without a whisper in the ballot title, as to the most essential **how much** and **how long** terms of its proposed trinity of Sound Transit taxes, billions of dollars in thrice-promised partial tax rollbacks inherent therein and \$15-to-\$20 billion in long-term debt that constitutionally requires at least 55 years of tax collections prior thereto and that statutorily authorizes 65 years of its tax collections (if not requiring such taxation, **forever**, if Sen. Carlyle proves correct that ST3’s “financing plan locks up the taxes through bonding in perpetuity and the decision can never be reversed. Ever.”).

34. State “common sense” principles urge TILA-type disclosures over a patent cover-up.

35. The state-law doctrine announced in *Sayward* in the initial weeks of statehood, in an appeal initiated before the Washington Territorial Supreme Court, and thereafter restated with a variety of refining judicial language, across over five score and 15 years since, also implicates the utility of an evidentiary hearing to ensure that this Honorable Court is reasonably informed as to core tax-and-debt financial information properly included within the ballot title, as a disclosure document, for an enormous amount of money over a very long, if not perpetual, period of time.

36. Given Interested Party Sound Transit's two decades of fiscal operations as apparently the largest public-sector ponzi scheme in American history, given the enormous amount of local-option tax authority indisputably being sought by the Sound Transit 3 tax ballot *sub rosa* and *sub silentio* without disclosure thereof in the draft ballot title at issue herein and given the delay of a full six weeks by Respondent SATTERBERG in issuing the draft ballot title on August 4, 2016 following the junior taxing district's proposal of ballot-title language through its Resolution No. R2016-79 on June 23, 2016, *inter alia*, this Honorable Court should not be influenced by claims of inadequate time available for judicial review necessary and sufficient for voters to be afforded reasonable fiscal information, including **how much** tax authority is to be granted and **how long** the taxation thereunder would continue, in whole, or in part, if a partial tax rollback is financially feasible and if it is not merely an illusory promise for **all** voters "in perpetuity," according to Sen. Carlyle, rather than an illusory promise only for **every** Sound Move voter who fails to reach 103 years of age (as required, 65 years hence, for everyone at least 18 years old in November, 1996).

37. In short, the ballot title set out at Exhibit B hereto, drafted by Interested Party Sound Transit and approved by Respondent SATTERBERG with one word changed, does not identify the **only core questions** with respect to Sound Transit 3 as to which voters have **any** lawful legislative authority, which include but are not necessarily limited to the **maximum level** of local-option taxes

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being thus requested for authorization *sub rosa* and *sub silentio*, and the **minimum period of years** for which such tax authority is to continue as likewise thus requested also *sub rosa* and *sub silentio*.

38. Without clear identification of three quintessential factual-and-legal questions in the thus-defective ballot title approved by Respondent SATTERBERG, no voter can know in any meaningful respect **how much total tax authority is being proposed by Sound Transit 3, over what period of years it is to continue and what other major legal consequences obtain** (for the region's full ST3 tax burden and for each voter's own average per-household ST3 tax costs).

39. While Petitioner KNEDLIK cannot ascertain exact dimensions of every local-option tax as now being proposed, given Interested Party Sound Transit's always deceptive hide-the-tax tactics, he has reviewed core data available in its fiscal documents and in its budget worksheets, and he thus represents, on information and on belief, that the junior taxing district asks combined tax authority of at least **\$308 billion during a 65-year period** from 2017 to 2081 (based on its statutory authority to issue 40-year bonds, for \$15-to-\$20 billion in long term-debt, throughout the planned 25-year construction schedule for its "Sound Transit 3" projects); that such immense tax authority would yield average per-household tax costs of *circa* **\$63,900** over that first 25 year period; and that said Interested Party's true intent as to the legal status of tax rates after 2081 is enigmatic as to whether a thrice-promised partial tax rollback could occur, or would be illusory, as it would be at least from the first ballot-title promise in November, 2016 until then (and as is suggested to be forever by Sen. Carlyle's expert opinion that its Sound Transit 3 "financing plan locks up the taxes through bonding in perpetuity and the decision can never be reverse. Ever").

40. The ballot title approved by Respondent SATTERBERG would not meet the most basic disclosure requirements imposed on a used-car dealer selling an utterly beaten-up gas guzzler in this state for a total of **\$308**, on credit, to a person living here illegally; and all state citizens

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patently have a right to as much information when Interested Party Sound Transit now proposes at least **\$308 billion** in tax authority from voters in three counties, with guile, particularly when its silence as to the **maximum** amount of its tax proposal denies voters any genuine opportunity to learn that **average per-household costs would be at least \$63,900**; especially when the ballot title, proposed by said Interested Party, includes a highly misleading \$53.8 billion number, which is not only almost six times smaller than local-option authority being proposed, but also of little relevance to a ballot for \$308 billion in **tax authority** (and clearly therefore known to be highly misleading by its Board members, Board-and-committee officers and senior managers); when the nominal explanatory statement, as drafted by said Interested Party, makes false claims about the average per-household tax costs (likewise necessarily known to be falsified and misleading); and, above all, after two Justices of our state Supreme Court have indicated major distress about prior gaps in Interested Party Sound Transit's tax-cost particularity, as to its proposed tax authority, as fears that "this court is failing its constitutional duty to protect the legislative role of the people by permitting inaccuracies, false representations, and clever manipulation of these processes" (by means of its history of carefully studied *lacunae* within its previous ballots for tax authority since 1995), and that said high court has further "failed its essential constitutional duty to protect the integrity of the exercise of the people's legislative power" (in *Sane Transit v. Sound Transit*, 151 Wn.2d 60, 104 [2004]), after another Justice then stated his legal position that "it is not our role to help Sound Transit railroad the voters" (*Ibidem*), and after all three of those Justices, together with five other Justices, thereafter expressed their concerns about a debt issue, as floated nearly nine full years prematurely by Interested Party Sound Transit, with seven of them signing on to the majority opinion in *Pierce County v. State of Washington*, 159 Wn.2d 16, 52 (2006), stating then that "nothing in our decision today forecloses Sound Transit from electing to retire the bonds

early” (as this state’s Attorney General had proposed to the Supreme Court, but as said majority found impossible due to constitutional contract clauses, also at issue herein, as noted *supra* as to a statutory contract between citizens and the junior taxing district through Resolution No. 75 ).

41. Interested Party Sound Transit’s identifications of \$53.8 billion in its project costs are known by its senior managers to be deceptive in diverting voters from \$308 billion in total tax authority being proposed, and in using that intentional distraction to misdirect citizens to one relatively small element of much larger tax costs, *i.e.* to understate taxes by nearly six full times.

42. Interested Party Sound Transit’s nominal explanatory statement’s false claims as to its \$308 billion tax-ballot proposal’s per-adult annual tax cost is likewise intended to, and does, mislead since both its senior managers and also every member of its Board of Directors must be fully aware that average per-household cost is \$63,900 – during just the first 25 years of taxing powers to continue for up to another 40 years pursuant to statutory bonding authority – and thus know that the only way in which its intentionally false \$14 per-month, per-adult claim can equal the real \$63,900 tax cost would be for each average-sized household to pay that sum monthly for over 100 years for each adult therein (albeit more unlikely than its illusory partial tax rollback).

**MOTION FOR EVIDENTIARY HEARING AS TO TAX COSTS OF ST3 TAX BALLOT**

43. Petitioner KNEDLIK hereby moves for an evidentiary hearing both necessary and also sufficient in order to establish – through the sworn testimony of persons with expertise as to state-and-local revenue matters – reasonably reliable projections of (1) complete tax costs to be imposed on residents of the junior taxing district as state-and-local taxpayers from a combination of all taxes to be collected pursuant to Interested Party Sound Transit’s pooling of Sound Move, Sound Transit 2 and Sound Transit 3 taxes through its Sound Transit 3 tax ballot under terms of its Resolution No. R2016-79 and of all other materials thereby directly incorporated or otherwise

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legally relevant; (2) the period during which such combined tax collections would most probably continue prior to those partial tax rollbacks guaranteed in 1996, 2008 and 2016 as inducements to citizens as voters and as taxpayers to approve Sound Move, Sound Transit 2 and Sound Transit 3 tax ballots; (3) terms necessary to ensure that partial tax rollbacks do not continue to be illusory beyond the period established immediately above; (4) the likelihood that **no** partial tax rollback shall **ever** be possible; (5) the final effective incidence of Sound Transit taxes initially paid by businesses that (a) remain permanently with those enterprises without being passed on, in part or in whole, to purchasers of goods and of services sold by them and (b) are paid, indirectly, by the customers of those business as passed along to persons living (i) within the junior taxing district, (ii) within the state but outside of the junior taxing district, (iii) outside the state but within these United States and (iv) outside of the United States; (6) the amount of Sound Transit taxes that are initially paid by businesses as direct taxes but that are thus shifted to district residents and hence paid by local taxpayers as indirect taxes; (7) the cumulative tax burden of each household within the junior taxing district over the period of taxes authorized by the ST3 tax ballot for each group in no-less-than-five quintiles of now-and-projected King, Pierce and Snohomish county residents; and (8) such other information as determined useful for state citizens as voters and as taxpayers.

44. In addition to expert testimony at the evidentiary hearing by Petitioner KNEDLIK, witnesses to be called include but are not necessarily limited to Hon. Reuven Carlyle, who was chairman of the state House Finance Committee from its inception in 2013 to his appointment to the state Senate in 2016, to establish his bases for writing that multibillion debt flotation to prop the Sound Transit 3 financing plan is “perpetual”; makes legislation to fund public schools amply “dramatically more complex” and effectively “consumes [all] the oxygen in the room on taxes for virtually all other public services at all levels of government for years to come” (Exhibit A).

## RESERVATION OF ALL CONSTITUTIONAL, STATUTORY AND OTHER RIGHTS

45. Petitioner KNEDLIK reserves every federal-and-state constitutional right devolving from the statutory contract that Interested Party Sound Transit negotiated from late 1993 to late 1994 with King County, Pierce County and Snohomish County, as a legal third-party beneficiary thereof, and all other federal-and-state constitutional guarantees of each further kind applicable, as well as all other statutory, legal, equitable and further rights of every kind, both on behalf of himself, and also on behalf of every other citizen, resident and taxpayer similarly thus situated.

## PRAYER

Petitioner hereby prays for this Honorable Court to declare, grant and order judicially that:

1. The Sound Transit 3 tax ballot is unlawful due to Interested Party Sound Transit's disregard for, and defiance toward, determinations and directives respecting critical inadequacies in the ST3 financing plan made by the state-appointed Expert Review Panel pursuant to statutory authority of RCW 81.104.110; junior taxing district Board actions in nominally adopting a statutorily inadequate ST3 financing plan are null and void and thus illegal due to *ultra vires* misconduct contrary to limited powers granted to that agency by the state; the date by which such illegalities could be resolved, so as to allow valid adoption of a lawful ST3 tax ballot, expired on August 2, 2016; and no lawful ballot title can be assigned by this Honorable Court to such an unlawful ballot, under the doctrine and holding of *Philadelphia II v. Gregoire*, 128 Wn.2d 707 (1996);
2. The ballot title prepared for the Sound Transit 3 tax ballot by Interested Party Sound Transit, as minimally redrafted and as nominally authorized by Respondent DANIEL SATTERBERG, is extremely misleading and thus would require significant revision to state **maximum taxing authority** thus proposed, **minimum duration of each tax** thereby proposed, and **such other information as determined by the court** after an evidentiary hearing necessary and sufficient to reverse said Interested Party's patently intentional frauds, through vital omissions, on all citizens as voters and as taxpayers;
3. Interested Party Sound Transit's *modus operandi* – from its Sound Move tax proposal in November, 1996, through its Sound Transit 2 tax ballot in November, 2008 and on to this day – makes out factually, and evidences legally, the junior taxing district to be exploiting a public-sector variant of a “classic” ponzi scheme during two full decades;
4. Interested Party Sound Transit's senior managers knew that the ballot title, as it was prepared by that agency's counsel, is misleading, and such misfeasance was and is intentional and constitutes the tort of misfeasance in public office at common law;

5. A nominal explanatory statement as prepared by Interested Party Sound Transit, through its legal counsel, is also misleading and must likewise be revised by the court;
6. Interested Party SOUND TRANSIT's senior managers knew that the nominal explanatory statement, as it was prepared by that agency's legal counsel, is misleading, and such misfeasance was and is intentional and therefore also further constitutes the tort of misfeasance in public office at common law;
7. Formal supervision by the court over preparations of all official voters' pamphlets and of all other mandatory disclosures to voters as to the Sound Transit 3 tax ballot *qua* a local-option tax ballot is required and taken;
8. Injunctive relief if and to the full extent required to enforce, or otherwise to affect, each determination made pursuant to all provisions of paragraphs 1 through 13 of this Prayer is required and granted;
9. Formal taking of continuing jurisdictions as to all actions as later determined is granted;
10. An evidentiary hearing to establish fiscal matters necessary and sufficient for disclosure to citizens, as voters and as taxpayers, is required for a reasonably reliable ballot title and is scheduled at \_\_\_ am/pm in Department \_\_ on September \_\_, 2016;
11. Formal reservation of all federal-and-state constitutional and other rights is granted;
12. Leave to add additional respondents and to amend these pleadings, as may be indicated, after discovery or otherwise prior to the close of evidence, at trial, or thereafter under all court rules, and as required to accommodate orderly litigation of every issue now or later to become applicable herein pursuant to continuing jurisdiction, as specifically taken by the court, including but not limited to all reserved constitutional and other legal rights and legally implicated questions, inclusive of Resolution No. R2016-79 violating state law requirements for its multiple subjects, rather than a single-subject, is granted; and
13. Such further relief as may hereafter be required, and as the court may thus deem just and equitable in all of the premises, including but not limited to taxable costs or to otherwise allowable expenses and to any reasonable attorney fee or any award made *in lieu* thereof as to any matter ancillary to the ballot-title appeal, herein, pursuant to RCW 29A.36.290 is required and is granted.

DATED on this 18th day of August, 2016.



Will Knedlik, Petitioner, *Pro Se*  
Post Office Box 99  
Kirkland, Washington 98083  
425-822-1342

## **Exhibit A**

GUEST OPINION

# Sound Transit Financing Plan Jeopardizes Education Funding

**The ST3 financing package consumes the oxygen in the room for virtually all other public services at all levels of government for years to come.**

BY

- REUVEN CARLYLE
- 8/11/2016 AT 2:17PM

As our region explodes with growth, it is impossible not to daydream about Puget Sound's future as a global powerhouse. World-class public infrastructure—including Sound Transit's robust rail system—is a central piece of that vision, and I believe we are on the march toward transformational changes in the decades to come. Paris, New York, London, Seattle.

In 2015, I supported the sweeping \$16 billion transportation package and the Sound Transit 3, 15-year, \$15 billion authorization despite my reservations about the rail financing plan that I viewed as poorly constructed and inequitable. I spoke publicly at the time and worked hard but ultimately unsuccessfully to eliminate the property tax portion and replace it with a modest business and employee transportation fee.

Despite those reservations, I acknowledge I am excited that the long term investment in our legislative district is finally meaningful after years of paying for only indirect benefits across the broader region. I stand by my legislative vote supporting the measure and the importance of allowing the voters to decide.

I continue to grapple with the genuine burden Sound Transit's proposal places on public education.

And yet, as I review the updated financing plan in more depth, I continue to grapple on a deeply personal level with the genuine burden the Sound Transit proposal places on public education. It is unsettling at best to serve as a state legislator while Olympia is under a contempt order by the Supreme Court for failing to meet the state's

paramount duty of fully funding public education. This is historic and unprecedented and we are recreating our educational finance plan for the next generation in real time. After putting an additional \$2.5 billion into K-12 funding over the last three legislative sessions since the *McCleary* ruling, Democrats and Republicans are struggling to find a final path forward for the last \$3.5 billion approximately. It's virtually impossible to reach that level of new education funding without reform to the state property tax and local school levies. The transportation finance plan makes that difficult but essential project dramatically more complex.

In 2015, the Legislature authorized Sound Transit to place before voters a plan that redirects \$0.25 per \$1,000 of assessed value of the state property tax dedicated to public education and instead spends those dollars on transportation. The state—at a time of critical need for education—transferred property taxing authority for the first time away from one million elementary, middle and high school students. This means, simply, that the taxing capacity isn't felt by King, Snohomish or Pierce county officials because they are not forced to engage in a choice between their local services and this portion of the property tax. But state taxpayers, and public education, do feel the pressure up close and personal. The management and use of state portion of the property tax is central to the final piece of the *McCleary* education case.

To many, the \$0.25 seems modest but, ironically, that revenue exists only due to Tim Eyman initiatives that restrict property tax revenue growth to 1 percent. The financing plan locks up the taxes through bonding in perpetuity and the decision can never be reversed. Ever. Further, given that 61 percent of the bonds are secured by sales taxes, delays in building out the system seem likely once the economy hits an inevitable speed bump and revenues decline. Bond payments come first. The growth assumptions used in the plan are based on post-recession projections and don't include the dip from the great recession. Regardless of politics or ideology or use of proceeds, we simply can't pretend that the financing plan is broad based, progressive or reliable. I am unsettled that the package consumes the oxygen in the room on taxes for virtually all other public services.

As a state legislator with a passion for building the best education system in the nation, I am unsettled that the package consumes the oxygen in the room on taxes for virtually all other public services at all levels of government for years to come. The plan moves to among the very highest sales tax in the nation along with a major property tax increase. We need to be honest that the ability of cities, counties and the



state to utilize the sales tax in the future as a new revenue source is effectively ended with this plan. The impact on property taxes at the city and county level is more uncertain but clearly substantial. In economic terms, the opportunity costs are extraordinary for years to come.

Ultimately, of course, we need both a world-class education and transportation system, but we can't achieve that goal without a coordinated strategy to achieve both.

The Sound Transit financing plan arguably works well for Sound Transit. It's reasonable and understandable that they feel strongly they are operating within their authorizing environment of our current tax system. But it's a bold 21st Century spending plan with a lethargic 1990s financing plan. Why didn't they choose to be as courageous and innovative on the revenue side as they at least attempted to be on the spending side?

As a state legislator I cannot in good conscience support an inequitable and unstable financing plan in one isolated silo of public services—no matter how valued and important to our future—that I believe will have substantial negative implications for public education in the years to come.

*State Senator Reuven Carlyle (D-36, Ballard, Magnolia, Queen Anne)*

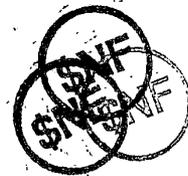
## **Exhibit B**

Sound Transit (A Regional Transit Authority)  
Light-Rail, Commuter-Rail, and Bus Service Expansion  
Proposition No. \_\_\_

The Sound Transit Board passed Resolution No. R2016-17 concerning expansion of mass transit in King, Pierce, and Snohomish counties. This measure would expand light-rail, commuter-rail, and bus rapid transit service to connect population, employment and growth centers, and authorize Sound Transit to levy or impose: an additional 0.5% sales and use tax; a property tax of \$0.25 or less per \$1,000 of assessed valuation; an additional 0.8% motor-vehicle excise tax; and ~~continue~~ <sup>use</sup> existing taxes to fund the local share of the \$53.8 billion estimated cost (including inflation), with independent audits, as described in the Mass Transit Guide and Resolution No. R2016-17. Should this measure be:

Approved.....  
Rejected.....

FILED  
KING COUNTY, WASHINGTON  
AUG 18 2016



SUPERIOR COURT CLERK

KING COUNTY SUPERIOR COURT  
CASE ASSIGNMENT AREA DESIGNATION and CASE INFORMATION COVER SHEET  
(CICS)

Pursuant to King County Code 4A.630.060, a faulty document fee of \$15 may be assessed to new case filings missing this sheet.

**16-2-19940-2 SEA**

CASE NUMBER:

(Provided by the Clerk)

CASE CAPTION: WILL KNEDLIC v. DANIEL SATTERBURG et alia

(New case: Print name of person starting case vs. name of person or agency you are filing against.)

(When filing into an existing family law case, the case caption remains the same as the original filing.)

Please mark one of the boxes below:

Seattle Area, defined as:

All of King County north of Interstate 90 and including all of the Interstate 90 right-of-way; all the cities of Seattle, Mercer Island, Bellevue, Issaquah and North Bend; and all of Vashon and Maury Islands.

Kent Area, defined as:

All of King County south of Interstate 90 except those areas included in the Seattle Case Assignment Area.

I certify that this case meets the case assignment criteria, described in King County LCR 82(e).

Signature of Attorney

WSBA Number

Date

or

Will Knedlic

Signature of person who is starting case

8/18/16

Date

Box 99 Kirkland 98083

Address, City, State, Zip Code of person who is starting case if not represented by attorney

**KING COUNTY SUPERIOR COURT  
CASE ASSIGNMENT AREA DESIGNATION and CASE INFORMATION COVER SHEET**

**CIVIL**

Please check the category that best describes this case.

**APPEAL/REVIEW**

- Administrative Law Review (ALR 2)\***  
(Petition to the Superior Court for review of rulings made by state administrative agencies. (e.g. DSHS Child Support, Good to Go passes, denial of benefits from Employment Security, DSHS, L & I))
- DOL Revocation (DOL 2)\***  
(Appeal of a DOL revocation Implied consent-Test refusal ONLY.) RCW 46.20.308(9)

**CONTRACT/COMMERCIAL**

- Breach of Contract (COM 2)\***  
(Complaint involving money dispute where a breach of contract is involved.)
- Commercial Contract (COM 2)\***  
(Complaint involving money dispute where a contract is involved.)
- Commercial Non-Contract (COL 2)\***  
(Complaint involving money dispute where no contract is involved.)
- Third Party Collection (COL 2)\***  
(Complaint involving a third party over a money dispute where no contract is involved.)

**JUDGMENT**

- Abstract, Judgment, Another County (ABJ 2)**  
(A certified copy of a judgment docket from another Superior Court within the state.)
- Confession of Judgment (MSC 2)\***  
(The entry of a judgment when a defendant admits liability and accepts the amount of agreed-upon damages but does not pay or perform as agreed upon.)
- Foreign Judgment (from another State or Country) (FJU 2)**  
(Any judgment, decree, or order of a court of the United States, or of any state or territory, which is entitled to full faith and credit in this state.)
- Tax Warrant or Warrant (TAX 2)**  
(A notice of assessment by a state agency or self-insured company creating a judgment/lien in the county in which it is filed.)
- Transcript of Judgment (TRJ 2)**  
(A certified copy of a judgment from a court of limited jurisdiction (e.g. District or Municipal court) to a Superior Court.)

**PROPERTY RIGHTS**

- Condemnation/Eminent Domain (CON 2)\*  
(Complaint involving governmental taking of private property with payment, but not necessarily with consent.)
- Foreclosure (FOR 2)\*  
(Complaint involving termination of ownership rights when a mortgage or tax foreclosure is involved, where ownership is not in question.)
- Land Use Petition (LUP 2)\*  
(Petition for an expedited judicial review of a land use decision made by a local jurisdiction.) RCW 36.70C.040
- Property Fairness (PFA 2)\*  
(Complaint involving the regulation of private property or restraint of land use by a government entity brought forth by Title 64.)
- Quiet Title (QTI 2)\*  
(Complaint involving the ownership, use, or disposition of land or real estate other than foreclosure.)
- Residential Unlawful Detainer (Eviction) (UND 2)  
(Complaint involving the unjustifiable retention of lands or attachments to land, including water and mineral rights.)
- Non-Residential Unlawful Detainer (Eviction) (UND 2)  
(Commercial property eviction.)

**OTHER COMPLAINT/PETITION**

- Action to Compel/Confirm Private Binding Arbitration (MSC 2)  
(Petition to force or confirm private binding arbitration.)
- Bond Justification (MSC 2)  
(Bail bond company desiring to transact surety bail bonds in King County facilities.)
- Change of Name (CHN 5)  
(Petition for name change, when domestic violence/antiharassment issues require confidentiality.)
- Certificate of Rehabilitation (MSC 2)  
(Petition to restore civil and political rights.)
- Civil Commitment (sexual predator) (PCC 2)  
(Petition to detain an individual involuntarily.)
- Deposit of Surplus Funds (MSC 2)  
(Deposit of extra money from a foreclosure after payment of expenses from sale and obligation secured by the deed of trust.)
- Emancipation of Minor (EOM 2)  
(Petition by a minor for a declaration of emancipation.)
- Foreign Subpoena (MSC 2)  
(To subpoena a King County resident or entity for an out of state case.)
- Frivolous Claim of Lien (MSC 2)  
(Petition or Motion requesting a determination that a lien against a mechanic or materialman is excessive or unwarranted.)
- Injunction (INJ 2)\*  
(Complaint/petition to require a person to do or refrain from doing a particular thing.)

- Interpleader (MSC 2)  
(Petition for the deposit of disputed earnest money from real estate, insurance proceeds, and/or other transaction(s).)
- Malicious Harassment (MHA 2)\*  
(Suit involving damages resulting from malicious harassment.) RCW 9a.36.080
- Non-Judicial Filing (MSC 2)  
(See probate section for TEDRA agreements. To file for the record document(s) unrelated to any other proceeding and where there will be no judicial review.)
- Other Complaint/Petition (MSC 2)\*  
(Filing a Complaint/Petition for a cause of action not listed.) *per RCW 29A.36.090*
- Public records Act (PRA 2)\*  
(Actions filed under RCW 42.56.)
- Receivership (MSC 2)  
(The process of appointment by a court of a receiver to take custody of the property, business, rents and profits of a party to a lawsuit pending a final decision on disbursement or an agreement.)
- Relief from Duty to Register (RDR2)  
(Petition seeking to stop the requirement to register.)
- Restoration of Firearm Rights (RFR 2)  
(Petition seeking restoration of firearms rights under RCW 9.41.040 and 9.41.047.)
- School District-Required Action Plan (SDR 2)  
(Petition filed requesting court selection of a required action plan proposal relating to school academic performance.)
- Seizure of Property from the Commission of a Crime-Seattle (SPC 2)\*  
(Seizure of personal property which was employed in aiding, abetting, or commission of a crime, from a defendant after conviction.)
- Seizure of Property Resulting from a Crime-Seattle (SPR 2)\*  
(Seizure of tangible or intangible property which is the direct or indirect result of a crime, from a defendant following criminal conviction. (e.g., remuneration for, or contract interest in, a depiction or account of a crime.))
- Structured Settlements- Seattle (MSC 2)  
(A financial or insurance arrangement whereby a claimant agrees to resolve a personal injury tort claim by receiving periodic payments on an agreed schedule rather than as a lump sum.)
- Vehicle Ownership (MSC 2)\*  
(Petition to request a judgment awarding ownership of a vehicle.)
- 
- TORT, ASBESTOS**
- Personal Injury (PIN 2)\*  
(Complaint alleging injury resulting from asbestos exposure.)
- Wrongful Death (WDE 2)\*  
(Complaint alleging death resulting from asbestos exposure.)

**TORT, MEDICAL MALPRACTICE**

- Hospital (MED 2)\*  
(Complaint involving injury or death resulting from a hospital.)
- Medical Doctor (MED 2)\*  
(Complaint involving injury or death resulting from a medical doctor.)
- Other Health care Professional (MED 2)\*  
(Complaint involving injury or death resulting from a health care professional other than a medical doctor.)

**TORT, MOTOR VEHICLE**

- Death (TMV 2)\*  
(Complaint involving death resulting from an incident involving a motor vehicle.)
- Non-Death Injuries (TMV 2)\*  
(Complaint involving non-death injuries resulting from an incident involving a motor vehicle.)
- Property Damages Only (TMV 2)\*  
(Complaint involving only property damages resulting from an incident involving a motor vehicle.)
- Victims Vehicle Theft (VVT 2)\*  
(Complaint filed by a victim of car theft to recover damages.) RCW 9A.56.078

**TORT, NON-MOTOR VEHICLE**

- Implants (PIN 2)
- Other Malpractice (MAL 2)\*  
(Complaint involving injury resulting from other than professional medical treatment.)

- Persona Injury (PIN 2)\*  
(Complaint involving physical injury not resulting from professional medical treatment, and where a motor vehicle is not involved.)

- Products Liability (TTO 2)\*  
(Complaint involving injury resulting from a commercial product.)

- Property Damages (PRP 2)\*  
(Complaint involving damage to real or personal property excluding motor vehicles.)

- Property Damages-Gang (PRG 2)\*  
(Complaint to recover damages to property related to gang activity.)

- Tort, Other (TTO 2)\*  
(Any other petition not specified by other codes.)

- Wrongful Death (WDE 2)\*  
(Complaint involving death resulting from other than professional medical treatment.)

**WRIT**

- Habeas Corpus (WHC 2)  
(Petition for a writ to bring a party before the court.)

- Mandamus (WRM 2)\*\*  
(Petition for writ commanding performance of a particular act or duty.)

- Review (WRV 2)\*\*  
(Petition for review of the record or decision of a case pending in the lower court; does not include lower court appeals or administrative law reviews.)

\*The filing party will be given an appropriate case schedule at time of filing.

\*\* Case schedule will be issued after hearing and findings.

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HONORABLE BILL BOWMAN  
Hearing Date: Thursday, September 1, 2016  
Hearing Time: 2:00 p.m.  
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

EASTSIDE TRANSPORTATION  
ASSOCIATION,  
  
Petitioner,  
  
v.  
  
DANIEL SATTERBERG, King County  
Prosecuting Attorney and JULIE WISE,  
chief elections officer for King County,  
  
Respondents,  
  
CENTRAL PUGET SOUND REGIONAL  
TRANSIT AUTHORITY,  
  
Interested Party.

No. 16-2-19931-3 SEA  
No. 16-2-19940-2 SEA

SOUND TRANSIT'S COMBINED  
RESPONSE TO PETITIONS OF  
EASTSIDE TRANSPORTATION  
ASSOCIATION AND WILL  
KNEDLIK

SOUND TRANSIT'S COMBINED RESPONSE TO  
PETITIONS OF EASTSIDE TRANSPORTATION  
ASSOCIATION AND WILL KNEDLIK

1 WILL KNEDLIK, *qua* a citizen and  
2 taxpayer,

3 Petitioner,

4 v.

5 Hon. DANIEL SATTERBERG *qua* King  
6 County Prosecuting Attorney and Hon.  
7 JULIE WISE *qua* chief elections officer  
8 for King County,

9 Respondents,

10 Hon. JULIE ANDERSON *qua* auditor for  
11 Pierce County; Hon. CAROLYN  
12 WEIKEL *qua* auditor for Snohomish  
13 County; Hon. KIM WYMAN *qua* chief  
14 elections officer for the State of  
15 Washington; and the CENTRAL PUGET  
16 SOUND REGIONAL TRANSIT  
17 AUTHORITY (also known as “Sound  
18 Transit” currently and as the “RTA”  
19 previously) *qua* a junior taxing district  
20 statutorily authorized by state law pursuant  
21 to RCW 81.104 and pursuant to RCW  
22 81.112,

23 Interested Parties.  
24  
25

## 26 I. INTRODUCTION

27 Petitioners Eastside Transportation Association (“ETA”) and Will Knedlik (“Knedlik”) (collectively, “Petitioners”), object to the ballot title for Sound Transit Resolution R2016-17<sup>1</sup>, a proposal to voters to fund implementation of *Sound Transit 3: The Regional Transit System Plan*

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<sup>1</sup> Resolution R2016-17 is attached as Exhibit B to the Declaration of Val Batey (“Batey Decl.”). It is also available online at [http://www.soundtransit.org/sites/default/files/Resolution%20R2016-17\\_0.pdf](http://www.soundtransit.org/sites/default/files/Resolution%20R2016-17_0.pdf).

1 for Central Puget Sound (“ST3”).<sup>2</sup> The Resolution proposes a significant expansion of light-rail,  
2 commuter rail, and bus rapid transit services to be funded through specified taxes.

3 The ballot title and measure are governed by statutory requirements and follow  
4 substantially the same format as the ballot title and measure for the *Sound Move* and *Sound*  
5 *Transit 2 Regional Transit System Plan for Central Puget Sound* (“ST2”) transit plans, which  
6 voters approved in 1996 and 2008. Sound Transit crafted the *ST3* ballot title and measure in this  
7 manner because this Court and the Supreme Court have previously construed their legal effects.  
8 *See, e.g., Sane Transit v. Sound Transit*, 151 Wn.2d 60, 71-79, 85 P.3d 346 (2004); *see also*  
9 Declaration of Paul J. Lawrence (“Lawrence Decl.”), Exs. A (2007 Order, ¶ 3); B (2008 Order,  
10 ¶¶ 3, 5). In fact, in 2007 and 2008 ballot title challenges (one of which pertained to *ST2*’s ballot  
11 title), this Court rejected claims—made by Knedlik and others—that a ballot title must include  
12 detailed forecasts about estimated tax collections and costs of the proposed transit plan and  
13 further determined that the *ST2* ballot title’s reference to independent audits was proper. *See*  
14 Lawrence Decl., Exs. A (2007 Order, ¶ 3); B (2008 Order, ¶¶ 3, 5). Knedlik’s current petition is  
15 virtually identical to his unsuccessful 2008 challenge. And Knedlik’s remaining claims are  
16 nonjusticiable under well-established Supreme Court authority.

17  
18  
19 ETA objects to language that provides important information to the voters. No objection  
20 is made to the accuracy of any language. ETA’s objections are politically-based and rely on  
21 speculation about future events. Moreover, ETA’s proposed alternative title does not comply  
22 with RCW 81.104.140 (7) and (8) and creates less clarity and greater confusion for the voters.  
23  
24

25  
26 <sup>2</sup>The *ST3* summary document is attached as Exhibit C to the Batey Declaration. It is also available at  
27 [https://st32.blob.core.windows.net/media/Default/Document%20Library%20Featured/June\\_23/Resolution\\_R2016-16\\_Plan\\_Document-Final.pdf](https://st32.blob.core.windows.net/media/Default/Document%20Library%20Featured/June_23/Resolution_R2016-16_Plan_Document-Final.pdf).

1 For these reasons, Sound Transit respectfully requests that this Court deny and dismiss both  
2 petitions.

## 3 II. BACKGROUND

4 Sound Transit constructs and operates a regional system of interconnected commuter  
5 rail, light-rail and express bus services in King, Pierce, and Snohomish counties. Declaration of  
6 Val Batey (“Batey Decl.”), ¶ 3. Sound Transit currently operates an 83-mile commuter rail line  
7 from Everett to Lakewood; express buses on 28 routes connecting 29 cities between Everett,  
8 Issaquah, and Lakewood; and 13 light-rail stations between Husky Stadium and SeaTac Airport,  
9 with an Angle Lake station opening in September 2016. *Id.* The light-rail system will extend  
10 north to Northgate Mall in 2021 and will further extend to Mercer Island, Bellevue, Redmond,  
11 Shoreline, Mountlake Terrace, Lynnwood, and Kent/Des Moines by 2023. *Id.* Sound Transit  
12 carried 34.8 million passengers in 2015 and is on schedule to carry 42.2 million passengers in  
13 2016. *Id.*, ¶ 5.

14  
15  
16 Voters approved funding for Sound Transit’s regional transportation system with over  
17 58% of the vote in both the 1996 (*Sound Move*) and 2008 (*ST2*) general elections. *Id.*, ¶ 4. Both  
18 ballot titles accurately identified the specific types of transit services to be provided and stated  
19 the purpose of the services. *Id.* The 1996 *Sound Move* ballot measure sought voter approval “to  
20 implement a regional rail and express bus system linking Tacoma, Seattle, Bellevue, Everett,  
21 other cities, and Sea-Tac Airport....” *Id.*, Ex. D.<sup>3</sup> The ballot title language changed slightly in  
22

23 \_\_\_\_\_  
24 <sup>3</sup> The full text of the ballot title for the *Sound Move* ballot measure stated:

25 To implement a regional rail and express bus system linking Tacoma, Seattle, Bellevue, Everett,  
26 other cities, and Sea-Tac airport, shall the Regional Transit Authority impose a sales and use tax  
27 of up to four-tenths of one percent and a motor vehicle excise tax of three-tenths of one percent  
to provide the local share of funding towards the \$3.9 billion estimated cost of the system, as  
provided in Resolution 75 and the “Ten-Year Regional Transit Plan”?

1 the 2008 *ST2* ballot measure to conform to the new statutory format, but identified the nature and  
2 purpose of the proposed transit services and advised voters that independent audits would  
3 provide oversight: “This measure would expand and coordinate light-rail, commuter-rail, and  
4 (beginning 2009) express bus service, and improve access to transit facilities in King, Pierce, and  
5 Snohomish Counties....with independent audits....” *Id.*, Ex. E.<sup>4</sup>

7 On June 23, 2016, the Sound Transit Board adopted *ST3*. Batey Decl., ¶ 6. *ST3* proposes  
8 transit system expansion including approximately 62 miles of new light-rail with 37 stations  
9 serving Everett, South Lake Union, Ballard, West Seattle, Federal Way, Tacoma, downtown  
10 Redmond, South Kirkland and Issaquah; improvements to commuter rail including two new  
11 stations and higher capacity trains; and bus rapid transit service along I-405/SR 518 between  
12 Lynwood and Burien, and on SR 522 from Bothell to Shoreline. *Id.* The same day it adopted  
13 *ST3*, the Sound Transit Board passed Resolution R2016-17, which incorporates *ST3* and serves  
14 as the ballot proposition seeking voter approval and funding of *ST3*. *Id.*, Ex. B.

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19 See Batey Decl., Ex. D.

20 <sup>4</sup> The full text of the ballot title for the *ST2* ballot measure stated:

21 The Sound Transit Board passed Resolution No. R2008-11 concerning an expansion of mass  
22 transit. This measure would expand and coordinate light-rail, commuter-rail, and (beginning  
23 2009) express bus service, and improve access to transit facilities in King, Pierce and Snohomish  
24 Counties, and authorize Sound Transit to impose an additional five-tenths of one percent sales and  
use tax, and to use existing taxes to fund the local share of the \$17.9 billion estimated cost  
(includes construction, operations, maintenance, interest and inflation), with independent audits, as  
described in Resolution R2008-11 and the Mass Transit Guide. Should this measure be:

25 Approved  
26 Rejected

27 See Batey Decl., Ex. E.

1 The King County Prosecutor is tasked with writing the ballot title for Resolution R2016-  
2 17. The title continues the format used in *Sound Move* and *ST2* by identifying the transit  
3 services, destinations, and objectives of the proposal:

4 The Sound Transit Board passed Resolution No. R2016-17 concerning expansion  
5 of mass transit in King, Pierce, and Snohomish counties. This measure would  
6 expand light-rail, commuter-rail, and bus rapid transit service to connect  
7 population, employment and growth centers, and authorize Sound Transit to levy  
8 or impose: an additional 0.5% sales and use tax; a property tax of \$0.25 or less per  
9 \$1,000 of assessed valuation; an additional 0.8% motor-vehicle excise tax; and  
use existing taxes to fund the local share of the \$53.8 billion estimated cost  
(including inflation), with independent audits, as described in the Mass Transit  
Guide and Resolution No. R2016-17. Should this measure be:

10 Approved  
11 Rejected

12 The ballot title was filed on August 4, 2016. *See* ETA Pet. Ex. 2. On August 18, 2016,  
13 Petitioners filed the current petitions challenging or purporting to challenge the ballot title and  
14 the substance of the measure.

### 15 III. STATEMENT OF ISSUE

16 Is the King County Prosecutor's ballot title a true and impartial description of the *ST3*  
17 ballot measure?

### 18 IV. EVIDENCE RELIED UPON

19 This Response relies on the Declarations of Paul J. Lawrence, Val Batey, Ann McNeil,  
20 and Matthew J. Segal, the exhibits thereto, and the pleadings and papers on file in this matter.

### 21 V. ARGUMENT AND AUTHORITY

#### 22 A. Specific Legal Standards Govern Sound Transit's Ballot Propositions.

23 In planning its high-capacity transportation systems, Sound Transit is statutorily required  
24 to adopt a systems plan that, among other things, (1) identifies the types of high-capacity  
25

1 transportation services to be provided; (2) identifies route alignments and station locations with  
2 sufficient specificity to permit calculation of costs, ridership, and system impacts; and (3) sets  
3 forth a financing plan describing phasing of investments, capital and operating costs and  
4 expected revenues, cost-effectiveness analysis, estimated ridership and cost of service, and  
5 operating revenue to operating expense ratio. *See* RCW 81.104.100(2)(d).  
6

7 The Legislature has authorized certain taxing sources for Sound Transit to fund its high-  
8 capacity transportation systems if approved by voters in its taxing district. *See* RCW 81.104.140.  
9 RCW 81.104.140(7) requires that a ballot title seeking voter approval to impose taxes reference  
10 the Sound Transit document describing the *ST3* systems plan and financing plan that is provided  
11 to registered voters at least 20 days before the election (pursuant to RCW 81.104.140(8)).  
12 Additionally, a local voters' pamphlet must be produced that contains the text of the measure  
13 (here, Resolution R2016-17) and an explanatory statement. RCW 81.104.140(9); RCW  
14 29A.32.241(1)(d).  
15

16 The King County Prosecutor formulates the ballot title for any local ballot measure,  
17 including the measure authorizing *ST3*. *See* RCW 29A.36.071. The ballot title "must contain no  
18 more than [75] words, be a true and impartial description of the measure's essential contents,  
19 clearly identify the proposition to be voted on, and not, to the extent reasonably possible, create  
20 prejudice either for or against the measure." *Id.* (incorporating RCW 29A.72.050).  
21

22 **B. Petitioners' Proposed Amendments Are Misleading, Conflict with the Express  
23 Terms of the Underlying Ballot Measure, and Misstate the Law.**

24 Petitioners challenge multiple aspects of *ST3*'s ballot title, but their claims should be  
25 rejected because the current ballot title is "a true and impartial description of the measure's  
26 essential contents", which is what the law requires. RCW 29A.36.071 (incorporating RCW  
27

1 29A.72.050). The title contains a neutral statement of the nature and purpose of the proposed  
2 transit improvements and the proposed taxes. Importantly, Petitioner Knedlik proposes no  
3 alternate title for the Court to consider, much less one that meets statutory requirements.  
4 Moreover, Petitioners’ proposed conceptual changes would mislead voters about the scope and  
5 extent of the ballot measure, misstate the legal authority sought from the voters, and incorporate  
6 inaccurate and wholly speculative financial information into the ballot title.  
7

8 *1. Deletion of Key Descriptor Language Would Mislead Voters.*

9 Petitioners first contend that the language “to connect population, employment, and  
10 growth centers” is unnecessary and creates prejudice in favor of the measure. ETA Pet. at 8-9;  
11 Knedlik Pet. at 9. Petitioners do not dispute that *ST3*’s expansion of mass transit will actually  
12 connect population, employment, and growth centers and, thus, that the language accurately  
13 represents the content of the measure. Rather than a “sales pitch” as Petitioners contend, ETA  
14 Pet. at 9; Knedlik Pet. at 9, the phrase “to connect population, employment, and growth centers”  
15 comes straight from Resolution R2016-17 to explain the specialized regional transit service at  
16 issue in *ST3*. Section 1 of Resolution R2016-17 declares its purpose to expand light rail,  
17 commuter rail, and bus rapid transit and express bus service to “connect the region’s population,  
18 employment, and growth centers, as generally described in the Plan....” Batey Decl., Ex. B at 2  
19 (emphasis added). The challenged language is, therefore, appropriately included in the ballot  
20 title to inform voters of *ST3*’s regional scope. As the County has confirmed, “[t]he prosecutor  
21 must use the underlying legislation to write the ballot title....” King County’s Response to  
22 Petitions and Requests to Revise Ballot Titles (filed 8/26/16) at 6.  
23

24 Moreover, these words were not chosen randomly. State law requires the transit services  
25 provided in the *ST3* ballot measure be consistent with the Puget Sound Regional Council’s  
26

1 (“PSRC’s”) adopted plan to serve the region’s long-term transportation needs. *See* RCW  
2 81.104.040-.100. The PSRC’s adopted transportation plan classifies geographic areas as  
3 employment, housing population, and manufacturing/industrial growth centers for purposes of  
4 defining where transportation services should be provided. *See* Batey Decl., ¶¶ 7, 8. Such  
5 centers are the hallmark of VISION 2040 and its Regional Growth Strategy.<sup>5</sup> *ST3*, in short, is  
6 authorized to fund major transportation investments—areas that the PSRC has designated with  
7 the highest demand to get people to and from designated employment, housing population, and  
8 manufacturing/industrial growth areas such as the Boeing plants in Everett; the Amazon.com  
9 campus in South Lake Union; Ballard; West Seattle; and Joint Base Lewis-McChord. Batey  
10 Decl., ¶¶ 7, 8. Each of the project descriptions for the *ST3* plan identifies which of the PSRC  
11 growth centers it serves. *See id.*, ¶ 9 & Ex. A.

14 Far from being superfluous or politicking, the description provides core information  
15 voters need to make an informed decision. Without this information, voters who only read the  
16 ballot title or voters’ pamphlet would have no notice of the types of destinations to be served by  
17 virtue of their investment.

18 Similarly, ETA proposes to eliminate the phrase “light-rail, commuter-rail, and bus rapid  
19 transit service” from the ballot title’s description of “mass transit”. ETA Pet. at 13. The  
20 proposed change, however, would inadequately capture the scope of *ST3*. The ballot title  
21 identifies the specific transit services at issue in order to inform voters that they will be funding  
22 three distinct transit modes (light-rail, commuter rail, and bus rapid transit). Without this  
23 information, voters could reasonably believe *ST3* funds only additional bus service, which is  
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26 <sup>5</sup> *See* PSRC designated regional growth and manufacturing/industrial centers at <http://www.psrc.org/growth/centers/>.

1 what voters were asked to fund in ballot measures from other local transit agencies.<sup>6</sup> Or they  
2 could mistakenly believe that *ST3* funds only trains rather than road-based transit as well.

3         ETA further argues that the ballot title’s reference to independent audits “is unnecessary,  
4 acts as an inappropriate selling point for *ST3* voter approval and falsely implies that voting for  
5 *ST3* would finally bring some financial accountability to the entity.” ETA Pet. at 9. ETA  
6 advances this claim even though the reference to audits was already approved in conjunction  
7 with the *ST2* ballot title. *See* Lawrence Decl., Ex. B (2008 Order, ¶ 5: “There is no information  
8 or evidence in the record to support the conclusion that Sound Transit has defaulted on prior  
9 independent audits, and the reference to independent audits in the official ballot title for  
10 Resolution 1008-11 is proper and accurate.”) (emphasis added). Moreover, ETA ignores that the  
11 inclusion of an audit requirement in Resolution R2016-17 is what assures the entire *ST3* project  
12 will be subject to continuing independent audits. That an audit requirement was part of the *ST2*  
13 Resolution does not negate the need to include an audit requirement in the *ST3* Resolution. If the  
14 *ST3* measure does not list independent audits in the ballot title as was done (and approved) with  
15 *ST2*, voters could reasonably, but mistakenly, believe that independent audits have been  
16 eliminated from the *ST3* plan. Continued reference to independent audits in the ballot title is  
17 necessary to accurately present the proposal to voters.

18         Further, the reference to independent audits alerts voters that Sound Transit will remain  
19 accountable to a citizen oversight panel to monitor “Sound Transit’s performance and financial  
20 plans throughout the construction period.” *See* Batey Decl., Ex. B (Resolution R2016-17 at 6);

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25 \_\_\_\_\_  
26 <sup>6</sup> Sound Transit’s sister transit agencies in Snohomish County (Community Transit), Pierce County (Pierce Transit)  
27 and King County (Metro) sought voter approval to fund only bus service from the same voters who will vote on the  
*ST3* ballot measure. Declaration of Matthew J. Segal, Exs. A-C (Community Transit, Pierce Transit, and Metro  
ballot measures).

1 *see also id.*, Ex. C (*ST3* at 32). The citizen oversight panel reviews all aspects of Sound Transit’s  
2 performance—including operating and capital costs, construction schedules, data management,  
3 subarea equity<sup>7</sup>, and other key areas—and thus forms a critical component of the ballot measure.  
4 It is important that voters know that the panel will continue to oversee and report to the public  
5 about Sound Transit’s performance if *ST3* is approved.  
6

7 This Court in 2008 correctly determined that reference to “independent audits” in the  
8 substantially similar *ST2* ballot title was proper. The Court should conclude the same with  
9 respect to *ST3*.

10 2. *Petitioners’ Proposed Amendments Regarding the Applicability and Amount of Taxes*  
11 *Are Misleading, Conflict with Resolution R2016-17, and Misstate the Law.*

12 Petitioners’ proposed amendments regarding *ST3*’s tax impact are similarly improper.  
13 First, ETA contends that the ballot title’s reference to Resolution R2016-17’s metes and bounds  
14 description insufficiently discloses who will pay the proposed taxes.<sup>8</sup> ETA Pet. at 12. ETA  
15 attempts to manufacture confusion from accuracy. *ST3* does not change the boundaries of Sound  
16 Transit’s existing taxing district. The metes and bounds description is the only way to legally  
17 and correctly describe the boundaries of this district. Moreover, only voters within Sound  
18 Transit’s taxing district will receive the description of the systems and financing plans, the local  
19 voters’ pamphlet, and the ballot containing Sound Transit’s *ST3* proposition. *See* RCW  
20 81.104.140(7), (8), (9).  
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22  
23 <sup>7</sup> Subarea equity is a principle whereby local tax revenues are utilized for transportation programs and services that  
24 benefit the residents and businesses of a subarea in proportion to the level of revenues contributed by that subarea.  
25 State law requires high-capacity transit system plans to include an equity element that identifies (i) revenues...  
26 anticipated to be generated by corridor and by county; (ii) the phasing of construction and operation of facilities and  
27 services in each corridor; and (iii) the degree to which the revenues generated within each county will benefit the  
residents of that county. *See* RCW 81.112.030(8).

<sup>8</sup> ETA proposes the term “new taxes in certain areas” in an apparent attempt to address this concern. ETA Pet. at 13.  
The term “in certain areas” does not accurately convey who will pay the taxes.

1           ETA also contends *ST3*'s ballot title should include an estimate of what constitutes the  
2 "local share" of the total estimated cost of *ST3*. ETA Pet. at 10. Using the terminology "local  
3 share" reflects that some part of the estimated total project cost will be federally funded. But  
4 Sound Transit cannot identify specifically the local share because the federal contribution to  
5 *ST3*'s funding is, as yet, undetermined. Declaration of Ann McNeil ("McNeil Decl."), ¶¶ 3, 7.  
6 Indeed, the federal fund share has varied between *Sound Move* and *ST2* and also differed from  
7 the estimates at the time the respective resolutions were passed. *See id.*, ¶¶ 5-7. The amount of  
8 federal funds granted to *ST3* will depend upon both future Congressional appropriation of mass  
9 transit funds and future Federal Transit Association approval of Sound Transit grant requests.  
10 *Id.*, ¶¶ 6-7. It would be inappropriate to include a specific amount for the "local share" in the  
11 ballot title where there is no basis from which the Prosecutor may derive such a figure with any  
12 certainty. Such speculation would more likely mislead voters given the wide variability in grant  
13 amounts appropriated by Congress over 25 years. Sound Transit has, for example, received  
14 grants as much as a half-billion dollars more than forecast for one project. McNeil Decl., ¶ 7.

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17           Further, it is unnecessary for the ballot title to include a "total cost per person, family, or  
18 some other measurable unit" as ETA contends. *See* ETA Pet. at 11. The ballot title need not be  
19 an "index" of the detailed financial terms of a ballot proposition. *Citizens for Responsible*  
20 *Wildlife Mgmt. v. State*, 149 Wn.2d 622, 639, 71 P.3d 644 (2003); *see also Sane Transit*, 151  
21 Wn.2d at 72. Moreover, Sound Transit's voters' guide will refer citizens to a website calculator  
22 to estimate their individual tax burden if *ST3* passes.<sup>9</sup>

23  
24           For similar reasons, this Court should reject Knedlik's argument that the ballot title must  
25 state that Sound Transit seeks legal voter approval to collect \$308 billion in tax revenue (a

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<sup>9</sup> Available at <http://soundtransit3.org/calculator>.

1 purported \$63,900 per household) over the next 65 years. *See* Knedlik Pet. at 15. Knedlik  
2 unsuccessfully advanced this same challenge to *ST2*. Lawrence Decl., Ex. C (Knedlik 2008 Pet.  
3 at 8). Just as with *ST2*, *ST3* does not authorize the collection of \$308 billion, \$63,900 per  
4 household, or any other specific amount of taxes. Instead, the Resolution grants Sound Transit  
5 carefully crafted and prescribed authority to impose permanent taxes at voter-approved tax rates.  
6

7 Specifically, if approved, Resolution R2016-17 would authorize Sound Transit to impose  
8 identified taxes required to fund the transit system at a rate not to exceed 1.4% (sales tax), 1.1%  
9 (motor-vehicle excise tax) and \$0.25 per \$1,000 of assessed value (property tax). Section 4 of  
10 Resolution R2016-17 authorizes a funding plan that permits the agency to impose voter-  
11 approved tax rate increases and to use existing taxes to build and operate the transit system  
12 indefinitely. *See* Batey Decl., Ex. B at 4-5.<sup>10</sup> The Resolution then limits that authority by  
13 providing that when the projects contemplated in the *Sound Move*, *ST2*, and *ST3* transit plans are  
14 complete, the sales tax, motor-vehicle excise tax, and/or the property tax will “collectively or  
15 individually be either terminated or reduced to the level required to operate, maintain, and/or  
16 replace the improvements, transit facilities, and services.” *Id.* at 5; *see also* Batey Decl., Ex. C  
17 (*ST3* at 32: “Upon completion of the capital projects in Sound Move, Sound Transit 2 and Sound  
18 Transit 3, the Board will initiate steps to roll back the rate of taxes collected ....”).  
19

20 Knedlik’s \$308 billion number apparently derives from his own guess that Sound Transit  
21 will impose the authorized taxes at the full rates from 2017-2081. This assumption conflicts with  
22 the express terms of the tax rollback provision in Resolution R2016-17, which calls for taxes to  
23 be eliminated or reduced after the transit plans are completed. Thus, it would be misleading and  
24

25  
26 <sup>10</sup> Thus, the Prosecutor was correct in utilizing the word “use” in the ballot title with respect to existing taxes. *See*  
27 King County’s Response to Petitions and Requests to Revise Ballot Titles (filed 8/26/16) at 6-7.

1 inappropriate to include the \$308 billion or \$63,900 numbers in the ballot title when those  
2 forecasts assume collection of the taxes through 2081. For similar reasons, this Court in 2007  
3 and 2008 correctly declined to require the inclusion of such speculative financial information in  
4 the ballot title. *See* Lawrence Decl., Exs. A, B.

5  
6 Petitioners also contend that the ballot title erroneously omits to inform voters that they  
7 would approve the continuing imposition of taxes approved under *Sound Move* and *ST2*. ETA  
8 Pet. at 11-12; Knedlik Pet. at 9-10. This argument fails for two reasons. First, the ballot title  
9 adequately informs voters that “existing taxes” will be used to fund the local share of the \$53.8  
10 billion estimated cost. This language is identical to the language used in *ST2*’s ballot title, which  
11 was upheld by this Court in 2008. Second, in construing the legal authority granted Sound  
12 Transit by the *Sound Move* ballot measure and ballot title, the Supreme Court concluded that  
13 language used in the enacting resolution authorized the permanent collection of taxes in order to  
14 pay the continuing costs of building and permanently operating the transit system. In the Court’s  
15 words, when voters approved funding for the *Sound Move* plan, they “implemented permanent  
16 taxes” to build, fund, and maintain a regional transit system, not a specific tax amount. *Sane*  
17 *Transit*, 151 Wn.2d at 78. The same was true for *ST2*, *see* Lawrence Decl., Ex. B (2008 Order, ¶  
18 3). The same is true now for *ST3*. Sound Transit seeks voter approval to collect taxes at specific  
19 tax rates and to use that revenue to pay the costs of the transit system. Petitioners’ argument  
20 misstates the legal effect of the Sound Transit measures.

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23 Finally, ETA contends that the ballot title should disclose the impact of the taxes on the  
24 borrowing capacity of other jurisdictions within Sound Transit’s taxing district. ETA Pet. at 12.  
25 First, Petitioners’ speculation about the impact of the *ST3* bond on the education funding  
26 required under *McCleary v. State*, 173 Wn.2d 477, 269 P.3d 227 (2012), or on other state  
27

1 financing, is off-base. As set forth in RCW 84.52.043, the state levy limit is completely  
2 independent and not impacted by levies by entities such as Sound Transit (which falls within the  
3 limits of RCW 84.52.043(2)). In other words, approving *ST3* does not limit the scope of the  
4 state's levy authority to provide funding for public schools. Second, that *ST3* will have any  
5 impact on any other public entities' levy authority is entirely speculative. Neither petitioner  
6 asserts that simply passing *ST3* has any current impact on any taxing authority. Third, if one  
7 were to follow ETA's reasoning, then every tax levy authority ballot title would have to discuss a  
8 theoretical potential impact on other jurisdictions' future authority. That has not been the  
9 practice for the past 100-plus years of this state's history and should not be going forward.  
10 Fourth, there is no way to explain the intricacies of levy authority in the limited words of a ballot  
11 title. Tellingly, the ballot title proposed by ETA does not address this issue at all.

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14 Finally, ETA's proposed ballot title provides much less information to the voters than the  
15 one written by the King County Prosecutor. It is less, rather than more, informative. It is less,  
16 rather than more, accurate. And it does not even address the issues raised in ETA's Petition.  
17 Rather, ETA's proposal appears to be its best effort to draft what it perceives to be a ballot title  
18 designed to encourage no votes, rather than one that complies with the law.

19  
20 In sum, the Prosecutor's ballot title accurately describes the essential terms of the ballot  
21 measure. It appropriately identifies, expressly, Resolution R2016-17 as the source of more  
22 detailed information as required by statute. Voters can easily read the entire Resolution because  
23 it will be printed in full in the voters' pamphlet mailed to each registered voter.<sup>11</sup> That is exactly  
24 what RCW 29A.36.071, RCW 29A.72.050, and the statute applicable to Sound Transit (RCW

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26 <sup>11</sup> Moreover, a more complete description not subject to a 75-word limit will be found in the voters' pamphlet  
27 explanatory statement.

1 81.104.140) require. Finally, the ballot title is consistent with this Court’s prior decisions on  
2 Sound Transit’s prior ballot measures.

3 **D. Knedlik’s Remaining Claims are Nonjusticiable.**

4 Knedlik also attempts to assert additional claims pertaining to the substance of the  
5 proposed measure. See Knedlik Pet. at 19-20. These claims are unripe and may not be  
6 considered before the election. See, e.g., *Futurewise v. Reed*, 161 Wn.2d 407, 415, 166 P.3d  
7 708 (2007); *Coppernoll v. Reed*, 155 Wn.2d 290, 305, 119 P.3d 318 (2005) (“Because petitioners  
8 offer no theory under which I-330 exceeds the legislative power, other than this allegation of  
9 some sections unconstitutionality, petitioners’ claims are not justiciable.”). They also cannot be  
10 joined with a ballot title challenge, which is a special proceeding by statute. RCW 29A.36.090.  
11 As a result, Knedlik’s petition should be dismissed in its entirety.  
12

13 **VI. CONCLUSION**

14 The Prosecutor’s approved ballot title is neutral and accurate, and informs voters of the  
15 content of the measure. ETA’s and Knedlik’s proposed critiques and amendments to the ballot  
16 title are misleading, inaccurate, and legally incorrect. They also attempt to re-litigate issues  
17 already decided. Knedlik’s remaining claims, to the extent he intends to assert them, are  
18 nonjusticiable and not properly before the Court. Sound Transit respectfully requests that this  
19 Court reject Petitioners’ claims, dismiss their petitions, and utilize the neutral ballot title properly  
20 prepared by the Prosecutor.  
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DATED this 26<sup>th</sup> day of August, 2016.

PACIFICA LAW GROUP LLP

CENTRAL PUGET SOUND REGIONAL  
TRANSIT AUTHORITY

By /s/ Paul J. Lawrence  
Paul J. Lawrence, WSBA #13557  
Matthew J. Segal, WSBA #29797  
Sarah S. Washburn, WSBA #44418

By /s/ Desmond L. Brown  
Desmond L. Brown, WSBA #16232

*Attorneys for Respondent Sound Transit*

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**CERTIFICATE OF SERVICE**

I am and at all times hereinafter mentioned was a citizen of the United States, a resident of the State of Washington, over the age of 21 years, competent to be a witness in the above action, and not a party thereto; that on the 29th day of August, 2016 I caused to be served a true copy of the foregoing document upon:

Will Knedlik  
P.O. Box 99  
Kirkland, WA 98083  
Phone: 425.822.1342  
Email: [wknedlik@sol.com](mailto:wknedlik@sol.com)

- via facsimile
- via overnight courier
- via first-class U.S. mail
- via email service agreement
- via electronic court filing
- via hand delivery

*Pro Se Petitioner*

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*Attorneys for Julie Anderson, Pierce County Auditor*

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- via email service agreement
- via electronic court filing
- via hand delivery

*Attorneys for the King County Prosecutor and the King County Director of Elections*

SOUND TRANSIT'S COMBINED RESPONSE TO  
PETITIONS OF EASTSIDE TRANSPORTATION  
ASSOCIATION AND WILL KNEDLIK - 17

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DATED this 26<sup>th</sup> of August, 2016, at Seattle, Washington.

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Dawn M. Taylor



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Respondents,

Hon. JULIE ANDERSON *qua* auditor for Pierce County; Hon. CAROLYN WEIKEL *qua* auditor for Snohomish County; Hon. KIM WYMAN *qua* chief elections officer for the State of Washington; and the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (also known as “Sound Transit” currently and as the “RTA” previously) *qua* a junior taxing district statutorily authorized by state law pursuant to RCW 81.104 and pursuant to RCW 81.112,

Interested Parties.

This matter came before the Court on Eastside Transportation Association’s (“ETA’s”) and Will Knedlik’s (“Knedlik’s”) petitions to revise the ballot title for Sound Transit Resolution R2016-17 (together, the “Petitions”). The Court has considered the following:

1. ETA’s Petition to Revise Ballot Title and Notice That Appeal Has Been Taken, and exhibits thereto;
2. Knedlik’s Petition for Relief, and exhibits thereto;
3. King County’s Response to Petitions and Requests to Revise Ballot Title;
4. Declaration of Kortney Kinzer in Support of King County’s Response, and exhibits thereto;
5. Sound Transit’s Combined Response to Petitions of ETA and Knedlik;
6. Declaration of Val Batey in Support of Central Puget Sound Regional Transit Authority’s Response to Petition, and exhibits thereto;

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- 7. Declaration of Ann McNeil in Support of Central Puget Sound Regional Transit Authority's Response to Petition;
- 8. Declaration of Paul J. Lawrence in Support of Sound Transit's Combined Response to Petitions of ETA and Knedlik, and exhibits thereto;
- 9. Declaration of Matthew J. Segal in Support of Sound Transit's Combined Response to Petitions of ETA and Knedlik, and exhibits thereto;
- 10. ETA's Reply in Support of Petition to Revise Ballot Title, and attachments thereto;
- 11. Declaration of Richard M. Stephens in Support of ETA's Reply in Support of Petition to Revise Ballot Title, and exhibits thereto;
- 12. Knedlik's Reply to Two Responses Filed As To a Petition for Relief, and exhibits thereto;
- 13. \_\_\_\_\_;
- 14. \_\_\_\_\_.

The Court has also reviewed the records and files herein. Based on the foregoing, the Court ORDERS as follows:

- 1. ETA's and Knedlik's Petitions challenging the official ballot title for Sound Transit Resolution R2016-17 are DENIED and DISMISSED ~~with prejudice~~.
- 2. The ballot title for Sound Transit Resolution R2016-17 shall read as follows:

The Sound Transit Board passed Resolution No. R2016-17 concerning expansion of mass transit in King, Pierce, and Snohomish counties. This measure would expand light-rail, commuter-rail, and bus rapid transit service to connect population, ~~and employment and growth~~ <sup>and employment and growth</sup> centers, and authorize Sound Transit to levy or impose: an additional 0.5% sales and use tax; a property tax of \$0.25 or less per \$1,000 of assessed valuation; an additional 0.8% motor-vehicle excise tax; and use existing taxes to fund the local share of the \$53.8 billion estimated cost (including inflation),

*Handwritten notes and initials:*  
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*continuing*  
with independent audits, as described in the Mass Transit Guide and Resolution No. R2016-17. Should this measure be:

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Approved.....  
Rejected.....

IT IS SO ORDERED this 1<sup>st</sup> of September, 2016.

  
\_\_\_\_\_  
Honorable Bill Bowman  
King County Superior Court Judge

Presented by:

PACIFICA LAW GROUP LLP

CENTRAL PUGET SOUND REGIONAL  
TRANSIT AUTHORITY

By /s/ Paul J. Lawrence  
Paul J. Lawrence, WSBA #13557  
Matthew J. Segal, WSBA #29797  
Sarah S. Washburn, WSBA #44418

By /s/ Desmond L. Brown  
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*Attorney for Eastside  
Transportation Association*

*Janine Goley*  
*Pr. Deputy Pros. Atty*  
*#21314*  
*Atty for KC Respondents*

*See KC 11*

ORDER DENYING AND DISMISSING PETITIONS OF  
EASTSIDE TRANSPORTATION ASSOCIATION AND  
WILL KNEDLIK [PROPOSED] - 4

**Sound Transit Citizen Oversight Panel**  
**Meeting Summary**  
**November 3, 2016**

**COP Members Present:** Annette Bailes, Josh Benaloh, Robin Gold, Phil Lovell, Don Monroe, Dave Russell, Stuart Scheuerman, Vic Sood

**COP Members Absent:** Fred Auch, Dave Berger, Mildred Ollée, Lua Pritchard, Harold Wirch

Others Present: Shelly Brown, Kathy Albert, Jane Emerson, other agency staff, members of the public

**Parking Permits**

Rachel Wilch, Transportation Planner and Brian Brooke, Senior Manager of Research, Policy and Business Development gave an update on Sound Transit's parking permit program, which was developed incrementally as the result of a 2012 Board workshop. The Agency operates more than 11,000 parking stalls in 21 locations throughout the region. On a typical weekday in August this year, overall spaces were 93 percent occupied, 16 locations were above 90 percent occupied and six locations were above 100 percent occupied.

In 2015, the Board authorized permit parking in up to 50 percent of stalls in specific facilities, with a priority on those related to Link. All permit parking must take place in facilities owned, operated and maintained by Sound Transit. Staff anticipate that between three and ten percent of spaces will eventually be set aside for carpools and the remainder for solo drivers. The Agency is currently in phase I of a two-phase implementation process that includes regional coordination and partner participation in a vendor procurement with Republic Parking Northwest for permit administration and enforcement. Phase I will cover HOV permits; phase II will include SOV parking. In addition, King County Metro has exercised a piggy-back option available in Sound Transit's contract for services at the county's HOV facilities. Phase II of Sound Transit's project will begin in early 2017 as the Agency develops pricing alternatives and conducts public outreach and equity analyses. After the Board sets SOV prices the program will be implemented, with lotteries conducted in those facilities where demand exceeds supply. Unlike municipalities, Sound Transit doesn't have authority to issue tickets for parking violations, although it can tow vehicles that are improperly parked.

**Bicycle Parking**

Rebecca Roush, Bike Program Specialist, discussed the Agency's bicycle parking program. Sound Transit created the program in 2008, with input from internal and external stakeholders. While Rebecca is the only full time employee for the project, she interacts with agency staff across almost every department, as well as citizen advocates and local bicycle organizations.

There are three types of bicycle parking at Sound Transit facilities: Racks, lockers and cages. Racks are generally used for short term parking. Cages are available at the Beacon Hill, Tukwila and Angle Lake stations and create a higher level of security than racks. Lockers, which hold one

or two bikes each and cost between \$2,500 and \$5,000 to build, provide a higher level of security. The Columbia City station had lockers added on a remnant construction parcel. The very limited amount of unused space at most stations is an impediment to additional bicycle parking. Security issues in the region are increasing and most bicycle transit riders want additional secure parking. Locker fees are \$50 per year in addition to a one-time, refundable \$50 key deposit. The Agency is committed to providing bicycle parking at all future stations.

## **Discussion**

COP members expressed appreciation for both presentations and noted that vehicle parking, in particular, presents many challenges for the Agency.

## **Member Reports**

Robin Gold reported that she has a new job with the Puget Sound Clean Air Agency. She expects to continue serving on the COP. Panel members offered their congratulations on Robin's new job and gratitude for her continued work on the Panel. On a different subject, Robin noted that she'd read a Facebook comment expressing concern that Proposition 1 sought public money for a private transit agency. She noted the need to correct such misinformation.

Dave Russell noted that the *Seattle Times* has been running a series of carefully written and generally positive articles about ST3, including one in the morning's paper regarding the impacts of Lynnwood Link.

Josh Benaloh noted that prior to previous Sound Transit ballot measures, COP members had offered their own informal predictions about outcomes. Several COP members offered their written projections to be tallied after the election. The winning prediction will be announced at the November 17 COP meeting.

## **On-Going Concerns**

- Robustness of the data network, including security
- Adequacy of local transit service to ST park and ride lots
- Adequacy of station design for East Link extension
- I-90 Track Attachment Design
- Recommendation for benchmarks on Sounder North
- Increased operating costs across modes in comparison to peers
- Orca card integration
- Social Equity
- Convention Center construction and DSTT

The summary of the October 20, 2016, meeting notes was approved.

Next Meeting – Thursday, November 17, 2016, 8:30 AM in the Santa Fe Room at Union Station.



## Puget Sound Regional Council

### **Executive Board**

Thursday, September 22, 2016 • 10:00 – 11:30 A.M.

PSRC Board Room • 1011 Western Avenue, Suite 500, Seattle, WA 98104

The meeting will be streamed live over the internet at [www.psrc.org](http://www.psrc.org).

**1. Call to Order and Roll Call (10:00)**

**2. Communications and Public Comment**

- a. Letter from City of Covington

**3. President's Remarks**

**4. Executive Director's Report**

**5. Committee Reports**

- a. Transportation Policy Board -- Councilmember Rob Johnson, Chair
- b. Growth Management Policy Board -- Deputy Mayor Ryan Mello, Chair
- c. Operations Committee -- Executive Dave Somers, Vice President
- d. Economic Development Board -- Deputy Mayor Catherine Stanford, EDB President

**6. Consent Agenda (10:25)**

- a. Approve Minutes of Meeting held July 28, 2016
- b. Approve Vouchers Dated July 14 through August 31, 2016 in the Amount of \$1,432,328.75
- c. Approve 2016 Executive Board Representatives and Weighted Votes
- d. Authorize a Budget Amendment for the First Two-Year Cycle of a Six-Year Puget Sound Regional Household Travel Survey Program and Contract Authority for Consultant Services for the Entire Six-Year Program
- e. Authorization to Amend the Adopted Supplemental Biennial Budget and Work Program FY2016-2017 for U.S. Endowment for Forestry and Communities Grant - Open Space Grant
- f. Adopt Routine Amendment to the 2015-2018 Transportation Improvement Program (TIP)
- g. Authorize a Change in Transportation 2040 Project Status for WSDOT's SR 518 at Des Moines Memorial Drive Interchange Phase 1 – Eastbound Off Ramp Project
- h. Approve Project Tracking Exception Request for the City of Port Orchard's Tremont Street Widening Project
- i. Recommend Authorizing a Change in Transportation 2040 Project Status for Two Pierce County Projects

**7. New Business (10:30)**

- a. Transportation 2040 Project Amendment and Approval Request for WSDOT's "I-5: Mounts-Old Nisqually Road to 41st Division Drive, JBLM" Project -- *Kelly McGourty, PSRC*

**8. New Business (10:40)**

- a. Sound Transit's Adopted Phase 3 (ST3) System Plan - Conformity to Regional Plans -- *Gil Cerise, PSRC*

**9. Discussion Item (11:00)**

- a. Regional Economic Strategy Update -- *Chris Mefford, Community Attributes, Inc.*

**10. Other Business**

**11. Next Meeting - Thursday, October 27, 2016, 10-11:30 a.m., PSRC Board Room**

**12. Adjourn (11:30)**

Board members please submit proposed amendments and materials prior to the meeting for distribution. Organizations/individuals may submit information for distribution. Send to Sheila Rogers, e-mail [srogers@psrc.org](mailto:srogers@psrc.org); fax 206-587-4825; or mail.

Sign language and communication material in alternate formats can be arranged given sufficient notice by calling (206) 464-7090 or TTY Relay 711. 中文 | Chinese, 한국 | Korean, Русский | Russian, Español | Spanish, Tagalog, Tiếng Việt | Vietnamese Call 206-587-4819.



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September 14, 2016

Sent electronically to Will Knedlik "wknedlik@aol.com"

Subject: Complaint filed against Officials of Sound Transit, PDC Case 5516

Mr. Knedlik,

The Public Disclosure Commission (PDC) has completed its review of a complaint you filed on May 26, 2016, and a supplemental complaint you filed on July 4, 2016. Your complaint alleged that officials of Sound Transit violated RCW 42.17A.555 by engaging in a "long-running and increasingly egregious misappropriations of public facilities, public monies and other public resources funded by citizens as taxpayers...to support Sound Transit's planned" ST 3 tax proposal. Please note this letter does not address your August 20, 2016 email complaint you submitted to Evelyn Fielding Lopez on August 20, 2016, as explained in the email from Ms. Lopez.

PDC staff reviewed your allegations in light of PDC laws and rules in order to determine whether a formal investigation or enforcement action is warranted.

**RCW 42.17A.555** states, in part: "No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office...The foregoing provisions of this section shall not apply to the following activities: (3) Activities which are part of the normal and regular conduct of the office or agency."

Staff reviewed your two complaints, and the attached Sound Transit (ST) Board Motion No. M2015-74 concerning a proposed contract amendment with Enviroissues, Inc. Staff also reviewed: (1) A June 14, 2016 four-page response letter from Robin K. Murphy, ST's Senior Legal Counsel; (2) An 11-page signed contract between ST and Enviroissues that included a four-page scope of work document; (3) A four-page January 22, 2016 letter from Phil Lovell, Chair of the ST Citizens Oversight Panel addressed to Dow Constantine, King County Executive and Chair of the ST Board; and (4) A July 20, 2016 one page letter from Ms. Murphy. Based on staff's review, we found that:

- Ms. Murphy stated the complaints you filed contained "...many broad conclusory statements that we find difficult to understand and are sometimes unrelated to Sound Transit..." She stated ST disagrees with the allegations listed in the complaint, and that the complaints discussed issues that were unrelated to RCW 42.17A.555.

- Ms. Murphy added that the complaints included statements and information from elected officials that are not ST Board members, and from an “independent organization” that is not connected to ST.
- The ST 3 transit plan was adopted on June 23, 2016, and ST’s contract with Enviroissues was signed on August 23, 2013. The contract with Enviroissues was signed almost three years prior to the ST 3 plan being adopted, and covered a three-year period.
- The scope of Enviroissues work included public involvement in preparing and implementing ST’s Long Range Plan and ST3 options. The ST documents indicated that Enviroissues “...will play a key role in the ST3 Communications and Outreach team...” which includes “...planning, environmental compliance, public involvement, government and community relations, customer outreach, marketing, web development, graphic design, and the agency’s Speakers Bureau.”
- The documents you provided indicated that on August 13, 2015, the ST Capital Committee authorized the ST CEO to amend the contract with Enviroissues and increase the payments by \$560,000 for a new contract total that is not to exceed \$1.36 million.
- Ms. Murphy stated that at the time ST signed the contract with Enviroissues in 2013, ST “did not have a ballot measure or concrete projects to support or oppose.” She added that beginning in the summer of 2015, ST sought out “...public input on projects...for inclusion in the next regional transit plan” and that Enviroissues was extensively involved with that project.
- Ms. Murphy stated the contract with Enviroissues “...is to appropriately support public involvement to inform the ST Board as it develops the transit plan; and to disseminate neutral information as part of...” ST’s normal and regular conduct.
- The January 22, 2016 letter from the Citizens Oversight Panel (COP) indicated this was the 19<sup>th</sup> year that COP reported to the ST Board and began by stating that the upcoming year will be eventful with ST2 continuing on towards completion and “the Agency develops its final package of proposals for ST3 to present to voters in November of 2016...”
- The majority of the letter addressed ST’s 2015 major accomplishments (including the opening of two major light rail extensions, Capital Programs, operating costs and ridership increases, public involvement, and Agency coordination) and areas of concern (Local Transit Service and Park-and-Ride lots, Sounder North Benchmarks, and I-90 Track Design).
- Ms. Murphy stated “As with the original complaint, most of the addendum contains sweeping statements alleging that Sound Transit is withholding facts or intentionally misleading the public” without providing any specific details.

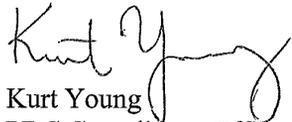
Will Knedlik  
PDC Case No. 5516  
Complaint filed against Sound Transit  
Page -3-

No evidence was provided of any actual work conducted by Enviroissues that supported the ST3 ballot measure, or that ST used the facilities to support the ST3 ballot measure. For these reasons, the PDC will not be conducting a more formal investigation into your complaint or pursuing enforcement action in this case.

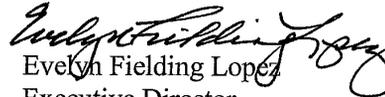
Thank you for bringing this matter to our attention. The process relies on citizens monitoring campaign activity to promote full compliance with the law. Your actions will contribute to better awareness of campaign restrictions and prohibitions.

If you have questions, you may contact me at (360) 664-8854, toll-free at 1-877-601-2828, or by e-mail at [kurt.young@pdc.wa.gov](mailto:kurt.young@pdc.wa.gov).

Sincerely,

  
Kurt Young  
PDC Compliance Officer

Endorsed by:

  
Evelyn Fielding Lopez  
Executive Director

cc: Robin Murphy





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December 6, 2016

[john@johnniles.com](mailto:john@johnniles.com)

Subject: PDC case 9074

Dear Mr. Niles:

The Public Disclosure Commission (PDC) has completed its initial review of the complaint you filed on October 18, 2016. Your complaint alleged that Sound Transit violated RCW 42.17A.555 by printing and distributing a voter's guide outlining the proposed impacts of passage of the Sound Transit 3 (ST3) transportation package.

PDC staff reviewed your allegations, and as a result of staff's initial review, we found the following:

- Sound Transit has a statute, RCW 81.104.140(8), that requires them to create and distribute, "a document describing the systems plan and the financing plan" that, "must also describe the relationship of the system to regional issues".
- PDC staff reviewed the voter's guide and found that on page 4, in the second column, Sound Transit does provide a statement of what would happen if the ST3 package failed to pass, "If ST3 is not approved, existing taxes will continue to be used to complete and operate Sound Move and ST2 projects as provided in their respective plans approved by voters."
- Sound Transit has no previous violations of PDC laws and rules.

Under RCW 42.17A.555(3) Sound Transit is engaging in, "Activities which are part of the normal and regular conduct of the office or agency", by distributing the Voter's Guide 20 days before the election as they have in previous elections (1995, 1996, 2007 and 2008). Sound Transit followed the requirement of RCW 81.104.140.

Based on these initial findings, I have determined Sound Transit has not violated PDC laws and rules. The PDC has closed the matter, and will not be conducting a more formal investigation into your complaint or pursuing further action in this case.

If you have questions, you may contact Jacob Berkey, toll-free at 1-877-601-2828, or by e-mail at [Jacob.berkey@pdc.wa.gov](mailto:Jacob.berkey@pdc.wa.gov).

Sincerely,



Jacob Berkey  
PDC Compliance

Endorsed by,



Evelyn Fielding Lopez  
Executive Director

cc: John Piety