



**CITY OF KIRKLAND**  
**Department of Public Works**  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800  
[www.ci.kirkland.wa.us](http://www.ci.kirkland.wa.us)

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**To:** Marilynne Beard, Interim City Manager  
**From:** Ray Steiger, Interim Public Works Director  
David Godfrey, P.E., Transportation Engineering Manager  
**Date:** March 25, 2010  
**Subject:** EASTSIDE RAIL CORRIDOR UPDATE

RECOMMENDATION

It is recommended that the Council:

- 1) authorize the Mayor to sign a letter to King County expressing Kirkland's interests in how a regional public process is developed and conducted
- 2) direct the Transportation Commission to begin a local process to prepare a statement describing Kirkland's interests in how the Eastside Rail Corridor should be developed in Kirkland.

BACKGROUND

The general background memo provided for the February 16, 2010 Council meeting is included as Attachment 1 to this memo for your information.

At the February 24 meeting of the Transportation Commission, King County Staff briefed the Commission on the County's role in the Eastside Rail Corridor. On March 24, the Commission heard presentations from the Eastside Trail Advocates and the Cascadia Center. At both meetings, audience members commented on corridor development. Video from the [February](#) and [March](#) meetings are available on the City website.

The Commission has identified two areas for action.

**The first area concerns a regional public process.** The County, Sound Transit and other parties are currently negotiating with the corridor owner, the Port of Seattle, to obtain real property interests and other considerations on the corridor. It is the County's intent to begin a public process, in cooperation with Sound Transit, to plan the use of the corridor at the conclusion of the negotiations. The schedule presented to the Commission by the County in February showed process development currently underway with the actual process beginning in June, 2010.

The Commission feels that the City of Kirkland should be a partner in the process and should help influence the nature of the process. The Commission has prepared an interest statement concerning the regional process and recommends that Council send it to King County and Sound Transit. The statement is shown on the next page and a draft letter is Attachment 2.

Draft City of Kirkland Interest Statement

A regional process for planning use of the Eastside Rail Corridor  
April 6, 2010

**Partnership:** The City of Kirkland should be a partner in decision making, having responsibility and influence equal to that of the corridor owners. This is due to the number of Kirkland residents and businesses that abut the corridor, the access that city streets provide to the corridor and because the corridor physically bisects Kirkland. We recognize that because the City of Kirkland does not own the corridor, we may not share final decision making authority in some instances.

**Shared Goals:** Partners should identify shared goals and a set of attributes that characterize a solution supportive of those goals. This aligns with Kirkland's interest that process outcomes have broad support based on consensus.

**Transparency:** It is Kirkland's interest that all information about the corridor from various sources be regularly shared among partners. Kirkland has an interest that technical data is developed and presented in a way that allows easy and meaningful comparisons across a full range of transportation alternatives.

**Public process:** Development of the corridor is of great interest to many people who live and work in Kirkland. Therefore, the regional process must allow many opportunities and ways for the public to offer their opinions. Methods should be developed that allow a wide range of people the ability to influence the process through a variety of means.

**Early involvement:** City of Kirkland should be involved from the very beginning of corridor development. For example, if some early alternatives are proposed for public consideration, Kirkland would like to help develop those alternatives, rather than only responding to them.

**Timely resolution:** Thorough analysis and meaningful process can take time. However, it is Kirkland's interest that the minimum amount of time necessary be spent determining a plan for the corridor.

**The second recommendation from the Transportation Commission is to begin to further refine the City's interests on how the corridor should be developed in Kirkland, culminating in a statement summarizing those interests.** This statement would then be used by Kirkland's representatives at the regional process. Such a statement might describe, for example, the types of rail, trail or other improvements that would be acceptable and the desired relative timing of various elements. The precise scope of the statement will become clearer as a process to develop it unfolds. This is because the scope of the statement will depend on where citizen's interests lie. Those interests will be discovered through the process.

There are several reasons for beginning to develop such a statement now. First, there is a high level of interest in the community concerning plans for the Eastside Rail Corridor. Beginning a process of discussion and information sharing will help satisfy this interest. Tying the discussions to a tangible end product will give the discussions meaning. Second, having a meaningful public process as a part of developing a statement will take time. A regional planning effort is scheduled to begin this fall and in order to complete Kirkland's process in time to tie into the regional process we should start our local process soon. Third, positions are beginning to form in the community around various alternatives. At the same time, it appears as though there is room for agreement on many issues. Beginning to highlight common interests may help limit future conflicts.

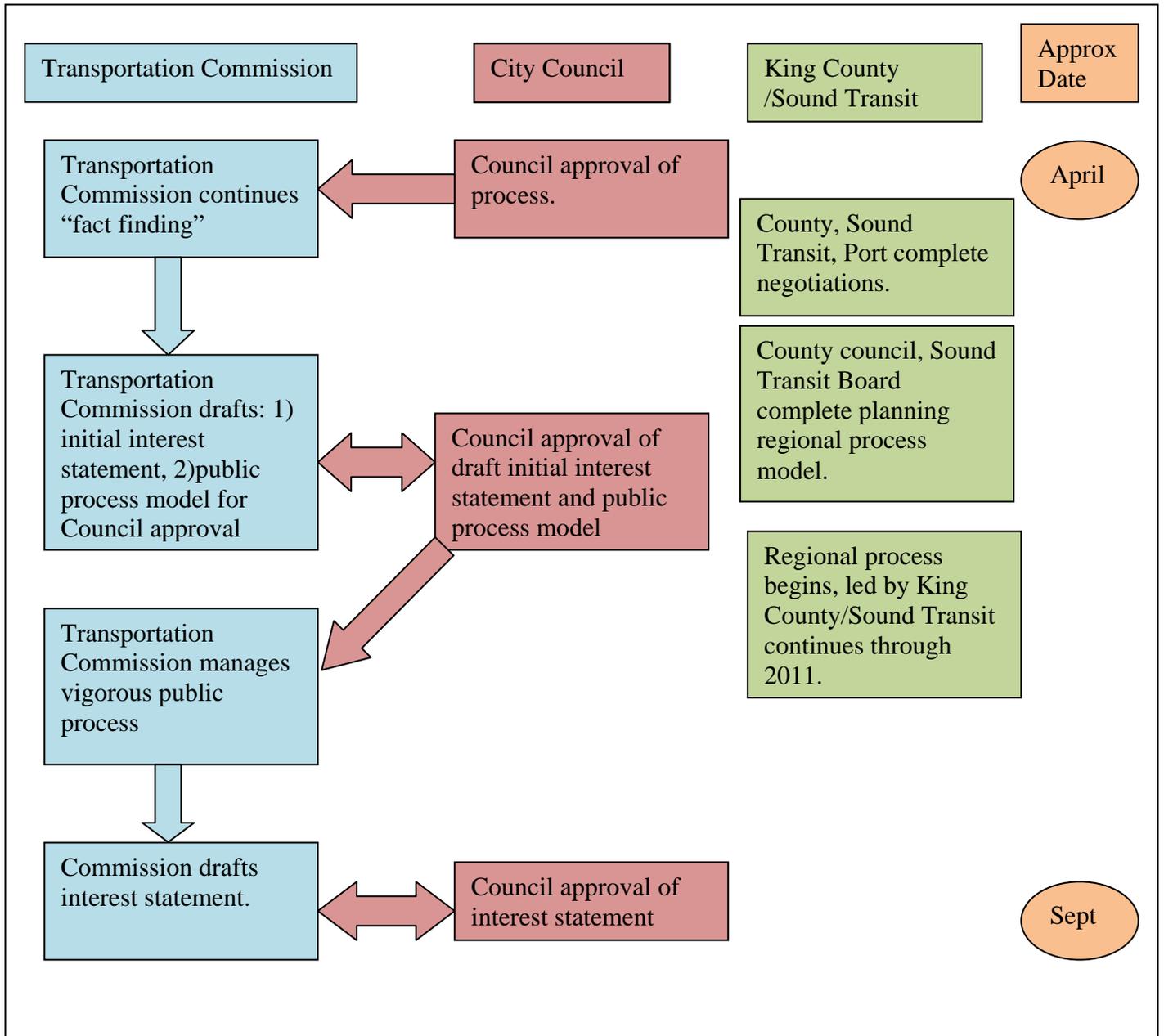
The Transportation Commission has developed a draft process outline, shown in Figure 1 on the next page. The Commission desires a key role in shaping how the corridor is used and is prepared to dedicate a significant portion of its meeting time to this effort.

The right public process is a vital part of developing a meaningful interest statement. The Commission will work with staff to propose initial methods and processes for conducting the outreach and bring those ideas back to Council for discussion. It would be very helpful if, at its April 6 meeting, Council could identify any specific direction the Commission should take in conducting a public process.

Attachment 3 is information prepared by the City Attorney's Office regarding a class action lawsuit filed against the US government concerning the corridor right-of-way. It should have little or no effect on the process being proposed.

This memo and it's attachments have been reviewed and edited by the Transportation Commission.

Figure 1 Draft Process for developing a local interest statement on Corridor planning



## **D R A F T**

April 7, 2010

County Executive Dow Constantine  
401 Fifth Ave., Suite 800  
Seattle, WA 98104

Dear Executive Constantine:

The Kirkland City Council has a great interest in the development of the Eastside Rail corridor. We are pleased that the Port was able to purchase the corridor and excited about the corridor's future prospects.

We understand that the County is currently in negotiations with the Port and other parties, including Sound Transit, to a purchase real property interest in the portion of the right-of-way running through Kirkland. We further understand that at the conclusion of these negotiations the County and Sound Transit will begin a regional planning process to determine how the corridor should be developed.

The City of Kirkland expects to have a seat at the table during the regional process and we'd like to shape the structure of the process as well. To that end, we have developed a set of interests that describe aspects of a regional process important to the City of Kirkland.

The City Council appreciates your consideration of our interests and we look forward to working with you to develop the unique resource that is the Eastside Rail corridor.

Sincerely,

Kirkland City Council

By Joan McBride, Mayor

cc: King County Council members  
Ms. Joni Earl, Sound Transit CEO  
Sound Transit Board members

## City of Kirkland Interest Statement

A regional process for planning use of the Eastside Rail Corridor  
April 6, 2010

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**Transparency:** It is Kirkland's interest that all information about the corridor from various sources be regularly shared among partners. Kirkland has an interest that technical data is developed and presented in a way that allows easy and meaningful comparisons across a full range of transportation alternatives.

**A voice for the public:** Development of the corridor is of great interest to many people who live and work in Kirkland. Therefore, the regional process must allow many opportunities and ways for the public to offer their opinions. Methods should be developed that allow a wide range of people the ability to influence the process through a variety of means.

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## **CITY OF KIRKLAND**

### **Department of Public Works**

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**To:** Dave Ramsay, City Manager

**From:** Ray Steiger, Interim Public Works Director  
David Godfrey, P.E., Transportation Engineering Manager

**Date:** February 4, 2010

**Subject:** EASTSIDE RAIL CORRIDOR UPDATE

#### RECOMMENDATION

It is recommended that the Council receive information on the Eastside Rail Corridor, and direct staff to take additional action as appropriate.

#### BACKGROUND

##### *Current status*

The Eastside Rail Corridor runs between the City of Snohomish and the City of Renton. It includes the Redmond spur which extends between Redmond and Woodinville (see Map 1 on Page 2).

For several years, the Port, King County and the Burlington Northern Santa Fe Railroad have attempted to complete an agreement that would put the Eastside Rail Corridor in public ownership and create a trail for walking and bicycling on the right-of-way. Continued or future rail was also a possible use. The parties were close to completing a deal when the recent financial crisis made selling bonds difficult for the Port, and therefore consummation of the agreement was postponed.

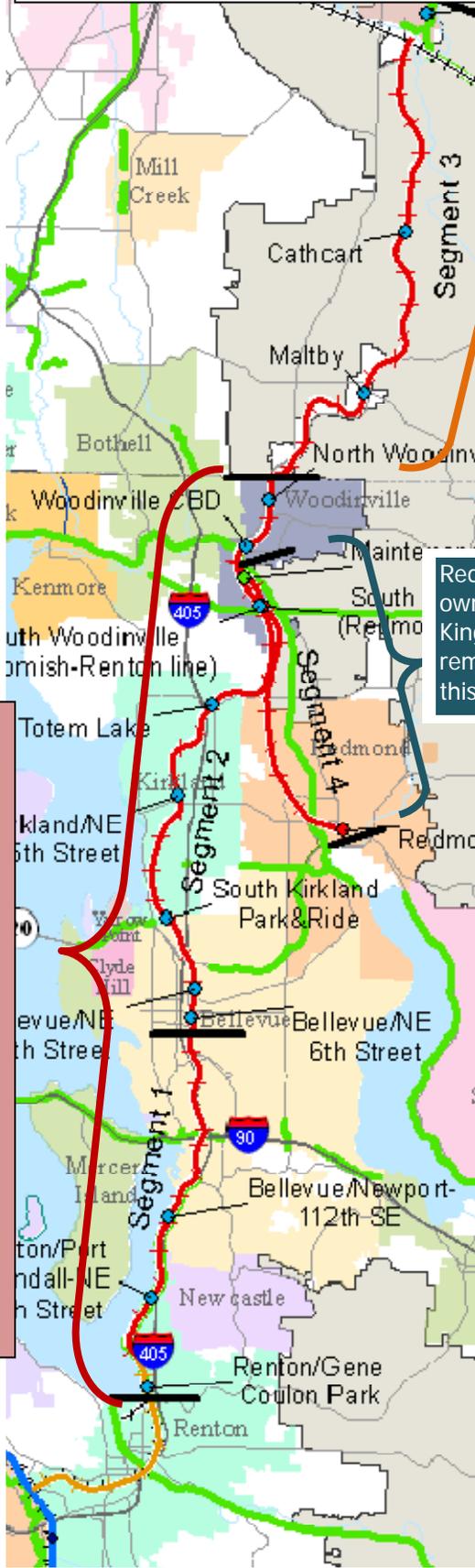
In December 2009, the Port of Seattle completed purchase of the Eastside Rail Corridor from the Burlington Northern Santa Fe Railroad for \$81 million. King County, Sound Transit, the City of Redmond, Puget Sound Energy, and the Cascade Water Alliance will each negotiate with the Port in order to obtain certain interests in the corridor in exchange for payments to the Port. The initial interests of the various parties were outlined in a November 2009 Memorandum of Understanding (MOU). The interests in the November MOU are summarized on Map 1 located on page 2, and Attachment 1 is the full MOU. Currently, the parties are working on refining the nature and value of their various interests which will determine their share of the corridor costs.

**Map 1 Eastside Rail Corridor**  
Showing tentative interests of various parties and terms used in the  
November 2009 MOU

The entire corridor is known as the Woodinville subdivision. The northern portion consists of the freight portion and the Redmond spur. The rest of subdivision is the southern portion.

Port of Seattle, King County, Sound Transit, Redmond, Puget Sound Energy and Cascade Water Alliance are parties to a non-binding 2009 Memorandum of Understanding. That MOU proposes that the Corridor is dual use; "Recreational trail" and high capacity transit or bus transportation.

The southern portion of the corridor contains the section through Kirkland. King County is interested in deed ownership of this portion for construction of a trail. King County currently owns a trail easement. Sound Transit is interested in deed ownership of a section of the line between downtown Bellevue and SR 520 for potential EastLink alignments. Sound Transit is also interested in an easement for future use along the entire southern portion. Cascade Water Alliance is interested in obtaining an easement in this area, and PSE is interested in preserving its rights to existing crossings.



Freight portion, to remain in ownership of the Port of Seattle. GNP railroad is the operator.

Redmond spur. Redmond to own portion in Redmond, King County to own remainder. Trail planned for this segment.

Freight service will be maintained between Snohomish and Woodinville through an agreement between the Port of Seattle and a third-party operator. A service similar to the former dinner train may also be operated in this segment. The rest of the corridor will be preserved for both rail and trail uses under the federal rail banking<sup>1</sup> program.

*The party's interests*

The portion of the spur in the City of Redmond, essentially the portion south of NE 124th Street, will be owned by Redmond and a trail is planned. Redmond may also construct other non-transportation projects.

King County is interested in developing a trail on the northern portion of the Redmond spur, from approximately NE 124th north. King County also intends to secure a real property interest in the portion of the corridor that runs from Woodinville to Renton. The County previously purchased a trail easement along the corridor.

Sound Transit is interested in owning a portion of the corridor for the light rail line between Seattle and Overlake/Redmond and in having the ability to potentially operate elsewhere on corridor in the future.

The Cascade Water Alliance is seeking an utility easement over the corridor and Puget Sound Energy is interested in securing easements for their future and existing facilities.

*A study of rail feasibility*

In 2008, the Legislature directed Sound Transit and PSRC to conduct a study of the feasibility of rail in the corridor. That study has two volumes; [the first is a review of previous plans, studies and other documents](#). The [second volume is a feasibility study for rail in the corridor](#). Supporting materials are available on the [PSRC website](#). Key findings as reported in the Executive Summary are as follows:

- The operation of commuter/passenger rail on the corridor is feasible through a variety of capital improvements to facilitate higher speeds than can be achieved today and to improve the safety of the track, structures, and roadway crossings in the corridor.
- The capital cost estimate for commuter/passenger rail is within the range for other lines that have been implemented across the country, although at the high end of that range. This is due to the neglected condition of the corridor and the lack of safety and communication systems along the line.
- The estimated capital costs for rail are \$1.0 to \$1.3 billion. Annual operating costs were estimated at \$24 to \$32 million . These costs were reported in 2008 dollars.
- The BNSF Eastside Corridor has the potential for significant transit ridership, connecting the regional growth centers of Renton, Bellevue, Kirkland/Totem Lake and Redmond, with trips as high as 6,070 per day.
- Downtown Bellevue is the key ridership destination along the corridor, due to its concentrations of population, employment and commercial activity.

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<sup>1</sup> Railbanking is a way of using federal regulations to achieve two purposes. One is to preserve the integrity of the corridor; it doesn't allow property owners to suspend easements previously granted for rail operations and the other is to preserve the ability to operate rail on the corridor in the future.

- Implementation of service along the corridor requires a vehicle storage and maintenance facility, which appears to be located most readily north of downtown Bellevue where there are appropriately-zoned large parcels adjacent to the track.
- A pedestrian/bike trail could also fit within the existing right-of-way throughout much of the corridor. However, in some locations, property acquisition would be required to accommodate commuter/passenger rail and a trail.
- The estimated capital cost for a fully improved pedestrian/bike trail parallel to the rail line ranges from \$297 million to \$432 million depending on the width of the trail area.

### *Sound Transit funding*

Sound Transit II, a plan approved by the voters in November of 2008, includes a provision by which Sound Transit could invest in rail operation in the Eastside Rail Corridor, outside the East Link program. Wording from the Sound Transit II plan is as follows:

Any future passenger rail service along this corridor would be implemented and operated by other public and/or private parties, particularly along the portion of the corridor located in Snohomish County outside the Sound Transit District. The ST2 Plan does not include funds to operate such passenger rail service. Sound Transit's investment in this project is limited to a maximum contribution of \$50 million dollars, which may be used for engineering and design, and for the purchase of capital equipment and real estate that can either be sold or used on Sound Transit's existing transportation system. Sound Transit's investment is also contingent upon the satisfaction of the following conditions prior to December 31, 2011:

- a. Completion of the Sound Transit/PSRC feasibility study and determination that passenger rail on the Eastside BNSF corridor is feasible and would be a meaningful component of the region's future transportation system, as required by state law;
- b. The Sound Transit Board's determination that the ridership forecasts, financing plan, and capital and operating cost estimates and operating plan are reasonable and that the service will provide substantial benefits to the regional transportation system in the Sound Transit District; and
- c. Execution of an agreement with other public or private parties regarding the implementation of a passenger rail system.

If a partnership for passenger rail on the BNSF corridor in East King County is not executed by December 31, 2011, the \$50 million included in the ST2 Plan for a partnership will be reprogrammed to further the implementation of HOV BRT service in the I-405 corridor in East King County.

Note that condition a) has been met by completion of and determinations in the feasibility study described beginning on page 3.

### *Groups and positions*

Previously, the Kirkland City Council has taken a position of strongly supporting a trail and not wishing to preclude development of rail. At that time, Council had a number of questions around rail development including location of stations, parking, ridership etc.

In March of 2009, the Kirkland Council adopted an Active Transportation Plan with the following goal.

**Goal G1 Develop the Cross Kirkland Trail.**

For more than 15 years, the railroad right-of-way that passes through Kirkland has been seen as the preeminent site for developing an exceptionally useful off-road, shared use facility for active transportation.

Objective G1.1 By 2015, open a section of Cross-Kirkland Trail on the Eastside Rail Corridor.

*Strategy G1.1.1* Thoroughly understand the process which King County and Port of Seattle will use to develop the trail and proactively work to make Kirkland an area where the trail is developed first. *Timing: current through completion of plan for development of trail.*

The Transportation Commission feels strongly that Kirkland should be proactive in advocating its position, helping to influence how and when the corridor will be developed. As the Commission has discussed its Transportation Conversation document with groups throughout the community, many people have expressed an interest in learning more about the corridor and how it will be used. The Active Living Task Force has been following the negotiations between the Port and County and is supportive of trail development. Groups have formed to advance various interests in the corridor. [Eastside Trail Advocates](#), supports a trail and [Eastside Rail Now](#) supports rail. The Cascadia Institute has also been supportive of rail in the corridor. The GNP Railroad operates on the freight section of the corridor and has expressed interest in operating rail on other portions of the corridor.

*Policy options:*

If the City Council agrees that proactive engagement with the parties involved in current and future negotiations is important, it would be helpful for Council to reaffirm and/or expand its position on the corridor. As stated above, Council's most recent position is in strong support of a trail for active transportation while not precluding the development of rail in the future if certain important issues can be satisfactorily resolved. Based on staff conversations with King County officials, there are several issues that are of interest to the County as they continue discussions with the Port. These include timing, regional process, what level of trail should be constructed and the type of rail that might operate in the corridor. Therefore, Council may wish to add to or modify its most recent position by taking positions on questions such as:

Timing:

- Should Kirkland support action to develop a trail soon or are we willing to wait for a period of 10 or more years to develop a trail.
- The same question applies to rail. Should Kirkland advocate for development of rail soon or should we be willing to wait for a period of 10 or more years before rail would operate.

Process:

- What are the elements of a regional process that are important to Kirkland? For example should it include extensive outreach to those who live near the corridor?

Type of trail and type of rail:

- How important is a paved trail? Would a gravel trail be adequate for a period of years?

- Does Kirkland feel strongly about heavy rail versus light rail. Would one be more desirable than another?

Other issues:

- Is it important that the existing rails remain in the corridor?
- Should a new trail be developed in such a way that rail operations could be developed without disturbing the trail? Or, should it be assumed that any trail will be rebuilt if rail is operated in the corridor?
- Would Kirkland potentially be a partner in funding trail or rail development?
- Is it a priority that a first segment of a trail be developed in Kirkland?
- Are there locations for rail stations in Kirkland that should be given high priority?

Clearly, the Council may need more information before answering such questions. In addition to city staff, other resources for gaining that information could include:

- The Community. City of Kirkland staff could organize events that would allow Council to understand the views and opinions of Kirkland's citizens on how the corridor should be used.
- The Transportation Commission. The Commission is interested in supporting the Council by recommending further policy clarification, helping to gauge public support for various options or in any other manner the Council would find helpful.
- Outside agency staff. Staff from King County, Sound Transit, Port of Seattle or other agencies could be available to present to Council. King County staff is scheduled to give an update to the Transportation Commission at the Commission's February 24 meeting.

**MEMORANDUM OF UNDERSTANDING**  
**Regarding Acquisition of the**  
**Woodinville Subdivision**

This MEMORANDUM OF UNDERSTANDING is made by and among the Port of Seattle, a Washington municipal corporation ("Port"), Sound Transit, a regional transit authority ("Sound Transit"), King County, a political subdivision of Washington ("King County"), the City of Redmond, a Washington municipal corporation ("Redmond"), the Cascade Water Alliance, a Washington non-profit corporation ("Cascade"), and Puget Sound Energy, Inc., a Washington corporation ("PSE") (collectively, the "Parties") as of the 5<sup>th</sup> day of November, 2009.

WHEREAS:

(A) BNSF desires to sell in part and donate in part the Woodinville Subdivision, which is a railroad corridor extending from the City of Renton northerly to the City of Snohomish, and including a spur corridor extending from the City of Woodinville to the City of Redmond; and

(B) The Port, King County and BNSF previously executed a purchase and sale agreement and donation agreement for the acquisition and partial railbanking of the Woodinville Subdivision; and

(C) Additional regional partners have been identified to share in the cost of acquiring the Woodinville Subdivision for public ownership; and

(D) The alignments under consideration for Sound Transit's Eastlink light rail project require property rights within the Woodinville Subdivision; and

(E) Sound Transit, Redmond, Cascade and PSE have each expressed an interest in participating in the acquisition and preservation of the Woodinville Subdivision in public ownership for recreational trail use, as well as for use as a public transportation and utility corridor.

(F) It is the express purpose of Sound Transit, King County, and Redmond, that the Woodinville Subdivision be developed and operated to ensure that it is available for the dual purposes of recreational trail and public transportation use; and

(G) Consistent with federal railbanking requirements, King County and Redmond have interests in developing a recreational trail within the Woodinville Subdivision; and

(H) The financial contributions to be made by the Port, King County, Sound Transit and Redmond towards this collective acquisition may not be in proportion to the fair market value of the rights in the Woodinville Subdivision that are expected to be received by these entities and, in all instances, the fair market value of the rights to be received by each governmental entity in the Woodinville Subdivision may materially exceed the amount of such entity's respective financial contribution.

NOW, THEREFORE, the Parties have reached the following understanding:

**SECTION 1. Purpose.**

The Port intends to close its acquisition of the Woodinville Subdivision in 2009. The Parties have envisioned and are working to complete a future transaction for their mutual benefit and for the benefit of the public. The Parties wish to set forth their understandings in this Memorandum of Understanding ("MOU") with respect to their respective interests in the transaction. This MOU is a non-binding document that creates no rights and imposes no obligations on any Party. While the Parties are committed to working cooperatively, expeditiously and efficiently to document the components of the transaction through binding agreements ("Agreements") using this MOU as a guide, the allocation of interests described in this MOU are tentative and subject to review and modification as the Parties move forward with their discussions.

**SECTION 2. Key Acquisition Elements.**

The key elements of the proposed transaction are as follows:

2.1 This transaction concerns the portion of the Woodinville Subdivision main line corridor between Renton and Snohomish (approximately mile posts 5.0 and 38.4), and a spur corridor between Woodinville and Redmond (between approximately mile posts 0.0 and 7.3) ("Redmond Spur"). Collectively, the main line corridor and the Redmond Spur constitute the "Woodinville Subdivision." The portion of the Woodinville Subdivision north of mile post 23.8 in Woodinville to milepost 38.4 in Snohomish County is referred to as the "Freight Portion." The portion of the Redmond Spur between approximately mileposts 0.0 and 3.1 is referred to as the "County Portion of the Redmond Spur." The portion of the Redmond Spur between approximately mileposts 3.1 and 7.3 is referred to as the "City Portion of the Redmond Spur." Together, the Freight Portion and the Redmond Spur are referred to as the "Northern Portion." The portion of the Woodinville Subdivision south of Woodinville, excluding the Redmond Spur, is referred to as the "Southern Portion." The specific line segments and designated portions will be further defined in the Agreements.

2.2 The Parties have expressed a desire for the future allocation of interests in the Woodinville Subdivision as follows:

2.2.1 The Port will retain, subject to a freight rail easement granted by BNSF to a freight rail operator, all of the title, interest and obligations in the real and personal property of the Freight Portion.

2.2.2 Sound Transit is interested in acquiring a real property interest in the Southern Portion and the Redmond Spur.

2.2.3 King County is interested in acquiring a real property interest in the Southern Portion and the County Portion of the Redmond Spur.

2.2.4 Redmond is interested in acquiring a real property interest in the City Portion of the Redmond Spur.

2.2.5 Cascade is interested in acquiring a utility easement over the Southern Portion and will have the right to negotiate with the County and Redmond for utility easements over the Redmond Spur.

2.2.6 PSE is interested in acquiring utility easements throughout the entirety of the Woodinville Subdivision, except for the City Portion of the Redmond Spur, for PSE's existing and future facilities and infrastructure. For the City Portion of the Redmond Spur, PSE and Redmond anticipate a value for value exchange of perpetual easements for existing PSE facilities and infrastructure within the Redmond right-of-way and Redmond trail facilities on PSE properties, based on the appraised value of the properties in question. Provided, that PSE's new facilities and infrastructure shall be subject to otherwise applicable public approval, construction and permitting processes.

2.3 The identification of which entities will grant and which entities will receive these interests and the order in which these interests will be acquired will be further defined in the Agreements.

### **SECTION 3. Proposed Key Future Use Elements.**

3.1 Freight rail service subject to the jurisdiction of the Surface Transportation Board ("STB") will continue on the Freight Portion.

3.2 Utility corridor uses by PSE and Cascade.

3.3 Interim trail use ("railbanking") will be established on the Southern Portion and the Redmond Spur under the National Trails Systems Act, 16 U.S.C. 1247(d) as of the closing of the Port's transaction with BNSF. The Parties recognize that for any portion subject to railbanking, future local, regional or national transportation needs may require reconstruction and reactivation of the right-of-way for freight rail service. King County will be the trail sponsor for the Southern Portion and the County Portion of the Redmond Spur. The Agreements will provide that in the event Redmond acquires an interest in the City Portion of the Redmond Spur, King County and Redmond will cooperate in seeking Surface Transportation Board authorization for Redmond to assume the role of trail sponsor for the City Portion of the Redmond Spur.

3.4 The Parties intend that the Agreements will provide that, consistent with railbanking, the Southern Portion and the Redmond Spur will, in addition to public trail use, be available for public transportation uses such as high capacity transit or bus transportation. The Freight Portion may be made available for public transportation purposes and recreational trail purposes to the extent consistent with ongoing freight rail operations. Should the Freight Portion ever be proposed for abandonment, the Parties with an interest in the Freight Portion shall cooperate to allow the Freight Portion to be railbanked.

3.5 Upon consummation of the Agreements, a process will be established for the entities with interests in the Southern Portion and the Redmond Spur to periodically meet in order to consult and coordinate activities related to the development, maintenance and use of those portions of the Woodinville Subdivision. Said entities agree to coordinate planning and development activities to the extent possible to ensure effective use of the Southern Portion and the Redmond Spur for the uses outlined in this MOU, based on the ownership interests acquired by

each, and consistent with the express goal of developing and operating a dual use corridor for recreational trail and transit purposes. The Agreements shall ensure that no party may frustrate dual use of the corridor for both public transportation and recreational trail purposes.

**3.6** If the Port ever determines to offer or to agree to transfer any or all of the Freight Portion, then Sound Transit, King County and any other public agency in the State authorized to provide transit, rail services or public trails shall have a right of first refusal to acquire such property.

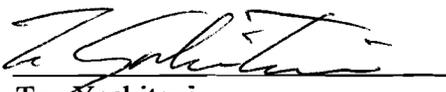
**3.7** If BNSF ever determines to offer or to agree to transfer any or all of that portion of the Woodinville Subdivision between approximately mileposts 0-5.0, King County will have the right of first refusal to acquire that portion of such property. If King County acquires this property, it will make it available to the other Parties on terms similar to their interests in the acquired portions of the Woodinville Subdivision.

**SECTION 4. Negotiation, Cooperation, and Timing.**

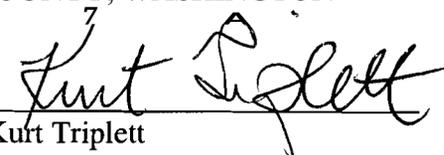
**4.1.** The Parties shall cooperate to (i) reach agreement on press releases and other public announcements related to the transactions described herein, and (ii) make any filings with the STB to the extent such filings are necessary to effectuate the transactions contemplated by this MOU.

**4.2** By no later than December 14,2009, the Parties shall seek any necessary authorizations from their respective boards or legislative bodies to negotiate the transactions contemplated in this MOU.

PORT OF SEATTLE

By:   
Tay Yoshitani  
Chief Executive Officer

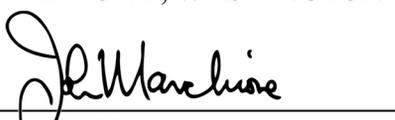
KING COUNTY, WASHINGTON

By:   
Kurt Triplett  
County Executive

SOUND TRANSIT

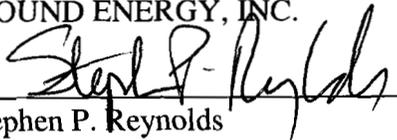
By:   
Joni Earl  
Chief Executive Officer

CITY OF REDMOND, WASHINGTON

By:   
John Marchione  
Mayor

PUGET SOUND ENERGY, INC.

By:

  
\_\_\_\_\_  
Stephen P. Reynolds  
President and Chief Executive Officer

CASCADE WATER ALLIANCE

By:

  
\_\_\_\_\_  
Chuck Clarke  
Chief Executive Officer

Attachment 3  
Information from the City Attorney's office about a Class Action Lawsuit  
March 25, 2010

The City recently received notice of a class action lawsuit against the United States regarding the federal Surface Transportation Board authorizing BNSF and King County to enter into a railbanking agreement with respect to the BNSF right of way in Kirkland and other locations in King County. The class action lawsuit alleges that the authorization by the Surface Transportation Board constitutes a taking of the property rights of the property owners along the BNSF right of way. The City believes that the class action notices have been sent to all property owners whose property abuts the BNSF right of way.

The class action does not seek invalidation of the Notice that authorized the railbanking agreement. It simply seeks monetary compensation for the alleged taking. Whether a landowner is entitled to any compensation is an issue currently being decided by the federal courts. However, determination of the compensation issues won't have an impact on the validity of the federal Notice authorizing the railbanking agreement between King County and BNSF.

The City received the class action notice because it owns property along the BNSF right of way and because it is being offered the opportunity to join the class action as a plaintiff who may potentially receive just compensation. It is not being made a defendant to the class action and an adverse judgment against the United States will not result in liability to the City.

Property owners who want to be part of the class action must submit an "Entry of Appearance" by June 18, 2010. Submitting an Entry of Appearance would be appropriate if the City wanted to assert that the railbanking agreement between the BNSF and the King County is a taking of its property rights under the United States Constitution. Because the City Council has expressed its support for the Rails to Trails Program in the past, City staff recommends that the City not submit an Entry of Appearance, and therefore not participate in the class action as a member of the class. However, if the Council has any questions or wants additional information, the City Attorney's Office is prepared to respond.