

MOTION NO. M2014-76

King County Mitigation Reserves Program Agreement for Sounder South Expansion Project Easement 3

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:
Capital Committee	10/09/2014	Final Action	Ahmad Fazel, DECM Executive Director Eric Beckman, Deputy Executive Director Business & Construction Services Melissa Flores Saxe, Project Manager Ellie Ziegler, Senior Environmental Planner

PROPOSED ACTION

Authorizes the chief executive officer to execute an agreement with King County to participate in King County's Mitigation Reserves Program to process a wetland mitigation payment for Easement 3 within the Sounder South Expanded Service project for a total authorized agreement amount not to exceed \$896,935.

KEY FEATURES SUMMARY

- In 2010, Sound Transit purchased four additional Sounder roundtrip commuter rail easements from The BNSF Railway along the Tacoma to Seattle rail corridor. As part of the purchase and sale agreement, BNSF will complete track and signal work needed to support the additional Sounder trips, and Sound Transit will obtain environmental permits for that work.
- Track and signal improvements for the third commuter rail easement have wetland impacts that will need to be mitigated in accordance with Federal regulations and as conditioned by the US Army Corps of Engineers (Corps) permit for this Easement.
- Sound Transit will participate in King County's Mitigation Reserves Program (MRP) to complete wetland mitigation requirements for wetland impacts along The BNSF Railway's corridor in Tukwila, Renton and Kent.
- King County's MRP was established by King County to provide compensatory mitigation for unavoidable adverse impacts to the waters of the United States and the State of Washington.
- The in-lieu fee payment to King County's MRP is based on the number of credits required by the permit issued by the Army Corps of Engineers.

BACKGROUND

The Tacoma-to-Seattle Sounder segment is along the 40-mile BNSF railroad corridor between Seattle and Tacoma that includes seven Sounder commuter rail stations in Seattle, Tukwila, Kent, Auburn, Sumner, Puyallup, and Tacoma. It also connects to the Tacoma-Lakewood Sound Transit rail segment.

Under the Sounder South Expanded Service project, Sound Transit and The BNSF Railway executed a purchase and sale agreement for Sound Transit to purchase four additional roundtrip easements for Sounder commuter trains to operate on BNSF's Tacoma to Seattle rail corridor. The agreement was authorized by the Board in 2010 through Resolution No. R2010-14. In that agreement, Sound Transit was required to obtain the environmental clearances and environmental permits for the track and signal improvements associated with the four additional easements. The NEPA Documental Categorical Exclusion (DCE) was approved by the Federal Transit Administration in April 2012 and the SEPA Determination of Non-significance (DNS) was issued in April 2012.

The planned BNSF track and signal improvements associated with Easement 3 within the Sounder South Expanded Service project will result in impacts to wetland and stream areas and those impacts are required to be mitigated in accordance with Federal regulations and the Corps permit issued for this project. Mitigation for this project will be accomplished through the purchase of mitigation credits from King County's MRP.

The King County MRP was established by King County in accordance with the terms of 33 CFR 325 and 332 for the purpose of providing compensatory mitigation for unavoidable adverse impacts to the waters of the United States and the State of Washington. The number of credits required to be purchased is set by a condition of the Corps permit for the Sounder South Expanded Service project and the project cannot undertake impacts to wetlands or streams until the purchase is complete.

Upon its receipt of Sound Transit's payment for mitigation credits, the King County MRP will execute a "Statement of Sale" to Sound Transit that will then be transmitted to the Corps, after which point Sound Transit will have fully met its wetland mitigation obligation and project impacts to wetlands and streams can commence.

Sound Transit staff will return to the Board in 2015 for a similar action for environmental impacts related to the fourth round trip commuter rail easement.

FISCAL INFORMATION

The Lifetime project budget for the Sounder South Expanded Service, as shown in the 2014 TIP, is \$201,967,962. Within that amount, \$8,005,000 has been set aside for wetland mitigation in-lieu payment to King County in the Third Party Agreements phase. The proposed action would commit \$896,935 to this line item, leaving a remaining balance of \$7,108,065 for Easement 4.

This action is within the adopted budget and sufficient monies remain after approval of this action to fund the remaining work in the Third Party Agreements phase as contained in the current cost estimates.

	Adopted 2014 TIP	Board Approvals	This Action	Board Approved Plus Action	Uncommitted / (Shortfall)
Agency Administration	5,650	1,020		1,020	4,629
Preliminary Engineering	1,007	431		431	576
Final Design	400			-	400
Right of Way	186,485	185,182		185,182	1,303
Construction	421			-	421
Construction Services	-			-	-
Third Party Agreements	8,005		897	897	7,108
Vehicles	-			-	-
Total Current Budget	201,968	186,633	897	187,530	14,438

Phase Detail

Third Party Agreements

Third Party Agreements	8,005	-	897	897	7,108
Other Third Party Agreements					
Total Phase	8,005	-	897	897	7,108

Agreement Detail

King County Mitigation Reserves Program

	Board Approvals to Date	Current Approved Contract Status	Proposed Action	Proposed Total for Board Approval
Agreement Amount	-	-	897	897
Contingency Amount	-	-	-	-
Total Contract	-	-	897	897
Percent Contingency	0%	0%	0%	0%

Notes:

Amounts are expressed in Year of Expenditure \$000s.

Board Approvals = Committed To-Date + Contingency, and includes pending Board actions.

Project budget page is located on page 54 of 198 of the Adopted 2014 Transit Improvement Plan (TIP).

SMALL BUSINESS/DBE PARTICIPATION

Not applicable to this action.

TIME CONSTRAINTS

A month delay would impact Sound Transit's ability to obtain environmental permits in the timeframe required for BNSF to meet their current scheduled date for advertising this construction project.

PRIOR BOARD/COMMITTEE ACTIONS

Resolution R2012-12: Authorized the chief executive officer to purchase two perpetual commuter rail easements in The BNSF Railway Company's right of way between Seattle and Tacoma in the amount of \$52,000,000 for Easement 3 and \$48,000,000 for Easement 4, consistent with a Purchase and Sale Agreement with The BNSF Railway Company.

Resolution R2010-14: Authorized the chief executive officer to 1) execute a Purchase and Sale Agreement with The BNSF Railway Company (BNSF) for the acquisition of four perpetual commuter rail easements in BNSF's right of way between Seattle and Tacoma in the amount of \$41 million for Easement 1, \$44 million for Easement 2, \$52 million for Easement 3 and \$48 million for easement 4, 2) make a deposit of \$5 million for Easement 2, and 3) close on the purchase of Easement in July 2010 and Easement 2 in January 2011.

Resolution No. R2009-20: Authorized the chief executive officer to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), by condemnation litigation, or by administrative settlement; and to pay eligible relocation and reestablishment benefits to affected parties as necessary for the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project.

ENVIRONMENTAL REVIEW

JI 9/22/2014

LEGAL REVIEW

JW 10/3/2014

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A motion of the Capital Committee of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute an agreement with King County to participate in King County's Mitigation Reserves Program to process a wetland mitigation payment for Easement 3 within the Sounder South Expanded Service project for a total authorized agreement amount not to exceed \$896,935.

BACKGROUND:

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Sound Transit staff will return to the Board in 2015 for a similar action for environmental impacts related to the fourth round trip commuter rail easement.

MOTION:

It is hereby moved by the Capital Committee of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to execute an agreement with King County to participate in King County's Mitigation Reserves Program to process a wetland mitigation payment for Easement 3 within the Souder South Expanded Service project for a total authorized agreement amount not to exceed \$896,935.

APPROVED by the Capital Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on October 9, 2014.



Fred Butler
Capital Committee Chair

ATTEST:



Marcia Walker
Board Administrator