

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2002-04 (Amended)

**Amending Board Resolution No. R2002-04 to Acquire Interest
in Federal Way School District Property**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Board Board	1/29/04 2/12/04	Deferred Discussion/Possible Action	Agnes Govern, Interim Chief Administrative Officer Don Vogt, Senior Real Estate Representative	(206) 398-5037 (206) 689-3396

OBJECTIVE OF ACTION

To acquire needed property rights for Federal Way Direct Access Project.

ACTION

Amends Board Resolution No. R2002-04 to authorize the filing of a condemnation action against a governmental entity, as required by Board policy.

KEY FEATURES

- Amends Board Resolution No. R2002-04 to authorize the Chief Executive Officer to acquire interests in the Federal Way School District property by condemnation if required to obtain needed property rights for the Federal Way Direct Access project.

BUDGET IMPACT SUMMARY

There is no action outside of the Board-adopted budget; there are no contingency funds required, no subarea impacts, or funding required from other parties other than what is already assumed in the financial plan.

REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS

Not applicable to this action.

M/W/DBE – SMALL BUSINESS PARTICIPATION

Not applicable for this action.

HISTORY OF PROJECT

The Board approved Resolution No. R2002-04 on April 11, 2002, authorizing the (then) Executive Director to acquire needed property rights including by condemnation for the project, except for property owned by the Federal Way School District. As a publicly owned property,

Board approval is required pursuant to Resolution No. R99-16 to initiate condemnation action against the school district. There have been ongoing negotiations with the school district over a period of months, but so far the acquisition discussions have not produced the required agreement. A request has been made of the school district for a voluntary possession and use agreement so that the project may proceed. Intensive discussions are now underway to determine if such an agreement is possible. If it is determined that those discussions have reached an impasse, it will be necessary to condemn the property to move the project forward. Property rights needed from the school district include, partial fee interests and limited access rights established by the Washington State Department of Transportation through its statutory limited access process.

This Resolution would amend Board Resolution No. R2002-04 so that the Chief Executive Officer may initiate condemnation action against the Federal Way School District to acquire needed property rights for the Federal Way Direct Access Project.

Prior Board or Committee Actions and Relevant Board Policies

Motion or Resolution Number	Summary of Action	Date of Action
R2002-04	Authorizing the acquisition of real property interests needed for the Federal Way Direct Access Regional Express Project. Included property owned by Federal Way School District, but did not authorize condemnation as to that property.	4/11/02
M2001-20	Authorizing task order with WSDOT for design services for Federal Way Direct Access Project	3/15/01
R99-16	Establishing procedures governing legal actions	5/27/99
R98-20	Approval of real property acquisition and relocation policy, procedures, and guidelines	4/23/98

CONSEQUENCES OF DELAY

A delay in approving this resolution may result in a delay in advertising the project for construction, which could impact the construction schedule.

PUBLIC INVOLVEMENT

Not applicable to this action.

LEGAL REVIEW

MB 1/9/04

**SOUND TRANSIT
RESOLUTION NO. R2002-04**

A RESOLUTION of the Central Puget Sound Regional Transit Authority authorizing the Executive Director to acquire, dispose, or lease certain real property interests by negotiated purchase or by condemnation and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the construction and operation of the Regional Express Federal Way transit center and 317th Direct Access projects.

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

WHEREAS, on November 5, 1996, Central Puget Sound area voters approved local funding for Sound Move, the ten-year plan for regional high-capacity transit in the Central Puget Sound Region; and

WHEREAS, Sound Move provided for the implementation of a series of Regional Express bus routes and transit improvements, and further provided for the construction, operation and permanent location of the Federal Way Transit Center and 317th Direct Access projects; and

WHEREAS, an Environmental Assessment (EA) was prepared by the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) in coordination with Sound Transit and the Washington State Department of Transportation (WSDOT) in compliance with the National Environmental Policy Act (NEPA). FTA and FHWA were the co-lead federal agencies. The EA was issued on September 26, 2001 and made available to the public, agencies, jurisdictions, and affected tribes. A public hearing for the EA was held on October 30, 2001. Comments were received on the EA through November 12, 2001. After carefully considering the EA, its supporting documents, and the public comments and responses, FTA and FHWA found that the proposed Federal Way projects would have no significant adverse impacts on the environment. A Finding of No Significant Impact (FONSI) was issued by FTA and FHWA on March 15, 2002. Sound Transit adopted the EA and issued a Determination of

Non-Significance (DNS) pursuant to the Washington State Environmental Policy Act (SEPA) on March 6, 2002; and

WHEREAS, Sound Transit has identified certain real properties as necessary for the construction and permanent location of the Federal Way Transit Center and 317th Direct Access Projects in Federal Way, Washington, which properties are reasonably described in Exhibit A attached hereto; and

WHEREAS, in order to acquire the properties determined to be necessary for the construction, operation, and permanent location of the Federal Way Transit Center and 317th Direct Access projects, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain lands and rights in property for public purposes, and to pay eligible relocation and re-establishment benefits to affected parties; and

WHEREAS, Sound Transit has commissioned or will commission appraisals to determine the fair market value of the properties, and will continue to negotiate in good faith with the owners of the properties authorized to be acquired by negotiated purchase or condemned, with the intent of reaching agreements for the voluntary acquisition of the property for fair market value; and

WHEREAS, the funds necessary to acquire the property by voluntary purchase or to pay just compensation adjudged due after condemnation and the funds necessary to pay eligible relocation and re-establishment costs shall be paid from Sound Transit general funds.

NOW, THEREFORE, BE IT RESOLVED by the of the Central Puget Sound Regional Transit Authority that:

SECTION 1. The Executive Director is hereby authorized to execute such agreements as are customary and necessary for the acquisition, lease, or disposal of the real property interests described in Exhibit A, and for the payment of eligible relocation and re-establishment costs, said property to be used for the construction of the Federal Way transit center and 317th Direct Access projects in Federal Way, Washington. In accordance with Sound Transit's

adopted Real Property Acquisition and Relocation Policies, Procedures and Guidelines, the acquisition price of the properties shall not exceed the fair market value to be determined through the appraisal process; provided that in the event the total of the acquisition, relocation, and re-establishment costs of the properties for the Federal Way transit center and 317th Direct Access projects exceeds Sound Transit's approved budget for right-of-way (ROW) acquisition (plus contingency), then the Executive Director shall obtain approval from the Executive Committee or the Board, per Resolution No. 78-1, before the acquisition of the property for the Federal Way transit center and 317th Direct Access projects by purchase or by condemnation and the payment of eligible relocation and re-establishment costs.

SECTION 2. The Executive Director is hereby authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of the real property interests described in Exhibit A. Such settlements shall be made only upon the recommendation of legal counsel, for amounts deemed to be a reasonable estimation of fair market value, and shall not exceed established budgets. For all other settlements proposed, the Executive Director shall obtain prior approval of the Executive Committee or the Board, per Resolution No. 78-1.

SECTION 3. The Sound Transit Board of Directors deems the Federal Way transit center and 317th Direct Access projects to be constructed in Federal Way, Washington, to be a public use for a public purpose. The Board deems it necessary and in the best interests of the citizens residing within Sound Transit's boundaries to acquire the property identified herein as being necessary for the construction, operation, and permanent location of the Federal Way transit center and 317th Direct Access projects. Said properties being described in Exhibit A incorporated herein by reference and that eligible parties, and the Federal Way school district No. 210, be paid relocation and re-establishment costs associated with displacements from the properties.

SECTION 4. The Sound Transit Board of Directors finds that the public health, safety, necessity, convenience, and welfare demand and require that the above-described properties be immediately acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location of the Federal Way transit center and 317th Direct Access projects in Federal Way, Washington.


SECTION 5. In addition to the authority granted the Executive Director in Section 1 above, condemnation proceedings are hereby authorized to acquire all, or any portion thereof, of the properties and property rights and/or rights in those of the properties described in the attached Exhibit A, not owned by a public entity, for the purpose of constructing, owning, and operating a permanent location of the Federal Way transit center and 317th Direct Access projects in Federal Way, Washington. The Executive Director is also authorized to make minor amendments to the legal descriptions of the properties described in the attached Exhibit A, as may be necessary to correct scrivener's errors and/or to conform the legal description to the precise boundaries of the property required for the projects.

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

SECTION 7. The Executive Director is authorized to execute all documents necessary to convey to the Washington State Department of Transportation those property interests acquired pursuant to this resolution that will become permanent additions to the Interstate Highway System as part of the 317th Direct Access project.


SECTION 8. The Executive Director is authorized to execute all documents necessary to convey to the City of Federal Way necessary property interests required by the City of Federal Way in conjunction with the development of the Federal Way transit center and 317th Direct Access projects.

ADOPTED by the of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on April 11, 2002.



Ron Sims
Board Chair

ATTEST:



Marcia Walker
Board Administrator

EXHIBIT A

Federal Way Transit Center

Order No.	Owner/Contact	Parcel #	Site Address
404772	Andrew C. Cratsenberg and Luetta M. Cratsenberg, trustees of the CF trust	092104-9299-03	Vacant Land

LEGAL DESCRIPTION:

LOT A OF KING COUNTY SHORT PLAT NO. 480019R, ACCORDING TO SHORT PLAT RECORDED APRIL 28, 1980 UNDER RECORDING NO. 8004280455, IN KING COUNTY, WASHINGTON.
EXCEPT THAT PORTION CONVEYED TO THE CITY OF FEDERAL WAY BY DEED RECORDED UNDER RECORDING NO. 20000807001155.

Order No.	Owner/Contact	Parcel #	Site Address
404769	Cucina! Cucina!, Inc.	092104-9057-05	2031 South 316 th Street Federal Way, WA 98003

LEGAL DESCRIPTION:

LOT 2 OF KING COUNTY SHORT PLAT NO. 182027, ACCORDING TO SHORT PLAT RECORDED MARCH 14, 1984 UNDER RECORDING NO. 8403140752, IN KING COUNTY, WASHINGTON.

Order No.	Owner/Contact	Parcel #	Site Address
404771	Sheri Mott	092104-9298-04	Vacant Land

LEGAL DESCRIPTION:

LOT 3 OF KING COUNTY SHORT PLAT NO. 480019R, ACCORDING TO SHORT PLAT RECORDED APRIL 28, 1980 UNDER RECORDING NO. 8004280455, IN KING COUNTY, WASHINGTON;
EXCEPT THAT PORTION CONVEYED TO THE CITY OF FEDERAL WAY BY DEED RECORDED UNDER RECORDING NO. 20010323001260.

Order No.	Owner/Contact	Parcel #	Site Address
404770	Federal Way Building LLC	092104-9176-01	31621 23 rd Avenue South Federal Way, WA 98003

LEGAL DESCRIPTION:

LOT 2 OF KING COUNTY SHORT PLAT NO. 480019R, ACCORDING TO SHORT PLAT RECORDED APRIL 28, 1980 UNDER RECORDING NO. 8004280455, IN KING COUNTY, WASHINGTON;
EXCEPT THAT PORTION CONVEYED TO THE CITY OF FEDERAL WAY, FOR ROAD, BY DEED RECORDED UNDER RECORDING NO. 20001215001690.

Order No.	Owner/Contact	Parcel #	Site Address
515676	Cratsenberg Properties, LLC, a Washington Limited Liability Company	092104-9021-08	31600 20 th Avenue South Federal Way, WA 98003

LEGAL DESCRIPTION:

LOT 1 OF KING COUNTY SHORT PLAT NO. 182027, ACCORDING TO SHORT PLAT RECORDED MARCH 14, 1984 UNDER RECORDING NO. 8403140752, IN KING COUNTY, WASHINGTON.

Federal Way 317th Direct Access

Order No.	Owner/Contact	Parcel #	Site Address
515684	Military Road Project, LLC	092104-9151-00	31458 28 th Avenue South Federal Way, WA 98003

LEGAL DESCRIPTION:

THAT PORTION OF THE SOUTH QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING WEST OF PRIMARY STATE HIGHWAY NO. 1;
EXCEPT THE WEST 30 FEET THEREOF.

Order No.	Owner/Contact	Parcel #	Site Address
510797	Ralph L. Yetter and Vivianne L. Yetter, Husband and Wife	092104-9245-08	31612 28 th Avenue South Federal Way, WA 98003

LEGAL DESCRIPTION:

THE NORTH HALF OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;
EXCEPT THE SOUTH 165 FEET OF THE WEST 200 FEET THEREOF;
ALSO EXCEPT THE WEST 30 FEET THEREOF;
ALSO EXCEPT THAT PORTION THEREOF LYING EASTERLY OF THE WESTERLY LINE OF PRIMARY STATE HIGHWAY NO. 1 AS CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER KING COUNTY RECORDING NO. 4980055.

Order No.	Owner/Contact	Parcel #	Site Address
515617	Federal Way Joint Venture	092104-9185-00	Vacant Land

LEGAL DESCRIPTION:

PARCEL A:

THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SUBDIVISION;
 THENCE NORTH 01°29'18" EAST ALONG THE WEST LINE THEREOF A DISTANCE OF 540.77 FEET TO THE EASTERLY MARGIN OF 23RD AVENUE SOUTH;
 THENCE NORTH 25°40'29" EAST ALONG SAID EASTERLY MARGIN A DISTANCE OF 18.99 FEET TO A POINT OF CURVE;
 THENCE NORTHERLY CONTINUING ALONG SAID EASTERLY MARGIN ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 390.04 FEET THROUGH A CENTRAL ANGLE OF 23°55'14" A DISTANCE OF 162.84 FEET;
 THENCE SOUTH 88°24'15" EAST A DISTANCE OF 304.98 FEET;
 THENCE NORTH 01°29'18" EAST A DISTANCE OF 11.49 FEET;
 THENCE SOUTH 88°24'15" EAST A DISTANCE OF 265.00 FEET;
 THENCE NORTH 01°29'18" EAST A DISTANCE OF 13.91 FEET;
 THENCE SOUTH 88°22'27" EAST A DISTANCE OF 452.50 FEET;
 THENCE NORTH 01°29'18" EAST A DISTANCE OF 27.55 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT;
 THENCE CONTINUING NORTH 01°29'18" EAST A DISTANCE OF 190.95 FEET TO THE SOUTH MARGIN OF SOUTH 317TH STREET;
 THENCE SOUTH 88°22'27" EAST ALONG SAID SOUTH MARGIN A DISTANCE OF 41.96 FEET TO A POINT OF CURVE;
 THENCE EASTERLY AND NORTHERLY ALONG SAID SOUTH MARGIN AND THE EAST MARGIN OF 28TH AVENUE SOUTH ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 230.00 FEET THROUGH A CENTRAL ANGLE OF 81°14'49" A DISTANCE OF 326.15 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH 165.00 FEET OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER OF SECTION 9;
 THENCE SOUTH 88°22'27" EAST ALONG SAID NORTH LINE A DISTANCE OF 81.82 FEET TO THE WEST MARGIN OF PRIMARY STATE HIGHWAY NO. 1 (INTERSTATE 5) AS NOW ESTABLISHED;
 THENCE SOUTH 16°37'30" WEST ALONG SAID WEST MARGIN A DISTANCE OF 314.94 FEET TO THE EAST LINE OF THE WEST 30 FEET OF SAID SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9;
 THENCE SOUTH 01°45'45" WEST ALONG SAID EAST LINE AND CONTINUING ALONG SAID WEST MARGIN A DISTANCE OF 19.03 FEET;
 THENCE SOUTH 21°06'15" WEST CONTINUING ALONG SAID WEST MARGIN A DISTANCE OF 66.38 FEET;

THENCE NORTH 88°24'15" WEST A DISTANCE OF 246.95 FEET TO THE TRUE POINT OF BEGINNING;

(ALSO KNOWN AS REVISED PARCEL 5 OF BOUNDARY LINE REVISION RECORDED MAY 12, 1987 UNDER RECORDING NO. 8705120940.)

PARCEL B:

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS CREATED BY INSTRUMENT(S) RECORDED UNDER RECORDING NO(S). 8705150734 AND 8705150735 AS AMENDED BY RECORDING NOS. 8709222085, 8804210692 AND 8910101211, IN KING COUNTY, WASHINGTON.

Order No.	Owner/Contact	Parcel #	Site Address
515675	Federal Way Joint Venture	092104-9321-05	2440 South 317 th Street Federal Way, WA 98003

LEGAL DESCRIPTION:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SUBDIVISION;
 THENCE NORTH 01°29'18" EAST ALONG THE WEST LINE THEREOF A DISTANCE OF 540.77 FEET TO THE EASTERLY MARGIN OF 23RD AVENUE SOUTH;
 THENCE NORTH 25°40'29" EAST ALONG SAID EASTERLY MARGIN A DISTANCE OF 18.99 FEET TO A POINT OF CURVE;
 THENCE NORTHERLY CONTINUING ALONG SAID EASTERLY MARGIN ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 390.04 FEET THROUGH A CENTRAL ANGLE OF 23°55'14" A DISTANCE OF 162.84 FEET;
 THENCE SOUTH 88°24'15" EAST A DISTANCE OF 304.98 FEET;
 THENCE NORTH 01°29'18" EAST A DISTANCE OF 11.49 FEET;
 THENCE SOUTH 88°24'15" EAST A DISTANCE OF 265.00 FEET;
 THENCE NORTH 01°29'18" EAST A DISTANCE OF 13.91 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT;
 THENCE SOUTH 88°22'27" EAST A DISTANCE OF 452.50 FEET;
 THENCE NORTH 01°29'18" EAST A DISTANCE OF 218.50 FEET TO THE SOUTH MARGIN OF SOUTH 317TH STREET;
 THENCE NORTH 88°22'27" WEST ALONG SAID SOUTH MARGIN A DISTANCE OF 452.50 FEET;
 THENCE SOUTH 01°29'18" WEST A DISTANCE OF 218.50 FEET TO THE TRUE POINT OF BEGINNING;

(ALSO KNOWN AS REVISED PARCEL 2 OF BOUNDARY LINE REVISION RECORDED MAY 12, 1987 UNDER RECORDING NO. 8705120940.)

Order No.	Owner/Contact	Parcel #	Site Address
515683	Federal Way School District No. 210	092104-9054-08	31455 28 th Avenue South Federal Way, WA 98003

LEGAL DESCRIPTION:

LOT 1 OF KING COUNTY SHORT PLAT NO. 484069, ACCORDING TO SHORT PLAT RECORDED SEPTEMBER 10, 1984 UNDER RECORDING NO. 8409100751, IN KING COUNTY, WASHINGTON.