

Resolution No. R2022-27

Amending the Board's Procurement, Agreements and Delegated Authority Policy

Meeting:	Date:	Type of action:	Staff contact:
Executive Board	10/06/2022 10/27/2022	Recommend to Board Final action	Desmond Brown, General Counsel Mattelyn Tharpe, Legal Counsel

Proposed action

Amends section 2.11 of Resolution No. R2018-40 to delegate authority to the chief executive officer (CEO) to enter into betterment agreements that do not exceed \$500,000 with other government entities in order to align with the authority already delegated to the CEO for contract modifications.

Key features summary

- When Sound Transit is designing and constructing its system expansion projects, other governmental entities will sometimes request inclusion of betterments to add new or upgraded facilities in the project area to avoid future impact to the area and efficiently use public funds.
- Resolution No. R2018-40 delegated authority to the CEO to modify system expansion contracts to add betterments when the following conditions are satisfied: (1) the requesting entity fully funds the betterment work, (2) the betterment work is in the scope of the contract, (3) no individual contract modification for betterment work exceeds \$500,000, excluding taxes, and (4) incorporation of such betterment work has no adverse impact on Sound Transit project work.
- The delegation of authority did not include the authority to enter into the underlying betterment agreement with the funding governmental entity, requiring every betterment agreement with other governments to be approved by the Board. This has frustrated the Board's stated purpose for adopting Resolution No. R2018-40 to optimize the Board's time to address key issues facing the agency.
- This amendment will close the gap in the delegated authority to allow the CEO to enter into betterment agreements with other governmental entities when the work is eligible to be added to Sound Transit's system expansion contracts without Board action.
- Following this amendment, the CEO will be permitted to enter into intergovernmental agreements for betterment work when:
 - The betterment agreement does not exceed \$500,000 excluding taxes and administrative fees;
 - The requesting government fully funds the betterment work;
 - The betterment work is permitted to be added to the system expansion contract without Board action;
 - The betterment agreement complies with the Board's scope control policy; and
 - The incorporation of betterment work will not adversely affect Sound Transit's project work.

Background

When Sound Transit is designing and constructing its system expansion projects, other governmental entities will sometimes request inclusion of betterments to add new or upgraded facilities in the project area to avoid future impact to the area and efficiently use public funds.

A betterment is defined as project element that was not clearly included in the initial project scope, necessary in the normal course of completing the initial project scope, included in the project definition, or among the mitigation measures indicated in the final environmental documentation for a project.

In 2009, the Board adopted a Scope Control Policy to form the basis of a consistent and appropriate response to requests for betterments that expand scope and increase project costs.

The policy requires Sound Transit recover the full costs of betterments, including administration and a share of soft costs, from partners. Under the policy, Board approval is required to expand project scope or budget or to include betterments, implement mitigation measures beyond those included in the project's final environmental impact documentation and utilize unused budget to expand project scope or to include betterments.

This amendment will close the gap in the delegated authority to allow the CEO to enter into betterment agreements with other governmental entities when the work is eligible to be added to Sound Transit's system expansion contracts without Board action.

Fiscal information

This action will have no fiscal impact on the agency.

Disadvantaged and small business participation

Not applicable to this action.

Public involvement

Not applicable to this action.

Time constraints

A one-month delay would not create a significant impact.

Prior Board/Committee actions

Resolution No. R2018-40: Adopted a Procurement, Agreements and Delegated Authority Policy and superseded Resolution Nos. 78-2, 42, 58, and 98-7 and Motion Nos. M2004-111 and M99-2.

Resolution No. R2009-24: Adopted a Scope Control Policy and superseded Motion No. M2002-121.

Environmental review – KH 9/27/22

Legal review – DB 9/30/22



Resolution No. R2022-27

A RESOLUTION of the Central Puget Sound Regional Transit Authority amending section 2.11 of Resolution No. R2018-40 to delegate authority to the chief executive officer (CEO) to enter into betterment agreements that do not exceed \$500,000 with other government entities in order to align with the authority already delegated to the CEO for contract modifications.

WHEREAS, the Central Puget Sound Regional Transit Authority, commonly known as Sound Transit, was formed under chapters 81.104 and 81.112 of the Revised Code of Washington (RCW) for the Pierce, King and Snohomish Counties region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, Sound Transit is authorized to plan, construct, and permanently operate a high-capacity system of transportation infrastructure and services to meet regional public transportation needs in the Central Puget Sound region; and

WHEREAS, in general elections held within the Sound Transit district on November 5, 1996, November 4, 2008 and November 8, 2016, voters approved local funding to implement a regional high-capacity transportation system for the Central Puget Sound region; and

WHEREAS, Sound Transit has broad powers to contract for materials, work, and services and to secure or dispose of property and property rights as may be necessary for the benefit and operations of Sound Transit; and

WHEREAS, it is in the public interest to establish procedures to procure and contract for materials, services, and work and to acquire, use, and dispose of real, personal, and intangible property; and

WHEREAS, the Board has adopted Resolution No. R2018-40 to facilitate certain procurements by delegating authority to review and approve contracts to its standing committees and the chief executive officer (CEO); and

WHEREAS, Resolution No. R2018-40 included incongruent delegations of authority to the CEO regarding the inclusion of betterments for other governmental entities as part of the agency's system expansion projects; and

WHEREAS, the Board has determined that it is in the public interest to align these delegations to facilitate the inclusion of betterments as part of the agency's system expansion projects.

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

Section 1: Section 2.11 of Resolution No. R2018-40 is hereby amended to delegate authority to the CEO to enter into betterment agreements that do not exceed \$500,000 with other government entities as follows:

2.11 Agreements with government agencies, public and private rail entities, and nonprofit organizations

2.11.1 Any agreement that establishes or modifies a Board policy must be approved by the Board.

2.11.2 Unless the agreement is authorized under section 2.8 [or this subsection](#), the Board must approve any agreement with another government agency

when that agency is acting in its governmental capacity and the agreement implements the regional transit plan or involves a non-routine governmental function. The CEO is authorized to enter into a betterment agreement with another government agency when the following conditions are met:

2.11.2.a No individual betterment agreement exceeds \$500,000, excluding administrative fees and taxes,

2.11.2.b The requesting government agency fully funds the betterment work,

2.11.2.c The betterment work is eligible to be added to a contract as authorized by section 2.10.4,

2.11.2.d The betterment agreement complies with the Board's scope control policy, and

2.11.2.e The incorporation of such betterment work has no adverse impact on Sound Transit project work.

- 2.11.3 Subject to sections 2.11.1 and 2.11.2 and the monetary limitations in sections 2.2.2 and 2.2.3.a, standing Board committees and the CEO may enter into agreements on behalf of Sound Transit with any government agency for the provision or purchase of work, services, governmental approvals and mitigation requirements, supplies, materials, and equipment whenever it has been determined to be in the best interest of Sound Transit.
- 2.11.4 Work, goods, or services acquired for Sound Transit by a government in the manner prescribed by the provisions of applicable law, charter, or regulation of such government is authorized in lieu of the conditions of this section 2.11.
- 2.11.5 Subject to section 2.11.1 and the monetary limitations in sections 2.2.2 and 2.2.3.a, standing Board committees and the CEO may enter into agreements on behalf of Sound Transit with public and private rail entities for the provision or purchase of work, services, supplies, materials, and equipment whenever it has been determined to be in the best interest of Sound Transit.
- 2.11.6 Subject to section 2.11.1 and the monetary limitations in sections 2.2.2 and 2.2.3.a, standing Board committees and the CEO may enter into agreements on behalf of Sound Transit with nonprofit organizations for the provision or purchase of work, services, supplies, materials, and equipment when the nonprofit is a sheltered workshop as defined by WAC 458-16-330 or whenever it has been determined to be in the best interest of Sound Transit.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on October 27, 2022.



Kent Keel
Board Chair

ATTEST:



Kathryn Flores
Board Administrator