

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2004-12 AND RESOLUTION NO. R2004-13

**Agreement for Transit-Oriented Development
at the Federal Way Transit Center**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	9/16/04	Discussion/Possible Action to Recommend Board Approval	Joni Earl, Chief Executive Officer	(206) 398-5450
Board	9/23/04	Action		

Contract/Agreement Type:	✓	Requested Action:	✓
Competitive Procurement		Execute New Contract/Agreement	
Sole Source		Amend Existing Contract/Agreement	
Interlocal Agreement	✓	Contingency Funds Required	
Purchase/Sale Agreement		Budget Amendment Required	

✓ *Applicable to proposed transaction.*

ACTION

Resolution No. R2004-12: Authorizes the transfer of \$1,000,000 from the Regional Express South King County Program Reserve to the Federal Way Transit Center project to partially fund development of 21st Avenue South in the City of Federal Way.

Resolution No. R2004-13: (1) Repeals authority granted the Chief Executive Officer under Resolution No. R2003-14 to execute an agreement with the City of Federal Way outlining the terms relate to the Federal Way Transit Center project; (2) authorizes the Chief Executive Officer to execute a new agreement with the City of Federal Way, and (3) authorizes the Chief Executive Officer to declare, in the future, certain real property adjacent to Sound Transit's Federal Way Transit Center (#53321) project as surplus and to dispose of those properties.

KEY FEATURES

- The new agreement provides:
 1. At Sound Transit's discretion and subject to FTA approval, Sound Transit would make some parking spaces available in the Federal Way Transit Center garage through market rate lease(s) until such time as the parking spaces are needed for transit center and/or Transit-Oriented Development (TOD) use.
 2. City of Federal Way (City) to waive permit fees for west and east parcel TOD and any potential off-site mitigation requirements related to 21st Avenue South (see item 4).
 3. Several changes related to the east TOD parcel.
 - a. If a TOD developer proposes a project consistent with the City's Downtown Plan, the City agrees the developer will not be required to go through another SEPA process.
 - b. The City agrees to reduce and/or eliminate parking requirements based on the TOD development proposal.

- c. Under the July 2003 version of the agreement, if Sound Transit was unsuccessful in securing a TOD project within agreement timeframes, the City would purchase the east parcel from Sound Transit at Sound Transit's original purchase price (\$689,000). In the modified agreement, if Sound Transit is unsuccessful in securing a TOD project for the east TOD parcel, the City would have up to seven years to try to secure a TOD project at no acquisition cost to the City. If not successful, the City would have the option to return the property to Sound Transit or purchase the property at fair market value. If, during the seven years, the City changes the use of the property from the agreed upon description of TOD, the City would pay Sound Transit for the fair market value of the property.
 4. Sound Transit's contribution of \$1,000,000 to the City's 21st Avenue South project, relieving Sound Transit and the TOD project of any further investment in development 21st Avenue South.
 5. Sound Transit consideration of a pedestrian bridge to the transit center to be proposed by others and at no cost to Sound Transit.
 6. Sound Transit provision of technical assistance to the City from Sound Transit's TOD program staff.
 7. Sound Transit provision to the City of the security plan for the transit center, to include night security.
 8. City to reduce landscape requirements on the east parcel, resulting in an estimated cost savings of approximately \$100,000.
 9. City to assist in groundbreaking and ribbon-cutting activities to assist in lowering Sound Transit's costs.
- The new agreement retains important provisions in the agreement approved by the Board in July 2003 as follows:
 1. If Sound Transit is unsuccessful in securing a TOD project within agreement timeframes, Sound Transit will transfer ownership of the west TOD parcel to the City of Federal Way; and the City of Federal Way will commit to develop the west TOD parcel consistent with Sound Transit's TOD definition.
 2. The City of Federal Way acknowledged that the transit oriented development provisions in the City Code do not apply to Sound Transit's project since the Federal Way Transit Center project is an Essential Public Facility.
 3. Sound Transit agreed to voluntarily participate in transit oriented development on the east and west TOD parcels.
 - Approval of the new agreement would require the Board to authorize the CEO to declare surplus and dispose of certain real property adjacent to Sound Transit's Federal Way Transit Center in the future without further action required by the Sound Transit Board.

BUDGET IMPACT SUMMARY

Project Description: Federal Way Transit Center (321)

Current Status: Construction

Projected Completion Date: 4Q 2005

Action Outside of Adopted Budget:	Y/N	Y Requires Comment
This Line of Business	N	
This Project	Y	Requesting budget transfer of \$1,000,000 to fund the proposed agreement.
This Phase	N	
Budget amendment required	Y	Requesting budget amendment to transfer \$1,000,000 from the South King County Capital Projects Program Reserve Fund.
Key Financial Indicators:	Y/N	Y Requires Comment
Contingency funds required	N	
Subarea impacts	N	
Funding required from other parties other than what is already assumed in financial plan	N	

N = Action is assumed in current Board-adopted budget. Requires no budget action or adjustment to financial plan

BUDGET DISCUSSION

Proposed Resolution No. R2004-13 authorizes execution of a modified agreement with the City of Federal Way. Among other things, the new agreement commits Sound Transit to contribute \$1,000,000 to the City for their 21st Avenue South project.

The \$1,000,000 contribution exceeds the uncommitted funds remaining in the Federal Way Transit Center/South 317th project budget. Proposed Resolution No. R2004-12 would make funds available from the South King County Regional Express Program Reserves to pay for the \$1,000,000 contribution.

The Federal Way HOV Access/South 317th project (#53125) is a related, but separate project. This project is still at an early stage of construction, and staff is not recommending moving funds from the Federal Way HOV Access/South 317th project at this time. However, the project's \$32,600,000 budget currently includes \$1,300,000 of uncommitted and unallocated contingency. If the project continues to trend under budget as construction progresses, the Board could take action to transfer some or all of the \$1,300,000 to the South King Program Reserves.

The following table summarizes the amounts to be transferred from the South King County Regional Express Program Reserve:

Dollars in (\$000s)	Current Budget (1)	Amendment Requested (2)	Revised Budget (3)
Federal Way Transit Center (#321)	\$ 38,199	\$ 1,000	\$ 39,199
South King County Regional Express Program Reserve (#999)	\$ 1,978	\$ (1,000)	\$ 978
Total	\$ 40,177	\$ -	\$ 40,177

Notes:

(1) - Current budget represents the amounts identified in the Adopted 2004 Budget.

(2) - This action would transfer \$1,000,000 from the South King County Regional Express Capital Projects Program Reserve to the Federal Way Transit Center/S 317th project (321) to fund the proposed TOD agreement with the City of Federal Way.

(3) - The Revised Budget reflects the project budgets after the transfer on funding is made.

REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS

The proposed actions are consistent with the current Board-adopted budget and are affordable within Sound Transit's current long-term financial plan and the South King County Subarea financial capacity. There are no other commitments impacting the South King County Regional Express Program Reserve anticipated in the proposed 2005 Budget. The actions will have no new revenue impacts on Sound Transit.

BUDGET TABLE

The following table highlights the impacts of this agreement and budget transfer on the phase budgets for the Federal Way Transit Center project:

Summary for Board Action (Year of Expenditure \$000)

Action Item: Authorize the Chief Executive Officer to execute a modified agreement with the City of Federal Way to contribute \$1 million to fund potential TOD opportunities associated with the Federal Way Transit Center project (#321), \$s in thousands

	Adopted 2004 Budget ¹ (A)	Committed To Date ² (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
Agency Administration	\$ 2,474	\$ 2,246	\$ -	\$ 2,246	\$ 228
Preliminary Engineering	1,650	1,528	-	1,528	122
Final Design	1,855	1,805	-	1,805	50
ROW Acquisitions	6,784	6,449	-	6,449	335
Construction	23,236	25,392	1,000	26,392	(3,157)
Contingency	2,200	0	-	0	2,200
Total Current Budget	\$ 38,199	\$ 37,420	\$ 1,000	\$ 38,420	\$ (222)

Phase Budget Detail

	\$ 19,893	\$ 22,009	\$ -	\$ 22,009	\$ (2,116)
Construction					
Management	\$ 2,025	2,025	-	2,025	-
MOA with City of Federal Way	\$ 1,016	1,016	-	1,016	-
TOD Agreement	\$ -	-	1,000	1,000	(1,000)
Other	\$ 302	342	-	342	(40)
Total Phase	\$ 23,236	\$ 25,392	\$ 1,000	\$ 26,392	\$ (3,157)

Agreement Budget	Current Approved Contract Value (F)	Spent to Date (G)	Proposed Action (H)	Proposed Total Contract Value (I)
TOD Agreement with the City of Federal Way	\$ -	\$ -	\$ 1,000	\$ 1,000
ST Contingency	-	-	-	-
TOTAL AGREEMENT	\$ -	\$ -	\$ 1,000	\$ 1,000
Percent Contingency	0%	0%	0%	0%

Phase Level Budget Shortfall

Phase	Shortfall Amt (J)	Potential Funds (K)	Funding Source (L)
Construction	\$ (1,000)	\$ 1,000	Budget Transfer from South King County program reserves
Construction	\$ (256)	\$ 256	Budget Transfer from the Research and Technology Fund to be reflected in proposed 2005 Budget ³
Construction	\$ (1,901)	\$ 1,901	Unallocated project contingency ⁴
Total Phase Shortfall	\$ (3,157)	\$ 3,157	

Notes:

¹ Adopted 2004 Budget is found on page 163 of the 2004 budget book.

Committed to Date, including contract contingencies per HQReports as of September 1, 2004, plus estimates of OCIP

² charges to the project reflecting current ST finance policy.

³ Budget transfer from Research and Technology consistent with Board direction in Motion M2002-101 will be reflected in the proposed 2005 Budget

⁴ Consistent with Sound Transit budget policies, phase level overruns are addressed during the next budget cycle. The proposed 2005 Budget will transfer the unallocated project contingency to the construction phase of this project to cover the projected shortfall.

M/W/DBE – SMALL BUSINESS PARTICIPATION

Not applicable for these actions.

HISTORY OF PROJECT

Sound Transit has two capital projects under construction in Federal Way related to one another: the Federal Way HOV Access/South 317th and the Federal Way Transit Center projects. In July 2003, the Sound Transit Board approved a TOD Agreement with the City of Federal Way that outlined the terms for development of two parcels next to the transit center (Resolution No. R2003-14). The Federal Way City Council did not approve this agreement due to concerns raised in the community. Therefore, the agreement was not fully executed.

Subsequent work by representatives from both jurisdictions resulted in a new agreement for Sound Transit Board consideration. The Federal Way City Council approved the proposed new agreement on August 24, 2004. The new agreement includes terms and conditions for a potential future transfer of surplus real property from Sound Transit to the City, a lump sum contribution of \$1,000,000 to the City for the 21st Avenue South Street Improvement Project (21st Avenue Project) from the Regional Express South King County Program Reserves, and actions to further promote the TOD objectives of both jurisdictions for two parcels of land adjacent to the Federal Way Transit Center.

HISTORY OF THE PROJECT

Prior Board or Committee Actions and Relevant Board Policies

Motion or Resolution Number	Summary of Action	Date of Action
M2004-52	Executed a contract with PCL Construction to construct the Federal Way Transit Center/South 317th project in the amount of \$20,961,000, with a 5% contingency of \$1,048,050, for a total authorized contract amount not to exceed \$22,009,050.	6/24/04
R2003-14	Executed an interlocal agreement with City of Federal Way regarding permitting the Federal Way Transit Center as an Essential Public Facility, clarifying that Transit Oriented Development is not required as part of the permit process but agreeing to a voluntary process for working with the City of Federal Way to explore potential Transit Oriented Development opportunities; through such authorization, the action further approves terms and conditions for a potential future transfer of surplus real estate from Sound Transit to the City of Federal Way.	7/10/03
M2001-28	Entered into an agreement describing roles and responsibilities for development of the transit center and parking facility.	4/12/01
M99-60	Established criteria for evaluation of Transit Oriented Development (TOD).	9/23/99

NEXT STEPS

Staff will return to the Board with a recommendation for approving a development agreement with a private developer(s) if a qualified TOD developer(s) is found for either or both TOD properties through the RFP process. However, if no qualified developer(s) were identified, no further Board action would be required to transfer surplus real property to the City.

CONSEQUENCES OF DELAY

During the negotiation of the new agreement, Sound Transit committed to bring a proposed action to the Finance Committee as soon as possible after action by the Federal Way City Council.

LEGAL REVIEW

JW 9/2/04

SOUND TRANSIT

RESOLUTION NO. R2004-12

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority to transfer \$1,000,000 from the Regional Express South King County Program Reserve to the Federal Way Transit Center project to partially fund development of 21st Avenue South in the City of Federal Way.

WHEREAS, the Central Puget Sound Regional Transit Authority is a duly organized regional transit authority existing under RCW Chapters 81.104 and 81.112 and has powers necessary to implement a high capacity transportation system; and

WHEREAS, on November 5, 1996, central Puget Sound area voters approved local funding for Sound Move, Sound Transit's ten-year plan for regional high-capacity; and

WHEREAS, the proposed Federal Way Transit Center project is consistent with Sound Transit's statutory authority to implement a high capacity transportation system pursuant to Chapters 81.104 and 81.112 RCW; and

WHEREAS, Sound Move includes \$38,200,000 for the development of the Federal Way Transit Center project; and

WHEREAS, the Board passed Resolution No. R2003-19 adopting the 2004 budget and capital plan including \$2,000,000 in a Regional Express South King County Program Reserve; and

WHEREAS, the Board finds that the proposed Federal Way Transit Center investment in the City's 21st Avenue South project will benefit the future development of transit oriented development (TOD) on the parcels adjacent to the Federal Way Transit Center; and

WHEREAS, the funds required for the Federal Way Transit Center investment are available from the Regional Express South King County Program Reserve; and

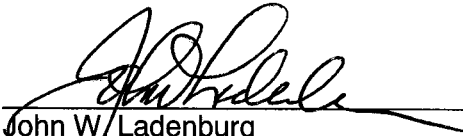
WHEREAS, financial contribution from other parties benefiting from the 21st Avenue South project is necessary to fully fund the 21st Avenue South project; and

WHEREAS, it is in the best interest of Sound Transit to fund the Federal Way Transit Center investment in the City's 21st Avenue South project furtherance of the development of TOD on the parcels of land adjacent to the Federal Way Transit Center; and

WHEREAS, transfer of the \$1,000,000 from the South King County Program Reserve Fund requires a budget amendment with a two-thirds majority vote of the entire membership of the Board of Sound Transit.

NOW, THEREFORE, BE IT RESOLVED by a two-thirds vote of the Board of the Central Puget Sound Regional Transit Authority that the 2004 adopted budget and capital plan be amended to partially fund development of 21st Avenue South in the City of Federal Way through a \$1,000,000 transfer from the Regional Express South King County Program Reserves to the Federal Way Transit Center project, for a revised Federal Way Transit Center project budget of \$39,200,000.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on September 23, 2004.



John W. Ladenburg
Board Chair

ATTEST:



Matt Stoutenburg
Board Coordinator