

## ADJOURNMENT

## FACT SHEET

TITLE: Amendment of the 2011 Capital Budget

DIVISION: Finance

ORIGINATOR: Wayne Fanshier

PRECEDING ACTION: Resolution No. 10-033, Adoption of the 2011 Agency Budget  
Resolution No. 11-001, Amendment of the 2011 Capital Budget

COORDINATING DEPARTMENT: Finance

APPROVED FOR SUBMITTAL:

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Vice President

APPROVED FOR AGENDA:

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Chief Executive Officer

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Legal Counsel

ATTACHMENTS: Resolution

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### BUDGET INFORMATION

2011 Capital Budget Amount  
\$32,046,684

Required Increase  
\$6,738,672

Impact  
\$6,738,672

EXPLANATION: The amendment increases the project budget for two existing projects and adds seven new capital projects to the capital budget. The required funds for three of the projects are from federal and state grant sources, and the local funds are available from reserves. Total grant funds for the amendment are \$2,348,981. Another \$3,208,274 are related to the CNG Fueling Station fire and will be billed to Pierce Transit's insurance carrier.

BACKGROUND: This resolution seeks authority to amend the 2011 Capital Budget from \$32,046,684 to \$38,785,356 to provide funding for nine capital projects.

On December 13, 2010, the Pierce Transit Board of Commissioners adopted the 2011 Budget which was a continuation of the 2010 Budget, as amended, based on the outcome of the ballot proposition for the February 2011 election. It was expected that the result of the election would dictate an amended 2011 budget. The failure of the ballot measure caused Pierce Transit to conduct a critical review and prioritization of the capital projects that had been planned for the amended budget. The result of that process is a recommendation to increase funding for two existing projects and add six projects that need to move forward before the end of 2011. In addition, the explosion and fire at the CNG Fueling Station requires funding of a project to repair the station. The projects are as follows:

Increase to Existing Projects

- Tacoma Dome Station (TDS) Mid-Life Maintenance \$2,165,315 (increase of project funds) which will be funded by federal grant funds at a match ratio of 80:20. The grant funds must be obligated by September 30, 2011. The amended project budget will be \$2,761,250.
- Server Replacement \$36,058 (increase of project funds) will be funded with Pierce Transit local funds to replace servers that are critical for Agency function. The amended project budget will be \$105,778.

New Projects

- TDS Panic Alarm/Intercom System Replacement \$251,250 will be funded by local funds. The work needs to be done to coincide with the Physical Security Enhancements – Closed-Circuit Television (CCTV) Cameras in Facilities project or a portion of that work would have to be redone which could jeopardize existing Federal Emergency Management Agency (FEMA) grant funds.
- 112<sup>th</sup> Street and Pacific/SR-7 Transit Access Modifications \$261,000 design will be funded by a new Regional Mobility grant through Washington State Department of Transportation with a match ratio of 80:20 which will come from a combination of Congestion Mitigation Air Quality (CMAQ) funds from an existing federal grant, Pierce Transit local funds, and in-kind staff time committed by Pierce County. Additional funds to complete the other project phases will be budgeted in 2012 as the project progresses.
- Master Key System Replacement \$110,889 will be funded with Pierce Transit local funds as a requirement of the Agency's receipt of federal 5307 funding. The Agency is required by law to expend 1% of the amount of 5307 funding on capital security-related expenditures. Pierce Transit 5307 funds are used for Preventive Maintenance and ADA Paratransit Service.
- Building 4 Modifications \$509,911 design will be funded by a federal grant with a match ratio of 80:20. The required modifications are due to the changes in organizational structure and aging federal funds for the expansion of the operators' lobby. Additional funds to complete the other project phases will be budgeted in 2012 as the project progresses.
- Copier Replacement \$120,600 will be funded with Pierce Transit local funds to replace the main copiers which have exceeded the useful life. The machines are nearing the point where repair will no longer be possible or cost effective.
- Bus Lot Concrete Repairs \$75,375 will be funded with Pierce Transit local funds to conduct critical repairs to the bus lot.
- CNG Fueling Station \$3,208,274 including design, equipment, temporary and permanent construction, project management, and contingency. Expenditures under this project will be billed to our insurance carrier, WSTIP.

The amended Capital Budget for 2011 will be \$38,785,356.

ALTERNATIVES: The alternative would be not to amend the 2011 Capital Budget. Pierce Transit would lose grant funds and critical repairs and replacements would be not be made. The CNG Fueling Station must be completed in order for us to resume fueling at our location.

RECOMMENDATION: Authorize amendment of the 2011 Capital Budget.

## RESOLUTION NO. 11-017

### A RESOLUTION of the Board of Commissioners of Pierce Transit Authorizing Amendment of the 2011 Capital Budget

WHEREAS, by Resolution No. 10-033, approved on the 13<sup>th</sup> day of December 2010, the Board of Commissioners of Pierce Transit adopted the 2011 Agency Budget; and

WHEREAS, by Resolution No. 11-001, approved on the 10<sup>th</sup> day of January 2011, the Board of Commissioners of Pierce Transit amended the 2011 Agency Budget; and

WHEREAS, on December 13, 2010, the Board of Commissioners of Pierce Transit adopted the 2011 Budget which was a continuation of the 2010 Budget as amended based on the outcome of the ballot proposition for the February 2011 election; and

WHEREAS, it was expected that the result of the election would dictate an amended 2011 Budget; and

WHEREAS, a critical review and prioritization of the capital projects that had been planned for the amended budget prior to the failure of the ballot measure was conducted; and

WHEREAS, the result of that process is a recommendation to increase funding for two existing projects to make critical modifications, repairs, replacements and avoid the potential loss of grant funds and add seven capital projects that need to move forward before the end of 2011; and

WHEREAS, the Board of Commissioners of Pierce Transit finds it in the best interest of Pierce Transit to amend the 2011 Capital Budget to provide funds for the following projects:

#### Increase to Existing Projects

Tacoma Dome Station (TDS) Mid-Life Maintenance \$2,165,315

Server Replacement \$36,058

#### New Projects

TDS Panic Alarm/Intercom System Replacement \$251,250

112<sup>th</sup> Street and Pacific/SR-7 Transit Access Modifications \$261,000

Master Key System Replacement \$110,889

Building 4 Modifications \$509,911

Copier Replacement \$120,600

Bus Lot Concrete Repairs \$75,375;

CNG Fueling Station \$3,208,274;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. The 2011 Capital Budget is herewith amended to reflect an increase of \$6,738,672 (Source: Grant Funds \$2,348,981 Local Funds \$4,389,691) for a new total budget of \$38,785,356.

1                   ADOPTED by the Board of Commissioners of Pierce Transit at a regular meeting thereof held  
2 on the 8<sup>th</sup> day of August 2011.

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Claudia Thomas, Chair  
Board of Commissioners

ATTEST:

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Treva Percival, CMC  
Clerk of the Board

## FACT SHEET

TITLE: Amendment of The 2011 Capital Budget and Authority to Purchase Real Property

DIVISION: Finance

ORIGINATOR: Wayne Fanshier

PRECEDING ACTION: Resolution No. 10-033, Adoption of the 2011 Budget;  
Resolution No. 11-017, Amendment of the 2011 Capital Budget

COORDINATING DEPARTMENT: Procurement

APPROVED FOR SUBMITTAL:

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Vice President

APPROVED FOR AGENDA:

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Chief Executive Officer

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Legal Counsel

ATTACHMENTS: Resolution

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### BUDGET INFORMATION

2011 Capital Budget Amount  
\$38,785,356

Required Expenditure  
\$950,000  
Plus closing costs

Impact  
\$950,000 plus  
Closing Costs

Explanation: The required expenditures are available from existing reserves.

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BACKGROUND: This resolution seeks amendment of the 2011 Capital Budget and authority to purchase real property.

Pierce Transit's Base Capacity study indicates eventual expansion of Pierce Transit's operations to the west of the current campus to be the most efficient and cost effective solution to any future growth. In addition, our existing headquarters facility has been at capacity for several years. To ease congestion and increase operational efficiency, in 2010 and early 2011, the Agency entered into lease agreements for three properties with Pierce County and Screaming Eagle adjacent to our current facility to the west.

The Screaming Eagle property is located between the leased Pierce County properties and is currently on the market at a listing price of \$995,000. If this property is sold to another party, Pierce Transit's future options for development of these properties will be severely hindered. Therefore, it is in the Agency's interest to retain control of the three contiguous parcels. In accordance with the Board of Commissioners' previous instruction, staff has

negotiated an offer for the Screaming Eagle property of \$950,000. This offer has been verbally accepted by the owner subject to Pierce Transit Board approval. A Phase 1 Environmental Study has been completed with clean results. An appraisal performed for Pierce Transit by Trueman Appraisals supports our offer. There are no encumbrances associated with the property except for a utilities easement.

In order to purchase the property an amendment of the 2011 Capital Budget is required to authorize the necessary funds which are available from reserves.

ALTERNATIVES: The alternative is not to purchase the property at this time and risk the Agency's future flexibility of development of the adjacent parcels.

RECOMMENDATION: Amend the 2011 Capital Budget and authorize purchase of the Screaming Eagle property.

## RESOLUTION NO. 11-018

A RESOLUTION of the Board of Commissioners of Pierce Transit  
Amending the 2011 Capital Budget and Authorizing Purchase of Real Property

WHEREAS, by Resolution No. 10-033, approved on the 13<sup>th</sup> day of December, 2010 the Board of Commissioners of Pierce Transit adopted the 2011 Agency Budget; and

WHEREAS, by Resolution No. 11-017, approved on the 8<sup>th</sup> day of August, 2011, the Board of Commissioners of Pierce Transit amended the 2011 Capital Budget; and

WHEREAS, to relieve congestion at the headquarters facility and to prepare for future growth the Agency is renting three properties to the west of the current facility from Pierce County and Screaming Eagle; and

WHEREAS, the Screaming Eagle property is located between the two Pierce County properties; and

WHEREAS, the Screaming Eagle property has been offered for sale on the open market; and

WHEREAS, sale of the property to another party will negatively impact Pierce Transit's current operation and severely hinder future growth and development; and

WHEREAS, the Board of Commissioners has previously instructed staff to negotiate purchase of the Screaming Eagle property; and

WHEREAS, staff and the property owner have verbally agreed on a sales price of \$950,000 plus customary closing costs pending approval by the Board of Commissioners; and

WHEREAS, purchase of the property requires an amendment of the 2011 Capital Budget; and

WHEREAS, a Phase 1 Environmental Study and an appraisal produced favorable results; and

WHEREAS, the Board of Commissioners of Pierce Transit finds it in the best interest of Pierce Transit to amend the 2011 Capital Budget and to authorize purchase of the Screaming Eagle property for the amount of \$950,000 plus customary closing costs;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1 The 2011 Capital Budget is herewith amended by the addition of \$950,00 plus customary closing costs from reserves.



1                   Section 2   The Chief Executive Officer is herewith authorized to execute a sales/purchase  
2 agreement for the Screaming Eagle property for the amount of \$950,000 plus customary closing costs.

3                   ADOPTED by the Board of Commissioners of Pierce Transit at a regular meeting thereof held  
4 on the 8<sup>th</sup> day of August, 2011.

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Claudia Thomas, Chair  
Board of Commissioners

ATTEST:

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Treva Percival, CMC  
Clerk of the Board

## FACT SHEET

TITLE: Authority to Execute Order No. 1 for Twenty-seven (27) Paratransit Vans from the Existing Multi-Year Contract with Schetky Northwest Sales, Inc. DIVISION: Transportation Services  
ORIGINATOR: Kelly Hayden

PRECEDING ACTION: Resolution No. 10-014, Authority to Execute a Multi-Year Contract for Up to 200 Paratransit Vehicles  
Resolution No. 10-033, Adoption of 2011 Agency Budget

COORDINATING DEPARTMENTS: Maintenance, Purchasing

APPROVED FOR SUBMITTAL:

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Vice President

APPROVED FOR AGENDA:

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Chief Executive Officer

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Legal Counsel

ATTACHMENTS: Resolution

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### BUDGET INFORMATION

2011 Budget Amount	Required Expenditure	Impact
\$2,286,593.00	\$2,197,436.04 Not to Exceed	\$89,156.96 Under budget

Explanation: The purchase includes 86.5% Federal Capital Grant funds with a required match of 13.5%. The required expenditure is a not to exceed that amount. Maximum escalation was used for the required expenditure because the final Production Price Index (PPI) will not be finalized until November 2011.

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BACKGROUND: This resolution seeks authority to execute Order No. 1 for twenty-seven (27) Paratransit Vans from the existing multi-year contract with Schetky Northwest Sales.

On August 9, 2010, the Board of Commissioners authorized execution of a five-year contract with Schetky Northwest Sales, Inc. to provide Eldorado Model Aerotech 240 Paratransit Vans to Pierce Transit. The contract includes options for a maximum of 200 vans over the five-year contract period. Other agencies are allowed to piggy-back on the contract. To date zero vans have been purchased leaving 200 options remaining.

Staff has reviewed the van replacement schedule and found that twenty-seven (27) Paratransit vans in our fleet are eligible for replacement under Federal Transit Administration rules of being at least seven years old or having traveled at least 250,000 miles. These vans are becoming more unreliable and expensive to maintain. Therefore, staff is requesting authority to exercise twenty-seven (27) options under the existing contract with Schetky Northwest Sales, Inc. for delivery late this year.

The contract with Schetky Northwest Sales, Inc. included an escalation provision tied to the PPI or a maximum of four percent (4%) per year resulting in a new price per van not to exceed \$81,350.52 for a total order value of \$2,196,464.04. Since the RFP requires only electronic versions of the vehicle manuals, staff decided to include two (2) sets of hard copy manuals for an additional cost of \$972.00 bringing the total amount to \$2,197,436.04.

ALTERNATIVES: The alternative would be not to order new vans, however, the vans to be replaced are past the end of their useful life and are becoming more expensive to maintain.

RECOMMENDATION: Authorize execution of Order No. 1 for twenty-seven (27) Paratransit vans from the multi-year contract with Schetky Northwest Sales, Inc.

**RESOLUTION NO. 11-019**

A RESOLUTION of the Board of Commissioners of Pierce Transit  
Authorizing Execution of Order No. 1 for Twenty-seven (27) Paratransit Vans  
from the Existing Multi-Year Contract with Schetky Northwest Sales, Inc.

WHEREAS, by Resolution No. 10-014, approved on the 9<sup>th</sup> of August 2010, the Board of Commissioners of Pierce Transit authorized execution of a multi-year contract for Paratransit vehicles; and

WHEREAS, by Resolution No. 10-033, approved on the 13<sup>th</sup> of December 2010, the Board of Commissioners of Pierce Transit adopted the budget for 2011; and

WHEREAS, the budget includes funds for replacement of paratransit vans; and

WHEREAS, staff has identified twenty-seven (27) paratransit vans that have reached the end of their useful life, are becoming expensive to maintain and are eligible for replacement under Federal Transit Administration rules; and

WHEREAS, the existing multi-year contract with Schetky Northwest Sales, Inc. includes optional quantities available for purchase; and

WHEREAS, the contract provides for price escalation tied to the Producer Price Index or a maximum of four percent (4%) per contract year resulting in a new price per van not to exceed \$81,350.52, and the addition of hard copy vehicle manuals for a total order value of \$2,197,436.04; and

WHEREAS, the Board of Commissioners of Pierce Transit finds it in the best interest of Pierce Transit to execute Order No. 1 for twenty-seven (27) paratransit vans from the existing contract with Schetky Northwest Sales, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. The Chief Executive Officer is herewith authorized to execute Order No. 1 for twenty-seven (27) paratransit vans from the contract with Schetky Northwest Sales for the amount not to exceed of \$2,197,436.04.

ADOPTED by the Board of Commissioners of Pierce Transit at a regular meeting thereof held on the 8<sup>th</sup> day of August, 2011.

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Claudia Thomas, Chair  
Board of Commissioners

ATTEST:

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Treva Percival, CMC  
Clerk of the Board

## FACT SHEET

TITLE: Adopting a Transit Advertising Policy

DIVISION: Human Resources

ORIGINATOR: Scott Morris

PRECEDING ACTION: Resolution Number 11-005, Adoption of Interim Transit Advertising Policy

COORDINATING DEPARTMENT: Public Affairs

APPROVED FOR SUBMITTAL:

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Vice President

APPROVED FOR AGENDA:

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Chief Executive Officer

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Legal Counsel

ATTACHMENTS: Resolution and Transit Advertising Policy

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### BUDGET INFORMATION

2011 Budget Amount  
N/ARequired Expenditure  
N/A

Impact

Explanation: Pierce Transit receives about 1% of its annual budget from advertising sales on buses, paratransit vehicles and shelters. This formal advertising policy creates standards and criteria that will allow additional types of advertisement to appear on Pierce Transit's vehicles and facilities, which in turn, will increase revenue opportunities to fund the transit system as a whole.

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BACKGROUND: This resolution adopts a final Transit Advertising Policy.

On February 28, 2011, the Board of Commissioners of Pierce Transit adopted an Interim Advertising Policy to create standards to apply to advertisements appearing on Pierce Transit vehicles and facilities and to allow additional time to create a final policy governing advertisements on Pierce Transit's vehicles and facilities.

The Board of Commissioners of Pierce Transit has not yet formally adopted a final transit advertising policy. Currently, Pierce Transit contracts with Titan Outdoor LLC ("Titan") to provide transit advertising and placement services in and on Pierce Transit vehicles and facilities. The Interim Advertising policy language guides decisions to approve or reject proposed advertisements.

The proposed Transit Advertising Policy establishes standards and criteria to be applied to all advertisements appearing on Pierce Transit's vehicles and facilities, with the stated goal of increasing revenue for the transit system as a whole. By allowing certain types of advertisements, Pierce Transit does not intend to create a public forum for public discourse or expressive activity, or to provide a forum for all types of advertisements.

The proposed Transit Advertising Policy specifies what types of advertisements are permitted and what types of advertisements are prohibited. Under the proposed Transit Advertising Policy, Pierce Transit retains the ultimate authority to permit or prohibit advertising on Pierce Transit's vehicles and facilities.

ALTERNATIVES: The alternatives would be for Pierce Transit to take no action and continue approving advertisements under the Interim Advertising Policy, and to continue studying other transit organizations' policies with respect to advertisements appearing on transit vehicles and facilities.

RECOMMENDATION: Adopt the proposed Transit Advertising Policy.

**RESOLUTION NO. 11-020**

**A RESOLUTION of the Board of Commissioners of Pierce Transit  
Adopting a Transit Advertising Policy**

WHEREAS, Pierce Transit contracts for advertising on its vehicles and facilities on a limited basis in order to generate additional revenue to benefit the transit system as a whole; and

WHEREAS, by Resolution No. 11-005, approved on the 28<sup>th</sup> day of February, 2011, the Board of Commissioners of Pierce Transit adopted an Interim Transit Advertising Policy; and

WHEREAS, the Interim Transit Advertising Policy put standards in place and allowed staff additional time to develop a comprehensive advertising policy that would serve Pierce Transit's interests and goals; and

WHEREAS, the proposed Transit Advertising Policy formally adopts standards and criteria that will allow additional types of advertisements to appear on Pierce Transit's vehicles and facilities and thereby increase revenues for the transit system as a whole; and

WHEREAS, the Board of Commissioners of Pierce Transit finds it in the best interest of Pierce Transit to adopt the proposed Transit Advertising Policy;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. The Transit Advertising Policy attached hereto is adopted and effective immediately, including to all pending applications for advertising.

ADOPTED by the Board of Commissioners of Pierce Transit at a regular meeting thereof held on the 8<sup>th</sup> day of August 2011.

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Claudia Thomas, Chair  
Board of Commissioners

ATTEST:

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Treva Percival, CMC  
Clerk of the Board

## **TRANSIT ADVERTISING POLICY**

### **I. PURPOSE**

Pierce Transit operates Pierce County's public transportation system. Pierce Transit's operations are funded by a combination of federal, state and local funds, including grants and taxes, as well as fare box revenue. Advertising revenues are an important additional source of revenue that supports Pierce Transit's operations. In order to raise additional revenue, Pierce Transit will accept advertising on its Transit Vehicles and Transit Facilities only if such advertising complies with the guidelines set forth in this Advertising Policy.

By allowing limited types of advertising on or within Transit Vehicles and Transit Facilities, Pierce Transit does not intend to create a public forum for public discourse or expressive activity, or to provide a forum for all types of advertisements. Pierce Transit's purpose in accepting transit advertising is to generate additional revenue to augment Pierce Transit's operating budget.

### **II. APPLICATION OF ADVERTISING POLICY**

This Advertising Policy applies to the posting of all new advertisements on Transit Vehicles and Transit Facilities on or after the effective date of this Transit Advertising Policy. Any advertisements which would be prohibited under this Advertising Policy, but which were posted pursuant to the terms of the Interim Transit Advertising Policy and a duly executed advertising contract prior to the Effective Date of this Advertising Policy, will be allowed to remain posted for the duration of that contract.

### **III. DEFINITIONS**

"Transit Facilities" means transit oriented facilities that are owned or operated by Pierce Transit including, but not limited to, bus stops and park-and-ride facilities.

"Transit Vehicles" means all passenger vehicles that are owned or operated by Pierce Transit for use by the general public.

"Government Entity" means any public entity specifically created by government action.

"Transit Advertising Contractor" means Titan Outdoor LLC, or any other entity that Pierce Transit contracts with regarding the



placements or sale of advertising on Transit Facilities or Transit Vehicles.

#### **IV. POLICIES**

##### **A. PERMITTED ADVERTISING CONTENT**

The following classes of advertising are authorized on Transit Vehicles and Transit Facilities if the advertisement does not include any material that qualifies as Prohibited Advertising under Subsection B of this Advertising Policy:

- 1. Commercial and Promotional Advertising.** Commercial and Promotional Advertising primarily promotes the sale, lease, rental, distribution or availability of goods, services, food, entertainment, events, programs, transactions, donations, products or property (real or personal) for commercial or noncommercial purposes or more generally promotes an entity that engages in such activities.
- 2. Governmental Advertising.** A Government Entity may purchase advertising for messages that advance specific government programs. It is Pierce Transit's intent that governmental advertising will not be used for comment on issues of public debate.
- 3. Public Service Announcements.** Pierce Transit recognizes that its advertising program and its overall public transportation mission are promoted by allowing for Public Service Announcements. Such announcements engender goodwill with the public because the transit system is seen as a caring and active participant in the community it serves. Further, board members and administrators of nonprofit and government organizations who receive space for Public Service Announcements are introduced to the benefits of transit advertising, increasing the likelihood they will purchase transit advertising in the future for their organizations or other organizations in which they are involved.

A Public Service Announcement must satisfy the following criteria:

- (a) The sponsor of the Public Service Announcement must be a government entity or a nonprofit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
- (b) The Public Service Announcement may not include a message that is primarily commercial or retail in nature or related to a festival, show, sporting event, concert, lecture or event for which an admission is charged.
- (c) The Public Service Announcement must be directed to the general public or a significant segment of the public and relate to:
  - (i) prevention or treatment of illnesses;
  - (ii) promotion of safety or personal well-being;
  - (iii) provision of children or family services;
  - (iv) solicitation by broad-based employee contribution campaigns which provide funds to multiple charitable organizations; or
  - (v) provisions of services and programs that provide support to low income citizens and citizens with disabilities.

## **B. PROHIBITED ADVERTISING CONTENT**

Advertising is prohibited on Transit Vehicles and Transit Facilities if it includes any of the following content:

1. **Political.** Advertising promoting or opposing a political party, or promoting or opposing the election of any candidate or group of candidates for federal, state or local office. Advertising

promoting or opposing initiatives, referendums or other ballot measures.

2. **Public Issue.** Advertising expressing or advocating an opinion, position or viewpoint on matters of public debate about economic, political, religious or social issues.
3. **Prohibited Products, Services or Activities.** Any advertising that (i) promotes the sale, rental, or use of, or participation in, the following products, services or activities; or (ii) that uses brand names, trademarks, slogans or other material that are identifiable with such products, services or activities:
  - (a) **Tobacco/Nicotine.** Tobacco or nicotine products, including but not limited to, cigarettes, cigars and smokeless tobacco;
  - (b) **Alcohol.** Beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Washington law, however, this prohibition shall not prohibit advertising that includes the name of a restaurant;
  - (c) **Adult/Mature Rated Films, Television or Video Games.** Adult films rated "X" or "NC-17", television rated "MA" or video games rated "A" or "M";
  - (d) **Adult Entertainment Facilities.** Adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments.
4. **Illegal Activity.** Any advertising that promotes an activity or product that is illegal under federal, state or local law.
5. **Sexual and/or Excretory Subject Matter.** Any advertising that contains or involves any material that describes, depicts or represents sexual or excretory organs or activities in a way:
  - (i) which the average adult person, applying contemporary community standards, would find, when considered as a whole,

appeals to the prurient interest of minors in sex; and

- (ii) which is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable material for minors to see; and
- (iii) which, when considered as a whole in the context in which it is used, lacks serious literary, artistic, political, medical, health or scientific value.
- (vi) which depicts, or reasonably appears to depict, a person under the age of eighteen (18) exhibiting his or her sexual or excretory organs or engaging in sexual or excretory activities.

For purposes of this subsection, "sexual or excretory organs" shall mean and include the male or female pubic area, anus, buttocks, genitalia, or any portion of the areola or nipple of the female breast and "sexual or excretory activities" shall mean and include actual or simulated sex acts of every nature (including but not limited to touching of one's own or another's clothed or unclothed sexual or excretory organs), urination and defecation.

- 6. **False or Misleading.** Any material Pierce Transit knows, or the party submitting the advertisement knows or reasonably should have known is false, fraudulent, misleading, deceptive or would constitute a tort of defamation or invasion of privacy.
- 7. **Copyright, Trademark or Otherwise Unlawful.** Advertising that contains any material that is an infringement of copyright, trademark or service mark, or is otherwise unlawful or illegal.
- 8. **Profanity or Violence.** Advertising that contains any profane language, or portrays images or descriptions of graphic violence, including dead, mutilated or disfigured human beings or animals, the act of killing, mutilating or disfiguring human

beings or animals, or intentional infliction of pain or violent action towards or upon a person or animal.

9. **Firearms.** Advertising that promotes or solicits the sale, rental, distribution or availability of firearms or firearms-related products or depicts the use of a firearm.
10. **Harmful or Disruptive to Transit System.** Any material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system.
11. **Insulting, Degrading or Offensive.** Any material directed at a person or group that is so insulting, degrading or offensive as to be reasonably foreseeable that it will incite or produce imminent lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order.
12. **Disparaging.** Any advertising that is intended to be (or reasonably could be interpreted as being) disparaging, disreputable, or disrespectful to persons, groups, businesses or organizations, including advertising that portrays individuals as inferior, evil or contemptible because of their race, color, creed, sex, pregnancy, age, religion, ancestry, national origin, marital status, disability, sexual orientation or any other characteristic protected under federal, state or local law.
13. **Lights, Noise and Special Effects.** Flashing lights, sound makers, mirrors or other special effects that interfere with the safe operation of the bus or the safety of bus riders, drivers of other vehicles or the public at large.
14. **Unsafe Transit Behavior.** Any advertisement that encourages or depicts unsafe behavior with respect to transit-related activities, such as non-use or normal safety precautions in awaiting, boarding, riding upon or debarking from transit vehicles.

**15. Government Comments on Issues of Public Debate.**

Advertising from a governmental entity that takes a position on an issue of public debate.

**16. Endorsement.**

Advertising that implies or declares an endorsement of Pierce Transit, or the jurisdictions within its service area, of any service, product, or point of view, without written authorization from Pierce Transit or the member jurisdiction.

**V. Additional Requirements**

Any advertising in which the identity of the sponsor is not readily and unambiguously identifiable must include the following phrase to identify the sponsor in clearly visible letters (no smaller than 72 point type for exteriors and 24 point type for interiors):

"Advertisement paid for by [name of sponsor]"

**VI. PROCEDURES**

Pierce Transit, shall from time to time, select a Transit Advertising Contractor who shall be responsible for the daily administration of Pierce Transit's advertising program, in a manner that is consistent with this Transit Advertising Policy. Pierce Transit shall designate an employee (e.g., Director of Public Affairs) as its "Advertising Administrator" to be the primary contact for the Transit Advertising Contractor. Questions regarding the terms, provisions and requirements of this Transit Advertising Policy shall be addressed initially to the Advertising Administrator.

- A. Submission of Advertising.** All proposed advertising must first be submitted to the Transit Advertising Contractor for initial compliance review. The Transit Advertising Contractor shall perform a preliminary evaluation of the submission to assess its compliance with this Transit Advertising Policy. The Transit Advertisement Contractor may at any time discuss with the entity proposing the advertisement one or more revisions to an advertisement, which, if undertaken, would bring the advertisement into conformity with this Transit Advertising Policy.

After this initial compliance review, the Transit Advertising Coordinator shall promptly send the advertisement, along with the names of the advertiser, the size and number of the advertisements, and the dates and locations of display, to the Advertising Administrator, or his/her designee, for review.

- B. Authority of Pierce Transit.** The ultimate authority to determine whether a particular advertisement complies with this Transit Advertising Policy rests with Pierce Transit. No contract for the placement of any advertisement on any Transit Vehicle or Transit Facility shall be entered into between the Transit Advertising Contractor and a sponsor without the prior approval of Pierce Transit.

In the event the Transit Advertising Contractor in contravention of this Transit Advertising Policy approves an advertisement without Pierce Transit's approval, the Transit Advertising Contractor shall, upon request from Pierce Transit, immediately remove the advertisement. In the event Pierce Transit directs the removal of any such advertisement, it shall provide the sponsor written notification in compliance with VI.C(1) below and provide the sponsor with the opportunity to revise the advertisement and/or an appeal of that decision in compliance with Sections VI.C(2) and/or (3) below.

- C. Determination of Compliance.** The Advertising Administrator, or his/her designee, shall determine whether a particular advertisement complies with this Transit Advertising Policy. In reaching this determination, the Advertising Administrator, or his/her designee, may consider any materials submitted by the sponsor and may consult with the Transit Advertising Contractor.

If Advertising Administrator, or his/her designee, determines that the advertisement does not fall within any of the categories set forth in Section IV.B above, the Advertising Administrator, or his/her designee, shall advise the Transit Advertising Contractor that the advertisement is in compliance with this Transit Advertising Policy and authorize the Transit Advertising Administrator to enter into a contract with the sponsor for placement of the advertisement. The Transit

Advertising Administrator shall notify the sponsor of the same.

In the event the Advertising Administrator, or his/her designee, determines that an advertisement falls within one or more of the prohibited categories set forth in Section IV.B above, then:

- (1)       **Notification of Non-Compliance.** The Advertising Administrator, or his/her designee shall, provide the sponsor with a written explanation for the decision within ten (10) days after the decision of non-compliance has been made and provide the sponsor with a copy of the Transit Advertising Policy.
- (2)       **Opportunity for Revision by Sponsor.** Upon receipt of a decision of non-compliance, the sponsor may provide proposed revisions to the proposed advertisement to the Advertising Administrator, or his/her designee, in an effort to bring the proposed advertisement into compliance with the Transit Advertising Policy. If the Advertising Administrator, or his/her designee, determines the proposed revisions do not bring the proposed advertisement into compliance with the Transit Advertising Policy, the Advertising Administrator shall provide the sponsor with a written explanation for the decision within ten (10) days after the proposed revision is not accepted.
- (3)       **Appeal of Decision.** Upon receipt of any decision under Section VI.C(1) and/or (2) a sponsor may request review of the Advertising Administrator's decision by the Pierce Transit Vice President who supervises the Advertising Coordinator, or his/her designee.

Upon appeal, the Pierce Transit Vice President, who supervises the Advertising Administrator, or his or her designee, shall provide a written explanation for his/her review decision within ten (10) days of a



request for review. This determination shall be deemed final.

## **VII. RESPONSIBILITIES**

Pierce Transit is responsible for the implementation of this Transit Advertising Policy.

## FACT SHEET

TITLE: Declaration of Surplus of Real Property at 96<sup>th</sup> St and S. Tacoma Way, Lakewood and in Gig Harbor and Authorization for Public Sale Thereof  
DIVISION: Finance  
ORIGINATOR: Wayne Fanshier

PRECEDING ACTION: N/A

COORDINATING DEPARTMENT: Purchasing

APPROVED FOR SUBMITTAL:

\_\_\_\_\_  
Vice President

APPROVED FOR AGENDA:

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Legal Counsel

ATTACHMENTS: Resolution

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### BUDGET INFORMATION

2011 Budget Amount  
N/A

Required Expenditure  
N/A

Impact

Explanation:

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**BACKGROUND:** This resolution requests that the Board of Commissioners declare the properties detailed below surplus to the needs of the Agency and authorize public sale thereof.

Pierce Transit owns property on the northeast corner of South Tacoma Way and 96<sup>th</sup> Street SW in Lakewood and three parcels on Hunt Street in Gig Harbor that are no longer needed by the Agency. The property on 96<sup>th</sup> Street SW, Lakewood, consists of nine parcels # 5000700041, 5000700051, 5000700061, 5000700071, 5000700081, 5000700091, 5000700010, 5000700020 and 5000700030. This property was purchased in 1997 to support Pierce Transit and Sound Transit expansion plans. Neither agency has plans for major growth in the foreseeable future. In Addition, agency staff has reexamined the plans and has found an expansion across South Tacoma Way to be inefficient and would not recommend it even if the Agency was growing at this time.

The properties on Hunt Road, Gig Harbor consist of Parcels No. 0221083070, 022108303 and 0221083054A and B. These properties were purchased in support of the Peninsula Park and Ride project. This project has been cancelled because the demand for park and ride space expected with the completion of the new Narrows Bridge did not materialize. The Gig Harbor properties were purchased with funding from the Federal Transit Administration (FTA), who concurs with the proposed sale.

Staff has therefore found these properties to be no longer needed by the Agency and intends to offer the properties to the public through our Real Estate Broker, Jones Lang LaSalle.

ALTERNATIVES: The alternative would be to keep the properties; however they will no longer be useful to the Agency.

RECOMMENDATION: Declare the properties at 96<sup>th</sup> Street SW and South Tacoma Way, Lakewood, and in Gig Harbor surplus and authorize public sale thereof.

**RESOLUTION NO. 11-021**

A RESOLUTION of the Board of Commissioners of Pierce Transit  
Declaring the Real Property at 96<sup>th</sup> Street SW and South Tacoma Way, Lakewood and in Gig Harbor Surplus and  
Authorizing Public Sale thereof

WHEREAS, Pierce Transit is a municipal corporation as defined in the Revised Codes of Washington;  
and

WHEREAS, Pierce Transit has complied with the provisions of RCW 39.34.020 Disposal of Surplus  
Property; and

WHEREAS, Pierce Transit owns property on the northeast corner of 96<sup>th</sup> Street SW and South Tacoma  
Way in Lakewood, consisting of Parcel Nos. 5000700041, 5000700051, 5000700061, 5000700071, 5000700081,  
5000700091, 5000700010, 5000700020 and 5000700030; and

WHEREAS, Pierce Transit owns property on Hunt Road in Gig Harbor, consisting of Parcel Nos.  
0221083070, 0221083054A and B and 22108303; and

WHEREAS, the projects these properties were intended to support have been cancelled; and

WHEREAS, staff recommends sale of the properties to the public through our Real Estate Broker; and

WHEREAS, the Board of Commissioners of Pierce Transit finds it in the best interest of Pierce Transit to  
declare the properties described surplus and authorize the public sale thereof;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. Said property is herewith declared surplus and authorized for sale as described herein.

ADOPTED by the Board of Commissioners of Pierce Transit at a regular meeting thereof held on the 8<sup>th</sup>  
day of August, 2011.

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Claudia Thomas, Chair  
Board of Commissioners

ATTEST:

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Treva Percival, CMC  
Clerk of the Board