

**SOUND TRANSIT
STAFF REPORT**

MOTION NO. M2008-103

**Property Agreement for the Sounder Commuter Rail
Permitting/Environmental Mitigation Project**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	11/6/08	Discussion/Possible Action	Eric Beckman, Capital Projects Rail Program Manager Ellie Ziegler, Sr. Environmental Planner	(206) 398-5251 (206) 398-5135

Contract/Agreement Type:	✓	Requested Action:	✓
Competitive Procurement		Execute New Contract/Agreement	✓
Sole Source		Amend Existing Contract/Agreement	
Agreement with Other Jurisdiction(s)		Budget Amendment	
Real Estate	✓	Property Acquisition	

PROJECT NAME

Sounder Commuter Rail Permitting/Environmental Mitigation Project.

PROPOSED ACTION

Authorizes the chief executive officer to execute an agreement with Mr. Dan Christofferson to build a fill pad on his property in exchange for his agreement to sell his remaining property located in the floodplain of the Snohomish River to the City of Marysville as part of the wetland mitigation package for the Sounder Commuter Rail Everett to Seattle Project.

KEY FEATURES of PROPOSED ACTION

- Sound Transit has partnered with the trustees of the Qwuloolt Estuary Restoration Project (QERP) in Snohomish County to fulfill mitigation requirements for the Sounder Commuter Rail double track and signal project. The agreement requires Sound Transit to build a one-acre fill pad on the Christofferson property. In exchange, Mr. Christofferson will sell the floodplain property to the trustees. Sound Transit will not be purchasing property as part of this agreement.
- The trustees are constructing a 300-acre environmental restoration project within the Snohomish River Estuary to compensate for environmental injury caused by a large landfill and superfund site in the estuary. Part of this restoration includes purchasing private property in the floodplain and restoring estuarine habitat by removing dikes, relocating streams, and planting native vegetation. The trustees and the Department of Ecology are allowing Sound Transit to offset the environmental impacts of the Sounder Commuter Rail Project by participating in the QERP.

- The cost of Sound Transit building the fill pad is much less than would be required to design, build, monitor and maintain an independent wetland restoration project. Additionally, building the fill pad obviates the need for the trustees to build a dike around Mr. Christofferson's property to protect it from flooding from the restoration activities.

BUDGET IMPACT SUMMARY

Current Project Phase: Construction
 Projected Completion Date: 2011

BUDGET and FINANCIAL PLAN DISCUSSION

The Adopted 2008 Budget for this project is \$10,288,098 with current commitments of \$3,043,374. The proposed action authorizes the execution of an agreement to build a fill pad on the Christofferson property. This action does not authorize any expenditure of the project budget. There will be a future Board action for this after the project has gone out for bid.

The estimated cost for design and construction of the fill pad is \$875,000, but may vary depending on the bid that is accepted. The cost for the fill pad is less than what would be necessary if Sound Transit were required to design, build, monitor and maintain an independent wetland restoration project to offset over four acres of impacts to the Puget Sound. There will be a separate board action requesting authorization to enter into a construction contract for a specified dollar amount to construct the fill pad.

BUDGET TABLE

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

Project: 131 - Permitting/Environmental Mitigation

	2008 Board Adopted Budget ¹ (A)	Committed To Date ² (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
1 Agency Administration	\$ 550	\$ 550	\$ -	\$ 550	\$ -
2 Preliminary Engineering	\$ 1,820	\$ 989	\$ -	\$ 989	\$ 831
3 Final Design	\$ 380	\$ 20	\$ -	\$ 20	\$ 360
4 ROW and Construction	\$ 6,523	\$ 1,484	\$ -	\$ 1,484	\$ 5,039
5 Vehicles	\$ -	\$ -	\$ -	\$ -	\$ -
6 Contingency	\$ 1,015	\$ -	\$ -	\$ -	\$ 1,015
7 Total Current Budget	\$ 10,288	\$ 3,043	\$ -	\$ 3,043	\$ 7,245

Notes:

¹ Project budget is located on page 117 of the Adopted 2008 Budget book. The 2008 Budget was adopted by the Board on November 29, 2007.

² Committed to date amount includes actual outlays and commitments through August 31, 2008.

SMALL BUSINESS PARTICIPATION

Not applicable to this action.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

In 2003, Sound Transit entered into agreements for the purchase of commuter rail easements from the BNSF Railway Company to allow Sounder service between Everett and Seattle. One of the obligations under those agreements was that Sound Transit would provide for the offsite wetland mitigation requirements that resulted from track and signal improvements constructed by BNSF to accommodate Sounder service.

After conducting an extensive search for locations to implement a restoration project in the estuary, Sound Transit has partnered with the trustees of the Qwuloolt Estuary Restoration Project (QERP) in Snohomish County to fulfill Sound Transit's mitigation requirements. The trustees include representatives from the National Oceanic and Atmospheric Administration, Tulalip Tribes of Washington, U.S. Fish and Wildlife Service, and the Washington State Department of Ecology. The trustees are constructing an estuarine restoration project that comprises over 300 acres within the Snohomish River Estuary to compensate for environmental injury caused by a large landfill and superfund site in the estuary. Part of this restoration includes purchasing private property in the floodplain and restoring estuarine habitat by removing dikes, relocating streams, and planting native vegetation. Environmental permitting agencies, such as the Corps of Engineers and the Department of Ecology identified the Snohomish River estuary as an appropriate location for Sound Transit to conduct compensatory mitigation for project related impacts.

As part of this partnership, Sound Transit has already arranged for the purchase of three properties, comprising a total of approximately 15 acres at the QERP. Previous Board action was taken to enter into an agreement with the City of Marysville who purchased those three properties on behalf of Sound Transit as the properties are outside of Sound Transit's service area. These properties have been transferred to the trustees who will incorporate them into the overall restoration project. The Washington State Department of Ecology required Sound Transit to implement an alternative restoration project on those three properties in the event that the QERP was not permitted by March 2008. Implementation of the QERP has been pushed past the March date due to difficulties the trustees have had in purchasing one particularly key piece of property, the Christofferson property. The Christofferson property is an integral piece in the overall QERP because unless the property can be purchased, a large, expensive system of levees will need to be built to protect the Christofferson property from flooding that will result from the restoration activities. Sound Transit was able to renegotiate with the Department of Ecology to eliminate the permit contingency to build an independent mitigation project in exchange for Sound Transit's participation in the purchase of the Christofferson property.

In compliance with the renegotiated condition of the Department of Ecology permit, Sound Transit will design and build a one-acre fill pad on the Christofferson Property and in exchange Mr. Christofferson will sell over four acres of the floodplain portion of his property to the trustees.

Prior Board/Committee Actions

None.

CONSEQUENCES of DELAY

While it is important to move this agreement forward, a delay of two weeks would not have a significant impact on the project schedule.

PUBLIC INVOLVEMENT

Not applicable to this action.

ENVIRONMENTAL COMPLIANCE

SSK 10-22-08

LEGAL REVIEW

JW 10/27/08

SOUND TRANSIT

MOTION NO. M2008-103

A motion of the Finance Committee of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute an agreement with Mr. Dan Christofferson to build a fill pad on his property in exchange for his agreement to sell his remaining property located in the floodplain of the Snohomish River to the City of Marysville as part of the wetland mitigation package for the Sounder Commuter Rail Everett to Seattle Project.

Background:

In 2003, Sound Transit entered into agreements for the purchase of commuter rail easements from the BNSF Railway Company to allow Sounder service between Everett and Seattle. One of the obligations under those agreements was that Sound Transit would provide for the offsite wetland mitigation requirements that resulted from track and signal improvements constructed by BNSF to accommodate Sounder service.

After conducting an extensive search for locations to implement a restoration project in the estuary, Sound Transit has partnered with the trustees of the Qwuloolt Estuary Restoration Project (QERP) in Snohomish County to fulfill Sound Transit's mitigation requirements. The trustees include representatives from the National Oceanic and Atmospheric Administration, Tulalip Tribes of Washington, U.S. Fish and Wildlife Service, and the Washington State Department of Ecology. The trustees are constructing an estuarine restoration project that comprises over 300 acres within the Snohomish River Estuary to compensate for environmental injury caused by a large landfill and superfund site in the estuary. Part of this restoration includes purchasing private property in the floodplain and restoring estuarine habitat by removing dikes, relocating streams, and planting native vegetation. Environmental permitting agencies, such as the Corps of Engineers and the Department of Ecology identified the Snohomish River estuary as an appropriate location for Sound Transit to conduct compensatory mitigation for project related impacts.

As part of this partnership, Sound Transit has already arranged for the purchase of three properties, comprising a total of approximately 15 acres at the QERP. Previous Board action was taken to enter into an agreement with the City of Marysville who purchased those three properties on behalf of Sound Transit as the properties are outside of Sound Transit's service area. These properties have been transferred to the trustees who will incorporate them into the overall restoration project. The Washington State Department of Ecology required Sound Transit to implement an alternative restoration project on those three properties in the event that the QERP was not permitted by March 2008. Implementation of the QERP has been pushed past the March date due to difficulties the trustees have had in purchasing one particularly key piece of property, the Christofferson property. The Christofferson property is an integral piece in the overall QERP because unless the property can be purchased, a large, expensive system of levees will need to be built to protect the Christofferson property from flooding that will result from the restoration activities. Sound Transit was able to renegotiate with the Department of Ecology to eliminate the permit contingency to build an independent mitigation project in exchange for Sound Transit's participation in the purchase of the Christofferson property.

In compliance with the renegotiated condition of the Department of Ecology permit, Sound Transit will design and build a one-acre fill pad on the Christofferson Property and in exchange Mr. Christofferson will sell over four acres of the floodplain portion of his property to the trustees.

Motion:


It is hereby moved by the Finance Committee of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to execute an agreement with Mr. Dan Christofferson to build a fill pad on his property in exchange for his agreement to sell his remaining property located in the floodplain of the Snohomish River to the City of Marysville as part of the wetland mitigation package for the Sounder Commuter Rail Everett to Seattle Project.

APPROVED by the Finance Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on 11-6-2008.



Fred Butler
Finance Committee Vice Chair

ATTEST:



Marcia Walker
Board Administrator