



CITY OF KIRKLAND

Department of Public Works

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MEMORANDUM

To: Kurt Triplett, City Manager

From: Pam Bissonnette, Interim Public Works Director
Dave Snider, P.E., Capital Projects Manager

Date: February 21, 2013

Subject: Cross Kirkland Corridor – Rail Removal
Pre-Authorize Construction Contract Award

RECOMMENDATION:

The Council's adopted interest statement for the Cross Kirkland Corridor is to "Actively use the corridor in the near future". Kirkland also received a \$2 million grant in 2012 from the State of Washington to construct an interim trail on the Cross Kirkland Corridor (CKC). The state grant must be spent prior to June, 2015. In order to begin construction of the interim trail in the fall of 2013, the existing rail needs to be removed by this summer. This in turn requires rail removal to begin in April. To meet this timeline, it is recommended that the City Council pre-authorize the City Manager to sign a public work construction contract for the removal of the existing rails and miscellaneous hardware along the CKC, provided the following criteria are met:

- the City receives bids from more than one contractor deemed responsive and responsible for performing the specified work, and
- the City receives a net credit for the work because the salvage or re-use of the rail materials exceeds the cost of performing the work or the total cost to the City from the lowest responsive and responsible bid is \$50,000 or less.

BACKGROUND DISCUSSION:

Kirkland purchased 5.75 miles of the former BNSF corridor in April 2012 to become the CKC. Last fall Kirkland citizens approved a permanent levy to begin funding CKC development in 2013 with an interim trail.

The current development strategy for the CKC, as approved by Council, is two-phased:

1. The initial phase is rail removal along with design and construction of an interim trail to allow broad public use of the CKC.
2. The second phase is for the completion of a CKC Master Plan to determine the ultimate vision and development of the Corridor for both trail and transit which will be implemented after Council approval.

Together, the removal of the rails, the construction of an interim trail, and the completion of a Master Plan will support the City Council's goals of Balanced Transportation, Sustainable

Infrastructure, and Parks Open Spaces and Recreational Services. The development of the CKC will:

1. Serve transportation needs of Kirkland;
2. Provide active use of the corridor in the near future;
3. Facilitate maintenance of the corridor; and
4. Spur economic development along the corridor, particularly in the Light Industrial Zones and the Totem Lake Business District.

These actions also help meet the priority goals of the City's Active Transportation Plan to develop the Cross Kirkland Corridor.

To support the first phase, staff and the City's engineering consultant, KPG Engineering, have designed and evaluated the cost of removing the existing rails and associated materials and advertised for contractor bids on February 25.

INTERIM TRAIL DEVELOPMENT -- RAIL REMOVAL

At their August 7, 2012 meeting, the City Council approved removal of the rail followed by the immediate construction of an interim trail. The rail removal construction phase will remove all rail spikes, plates, steel rails, and railroad crossties; the removal contract will also include grading of the existing rail bed ballast (i.e. rock) surface material turning it into a usable trail ahead of the installation of a more universally accessible interim trail consisting of a smaller gravel material more commonly used for trail construction. The rail removal work does not include any excavation or earth moving and, as a result, the rail removal contract will not include the removal of the rails and the repaving of the nine existing street crossing locations. The removal of rail within concrete and pavement at the existing road crossings will be performed as a part of the Interim Trail construction as the contractor selected to perform that future work will be better equipped to accomplish those work efforts.

The work required to remove the steel rail, the miscellaneous hardware and railroad crossties is currently estimated to cost less than the current market value for the salvageable material. A reasonable percentage of the existing rail material is highly sought after by "short-haul" railroad companies across the country and that high value rail should produce a good rate of return for its re-sale. As a result, it is likely that the rail salvage will either come close to "breaking even" or even produce a small credit to the City, currently estimated to be in the range of up to \$35,000. The current engineer's estimate includes a reasonable contingency to cover the risk of low scrap prices or low demand for used materials.

There is at least one rail removal contracting firm in the Puget Sound region; however, most rail removal contractors work on a national basis and are headquartered in states as far away as Florida. As a result, the City's engineering consultant has been soliciting interest from all major rail removal contractors for the past two months in order to stimulate interest and, at this time, interest in the Project appears high.

The City has received several inquiries about the need for environmental review of the rail removal effort. Federal law preempts local environmental review (including SEPA) of the rail removal project. This is based on federal statute (49 U.S.C.10501(b)), which provides that the Surface Transportation Board (STB) has exclusive jurisdiction over (among other things) abandonment of rail lines. Courts interpreting this statute have ruled that the federal preemption extends to state and local environmental regulations. See, e.g. *City of Auburn v United States*, 154 F.3d 1025, 1028 (9th Cir. 1998). In addition, a 1999 Federal District Court

decision involving the East Lake Sammamish trail specifically found that federal law preempts rail salvage from state and local environmental and land use regulation. In addition, it should be noted that, as part of the abandonment proceedings for the Eastside Rail Corridor, the STB conducted an Environmental Assessment and concluded that the abandonment would not significantly affect the quality of the environment. See STB Docket No. AB-6 (Sub-No. 465X). Although environmental review processes are not needed for rail removal, SEPA and NEPA reviews will be conducted for the interim trail project.

SCHEDULE

Key dates and timelines for the rail removal and the construction of the interim trail are discussed in much more detail in the memo for the Council's March 5 Study Session, which will be focused on issues related to the Cross Kirkland Corridor. Under typical bidding and contract award processes where the City pays for the work, the amount of time between a bid opening and City Council award can add between two to four weeks to the schedule. With the reasonable expectation that there will be a net monetary credit owed the City, staff's recommendation to pre-authorize an award subject to the conditions listed previously in the memo. If approved, this will allow the City to save time and to expedite the construction phase. Public Works staff will notify adjacent property owners and businesses in the area, providing project timelines and pertinent contact information, before construction begins.