



Resolution No. R2023-30

Updating Sound Transit's Procurement, Agreements, and Delegated Authority Policy

Meeting:	Date:	Type of action:	Staff contact:
Executive Committee	10/05/2023	Recommend to Board	Mary Cummings, Chief Administrative Officer
Board	10/26/2023	Final action	Ted Lucas, Chief Procurement and Contracts Officer

Proposed action

Adopts an updated Procurement, Agreements, and Delegated Authority Policy and supersedes Resolution Nos. R2018-40, R2022-27, and R85.

Key features summary

- Adoption of this action would increase the delegation of authority for the CEO to award, execute, and modify:
 - Competitively procured contracts for construction and architectural and engineering services from \$5,000,000 to \$10,000,000.
 - Competitively procured contracts for materials, technology, and other services from \$2,000,000 to \$10,000,000.
 - Sole source contracts from \$250,000 to \$5,000,000.
 - Agreements, that the Board has not otherwise retained authority over, with other government agencies, rail entities, and non-profit organizations from \$5,000,000 to \$10,000,000.
- In addition, this adoption of this action would:
 - Establish a minimum floor of \$1,000,000 to the requirement for Board approval of construction contracts that exceed the cost estimate by 20 percent.
 - Increase the delegation of authority to the CEO for betterments from \$500,000 to \$5,000,000.
 - Increase the threshold for Board ratification of emergency contracts from \$250,000 to \$5,000,000.
 - Increase the delegation of authority to the CEO for real property agreements from \$500,000 to \$1,000,000.
 - Increases the delegation of authority to the CEO for preliminary project planning from \$500,000 to \$2,000,000.
- Various administrative updates are also addressed and would take effect with adoption of the resolution.
- The action supersedes the prior Procurement, Agreements, and Delegated Authority policy adopted by the Board in 2018 through Resolution No. R2018-40 and amended by the Board in 2022 through Resolution No. R2022-27. Resolution No. 85 would also be superseded because the policy

language on voucher certifications and related delegations for auditing officer and treasurer have been incorporated into this proposed policy update.

- If approved, the policy update would be effective on January 1, 2024.

Background

In September 2018, the Board approved Resolution No. R2018-40 to update the delegations of authority for the Board's committees and the CEO to execute contracts and agreements. The policy also updated requirements for the CEO to inform the Board of contract awards, execution, and modifications made under the CEO delegations.

In February 2023, the Board received the Technical Advisory Group (TAG)'s report on improving the speed of project delivery. In that report, the TAG recommended "Limiting the type and number of Board action," with the intention of reducing project delays, freeing up staff time to focus on project delivery, and allowing the Board to focus on overall policy, direction, and oversight.

In response, the Board approved Motion No. M2023-36, which directed the CEO to implement the TAG's recommendations including:

- Taking steps to clarify the roles and responsibilities of the Sound Transit Board and staff to build trust, transparency, and efficiencies to deliver the program.
- Updating the Board Procurement, Agreements and Delegated Authority Policy, Resolution No. R2018-40.
- Reviewing and updating current delegation of authority level(s) between the Board and CEO by Q3 2023.
- Streamlining the nature and number of actions that currently come to the Board for approval by Q3 2023.

Staff returned to the Executive Committee in August to discuss potential updates to Resolution No. R2018-40. The Finance and Audit Committee reviewed the potential updates at a special meeting on September 8, 2023. As a result of those discussions, staff was asked to bring the Finance and Audit Committee recommendations to the Executive Committee and Board of Directors for consideration in October 2023.

The proposed policy retains Board committees' delegation of up to \$50 million for contracts, agreements, and real property agreements, while increasing the CEO's authority up to \$10 million for the approval of competitively procured contracts for construction, architectural & engineering services, materials, technology, and other services as well as agreements with other government agencies, rail entities, and non-profit organizations, that the Board has not otherwise retained authority over. The CEO's authority for sole-source contracts would be increased to \$5,000,000.

Additional updates include increasing the threshold for Board ratification of emergency contracts from \$250,000 to \$5,000,000, establishing a minimum floor of \$1,000,000 to the requirement for Board approval of construction contracts that exceed the cost estimate by 20 percent, and increasing the delegation for betterments from \$500,000 to \$5,000,000, for real property agreements from \$500,000 to \$1,000,000, and for preliminary project planning contracts from \$500,000 to \$2,000,000. Several administrative improvements will also be implemented.

If the proposed updates are implemented, staff predicts that the Rider Experience and Operations Committee could see a 35 percent decrease in its workload, and the System Expansion Committee could see an 18 percent decrease.

Fiscal information

Although there is no direct fiscal impact associated with the action, the updated Procurement, Agreements, and Delegated Authority Policy covers contracts that will have fiscal impacts to the agency. Those impacts will be addressed during future actions as they are presented.

This action does not have a direct impact of the affordability of the agency's Finance Plan.

Small business participation and apprenticeship utilization

Not applicable to this action.

Public involvement

Not applicable to this action.

Time constraints

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

Prior Board/Committee actions

Resolution No. R2022-27: 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.

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. 85: Established voucher approval procedures, confirmed the Executive Director's responsibilities as auditing officer and requiring a bond, and authorized the Finance Director to serve as the Authority's Treasurer and repealed Resolution No. 9.

Environmental review – KH 9/20/23

Legal review – AJP 9/27/23



Resolution No. R2023-30

Procurement, Agreements, and Delegated Authority Policy

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority adopting a Procurement, Agreements, and Delegated Authority Policy and superseding Resolution Nos. R2018-40, R2022-27, and R85.

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, this policy encourages full and open competition, opportunities for small businesses, and appropriate diversity and sustainability initiatives as permitted by law; and

WHEREAS, the Board is committed to protecting the environment for present and future generations and encourages the increased use of environmentally preferable products and services while remaining fiscally responsible; and

WHEREAS, Sound Transit's long-term financial plan is based on assumptions that funding to plan, build, operate, and maintain a regional high-capacity transportation system includes a combination of local revenues, bond proceeds, loan disbursements, and non-local grant funds; and

WHEREAS, the Board has determined that it is in the public interest to facilitate certain procurements by delegating authority to review and approve contracts to its standing committees and the chief executive officer (CEO).

NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority that Resolution Nos. R2018-40, R2022-27, and R85 are hereby superseded with a Procurement, Agreements, and Delegated Authority Policy, which is hereby adopted as follows:

1.0 Scope

- 1.1 This policy addresses the Board's delegated authority to Board committees and the CEO, including, but not limited to, the procurement of materials, services, and work, and the execution of certain agreements.

2.0 Policy

2.1 Delegated authority

- 2.1.1 The Board has retained a CEO to operate the agency and to implement the mission, goals, objectives, policies, and guidelines established by the Board. Subject to Board oversight, the CEO is authorized to establish and implement business management, administrative, and employment policies and to employ such personnel as the CEO determines necessary to effectively manage and operate the agency. The CEO may establish additional regulations, requirements, certifications, and procedures as the CEO deems necessary to carry out Board policies. The CEO may delegate this authority to appropriate Sound Transit employees to facilitate the efficient management and operation of the agency.
- 2.1.2 The CEO is directed to regularly inform and consult with the Chair of the Board, the full Board, and the standing Board committees about business transactions, policies, and issues of significance to the agency.
- 2.1.3 Except in emergencies, only the Board acting as a body or a standing committee is authorized to direct the CEO to implement a policy or course of action.
- 2.1.4 The Board, acting as a body in a public meeting, may at any time adopt a motion or resolution to rescind or suspend all or any portion of authority delegated to the CEO in this resolution.
- 2.1.5 Whenever in the judgment of the Board, special circumstances require a procedure different from that set forth herein, the Board may authorize the making of purchases, the ordering of work, or the performance of services in such other manner as may be deemed to be appropriate to the circumstances.

2.2 Procurement and contracting authority

- 2.2.1 The Board must award, execute, and modify contracts when the contract value exceeds \$50,000,000, excluding taxes. Any contract that establishes or modifies a Board policy must be approved by the Board.
- 2.2.2 The standing Board committees with delegated responsibility for transaction approvals are authorized to award, execute, and modify contracts within their areas of delegated responsibility when the contract value does not exceed \$50,000,000, excluding taxes.
- 2.2.3 The CEO is authorized to award, execute, and modify competitively-procured contracts when the contract amount does not exceed the authorized budget or other Board authorization and when:
 - 2.2.3.a The contract value does not exceed \$10,000,000, excluding taxes, and
 - 2.2.3.b The term does not exceed 15 years, including options, and
 - 2.2.3.c The proposed amount does not exceed Sound Transit's cost estimate by 20 percent or more for construction contracts that exceed \$1,000,000.

- 2.2.4 The CEO is authorized to execute zero-dollar contract modifications regardless of the total contract cost, when the following conditions are met:
 - 2.2.4.a The contract provides for contract modifications, and the contract modification being exercised is within the scope of the original procurement and does not add betterment work pursuant to section 2.10.4, and
 - 2.2.4.b The individual contract modification has been approved by appropriately delegated staff. Legal counsel must review any non-routine contract modifications.
- 2.2.5 For contracts with an approved contingency, the CEO is authorized to modify such contracts provided the following conditions are met:
 - 2.2.5.a The estimated cost of the contract modification will not exceed funds available in the approved contingency for the scope as established in the subject contract,
 - 2.2.5.b The contract provides for contract modifications, and the contract modification being exercised is within the scope of the original procurement and does not add betterment work pursuant to section 2.10.4, and
 - 2.2.5.c The individual contract modification has been approved by appropriately delegated staff. Legal counsel must review any non-routine contract modifications.
- 2.2.6 The CEO will report monthly to the Board or standing Board committee with delegated responsibility regarding those competitively-procured contracts awarded, executed, and modified by the CEO pursuant to section 2.2.3 that exceed the federal simplified acquisition threshold, excluding taxes. The federal simplified acquisition threshold is currently \$250,000, and the CEO will notify the Board when the federal simplified acquisition threshold changes.
- 2.2.7 The CEO is directed to establish and implement policies and procedures relating to procurement, contracting, contract administration, and contract close-out.
 - 2.2.7.a Property, equipment, materials, supplies, services, and work must be procured efficiently and economically through a process that, to the extent practicable, facilitates full and open competition.
 - 2.2.7.b The CEO may delegate the procurement and contracting authority provided in this resolution to appropriate Sound Transit employees.
 - 2.2.7.c The CEO will ensure that Sound Transit complies with state law where specifically applicable to the award by Sound Transit of public contracts, including, without limitation, Title 39 RCW and chapter 60.28 RCW.
 - 2.2.7.d The CEO may designate Sound Transit employees to act as the purchasing or contracting agents to implement the policies and provisions of this resolution.
 - 2.2.7.e The CEO must establish procedures for considering and determining procurement protests and appeals. The CEO, or his or her designee, will render the final administrative determination on protests and appeals.

- 2.2.7.f When a procurement involves the expenditure of federal or state grant or contract funds, and the method of procurement required by such agency differs from the requirements of this resolution, the CEO will conduct the procurement in accordance with any mandatory applicable federal or state laws and regulations and as required by the grant.
- 2.2.7.g The CEO may require performance/payment bonds and/or bid bonds to secure the performance of public works or other contracts when in the agency's best interests.
- 2.2.7.h To improve efficiency and minimize the disadvantages of traditional low-bid procurement and design-bid-build project delivery, these policies and procedures must include innovative procurement and contracting techniques and alternative procurement and project delivery methods.
- 2.2.7.i The CEO may include provisions in contracts awarded by Sound Transit that promote cooperation and motivate contractors or vendors to improve the project quality or function, to reduce the cost, or to save time in construction or delivery by using such methods as shared savings for value engineering, incentive payments, reimbursement for proposal or bid preparation expenses, and preconstruction planning and partnering.
- 2.2.7.j The CEO must provide an annual report to the Board summarizing the performance of the agency's procurement and contracts program including, but not limited to, accomplishments, challenges, and opportunities.

2.3 **Competitive bidding**

- 2.3.1 Contracts for work, equipment, goods, materials, supplies, and non-professional services that are estimated to exceed the federal simplified acquisition threshold, excluding taxes, and are procured based on price-related factors alone, must be awarded through publicly-advertised solicitations for competitive sealed bids when each of the following conditions are satisfied:
 - 2.3.1.a Time permits the solicitation, submission, and evaluation of sealed bids,
 - 2.3.1.b Award will be made based on price and other price-related factors,
 - 2.3.1.c It is not necessary to conduct discussions with the responding bidders about their bids, and
 - 2.3.1.d There is reasonable expectation of receiving more than one sealed bid.
- 2.3.2 The CEO may exercise discretion and reject any or all bids, or cancel or modify bid solicitations, when the CEO deems it to be in the best interests of the agency to reject, cancel, or modify bids or bid solicitations. The CEO may exercise discretion and waive minor irregularities in bid submittals.
- 2.3.3 The CEO may establish and use a small works process and limited public works process consistent with RCW 39.04.155.

- 2.4 **Competitive proposals.** When the CEO determines that it would be in the agency's best interest to use a best value procurement process rather than soliciting competitive bids as described in section 2.3, contracts to procure equipment, materials, supplies, services, or other work may be awarded through publicly-advertised solicitations for proposals, taking into

consideration price and other established evaluation factors, which must, at a minimum, include past performance on Sound Transit contracts, if any.

2.5 Professional services

- 2.5.1 Except where the Board has approved a different procurement process in this resolution or other Board authorization, professional services to be performed by consultants, including, but not limited to, planning, engineering, construction management, financial, marketing, appraisal, and other specialized professional services must be procured through competitive requests for proposals or qualifications.
- 2.5.2 The CEO may initiate the procurement of professional services in the following circumstances:
 - 2.5.2.a When the services cannot be performed on a timely basis by employees of Sound Transit,
 - 2.5.2.b The services are not part of employees' regular and routine work,
 - 2.5.2.c The services require specialized professional or technical expertise not available from employees, or
 - 2.5.2.d The services are needed for only a specific period of time that does not warrant the hiring of an employee.

2.6 Sole source procurements

- 2.6.1 Notwithstanding any other provision of this resolution, when the CEO makes a written determination that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without a competitive process.
- 2.6.2 Except as authorized in section 2.9, the Board must approve any sole source contract over \$50,000,000, excluding taxes.
- 2.6.3 Except as authorized in section 2.9, the standing Board committees with delegated responsibility for transaction approvals are authorized to award, execute, and modify sole source contracts when the contract value does not exceed \$50,000,000, excluding taxes.
- 2.6.4 The CEO is authorized to award, execute, and modify sole source contracts when the contract value does not exceed \$5,000,000, excluding taxes.
- 2.6.5 The CEO will report monthly regarding sole source contracts awarded, executed, and modified by the CEO that exceed the federal simplified acquisition threshold, excluding taxes, as required by section 2.2.6.

2.7 Proprietary procurements

- 2.7.1 The CEO is authorized to order, acquire, and pay for spare parts, replacement parts, and equipment that can be acquired only from the manufacturer or from a single distributor or licensee when only proprietary items and services are compatible with the existing equipment and systems and the expenditure is in the best interests of Sound Transit and is included in the adopted budget or other Board authorization.
- 2.7.2 The CEO is authorized to enter into maintenance or subscription (e.g., software as a service) contracts for existing equipment and systems when only proprietary items and

services are compatible with the existing equipment and systems, the original contract was competitively procured, the pricing is fair and reasonable, and the expenditure is in the best interests of Sound Transit and is included in the adopted budget or other Board authorization.

- 2.7.3 The CEO will report monthly regarding proprietary contracts awarded, executed, and modified by the CEO that exceed the federal simplified acquisition threshold, excluding taxes, as required by section 2.2.6.

2.8 Other delegations

- 2.8.1 **Routine expenses.** The CEO may acquire, order, or pay for routine expenses of government, such as utilities charges, governmental taxes, publication and meeting expenses, and governmental fees for licenses and permits, when in the best interests of Sound Transit and when included in the adopted budget or other Board authorization.
- 2.8.2 **Utility relocation agreements.** The CEO is authorized to enter into reimbursement agreements with public and private utilities, including telecommunication providers, to relocate utilities when the expenditure is included in the adopted budget or other Board authorization.
- 2.8.3 **Legal expenses.** The CEO is authorized to retain, or to cause to be retained through the general counsel, attorneys or law firms, or other appropriate professionals, experts, and support services, as necessary to provide general and specialized legal services, including litigation services, required by the agency. The CEO may pay for legal, expert, and related services based on a negotiated fixed fee for specific services or by hourly reimbursement not to exceed the established hourly rate, plus expenses, normally charged by the provider to the general public in the area when the expenditure is included within budget appropriations or other Board authorization. The CEO or general counsel may add the retained attorneys and law firms to the then-current on-call roster of qualified attorneys at the time the services are required and must manage the on-call roster consistent with the financial requirements of Motion No. M2001-61. The CEO or general counsel will inform the Board of the quarterly legal expenses.
- 2.8.4 **Claims, settlements, and judgments.** The CEO is authorized to approve payments of claims, settlements, and judgments as may be in the best interests of Sound Transit when the expenditure does not exceed the authorized budget or other Board authorization.
- 2.8.5 **Employee compensation and benefits.** The CEO is authorized to establish, select, fund, and administer existing or alternative employee compensation and benefit programs such as health, dental, vision, life, and disability insurance plans, and IRS Code 457 and 401(a) retirement plans and to pay the annual cost to administer and maintain these benefit plans within the adopted budget or other Board authorization.
- 2.8.6 **Employee travel.** The CEO is authorized to approve and reimburse employee business travel and other reasonable expenses necessary to conduct agency business.
- 2.8.7 **Uncollectible debt.** The CEO, upon the written recommendation of the chief financial officer and legal counsel, may write-off uncollectible debts, provided that the amount of the debt does not exceed \$5,000,000, reasonable efforts to collect the debt have been

made, and the debt has been discharged in bankruptcy or the cost of collection exceeds the amount of the debt.

- 2.8.8 **Property tax levy.** The Board administrator is authorized to execute and file any collection estimate legally required to collect Sound Transit's property tax. The Board administrator may estimate the tax to be levied for the next year either in the same total amount estimated and levied for the current year plus additional revenue from new assessments for the classes of property identified in RCW 84.55.010(1) or, if approved by the Board, in another amount.
- 2.8.9 **Reimbursable services.** The CEO is authorized to enter into agreements under which Sound Transit will provide reimbursable services to others and for which Sound Transit will receive reimbursement, when such services are part of normal Sound Transit operations.
- 2.8.10 **Voucher approvals and auditing officer.** The Board appoints the CEO as the agency's auditing officer to review and audit claims pursuant to RCW 42.24.080. The CEO may delegate this responsibility upon written notice to the Board chair. The auditing officer and the person designated to disburse funds must be bonded in an amount not less than \$50,000, and the agency pays the fees for such bonds. The Board approves payment of all claims for the purchase of materials, services, labor, and any other contractual purposes through a blanket voucher certification. The CEO is authorized to establish a retroactive voucher certification procedure that complies with the requirements of RCW 42.24.180.
- 2.8.11 **Treasurer.** The Board designates the chief financial officer as the agency's treasurer pursuant to RCW 81.112.120.

2.9 **Emergency**

- 2.9.1 Notwithstanding any other provision of this resolution, when any emergency requires the immediate execution of a contract for work or services, or any immediate purchases of materials, equipment, supplies, services, or construction items, the CEO is authorized to execute any contracts or make purchases necessary to respond to the existing emergency, provided that the CEO must make a written finding that an emergency exists.
- 2.9.2 At the first regular Board meeting following the written finding of the existence of an emergency, the CEO must request Board ratification of the finding of an emergency and of any purchases or contracts awarded and/or executed pursuant to that finding if the amount exceeds \$5,000,000, excluding taxes.
- 2.9.3 The CEO must keep the Board informed about the emergency and the progress of any contracts or purchases executed to address the emergency.

2.10 **System expansion projects**

- 2.10.1 The CEO is authorized to conduct preliminary project planning, scoping, environmental reviews, permitting, preliminary engineering, and environmental testing necessary for system expansion projects, provided the estimated combined cost of all such activities does not exceed \$2,000,000, excluding taxes, and when the expenditure does not exceed the authorized budget or other Board authorization.

- 2.10.2 Unless the Board requests more frequent reporting, the CEO must report quarterly to the Board on the progress and status of system expansion projects and must complete all Board reporting requirements in Resolution No. R2021-05.
- 2.10.3 The CEO must notify the Board in a timely manner if it becomes apparent that:
 - 2.10.3.a A system expansion project cannot be completed within the authorized amount including contingency,
 - 2.10.3.b Delays to a system expansion project will have negative financial, community, or operational implications, or
 - 2.10.3.c There is a possibility of substantial scope change to a system expansion project.
- 2.10.4 The CEO is authorized to increase the total authorized amount for contracts for system expansion projects to include betterments when the following conditions are met:
 - 2.10.4.a The requesting entity fully funds the betterment work,
 - 2.10.4.b The betterment work is in the scope of the contract,
 - 2.10.4.c No individual contract modification for betterment work exceeds \$5,000,000, excluding taxes,
 - 2.10.4.d The incorporation of such betterment work has no adverse impact on Sound Transit project work, and
 - 2.10.4.e The individual contract modification has been approved by appropriately delegated staff and Legal.

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 \$5,000,000, 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,
 - 2.11.2.e The incorporation of such betterment work has no adverse impact on Sound Transit project work, and
 - 2.11.2.f The CEO will report to the Board when a betterment agreement has been executed.

- 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 and, subject to section 2.12, for the allocation of facility operation and maintenance responsibilities, 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.

2.12 Real property agreements

- 2.12.1 Section 2.12 applies to all agreements relating to the acquisition, use, or disposition of real property, including, but not limited to, purchase and sale agreements, deeds, leases, concession agreements, rental agreements, operating agreements, maintenance agreements, licenses, easements, access permits, rights of entry, and other use agreements (collectively real property agreements). This section 2.12 does not authorize acquisition of real property through the exercise of eminent domain.
- 2.12.2 The Board must approve real property agreements when either: (1) the financial obligation of either Sound Transit or the other party would exceed \$5,000,000; or (2) the property rights to be granted by Sound Transit would deprive or substantially limit Sound Transit's use of essential property.
- 2.12.3 The standing Board committees with delegated responsibility for transaction approvals may approve real property agreements within their areas of delegated responsibility that would not either: (1) obligate Sound Transit or the other party to pay an amount greater than \$5,000,000; or (2) deprive or substantially limit Sound Transit's use of essential property.
- 2.12.4 Subject to the limitations in sections 2.12.2 and 2.12.3, the CEO is authorized to execute the following real property agreements:
 - 2.12.4.a All standard utility easements that would service Sound Transit such as gas, water, sewer, electrical, and telephone;
 - 2.12.4.b Agreements that would allow the use of Sound Transit property when the right granted would be ancillary to the normal operation of Sound Transit or

its property and there would be no new financial obligation owed by Sound Transit;

2.12.4.c Agreements that would dispose of interests in real property for the purpose of:

- (1) The relocation of utilities as necessary or desirable for Sound Transit projects;
- (2) The satisfaction of permit conditions or mitigation requirements for Sound Transit projects;
- (3) The curing of damages to real property acquired for a Sound Transit project and caused by a Sound Transit project; or
- (4) Returning real property acquired for a Sound Transit project to previous owners for the purpose of minimizing Sound Transit's costs of operations and maintenance.

2.12.4.d Agreements that would authorize the use of Sound Transit property for 10 years or less and that would not obligate Sound Transit or the other party to pay an amount greater than \$1,000,000.

2.12.5 Real property agreements executed by the CEO must comply with the following conditions:

2.12.5.a The provisions conform to Sound Transit's real estate policies and procedures,

2.12.5.b The price for the acquisition or use of real property does not exceed the authorized budget,

2.12.5.c The price does not exceed Sound Transit's appraised value by more than ten percent, and legal counsel has approved any price in excess of Sound Transit's appraised value, and

2.12.5.d The agreement is in a form approved by legal counsel.

2.12.6 The CEO must ensure compliance with all real property agreement terms and is authorized to take necessary measures to cause compliance or to protect Sound Transit, including, but not limited to, termination of an agreement, the giving of all notices provided for in an agreement, and filing actions for eviction, unlawful detainer, damages, and injunctive relief. The CEO may also take all necessary actions in connection with surety bonds, letters of credit, cash deposits, or other legal security and insurance coverage required pursuant to any real property agreements.

2.12.7 The CEO is authorized to take all necessary steps, including executing all required agreements, closing documents, deeds, decrees, and other necessary instruments to complete an authorized transaction to secure title to or to dispose of real property.

2.12.8 The CEO may execute agreements memorializing the exercise of an option to renew, sublease, or assign contained within an authorized real property agreement provided that the agreements are consistent with section 2.12.5 and provided that the combined original and new financial obligations and term durations are within the limits of section 2.12.4.

2.12.9 The CEO is authorized to apply for the vacation of streets or roads and to take all other steps necessary to acquire a fee interest in street or road ends or other public right of way ancillary to Sound Transit development when the estimated acquisition costs do not exceed \$500,000 and do not exceed authorized budget.

2.13 Surplus personal property (other than real property)

2.13.1 The CEO may declare Sound Transit personal property surplus and may dispose of such property as the CEO determines to be in the best interests of Sound Transit, subject to applicable laws and Sound Transit policies.

2.13.2 When feasible, surplus personal property should be disposed of in a manner that provides reasonable and fair compensation to Sound Transit, provided that when the costs associated with disposing of the property exceed its reasonable value, the CEO is authorized to offer the property, without charge, to other public agencies or to be used to support the poor and infirm as allowed under Article VIII, Section 7 of the Washington State Constitution.

2.14 Grants

2.14.1 Sound Transit seeks to secure federal, state, and local grant funding through various sources to implement and maintain its voter-approved projects, programs, and services.

2.14.2 Sound Transit submits applications for projects, programs, and services that have been determined eligible for the source of grant funding. Any requirements specific to the proposed grant funding source are considered in cooperation with affected stakeholders.

2.14.3 The CEO or designee is authorized to approve and file applications for grant funding and accept and execute grant awards and agreements with grantor agencies on behalf of Sound Transit. The CEO must establish procedures to manage agency grant activities.

2.14.4 All of Sound Transit's federally funded and/or regionally significant projects are included in the Puget Sound Regional Council's Transportation Improvement Program. Sound Transit uses the Puget Sound Regional Council's Public Participation Plan and outreach process to provide information to the public and provide opportunity for public review and comment for such projects.

2.14.5 Grant revenues are reported to the Board as part of Sound Transit's financial statements. Grant revenues and assumptions are also reported to the Board as part of the annual update of the financial plan.

2.14.6 Sound Transit may partner with other agencies when developing grant funding applications. When applications for grant funding are made in partnership with another agency, the funding split is determined before submittal.

2.14.7 Sound Transit may support partners applying for grant funds whose projects benefit or enhance Sound Transit voter-approved projects, programs, and services. Sound Transit may pledge its investments, or in-kind donations, as a local match, taking into account any regulatory requirements that may apply to Sound Transit voter-approved projects, programs, and services. The CEO or designee may sign letters of support and commitment of local match for Sound Transit projects and any projects, programs, or services supported by Sound Transit.

2.15 Debarments and suspensions

- 2.15.1 The CEO may establish procedures for debarment and suspension actions. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the CEO is authorized to debar a person, firm, or other legal entity for cause from consideration for award of contracts with Sound Transit for a period of not more than two years. The CEO is authorized to suspend a person, firm, or other legal entity from consideration for award of Sound Transit contracts for a period of not more than six months if, in the CEO's discretion, there is probable cause for debarment.
- 2.15.2 The CEO's decision of debarment or suspension, which must be reported to the Board at the next regular Board meeting, is the final and conclusive decision on behalf of Sound Transit, unless the Board determines otherwise.

2.16 Privatized contracts

- 2.16.1 The following provisions apply to contracts entered into by Sound Transit for work or services provided by private parties that retain an ownership interest in facilities used for such work or services:
 - 2.16.1.a The specifications for each privatization contract that involves construction, reconstruction, maintenance, or repair of a facility must contain a provision stating the specified hourly minimum wage, not less than the Washington State or Davis Bacon Act prevailing wage, whichever is higher, that must be paid to laborers, workers, or mechanics in each trade or occupation employed in the performance of such contract, either by the contractor, subcontractor, or other person doing or contracting to do the whole or any part of the work contemplated in the construction, reconstruction, maintenance, or repair of the facility.
 - 2.16.1.b The CEO must ensure payment of prevailing wages by contractors and subcontractors on such work.

2.17 Disadvantaged business enterprise and small business

- 2.17.1 Sound Transit is committed to a policy of providing fair and representative employment and business opportunities for disadvantaged business enterprises and small businesses in the procurement of equipment, materials, supplies, and services purchased or work ordered for Sound Transit, consistent with those Sound Transit policies, procedures, and guiding principles in effect.
- 2.17.2 The CEO will take such steps as may be necessary to ensure that parties contracting with Sound Transit comply with all federal, state, and local laws, regulations, and ordinances pertaining to non-discrimination, equal employment, and affirmative action.
- 2.17.3 The CEO is further authorized and directed to utilize disadvantaged business enterprise and small business requirements or goals in Sound Transit's contracting as may be applicable under federal or state grant contracts or as may be imposed by federal and state laws and regulations or by Board policy.
- 2.17.4 The CEO will monitor the usage of disadvantaged business enterprises and small businesses to ensure Sound Transit's performance in this respect is consistent with the law and the Board's adopted policies and procedures.

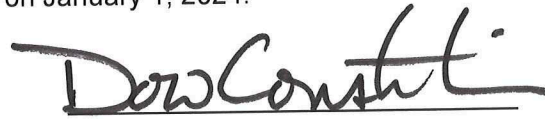
2.18 Green purchasing initiatives

2.18.1 Sound Transit is committed to protecting the environment for present and future generations. That commitment includes encouraging and increasing the use of environmentally preferable products and services while remaining fiscally responsible. In its purchasing and contracting activities, the agency will balance overall life-cycle costs with minimizing environmental impacts, promoting human health and safety, conserving natural resources, and promoting sustainability.

3.0 References

- 3.1 Resolution No. 81-2 Code of Ethics
- 3.2 Resolution No. R2018-23 Budget Policy
- 3.3 Resolution No. R2018-10 Equitable Transit Oriented Development Policy
- 3.4 Resolution No. R2013-30 Real Property Excess, Surplus and Disposition Policy
- 3.5 Resolution No. 98-20-1 Real Property Acquisition and Relocation Policies, Procedures and Guidelines
- 3.6 Resolution No. R2004-06 Environmental Policy
- 3.7 Resolution No. R2007-12 Sustainability Initiative
- 3.8 Motion No. 17 Guiding Principles for Employment and Contracting
- 3.9 Motion No. 29 Policies to Implement Guiding Principles adopted in Motion No. 17
- 3.10 Resolution No. 60 Fair Work Environment Policy
- 3.11 Resolution No. R99-21 Project Labor Agreements Policy
- 3.12 Resolution No. R2016-16 Sound Transit 3 Regional Transit System Plan, Appendix B Financial Policies
- 3.13 Resolution No. R2009-24 Scope Control Policy
- 3.14 Motion No. M2002-22 Policy on Reimbursement to Sound Transit by Partner Agencies for Out of Scope Work
- 3.15 Resolution No. R2018-24 Asset Liability Management Policy
- 3.16 Resolution No. R2016-23 Authorizing the filing of applications with the Federal Transit Administration
- 3.17 Resolution Nos. R2021-05 and R2023-04 ST3 Plan Realignment

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on October 26, 2023, to be effective on January 1, 2024.



Dow Constantine
Board Chair

ATTEST:



Kathryn Flores
Board Administrator

Board Delegated Authority (R2018-40) – Current and Proposed Updates

Category	Proposed Updates	Board Approves (Current Approval Levels)	Board Informed (Current Reporting Levels)
Competitive contract awards and modifications	<ul style="list-style-type: none"> • Increase the delegated authority level to the CEO to execute construction contracts and architectural and engineering services (A&E) contracts from \$5M to \$10M and materials, technology, and services (MTS) contracts from \$2M to \$10M: • Add a construction contract cost floor of \$1M, below which Board committee approval is not required when the initial contract amount is within the CEO's delegated authority but 20% greater than the cost estimate • Delegate authority to the CEO to execute zero-dollar contract modifications regardless of total contract cost • Administrative clarifications 	<p>Board: unlimited Committees: up to \$50M CEO: contract awards and modifications up to \$5M for construction contracts and architectural and engineering services, and \$2M for materials, technology, and other services.</p> <p>The CEO may not execute any contract award for which the proposed term exceeds 15 years including options or any construction contract award for which the proposed price exceeds the Sound Transit's cost estimate by 20% or more.</p> <p>Note: Any contract award that establishes or modifies a Board policy must be approved by the Board regardless of dollar value.</p> <p>Allows the CEO to utilize approved contingency for any type of contract.</p>	\$250K/federal threshold to \$5M CEO to Board committees monthly
Sole source contract awards and modifications	<ul style="list-style-type: none"> • Increase the delegated authority level to the CEO to award, execute, and modify sole source contracts from the federal threshold (currently \$250K) to \$5M • Increase the reporting level from \$25k to the federal threshold (currently \$250K) 	<p>Board: unlimited Committees: up to \$50M CEO: up to \$250K/federal threshold</p>	\$25K and above CEO to Board committees monthly
Agreements (intergovernmental)	<ul style="list-style-type: none"> • Increase the delegated authority level to the CEO to execute agreements with government agencies, public and private rail entities, and nonprofit organizations from \$5M to \$10M (to match the updated delegation level for A&E/construction contracts) • Increase the delegated authority level to the CEO from \$500K to \$5M to enter into agreements and issue contract modifications for betterment work; add a requirement for the CEO to report to the Board when a betterment agreement has been executed • Administrative clarifications 	<p>Board: unlimited Committees: up to \$50M CEO: up to \$5M CEO/Betterments (increasing the amount of an executed contract or agreement for system expansion): Up to \$500K within policy parameters</p>	None
Real property agreements	<ul style="list-style-type: none"> • Increase the delegated authority level to the CEO from \$500K to \$1M to execute agreements that would 	<p>Board: unlimited Committees: up to \$5M</p>	None

Board Delegated Authority (R2018-40) – Current and Proposed Updates

Category	Proposed Updates	Board Approves (Current Approval Levels)	Board Informed (Current Reporting Levels)
	<p>authorize the use of Sound Transit property for 10 years or less</p> <ul style="list-style-type: none"> • Add delegation that would allow the CEO to dispose of real property interests for purposes of utility relocations, to satisfy permit conditions, to cure damages to ST property caused by a ST project, or to minimize ST's costs by returning property to previous owner • Administrative clarifications 	CEO: up to \$500K, and to committee or Board if lease term exceeds ten years regardless of dollar value	
System expansion projects	<ul style="list-style-type: none"> • Increase the delegated authority level to the CEO for the combined cost of preliminary project planning activities from \$500K to \$2M • Administrative clarifications 	CEO: \$500K combined cost, preliminary project planning activities	None
Emergencies	<ul style="list-style-type: none"> • Increase the threshold for Board ratification of CEO executed emergency contracts from the federal threshold (currently \$250K) to \$5M 	CEO: Unlimited, CEO must request Board ratification of emergency and any emergency purchases or contracts that exceed \$250K/federal threshold	CEO must keep the Board informed about the emergency and emergency purchases or contracts
Other delegations	<ul style="list-style-type: none"> • Add a delegation to allow the Board Administrator to submit property tax levy paperwork • Integrate and streamline outdated Board policy (Resolution No. R85) on financial delegations on voucher approvals, auditing officer and bonding amounts, and the agency's treasurer pursuant to RCW • Administrative updates 	<p>CEO: Unlimited when in budget</p> <ul style="list-style-type: none"> • Routine expenses • Utility relocation agreements • Legal expenses • Claims, settlements, and judgments • Employee compensation and benefits • Employee travel • Reimbursable services 	Quarterly report from General Counsel
Proprietary contract awards and modifications		<p>Board: fully delegated to CEO</p> <p>Committees: \$0</p> <p>CEO: unlimited</p>	\$250K/federal threshold and above CEO to Board committees monthly
Write-off of uncollectable debts		CEO: \$5M	None
Grant funding applications, acceptance and execution		<p>Board: fully delegated to CEO</p> <p>Committees: \$0</p> <p>CEO: unlimited</p>	Grant revenues reported as part of the annual update of the financial plan