

**SOUND TRANSIT  
STAFF REPORT**

**RESOLUTION NO. R2003-12**

**Settle Condemnation Litigation or Enter Administrative Settlements for Acquisition of  
Real Estate Property Interests**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Executive Committee	6/5/03	Discussion/Possible Action to Recommend Board Approval	Joann H. Francis, Chief Administrative Officer	(206) 689-4934
Board	6/12/03	Action	<b>Larry Ellington Acquisition/Relocation Manager</b>	(206) 398-5026

**OBJECTIVE OF ACTION**

To authorize the Executive Director or her designee to settle condemnation litigation or enter administrative settlements in lieu of condemnation for the acquisition of real property interests upon a finding of legal counsel that the settlement is consistent with the law and is reasonable, prudent, and in the public interest.

**ACTION**

Authorizing the Executive Director or her designee to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of real property interests authorized by the Board as necessary to implement Sound Move, and amending Resolutions No. R2000-05; R2000-10; R2000-13; R2000-16; R2001-02; R2002-03; R2002-04; R2002-15; R2002-19; R2003-01; R2003-04; and R2003-05.

**KEY FEATURES**

- Authorizes Sound Transit's Executive Director to settle condemnation litigation or enter administrative settlements upon a finding by legal counsel that the proposed settlement consistent with the law and are reasonable, prudent, and in the public interest.
- Authorizes Sound Transit's Executive Director to delegate her authority to enter into such settlements.
- Amends prior resolutions authorizing settlements of condemnation litigation or administrative settlements subject to a recommendation of legal counsel, for amounts deemed to be a reasonable estimation of fair market value.

**BUDGET IMPACT SUMMARY**

There are no budget impacts for this action.

**BUDGET DISCUSSION**

No identified budget impact. Costs are included within authorized budgets for the acquisition of property.

## **REVENUE, SUBAREA, AND FINANCIAL PLAN IMPACTS**

The proposed action is consistent with the current Board-adopted budget and is affordable within Sound Transit's current long-term financial plan and the subarea financial capacity.

## **BUDGET TABLE**

Not applicable to this action.

## **M/W/DBE – SMALL BUSINESS PARTICIPATION**

Not applicable to this action.

## **HISTORY OF PROJECT**

In order to build and operate a high capacity transit system consisting of commuter rail service, light rail service, and a program of regional bus service, HOV improvements, and park-and-ride facilities throughout the central Puget Sound region, it is necessary for Sound Transit to acquire real property. Sound Transit's authorizing legislation grants the agency the power of eminent domain to accomplish such acquisitions.

By prior Resolutions No. R2000-05; R2000-10; R2000-13; R2000-16; R2001-02; R2001-13; R2002-03; R2002-15; R2002-19; R2003-01; R2003-04; and R2003-05, the Board has authorized the acquisition of real property interests by voluntary negotiation or condemnation litigation. Section 2 of each of those Resolutions contains substantially the following language: "authorizing the Executive Director to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of real property upon the recommendation of legal counsel, for amounts deemed to be a reasonable estimation of fair market value, and which do not exceed established budgets. For all other settlements proposed, the Executive Director shall obtain prior approval of the appropriate committee of the Board, per Resolution No. 78-1." (emphasis added).

The Federal Transit Administration encourages the use of administrative settlements as a cost-effective tool to minimize litigation expenses in the acquisition of real property. Federal law authorizes administrative settlements upon a finding by an authorized agency official that the proposed settlement is reasonable, prudent, and in the public interest. It does not require that the settlement be based upon a finding that the proposed settlement also represents a reasonable approximation of fair market value. Sound Transit's experience to date indicates that some condemnation or administrative settlements would be reasonable and in the public interest and consistent with the law, but that the amount of the proposed settlement may not be an amount that is a reasonable estimation of fair market value. The proposed change to the findings required in order to enter into a settlement agreement with a property owner would continue to ensure that proposed settlement agreements are consistent with both federal and state requirements, and at the same time would expedite the acquisition process for real property necessary for Sound Transit projects.

**Prior Board or Committee Actions  
and Relevant Board Policies**

<b>Motion or Resolution Number</b>	<b>Summary of Action</b>	<b>Date of Action</b>
R98-20	Approval of the real property acquisition and relocation policy, procedures and guidelines.	4/9/98
Resolution 78-1	Establishing delegated authority and procurement procedures.	5/31/96

**CONSEQUENCES OF DELAY**

Board consideration of this action in the near future will assist the timely acquisition of property for each Sound Transit project, especially Link Light Rail.

**REGIONAL PARTNERSHIP AND COOPERATION**

Not applicable to this action.

**PUBLIC INVOLVEMENT**

Not applicable to this action.

**LEGAL REVIEW**

BN 5/19/03

## **SOUND TRANSIT**

### **RESOLUTION NO. R2003-12**

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the Executive Director or her designee to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of real property interests authorized by the Board as necessary to implement Sound Move and amending Resolution Nos. R2000-05; R2000-10; R2000-13; R2000-16; R2001-02; R2001-13; R2002-03; R2002-15; R2002-19; R2003-01; R2003-04; and R2003-05.

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

WHEREAS, on November 5, 1996, at a general election held within the Central Puget Sound Regional Transit Authority district, the voters approved local funding for Sound Move, the ten-year plan for high capacity transit in the Central Puget Sound Region; and

WHEREAS, in order to acquire the properties determined to be necessary for the construction, operation and maintenance of project improvements required under Sound Move, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain rights in the property for public purposes, and to pay eligible relocation and re-establishment benefits to affected parties; and

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

WHEREAS, by its Resolution Nos. R2000-05; R2000-10; R2000-13; R2000-16; R2001-02; R2001-13; R2002-03; R2002-15; R2002-19; R2003-01; R2003-04; and R2003-05, the Board has previously authorized the acquisition of real property interests set forth in Exhibits to each of those Resolutions, by voluntary acquisition or condemnation. Section 2 of each such Resolution further authorized the Executive Director to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of real property upon the

recommendation of legal counsel, for amounts deemed to be a reasonable estimation of fair market value, and which do not exceed established budgets. For all other settlements proposed, the Executive Director shall obtain prior approval of the appropriate committee of the Board, per Resolution No. 78-1.

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

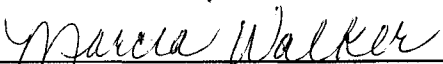
SECTION 1. The Executive Director or her designee is hereby authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of real property interests. Such settlements shall be made only upon a finding of legal counsel that the settlement is consistent with the law and is reasonable, prudent, and in the public interest. Such settlements shall not exceed established project budgets. For all other settlements proposed, the Executive Director shall obtain prior approval of the Executive Committee or the Board, per Resolution No. 78-1.

SECTION 2. Resolution Nos. R2000-05; R2000-10; R2000-13; R2000-16; R2001-02; R2001-13; R2002-03; R2002-15; R2002-19; R2003-01; R2003-04; and R2003-05, which previously authorized the acquisition of real property interests through voluntary acquisition or condemnation and authorized the Executive Director to enter into settlements of condemnation litigation or administrative settlements are hereby amended by deleting the text of Section 2 of each of the foregoing resolutions and replacing it with the text of Section 1 of this Resolution No. R2003-12.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on June 12, 2003.

  
Ron Sims  
Board Chair

ATTEST:

  
Marcia Walker  
Board Administrator