CITY OF KIRKLAND

CITY COUNCIL

James Lauinger, Mayor • Joan McBride, Deputy Mayor • Dave Asher • Mary-Alyce Burleigh
Jessica Greenway • Tom Hodgson • Bob Sternoff • David Ramsay, City Manager

123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • TTY 425.587.3111 • www.ci.kirkland.wa.us

AGENDA
KIRKLAND CITY COUNCIL MEETING
City Council Chamber
Tuesday, October 21, 2008
6:00 p.m. – Study Session – Peter Kirk Room
7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.ci.kirkland.wa.us, at the Public Resource Area at City Hall or at the Kirkland Library on the Friday afternoon prior to the City Council meeting. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (587-3190) or the City Manager's Office (587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 587-3190, or for TTY service call 587-3111 (by noon on Monday) if we can be of assistance. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

EXECUTIVE SESSIONS may be held by the City Council to discuss matters where confidentiality is required for the public interest, including buying and selling property, certain personnel issues, and lawsuits. An executive session is the only type of Council meeting permitted by law to be closed to the public and news media

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION*, Peter Kirk Room
   a. Joint Meeting with the Human Services Advisory Committee
4. *EXECUTIVE SESSION*
   a. To Discuss Labor Negotiations
5. *SPECIAL PRESENTATIONS*
6. *REPORTS*
   a. *City Council*
      (1) Regional Issues
   b. *City Manager*
      (1) Calendar Update
7. *COMMUNICATIONS*
   a. *Items from the Audience*
   b. *Petitions*
8. *CONSENT CALENDAR*
   a. *Approval of Minutes:* October 7, 2008

P - denotes a presentation from staff or consultant

b. Audit of Accounts:

Payroll $

Bills $

GENERAL CORRESPONDENCE Letters of a general nature (complaints, requests for service, etc.) are submitted to the Council with a staff recommendation. Letters relating to quasi-judicial matters (including land use public hearings) are also listed on the agenda. Copies of the letters are placed in the hearing file and then presented to the Council at the time the matter is officially brought to the Council for a decision.

c. General Correspondence

d. Claims

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

(1) Establish Lien Period, and Approve Additional Funds for 2007 Water System Improvement Project

g. Approval of Agreements

h. Other Items of Business

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

(1) Ordinance No. 4140 and its Summary, Granting Verizon Northwest Inc. a Non-Exclusive Cable Franchise

(2) Ordinance No. 4141 and its Summary, Granting Northshore Utility District, A Washington Municipal Corporation, the Right, Privilege, Authority and Franchise to Construct and Maintain, Repair, Replace, Operate Upon, Over, Under, Along and Across the Franchise Area for Purposes of It's Water and Sewer Utility Business

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

(3) Authorizing Additional Funds for Phase 2 (South Section) of 116th Avenue NE Non-Motorized Facilities

(4) Report on Procurement Activities

(5) Lodging Tax Advisory Committee Appointments

(6) Inflation Rates and Impact Fee Indexing

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

9. PUBLIC HEARINGS

a. Ordinance No. 4149, Relating to Land Use and Zoning Within Central Business District (CBD) Zone 1, Adopting Interim Zoning Regulations Limiting the Height of Buildings Within Design Districts 1A and 1B as Designated in the Moss Bay Neighborhood Portion of the Comprehensive Plan to Three and Four Stories, Respectively; Limiting the Height of Buildings Within 100 Feet of Lake Street or Lake Street South to Two Stories; and Repealing Ordinance 4139

10. UNFINISHED BUSINESS

a. Ordinance No. 4143, Relating to Land Use and Zoning, Adopting Interim Zoning Regulations for the Review Process for City Council Initiated Amendments to the Comprehensive Plan and/or Text of the Zoning Code in Central Business

P - denotes a presentation from staff or consultant

District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8, Including Amendments to Kirkland Zoning Code Chapter 142, Design Review

b. Approving Correspondence Regarding SR 520 Eastside Transit and HOV Project - P

c. Downtown Kirkland Transit Center 60% Status Update

d. School Walk Routes Status Report and Correspondence from Kaylee Nilan, Margaret Carnegie, Karen Tennyson, James McElwee, Kristin Stone, Kim Lowe, Mari Bercaw, Megan Hayton, and Cindy Smith Regarding School Walk Routes

e. Tax Burden Study Follow-Up

NEW BUSINESS consists of items which have not previously been reviewed by the Council, and which may require discussion and policy direction from the Council.

11. NEW BUSINESS

a. Jail Environmental Impact Statement Agreement:

(1) Resolution R-4729, Authorizing the City Manager to Sign the SEPA Nominal Lead Agency Agreement Between the City of Kirkland and the Cities of Bellevue, Redmond, Seattle, and Shoreline

b. State Environmental Policy Act (SEPA), Land Surface Modification (LSM), and Cottage Housing Code Amendments:

(1) Ordinance No. 4150 and its Summary, Relating to State Environmental Policy Act Procedures and Policies; Repealing and Re-enacting Section 24.02 of the Kirkland Municipal Code (KMC); and Approving a Summary Ordinance for Publication, File No. ZON08-00007

(2) Ordinance No. 4151 and its Summary, Relating to Land Surface Modifications; Amending Portions of the Following Chapters of Ordinance 3719 as Amended, the Kirkland Zoning Ordinance: Chapter 1-User Guide; Chapter 5-Definitions; Chapter 30-WD Zones; Chapter 50-CBD Zones; Chapter 52- JBD Zones; Chapter 6-PLA Zones; and Chapter 115-Miscellaneous Standards; Amending Portions of the Following Titles of the Municipal Code: Title 9-Health and Sanitation and Title 21-Buildings and Construction; Adopting a New Title 29 Entitled "Land Surface Modification" in the Kirkland Municipal Code; and Approving a Summary Ordinance for Publication, File No. ZON08-00007

(3) Ordinance No. 4152 and its Summary, Relating to Cottage, Carriage and Two/Three-Unit Homes; Amending Portions of the Following Chapter of Ordinance 3719 As Amended, the Kirkland Zoning Ordinance: Chapter 113-Cottage, Carriage and Two/Three-Unit Homes; Amending Portions of the Following Title of the Municipal Code: Title 22-Subdivisions; and Approving a Summary Ordinance for Publication, File No. ZON08-00007

c. Designating Delegates to the National League of Cities Annual Business Meeting

12. ANNOUNCEMENTS

13. ADJOURNMENT

P - denotes a presentation from staff or consultant

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Human Services Advisory Committee
Sharon Anderson, Human Services Coordinator
Jennifer Schroder, Director
Carrie Hite, Deputy Director

Date: October 13, 2008

Subject: Joint Meeting with City Council

The Human Services Advisory Committee would like to thank the City Council for the opportunity to meet together and discuss a number of issues of importance to the Advisory Committee. The opportunity to meet in a study session allows for a better exchange of ideas and a better discussion of the issues.

Human Services Issue Paper
The Human Services Advisory Committee along with staff have prepared a human services issue paper that is meant to inform Council of the current state of human services both locally and regionally in preparation for budget deliberations.

At the joint meeting the Committee is prepared to discuss the issues presented in the report and respond to Council questions.

Committee's Role
The role of the Committee is to advise the City Council on all matters concerning human services. The Committee reviews all requests for funding of human services; develops recommendations on priorities, planning, funding and the delivery of human services. The Committee meets regularly; conduct site visits with local human service providers and participate in other regional planning efforts to be a voice for Kirkland.

Current Funding Cycle and Public Hearings
The current funding cycle for local nonprofits providing human services in Kirkland is for 2009-2010. We have received 58 applications for a total request of $737,026. At the beginning of each 2-year funding cycle the Committee holds a series of public hearings to give service providers an opportunity to discuss trends in the community, human services needs in Kirkland, and request support for their financial request. The committee held three public hearings this fall. Twenty-nine individuals representing 47 programs spoke at the hearings and written comments were received as well. All of the testimony received was supportive of the Committees work and expressed appreciation of the City Council's commitment to provide funding to support a network of services which respond to community need.

Input from these hearings give a snapshot of the local needs, new trends emerging in the current economy, the challenges agencies are facing, concerns with the potential cuts in the County budget, Medicaid and other federally funded programs and how it will play a role in shaping their service delivery.

Currently, the Committee is reviewing the 58 applications and will forward their recommendations for funding to Council in November.

The Committee is aware of the City's budgetary issues and requests that if funds are available Council will provide additional funding to support the City's continued investment in human services.

Human Services Advisory Committee Members
Tom Sherrard, Committee Chair
Katherine Robichaux
Anahita Nakhjiri
Chris Houden
Santiago Ramos
Sharon Anderson, Human Services Coordinator

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager
Tracey Dunlap, Finance Director

From: Jennifer Schroder, Director
Carrie Hite, Deputy Director
Sharon Anderson, Human Services Coordinator
Human Services Advisory Committee

Date: September 22, 2008

Subject: Human Services Issue Paper

This paper is meant to inform Council of the current state of human services both locally and regionally in preparation for budget deliberations.

Current Human Services Per-Capita Funding

The total amount budgeted in 2007/2008 for the human services program is $517,453 per year, or 1,035,406 for the biennium. This amount is based on $8.36 and $8.61 on-going per capita and one time funds of $116,028 and $96,673 for 2007 and 2008, respectively. In addition, Council awarded one time funds of $7500 per year to the Assistance League of the Eastside. With the one-time allotments and the on-going per capita amount, the total per-capita allocation for 2007/2008 is $10.97 and 10.78, respectively. Below is a table that demonstrates the human services funding allocated by Kirkland since 2000.

Summary of the City's Contribution to Human Services

Year	Pop	Total Ongoing	Ongoing per capita	Total One-Time	One-Time per capita	One time Assistance League	Additional one-time Per capita	Total Dollars	Total per capita
2000	44,860	$302,805	$6.75	$ -	$ -			$302,805	$6.75
2001	45,090	$326,903	$7.25	$ -	$ -			$326,903	$7.25
2002	45,770	$331,832	$7.25	$28,316	$0.62			$360,148	$7.87
2003	45,786	$371,321	$8.11	$11,448	$0.25			$382,769	$8.36
2004	45,630	$370,059	$8.11	$45,791	$1.00			$415,850	$9.11
2005	45,800	$371,438	$8.11	$58,503	$1.28			$429,941	$9.39
2006	45,800	$371,438	$8.11	$58,503	$1.28			$429,941	$9.39
2007	47,180	$394,425	$8.36	$116,028	$2.46	$7,500	$0.15	$517,953	$10.97
2008	48,000	$413,280	$8.61	$96,673	$2.01	$7,500	$0.15	$517,453	$10.78

As you can see, Council was able to increase the ongoing per capita amount for 2007-2008, and allocate additional one-time funds for this past biennium. The one-time funds were used to give agencies a cost of living adjustment, fund two programs that were cut from CDBG funding, and fund three new programs. In addition, Council approved one-time funds of $7500 per year to the Assistance League of the Eastside during the budget year. One-time funds assist our agencies to continue to provide high quality services, and allow Kirkland to fund emerging needs. However, it makes a very tenuous funding puzzle for agencies each year to continue at the same level without ongoing funds being allocated.

Attachment A demonstrates a comparison of our regional counter parts per-capita allocations for Human Services. As is evident, Kirkland's per capita is mid-range of our regional counterparts. We certainly compare fairly well with some of the smaller cities in the area, and below a few of the larger cities (namely Bellevue and Redmond). The Human Services Advisory Committee compares Kirkland's need and demographics to Bellevue and Redmond, and recommends using these two cities as the most relevant comparables.

Local Needs Increasing

This year, the Human Services Advisory Committee has received applications for 58 programs, when currently, we fund 45 programs (please see **Attachment B**). The total amount requested is $737,026. In the Public Hearings conducted by the Human Services Advisory Committee, our local nonprofits are reporting a tremendous increase in requests for service. Hopelink has seen a dramatic increase in requests for housing, food, and transportation assistance. They have also experienced a decline in donations and volunteers, who need to return to the work force to make ends meet. Eastside Domestic Violence Program has experienced a large increase in calls for service and emergency confidential shelter. Currently, for every one person they serve, thirteen are turned away. KITH has experienced an increase in requests for service, turning away 135 households each month because they don't have the capacity or funds to serve them.

Regional Impacts

There are several human services funding issues to consider that may impact Kirkland this next biennium.

1. King County is facing a $90 million dollar deficit in the next budget biennium. The County has informed our local human services agencies to prepare for a 44% cut in 2009, and an additional 33% in 2010, with the possibility of eliminating human service funding altogether in 2011. What will these cuts mean to agencies that serve East King County residents? Here are a few examples:

- Healthy Start, an evidence based program that provides voluntary, home visiting services to young families with children birth to three, to improve the quality of parent-child interaction and school readiness, is partially funded through the King County Children and Family Commission. The program is at risk of losing $280,000 which would eliminate services to over 200 young families a year.

- Eastside Domestic Violence Program which provides a host of services, including community advocacy, shelter, transitional housing and a crisis line to survivors of domestic violence and their families, receives about 20% of its budget ($170,330) from King County. The loss of any of these services could result in emotional, sexual and physical harm to adults and children.

- HealthPoint (formerly Community Health Centers of King County), which provides free or low-cost medical and dental services to low-income, uninsured children, youth and adults, receives about 50% of its funding for its Healthcare for the Homeless program, from King County. Without these funds, fewer

staff will be available to cover the healthcare needs of this very vulnerable, and growing population, on the Eastside.

Currently, there are efforts from Eastside Human Services Forum, King County Human Service Alliance, and the Alliance for Eastside Agencies to work with the County to mitigate some of these proposed cuts, and service level impacts.

2. United Way - a major funder of human services, has continued to shift dollars to their priorities of homelessness and early learning/school readiness, funding for other services has been reduced. We know this has had an impact on agencies and programs in East King County and perhaps in North King County as well. In addition, they are rolling out a reorganization and have proposed the elimination of the East King County Council, which has served to represent Eastside needs for United Way. Staff and Eastside Human Services Forum have been involved in these discussions to represent the Eastside's interests.

3. King County Homeless Housing and Services Fund – this was authorized by the State Legislature in 2005 and 2007 in two bills and funds are provided from document recording fees collected by the county. The funds can be used for homeless services, affordable housing operating support, rental assistance and capital, and prevention. In 2008, an estimated $5.9 million will be available from this fund for projects in King County.

4. King County Veterans and Human Services Levy – this was approved by voters in 2005 and increases property taxes by 5 cents per $1,000 of assessed valuation for six years. It's estimated to raise $13.3 million per year and is divided between veterans, military personnel and their families, and regional health and human services, such as housing assistance, homelessness prevention, mental health and substance abuse services, and employment assistance. Council was provided an allocation update of these funds in August.

5. Mental Illness and Drug Dependency (MIDD) fund – in 2005 the State Legislature gave counties the option to raise local sales taxes by 0.1% to be used specifically for mental health and chemical dependency services. In the 2008 State Legislative session, this was expanded to include using these sales tax funds for housing. It's anticipated to raise $50 million annually. The Action Plans, which include specific implementation strategies, are just now being completed and funds should be available in January 2009.

As Council may recall, the Healthy Families and Communities Task Force identified a gap of $83 Million dollars in our current human service system (2006). The County has been working progressively to fill this gap, hence the Veterans and Human Services Levy, and the Mental Illness and Drug Dependency fund. The total amount from these three new funding sources is over $60 million and, although not enough to meet the estimated funding gap for regional human services, is certainly a good start and definitely needed. The Eastside Human Services Forum is taking an active role to advocate for Eastside needs and funding from these new sources.

Council Recommendation

Because of the current trend of the increased demand for services, pending budget cuts from King County, and limited available funds, the Human Services Advisory Committee recommends that the City not sustain cuts to Human Services, but allocate additional funds to this effort if at all possible.

The following options are recommended by the Human Services Advisory Committee, in priority order:

1. The one-time allotment of $113,850 average per year ($ 227,701 biennium) to be restored to permanent funding, or allocated again as one time. This would result in the same funding level as the current biennium, and would average $10.88 per capita.

2. In 2009/2010, allocate another $0.50 ($48,410 biennium) on-going or one time per-capita funding based on 48,410 population. This amount would provide cost of living adjustments for the 45 contracted agencies and possibly fund additional new projects.

3. In 2009/2010, allocate an additional $.25 per capita ($24,205 biennium) to fund new service areas.

Funding Allocations with Options

	2007/08 Ongoing	**2007/08 One time**	**2009/2010 Ongoing**	**2009/2010 One time**	**Per Capita**	**Total**
Current Funding	$ 807,705 (2007 = $394,425: 2008 = $413,280)	$227,701			$10.88	$1,035,406
Option 1			$826,560 ($413,280)	**$227,701**	$10.88	$1,054,261
Option 2			$826,560	**$48,410**	$11.38	$1,102,671
Option 3			$826,560	**$24,205**	$11.63	$1,126,876

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KIRKLAND CITY COUNCIL SPECIAL MEETING MINUTES
October 07, 2008

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:
Members Present: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.
Members Absent: None.

3. STUDY SESSION

a. Briefing on Draft Environmental Impact Statement for Touchstone (Parkplace), Orni and Altom Private Amendment Requests

Joining Councilmembers for this discussion in addition to City Manager Dave Ramsay were Planning and Community Development Director Eric Shields, Deputy Director Paul Stewart, Senior Planner Angela Ruggeri, Public Works Development Engineering Manager Rob Jammerman, Transportation Engineering Manager Dave Godfrey, ICF Jones and Stokes consultants Ron Loewen, Jennifer Barnes and Gil Cerise, and Touchstone's traffic consultant Marni Heffron, Principal of Heffron Transportation.

4. EXECUTIVE SESSION

a. To Discuss Pending Litigation

b. To Discuss Property Acquisition

5. SPECIAL PRESENTATIONS

a. Domestic Violence Awareness Month Proclamation

Ray Di Casparrro, Eastside Domestic Violence Program Board Member, accepted the proclamation.

b. Walk Your Child to School Proclamation

Lake Washington PTSA Council President Wendy DeLong and Ped Bee accepted the proclamation.

c. Green Tips

Senior Stormwater Utility Engineer Jenny Gaus shared information on creating Rain Gardens.

6. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding the Enterprise Seattle quarterly meeting; Bear Creek restoration project; Growth Management Planning Committee meeting; Suburban Cities Association Public Issues Committee meeting and position on I-985; International Code Council Conference; Association of Washington Cities legislative priorities; Governor Christine Gregoire's recent visit to Kirkland; Flood Control Zone District Board of Supervisors funding vote; Mayor's meeting with downtown business owners regarding the moratorium; and the Suburban Cities Association call for nominations to regional committees.

b. City Manager

(1) Calendar Update

7. COMMUNICATIONS

a. Items from the Audience

Cami Keyes, 8126 NE 115th Court, Kirkland, WA
Maureen Baskin, 412 13th Avenue, Kirkland, WA
John Gilday, 7th Avenue South, Kirkland, WA
Margit Moore, 109 2nd Street South, #335, Kirkland, WA

b. Petitions

None.

8. CONSENT CALENDAR

a. Approval of Minutes:

(1) September 16, 2008 (with additional language)

(2) September 18, 2008

b. Audit of Accounts:

Payroll $ 1,996,363.54
Bills $ 2,607,899.14
run # 773 check #'s 502218 - 502391
run # 774 check #'s 502415 - 502513
run # 775 check #'s 502514 - 502731

c. General Correspondence

(1) Washington Public Interest Group (WashPIRG), Regarding City Council's Position on the '21st Century Transportation for America' Platform

(2) Kaylee Nilan, Margaret Carnegie, Karen Tennyson, and James McElwee Regarding School Walk Route Priority

(3) Michael Bonewits, Regarding Downtown Motorcycle Parking

Motion to Table the response to item 8.c.(2). until further information is provided concerning the status of School Walk Routes that have sidewalks, and those that have been done in the last 4 years.
Moved by Councilmember Dave Asher, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

d. Claims

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

(1) Ratifying the Purchase and Sale Agreement Between Olga and Viktor Razumovich and the City of Kirkland

h. Other Items of Business

(1) Approving Advance of 2009 Funds for Cochran Springs/Plaza at Yarrow Bay Flood Control

(2) Resolution R-4726, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE PRELIMINARY SUBDIVISION AND PRELIMINARY PLAT OF GARDEN GATE AS APPLIED FOR BY PHOENIX DEVELOPMENT OF

SUNDQUIST HOMES BEING DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. FSB08-00002 AND SETTING FORTH CONDITI0NS TO WHICH SUCH PRELIMINARY PLAT SHALL BE SUBJECT."

(3) Ordinance No. 4138 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION DEMAND MANAGEMENT, REPEALING AND REENACTING CHAPTER 7.06 OF THE KIRKLAND MUNICIPAL CODE RELATING TO COMMUTE TRIP REDUCTION, ADOPTING THE CITY OF KIRKLAND COMMUTE TRIP REDUCTION (CTR) PLAN AND IMPLEMENTING MEASURES AS REQUIRED BY RCW 70.94.527."

This item was pulled from the evening's agenda for consideration at a future City Council meeting.

(4) Resolution R-4727, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE IN AN UNOPENED RIGHT-OF-WAY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNERS JAMES W. AND KATHERINE W. OSBORNE."

(5) Authorizing the Issuance of a Cabaret Music License to Café Harlequin

Motion to Approve the Consent Calendar as amended by the motion in regard to item 8.c.(2)., with edits to items 8.c.(1). and (2). responses, the exception of item 8.h.(3)., which was pulled, and additional language to September 16, 2008 City Council meeting minutes.
Moved by Councilmember Mary-Alyce Burleigh, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

9. PUBLIC HEARINGS

a. Ordinance No. 4140 and its Summary, Granting Verizon Northwest Inc. a Non-Exclusive Cable Franchise

Mayor Lauinger opened the public hearing. Chief Information Officer Brenda Cooper provided an overview of the proposed franchise.
Testimony was provided by:
Curtis Thompson, 127 3rd Avenue, Suite 302, Kirkland, WA
Mark Nelson, 299 Lake Avenue West, Kirkland, WA
Josh Dillon, Verizon Negotiator
No further testimony was offered and the Mayor closed the hearing.

b. Ordinance No. 4141 and its Summary, Granting Northshore Utility District, a Washington Municipal Corporation, the Right, Privilege, Authority and Franchise to Construct and Maintain, Repair, Replace, Operate Upon, Over, Under, Along and Across the Franchise Area for Purposes of its Water and Sewer Utility Business

Mayor Lauinger opened the public hearing. Multimedia Services Manager Janice Perry and Public Works Engineering Manager Rob Jammerman reviewed the terms of the proposed franchise. No further testimony was offered and the Mayor closed the hearing.

c. Resolution R-4728, Stating the City Council's Opposition to Initiative 985 on the November 4, 2008, General Election Ballot

(1) Initiative Measure No. 985 concerns transportation. This measure would open high-occupancy vehicle lanes to all traffic during specified hours, require traffic light synchronization, increase roadside assistance funding, and dedicate certain taxes, fines, tolls and other revenues to traffic-flow purposes. Should this measure be enacted into law?
YES [ ] NO [ ]

Mayor Lauinger opened the public hearing. Intergovernmental Relations Manager Erin Leonhart reviewed the impacts of the proposed Initiative. No further testimony was offered and the Mayor closed the hearing.

Motion to Approve Resolution R-4728, entitled "A RESOLUTION OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S OPPOSITION TO INITIATIVE 985 ON THE NOVEMBER 4, 2008, GENERAL ELECTION BALLOT."
Moved by Councilmember Dave Asher, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

Council recessed for a short break.

d. Downtown Plan and Zoning:

(1) Ordinance No. 4142, Imposing a Moratorium Within Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8 on the Acceptance of Applications for Review and/or Issuance of Development Permits or Applications for Design Review for Any New Development That Would Add or Create in Excess of 500 Square Feet of Gross Floor Area; and Repealing Ordinance No. 4139

(2) Ordinance No. 4143, Relating to Land Use and Zoning, Adopting Interim Zoning Regulations for the Review Process for City Council Initiated Amendments to the Comprehensive Plan and/or Text of the Zoning Code in Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8, Including Amendments to Kirkland Zoning Code Chapter 142, Design Review

Mayor Lauinger opened the public hearing. Planning Director Eric Shields introduced the two ordinances for Council consideration.
Testimony was provided by:
Curtis Thompson, 127 3rd Avenue, Kirkland, WA
Joe Castleberry, 17411 Hwy 106, Belfair, WA
Marilyn Dillard, 2053 Minor Avenue East, Seattle, WA
Penny Sweet, 700 20th Avenue, Kirkland, WA
Jim McElwee, 12907 NE 78th Place, Kirkland, WA
Margit Moore, 109 2nd Street South, #335, Kirkland, WA
Doug Davis, 101 Lake Street South, Kirkland, WA
Rob Brown, 108 2nd Avenue South, #105, Kirkland, WA
Tim Olson, 1571 3rd Street, Kirkland, WA
Jim Balkman, 425 Lake Street South, #5, Kirkland, WA
Bill Vadino, Greater Kirkland Chamber of Commerce, 401 Parkplace, Kirkland, WA
Noel Miller, 425 Lake Street South, Kirkland, WA
No further testimony was offered and the Mayor closed the hearing.
During and following Council discussion of the issues, Council provided direction to staff for use in crafting interim regulations for further review at Council's special study session on October 16, 2008 and consideration of final drafts for adoption at Council's regular meeting on October 21, 2008.

10. UNFINISHED BUSINESS

a. Approving 2009-2010 Utility Rates for Water, Wastewater, Solid Waste and Surface Water:

(1) Ordinance No. 4144 and its Summary, Relating to Solid Waste Collection Rates and Amending Section 16.12.030 of the Kirkland Municipal Code

Motion to Approve Ordinance No. 4144 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SOLID WASTE COLLECTION RATES AND AMENDING SECTION 16.12.030 OF THE KIRKLAND MUNICIPAL CODE."
Moved by Councilmember Mary-Alyce Burleigh, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

(2) Ordinance No. 4145, Relating to 2009 Sewer System Customer Rates and Amending Table15.24.070 of the Kirkland Municipal Code

Motion to Approve Ordinance No. 4145, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO 2009 SEWER SYSTEM CUSTOMER RATES AND AMENDING TABLE 15.24.070 OF THE KIRKLAND MUNICIPAL CODE."
Moved by Councilmember Dave Asher, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

(3) Ordinance No. 4146, Relating to 2010 Sewer System Customer Rates and Amending Table15.24.070 of the Kirkland Municipal Code

Motion to Approve Ordinance No. 4146, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO 2010 SEWER SYSTEM CUSTOMER RATES AND AMENDING TABLE 15.24.070 OF THE KIRKLAND MUNICIPAL CODE."
Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

(4) Ordinance No. 4147, Relating to Water System Customer Rates for 2009 and Providing for Changes in Said Rates

Motion to Approve Ordinance No. 4147, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO WATER SYSTEM CUSTOMER RATES FOR 2009 AND PROVIDING FOR CHANGES IN SAID RATES."
Moved by Councilmember Dave Asher, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

(5) Ordinance No. 4148, Relating to Water System Customer Rates for 2010 and Providing for Changes in Said Rates

Motion to Approve Ordinance No. 4148, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO WATER SYSTEM CUSTOMER RATES FOR 2010 AND PROVIDING FOR CHANGES IN SAID RATES."
Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

b. Retaining Neighborhood Traffic Control Program Procedures

Motion to accept the staff recommendation to retain the Neighborhood Traffic Control Program procedures.
Moved by Councilmember Dave Asher, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

c. Appointing Design Review Board Alternate

Motion to select Bozurka Pejcic-Morrison as an alternate appointee should an additional architect vacancy arise on the Design Review Board in the next six months.
Moved by Councilmember Jessica Greenway, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

11. NEW BUSINESS

None.

12. ANNOUNCEMENTS

None.

13. ADJOURNMENT

The Kirkland City Council Special Meeting of October 7, 2008 was adjourned at 11:23 p.m.

City Clerk

Mayor

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3809
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: October 21, 2008

Subject: 2007 WATER SYSTEM IMPROVEMENT PROJECT
ACCEPT WORK AND ESTABLISH LIEN PERIOD

RECOMMENDATION:

It is recommended that the City Council accept the 2007 Water System Improvement Project as constructed by KarVel Construction Company of Renton, WA, and establish the 45 day lien period. In addition, it is recommended that the City Council approve the use of an additional $61,494 from the Utility Capital Contingency Fund to complete the project.

BACKGROUND AND DISCUSSION:

The 2007 Water System Improvement Project includes the replacement of approximately 3,700 lineal feet of AC water main with new 8-inch ductile iron pipe. Individually, the CIP projects making up the 2007 Water System Improvement Project include: NE 85th Street, between 128th Ave NE and 132nd Ave NE and 130th Avenue NE between NE 87th Street and NE 88th Street (WA-0078), 108th Avenue NE, between NE 108th Street and NE 112th Street (WA-0101) and 124th Avenue NE, between NE 80th Street and NE 85th Street (WA-0105) (Attachment A).

At their meeting on July 17th, 2007 Council authorized award of the project to KarVel Construction Company in the amount of $824,672. Construction began on November 26, 2007 and was substantially complete on May 27, 2008 (approximately three months past the originally planned completion date). With the approval of additional funding, total payments to the Contractor will be $887,466 including one change order and the total project cost will be $1,071,466 (Attachment B).

Change Order Number 1 accounts for the additional work required as a result of differing site conditions from what was originally expected. During portions of the excavation for the new water main along NE 85th Street, the Contractor encountered asphalt thickness up to eighteen inches with an additional twelve-inch thick concrete roadway underneath. We expected the asphalt depth to be no greater than ten-inches and were unaware of the old concrete roadway. This required additional time and expense for removal and disposal of the material. There were also complications with abandoning the existing water main along NE 85th Street. The configuration of the existing system where the abandoned portion of water main was to be disconnected was not as expected, and at the opposite end, the depth of the abandoned line was thirteen feet below the surface of the road (approximately nine-feet deeper than typical). All of these conditions required additional material, equipment and labor equal to $62,794 in extra expense.

Other impacts to the cost of the project were the Contractor's inability to meet schedule requirements. They often worked partial days and were inefficient in managing their time on a project with multiple locations. This caused

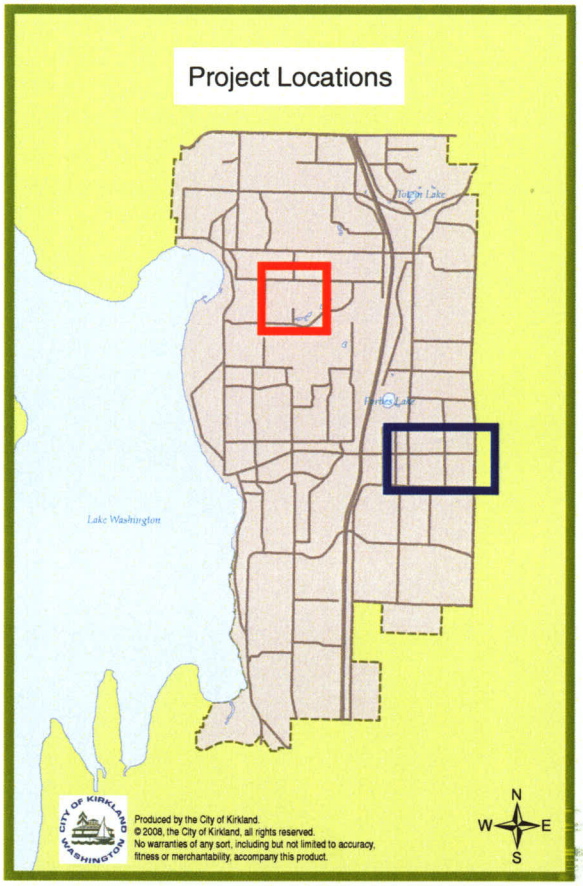
the extension of contract time by approximately three months and unanticipated increases in inspection and in-house engineering hours. Therefore, as part of Change Order Number 1, the Contractor will credit the City $51,524 for the cost of inspection and engineering hours spent on the number of days exceeding the contract. Without this credit the total project budget shortfall would be $113,018.

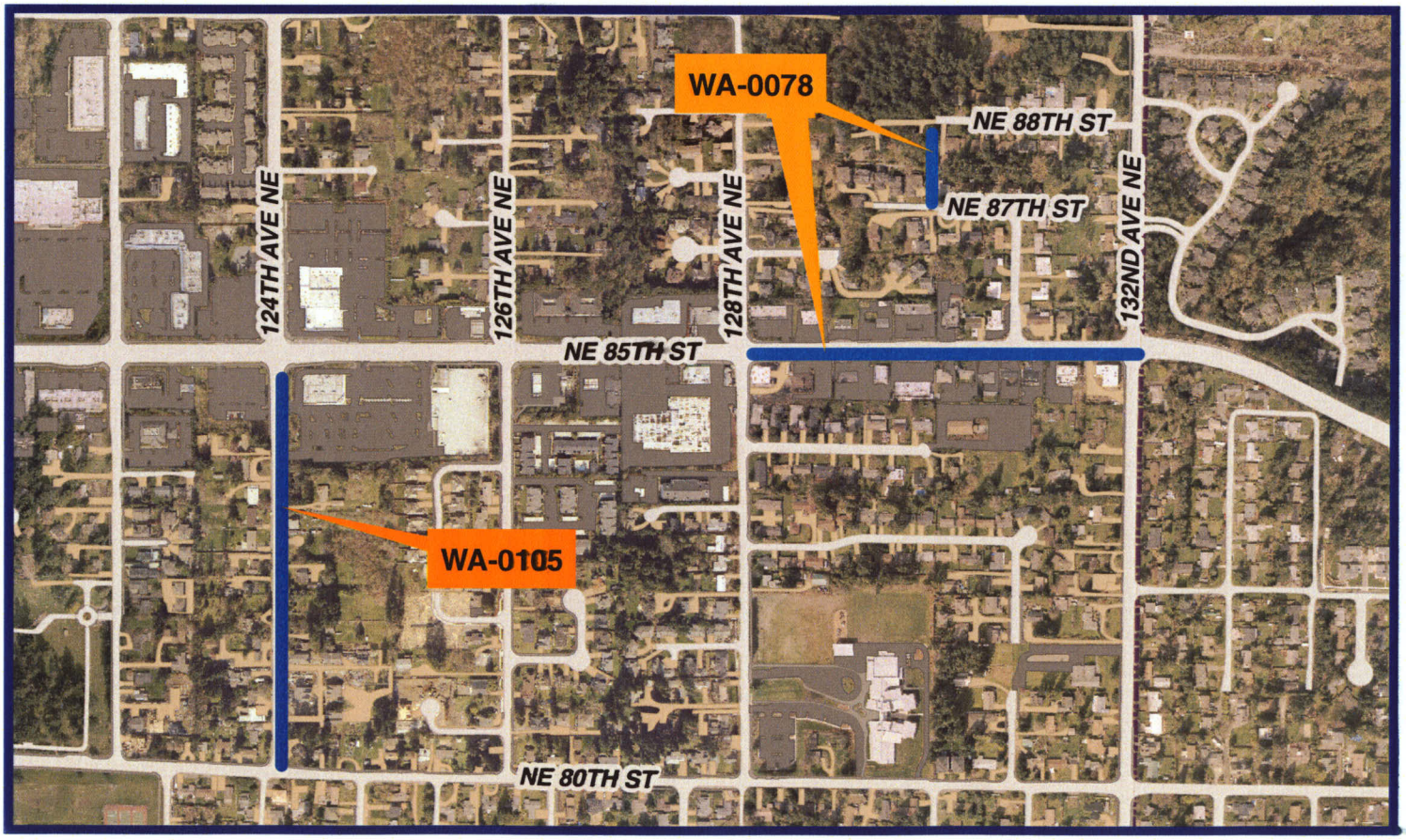
With Council acceptance of the 2007 Water System Improvements project; additional funding would come from the Utility Capital Contingency (Attachment C), the Contractor's 45 day lien period will begin and the project will be closed out in January, 2009.

Attachments: (4)

Site Map

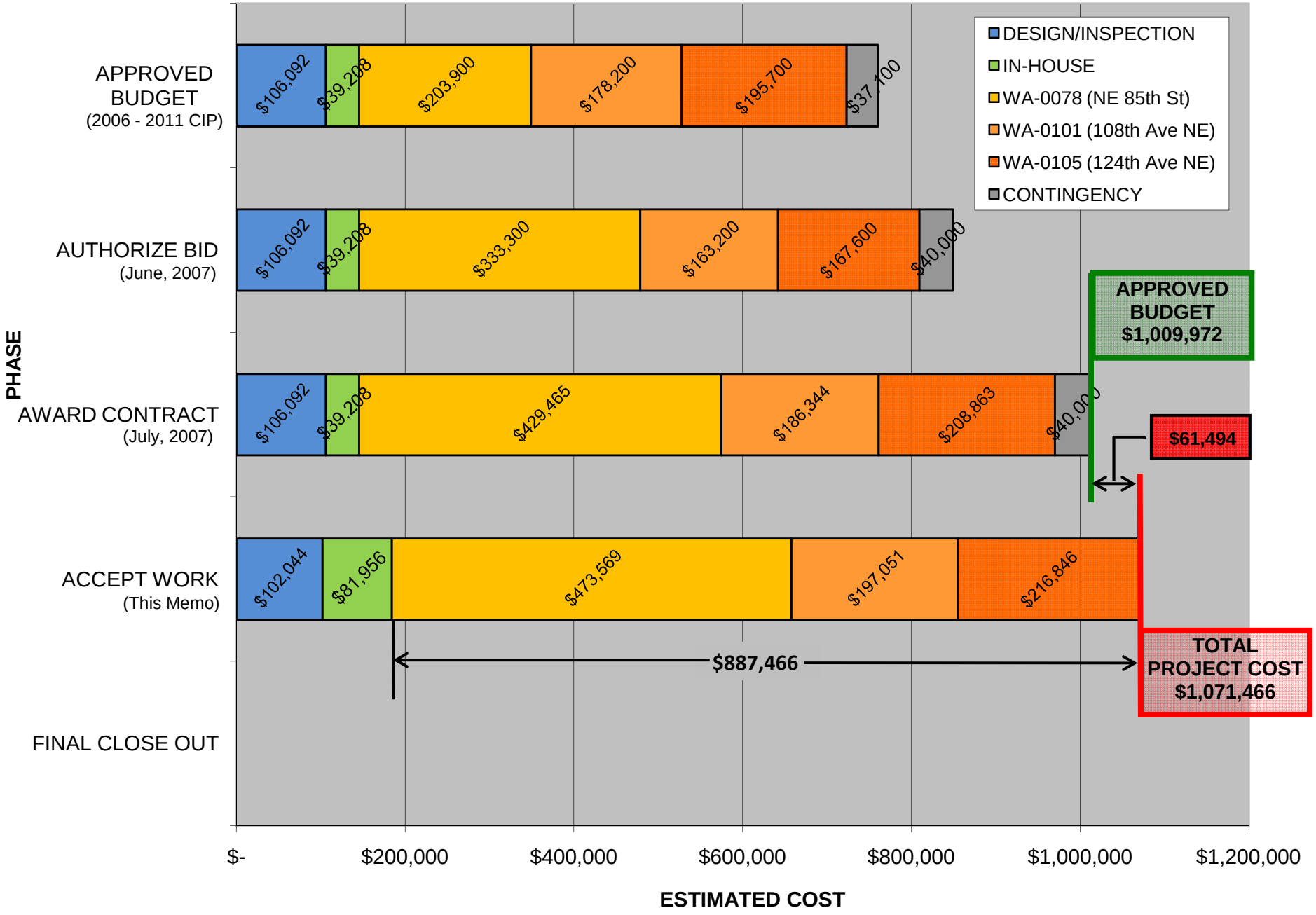
2007 Water System Improvements Project
WA-0078 WA-0101 WA-0105





Project Budget Report

2007 Water System Improvements Project
WA-0078 WA-0101 WA-0105



Attachment B

ATTACHMENT C

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Daryl Grigsby, Public Works Director

Description of Request

Request additional funding of $61,494 from the Water/Sewer Capital Contingency for the completion of the 2007 Water System Improvement Project. The 2007 project encompasses three separate watermain replacement CIP projects. Additional expenses were incurred for the total project due to differing site conditions from what was originally expected and challenges with the configuration of the old abandoned line that was to be removed. In addition, contractor delays increased the time and cost to complete the project. The contractor will be crediting the City for a portion of the change order required to complete the project and the net additional cost to the City is $61,494.

Legality/City Policy Basis

Fiscal Impact

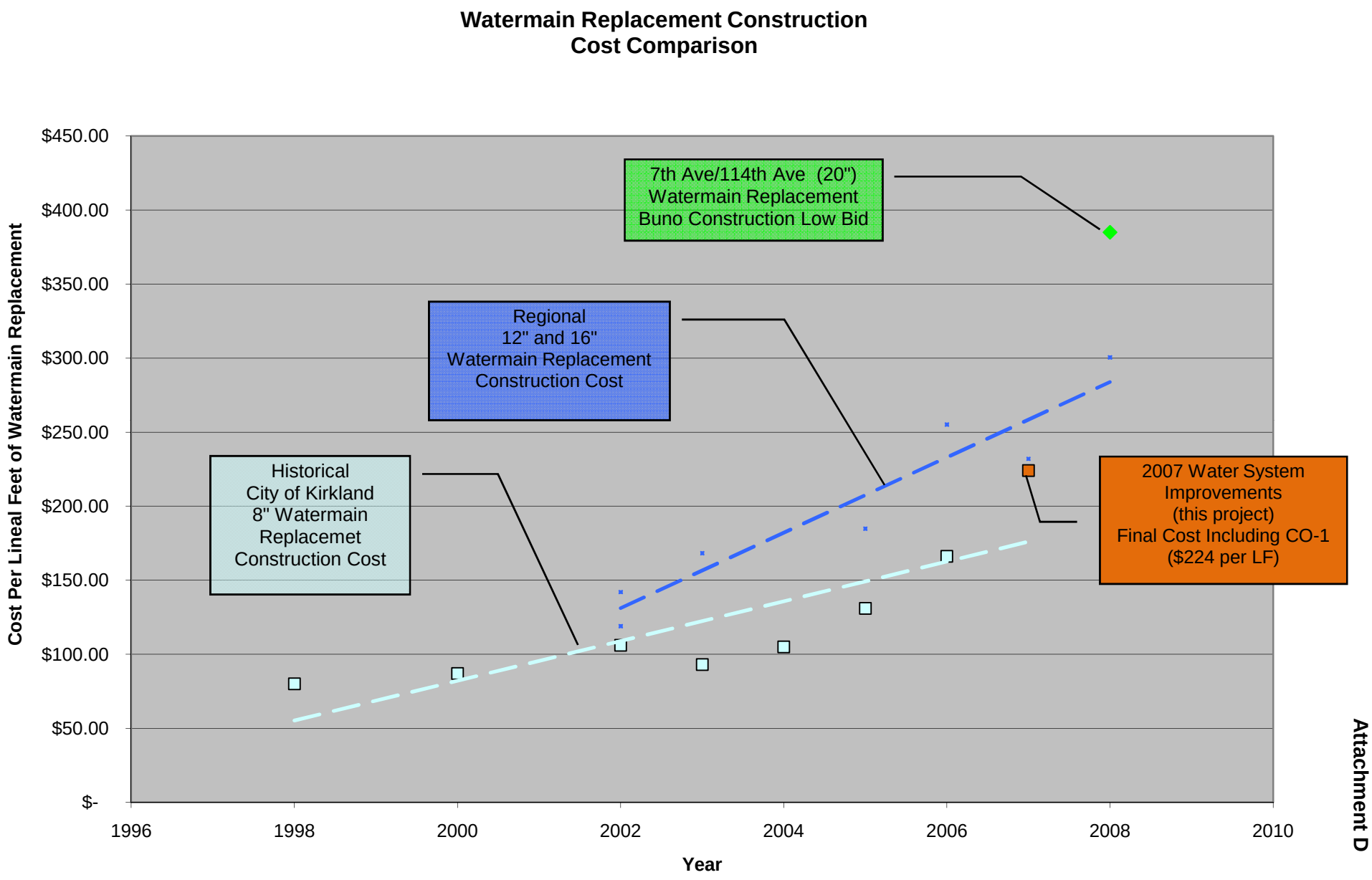
One-time use of $61,494 of the Water/Sewer Capital Contingency. The contingency is able to fully fund this request.

Recommended Funding Source(s)

	Description	2008 Est End Balance	Prior Auth. 2007-08 Uses	Prior Auth. 2007-08 Additions	Amount This Request	Revised 2008 End Balance	2008 Target
Reserve	Water/Sewer Capital Contingency	1,703,640	680,200	0	61,494	961,946	1,703,640
	2007-08 Prior Authorized Uses of this reserve include: $113,900 for the Central Way Improvements; $250,000 for the 2007 Water System Improvement Project (same project this fiscal note is being requested for); $81,000 for the Waverly Beach Lift Station Project; $55,300 for the 7th Ave and 114th Ave Watermain Replacement Project; $180,000 for watermain repairs on the NE 73rd Street Sidewalk Project.						
Revenue/Exp Savings							
Other Source							

Other Information

Prepared By	Sandi Hines, Financial Planning Manager	Date	October 10, 2008



Attachment D

CITY OF KIRKLAND
Information Technology Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3050
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Janice Perry, MultiMedia Communications Manager
Brenda Cooper, Chief Information Officer

Date: October 21, 2008

Subject: Verizon Franchise

RECOMMENDATION

Second reading of and take action on proposed ordinance to grant a franchise to Verizon Northwest Inc.

BACKGROUND DISCUSSION

On October 7, 2008, City Council conducted a public hearing on the proposed ordinance to grant a franchise to Verizon. During the course of the hearing there was an expressed interest to have the King County Government Channel and Television Washington (TVW) included in Verizon's program offerings.

Verizon acknowledged the request and has presented language addressing the concerns heard. The last sentence in Section 5.1.2 makes provision for the King County Government Channel and we have verified that there is an agreement between Verizon and TVW to air their programming.

Staff recommends adoption of Ordinance no. 4140 granting a ten year franchise to Verizon Northwest Inc.

ORDINANCE NO. 4140

AN ORDINANCE OF THE CITY OF KIRKLAND GRANTING VERIZON NORTHWEST INC. A NON-EXCLUSIVE CABLE FRANCHISE.

The City Council of the City of Kirkland do ordain as follows:

Section 1. The City Manager is authorized and directed to execute the cable franchise agreement attached hereto as Exhibit A between the City of Kirkland and Verizon Northwest Inc., the terms of which are incorporated herein by reference as if fully set forth.

Section 2. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2008.

Signed in authentication thereof this _____ day of _____, 2008.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

CABLE FRANCHISE AGREEMENT

between

CITY OF KIRKLAND

and

VERIZON NORTHWEST INC.

2008

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THIS CABLE FRANCHISE AGREEMENT (the "Franchise" or "Agreement") is entered into by and between Kirkland, a duly organized city under the applicable laws of the State of Washington (the "City") and Verizon Northwest Inc., a corporation duly organized under the applicable laws of the State of Washington (the "Franchisee").

WHEREAS, the City wishes to grant Franchisee a nonexclusive franchise to construct, install, maintain, extend and operate a cable communications system in the Franchise Area as designated in this Franchise;

WHEREAS, the City is a "franchising authority" in accordance with Title VI of the Communications Act (*see* 47 U.S.C. §522(10)) and is authorized to grant one or more nonexclusive cable franchises pursuant to Washington state law;

WHEREAS, Franchisee is in the process of installing a Fiber to the Premise Telecommunications Network ("FTTP Network") in the Franchise Area for the transmission of Non-Cable Services pursuant to authority granted by the State of Washington;

WHEREAS, the FTTP Network will occupy the Public Rights-of-Way within the City, and Franchisee desires to use portions of the FTTP Network once installed to provide Cable Services (as hereinafter defined) in the Franchise Area;

WHEREAS, the City has considered the financial, technical and legal qualifications of Franchisee, and has determined that Franchisee's plans for its Cable System are adequate, in a full public proceeding affording due process to all parties;

WHEREAS, the City has found Franchisee to be financially, technically and legally qualified to operate the Cable System;

WHEREAS, the City has determined that the grant of a nonexclusive franchise to Franchisee is consistent with the public interest; and

WHEREAS, the City and Franchisee have reached agreement on the terms and conditions set forth herein and the parties have agreed to be bound by those terms and conditions.

NOW, THEREFORE, in consideration of the City's grant of a franchise to Franchisee, Franchisee's promise to provide Cable Service to residents of the Franchise/Service Area of the City pursuant to and consistent with the Communications Act (as hereinafter defined)**,** pursuant to the terms and conditions set forth herein, the promises and undertakings herein, and other good and valuable consideration, the receipt and the adequacy of which are hereby acknowledged.

THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

1. **DEFINITIONS**

Except as otherwise provided herein, the definitions and word usages set forth in the Communications Act (as hereinafter defined) are incorporated herein and shall apply in this Agreement. In addition, the following definitions shall apply:

1.1. *Access Channel:* A video Channel, which Franchisee shall make available to the City without charge for non-commercial Public, Educational, or Governmental use for the transmission of video programming as directed by the City. For purposes of this definition, non-commercial shall not preclude the City, or any entity managing its Access Channel, from entering into underwriting or sponsorship arrangements with third party entities that conform with sponsorship guidelines used by the Public Broadcasting Service.

1.1.1. *Public Access Channel*: An Access Channel where the public is the primary user.

1.1.2. *Educational Access Channel*: An Access Channel where Schools are the primary users or exercise primary editorial control over programming and services.

1.1.3. *Government Access Channel*: An Access Channel means an Access Channel where governmental institutions or their designees are the primary users or exercise primary editorial control over programming and services.

1.1.4. *PEG*: Public, Educational, and Governmental.

1.2. *Additional Service Area:* Shall mean any such portion of the Service Area added pursuant to Section 3.1.3 of this Agreement.

1.3. *Affiliate:* Any Person who, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, the Franchisee.

1.4. *Basic Service:* Any service tier which includes the retransmission of local television broadcast signals as well as the PEG Channels required by this Franchise.

1.5. *Cable Service* or *Cable Services:* Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(6), as may be amended from time to time.

1.6. *Cable System* or *System:* Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(7), meaning Franchisee's facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Service Area. The Cable System shall be limited to the optical spectrum wavelength(s), bandwidth or future technological capacity that is used for the transmission of Cable Services directly to Subscribers within the Franchise/Service Area and shall not include the tangible network facilities of a common carrier subject in whole or in part to Title II of the Communications Act or of an Information Services provider.

1.7. *Channel:* Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(4), as may be amended from time to time.

1.8. *City:* The City of Kirkland, Washington.

1.9. *Communications Act*: The Communications Act of 1934, as amended.

1.10. *Control:* The ability to exercise *de facto* or *de jure* control over day-to-day policies and operations or the management of Franchisee's affairs.

1.11. *FCC*: The United States Federal Communications Commission or successor governmental entity thereto.

1.12. *Force Majeure* An event or events reasonably beyond the ability of Franchisee to anticipate and control. This includes, but is not limited to, severe or unusual weather conditions, strikes, labor disturbances, lockouts, war or act of war (whether an actual declaration of war is made or not), insurrection, riots, act of public enemy, accidents for which the Franchisee is not primarily responsible, fire, flood, or other acts of God.

1.13. *Franchise Area*: The incorporated area (entire existing territorial limits) of the City and such additional areas as may be included in the corporate (territorial) limits of the City during the term of this Franchise.

1.14. *Franchisee:* Verizon Northwest Inc., and its lawful and permitted successors, assigns and transferees.

1.15. *Gross Revenue:* All revenues derived directly by the Franchisee or its Affiliates from the operation of the Cable System to provide Cable Services within the Service Area, including Franchise fees. Subject to Section 1.15.10 below, fees, payments, or other consideration received by the Franchisee from programmers for carriage of programming on the Cable System and advertising sales commissions shall be included as part of Gross Revenues if they are recognized as revenues under generally accepted accounting principles ("GAAP"). Gross Revenue shall not include:

1.15.1. Revenues received by any Affiliate or other Person in exchange for supplying goods or services used by Franchisee to provide Cable Service over the Cable System, provided that the purpose of the payments is not to reduce the amount of the Franchise fee;

1.15.2. Bad debts written off by Franchisee in the normal course of its business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period collected;

1.15.3. Refunds, rebates or discounts made to Subscribers or other third parties to the extent the revenues refunded would otherwise be included in Gross Revenue;

1.15.4. Any revenues classified, in whole or in part, as Non-Cable Services revenue under federal or state law including, without limitation, revenue received from

Telecommunications Services; revenue received from Information Services, and any other revenues attributed to Non-Cable Services in accordance with FCC or state public utility regulatory commission rules, regulations, standards or orders. Nothing in this Subsection 1.15.4 shall have the effect of excluding from Gross Revenue any revenues derived from Cable Service over the Cable System;

1.15.5. Any revenue paid directly by Subscribers for the sale of merchandise through any home shopping channel, infomercial, or advertisement, provided that, commissions or other compensation related to such sales paid to the Franchisee shall be included in Gross Revenue;

1.15.6. Any revenues paid by subscribers and received by third-party channel lessees, except for the portion paid to Franchisee for services and facilities Franchisee provides to the third party channel lessee;

1.15.7. Any tax of general applicability imposed upon Franchisee or upon Subscribers by a city, state, federal or any other governmental entity and required to be collected by Franchisee and remitted to the taxing entity (including, but not limited to, sales/use tax, gross receipts tax, excise tax, utility users tax, public service tax, communication taxes and non-cable franchise fees);

1.15.8. Any foregone revenue which Franchisee chooses not to receive in exchange for its provision of free or reduced cost cable or other communications services to any Person, including without limitation, employees of Franchisee and public institutions or other institutions designated in the Franchise; provided, however, that such foregone revenue which Franchisee chooses not to receive in exchange for trades, barters, services or other items of value shall be included in Gross Revenue;

1.15.9. Sales of capital assets or sales of surplus equipment;

1.15.10. Reimbursement by programmers of marketing costs incurred by Franchisee for the introduction of new programming pursuant to a written marketing agreement;

1.15.11. Directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement and electronic publishing. Nothing in this Subsection 1.15.11 shall have the effect of excluding from Gross Revenue any revenues derived from Cable Service over the Cable System;

1.15.12. Any fees or charges collected from Subscribers or other third parties for PEG Grants.

1.16. *Information Services*: Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(20).

1.17. *Initial Service Area*: The portion of the Franchise Area as outlined in Exhibit A.

1.18. *Internet Access*: A service that enables Subscribers to access the Internet.

1.19. *Non-Cable Services*: Any services that are not Cable Services.

1.20. *Normal Operating Conditions*: Those service conditions which are within the control of the Franchisee. Those conditions which are not within the control of the Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages beyond the control of Franchisee or an Affiliate, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or rebuild of the Cable System. *See* 47 C.F.R. § 76.309(c)(4)(ii).

1.21. *Person*: An individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

1.22. *Public Rights-of-Way*: The surface of and space above and below any real property in the City in which the city has a regulatory interest, or interest as a trustee for the public, as they now or hereafter exist, including, but not limited to, all public streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the City, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for public utility purposes; provided, however, this shall not include public parks for which a separate authorization and agreement to utilize any part of same shall be required from the City. Public Rights-of-Way do not include the airwaves above a right-of-way with regard to cellular or other nonwire communications or broadcast services.

1.23. *Service Area*: All portions of the Franchise Area where Cable Service is being offered, including the Initial Service Area, and any Additional Service areas.

1.24. *Service Date*: The date that the Franchisee first provides Cable Service on a commercial basis directly to multiple Subscribers in the Franchise Area. The Franchisee shall memorialize the Service Date by notifying the City in writing of the same, which notification shall become a part of this Franchise.

1.25. *Service Interruption:* The loss of picture or sound on one or more cable channels.

1.26. *Subscriber*: A Person who lawfully receives Cable Service over the Cable System with Franchisee's express permission.

1.27. *Telecommunications Facilities*: Franchisee's existing Telecommunications Services and Information Services facilities and its FTTP Network facilities.

1.28. *Telecommunication Services:* Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(46).

1.29. *Title II*: Title II of the Communications Act.

1.30. *Title VI*: Title VI of the Communications Act.

1.31. *Video Programming:* Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(20), as may be amended from time to time.

2. **GRANT OF AUTHORITY; LIMITS AND RESERVATIONS**

2.1. *Grant of Authority*: Subject to the terms and conditions of this Agreement and the Communications Act, the City hereby grants the Franchisee the right to own, construct, operate and maintain a Cable System along the Public Rights-of-Way within the Franchise Area, in order to provide Cable Service. This Franchise is for the provision of Cable Services only. No privilege or power of eminent domain is bestowed by this grant; nor is such a privilege or power bestowed by this Agreement.

2.2. *City's Regulatory Authority Over Telecommunications Facilities*: The parties recognize that Franchisee's FTTP Network is being constructed and will be operated and maintained as an upgrade to and/or extension of its existing Telecommunications Facilities for the provision of Non-Cable Services. The jurisdiction of the City over Franchisee's Telecommunications Facilities is restricted by federal and state law, and the City will not assert jurisdiction over Franchisee's FTTP Network in contravention of those laws. This Agreement shall not be construed to limit the regulatory authority, if any, the City has under federal and state law with respect to the FTTP Network facilities as Telecommunications Facilities. Nothing in this Section 2.2 is intended to expand or contract any rights the City may have to regulate Non-Cable Services. Both the City and the Franchisee reserve all rights with respect to the issue of the provision of Non-Cable Services.

2.3. *Term:* This Franchise shall become effective on _____, 20__ (the "Effective Date"). The term of this Franchise shall be ten (10) years from the Effective Date unless the Franchise is earlier revoked as provided herein.

2.4. *Grant Not Exclusive:* The Franchise and the rights granted herein to use and occupy the Public Rights-of-Way to provide Cable Services shall not be exclusive, and City reserves the right to grant other franchises for similar uses or for other uses of the Public Rights-of-Way, or any portions thereof, to any Person, or to make any such use themselves, at any time during the term of this Franchise. Any such rights which are granted shall not adversely impact the authority as granted under this Franchise.

2.5. *Franchise Subject to Federal Law:* Notwithstanding any provision to the contrary herein, this Franchise is subject to and shall be governed by all applicable provisions of federal law as it may be amended, including but not limited to the Communications Act.

2.6. No Waiver:

2.6.1. The failure of City on one or more occasions to exercise a right or to require compliance or performance under this Franchise, the Communications Act or any other applicable State or Federal law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the City nor to excuse Franchisee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

2.6.2. The failure of the Franchisee on one or more occasions to exercise a right under this Franchise or applicable law, or to require performance under this Franchise, shall not be deemed to constitute a waiver of such right or of performance of this Agreement, nor shall it excuse City from performance, unless such right or performance has been specifically waived in writing.

2.7. Construction of Agreement:

2.7.1. The provisions of this Franchise shall be liberally construed to effectuate their objectives

2.7.2. Nothing herein shall be construed to limit the scope or applicability of Section 625 Communications Act, 47 U.S.C. § 545.

2.8. *Police Powers*: Nothing in the Franchise shall be construed to prohibit the lawful exercise of the City's police powers. However, if the lawful exercise of the City's police power results in any material alteration of the terms and conditions of this Franchise, then the parties shall modify this Franchise to the mutual satisfaction of both parties to ameliorate the negative effects on the Franchisee of the material alteration. Any modifications shall be in writing. If the parties cannot reach agreement on the above-referenced modification to the Franchise, then the Franchisee may terminate this Agreement without further obligation to the City or, upon mutual consent of the parties, the parties shall submit the matter to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association.

3. **PROVISION OF CABLE SERVICE**

3.1. Service Area:

3.1.1. *Initial Service Area*: Franchisee shall offer Cable Service to significant numbers of Subscribers in residential areas of the Initial Service Area and may make Cable Service available to businesses in the Initial Service Area, within eighteen (18) months of the Effective Date of this Agreement, and shall offer Cable Service to all residential areas in the Initial Service Area within five (5) years of the Effective Date of this Agreement, except: (A) for periods of Force Majeure; (B) for periods of delay caused by the City; (C) for periods of delay resulting from Franchisee's inability to obtain authority to access rights-of-way in the Service Area; (D) actions or inactions of any government instrumentality or public utility including condemnation; (E) in areas where developments or buildings are subject to claimed exclusive arrangements with other providers; (F) in areas, developments or buildings where Franchisee cannot access under reasonable terms and conditions after good faith negotiation, as determined by Franchisee; (G) in developments or buildings that Franchisee is unable to

provide Cable Service for technical reasons or which require non-standard facilities which are not available on a commercially reasonable basis; (H) work delays caused by waiting for utility providers to service or monitor utility poles to which Franchisee's FTTP Network is attached, or caused by unavailability of materials and/or qualified labor to perform the work necessary; and (I) in areas where the occupied residential household density does not meet the density requirements set forth in sub-section 3.1.2.

3.1.2. *Density Requirement:* Franchisee shall make Cable Services available to residential dwelling units in all areas of the Service Area where the average density is equal to or greater than 30 occupied residential dwelling units per mile as measured in strand footage from the nearest technically feasible point on the active FTTP Network trunk or feeder line. Should, through new construction, an area within the Initial Service Area meet the density requirements after the time stated for providing Cable Service as set forth in subsection 3.1.1, Franchisee shall provide Cable Service to such area within twelve (12) months of receiving notice from the City that the density requirements have been met.

3.1.3. *Additional Service Areas*: Except for the Initial Service Area Franchisee shall not be required to extend its Cable System or to provide Cable Services to any other areas within the Franchise Area during the term of this Franchise or any Renewals thereof. If Franchisee desires to add Additional Service Areas within the Franchise Area, Franchisee shall notify the City in writing of such Additional Service Area at least ten (10) days prior to providing Cable Services in such areas.

3.1.4. *Annexation:* To the extent that the City annexes any areas of unincorporated King County served by the Kirkland and Juanita wire centers, as shown in Exhibit A, such annexed areas shall be subject to Section 3.1.1 above. Any other annexed areas shall be subject to Section 3.1.3 above. The City shall give Franchisee at least 30 days notice of the effective date of any annexation.

3.2. *Availability of Cable Service*: Franchisee shall make Cable Service available to all residential dwelling units and may make Cable Service available to businesses within the Service Area in conformance with Section 3.1 and Franchisee shall not discriminate between or among any individuals in the availability of Cable Service. In the areas in which Franchisee shall provide Cable Service, Franchisee shall be required to connect, at Franchisee's expense, other than a standard installation charge, all residential dwelling units that are within one hundred twenty five (125) feet of trunk or feeder lines not otherwise already served by Franchisee's FTTP Network. Franchisee shall be allowed to recover, from a Subscriber that requests such connection, actual costs incurred for residential dwelling unit connections that exceed one hundred twenty five (125) feet and actual costs incurred to connect any non-residential dwelling unit Subscriber.

3.3. *Cable Service to Municipal Buildings*:

3.3.1. Subject to Section 3.1, upon request by the City Grantee shall provide the following, without charge, to those buildings set forth in Exhibit B; provided, however, that if it is necessary to extend Franchisee's trunk or feeder lines more than three hundred (300) feet solely to provide service to any such building, the City shall have the option

of paying Franchisee's direct costs for such extension in excess of three hundred (300) feet, or of releasing or postponing Franchisee's obligation to provide service to such building:

3.3.1.1. One service drop to each building;

3.3.1.2. One Subscriber digital converter activated for the lowest service tier which includes the retransmission of local television broadcast signals and the PEG Channels required by this Franchise (except as otherwise agreed by the parties in writing); and

3.3.1.3. One service outlet activated for the lowest service tier which includes the retransmission of local television broadcast signals and the PEG Channels required by this Franchise (except as otherwise agreed by the parties in writing).

3.3.2. The Franchisee shall be permitted to recover, from any building owner entitled to free service under this Section 3.3, the direct cost of installing, when requested to do so, more than one outlet, or concealed inside wiring, or a service outlet requiring more than three hundred (300) feet of drop cable; provided however that Franchisee shall not charge for the provision of the lowest service tier which includes the retransmission of local television broadcast signals and the PEG Channels required by this Franchise to the additional outlets once installed.

3.3.3. The cost of inside wiring, additional drops or outlets and additional converters requested by the City within these specified facilities are the responsibility of the City. The City shall be responsible for the cost of any "terminal equipment," including TV monitors, VCRs, and/or computers.

3.3.4. Cable Service may not be resold or otherwise used in contravention of Franchisee's rights with third parties respecting programming. Equipment provided by Franchisee shall be replaced at retail rates if lost, stolen or damaged.

4. **SYSTEM FACILITIES**

4.1. *System Characteristics:* Franchisee's Cable System shall be designed to be an active two-way plant for subscriber interaction, if any, required for selection or use of Cable Service.

4.2. *Technical Requirement:* The Cable System shall meet or exceed any and all applicable technical performance standards of the FCC, the National Electrical Safety Code, and the National Electric Code.

4.3. *Subscriber Network:* Franchisee shall comply with the closed captioning requirements of the FCC.

4.4. *Interconnection:* The Franchisee shall design its Cable System so that it may be interconnected with other cable systems contiguous to or in the Franchise Area. Interconnection of systems may be made by direct cable connection, microwave link, satellite, or other appropriate methods.

4.5. *Emergency Alert System*: Franchisee shall comply with the Emergency Alert System ("EAS") requirements of the FCC in order that emergency messages may be distributed over the System.

4.6. *Cable System Performance Testing:*

4.6.1. Franchisee shall perform all tests required by the FCC on its Cable System. Upon written request, all FCC required tests may be witnessed by an employee of the City.

4.6.2. Franchisee shall maintain written records of all Cable System test results performed by or for Franchisee. Copies of such test results will be available as part of its public file available for inspection as provided by applicable rules and regulations.

4.6.3. Franchisee shall promptly take such corrective measures as are necessary to correct fully any performance deficiencies and to prevent their recurrence as far as possible.

4.7. Additional Tests: Franchisee shall conduct special proof of performance tests of the Cable System or a segment thereof when Subscriber complaints received by the City indicate tests are warranted. Upon request from the City, the results of any such testing shall be provided to the City within a reasonable time.

5. **PEG SERVICES**

5.1. PEG Access Channels:

5.1.1. All PEG Access Channels provided for herein shall be administered by the City or its designee. The City or its designee shall establish rules and regulations for use of PEG facilities consistent with, and as required by, 47 U.S.C. §531.

5.1.2. In order to ensure universal availability of public, educational and government programming, Franchisee shall provide on the Basic Service tier two (2) Government Access Channels and one (1) Educational Access Channel, and shall reserve three (3) additional dedicated Access Channels for City's future use ("Reserve Access Channels"). On the Educational Access Channel, Franchisee shall transmit within the Service Area, at the request of the City, the Video Programming which originates on the campus of Bellevue Community College, 3000 Landerholm Circle SE, Bellevue, WA to the extent Franchisee has the legal and technical ability to access and obtain that Video Programming signal in a commercially reasonable manner. If Franchisee is not so able to access and obtain that Video Programming signal from the Video Programming origination location, the City will make arrangements to provide the signal to Franchisee at the PEG Origination Site in accordance with the conditions set forth in Subsection 5.2.1. In addition to the foregoing Government Access Channels, Educational Access Channel and Reserve Access Channels, Franchisee shall transmit within the Service Area, to the extent Franchise has the legal and technical ability to access, obtain, and provision that Video Programming signal in a commercially reasonable manner, the King County Government Channel (CTV), within a reasonable time of obtaining such Video

Programming and providing such channel to King County pursuant to a franchise agreement with King County.

5.1.3. The City hereby authorizes Franchisee to transmit PEG programming within and without the City's jurisdictional boundaries. Franchisee specifically reserves its right to make or change channel assignments in its sole discretion. In the event Franchisee changes any PEG Channel assignment, Franchisee shall use best efforts to provide ninety (90) days and at least forty-five (45) days advance written notice to the City prior to any such re-assignment. In connection with the movement of any of the City's Government Access Channels to other Channel numbers, Franchisee shall provide notice as provided in Sections 10.H and 10.I of Exhibit C. If a PEG Channel provided under this Article is not being utilized by the City, Franchisee may utilize such PEG Channel, in its sole discretion, until such time as the City elects to utilize the PEG Channel for its intended purpose. Franchisee shall neither have nor attempt to exercise any editorial control over the Access Channel programming.

5.1.4. Reserved PEG Access Channels: The City may activate the Reserve Access Channel(s) subject to the following conditions:

5.1.4.1. The City must provide Franchisee written documentation of its need to activate the reserved capacity that cannot be fulfilled by the existing PEG Access Channel(s). Such need may be demonstrated by the use of the existing PEG Access Channel(s) for original programming (excluding character generated and filler programming, e.g., AM/FM radio programming) during fifty percent (50%) of the hours between 10:00 am and 10:00 pm, five days per week, during any consecutive eight (8) week period. The programming on the new channel shall be distinct and non-repetitive of the existing PEG Channels;

5.1.4.2. The City shall require other cable providers to provide similar additional Access Channel(s) (except to the extent the City cannot legally require such additional Access Channel(s) from those cable providers which, as of the Effective Date of this Agreement, are subject to a franchise agreement with King County which does not require such Channel(s)); and

5.1.4.3. In the event the origination point of the Reserve Access Channel(s) is the PEG Origination Site as defined below, Franchisee will provide the Reserve Access Channel within one hundred eighty (180) days following the City's written request and verification of compliance with each of the foregoing conditions and those specified in Section 5.2. If the origination point is not the PEG Origination Site, the timing of the availability and other conditions will be by mutual agreement of the parties. Unless the parties agree otherwise, the origination point shall not be located outside of the Service Area.

5.1.5. The City shall require all local producers and users of any of the PEG facilities or Channels to agree in writing to authorize Franchisee to transmit programming consistent with this Agreement and to defend and hold harmless Franchisee and the City from and against any and all liability or other injury, including the reasonable cost of defending claims or litigation, arising from or in connection with claims for failure to comply with applicable federal laws, rules, regulations or other requirements of local, state or federal

authorities; for claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name or service mark; for breach of contractual or other obligations owing to third parties by the producer or user; and for any other injury or damage in law or equity, which result from the use of a PEG facility or Channel.

5.2. PEG Connections:

5.2.1. The City shall provide and ensure suitable video signals for the Government Access Channels to Franchisee at Kirkland City Hall, 123 5th Avenue, Kirkland, Washington 98033 (the "PEG Origination Site"). The Franchisee's obligations under this Subsection 5.2.1, including its obligation to provide upstream equipment and facilities necessary to transmit signals, shall be subject to the provision by the City, without charge to the Franchisee, of: (1) access to the PEG Origination Site facility; (2) access to any required PEG equipment within the PEG Origination Site facility and suitable required space, environmental conditions, electrical power supply, access, and pathways within the PEG Origination Site facility; (3) video signals in NTSC format, with any future format to be a mutually agreed upon format suitable for PEG Access Channel programming ; (4) any third-party consent that may be necessary to transmit PEG signals (including, without limitation, any consent that may be required with respect to third-party facilities, including the facilities of the incumbent cable provider, used to transmit PEG content to the PEG Origination Site from auxiliary locations); and (5) any other cooperation by the City and access to facilities as are reasonably necessary for the Franchisee to fulfill the obligations stated herein. To the extent a suitable video signal is provided to Franchisee and the foregoing conditions are met, Franchisee shall, within one hundred twenty (120) days of the Service Date or provision of a suitable video signal, whichever is later, provide, install, and maintain in good working order the equipment necessary for transmitting the PEG signal to Subscribers. Franchisee shall attempt in good faith to install such equipment earlier, if commercially reasonable. The transmission of PEG Channels shall be simulcast in a manner in which the signals originally provided to Franchisee experience no greater degradation during such transmission than do any other signals on the Basic Service tier broadcast by the Franchisee to Subscribers.

5.2.2. The City shall have the right to relocate the PEG Origination Site one time during the term of this Franchise as follows: The new location shall be located within one hundred twenty-five (125) feet of one of Franchisee's active, video-enabled FTTP trunk or feeder lines in the Service Area; Franchisee's obligation shall be subject to the same conditions that apply to the PEG Origination Site in Section 5.2.1; the City shall provide access to such space at least ninety (90) days prior to anticipated use of the new PEG Origination Site; and the City shall reimburse fifty percent of Franchisee's costs associated with the relocation of equipment necessary for transmitting the PEG signal, not to exceed Ten Thousand Dollars ($10,000).

5.3. PEG Grant:

5.3.1. Franchisee shall provide an annual grant to the City to be used in support of the production of local PEG programming (the "PEG Grant"). Such grant shall be used by the City for capital costs for PEG access equipment, including, but not limited to,

studio and portable production equipment, editing equipment and program playback equipment, or for renovation or construction of PEG access facilities.

5.3.2. The PEG Grant provided by Franchisee hereunder shall be the sum of twenty-five cents ($0.25), per month, per Subscriber in the Franchise Area to Franchisee's Basic Service tier. Payment of the PEG Grant shall be contingent upon the City imposing a PEG Grant requirement of at least twenty-five cents ($0.25) per subscriber, per month on all Cable Operators in the Service Area (except to the extent the City cannot legally require such PEG Grant from those Cable Operators which, as of the Effective Date of this Agreement, are subject to a franchise agreement with King County which does not require a PEG Grant of at least twenty-five cents ($0.25) per subscriber, per month). The per subscriber, per month amount of the PEG Grant can be modified as determined by the City Council no more than once each year, shall be no greater than $1.00, per Subscriber, per month, and shall be the same amount required of all other Cable Operators in the Service Area (except to the extent the City cannot legally require such PEG Grant from those Cable Operators which, as of the Effective Date of this Agreement, are subject to a franchise agreement with King County which does not require a PEG Grant of at least twenty-five cents ($0.25) per subscriber, per month). The City shall provide Franchisee with at least sixty (60) days written notice of any change in the amount of the PEG Grant pursuant to this subsection. Franchisee shall deliver the PEG Grant payment, along with a brief summary of the Subscriber information upon which it is based, to the City concurrent with the Franchise fee payment. Calculation of the PEG Grant will commence with the first calendar quarter during which Franchisee obtains its first Subscriber in the Service Area. The City shall give Franchisee sixty (60) days prior written notice if it ceases to require financial support from any new or existing providers within the Franchise Area.

5.3.3. Upon request by Franchisee, the City shall provide Franchisee a summary report concerning the actual use of funds granted pursuant to this Section.

5.3.4. To the extent permitted by federal law, the Franchisee shall be allowed to recover the costs of the PEG Grant and any other costs arising from the provision of PEG services from Subscribers and to include such costs as a separately billed line item on each Subscriber's bill. Without limiting the forgoing, if allowed under state and federal laws, Franchisee may externalize, line-item, or otherwise pass-through these costs to Subscribers.

6. **FRANCHISE FEES**

6.1. *Payment to City:* Franchisee shall pay to the City a Franchise fee of five percent (5%) of annual Gross Revenue. In accordance with Title VI of the Communications Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise fee shall be a calendar year. Such payments shall be made no later than forty-five (45) days following the end of each calendar quarter. Payments shall be due and payable in May (for the first quarter), August (for the second quarter), November (for the third quarter), and February (for the fourth quarter). Franchisee shall be allowed to submit or correct any payments that were incorrectly omitted, and shall be refunded any payments that were

incorrectly submitted, in connection with the quarterly Franchise fee remittances within 90 days following the close of the calendar year for which such payments were applicable.

6.2. *Acceptance of Payment:* No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further or additional sums payable or for the performance of any other obligation of Grantee.

6.3. *Late Payments:* In the event any payment due the City is not timely made, Franchisee shall pay, in addition to the amount due, interest at the maximum allowed rate for judgments as provided under Washington law until the date the City receives the payment.

6.4. *Underpayments*: If franchise fee underpayments are discovered as a result of an audit, Grantee shall pay, in addition to the amount due, interest at the maximum allowed rate for judgments as provided under Washington law, calculated from the date the underpayment was originally due until the date the City receives the payment.

6.5. *Supporting Information:* Each franchise fee payment shall be accompanied by a brief report that provides line items of revenue sources and is verified by a financial manager of Franchisee showing the basis for the computation.

6.6. *Limitation on Fee Actions*: The parties agree that the period of limitation for recovery of any fee payable hereunder shall be four (4) years from the date on which payment by Franchisee is due.

6.7. *No Limitation on Taxing Authority*: Nothing in this Franchise shall be construed to limit any authority of the City to impose any tax, fee, or assessment of general applicability. Nothing in this Franchise is intended to preclude Franchisee from exercising any right it may have to challenge the lawfulness of any tax, fee, or assessment imposed by the City or any state or federal agency or authority, or intended to waive any rights the Franchisee may have under 47 U.S.C. § 542.

6.8. *Bundled Services*: Bundled Services: In the event that Grantee offers Cable Services and Non-Cable Services to its Subscribers in the City, and those services are included in one monthly bill to each Subscriber, then Grantee shall clearly itemize each of the respective services on the bill. The rates for cable service shall accurately reflect the rate card rates less discounts, if any exist.

7. **CUSTOMER SERVICE**

7.1. Customer Service Requirements are set forth in Exhibit C, which shall be binding unless amended by written consent of the parties. Exhibit C is hereby incorporated into and subject to this Agreement.

8. **REPORTS AND RECORDS**

8.1. *Open Books and Records*: Upon reasonable written notice to the Franchisee and with no less than thirty (30) business days written notice to the Franchisee, the

City shall have the right to inspect Franchisee's books and records pertaining to Franchisee's provision of Cable Service in the Franchise Area at any time during normal business hours and on a nondisruptive basis, as are reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the section or subsection of the Franchise which is under review, so that Franchisee may organize the necessary books and records for appropriate access by the City. Franchisee shall not be required to maintain any books and records for Franchise compliance purposes longer than four (4) years. Notwithstanding anything to the contrary set forth herein, Franchisee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose any of its or an Affiliate's books and records not relating to the provision of Cable Service in the Service Area. To the extent permitted under State law, the City shall treat any information disclosed by Franchisee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. If the City receives a request from any Person for disclosure of any confidential information, the City shall, so far as consistent with applicable law, advise Franchisee and provide a copy of such request to Franchisee within six (6) business days of its receipt so that Franchisee has an opportunity to seek an appropriate protective order prior to disclosure. Franchisee may disclose Subscriber information to the extent consistent with Section 631 of the Communications Act, 47 U.S.C. § 551.

8.2. *Records Required*: Franchisee shall at all times maintain:

8.2.1. Records of all written complaints for a period of four (4) years after receipt by Franchisee. The term "complaint" as used herein refers to complaints about any aspect of the Cable System or Franchisee's cable operations, including, without limitation, complaints about employee courtesy. Complaints recorded will not be limited to complaints requiring an employee service call;

8.2.2. Records of outages for a period of four (4) years after occurrence, indicating date, duration, area, and the number of Subscribers affected, type of outage, and cause;

8.2.3. Records of service calls for repair and maintenance for a period of four (4) years after resolution by Franchisee, indicating the date and time service was required, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was resolved;

8.2.4. Records of installation/reconnection and requests for service extension for a period of four (4) years after the request was fulfilled by Franchisee, indicating the date of request, date of acknowledgment, and the date and time service was extended.

9. **INSURANCE AND INDEMNIFICATION**

9.1. *Insurance*:

9.1.1. Franchisee shall maintain in full force and effect, at its own cost and expense, during the Franchise Term, the following insurance coverage:

9.1.1.1. Commercial General Liability Insurance in the amount of two million dollars ($2,000,000) combined single limit for property damage and bodily injury. Such insurance shall cover the construction, operation and maintenance of the Cable System, and the conduct of Franchisee's Cable Service business in the City.

9.1.1.2. Automobile Liability Insurance in the amount of two million dollars ($2,000,000) combined single limit for bodily injury and property damage coverage.

9.1.1.3. Workers' Compensation Insurance meeting all legal requirements of the State of Washington.

9.1.1.4. Employers' Liability Insurance in the following amounts: (A) Bodily Injury by Accident: $100,000; and (B) Bodily Injury by Disease: $100,000 employee limit; $500,000 policy limit.

9.1.2. The City shall be designated as an additional insured under each of the insurance policies required in this Article 10 except Worker's Compensation and Employer's Liability Insurance.

9.1.3. Franchisee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Agreement.

9.1.4. Each of the required insurance policies shall be with sureties qualified to do business in the State of Washington, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition.

9.1.5. Upon written request, Franchisee shall deliver to City Certificates of Insurance showing evidence of the required coverage.

9.2. Indemnification:

9.2.1. Franchisee agrees to indemnify, save and hold harmless, and defend the City, its officers, agents, boards and employees, from and against any liability for damages or claims resulting from tangible property damage or bodily injury (including accidental death), to the extent proximately caused by Franchisee's negligent construction, operation, or maintenance of its Cable System, provided that the City shall give Franchisee written notice of its obligation to indemnify the City within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, Franchisee shall not indemnify the City, for any damages, liability or claims resulting from the willful misconduct or negligence of the City, its officers, agents, employees, attorneys, consultants, independent contractors or third parties or for any activity or function conducted by any Person other than Franchisee in connection with PEG Access, or EAS, or the distribution of any Cable Service over the Cable System.

9.2.2. With respect to Franchisee's indemnity obligations set forth in Subsection 10.2.1, Franchisee shall provide the defense of any claims brought against the City by selecting counsel of Franchisee's choice to defend the claim, subject to the consent of the

City, which shall not unreasonably be withheld. Nothing herein shall be deemed to prevent the City from cooperating with the Franchisee and participating in the defense of any litigation by its own counsel at its own cost and expense, provided however, that after consultation with the City, Franchisee shall have the right to defend, settle or compromise any claim or action arising hereunder, and Franchisee shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the terms of any such proposed settlement includes the release of the City and the City does not consent to the terms of any such settlement or compromise, Franchisee shall not settle the claim or action but its obligation to indemnify the City shall in no event exceed the amount of such settlement.

9.2.3. The City shall hold harmless and defend Franchisee from and against and shall be responsible for damages, liability or claims resulting from or arising out of the willful misconduct or negligence of the City.

9.2.4. The City shall be responsible for its own acts of willful misconduct or negligence, or breach of obligation committed by the City for which the City is legally responsible, subject to any and all defenses and limitations of liability provided by law. The Franchisee shall not be required to indemnify the City for acts of the City which constitute willful misconduct or negligence, on the part of the City, its officers, employees, agents, attorneys, consultants, independent contractors or third parties.

10. **TRANSFER OF FRANCHISE**

10.1. Subject to Section 617 of the Communications Act, 47 U.S.C. § 537, no "Transfer of the Franchise" shall occur without the prior consent of the City, provided that such consent shall not be unreasonably withheld, delayed or conditioned. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Franchisee in the Franchise or Cable System in order to secure indebtedness, provided that any such pledge of assets which results in Franchisee's inability to satisfy its obligations under this Franchise shall constitute a violation of this Franchise.

10.2. A "Transfer of the Franchise" shall mean any transaction in which:

10.2.1. an ownership or other interest in Franchisee is transferred, directly or indirectly, from one Person or group of Persons to another Person or group of Persons, so that Control of Franchisee is transferred; or

10.2.2. the rights held by Franchisee under the Franchise are transferred or assigned to another Person or group of Persons.

Notwithstanding Subsections 10.2.1 and 10.2.2, a Transfer of the Franchise shall not include (a) transfer of an ownership or other interest in Franchisee to the parent of Franchisee or to another Affiliate of Franchisee; (b) transfer of an interest in the Franchise or the rights held by Franchisee under the Franchise to the parent of Franchisee or to another Affiliate of Franchisee; (c) any action which is the result of a merger of the parent of Franchisee; or (d) any action which is the result of a merger of another Affiliate of Franchisee. Franchisee shall provide written notice to the City prior to a transfer of any interest described in (a) or (b) of this paragraph. Also

with respect to transfers to Affiliates described in (a) or (b) of this paragraph, Franchisee shall guaranty the performance of this Agreement by such Affiliate; provided, however, that Franchisee may request the City to release said guaranty and the City shall act upon such request as promptly as reasonably possible. In considering such request, the City shall make its decision as to whether or not to release said guaranty by and upon evaluating the financial qualifications of the assignee or transferee. Franchisee shall provide the City with such information as may be reasonably required for the City to make such evaluation. Subject to Franchisee's compliance with such obligation, the City shall conduct such evaluation and reach its decision as promptly as practicable and shall not unreasonably withhold, delay or deny its consent to the release of said guaranty. Upon making its decision, the City shall promptly deliver to Franchisee written notice thereof. If the City shall agree to release said guaranty, it shall promptly deliver to Franchisee a written document evidencing such release of said guaranty.

10.3. Franchisee shall make a written request ("Request") to the City for approval of any Transfer of the Franchise and furnish all information required by law and/or reasonably required by the City in respect to its consideration of a proposed Transfer of the Franchise. In reviewing a Request related to a Transfer of the Franchise, the City may inquire into any matter reasonably related to the ability and willingness of the prospective transferee to perform, including the legal, technical and financial qualifications of the prospective transferee. Franchisee shall assist the City in so inquiring.

10.4. The City shall render a final written decision on the Request within one hundred twenty (120) days of the Request, provided it has received all information which the City may lawfully require, such as a complete FCC Form 394. Subject to the foregoing, if the City fails to render a written decision on the Request within one hundred twenty (120) days, the Request shall be deemed granted unless Franchisee and the City agree to an extension of time. The City may condition said Transfer of the Franchise upon such terms and conditions as it deems reasonably appropriate, provided, however, any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective transferee or to the resolution of outstanding and unresolved issues of Franchisee's noncompliance with the terms and conditions of this Agreement.

10.5. Franchisee shall ensure that any transferee or assignee shall, prior to consummation of any transaction resulting in a transfer or assignment of this Franchise, agree in writing to be bound by the terms of this Franchise and to assume the obligations and liabilities to the City of its predecessor under this Franchise.

10.6. The consent or approval of the City to any Request by the Franchisee shall not constitute a waiver or release of any rights of the City.

11. **RENEWAL OF FRANCHISE**

11.1. The City and Franchisee agree that any proceedings undertaken by the City that relate to the renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Communications Act, 47 U.S.C. § 546.

11.2. Notwithstanding anything to the contrary set forth herein, Franchisee and the City agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the City and Franchisee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the City may grant a renewal thereof.

11.3. Franchisee and the City consider the terms set forth in this Article 11 to be consistent with the express provisions of 47 U.S.C. 546.

12. **ENFORCEMENT AND TERMINATION OF FRANCHISE**

12.1. *Notice of Violation*: If at any time the City believes that Franchisee has not complied with the terms of the Franchise, the City shall notify Franchisee in writing of the exact nature of the alleged noncompliance in a reasonable time (for purposes of this Article, the "Noncompliance Notice").

12.2. *Franchisee's Right to Cure or Respond:* Franchisee shall have thirty (30) days from receipt of the Noncompliance Notice to: (i) respond to the City, if Franchisee contests (in whole or in part) the assertion of noncompliance; (ii) cure such noncompliance; or (iii) in the event that, by its nature, such noncompliance cannot be cured within such thirty (30) day period, initiate reasonable steps to remedy such noncompliance and notify the City of the steps being taken and the date by which cure is projected to be completed. Upon cure of any noncompliance, City shall provide written confirmation that such cure has been effected, provided that, it shall be the Franchisee's burden to demonstrate, that the noncompliance has been cured.

12.3. *Enforcement:* Subject to applicable federal and state law, in the event the City, determines that Franchisee is in default of any provision of this Franchise, the City may:

12.3.1. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or

12.3.2. Seek liquidated damages pursuant to Section 12.4 below; or

12.3.3. Commence an action at law for monetary damages or seek other equitable relief; or

12.3.4. In the case of a substantial material default of a material provision of the Franchise, seek to revoke the Franchise in accordance with Section 12.6

12.4. *Liquidated Damages:* In the event that the City finds that a violation continues to exist and that Franchisee has not corrected the same in a satisfactory manner or has not diligently pursued correction of such violation, Franchisee agrees that the City may recover liquidated damages from Franchisee in the amounts set forth below following the notice and opportunity to cure provisions set forth in Section 12.2 above. The City shall provide Franchisee with written notice that it intends to elect the liquidated damage remedies set forth herein. If City elects to recover liquidated damages, City agrees that such recovery shall be its exclusive remedy for the time period in which liquidated damages are assessed;

provided, however, once City has ceased to assess its liquidated damages remedy as set forth in Section 12.4.1, it may pursue other available remedies.

12.4.1. The following liquidated damages shall apply:

- For failure to maintain the FCC technical standards as set forth in Section 4 – $100 per day for each day the violation continues;
- For failure to provide PEG Services to the community specified in Section 5 – $100 per day for each day the violation continues;
- For failure to provide City with any reports or records required by the Agreement within the time period required – $50 per day for each day the violation continues;
- For failure to meet customer service requirements in Sections 2, 3 and 4 of the Customer Service Standards set forth in Exhibit C – $100 per day for each day the violation continues; and
- For any other material breach not previously listed - $100 per day for each day the violation continues.

The total amount of all liquidated damages per annum shall not exceed twenty-five thousand dollars ($25,000) in the aggregate. All similar violations or failures arising from the same factual events affecting multiple subscribers shall be assessed as a single violation, and a violation or a failure may only be assessed under any one of the above-referenced categories. The City's right to collect liquidated damages shall not commence until the Franchisee has failed to cure as provided in Section 12.2.

12.5. *Public Hearing:* If Franchisee disputes the assessment of any liquidated damages hereunder, Franchisee may request and City agrees to schedule a public hearing with regard to such dispute. The City shall provide Franchisee at least thirty (30) business days prior written notice of such public hearing, which will specify the time, place and purpose of such public hearing, and provide Franchisee the opportunity to be heard.

12.6.*Revocation*: Should the City seek to revoke this Franchise after following the procedures set forth above in this Article, the City shall give written notice to Franchisee of such intent. The notice shall set forth the specific nature of the noncompliance. The Franchisee shall have sixty (60) days from receipt of such notice to object in writing and to state its reasons for such objection. In the event the City has not received a satisfactory response from Franchisee, it may then seek termination of the Franchise at a public hearing. The City shall cause to be served upon the Franchisee, at least thirty (30) business days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

12.6.1. At the designated hearing, Franchisee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the City, to compel the testimony of other persons as permitted by law, and to question and/or cross examine witnesses. A complete verbatim record and transcript shall be made of such hearing.

12.6.2. Following the public hearing, Franchisee shall be provided up to thirty (30) days to submit its proposed findings and conclusions in writing and thereafter the City shall determine (i) whether an event of default has occurred; (ii) whether such event of default is excusable; and (iii) whether such event of default has been cured or will be cured by the Franchisee. The City shall also determine whether to revoke the Franchise based on the information presented, or, where applicable, grant additional time to the Franchisee to affect any cure. If the City determines that the Franchise shall be revoked, the City shall promptly provide Franchisee with a written decision setting forth its reasoning. Franchisee may appeal such determination of the City to an appropriate court. Franchisee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within thirty (30) days of Franchisee's receipt of the determination of the franchising authority.

12.6.3. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the Franchise in lieu of revocation of the Franchise.

12.7. *Letter of Credit*: If there is an uncured breach by Franchisee of a material provision of this Franchise or a pattern of repeated violations of any provision(s) of this Franchise, then Franchisee shall, upon written request, establish and provide to the City, as security for the faithful performance by Franchisee of all of the provisions of this Franchise, a letter of credit in the amount of twenty-five thousand dollars ($25,000).

12.7.1. If a letter of credit is furnished pursuant to subsection 12.7, the letter of credit shall then be maintained at that same amount throughout the remaining term of this Franchise.

12.7.2. After written notice has been provided to Franchisee and expiration of any applicable cure period, the letter of credit may be drawn upon by the City for purposes including, but not limited to, the following:

12.7.2.1. Failure of Franchisee to pay the City sums due under this Franchise;

12.7.2.2. Reimbursement of costs and expenses borne by the City to correct Franchise violations not corrected by Franchisee;

12.7.2.3. Monetary remedies or damages assessed against Franchisee as provided in this Franchise.

12.7.3. Within thirty (30) days following notice that a withdrawal has occurred, Franchisee shall restore the letter of credit to the full amount required by subsection

12.7. Franchisee's maintenance of the letter of credit shall not be construed to excuse unfaithful performance by Franchisee or limit the liability of Franchisee to the amount of the letter of credit or otherwise limit the City's recourse to any other remedy available at law or in equity.

12.7.4. Franchisee shall have the right to appeal to the City Council for reimbursement in the event Franchisee believes that the letter of credit was drawn upon improperly. Franchisee shall also have the right of judicial appeal if Franchisee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the City erroneously or wrongfully withdraws from the letter of credit shall be returned to Franchisee with interest, from the date of withdrawal at the prevailing interest rate for local government borrowing as provided under State law.

12.8. *Franchisee Termination:* Franchisee shall have the right to terminate this Franchise and all obligations hereunder within ninety (90) days after the end of three (3) years from the Service Date of this Franchise, if at the end of such three (3) year period Franchisee does not then in good faith believe it has achieved a commercially reasonable level of Subscriber penetration on its Cable System. Franchisee may consider subscriber penetration levels outside the Franchise Area in this determination. Notice to terminate under this Section 13.6 shall be given to the City in writing, with such termination to take effect no sooner than one hundred and twenty (120) days after giving such notice. Franchisee shall also be required to give its then current Subscribers not less than ninety (90) days prior written notice of its intent to cease Cable Service operations.

13. **MISCELLANEOUS PROVISIONS**

13.1. *Actions of Parties*: In any action by the City or Franchisee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld, delayed or conditioned.

13.2. *Binding Acceptance*: This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns, and the promises and obligations herein shall survive the expiration date hereof.

13.3. *City Hearing:* The parties acknowledge that the City may hold a hearing at any time to review Subscriber satisfaction with Cable Services in the City.

13.4. *Preemption:* In the event that federal or state law, rules, or regulations preempt a provision or limit the enforceability of a provision of this Agreement, the provision shall be read to be preempted to the extent, and for the time, but only to the extent and for the time, required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City.

13.5. *Force Majeure*: Franchisee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by a Force Majeure.

13.5.1. Furthermore, the parties hereby agree that it is not the City's intention to subject Franchisee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on Subscribers, or where strict performance would result in practical difficulties and hardship being placed upon Franchisee which outweigh the benefit to be derived by the City and/or Subscribers.

13.6. *Notices:* Unless otherwise expressly stated herein, notices required under the Franchise shall be mailed first class, postage prepaid, to the addressees below. Each party may change its designee by providing written notice to the other party.

13.6.1. Notices to Franchisee shall be mailed to:

Verizon Northwest Inc.
Attn: Tim McCallion, President
112 Lakeview Canyon Road, CA501GA
Thousand Oaks, CA 91362

13.6.2. with a copy to:

Mr. Jack H. White
Senior Vice President & General Counsel - Verizon Telecom
One Verizon Way
Room VC43E010
Basking Ridge, NJ 07920-1097

13.6.3. Notices to the City shall be mailed to:

Janice Perry
Multimedia Communications Manager
City Hall
123 – 5th Avenue
Kirkland, WA 98033-6189

13.6.4. with a copy to:

Brenda Cooper
Chief Information Officer
IT Department
City Hall
123 5th Avenue
Kirkland, WA 98033-6189

13.7. *Entire Agreement*: This Franchise and the Exhibits hereto constitute the entire agreement between Franchisee and the City, and it supersedes all prior or contemporaneous agreements, representations or understanding (whether written or oral) of the parties regarding the subject matter hereof. Any ordinances or parts of ordinances that conflict with the provisions of this Agreement are superseded by this Agreement.

13.8. *Amendments:* Amendments to this Franchise shall be mutually agreed to in writing by the parties.

13.9. *Captions:* The captions and headings of articles and sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

13.10. *Severability*: If any section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

13.11. *Recitals:* The recitals set forth in this Agreement are incorporated into the body of this Agreement as if they had been originally set forth herein.

13.12. *Modification:* This Franchise shall not be modified except by written instrument executed by both parties.

13.13. *FTTP Network Transfer Prohibition:* Under no circumstance including, without limitation, upon expiration, revocation, termination, denial of renewal of the Franchise or any other action to forbid or disallow Franchisee from providing Cable Services, shall Franchisee or its assignees be required to sell any right, title, interest, use or control of any portion of Franchisee's FTTP Network including, without limitation, the Cable System and any capacity used for cable service or otherwise, to the City or any third party. Franchisee shall not be required to remove or to relocate the FTTP Network or any portion thereof as a result of revocation, expiration, termination, denial of renewal or any other action to forbid or disallow Franchisee from providing Cable Services. This provision is not intended to contravene leased access requirements under Title VI or PEG requirements set out in this Agreement.

13.14. *Independent Review*: The City and Franchisee each acknowledge that they have received independent legal advice in entering into this Agreement. In the event that a dispute arises over the meaning or application of any term(s) of this Agreement, such term(s) shall not be construed by the reference to any doctrine calling for ambiguities to be construed against the drafter of the Agreement.

SIGNATURE PAGE FOLLOWS

AGREED TO THIS _____ DAY OF _____, 2008.

CITY OF KIRKLAND

By: _____
David Ramsay, City Manager

Verizon Northwest Inc.

By: _____
Tim McCallion, President

EXHIBITS

Exhibit A: Service Area Map

Exhibit B: Municipal Buildings to be Provided Free Cable Service

Exhibit C: Customer Service Standards

EXHIBIT A
SERVICE AREA MAP

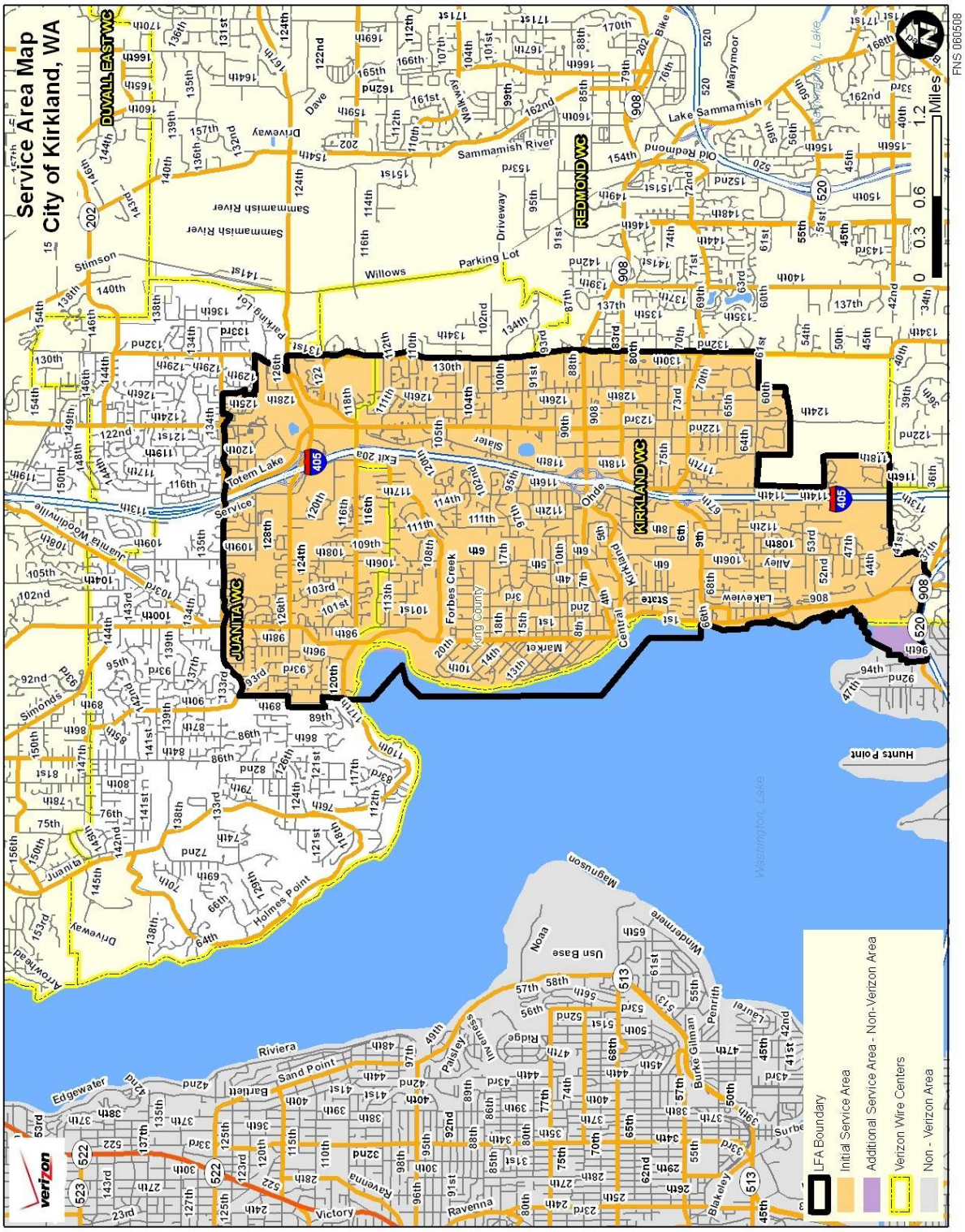


EXHIBIT B
MUNICIPAL BUILDINGS TO BE PROVIDED FREE CABLE SERVICE

City Hall
123 Fifth Avenue
Kirkland, WA 98033

City Hall Annex 2
505 Market Street
Kirkland, WA 98033

North Kirkland Community Center
12421 103rd Avenue NE
Kirkland, WA 98033

Peter Kirk Community Center
352 Kirkland Avenue
Kirkland, WA 98033

Maintenance Center
915 8th Street
Kirkland, WA 98033

Fire Station 21
9816 Forbes Creek Drive
Kirkland, WA 98033

Fire Station 22
6602 108th Avenue NE
Kirkland, WA 98033

Fire Station 24
8411 NE 141st Street
Kirkland, WA 98033

Fire Station 25
12033 76th Place NE
Kirkland, WA 98033

Fire Station 26
9930 124th Avenue NE
Kirkland, WA 98033

Fire Station 27
11210 NE 132nd
Kirkland, WA 98033

Kirkland Municipal Court
11515 NE 118th Street
Kirkland, WA 98033

Kirkland Library
308 Kirkland Avenue
Kirkland, WA 98033

EXHIBIT C
CUSTOMER SERVICE STANDARDS

These standards shall, starting six months after the Service Date, apply to the Franchisee to the extent it is providing Cable Services over the Cable System in the Franchise area.

SECTION 1: DEFINITIONS

A. Respond: Franchisee's investigation of a Service Interruption by receiving a Subscriber call and opening a trouble ticket, if required.

B. Service Call: The action taken by the Franchisee to correct a Service Interruption the effect of which is limited to an individual Subscriber.

C. Service Interruption: The loss of picture or sound on one or more cable channels.

D. Standard Installation: Installations where the subscriber is within one hundred twenty five (125) feet of trunk or feeder lines.

E. System Outage: A significant outage of the Cable Service shall mean any Service Interruption lasting at least four (4) continuous hours that affects at least ten percent (10%) of the Subscribers in the Service Area.

SECTION 2: TELEPHONE AVAILABILITY

A. The Franchisee shall maintain a toll-free number to receive all calls and inquiries from Subscribers in the Franchise Area and/or residents regarding Cable Service. Franchisee representatives trained and qualified to answer questions related to Cable Service in the Franchise Area must be available to receive reports of Service Interruptions twenty-four (24) hours a day, seven (7) days a week, and other inquiries at least forty-five (45) hours per week. Franchisee representatives shall identify themselves by name when answering this number.

B. Franchisee employees or agents who are capable of responding to Service Interruptions must be available twenty-four (24) hours a day, seven (7) days a week.

C. The Franchisee's telephone numbers shall be listed, with appropriate description (e.g. administration, customer service, billing, repair, etc.), in the directory published by the local telephone company or companies serving the Service Area, beginning with the next publication cycle after acceptance of this Franchise by the Franchisee.

D. Franchisee may use an Automated Response Unit ("ARU") or a Voice Response Unit ("VRU") to distribute calls. If a foreign language routing option is provided, and the Subscriber does not enter an option, the menu will default to the first tier menu of English options.

After the first tier menu (not including a foreign language rollout) has run through three times, if customers do not select any option, the ARU or VRU will forward the call to a queue

for a live representative. The Franchisee may reasonably substitute this requirement with another method of handling calls from customers who do not have touch-tone telephones.

E. Under Normal Operating Conditions, calls received by the Franchisee shall be answered within thirty (30) seconds. The Franchisee shall meet this standard for ninety percent (90%) of the calls it receives at all call centers receiving calls from Subscribers, as measured on a cumulative quarterly calendar basis. Measurement of this standard shall include all calls received by the Franchisee at all call centers receiving calls from Subscribers, whether they are answered by a live representative, by an automated attendant, or abandoned after 30 seconds of call waiting.

F. Under Normal Operating Conditions, callers to the Franchisee shall receive a busy signal no more than three (3%) percent of the time during any calendar quarter.

G. Upon request from the City, but in no event more than once a quarter thirty (30) days following the end of each quarter, the Franchisee shall report to the City the following for all call centers receiving calls from Subscribers except for temporary telephone numbers set up for national promotions:

(1) Percentage of calls answered within thirty (30) seconds as set forth in Subsection 2.D.

(2) Percentage of time customers received busy signal when calling the Verizon service center as set forth in Subsection 2.E.

Subject to consumer privacy requirements, underlying activity will be made available to the City for review upon reasonable request.

H. At the Franchisee's option, the measurements and reporting above may be changed from calendar quarters to billing or accounting quarters. The Franchisee shall notify the City of such a change at least thirty (30) days in advance of any implementation.

SECTION 3: INSTALLATIONS AND SERVICE APPOINTMENTS

A. All installations will be in accordance with FCC rules, including but not limited to, appropriate grounding, connection of equipment to ensure reception of Cable Service, and the provision of required consumer information and literature to adequately inform the Subscriber in the utilization of the Franchisee-supplied equipment and Cable Service.

B. The Standard Installation shall be performed within seven (7) business days after an order is placed if the Optical Network Terminal ("ONT") is already installed on the customer's premises or within fourteen (14) business days after an order is placed if the ONT is not already installed on the customer's premises.

The Franchisee shall meet this standard for ninety-five percent (95%) of the Standard Installations it performs, as measured on a calendar quarter basis, excluding customer requests for connection later than seven (7) business days after an order is placed if the ONT is already installed on the customer's premises or fourteen (14) business days after an order is placed if the ONT is not already installed on the customer's premises.

C. If the Franchisee determines that a residential installation that is not a standard installation is required, the Franchisee shall provide the customer in advance with a cost estimate and an estimated date of completion.

D. All underground cable drops from the curb to the home shall be buried within a reasonable period of time from the initial installation, or at a time mutually agreed upon between the Franchisee and the Subscriber. In all instances, the Franchisee must comply with the State of Washington's "one call" requirements.

E. The Franchisee shall provide the City with a report upon request from the City, but in no event more than once a quarter thirty (30) days following the end of each quarter, noting the percentage of Standard Installations completed within the seven (7) day period, excluding those requested outside of the seven (7) day period by the Subscriber. Subject to consumer privacy requirements, underlying activity will be made available to the City for review upon reasonable request.

At the Franchisee's option, the measurements and reporting of above may be changed not more than one time during the Term of this Agreement from calendar quarters to billing or accounting quarters. The Franchisee shall notify the City of such a change not less than thirty (30) days in advance.

F. The Franchisee will offer Subscribers "appointment window" alternatives for arrival to perform installations, Service Calls and other activities of a maximum four (4) hours scheduled time block between 8:00 AM and 6:00 PM or another block of time mutually agreed upon by the Subscriber and the Franchisee. These options shall be clearly explained to the Subscriber at the time of scheduling. These hour restrictions do not apply to weekends.

G. The Franchisee may not cancel an appointment with a Subscriber after 5:00 PM on the day before the scheduled appointment, except for appointments scheduled within twelve hours after the initial call.

H. If Franchisee's representative is running late for an appointment with a Subscriber and will not be able to keep the appointment as scheduled, the Subscriber will be contacted. The appointment will be rescheduled as necessary at a time that is convenient for the Subscriber. If the Subscriber is absent when the technician arrives, the technician shall leave written notification of timely arrival.

SECTION 4: SERVICE INTERRUPTIONS AND OUTAGES

A. The Franchisee shall notify the City of any System Outage.

B. The Franchisee shall exercise reasonable efforts to limit any System Outage for the purpose of maintaining, repairing, or constructing the Cable System. Except in an emergency or other situation necessitating a more expedited or alternative notification procedure, the Franchisee may schedule an outage of service between 6 a.m. and 12:01 a.m. which affects at least 250 Subscribers for a period of more than two (2) hours during any twenty-four (24) hour period only after the City and each affected Subscriber in the Service Area have been given fifteen (15) days prior notice. Notwithstanding the forgoing, Franchisee may perform

modifications, repairs and upgrades to the System between 12:01 a.m. and 6 a.m. which may interrupt service, and this Section's notice obligations respecting such possible interruptions will be satisfied by notice provided to Subscribers upon installation and in the annual subscriber notice.

C. Under Normal Operating Conditions, the Franchisee must Respond to a call from a Subscriber regarding a Service Interruption or other service problems within the following time frames:

(1) In the event of a System Outage resulting from Franchisee equipment failure, the Franchisee shall remedy the problem as quickly as reasonably possible.

(2)Within twenty-four (24) hours, including weekends, of receiving subscriber calls respecting Service Interruptions in the Service Area.

(3) The Franchisee must begin actions to correct all other Cable Service problems the next business day after notification by the Subscriber or the City of a Cable Service problem.

D. Under Normal Operating Conditions, the Franchisee shall complete Service Calls within seventy-two (72) hours of the time Franchisee commences to Respond to the Service Interruption, not including weekends and situations where the Subscriber is not reasonably available for a Service Call to correct the Service Interruption within the seventy-two (72) hour period.

E. The Franchisee shall meet the standard in subsection D of this Section for ninety percent (90%) of the Service Calls it completes, as measured on a quarterly basis.

F. The Franchisee shall provide the City with a report upon request from the City, but in no event more than once a quarter within thirty (30) days following the end of each calendar quarter, noting the percentage of Service Calls completed within the seventy-two (72) hour period not including Service Calls where the Subscriber was reasonably unavailable for a Service Call within the seventy-two (72) hour period as set forth in this Section. Subject to consumer privacy requirements, underlying activity will be made available to the City for review upon reasonable request. At the Franchisee's option, the above measurements and reporting may be changed from calendar quarters to billing or accounting quarters. The Franchisee shall notify the City of such a change at least thirty (30) days in advance.

G. Under Normal Operating Conditions, the Franchisee shall provide a credit upon Subscriber request when all Channels received by that Subscriber are out of service for a period of four (4) consecutive hours or more. The credit shall equal, at a minimum, a proportionate amount of the affected Subscriber(s) current monthly bill. In order to qualify for the credit, the Subscriber must promptly report the problem and allow the Franchisee to verify the problem if requested by the Franchisee. If Subscriber availability is required for repair, a credit will not be provided for such time, if any, that the Subscriber is not reasonably available.

H. Under Normal Operating Conditions, if a System Outage affects all Video Programming Cable Services for more than twenty-four (24) consecutive hours, the Franchisee shall issue an automatic credit to the affected Subscribers in the amount equal to their monthly recurring charges for the proportionate time the Cable Service was out, or a credit to the affected

Subscribers in the amount equal to the charge for the basic plus enhanced basic level of service for the proportionate time the Cable Service was out, whichever is technically feasible or, if both are technically feasible, as determined by Franchisee provided such determination is non-discriminatory. Such credit shall be reflected on Subscriber billing statements within the next available billing cycle following the outage.

SECTION 5: CUSTOMER COMPLAINTS

A. Franchisee shall establish written procedures for receiving, acting upon, and resolving complaints without intervention by the City (except where necessary) and shall publicize such procedures clearly as set forth in Section 10.K of these standards. Said written procedures shall describe a simple process by which any Subscriber may submit a complaint to the Franchisee.

B. The Franchisee shall also notify the Subscriber of the Subscriber's right to file a complaint with the City in the event the Subscriber is dissatisfied with the Franchisee's decision.

C. Under Normal Operating Conditions, the Franchisee shall investigate Subscriber complaints referred by the City within five (5) business days. The Franchisee shall notify the City of those matters that necessitate an excess of five (5) business days to resolve, but those matters must be resolved within fifteen (15) days of the initial complaint. The City may require reasonable documentation to be provided by the Franchisee to substantiate the request for additional time to resolve the problem. For purposes of this Section, "resolve" means that the Franchisee shall perform those actions, which, in the normal course of business, are necessary to investigate the Customer's complaint and advise the Customer of the results of that investigation.

SECTION 6: BILLING

A. Subscriber bills must be itemized to describe Cable Services purchased by Subscribers and related equipment charges. Bills shall clearly delineate activity during the billing period, including optional charges, rebates, credits, and aggregate late charges. Franchisee shall, without limitation as to additional line items, be allowed to itemize as separate line items, Franchise fees, taxes and/or other governmentally imposed fees. The Franchisee shall maintain records of the date and place of mailing of bills.

B. Every Subscriber with a current account balance sending payment directly to Franchisee shall be given at least twenty (20) days from the date statements are mailed to the Subscriber until the payment due date.

C. A specific due date shall be listed on the bill of every Subscriber whose account is current. Delinquent accounts may receive a bill which lists the due date as upon receipt; however, the current portion of that bill shall not be considered past due except in accordance with Subsection 6.B. above.

D. Any Subscriber who, in good faith, disputes all or part of any bill shall have the option of withholding the disputed amount without disconnect or late fee being assessed until the dispute is resolved provided that:

(1) The Subscriber pays all undisputed charges;

(2) The Subscriber provides notification of the dispute to Franchisee within five (5) days prior to the due date; and

(3) The Subscriber cooperates in determining the accuracy and/or appropriateness of the charges in dispute.

(4) It shall be within the Franchisee's sole discretion to determine when the dispute has been resolved.

E. Under Normal Operating Conditions, the Franchisee shall initiate investigation and resolution of all billing complaints received from Subscribers within five (5) business days of receipt of the complaint. Final resolution shall not be unreasonably delayed.

F. The Franchisee shall provide a telephone number and address on the bill for Subscribers to contact the Franchisee.

G. The Franchisee shall forward a copy of any Cable Service related billing inserts or other mailing sent to Subscribers to the City upon request.

H. The Franchisee shall provide all Subscribers with the option of paying for Cable Service by check or an automatic payment option where the amount of the bill is automatically deducted from a checking account designated by the Subscriber. Franchisee may in the future, at its' discretion, permit payment by using a major credit card on a preauthorized basis. Based on credit history, at the option of the Franchisee, the payment alternative may be limited.

I. The City hereby requests that Franchisee omit the City's name, address and telephone number from Franchise bill as permitted by 47 CFR 76.952.

SECTION 7: DEPOSITS, REFUNDS AND CREDITS

A. The Franchisee may require refundable deposits from Subscribers 1) with a poor credit or poor payment history, 2) who refuse to provide credit history information to the Franchisee, or 3) who rent Subscriber equipment from the Franchisee, so long as such deposits are applied on a non-discriminatory basis. The deposit the Franchisee may charge Subscribers with poor credit or poor payment history or who refuse to provide credit information may not exceed an amount equal to an average Subscriber's monthly charge multiplied by six (6). The maximum deposit the Franchisee may charge for Subscriber equipment is the cost of the equipment which the Franchisee would need to purchase to replace the equipment rented to the Subscriber.

B. The Franchisee shall refund or credit the Subscriber for the amount of the deposit collected for equipment, which is unrelated to poor credit or poor payment history, after one year and provided the Subscriber has demonstrated good payment history during this period. The Franchisee shall pay interest on other deposits if required by law.

C. Under Normal Operating Conditions, refund checks will be issued within the next available billing cycle following the resolution of the event giving rise to the refund, (e.g. equipment return and final bill payment).

D. Credits for Cable Service will be issued no later than the Subscriber's next available billing cycle, following the determination that a credit is warranted, and the credit is approved and processed. Such approval and processing shall not be unreasonably delayed.

E. Bills shall be considered paid when appropriate payment is received by the Franchisee or its' authorized agent. Appropriate time considerations shall be included in the Franchisee's collection procedures to assure that payments due have been received before late notices or termination notices are sent.

SECTION 8: RATES, FEES AND CHARGES

A. The Franchisee shall not, except to the extent permitted by law, impose any fee or charge for Service Calls to a Subscriber's premises to perform any repair or maintenance work related to Franchisee equipment necessary to receive Cable Service, except where such problem is caused by a negligent or wrongful act of the Subscriber (including, but not limited to a situation in which the Subscriber reconnects Franchisee equipment incorrectly) or by the failure of the Subscriber to take reasonable precautions to protect the Franchisee's equipment (for example, a dog chew).

B. The Franchisee shall provide reasonable notice to Subscribers of the possible assessment of a late fee on bills or by separate notice.

SECTION 9: DISCONNECTION /DENIAL OF SERVICE

A. Charges for Cable Service will be discontinued at the time of the requested termination of service by the Subscriber, except equipment charges may by applied until equipment has been returned. No period of notice prior to requested termination of service can be required of Subscribers by Franchisee. No charge shall be imposed upon the Subscriber for or related to total disconnection of Cable Service or for any Cable Service delivered after the effective date of the disconnect request, unless there is a delay in returning Franchisee equipment or early termination charges apply pursuant to the Subscriber's service contract. If the Subscriber fails to specify an effective date for disconnection, the Subscriber shall not be responsible for Cable Services received after the day following the date the disconnect request is received by Franchisee. For purposes of this subsection, the term "disconnect" shall include Subscribers who elect to cease receiving Cable Service from Franchisee. No charge shall be imposed upon the Subscriber for or related to downgrading of Cable Service, unless there is a delay in returning Grantee equipment or downgrade charges apply pursuant to the terms and conditions in the Subscriber's service contract.

B. The Franchisee shall not terminate Cable Service for nonpayment of a delinquent account unless the Franchisee mails a notice of the delinquency and impending termination prior to the proposed final termination. The notice shall be mailed to the Subscriber to whom the Cable Service is billed. The notice of delinquency and impending termination may be part of a billing statement.

C. Cable Service terminated in error must be restored without charge within twenty-four (24) hours of notice. If a Subscriber was billed for the period during which Cable Service was terminated in error, a credit shall be issued to the Subscriber if the Service Interruption was reported by the Subscriber.

D. Nothing in these standards shall limit the right of the Franchisee to deny Cable Service for non-payment of previously provided Cable Services, refusal to pay any required deposit, theft of Cable Service, damage to the Franchisee's equipment, abusive and/or threatening behavior toward the Franchisee's employees or representatives, or refusal to provide credit history information or refusal to allow the Franchisee to validate the identity, credit history and credit worthiness via an external credit agency.

SECTION 10: COMMUNICATIONS WITH SUBSCRIBERS

A. All Franchisee personnel, contractors and subcontractors contacting Subscribers or potential Subscribers outside the office of the Franchisee shall wear a clearly visible identification card bearing their name and photograph. The Franchisee shall make reasonable effort to account for all identification cards at all times. In addition, all Franchisee employees who routinely come into contact with members of the public at their places of residence shall wear a uniform provided by the Franchisee, except to the extent such requirement is affected by or subject to any contractual agreement(s) between the Franchisee and any Person other than the City. Every service vehicle of the Franchisee and its contractors or subcontractors shall be clearly identified as such to the public. Specifically, Franchisee vehicles shall have the Franchisee's logo plainly visible. The vehicles of those contractors and subcontractors working for the Franchisee shall have the contractor's / subcontractor's name plus markings (such as a magnetic door sign) indicating they are under contract to the Franchisee.

B. All Customer Service Representatives ("CSRs") shall identify themselves to callers immediately following the greeting during each telephone contact with the public. Each CSR, technician or employee of the Franchisee, in each contact with a Subscriber, shall state the standard cost of the service, repair, or installation prior to delivery of the service or before any work is performed.

C. All contact with a Subscriber or potential Subscriber by a Person representing the Franchisee shall be conducted in a courteous manner.

D. Franchisee shall maintain an Internet web presence. Except for normal and regularly scheduled maintenance, the web site shall be available twenty-four hours and seven days a week under Normal Operating Conditions.

E. A customer service representative may have the authority to provide credits, waive fees, schedule service appointments and change billing cycles, where appropriate in Franchisee's judgment. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall attempt to resolve the problem within seventy-two (72) hours or within such other time frame as is acceptable to the Subscriber and the Franchisee.

F. The Franchisee shall send annual notices to all Subscribers informing them that any complaints or inquiries not satisfactorily handled by the Franchisee may be referred to the City.

G. The Franchisee must take appropriate steps to ensure that all written Franchisee promotional materials, announcements and advertising of Cable Service to Subscribers and the

general public, where price information is listed in any manner, clearly and accurately discloses price terms. In the case of telephone orders, the Franchisee will take appropriate steps to ensure that prices and terms are clearly and accurately disclosed to potential Subscribers in advance of taking the order.

H. All notices identified in this Section shall be by either:

(1) A separate document included with a billing statement or included on the portion of the monthly bill that is to be retained by the Subscriber; or

(2) A separate electronic notification.

I. The Franchisee shall provide reasonable notice to Subscribers of any changes in rates, programming services or channel positions to the Subscribers' service or other changes affecting Cable Service of the Subscriber (excluding sales discounts). Such notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if within the control of the Franchisee, and the Franchisee shall provide a copy of the notice to the City including how and where the notice was given to Subscribers.

J. In addition to the requirements regarding advance notification to Subscribers of any changes in rates, programming services or channel positions or other changes affecting Cable Service (excluding sales discounts), the Franchisee shall give fifteen (15) days' written notice to the City before implementing any rate or service change.

K. The Franchisee shall provide information to all Subscribers about each of the following items at the time of installation of Cable Services, annually to all Subscribers, at any time upon request, and, subject to Subsection 10.I., at least thirty (30) days prior to making significant changes in the information required by this Section if within the control of the Franchisee:

(1) Products and Cable Service offered;

(2) Prices and options for Cable Services and condition of subscription to Cable Services. Prices shall include those for Cable Service options, equipment rentals, program guides, installation, downgrades, late fees and other fees charged by the Franchisee related to Cable Service;

(3) Installation and maintenance policies including, when applicable, information regarding the Subscriber's in-home wiring rights during the period Cable Service is being provided;

(4) Channel positions of Cable Services offered on the Cable System;

(5) Complaint procedures, including the name, address and telephone number of the City, but with a notice advising the Subscriber to initially contact the Franchisee about all complaints and questions;

(6) Procedures for requesting Cable Service credit;

(7) The availability of a parental control device;

(8) Franchisee practices and procedures for protecting against invasion of privacy; and

(9) The address and telephone number of the Franchisee's office to which complaints may be reported.

A copy of notices required in this Subsection 10.K. will be given to the City at least fifteen (15) days prior to distribution to subscribers if the reason for notice is due to a change that is within the control of Franchisee and as soon as possible if not within the control of Franchisee.

L. Notices of changes in rates shall indicate the Cable Service new rates and old rates, if applicable.

M. Notices of changes of Cable Services and/or Channel locations shall include a description of the new Cable Service, the specific channel location, and the hours of operation of the Cable Service if the Cable Service is only offered on a part-time basis. In addition, should the channel location, hours of operation, or existence of other Cable Services be affected by the introduction of a new Cable Service, such information must be included in the notice.

N. Every notice of termination of Cable Service shall include the following information:

(1) The name and address of the Subscriber whose account is delinquent;

(2) The amount of the delinquency for all services billed;

(3) The date by which payment is required in order to avoid termination of Cable Service; and

(4) The telephone number for the Franchisee where the Subscriber can receive additional information about their account and discuss the pending termination.

O. Subscriber Contract. The Franchisee's terms of service and any Subscriber contract shall be consistent with the terms of this Franchise.

P. Franchisee must provide for the pick up or drop off of equipment free of charge in one of the following manners: (i) by having a Franchisee representative going to the Subscriber's residence, (ii) by using a mailer, or (iii) by establishing a local business office within the Franchise Area.

SECTION 11: MISCELLANEOUS

A. Services for Mobility-Impaired Subscribers. For any Subscriber that is mobility impaired, the Franchisee shall, at no charge, deliver and pick up converters and other Franchisee equipment at the Subscriber's home. In the case of a malfunctioning converter or such other equipment, the technician shall provide another converter or such other equipment, hook it up

and ensure that it is working properly, and shall return the defective converter or such other equipment to the Franchisee.

B. The Franchisee shall provide customer service via TDD/TTY calls as requested by any hearing-impaired Subscriber at no charge.

C. Franchisee Representative: Within thirty (30) days of the Effective Date, Franchisee shall assign a representative to be available to the City to address Franchise implementation issues. Within such time period, Franchisee shall notify the City in writing of the name and contact information for such representative. If Franchisee changes the representative assigned to the City, Franchisee shall notify the City in writing of such change.

D. Late Fees*:* Franchisee's late fee and disconnection policies shall be in accordance with applicable federal and state law, including all laws relating to nondiscrimination.

PUBLICATION SUMMARY
OF ORDINANCE NO. 4140

AN ORDINANCE OF THE CITY OF KIRKLAND GRANTING VERIZON NORTHWEST INC. A NON-EXCLUSIVE CABLE FRANCHISE.

SECTION 1. Authorizes the City Manager to sign a cable franchise agreement with Verizon Northwest Inc.

SECTION 2. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2008.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

CITY OF KIRKLAND
Information Technology Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3050
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Janice Perry, MultiMedia Communications Manager
Rob Jammerman, Developing Engineering Manager

Date: October 21, 2008

Subject: Northshore Utility District Franchise

RECOMMENDATION

City Council adopts the proposed ordinance granting a franchise to Northshore Utility District.

POLICY IMPLICATIONS

This is a re-negotiated agreement and would replace the franchise adopted in December 2000.

BACKGROUND DISCUSSION

On October 7th City Council had its first reading of Ordinance No. 4141 granting a franchise to Northshore Utility District. This ordinance would replace the 2000 agreement and extends the franchise to 2013 with 5 year automatic renewals unless otherwise specified in writing.

Significant changes to the franchise agreement are:

- Method for calculating the franchise fee and method for collecting the fee
- The franchise fee will be included in Northshore's rate of calculation each year
- Includes an inflation adjustment provision
- Clarifies the responsibility for relocation costs

Since the public hearing held on October 7th, where no public testimony was offered, we learned that 959 feet of right-of-way within the Northshore Utility District's franchise area became private property in 2007. We have adjusted our number in Section10 of the ordinance to reflect this change.

The ordinance is being presented to the City Council at their October 21st meeting for a second reading and action.

ORDINANCE NO. 4141

AN ORDINANCE OF THE CITY OF KIRKLAND GRANTING NORTHSHORE UTILITY DISTRICT, A WASHINGTON MUNICIPAL CORPORATION, THE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO CONSTRUCT AND MAINTAIN, REPAIR, REPLACE, OPERATE UPON, OVER, UNDER, ALONG AND ACROSS THE FRANCHISE AREA FOR PURPOSES OF ITS WATER AND SEWER UTILITY BUSINESS.

WHEREAS, Northshore Utility District ("NUD") was previously granted a franchise agreement to operate within the City of Kirkland ("City") limits under ordinance number 3767, approved on December 11th, 2000; and

WHEREAS, this existing agreement needed to be updated and NUD and the City have therefore re-negotiated the agreement;

NOW THEREFORE, City Council of the City of Kirkland do ordain as follows:

Section 1. Definitions. Where used in this franchise (the "Franchise") these terms have the following meanings:

(a) "NUD" means Northshore Utility District, a Washington municipal corporation, and its respective successors and assigns.

(b) "City" means the City of Kirkland, a municipal corporation of the State of Washington, and its respective successors and assigns.

(c) "Franchise Area" means any, every and all of the roads, streets, avenues, alleys, highways and rights-of-way of the City as now laid out, platted, dedicated or improved in NUD's service area within the present limits of the City.

(d) "Facilities" means tanks, meters, pipes, mains, services, valves, manholes, pressure reducing valves ("PRVs"), pump stations, meter stations, lines, and all necessary or convenient facilities and appurtenances thereto, whether the same be located over or under ground.

(e) "Ordinance" means this Ordinance No. _____, which sets forth the terms and conditions of this Franchise.

Section 2. Franchise.

A. Facilities within Franchise Area. The City does hereby grant to NUD the right, privilege, authority and franchise to:

(a) Construct, support, attach, and connect Facilities between, maintain, repair, replace, enlarge, operate and use Facilities in, upon, over, under, along, through and across the Franchise Area for purposes of its water and sewer utility business as defined in RCW 82.04.065.

B. Permission Required to Enter Onto Other City Property. Nothing contained in this Ordinance is to be construed as granting permission to NUD to go upon any other public place other than those types of public places specifically designated as the Franchise Area in this Ordinance. Permission to go upon any other property owned or controlled by the City must be sought on a case-by-case basis from the City.

C. Compliance with Laws and Regulations. At all times during the term of this Franchise, NUD shall fully comply with all applicable federal, state, and local laws and regulations.

Section 3. Non-interference of Facilities.

NUD's Facilities shall be located, relocated and maintained within the Franchise Area so as not to unreasonably interfere with the free and safe passage of pedestrian and vehicular traffic and ingress or egress to or from the abutting property and in accordance with the laws of the State of Washington. Nothing herein shall preclude NUD from effecting temporary road closures as reasonably necessary during construction or maintenance of its Facilities provided NUD receives prior City approval, which shall not be unreasonably withheld. Whenever it is necessary for NUD, in the exercise of its rights under this Franchise, to make any excavation in the Franchise Area, NUD shall, upon completion of such excavation, restore the surface of the Franchise Area to the specifications established within the City of Kirkland Public Works Policies and pre-approved plans and in accordance with standards of general applicability imposed by the City by ordinance or administrative order; provided, however, if the surface of the affected Franchise Area has an Overall Condition Index (OCI)* rating of 40 or less prior to NUD's excavation, then the area shall be restored with a permanent asphalt patch per City of Kirkland Pre-approved Plans in lieu of an asphalt street overlay.

If NUD should fail to leave any portion of any Franchise Area so excavated in a condition that meets the City's specifications per the Public Works Policies and Standards, then, subject to the foregoing sentence, the City may after notice of not less than five (5) days to NUD, which notice shall not be required in case of an emergency, order any and all work considered necessary to restore to a safe condition that portion of the Franchise Area so excavated, and NUD shall pay to the City the reasonable cost of such work; which shall include among other things the overhead expense of the City in obtaining completion of said work. The parties agree that this provision may be renegotiated upon the request of either party.

*The City of Kirkland's Overall Condition Index (OCI) rating is based upon standard pavement condition rating methodologies as recognized by the Washington State Department of Transportation (WSDOT) and the Northwest Pavement Managers Association (NWPMA).

B. Any surface or subsurface failure occurring during the term of this Agreement and caused by any excavation by NUD shall be repaired to the City's specifications, within fifteen (15) days or upon five (5) days written notice to NUD by the City; if NUD fails to so timely repair, then the City shall order all work necessary to restore the damaged area to a safe and acceptable condition and NUD shall pay the reasonable costs of such work to the City.

Section 4. Relocation of Facilities.

A. Whenever the City causes the grading or widening of the Franchise Area or undertakes construction of any water, sanitary sewer or storm drainage line, lighting, signalization, sidewalk improvement, pedestrian amenities, or other public street improvement [for purposes other than those described in section 4(B) below] and such project requires the relocation of NUD's then existing Facilities within the Franchise Area, the City shall:

(a) Provide NUD, at least ninety (90) days prior to the commencement of such project, written notice that a project is expected to require relocation; and

(b) Provide NUD with reasonable plans and specifications for such grading, widening, or construction and a proposed new location within the Franchise Area for NUD's Facilities.

After receipt of such notice and such plans and specifications, NUD shall relocate such Facilities within the Franchise Area so as to accommodate such street and utility improvement project; provided, however, NUD may, after receipt of written notice requesting a relocation of its Facilities, submit to the City written alternatives to such relocations. The City shall within a reasonable time evaluate such alternatives and advise NUD in writing whether one or more of the alternatives is suitable to accommodate work that would otherwise necessitate relocation of the Facilities. If so requested by the City, NUD shall submit such additional information as is reasonably necessary to assist the City in making such evaluation. The City shall give each alternative full and fair consideration. In the event the City ultimately reasonably determines that there is no other reasonable or feasible alternative, then NUD shall relocate its Facilities as otherwise provided in this Section 4. The City shall cooperate with NUD to designate a substitute location for its Facilities within the Franchise Area. City will establish a date by which Facilities will be relocated, which date will be not less than sixty (60) days after written notice to NUD as to the facility to be relocated. NUD must finish relocation of each such Facility by the date so established. The cost of relocating such Facilities existing within the present limits of the City shall be paid as follows:

(a) if the relocation occurs within six (6) years after NUD initially constructed such Facility, then the relocation shall be at the City's sole cost;

(b) if the relocation occurs more than six (6) years but within ten (10) years after NUD initially constructed such Facility, then the City shall pay fifty percent (50%) of the cost of such relocation and NUD shall pay the remaining fifty percent (50%); and

(c) if the relocation occurs more than ten (10) years after NUD initially constructed such Facility, then the relocation shall be at NUD's sole cost.

(d) For the purpose of planning, NUD and the City shall provide each other with a copy of their respective current adopted Capital Improvement Plan annually and upon request by the other party.

B. Whenever any person or entity, other than the City, requires the relocation of NUD's Facilities to accommodate the work of such person or entity within the Franchise Area, or whenever the City requires the relocation of NUD's Facilities within the Franchise Area for the benefit of any person or entity other than the City, then NUD shall have the right as a condition of such relocation to require such person or entity to:

(a) make payment to NUD at a time and upon terms acceptable to NUD for any and all costs and expense incurred by NUD in the relocation of NUD's Facilities; and

(b) protect, defend, indemnify and save NUD harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the relocation of NUD's Facilities, to the extent such injury or damage is caused by the negligence or willful misconduct of the person or entity requesting the relocation of NUD's Facilities or other negligence or willful misconduct of the agents, servants or employees of the person or entity requesting the relocation of NUD's Facilities.

C. Any condition or requirement imposed by the City upon any person or entity (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development) which necessitates the relocation of NUD's Facilities within the Franchise Area shall be subject to the provisions of subsection 4(B). However, in the event the City reasonably determines (and promptly notifies NUD in writing of such determination) that the primary purpose of imposing such condition or requirement upon such person or entity which necessitates such relocation is to cause the construction of an improvement on the City's behalf and in a manner consistent with City approved improvement plans [as described in 4(A) above] within a segment of the Franchise Area then:

NUD shall require only those costs and expenses incurred by NUD in integrating and connecting such relocated Facilities with NUD's other Facilities to be paid to NUD by such person or entity, and NUD shall otherwise relocate its Facilities within such segment of the Franchise Area in accordance with the provisions of subsection 4(A) above.

The provisions of this Section 4(C) shall in no manner preclude or restrict NUD from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities by any person or entity other than the City, where the facilities to be constructed by such person or entity are not or will not become City owned, operated or maintained facilities, provided that such arrangements do not unduly delay a City construction project.

E. This Section 4 shall govern all relocations of NUD's Facilities required in accordance with this Franchise. Any cost or expense in connection with the location or relocation of any Facilities existing under benefit of easement or other rights not in the Franchise Area, excluding rights arising under any prior King County franchise, shall be borne by the City. Costs for location or relocation of any Facilities existing under any prior King County franchise shall be borne solely by NUD.

F. NUD recognizes the need for the City to maintain adequate width for installation and maintenance of City owned utilities such as, but not limited to, sanitary sewer, water, storm drainage and telecommunication facilities. Thus, the City reserves the right to maintain reasonable clear zones within the public right-of-way for installation and maintenance of said utilities. The clear zones for each right-of-way segment shall be noted and conditioned with the issuance of each right-of-way permit. If adequate clear zones are unable to be achieved on a particular right-of-way, NUD shall locate in an alternate right-of-way, obtain easements from private property owners, or propose alternate construction methods, which maintain and/or enhance the existing clear zones.

G. For the purpose of this Section 4, a project or improvement is considered to be caused by the City [as described in 4(A) above] if it is permitted by the City and both of the following conditions exist:

1. the City is lead agency for the project or improvement, and

2. the City is responsible for over 50% of the overall costs of said improvement or project, which 50%, if applicable, includes any grant money received from another entity for the project.

However, regardless of its percentage of participation, the City will never be liable for NUD's costs of location or relocation simply because a participating agency that would have been responsible for those costs was able to avoid paying NUD for those costs on a claim of exemption under state or federal law so long as the exempt agency was the entity to initiate the project.

Section 5. Indemnification. NUD shall indemnify, defend and hold the City, its agents, officers, employees, volunteers and assigns harmless from and against any and all claims, demands, liability, loss, cost, damage or expense of any nature whatsoever, including all costs and attorney's fees, made against them on account of injury, sickness, death or damage to persons or property which is caused by or arises out of, in whole or in part, the willful, tortious or negligent acts, failures and/or omissions of NUD or its agents, servants, employees, contractors, subcontractors or assigns in the construction, operation or maintenance of its Facilities or in exercising the rights granted NUD in this Franchise; provided, however, such indemnification shall not extend to injury or damage caused by the negligence or willful misconduct of the City, its agents, officers, employees, volunteers or assigns.

In the event any such claim or demand be presented to or filed with the City, the City shall promptly notify NUD thereof, and NUD shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand, provided further, that in the event any suit or action be begun against the City based upon any such claim or demand, the City shall likewise promptly notify NUD

thereof, and NUD shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election.

Section 6. Default. If NUD shall fail to comply with any of the provisions of this Franchise, unless otherwise provided for herein, the City may serve upon NUD a written order to so comply within thirty-days from the date such order is received by NUD. If NUD is not in compliance with this Franchise after expiration of said thirty-day period, the City may act to remedy the violation and may charge the costs and expenses of such action to NUD. The City may act without the thirty-day notice in case of an emergency. The City may in addition, by ordinance adopted no sooner than five (5) days after notice of the City Council hearing (at which NUD will have an opportunity to be heard) on the impending ordinance is given to NUD, declare an immediate forfeiture of this Franchise, provided, however, if any material failure to comply with this Franchise by NUD cannot be corrected with due diligence within said thirty (30) day period (NUD's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control, in which case the time within which NUD may so comply shall be extended for such time as may be reasonably necessary and so long as NUD commences promptly and diligently to effect such compliance), provided good faith dispute does not exist concerning such compliance.

In addition to other remedies provided herein, if NUD is not in compliance with requirements of the Franchise, and if a good faith dispute does not exist concerning such compliance, the City may place a moratorium on issuance of pending NUD right-of-way use permits until compliance is achieved.

Section 7. Non-exclusive Franchise. This Franchise is not and shall not be deemed to be an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other and further franchises over, upon, and along the Franchise Area, which do not interfere with NUD's rights under this Franchise. This Franchise shall not prohibit or prevent the City from using the Franchise Area or affect the jurisdiction of the City over the same or any part thereof.

Section 8. Franchise Term. Subject to the provisions of Section 9 and 10 below, this Franchise is and shall remain in full force and effect from January 1, 2009 until December 31, 2013, provided that on January 1, 2014, and on January 1 every five (5) years thereafter, the term shall automatically be extended for an additional five (5) years, unless either NUD or the City gives the other party written notice of non-renewal prior to any such renewal date, in which case this Franchise shall terminate five (5) years after such renewal date; and provided further, however, NUD shall have no rights under this Franchise nor shall NUD be bound by the terms and conditions of this Franchise unless NUD shall, within thirty (30) days after the passage date of the Ordinance, file with the City its written acceptance of this Franchise, in a form acceptable to the City Attorney. On any renewal date, the City has the option of extending the term for more than 5 years but all subsequent renewal dates would remain automatically five (5) years unless the City again opted to extend any of them for more than five (5) years.

Section 9. Non-assumption. In consideration for the franchise fee and acceptance of the other terms and conditions of this Franchise, the City agrees that it will not exercise its statutory authority to assume jurisdiction over NUD or any NUD responsibilities, property, facilities or equipment within the City's corporate limits while this Franchise is in effect.

Section 10. Franchise Fee. In consideration for the rights granted NUD under this Agreement for Facilities in the Franchise Area, NUD agrees to pay to the City an annual franchise fee of $3.25 per foot of the ~~126,627~~ 125,668 feet of the roads, streets, avenues, alleys, highways and rights-of-way of the City as now laid out, platted, dedicated or improved in NUD's service area within the present limits of the City. For 2009 this results in a fee of ~~$411,538~~ $408,421 which fee will be raised by inclusion in NUD's rate calculation for ratepayers within City limits. The fee will be adjusted for inflation each January 1st thereafter during the term of this agreement using the June-to-June CPI-U index for the Seattle – Tacoma – Bremerton area for the preceding year, as the CPI-U more closely reflects the changes in real estate value. Said annual Franchise Fee shall be paid in four equal quarterly installments. Fees for each calendar quarter shall be due thirty (30) days following the end of the calendar quarter. Should NUD be prevented by judicial or legislative action from paying any or all of the franchise fee, NUD shall be excused from paying that portion of the franchise fee. Should a court of competent jurisdiction declare, or a change in law make the franchise fee invalid, in whole or in part, or should a court of competent jurisdiction hold that the franchise fee is in violation of a pre-existing contractual obligation of NUD, then NUD's obligation to pay the fee to the City under this Section shall be terminated in accordance with and to the degree required to comply with such court action. NUD agrees that the franchise fee established by this Section is appropriate and that NUD will not be a party to or otherwise support legal or legislative action intended to result in judicial determinations or legislative action referred to above. City shall defend, indemnify and hold NUD harmless from and against any and all claims, suits, actions or liabilities (including costs and attorneys' fees) incurred or asserted against NUD directly or indirectly arising out of NUD's payment of the franchise fee as provided in this Franchise. If new roads, streets, avenues, alleys, highways and rights-of-way of the City are added to the Franchise Area, the City will notify NUD no more than once per year of the number of feet added, which amount will then be added to the calculation of the franchise fee for the next calendar quarter.

Section 11. Compliance With Codes And Regulations.

A. The rights, privileges and authority herein granted are subject to and governed by this ordinance and all other applicable ordinances and codes of the City of Kirkland, as they now exist or may hereafter be amended. Nothing in this ordinance limits the City's lawful power to exercise its police power to protect the safety and welfare of the general public. Any location, relocation, erection or excavation by NUD shall be performed by NUD in accordance with applicable federal, state and city rules and regulations, including the City Public Works Policies and Pre-approved Plans, and any required permits, licenses or fees, and applicable safety standards then in effect or any Memorandum of Understanding with NUD.

B. Upon written inquiry, NUD shall provide a specific reference to either the federal, state or local law or the Washington Utilities and Transportation Commission ("WUTC") order or action establishing a basis for NUD's actions related to a specific franchise issue.

C. In the event that any territory served by NUD is annexed to the City after the effective date of this Franchise, this franchise agreement shall be deemed to be the new agreement required to be granted to a franchisee in annexed territory by RCW 35A.14.900 for whatever period of time is then required under that statute or the remaining time left under this franchise agreement for the Franchise Area, whichever is longer. Such territory shall then be governed by the terms and conditions contained herein upon the effective date of such annexation. The first franchise fee for any annexed area shall be calculated pro rata from the effective date of the annexation to the end of the next calendar quarter and paid to the City at the same time as the fee for the Franchise Area is paid for that quarter.

Section 12. Location of Facilities and Equipment. With the exception of components that are traditionally installed above ground such as fire hydrants, blow-offs, vault lids, risers and utility markers, all Facilities and equipment to be installed within the Franchise Area shall be installed underground; provided, however, that such Facilities may be installed above ground if so authorized by the City, which authorization shall not be unreasonably withheld, conditioned or delayed, consistent with the provisions of the City's Land Use Code and applicable development pre-approved plans.

Section 13. Record of Installations and Service. With respect to excavations by NUD and the City within the Franchise Area, NUD and the City shall each comply with its respective obligations pursuant to Chapter 19.122, RCW and any other applicable state law.

Upon written request of the City, NUD shall provide the City with the most recent update available of any plan of potential improvements to its Facilities within the Franchise Area; provided, however, any such plan so submitted shall be for informational purposes within the Franchise Area, nor shall such plan be construed as a proposal to undertake any specific improvements within the Franchise Area.

As-built drawings of the precise location of any Facilities placed by NUD in any street, alley, avenue, highway, easement, etc., shall be made available to the City within ten (10) working days of request.

Section 14. Shared Use of Excavations. NUD and the City shall exercise best efforts to coordinate construction work either may undertake within the Franchise Area so as to promote the orderly and expeditious performance and completion of such work as a whole. Such efforts shall include, at a minimum, reasonable and diligent efforts to keep the other party and other utilities within the Franchise Areas informed of its intent to undertake such construction work. NUD and the City shall further exercise best efforts to minimize any delay or hindrance to any construction work undertaken by themselves or other utilities within the Franchise Area.

If at any time, or from time to time, either NUD, the City, or another franchisee, shall cause excavations to be made within the Franchise Area, the party causing such excavation to be made shall afford the others, upon receipt of a written request to do so, an opportunity to use such excavation, provided that:

(a) Such joint use shall not unreasonably delay the work of the party causing the excavation to be made;

(b) Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties. The parties shall each cooperate with other utilities in the Franchise Area to minimize hindrance or delay in construction.

The City reserves the right to not allow open trenching for five (5) years following a street overlay or improvement project. NUD shall be given written notice at least ninety (90) days prior to the commencement of the project. Required trenching due to an emergency will not be subject to five (5) year street trenching moratoriums.

The City reserves the right to require NUD to joint trench with other facilities if both parties are anticipating trenching within the same portion of the Franchise Area and provided that the terms of (a) and (b) above are met.

Section 15. Insurance. NUD shall maintain in full force and effect throughout the term of this Franchise, a minimum of One Million Dollars ($ 1,000,000.00) liability insurance for property damage and bodily injury.

The City shall be named as an additional insured on any policy of liability insurance obtained by NUD for the purpose of complying with the requirements of this Section.

In satisfying the insurance requirement set forth in this section, NUD may self-insure against such risks in such amounts as are consistent with good utility practice. NUD shall provide the City with sufficient written evidence, the sufficiency of which shall be determined at the reasonable discretion of the City, upon request, that such insurance (or self-insurance) in being so maintained by NUD. Such written evidence shall include, to the extent available from NUD's insurance carrier, a written certificate of insurance with respect to any insurance maintained by NUD in compliance with this Section.

Section 16. Tariff Changes. If NUD shall file, pursuant to Chapter 80.28 RCW, with the WUTC (or its successor) any tariff affecting the City's rights arising under this Franchise, NUD shall give the City Clerk written notice thereof within five (5) days of the date of such filing.

Section 17. Assignment. All of the provisions, conditions, and requirements herein contained shall be binding upon NUD, and no right, privilege, license or authorization granted to NUD hereunder may be assigned or otherwise transferred without the prior written authorization and approval of the City, which

the City may not unreasonably withhold, condition or delay. Notwithstanding the foregoing, NUD may assign this agreement to an affiliate, parent or subsidiary or as part of any corporate financing, reorganization or refinancing which does not require assignment to any but an affiliate, parent or subsidiary without the consent of, but upon notice to, the City.

Section 18. Notice. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, "notices") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States Mail, certified, registered, or express mail with postage prepaid, or if sent by facsimile transmission with electronic confirmation. If such notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given one (1) business day after the deposit thereof with such delivery service. If such notice is mailed as provided herein, such shall be deemed given three (3) business days after the deposit thereof in the United States Mail. If such notice is sent by facsimile transmission, it shall be deemed given at the time of the sender's receipt of electronic confirmation. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To City:	Multimedia Communications Manager City of Kirkland 123 Fifth Avenue Kirkland, WA 98033-6169 Fax: (425) 576-2921
To NUD:	General Manager Northshore Utility District 6830 NE 185th St. Kenmore, WA 98028 Fax:(425) 398-4435
With copy to:	Kinnon Williams Williams & Williams, PSC 18806 Bothel Way NE Bothell, Washington 98011-1933 Fax: (425) 485-8449

Any party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

Section 19. Miscellaneous. If any term, provision, condition or portion of this Franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise, which shall continue in full force and effect. The headings of sections and paragraphs of this Franchise are

for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

In addition to the franchise fee due under Section 10 above, NUD shall pay for the City's reasonable administrative costs in drafting and processing this franchise agreement and all work related thereto. NUD shall further be subject to all permit fees associated with activities undertaken through the authority granted in this franchise ordinance or under the laws of the City. Where the City incurs cost and expenses for review, inspection, or supervision of activities undertaken through the authority granted in this franchise or any ordinances relating to the subject for which a permit fee is not established, NUD shall pay such costs and expenses directly to the City. In addition to the above, NUD shall promptly reimburse the City for any and all costs it reasonably incurs in response to any emergency involving NUD's facilities.

City has the right, but not the obligation, to take over control and ownership of Franchisee's Facilities in the Franchise Area, specifically including the water and sewer plant network, without compensation, if (1) such facilities are abandoned; or (2) in the event this Franchise is terminated and Franchisee does not remove such facilities at its own expense within a reasonable period of time. Furthermore, the City is specifically interested in retaining abandoned water and sewer lines for use as conduit for communication purposes and NUD shall notify the City at least 180 days prior to abandonment of any water or sewer line.

This Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise, and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 5 above) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the City in conjunction with the exercise (or failure to exercise) by NUD of any and all rights, benefits, privileges, obligations, or duties in and under this Franchise, unless such permit, approval, license, agreement or document specifically:

(a) references this Franchise; and

(b) states that it supersedes this Franchise to the extent it contains terms and conditions which change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise.

In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document that does not comply with subsections (a) and (b) referenced immediately above, the provisions of this Franchise shall control.

This Franchise is subject to the provisions of any applicable tariff now or hereafter on file with the WUTC or its successor. In the event of any conflict of inconsistency between the provisions of this Franchise and such tariff, the provisions of such tariff shall control.

Section 20. Termination of Prior Franchise Agreement. Upon NUD's acceptance of this franchise agreement in accordance with Section 8 above, the prior Franchise Agreement negotiated in December 2000 and previously approved under City Ordinance No. 3767 and NUD Resolution No. 2000-11-20 shall be deemed terminated on December 31, 2008. The terms and conditions of that 2000 Franchise Agreement shall have no further force and effect after that date.

Section 21. Effective Date. The franchise agreement established in this ordinance shall go into effect and become the new NUD Franchise Agreement as of January 1, 2009.

Section 22. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in regular meeting this ___ day of _____, 2008.

Signed in authentication thereof this ___ day of _____, 2008.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PUBLICATION SUMMARY OF
ORDINANCE NO. 4141

AN ORDINANCE OF THE CITY OF KIRKLAND GRANTING NORTHSHORE UTILITY DISTRICT, A WASHINGTON MUNICIPAL CORPORATION, THE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO CONSTRUCT, AND MAINTAIN, REPAIR, REPLACE, REMOVE AND OPERATE UPON, OVER, UNDER, ALONG AND ACROSS THE FRANCHISE AREA FOR PURPOSES OF ITS WATER AND SEWER UTILITY BUSINESS.

SECTIONS 1-15. Provide for: the grant to Northshore Utility District of a franchise for a water and sewer utility business for 10 years on specified terms and conditions with the possibility of 5 year or, at the City's discretion, longer, extensions thereafter, payment of franchise fees to the City and non-assumption of NUD facilities within Kirkland for as long as the franchise is in effect or, in the event of annexation, as long as required by RCW 35A.14.900, whichever is later.

SECTIONS 16-21. Sets forth administrative provisions and establishes the effective date of this new franchise.

SECTION 21. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The ordinance was passed by the Kirkland City Council at its regular meeting on the _____ day of _____, _____.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

Council Meeting: 10/21/2008
Agenda: Other Business
Item #: 8. h. (3).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: October 9, 2008

Subject: 116TH AVENUE NE NON-MOTORIZED FACILITIES – PHASE 2 (SOUTH SECTION)
CONSULTANT SELECTION AND AUTHORIZE ADDITIONAL FUNDING

RECOMMENDATION:

It is recommended that the City Council authorize the use of $150,000 of Surface Water Utility funds to complete the design for the 116th Avenue NE Non-Motorized Facilities Project – Phase 2.

BACKGROUND DISCUSSION:

The 116th Avenue NE non-motorized project first appeared as one large project (Bellevue to NE 67th) in the 1994 – 1999 CIP (Attachment A); though the project was never completed due to failure of numerous attempts to secure external funding for construction. The project was then divided into Phase 1 (NE 60th to NE 67th) and Phase 2 (Bellevue to NE 60th), and in 2004, the City received a federal funding total of $724,000 to complete and construct Phase 1. In 2005, the City was successful in receiving a $266,400 federal grant to complete the Phase 2 design.

Phase 1 of the project (NE 60th to NE 67th) was substantially completed in July, 2008; only landscape restoration remains, and due to federal planting requirements, completion is expected by November, 2008. The project installed bicycle lanes on both sides of 116th Avenue NE, curb, gutter, and concrete sidewalk with ADA curb ramps on the east side of 116th Avenue NE. The protected pedestrian route completed the 116th Avenue NE pedestrian corridor between the NE 60th Street / I-405 pedestrian bridge and the Houghton Park and Ride. PW Staff anticipates the total budget necessary to complete Phase 1 will be less than the budget and will result in an overall savings.

Phase 1 pedestrian improvements

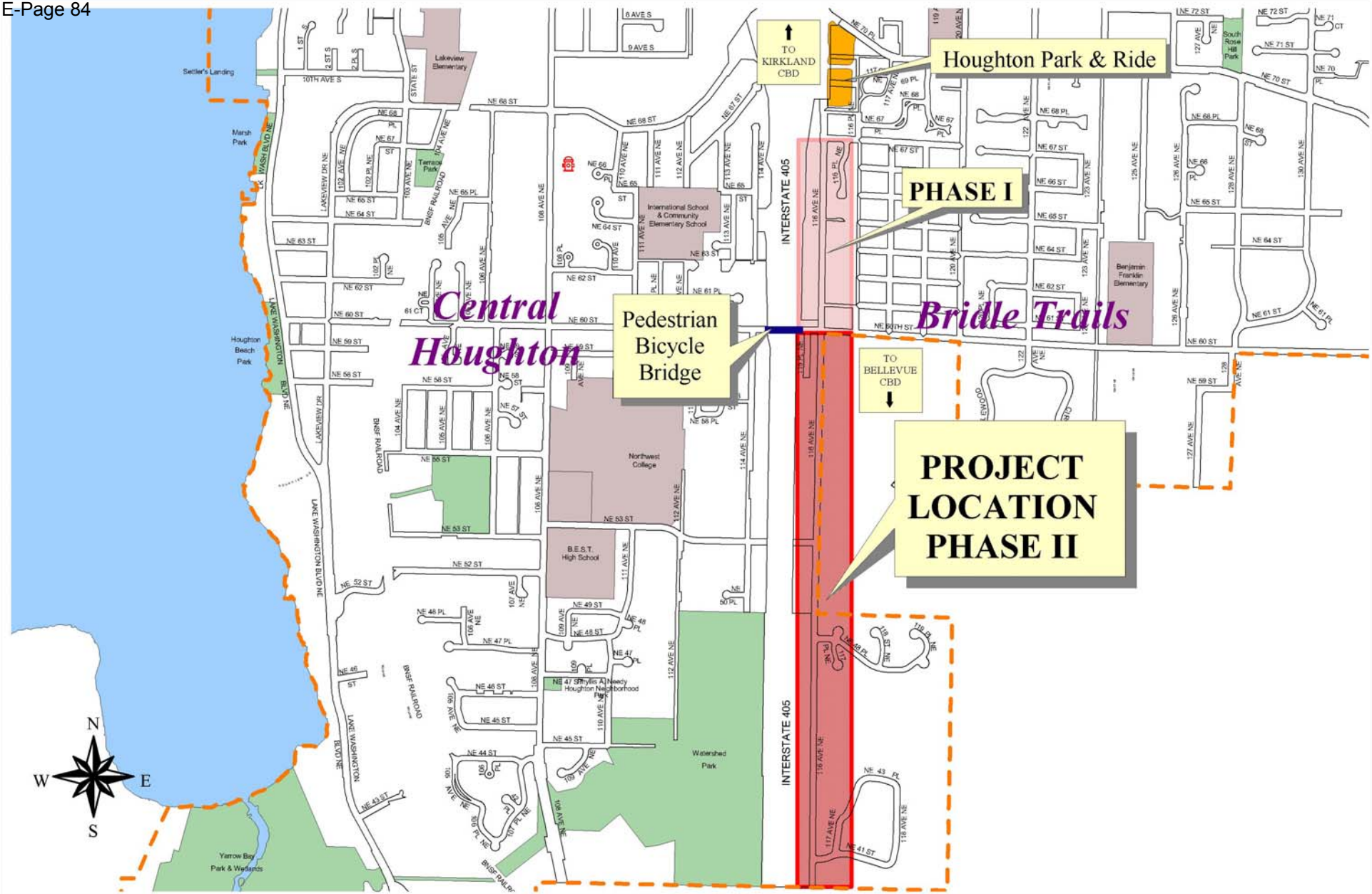
Proposed improvements to be similar to road section south of NE 40th (Bellevue's section)

Phase 2 calls for the installation of approximately 1-mile of pedestrian, bicycle, and equestrian facilities along 116th Avenue NE between NE 60th Street and the Bellevue city limits (NE 41st Street). Currently, the corridor has two 11-foot lanes with narrow shoulders; there are no pedestrian, bicycle, or equestrian facilities. Improvements include reconstructing the 11-foot lanes, constructing new 5-foot bicycle lanes, adding a landscape strip (0 to 5-feet wide), and 6-foot wide "soft surface" trail on the east side of 116th Avenue. Other improvements include installing detention and water quality treatment, relocating a portion of Yarrow Creek, constructing retaining walls and channelization. This project will provide for connection with the recently completed, 1/3-mile, 116th Avenue Improvements Phase 1 (NE 60th to NE 67th Street) and supplies the last link of pedestrian and bicycle improvements between Kirkland, Bellevue, and the I-405 pedestrian bridge.

Large size surface water control systems are used on projects near sensitive areas

At the time of Phase 2 grant application for design completion, estimates reflected the anticipated effort necessary to bring the design up to, at the time, current standards. However, since the 2004 grant application and subsequent award in 2005, a greater emphasis on surface water conveyance, detention and water quality has lead to more restrictive surface water requirements. Additionally, given the proximity to Yarrow Creek, several wetlands, and Bridle Trail State Park, Kirkland's Low Impact Development Feasibility Study resulted in surface water flow control and water quality standards higher than traditional CIP requirements. These factors, along with significant coordination efforts with affected agencies such as WSDOT Local Programs, Department of Ecology, Corps of Engineers, NOAA Fisheries and Washington Department of Fish and Wildlife have lead to an approximately $150,000 shortfall in the current $286,400 available engineering budget; the current construction estimate is $4,000,000 (Attachment B). The available budget is comprised of $20,000 (City funds) and $266,400 (federal grant). The current estimated engineering budget; $350,000 (consultant) + $50,000 (in-house) + $36,400 (contingency) is $436,400 which is $150,000 more than the current budget. Due to the significant surface water needs, it is proposed that the additional funds to complete the design come from the Surface Water Utility Fund (Attachment C). This project is not currently funded for construction and it is likely that federal funding will be pursued for 2013 construction. Possible grant sources include Congestion Mitigation/Air Quality, Transportation Enhancement Program, Transportation Improvement Board Urban Sidewalk, and King County Water Quality.

Attachments: (3)



116TH AVE NE NON-MOTORIZED PROJECT PHASE II

- Park and Ride
- Parks
- Schools
- Business District
- Neighborhood Boundaries
- City Limits
- City Hall
- Performing Arts Center
- Fire Station
- Post Office
- Library

400 0 400 800 Feet

NOT TO SCALE

Produced by the City of Kirkland.

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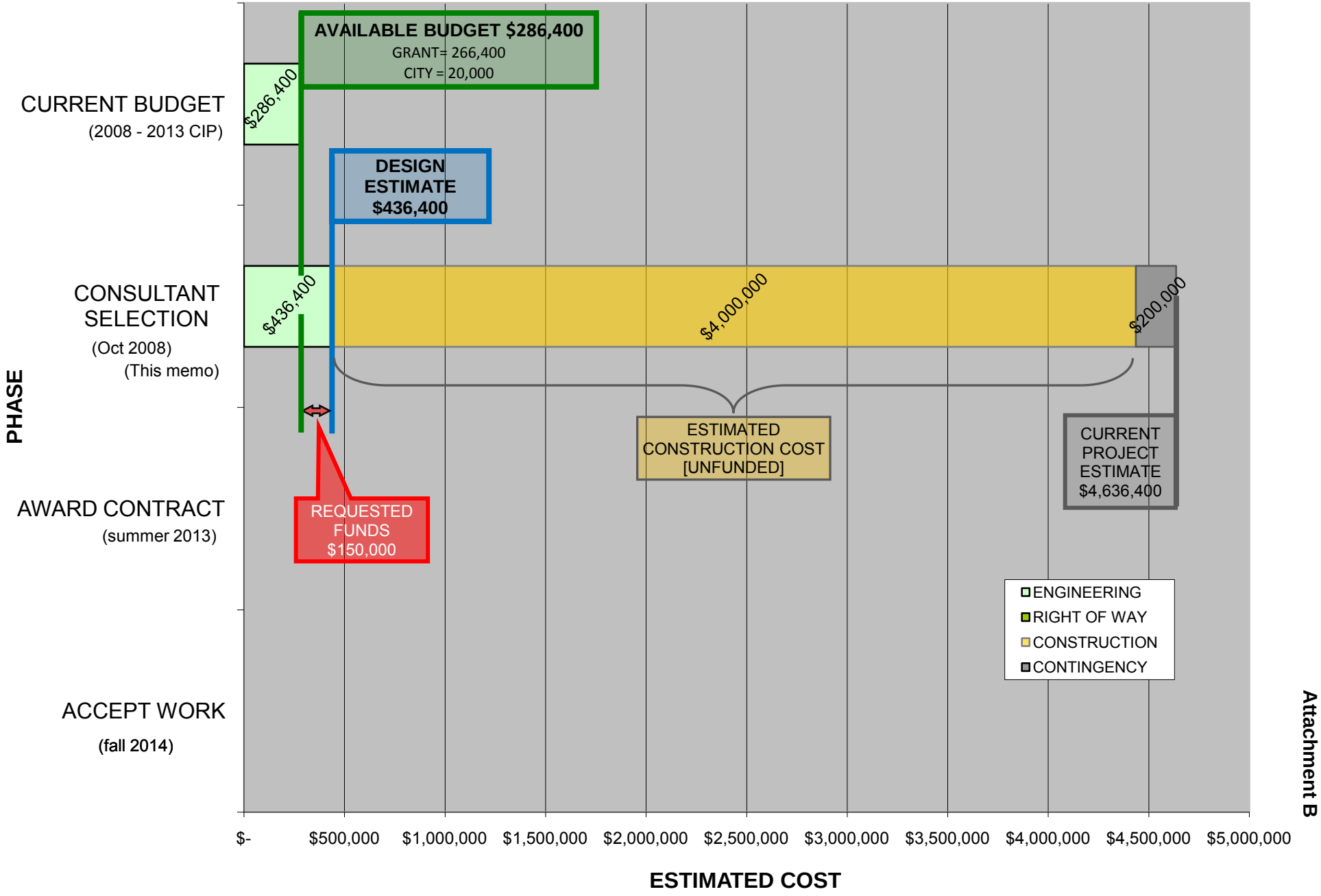
116TH AVENUE NE NON-MOTORIZED FACILITIES – PHASE 2 (SOUTH SECTION)
PROJECT BUDGET REPORT



Attachment B

ATTACHMENT C

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Daryl Grigsby, Public Works Director

Description of Request

Request for additional funding of $150,000 from the Surface Water Transportation Reserve to complete the design for 116th Ave NE (Phase 2) Non-Motorized Facilities project (CNM 0001 423). Design costs have increased from original estimates due to significantly increased surface water control requirements and site-related issues. This project is not currently funded for construction; federal funding will likely be sought for construction in 2013.

Legality/City Policy Basis

Fiscal Impact

One-time use of $150,000 of the Surface Water Transportation Reserve designated for surface water transportation-related capital projects. The reserve is fully able to fund this request.

Recommended Funding Source(s)

	Description	2008 Est End Balance	Prior Auth. 2007-08 Uses	Prior Auth. 2007-08 Additions	Amount This Request	Revised 2008 End Balance	2008 Target
Reserve	Surface Water Transportation Rsv	1,417,365	236,000	0	150,000	1,031,365	see below
	Prior authorized 2007-08 Use includes $236,000 for the 116th Ave NE (North Section) Non-Motorized Facilities project C NM 0042 423. The Surface Water Transportation Reserve is the accumulated set aside for transportation-related surface water projects. There is no current target. The reserve is fully able to fund this request.						
Revenue/Exp Savings							
Other Source							

Other Information

Prepared By	Neil Kruse, Budget Analyst	Date	October 10, 2008

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Barry Scott, Purchasing Agent

Date: October 8, 2008

Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF OCTOBER 21, 2008

This report is provided to apprise the Council of recent and upcoming procurement activities where the cost is estimated to be in excess of $50,000. This report also includes the process being used to determine the award of the contract.

Following is a report on the City's major procurement activities initiated since August 20, 2008:

	Project	Process	Estimate/Price	Status
1.	2008 Water System Improvement Project	Invitation for Bids	$1,000,000-$1,150,000	Advertised on 10/1. Bids due on 10/16.

Please contact me if you have any questions regarding this report.

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Sheila Cloney

Date: October 13, 2008

Subject: LODGING TAX ADVISORY COMMITTEE APPOINTMENTS

RECOMMENDATION

On behalf of the Lodging Tax Advisory Committee (LTAC), staff recommends that City Council consider Les Utley, General Manager of the Heathman Hotel and Ryan Noel, General Manager of the Courtyard Marriot Seattle-Kirkland, for appointment to the LTAC. Letters of agreement are attached.

BACKGROUND

The Lodging Tax Advisory Committee makes recommendations to City Council on the use of the Lodging Excise Tax funds for tourism promotion activities. State Statute and KMC Chapter 5.19 governs the use of lodging tax funds and committee membership. The committee shall consist of one member of the Kirkland City Council (chair), three representatives from businesses required to collect the lodging tax (lodging establishments), and three representatives of organizations involved in activities authorized to be funded lodging tax revenue or local agencies involved in tourism promotion.

Both Mr. Utley and Mr. Noel offer the Committee expertise in hotel management and operation. They would fill two vacant hotel positions on the Committee. Currently LTAC members are Chair and City Council Member Tom Hodgson, Julie Metteer representing the Kirkland Downtown Association, Marc Nowak, General Manager with the Woodmark Hotel, Luanne Erikson with the Kirkland Gallery Association, and Shirley Day, owner of the Crab Cracker restaurant. The appointments of Mr. Utley and Mr. Noel will make the membership complete.

11215 NE 124th Street
Kirkland, WA 98034

August 27, 2008

Council Member Tom Hodgson
Kirkland City Council
123 5th Avenue
Kirkland, WA 98033

RE: Marriott Kirkland LTAC Representative

Dear Mr. Hodgson,

I would be happy to serve on the City of Kirkland's Lodging Tax Advisory Committee to fill one of the Hotel appointments on this committee.

I understand the importance of tourism to our community and would like to help with this group to further expand Kirkland's tourism role.

Sincerely,

Ryan Noel
General Manager
Courtyard Marriott Seattle-Kirkland
11215 NE 124th Street
Kirkland, WA 98033

THE HEATHMAN HOTEL
KIRKLAND, WASHINGTON
220 Kirkland Avenue
Kirkland, WA 98033

August 27, 2008

Council Member Tom Hodgson
Kirkland City Council
123 5th Avenue
Kirkland, WA 98033

RE: Heathman Hotel LTAC Representative

Dear Mr. Hodgson,

I would be happy to serve on the City of Kirkland's Lodging Tax Advisory Committee to fill one of the Hotel appointments on this committee.

I understand the importance of tourism to our community and would like to help with this group to further expand Kirkland's tourism role.

Sincerely,

Les Utley
Heathman Hotel
General Manager
220 Kirkland Avenue
Kirkland, WA 98033

Council Meeting: 10/21/2008
Agenda: Other Business
Item #: 8. h. (6).

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Tracey Dunlap, Director of Finance and Administration

Date: October 9, 2008

Subject: Update on Inflation Rates, Impact Fee Indexing, and Impacts on the 2009-2014 CIP

Background

When the City Council adopted revised impact fees effective February 1, 2008, the Kirkland Municipal Code (27.04.120) was revised to provide that:

> *(b) The fees on the schedule in Section 27.04.150 shall be indexed to provide for an automatic fee increase each January 1st beginning in the year 2009. A six-year moving average of the Washington State Department of Transportation Construction Cost Index will be used to determine the increase in fees for each year to reflect increased project costs. In the event that the fees on the schedule in Section 27.04.150 are increased during the preceding calendar year due to changes to the twenty-year transportation project list pursuant to subsection (a) of this section, the fees will not be indexed the following January. The finance and administration department shall compute the fee increase and the new schedule shall become effective immediately after the annual fee increase calculation.*

Similar language was incorporated for the Parks Impact Fees using the June-to-June Seattle-Tacoma-Bremerton Area Consumer Price Index (CPI-W). At the time the fees were adopted, the City Council requested that staff report back on the inflation rates that will be used for indexing before the updated fees are put in place for 2009. This memorandum and its attachments provide this information and summarize the effects that indexing the impact fees is expected to have on the Preliminary 2009-2014 CIP.

Inflation Rates and Impact Fee Indexing

The June-to-June Seattle-Tacoma-Bremerton Area Consumer Price Index (CPI-W) in June 2008 is 6.19%, which would form the basis for indexing the Parks impact fees. Applying this factor as of January 1, 2009 would increase the current fee for Single-family dwelling (detached unit) from $3,621 to $3,845 per dwelling unit. The current fee for Multifamily dwellings (attached, stacked, and assisted living unit) would increase from $2,368 to $2,514 per dwelling unit.

The inflationary index for the Transportation impact fee is 11 percent as summarized in the attached memo from Public Works describing the transportation inflation index in detail. Applying this factor would increase the fee per trip from $3,398 to $3,787. Note that while a full update of the impact fee calculation was not undertaken this year, staff reviewed the impacts that the proposed changes to the capital facilities plan might have on the Transportation impact fee. That review supported the calculated impact fee from the 2007 study.

Impacts on the CIP

The preliminary 2009-2014 CIP presented to the City Council at the August 5 Study Session reflected an escalation to the impact fee revenues of almost $1.1 million for transportation and $225,000 for parks. In reviewing these assumptions, it has become clear that the slowdown in development activity has severely impacted the City's impact fee collections. The table below summarizes the budgeted impact fee collections, including 2007 under the old fees, the year to date results and projections for 2008 and 2009. Based on the reduced collections in 2008, and that staff is currently projecting development activity in 2009-2010 consistent with 2008 levels, we recommend reducing the budgeted impact fee revenues for 2009. Inflation indexes for 2010 fees will be looked at in the fall of 2009.

	Old Fee Structure and Budget		**Current Fee Structure and Budget**			**Revised Budget**
	2007 Budget	**2007 Actuals**	**2008 Budget**	**2008 Year-to-Date**	**2008 Estimate**	**2009 Projection**
Transportation						
Fee per Trip	$877		$3,398			$3,787
CIP	600,000	613,566	1,692,400	570,645	650,000	750,000
Total Transportation	**600,000**	**613,566**	**1,692,400**	**570,645**	**650,000**	**750,000**
Parks						
SF Fee per Dwelling Unit	$612		$3,621			$3,845
Debt Service*	0	0	319,310	179,144	205,000	315,000
CIP	75,000	108,400	300,000	0	0	0
Total Parks	**75,000**	**108,400**	**619,310**	**179,144**	**205,000**	**315,000**

* Per the 2007 Impact Fee study, Park impact fees are committed to paying 100% of the McAuliffe Park debt service and 89.3% of the Teen Center debt principal.

The funding level changes will need to be incorporated into the preliminary 2009-2014 CIP with project budgets and/or timing changed to reflect the reduced funding levels. Changes to the 2009-2014 CIP will be brought back to Council at a regular meeting in November prior to adoption of the CIP.

The updated impact fees will be implemented administratively effective January 1, 2009. The 2009-2014 CIP will be brought back to the City Council for approval at the December 2 or 16 meeting.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: October 10, 2008

Subject: Transportation Project Inflation and Impact Fee indexing

RECOMMENDATION:

It is recommended that the City Council review the information provided regarding the status of City's transportation impact fee indexing.

BACKGROUND AND DISCUSSION:

During the development of the 2008-2013 CIP and transportation impact fees in 2007, Staff proposed using inflation factors for transportation projects that were reflective of the Washington State Department of Transportation (WSDOT) Construction Cost Index (CCI). This approach was adopted by the City Council in their deliberations of the 2008-2013 CIP with the caveat that Staff would return during the preparation of each subsequent CIP or impact fee update process. This memo summarizes changes in the indexing rates and is presented as a component of the preliminary 2009-2014 CIP discussions.

Impact fees are charged to developers for a limited amount of specific transportation, specifically capacity enhancement projects (Attachment A). Impact fees are charged based on the number of anticipated vehicle trips added by a particular development action and have been used by the City as a source of revenue since 1999. Since the implementation of transportation impact fees, approximately $3.3 million has been programmed to concurrency projects accounting for approximately 20% of all funding for that time period.

In preparing the preliminary 2009-2014 CIP staff used an updated CCI from the WSDOT. A slight decrease was noted in the preceding year's 6-year average CCI. In 2007, "inflation" for the transportation projects was 12% based on the time period from 2001-2006; in 2008, inflation is 11% (Attachment B). Using this 11% inflation rate, all of the concurrency projects were reestimated for the 2009-2014 CIP.

One project that is included in the City's concurrency network is NE 132nd Street between 100th Ave NE and 132nd Ave NE. Although predominantly located north of the actual City limits, within unincorporated King County, the expansion of NE 132nd Street is required in order for the City of Kirkland to maintain concurrency. King County remains concurrent under the existing configuration of NE 132nd Street and thus has no plans for expansion or increased capacity in the corridor. In 2007, the Council funded a technical analysis of the NE 132nd Street corridor to ascertain detailed configuration requirements and

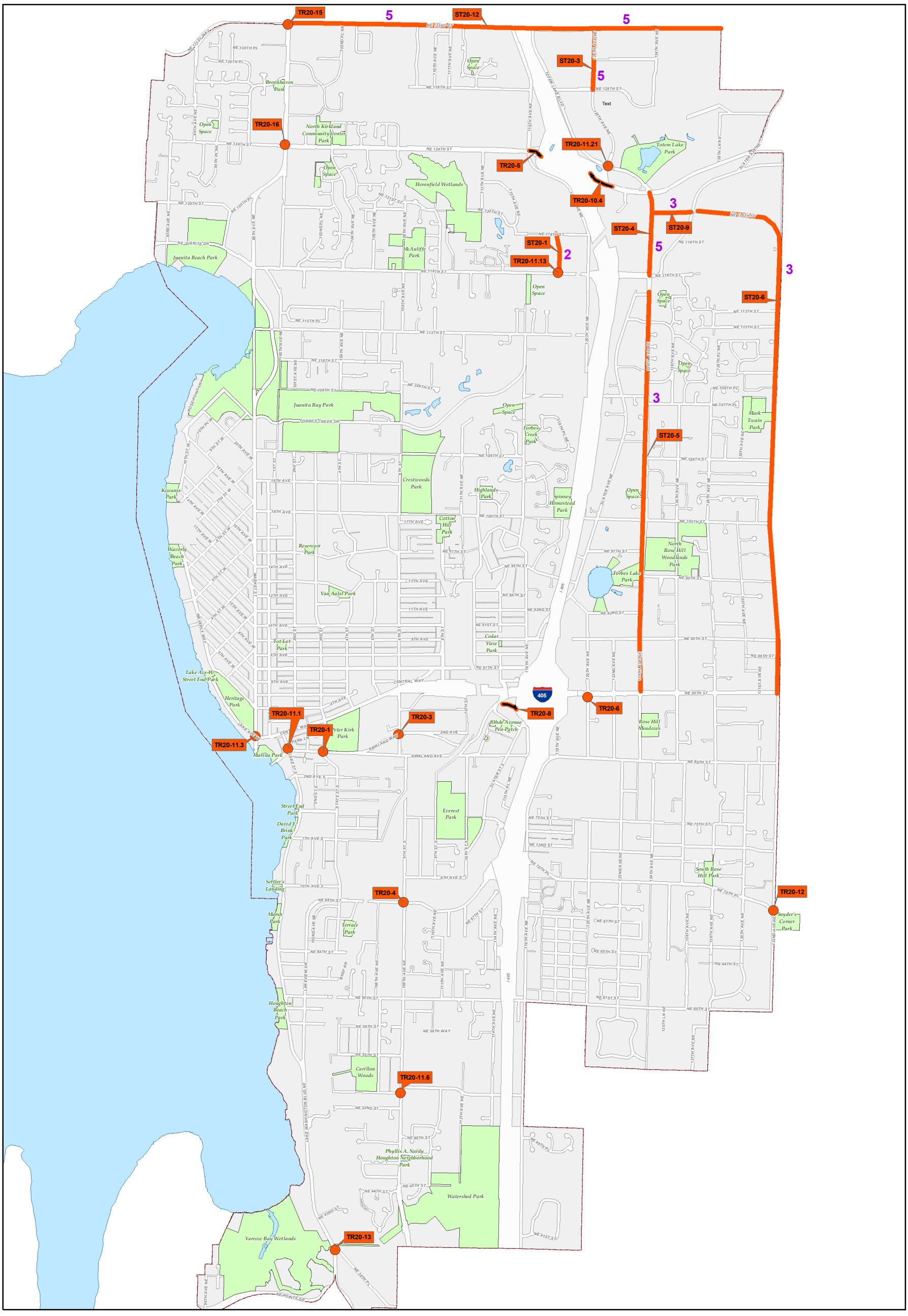
to develop a higher level of confidence cost estimate. In preparing the CIP and impact fee calculations in 2007, the NE 132nd Street corridor enhancements were estimated at over $44 million and accounted for a significant element of the impact fees. The technical analysis was completed earlier this year, and the resulting configuration of NE 132nd Street has a significantly reduced footprint than originally anticipated. Whereas in 2007 it was anticipated that the corridor could likely be five lanes in order to support the anticipated volumes, the 2008 analysis has identified very specific key intersection improvements and substantially reduces the overall footprint and cost for the corridor. In preparation of the 2009-2014 CIP and in the review of impact fees for this memo, the revised concurrency element of the NE 132nd Street corridor is approximately $11M.

Taken together, the revised downward cost estimate of NE 132nd Street and the continued high inflation rates have had an offsetting effect on each other when applied to the concurrency network. In the 2007 analysis of impact fees, the total remaining cost for the concurrency network spread among the remaining allowable trips established the 2008 impact fee at $3,398 (current impact fee); the current recommended impact fee for 2009 is $3,787 (Attachment C).

Staff has looked at the impact fee collection and as a result is proposing that modifications be made in the preliminary CIP. Whereas it was anticipated that approximately $ 1.7 M would be collected in 2008, the actual collection is estimated to be closer to $650,000. The long term impact of this trend of reduced impact fee collection will be less impact fee funds to undertake the projects originally scheduled in the preliminary 2009-2014. Staff is currently considering various options and will return with a recommendation prior to the final adoption of the CIP by City Council.

Attachments

A. Concurrency network projects
B. WSDOT Historical CCI
C. Impact fee comparison



Legend

- HOV Improvement
- Roadway
- Intersection
- # Number of Lanes

N

1,050 525 0 1,050 2,100 Feet

Scale 1" = 2,100 Feet

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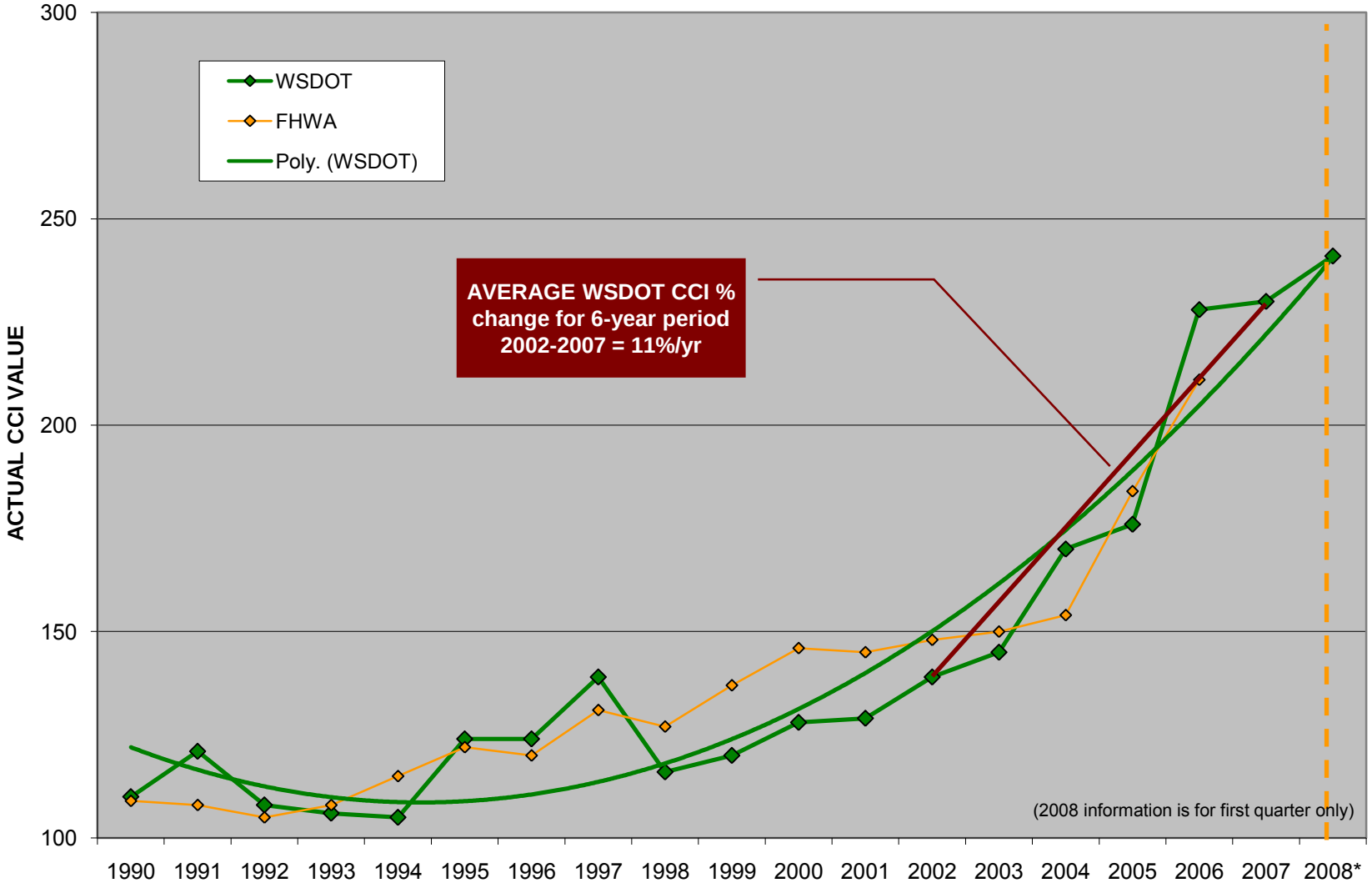
2022 Impact Fee Project List

Historical comparison of Construction Cost Indices



Attachment B

Project Group #	Neighborhood	percent of new project traffic due to growth within the City	2007 concurrency cost	Allowable costs for impact fees (starting 2008)	2008 concurrency cost	Allowable costs for impact fees (starting 2009)
A	North Rose Hill- 124th and 132nd Ave NE	32.0%	$ 7,700,000	$ 2,464,000	$ 10,043,500	$ 3,213,920
B	Totem Lake	60.2%	$ 6,800,000	$ 4,093,600	$ 12,663,000	$ 7,623,126
C	NE 132nd Street Corridor (1) (2)	54.0%	$ 28,400,000	$ 15,336,000	$ 11,127,000	$ 6,008,580
D	NE 124th Street Corridor	46.4%	$ 2,200,000	$ 1,020,800	$ 3,953,500	$ 1,834,424
E	not used	64.2%	$ -	$ -	$ -	$ -
F	not used	60.0%	$ -	$ -	$ -	$ -
G	108th Ave NE	42.8%	$ 800,000	$ 342,400	$ 846,000	$ 362,088
H	Bridle Trails	27.9%	$ 1,300,000	$ 362,700	$ 2,226,000	$ 621,054
I	NE 85th Street Corridor	33.8%	$ 1,100,000	$ 371,800	$ 2,614,000	$ 883,532
	Total	49.7%	$ 48,300,000	$ 23,991,300	$ 43,473,000	$ 20,546,724
	Growth related committed funding			$ 1,311,135		$ -
	Costs Remaining for impact fees			$ 22,680,165		$ 20,546,724
	Trip Growth (3) (4)			6674		5425
	Cost/Trip End (impact fee per trip)			$ 3,398		$ 3,787

increase is 11%

(1) 2007 costs for NE 132nd Street represent Kirkland at 25% Share
(2) 2008 costs for NE 132nd Street represent Kirkland at 100% share
(3) 6674 allowable trips remained in 2006; used in calculating the impact fees in 2007
(4) approximately 1250 trips were permitted between 2006 and 2008

CITY OF KIRKLAND
City Attorney's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3030
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Robin S. Jenkinson, City Attorney

Date: October 10, 2008

Subject: CBD Interim Zoning Regulations

RECOMMENDATION:

After conducting the public hearing, the City Council determine whether to pass the attached ordinance which would, on an interim basis, eliminate potential "bonus" height for residential developments in Design Districts 1A and 1B as designated in the Moss Bay Neighborhood portion of the Comprehensive Plan. This means that in Design District 1A where the bonus story is a fourth story, no building higher than three stories would be allowed. In Design District 1B where the bonus story is a fifth story, no building higher than four stories would be allowed. (The Design Districts are shown on Attachment A to the ordinance.) In addition, in Central Business District Zone 1, the ordinance would restrict the height of new buildings, or portions of buildings, within 100 feet of Lake Street or Lake Street South to no more than two stories.

BACKGROUND:

On September 16, 2008, the City Council passed Ordinance 4139, imposing a moratorium on the acceptance of applications for development permits which would add or create in excess of 500 square feet of gross floor area. The moratorium applies to Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8. The purpose of the moratorium was to provide the City Council time to consider whether Comprehensive Plan and/or Zoning Code amendments related to Downtown development should be adopted. The moratorium is currently effective until November 15, 2008.

On October 7, 2008, following a public hearing on the moratorium, the City Council discussed adopting interim zoning regulations while it considered potential amendments to the Comprehensive Plan and/or Zoning Code, instead of extending the moratorium. The proposed ordinance would adopt interim zoning regulations which would be in place for up to 180 days or until the City Council has an opportunity to clarify the standards for achieving additional height in Design Districts 1A and 1B and the standards for defining a two-story building along Lake Street. The City Council may want to make amendments to the attached ordinance based upon its discussion at its Study Session on October 16, 2008, and following the testimony at the public hearing.

Under RCW 35A.63.220 and RCW 36.70A.390, the City Council must adopt findings of fact justifying its action adopting the interim zoning regulations. Section 8 of the proposed ordinance includes findings of fact for the City Council's consideration. These were developed based upon City Council comments at the September 2, 16, and October 7, 2008, City Council meetings. The City Council may adopt, reject or supplement these findings or request that additional findings be prepared and returned at the Council's next regular meeting.

Please do not hesitate to contact me with any questions.

ORDINANCE NO. 4149

AN INTERIM ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING WITHIN CENTRAL BUSINESS DISTRICT (CBD) ZONE 1, ADOPTING INTERIM ZONING REGULATIONS LIMITING THE HEIGHT OF BUILDINGS WITHIN DESIGN DISTRICTS 1A AND 1B AS DESIGNATED IN THE MOSS BAY NEIGHBORHOOD PORTION OF THE COMPREHENSIVE PLAN TO THREE AND FOUR STORIES, RESPECTIVELY; LIMITING THE HEIGHT OF BUILDINGS WITHIN 100 FEET OF LAKE STREET OR LAKE STREET SOUTH TO TWO STORIES; AND REPEALING ORDINANCE 4139.

WHEREAS, the Kirkland City Council has previously identified a goal of maintaining the overall coherence of the Downtown's visual and historic character, which goal is articulated in the Downtown Plan, the Design Guidelines for Pedestrian Oriented Business Districts, the Zoning Code and Design Review regulations, and in other policy/planning documents; and

WHEREAS, recent disputes concerning the application of provisions of the Downtown Plan, the Zoning Code, and Design Review regulations to specific Downtown development proposals indicate that members of the public and development community do not share a common understanding of the meaning of said provisions or the way in which they should be applied; and

WHEREAS, the lack of shared understanding and resulting disputes interfere with the predictability of Downtown development and achievement of the goal of maintaining the overall coherence of the Downtown's visual and historic character; and

WHEREAS, the City has a compelling interest in ensuring that the goals and policies contained within the Downtown Plan and other policy/planning documents are fulfilled; and

WHEREAS, the clarification of applicable Plan, Zoning Code, and Design Review provisions may promote broader understanding and acceptance, reduce disputes, and help streamline the Downtown development approval process; and

WHEREAS, amendments to the Comprehensive Plan and/or Zoning Code may assist in providing clarification; and

WHEREAS, the adoption of interim zoning regulations will provide the City Council time to consider whether permanent Comprehensive Plan and/or Zoning Code amendments should be adopted; and

WHEREAS, the City will establish a work plan to study and develop any Comprehensive Plan and/or Zoning Code amendments that may be needed to address the concerns identified above; and

WHEREAS, the City Council has determined that the moratorium established on September 16, 2008, with the passage of Ordinance 4139 will no longer be necessary when the interim zoning regulations adopted by this Ordinance are effective; and

WHEREAS, the City Council held a public hearing on October 21, 2008;

WHEREAS, the City has the authority to adopt an interim zoning ordinance pursuant to RCW 35A.63.220 and RCW 36.70A.390;

NOW THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Ordinance 4139, passed September 16, 2008, is hereby repealed.

Section 2. As an interim zoning regulation, within Central Business District Zone 1, no building within the Design District 1A as designated in the Moss Bay Neighborhood portion of the Comprehensive Plan as shown on Attachment A shall be higher than three stories and no building in Design District 1B as designated in the Moss Bay Neighborhood portion of the Comprehensive Plan as shown on Attachment A shall be higher than four stories.

Section 3. As an interim zoning regulation, no portion of a structure within one hundred (100) feet of Lake Street or Lake Street South shall be higher than two stories.

Section 4. The interim regulations adopted in Sections 2 and 3 of this Ordinance shall not apply to development permits that became vested prior to September 27, 2008, in accordance with RCW 19.27.095 and RCW 58.17.033.

Section 5. The interim regulations adopted in Sections 2 and 3 of this Ordinance shall not apply to publicly owned property and/or facilities or public right-of-way.

Section 6. The interim regulations adopted in Sections 2 and 3 of this Ordinance shall not apply to the Bank of America/Merrill Gardens Mixed Use Project at 101 Kirkland Avenue, File No. DRC07-00006, Case No. APL08-00001 ("Bank of America Project"). Design Review for the Bank of America Project was approved by the City Design Review Board (DRB) on January 16, 2008, but the City Council reversed the DRB decision on August 5, 2008. The applicant for the Bank of America Project appealed the City Council decision to King County Superior Court, and that appeal is currently pending. (Case No. 08-2-29048-4SEA).

Section 7. The interim regulations adopted by this Ordinance shall continue in effect for a period of up to one hundred eighty (180) days from the effective date of this Ordinance, unless repealed, extended, or modified by the City Council.

Section 8. Findings of Fact.

A. The recitals set forth on pages 1-2 above are hereby adopted as findings of fact.

B. Although decisions of the City Council on appeals of Design Review approvals for Downtown development reflect the meaning of Comprehensive Plan, Zoning Code, and Design Review provisions as adopted by the City Council, property developers and City residents desire greater certainty concerning the meaning and application of the Comprehensive Plan, Zoning Code, and/or Design Review provisions governing Downtown development.

C. It is necessary for the City Council to consider whether changes to the Downtown Plan, Zoning Code, and/or Design Review provisions can provide more certainty and predictability, thereby facilitating achievement of Downtown Plan and other goals.

D. To avoid the potential for submission and vesting of applications for development that may be inconsistent with final Plan and/or Code clarifications to be considered by the City Council, the interim zoning regulations set forth in Sections 2 and 3 are necessary.

E. To facilitate greater predictability and certainty in the Downtown development approval process, Downtown Plan and/or Zoning Code provisions could also be clarified to provide additional, more specific guidance to Design Review Board in the exercise of its discretion.

F. The City Council also needs to consider whether the tasks and level of discretion currently delegated to the Design Review Board strike the appropriate balance or whether changes in the Design Review approval process could provide greater predictability and certainty.

G. A planning process including significant opportunities for participation by property owners, residents and other stake-holders will be undertaken.

Section 9. If a period of more than one hundred eighty (180) days is required to completed consideration of any changes to the Comprehensive Plan and/or Zoning Code, the Council may adopt extensions of this Ordinance after any required public hearing pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 10. Should any provision of this Ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to any other persons or circumstances shall not be affected.

Section 11. Ordinance 4139, which is repealed by this Ordinance, shall remain in force and effect until the effective date of this Ordinance.

Section 12. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2008.

Signed in authentication thereof this _____ day of _____, 2008.

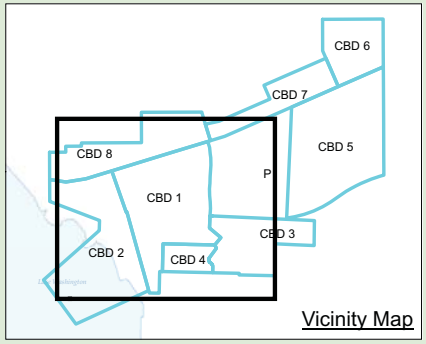
_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

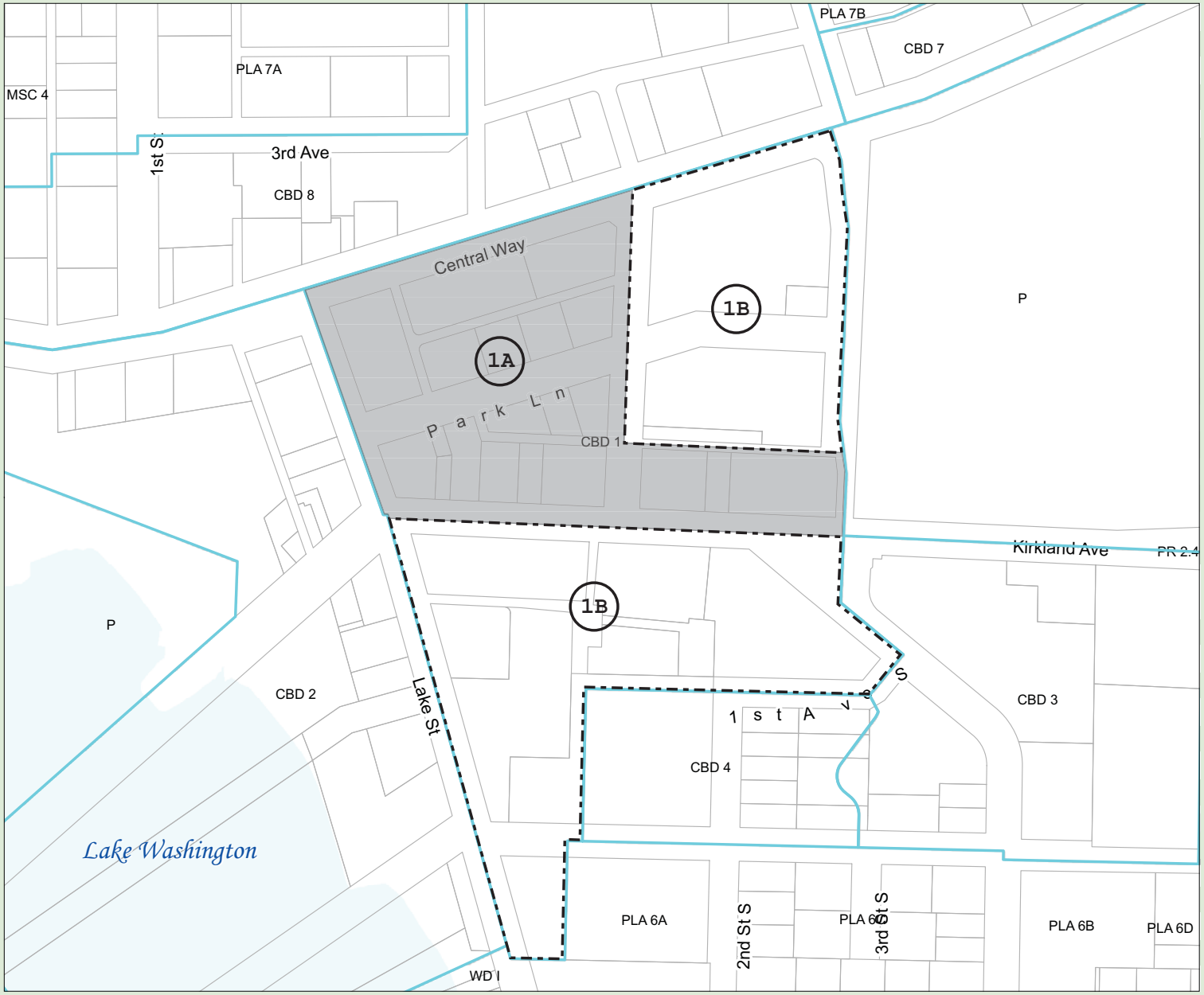
_____
City Attorney



CBD 1
Design Districts 1A & 1B

- Design District 1A

- - - Design District 1B



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CITY OF KIRKLAND
City Attorney's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3030
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Robin S. Jenkinson, City Attorney

Date: October 10, 2008

Subject: Interim Regulations for City Council Amendment Review Process

RECOMMENDATION:

The Council determine whether to pass the attached ordinance which would enable the Council to hold future public hearings to consider and decide on potential amendments to the Comprehensive Plan and/or Zoning Code related to Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8 without receiving a recommendation and report from the Planning Commission.

BACKGROUND:

At its September 2 and September 16, 2008, meetings, the City Council discussed conducting the review of potential amendments to the Comprehensive Plan and/or Zoning Code, without receiving a report and recommendation from the Planning Commission. The attached ordinance provides that the City Council will hold the public hearing(s) on the potential amendments and that the procedures for the hearing(s), notification, staff report, publication, and effective date of any resulting ordinance would be the same as those in Kirkland Zoning Code Chapter 160 for Process IV.

At its meeting of October 7, 2008, the City Council conducted a public hearing on the previously adopted moratorium and the attached ordinance. Following the hearing, the City Council discussed adopting interim zoning regulations while it considered potential amendments to the Comprehensive Plan and/or Zoning Code, instead of extending the moratorium. The attached ordinance refers to CBD Zones 1, 2, 3, 4, 6, 7, and 8. Depending on whether the City Council decides to adopt interim regulations and the geographical scope of those regulations, the City Council may wish to amend the attached ordinance.

Under RCW 35A.63.220 and RCW 36.70A.390, the City Council must adopt findings of fact justifying its action adopting the interim regulations. Section 4 of the proposed ordinance includes findings of fact for the City Council's consideration. These were developed based upon City Council comments at the September 2 and 16, 2008, City Council meetings. The City Council may adopt, reject or supplement these findings or request that additional findings be prepared and returned at the Council's next regular meeting.

Please do not hesitate to contact me with any questions.

ORDINANCE 4143

AN INTERIM ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, ADOPTING INTERIM ZONING REGULATIONS FOR THE REVIEW PROCESS FOR CITY COUNCIL INITIATED AMENDMENTS TO THE COMPREHENSIVE PLAN AND/OR TEXT OF THE ZONING CODE IN CENTRAL BUSINESS DISTRICT (CBD) ZONES 1, 2, 3, 4, 6, 7, AND 8, INCLUDING AMENDMENTS TO KIRKLAND ZONING CODE CHAPTER 142, DESIGN REVIEW.

WHEREAS, on September 16, 2008, the City Council passed Ordinance 4139 establishing a moratorium on certain development applications in CBD Zones 1, 2, 3, 4, 6, 7, and 8 for the purpose of providing the City Council time to consider whether Comprehensive Plan and/or Zoning Code amendments related to Downtown development should be adopted; and

WHEREAS, due to the workload of the Planning Commission and the time sensitivity created by the contemporaneous moratorium, it would be beneficial to have the City Council conduct the review of any City Council initiated amendments to Comprehensive Plan and/or text of the Zoning Code without receiving a recommendation and report from the Planning Commission; and

WHEREAS, the City Council finds it in the public interest to adopt an interim zoning regulations which will enable the City Council to carefully and thoroughly review Council initated amendments to the Comprehensive Plan and/or text of the Zoning Code;

WHEREAS, the City has the authority to adopt interim zoning regulations pursuant to RCW 35A.63.220 and RCW 36.70A.390; and

WHEREAS, the City Council held a public hearing on October 7, 2008;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. As an interim zoning regulation, for amendments to the Comprehensive Plan initiated by the City Council for Central Business Zones (CBD) 1, 2, 3, 4, 6, 7, and 8, the City Council shall hold a public hearing using the process described in Kirkland Zoning Code (KZC) 160.40 for notice; KZC 160.45 for staff report; KZC 160.55, 160.65 and 160.70 for public hearing; and KZC 160.90 for publication and effect. The Planning Official shall notify the Planning Commission in writing about the proposed amendment to the Comprehensive Plan at least 14 days before the public hearing.

Section 2. As an interim zoning regulation, for amendments to the text of the Kirkland Zoning Code initiated by the City Council for CBD Zones 1, 2, 3, 4, 6, 7, and 8, including KZC Ch. 142, Design Review, the City Council shall hold a public hearing using the process described in KZC 160.40 for notice; KZC 160.45 for staff report; KZC 160.55, 160.65 and 160.70 for public hearing; and KZC 160.90 for publication and effect. The Planning Official shall notify the Planning Commission in writing about the proposed amendment to the text of the Zoning Code at least 14 days before the public hearing.

Section 3. Duration of Interim Regulations. The interim regulations imposed by this Ordinance shall continue in effect for a period of up to one hundred eighty (180) days from the effective date of this Ordinance, unless repealed, extended, or modified by the City Council.

Section 4. Findings of Fact.

A. The recitals set forth on page 1 above are hereby adopted as findings of fact.

B. Although decisions of the City Council on appeals of Design Review approvals for Downtown development reflect the meaning of the Comprehensive Plan, Zoning Code, and Design Review provisions as adopted by the City Council, property developers and City residents desire greater certainty concerning the meaning and application of the Comprehensive Plan, Zoning Code, and/or Design Review provisions regarding Downtown development.

C. In order to provide for timely consideration and to avoid overburdening the Planning Commission; it is necessary to adopt interim regulations to provide a City Council review process for all City Council initiated amendments to the Comprehensive Plan and/or the text of the Zoning Code.

Section 5. Extensions. If a period of more than one hundred eighty (180) days is required to complete consideration of any changes to the Comprehensive Plan and/or Zoning Code, the City Council may adopt extensions of this interim ordinance after any required public hearing pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 6. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to any other persons or circumstances shall not be affected.

Section 7. Effective Date. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2008.

Signed in authentication thereof this _____ day of _____, 2008.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Council Meeting: 10/21/2008
Agenda: Unfinished Business
Item #: 10. b.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

To: Dave Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
David Godfrey, P.E., Transportation Engineering Manager

Date: October 9, 2008

Subject: COMMENT LETTER ON SR 520 EASTSIDE TRANSIT AND HOV PROJECT

RECOMMENDATION**:**

It is recommended that the Council authorize the Mayor to sign the attached comment letter regarding the scoping of the environmental process for the SR 520 eastside transit and HOV project. WSDOT staff plan to give a presentation on the project at the Council meeting.

BACKGROUND DISCUSSION:

The SR 520 program has been broken into several sub projects as shown below.

The SR 520 Corridor Program will replace the Portage Bay and Evergreen Point bridges and improve existing roadway between I-5 in Seattle and SR 202 on the Eastside.

The SR 520 Corridor Program includes four projects:

- **Urban Partnership** – congestion management tolling from I-5 to I-405.
- **Eastside Transit and HOV** – Evergreen Point Road to SR 202.
- **Pontoon Construction Project** – pontoons for catastrophic failure planning.
- **Bridge Replacement and HOV Project** – I-5 to the vicinity of Evergreen Point Road.

Program area map.

Source: WSDOT

Environmental scoping is now under way for the Eastside Transit and HOV Project. WSDOT is soliciting comments from agencies and Tribes primarily on the nature and scope of the environmental process but this also provides an opportunity to comment on the project in general. The Eastside Transit and HOV project is essentially the eastern piece of what was formerly known as the SR 520 Bridge Replacement and HOV project.

During the summer of 2007, a charette process was conducted with Eastside Mayors and staff. This process was designed to narrow the range of options in the environmental process for the major bridge replacement project. It was a productive process that resulted in consensus on a number of design issues In September of 2007 WSDOT staff briefed the Council on these decisions and Council was supportive of what had been agreed upon. Most of the pieces of the project that were agreed to in 2007 make up the Eastside Transit and HOV project. The map below indicates major pieces of construction in the project.

Source: WSDOT

Not shown on the map is the reconstruction of the interchange at Lake Washington Boulevard and SR 520. Again, the rebuild that is planned is consistent with the one that was agreed to last summer.

The bicycle facilities being proposed in the Eastside HOV and Transit project are different than those considered during the summer of 2007. Earlier proposals extended the facilities all the way to the west end of the existing SR 520 trail. The current project brings facilities across Lake Washington Boulevard; a substantial improvement over earlier plans to drop them at Points Drive, but not the full treatment contemplated earlier.

Public Works' Stormwater group has been in contact with the WSDOT team and has some concerns that Kirkland might be asked to maintain additional facilities or that proposed discharges to the lake may not be appropriate.

The Eastside project is being split from the larger bridge project partly in response to legislation passed this spring which required the WSDOT to examine "near-term, low-cost enhancements which relocate the HOV lanes to the inside of the alignment". After evaluating several alternatives, WSDOT found that the combination of projects being proposed was the best way to get the HOV lanes on the inside of the freeway.

Three attachments to this memo have additional background information on the project. The first attachment is a presentation that was given at the Agency Scoping Meeting. It gives an overview of the project including information about scheduling, purpose, needs and benefits. The second attachment is a report that was transmitted to the Joint Transportation Commission of the State Legislature giving a more detailed explanation of the project. The third attachment is a much more detailed technical report that is a companion to the Joint Transportation Commission report.

SR 520 Eastside Transit and HOV Project

Agency and Tribal Scoping Meeting

Ron Paananen, P.E.
Deputy Administrator
Urban Corridors Office

Julie Meredith, P.E.
Program Director
SR 520 Project

Paula Hammond, P.E.
Secretary of Transportation

Dave Dye, P.E.
Deputy Secretary

Seattle, WA
October 2, 2008

Washington State Department of Transportation

U.S. Department of Transportation
Federal Highway Administration

SOUNDTRANSIT

Program Description

The SR 520 Corridor Program will replace the Portage Bay and Evergreen Point bridges and improve existing roadway between I-5 in Seattle and SR 202 on the Eastside.

The SR 520 Corridor Program includes four projects:

- **Urban Partnership** – congestion management tolling from I-5 to I-405.
- **Eastside Transit and HOV** – Evergreen Point Road to SR 202.
- **Pontoon Construction Project** – pontoons for catastrophic failure planning.
- **Bridge Replacement and HOV Project** – I-5 to the vicinity of Evergreen Point Road.

Program area map.

Four Environmental Processes

Urban Partnership Environmental Assessment – study effects of tolling on SR 520 for congestion management.

Eastside Transit and HOV Project Environmental Assessment – evaluate improvements for transit and HOV from the vicinity of Evergreen Point Road to one mile beyond SR 202.

Pontoon Construction Project Draft EIS – evaluate options to expedite construction of pontoons to be used to restore the floating section of the SR 520 Evergreen Point Bridge in the event of a catastrophic failure, and to construct and store these pontoons until needed.

Bridge Replacement and HOV Project Supplemental DEIS – study new alternatives for the SR 520 west side interchange; construction techniques, staging and durations; and mitigation.

Project Purpose

The purpose of the Eastside Transit and HOV Project is to:

- Reduce transit and HOV travel times.
- Enhance travel time reliability, mobility and access for transit and HOVs.
- Support transit demand and planned service improvements.
- Improve traffic safety in the SR 520 corridor.
- Support current and planned growth east of Lake Washington.

Project Need: Support Eastside Growth

- Bellevue, Kirkland and Redmond are rapidly growing communities.
- Employment in Bellevue, Redmond and Kirkland is expected to increase by 90,000 jobs between 2000 and 2030.
- Major developments are planned along the SR 520 corridor. An additional 10,000 households and 12.5 million square feet of office/retail space are projected.

Rapid Growth in Eastside Communities

Population

City	Population 2007	Projected Population 2030	Projected Change
Bellevue	118,100	129,315	+9.5%
Kirkland	47,890	58,287	+21.7%
Redmond	50,680	58,000	+14.4%

Source: Local comprehensive plans

Employment

City	Jobs 2000	Job Targets 2022	Projected Change
Bellevue	118,690	170,000	+43.2%
Kirkland	34,003	41,184	+21.1%
Redmond	72,919	106,000	+45.4%

Source: Puget Sound Regional Council

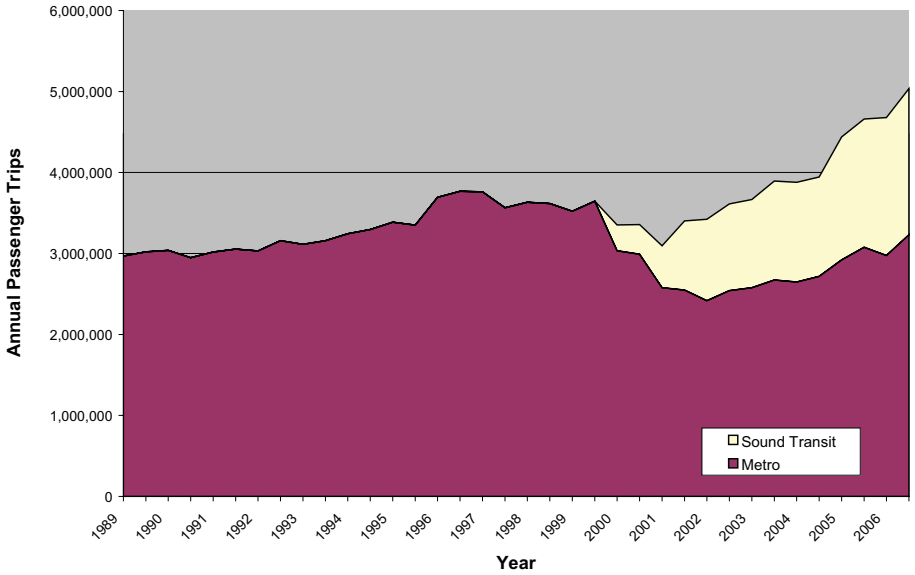
Eastside construction

Project Need: Support Increased Transit Demand

Transit use continues to increase on the Eastside:

- Since 2000, transit use has increased by 30 percent on the Eastside and by over 50 percent overall across SR 520.
- Transit routes on SR 520 carried 2.5 million more passengers per year in 2007 than 2001.
- Transit ridership is projected to increase by 35 percent due to potential tolling on the SR 520 bridge.
- Businesses are implementing private transit service to meet growing employee demand.

Ridership on SR 520



Source: King County Metro

Project Need: Improve Traffic Safety

Traffic conflicts:

Outside HOV lanes create conflicts between slower-moving merging vehicles and faster-moving through vehicles.

Accidents:

Over 380 accidents occurred between the 124th Avenue NE interchange and Evergreen Point Road during the past two years. Eight of them involved buses.

Project Need: Improve Transit Reliability

Congestion on SR 520 currently reduces transit reliability:

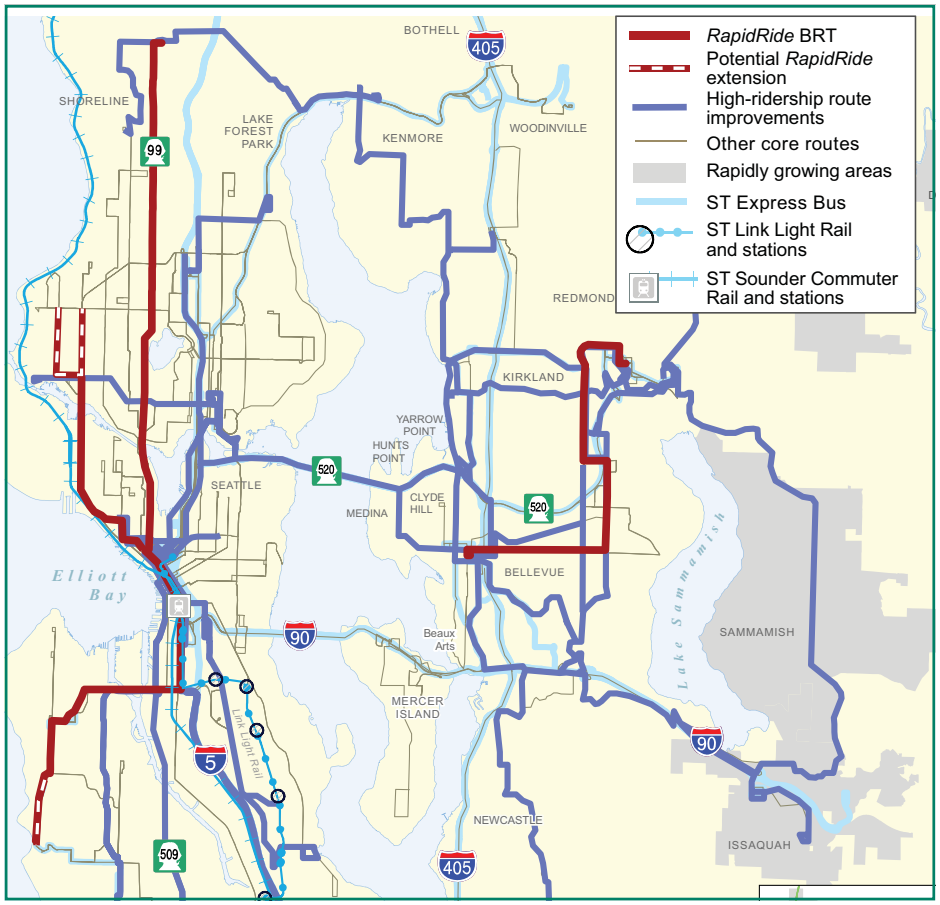
- Existing eastbound HOV system is discontinuous.
- Outside HOV lane creates congestion, delaying buses up to 25 minutes.
- Outside HOV lane does not meet current design standards.
- Lack of direct transit access to South Kirkland Park and Ride lot at 108th Avenue NE results in increased travel times.

Project Need: Support Planned Transit Service Improvements

Transit agencies and local jurisdictions are planning transit improvement programs on the Eastside.

These programs include:

- Developing bus rapid transit (BRT) through the Eastside corridor under the SR 520 High Capacity Transit Plan, including increased ST Express service included in the Sound Transit 2 package on the November 2008 ballot.
- Additional buses and expansions of the South Kirkland and Redmond Park and Ride lots through the Urban Partnership Agreement grant programs.
- King County Metro's Transit Now initiative to expand services in the Eastside corridor by 15 to 20 percent to meet demand.
- RapidRide BRT lines in Bellevue and Redmond.



Transit Now map

Project Features

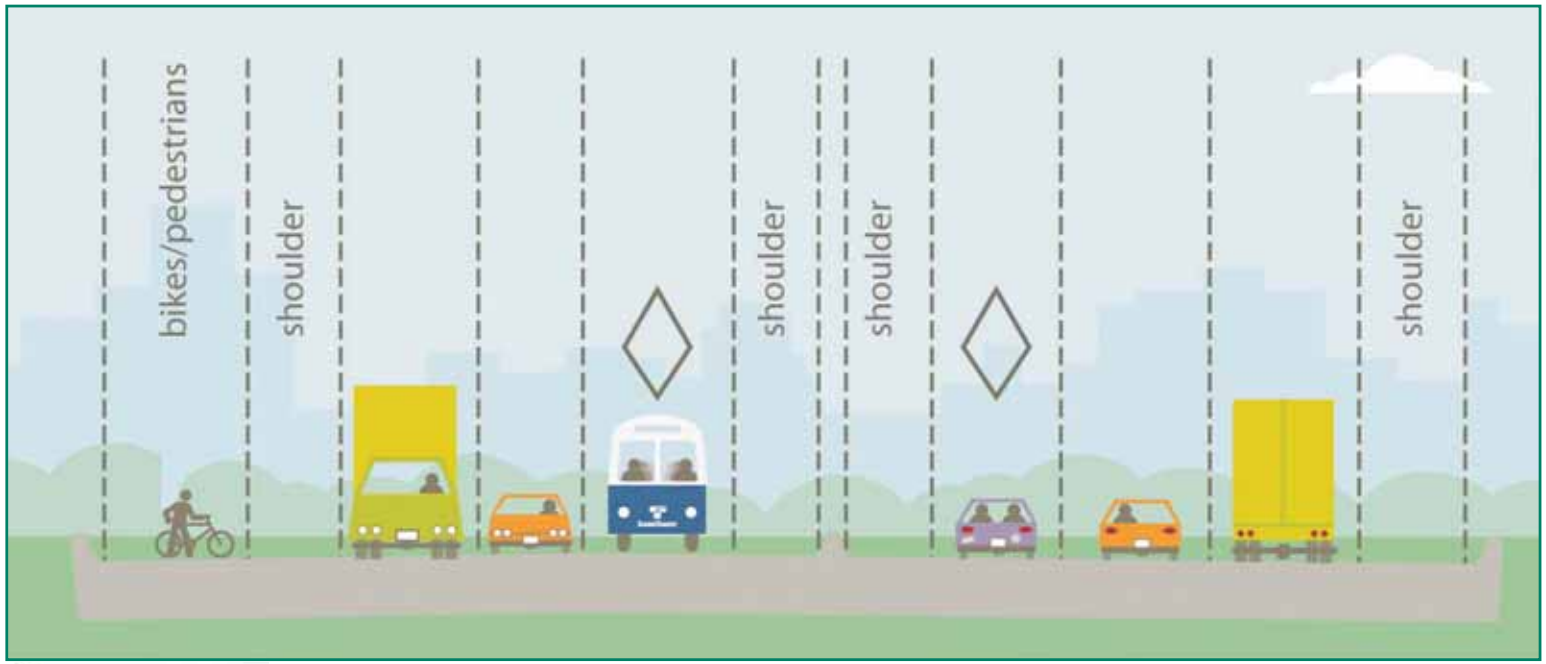
Project Elements

Transit Improvements	• **Completing the eastbound SR 520 HOV lane** from Lake Washington to the existing eastbound HOV lane west of the I-405 interchange. • **Restriping HOV lanes from the outside lanes to the inside lanes** from Lake Washington to SR 202. • **Building inside transit stops** at 92nd Ave NE and the vicinity of Evergreen Point Road. • **Constructing HOV direct access ramps** at 108th Ave NE.
Bike and Pedestrian Access	• **Adding a bike/pedestrian path** between 108th Avenue NE and Evergreen Point Road.
Stormwater Treatment and Fish Habitat	• **Constructing a stormwater system** to improve water quality and reduce peak flows. • **Improving and enhancing stream habitat** by making culverts fish passable and realigning and daylighting Yarrow Creek, a salmon-bearing stream.
Noise	• **Providing sound walls** between Evergreen Point Road and Bellevue Way.
Neighborhood Connectivity	• **Building lids** at Evergreen Point Road, 84th and 92nd Avenue NE.

Project Design

The project design includes:

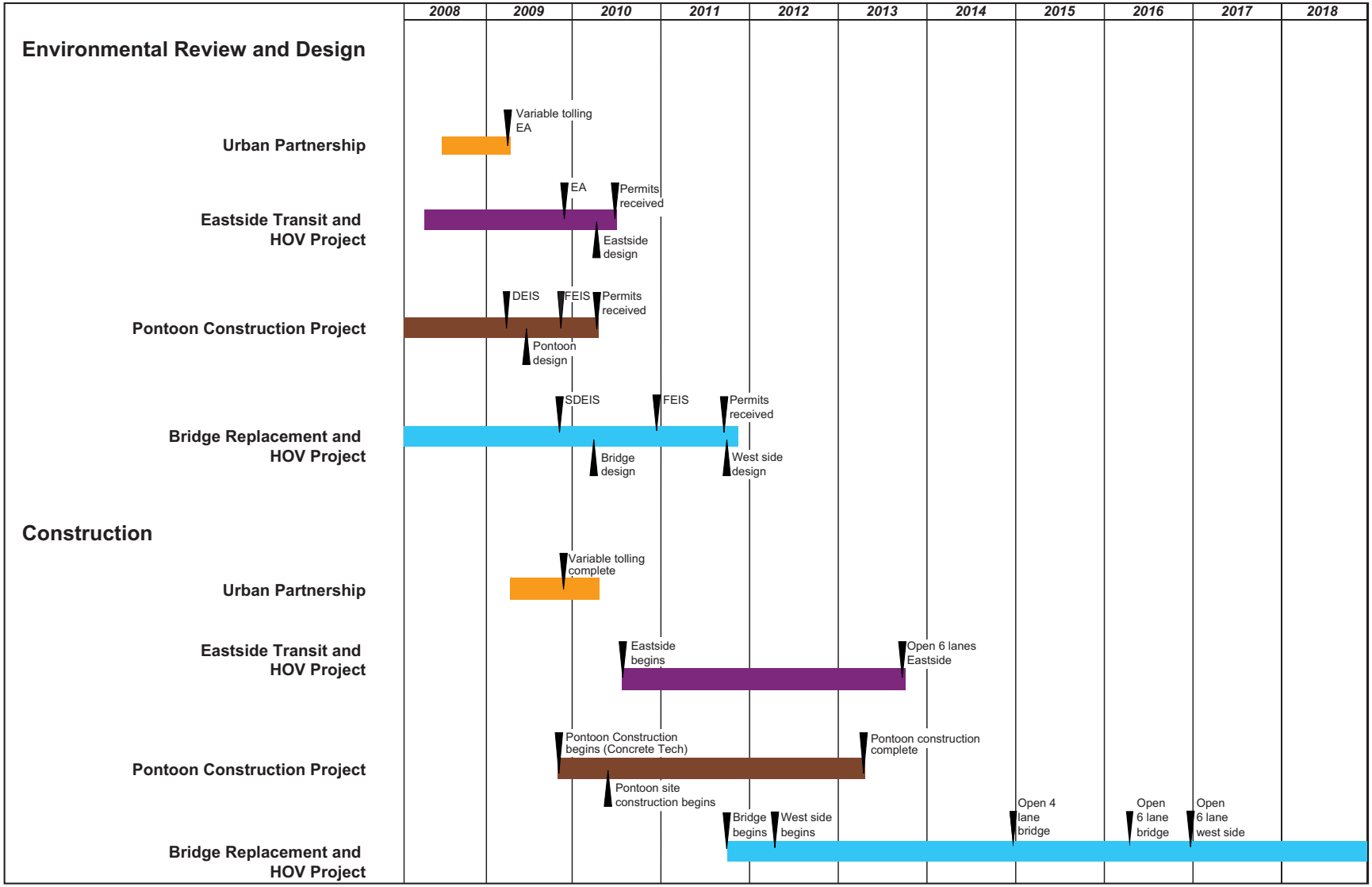
- Improvements to approximately 8.5 miles of SR 520 east of Lake Washington.
- Two general purpose lanes and one HOV lane in each direction ("4 + 2" configuration).
- A new bicycle/pedestrian path between Evergreen Point Road and 108th Avenue NE.



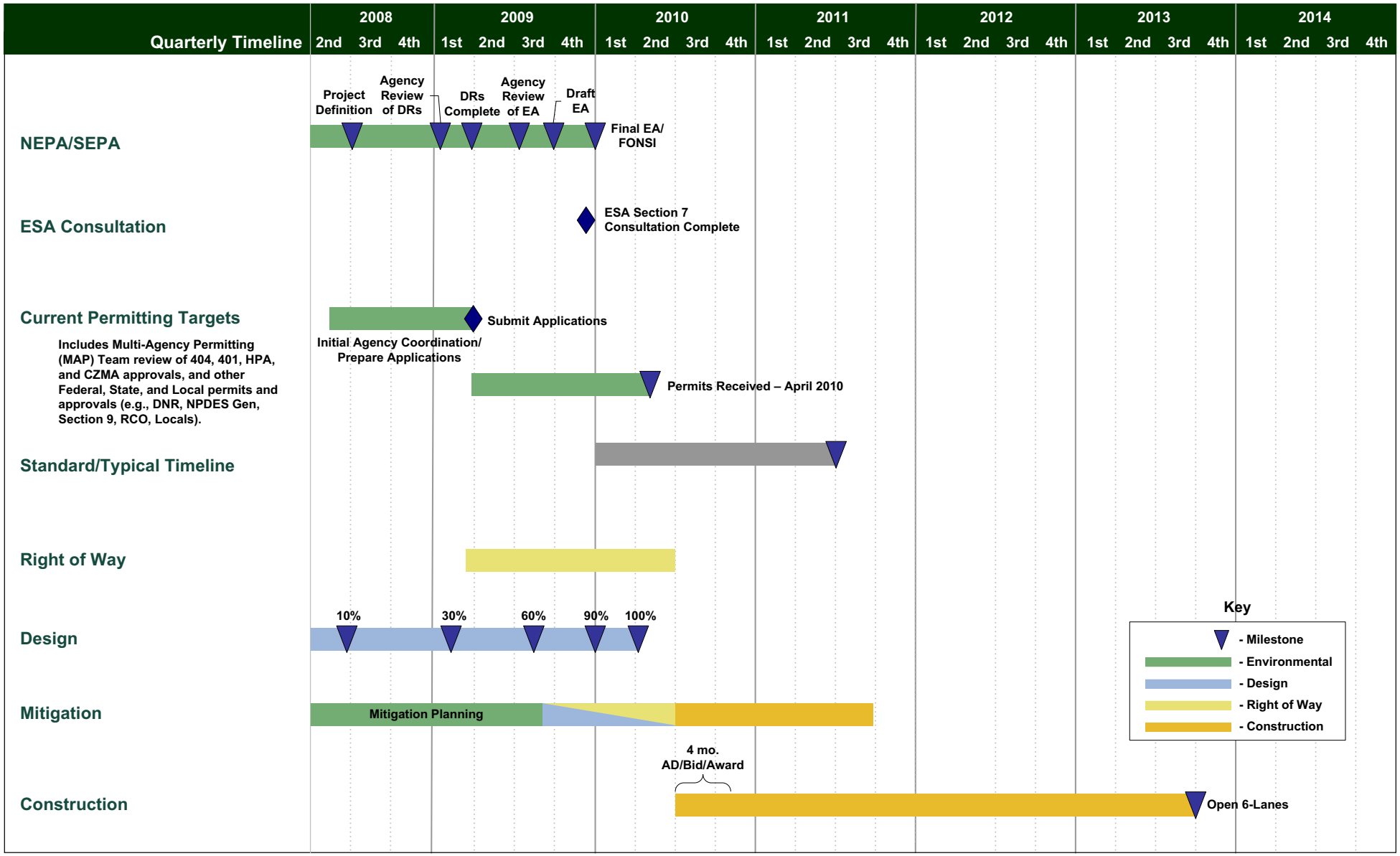
◊ = transit and carpool

4+2 configuration

SR 520 Program Schedule



SR 520 Eastside Transit and HOV Project Schedule – October 2, 2008



Washington State Department of Transportation

SR 520 Corridor Program

STATE ROUTE 520

Urban Corridors Office

Eastside Transit and HOV

Accelerated improvements to address **ESHB 2878**

September 2008

Prepared for:
The Washington State Legislature and
The Joint Transportation Committee

Submitted by:
Paula J. Hammond, P.E. - Secretary
Washington State Department of Transportation

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Accelerated improvements to address ESHB 2878

The SR 520 bridge is a vital link connecting communities across Lake Washington. The bridge is vulnerable to earthquakes and windstorms, and is at risk of collapse if it is not replaced. Funding the SR 520 bridge replacement is a high priority for Washington state. As Governor Chris Gregoire stated on November 7, 2007, "Safety must be our number one priority and the 520 bridge, a critical link in our transportation system, is one of the top regional safety issues. It is vulnerable to earthquakes and winds, and it must be replaced."

To address the urgency of replacing the SR 520 floating bridge, the Washington State Legislature has passed several key pieces of legislation to resolve issues related to the design of the west side interchange, develop a financing plan, and evaluate tolling as a way to pay for a new bridge. In addition, ESHB 2878 was approved in March 2008 and requested the Washington State Department of Transportation (WSDOT) evaluate opportunities for accelerating improvements on the east side of Lake Washington. Specifically, the legislation requested:

> *For the period of preconstruction tolling on the SR 520 bridge, the Department shall develop improvements of traffic flow from the eastern Lake Washington shoreline to 108th Avenue NE in Bellevue including:*
>
> *(a) Near-term, low-cost enhancements which relocate the high-occupancy vehicle lanes to the inside of the alignment; and*
>
> *(b) A plan for an accelerated improvement project for the construction of median flyer stops, reconfiguration of interchanges, addition of direct access ramps, community enhancement lids, and pedestrian/bike path connections.*
>
> *The department shall report to the joint transportation committee by September 1, 2008, on the short-term low-cost improvement plans and include in their budget submittal to the office of financial management a proposal for the accelerated improvement project.*

This legislation directs the development of an accelerated plan for several improvements on the Eastside during the period of proposed pre-construction tolling on SR 520 – the time between when tolls may be implemented in 2009 and the planned opening of the new floating bridge in 2014.

Pre-construction tolling is being considered as part of the Urban Partnership Agreement, which is a cooperative agreement to employ innovative tools for improving traffic flow along SR 520 and I-90 between Seattle and the Eastside. The agreement calls for variable tolling that could improve traffic flow through the SR 520 corridor and is estimated to provide up to $500 million in funding to replace the aging floating bridge. The Urban Partnership, made up of the Washington State Department of Transportation, King County, the Puget Sound Regional Council and the federal government, is also advancing three other key strategies: technology, transit, and telecommuting.

"Safety must be our number one priority and the 520 bridge, a critical link in our transportation system, is one of the top regional safety issues. It is vulnerable to earthquakes and winds, and it must be replaced."

Governor Chris Gregoire

Can we provide benefits to the traveling public on the Eastside earlier than 2016?

The Urban Partnership Agreement will provide benefits to the traveling public during the period of pre-construction tolling. It creates a partnership among WSDOT, King County, the federal government and the Puget Sound Regional Council to focus on three key strategies, in addition to pre-construction tolling, which will improve travel in the SR 520 corridor:

- **Technology:** Innovations such as active traffic management will allow the SR 520 corridor and eventually a new bridge to provide a more reliable commute, even as the Eastside population increases. This benefit will be realized both during and after construction. These technologies include real-time driver information displayed electronically over each lane, and state-of-the-art information systems linking commuters to multiple transportation modes. The Agreement provides $86 million to develop these technologies and they would be in place beginning in 2009. If funding is not provided through the agreement, we will request additional funding to ensure these critical investments occur.

- **Transit:** Transit service will be expanded in the SR 520 corridor to reduce auto trips and provide toll-free travel options. The partnership's goal for transit is to increase ridership on SR 520 by 15 to 35 percent and provide sufficient transit service capacity to accommodate commuters who choose to switch to transit when tolls are implemented. The Urban Partnership Agreement provides up to $41 million to purchase 45 new buses and other transit improvements.

- **Telecommuting:** More than 1,100 work sites participate in the state's Commute Trip Reduction Program. The agreement will invest in telecommuting by working with employers in the SR 520 corridor to encourage flexible employment arrangements that improve worker productivity and reduce rush-hour traffic demands. Commute trip reduction programs reduce traffic by 19,200 vehicle trips each weekday morning in the central Puget Sound region.

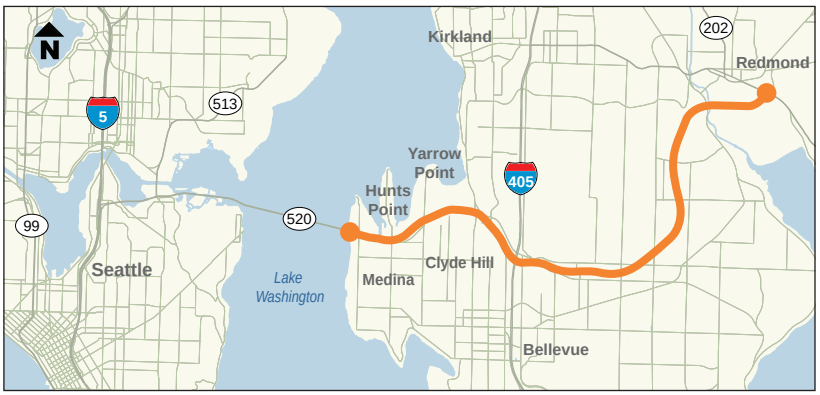

Exhibit 1 - General Vicinity Map

Can we accelerate improvements on the Eastside?

In June 2008, we received concurrence from the Federal Highway Administration (FHWA) that the Eastside Transit and HOV Project meets the criteria for development of a new project as specified by federal regulations (23 CFR 771.111(f)). This allows us to proceed with environmental review, design, and construction of the Eastside project independent of the Seattle and floating bridge portions of the SR 520 corridor. Critical components include:

1. Completing the eastbound SR 520 HOV lane from Lake Washington to the existing eastbound HOV lane west of the I-405 interchange.

2. Building inside transit stops at 92nd Avenue NE and Evergreen Point Road.

3. Constructing HOV direct access ramps at 108th Avenue NE.

4. Restriping HOV lanes from the outside lanes to the inside lanes on SR 520 from the Lake Washington area to SR 202.

We are conducting environmental scoping beginning in September 2008 and will issue an environmental assessment for the project in fall 2009, with a National Environmental Policy Act (NEPA) decision expected in December 2009.

Preliminary design for the Eastside project is planned for completion in early 2009. The design may then either be completed for bidding by contractors – known as “design-bid-build” – or may be advanced by a contractor as a “design-build” project. Regardless of construction method, the improvements are planned to begin in 2010, and to be open to drivers by late 2013.

What are benefits of the Eastside Transit and HOV Project?

The Eastside Transit and HOV Project will provide the necessary infrastructure and operational improvements to support planned population growth, economic expansion, and increases in transit service in rapidly growing communities on the Eastside. There are four primary benefits of the project:

1. It completes the Eastside transit and high occupancy vehicle (HOV) system. The project will create a complete and continuous Eastside transit and HOV system on SR 520.

2. It provides substantial travel time benefits to transit and carpools. Upon completion of the project, transit vehicles will see a reduction in travel time going between the Evergreen Point transit stop and SR 202.

3. It enhances public safety. The project separates merge movements between buses and other vehicles at busy interchanges, eliminates weaving caused by general purpose traffic needing to enter or exit using the outside HOV lanes, and widens shoulders to current design standards.

4. It supports regional and local transit and land use plans and policies. The transit and HOV improvements identified in the project are consistent with regional and local transit and multimodal plans and policies.

Additionally, the Eastside Transit and HOV Project will be completed before the Bridge Replacement and HOV Project.

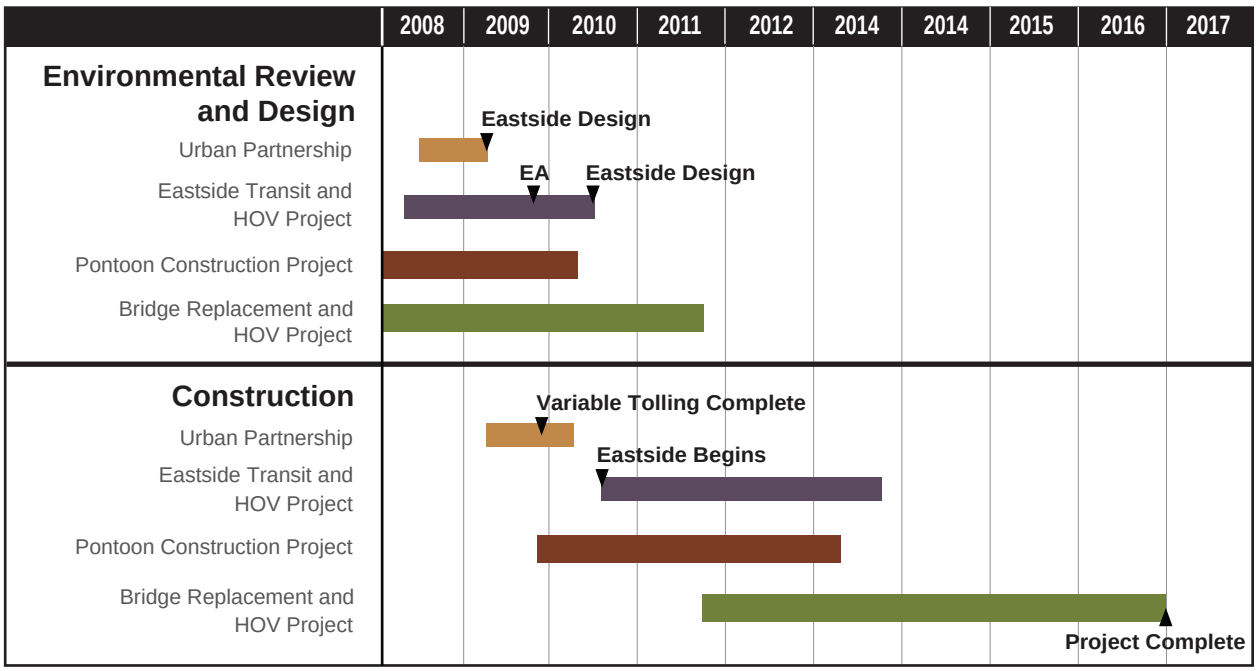

Exhibit 2

Can the HOV lanes on the east side of SR 520 be relocated early to the inside of the road?

The existing outside HOV lanes on the Eastside of the corridor are part of an integrated system that includes outside shoulder freeway transit stations. Relocating the HOV lanes would affect transit, carpool and general purpose traffic.

Potential benefits of early relocation of the HOV lanes include:

- Buses traveling the entire length of the corridor would see a travel time benefit if they did not have to access the transit stations currently on the outside of the corridor.

- Carpools traveling the entire length of the corridor would see a travel time benefit due to general purpose traffic no longer merging across the lane. This would benefit drivers commuting from Redmond to Seattle.

- General purpose vehicles would have direct access to the general purpose lanes from the on- and off-ramps.

- There are interchanges and on-ramps in the corridor that are spaced less than one mile apart. This spacing does not meet current highway design guidelines. These interchanges are problematic because of the speed differences between cars in the current outside HOV lanes and those entering from closely spaced ramps. Relocating the HOV lanes to the inside would alleviate this safety concern.

Potential concerns about early relocation of the HOV lanes to the inside include:

- The geometry of the HOV lanes on the outside of the corridor do not meet WSDOT guidelines for general purpose deceleration and acceleration lengths for the ramps, and would not be acceptable for use as a general purpose lane without major physical reconstruction.

- Relocating the HOV lane to the inside between 108th Avenue NE and Evergreen Point Road would cancel the benefit of eliminating general purpose vehicles weaving across the HOV lane, with the need for buses to weave across general purpose lanes to access outside shoulder freeway transit stations. This would most negatively affect bus riders traveling west of I-405.

- The freeway transit stops on SR 520 are currently located on the outside of the road. Relocating the HOV lanes would require either that the transit stops also be relocated, which does not meet the criteria of “near-term, low-cost,” or that buses continue to use the outside stops even though they would not be adjacent to the HOV lanes. Under either of these options, transit service would be negatively affected.

- If the transit stops were still used, buses would be delayed by weaving across general purpose lanes to access ramps and transit stations. If the transit stops west of I-405 were closed, more than 1,400 daily bus riders would have to find other routes or transfer points.

- Bus travel time would likely increase by approximately eight minutes during the peak morning and afternoon periods because of buses having to cross the congested general purpose lanes to access the freeway transit stations. This increase in travel times would affect approximately 1,400 daily riders traveling westbound from the 92nd Avenue NE and Evergreen Point Freeway stations. Any changes to bus service at these stations would likely reduce transit service options for some or all of these riders.

- Carpools would have to cross multiple lanes between ramps and inside HOV lanes. Additionally, buses and carpools weaving across lanes to access ramps and freeway stations would affect general purpose traffic.

- Westbound buses traveling from I-405 to SR 520 would have to cross three lanes to access inside HOV lanes or choose not use HOV lanes.

Passengers boarding and exiting buses along the corridor.

While early relocation of the HOV lanes may bring some near-term benefits to carpool traffic, the effects on transit service are substantial. With this information, we have concluded that it is most appropriate to move the HOV lanes to the inside of the alignment when the rest of the planned investments are made on the east side of the corridor, such as inside median HOV lanes and direct access ramps.

Additionally, staff at King Country Metro have conducted their own assessment of relocating HOV lanes early. They have also raised concerns over the increased difficulty for passengers to board and exit buses along the corridor.

What are the next steps for the Eastside corridor?

For the reasons described previously, we recommend that the SR 520 HOV system continue to operate in the outside lanes through construction of the Eastside Transit and HOV Project. The project will provide the necessary transit infrastructure to maximize the efficiency of inside HOV lanes for the Eastside section of the SR 520 corridor. With the acceleration of the Eastside project, the inside HOV lanes, inside median freeway transit stations, and 108th Avenue NE direct access ramp are planned to be open to traffic in late 2013.

Since FHWA has approved proceeding with this project as a separate project, we have begun planning and scoping for the environmental review and design processes. Our approach for advancing the Eastside project includes:

- Expediting the environmental process by: (1) using as much as possible of the already-completed draft EIS analysis; (2) exploring opportunities for permit streamlining; and (3) continuing to work collaboratively with resource agencies to identify opportunities and sites for mitigation.

- Exploring the potential for using design-build contracting to expedite all or part of Eastside construction.

- Continuing to work proactively with Eastside jurisdictions to involve citizens and elected officials in the project design process.

- We will include in our budget submittal to the Office of Financial Management a proposal for this accelerated improvement project.

Organization of Technical Report

Chapter 1 explains the current HOV, transit, and general purpose traffic operations of the Eastside corridor between Evergreen Point Road and SR 202 in Redmond, and provides accident and safety data for the corridor. This information provides context for the evaluation summarized in Chapter 2.

Chapter 2 addresses the first section of the ESHB 2878 legislation related to SR 520 through the evaluation of several options for relocating the HOV lanes to the inside in advance of constructing inside median freeway transit stations at 92nd Avenue NE and Evergreen Point Road and direct access at 108th Avenue NE.

Chapter 3 describes the Eastside Transit and HOV Project. It explains the history of the project, describes the transportation needs on the Eastside, and lists the project elements.

Chapter 4 presents a full evaluation of the options presented in Chapter 2.

Washington State
Department of Transportation

Urban Corridors Office

Washington State
Department of Transportation

SR 520 Corridor Program

STATE ROUTE 520

Urban Corridors Office

Eastside Transit and HOV

Accelerated improvements to address ESHB 2878

Technical Report

September 2008

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The Joint Transportation Committee

Submitted by:
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Chapter 1:
Understanding SR 520 traffic operations

Introduction

Traffic flow on the Eastside of the SR 520 corridor is affected by many factors. Currently, the HOV lanes are on the outside throughout the corridor and the HOV and transit infrastructure has been designed to maximize their efficiency. Relocating the HOV lanes to the inside – even temporarily – would have substantial implications for bus service and minimal to no improvements to traffic flow for carpools and general purpose traffic. Like the current outside HOV lanes, inside HOV lanes are most effective when they are part of an integrated system with the appropriate support infrastructure, such as inside median freeway transit stations and direct access ramps.

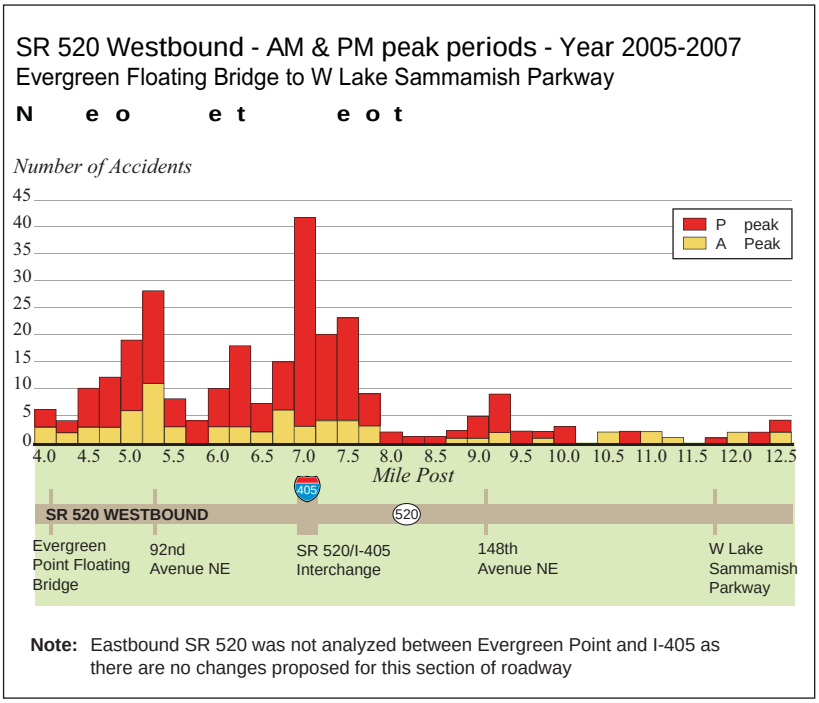
This chapter presents the current operation of HOV lanes, transit, and general purpose traffic and how each mode works together. This information serves as context for how the system operations were evaluated to arrive at recommendations for relocating the HOV lanes as proposed in ESHB 2878.

The study area for the traffic flow improvements is shown in Exhibit 1 and includes SR 520 east of 108th Avenue NE to SR 202. This study area was expanded from what was outlined in ESHB 2878 in order to provide a comprehensive corridor evaluation of the effects of relocating the HOV lanes to the inside.

Exhibit 1 provides a general look at the current HOV lane configuration and bus facilities.

Exhibit 1

Exhibit 2 – SR 520 Westbound AM & PM peak periods – Year 2005-2007 provides a general look at accident data from Evergreen Point Floating Bridge to W Lake Sammamish Parkway.



Note: Eastbound SR 520 was not analyzed between Evergreen Point and I-405 as there are no changes proposed for this section of roadway

Exhibit 2

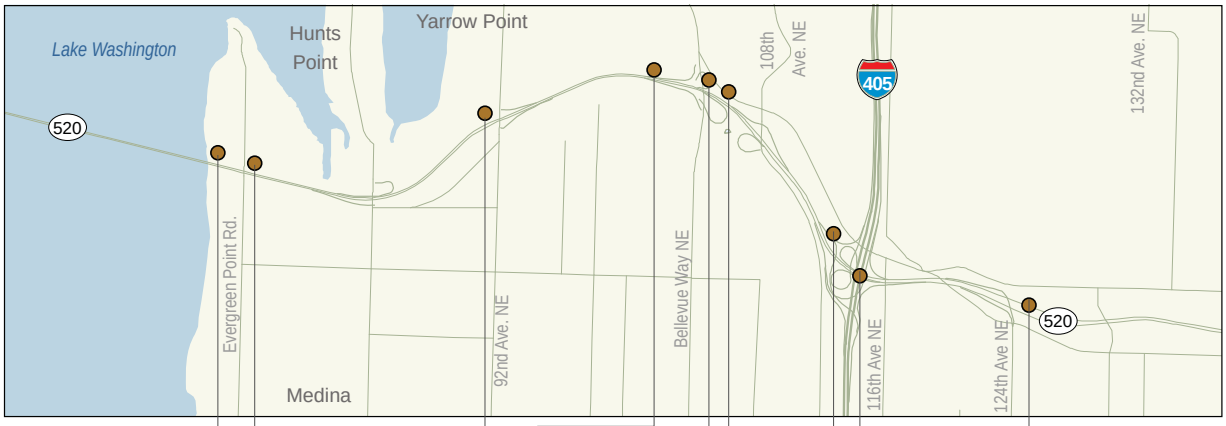
How does traffic operate today in the Eastside SR 520 corridor?

West of I-405

Buses and carpools

The SR 520 HOV lane system is currently incomplete. Between 108th Avenue NE and the east shore of Lake Washington, the only HOV lane is located on the outside westbound shoulder. In order to limit the number of vehicles in the lane, this HOV lane has been given a three or more occupancy requirement. The three or more HOV lane on westbound SR 520 is one of the oldest HOV lanes in the region. It opened in 1973 as a transit-only lane to allow buses to bypass the toll booths which operated on the bridge at the time. The right side shoulder was restriped to serve as the transit lane and cannot safely carry the high volumes that other HOV lanes carry.

Today, the westbound HOV lane terminates before the SR 520 bridge, requiring carpools and buses to merge with general purpose traffic. This, in turn, causes congestion. Approximately 300 HOV vehicles use this lane during the morning peak hour and approximately 500 vehicles use it during the afternoon peak hour. On an average weekday, approximately 3,200 vehicles use this HOV lane. See Exhibit 3: Existing issues – West of I-405.



HOV lane termination

Bus and carpools merge into GP lanes

200 vph in a.m. peak hour*

430 vph in p.m. peak hour*

Evergreen Point and 92nd Flyer Stops

Bus exiting and entering HOV lane at slower speeds

3 closely spaced on-ramps

GP vehicles often stop in HOV lane to wait for gap in GP lane

Virtually no acceleration lane

I-405 On-Ramps

I-405 on-ramp and drop lane to 108th Ave NE results in high amount of weaving activity

Congestion on I-405

Results in congestion on SR 520 through and approaching the I-405 interchange.

SR 520 congestion in the outside lanes often extends back to 140th or 148th Ave NE during the evening commute.

HOV lane Opens to GP

No HOV lane through the SR 520 / I-405 interchange

* VPH = Vehicles per hour; Volume from WSDOT TDO (April 2008, M-TH Average)

Exhibit 3

With the HOV lane on the outside, buses and carpools are able to enter onto the highway directly into the HOV lane and bypass congestion in the general purpose lanes. Buses are also able to directly serve the freeway stations at Evergreen Point Road and 92nd Avenue NE. At the same time, buses and carpools are regularly delayed by general purpose vehicles being stopped in the HOV lane as they try to merge in and out of the general purpose lanes. In addition to causing delays, general purpose vehicles merging across the HOV lanes presents safety issues due to the differences in speeds between the general purpose and HOV lanes.

Another operational challenge for this section of HOV lane is the number of closely spaced on-ramps. The I-405, 108th Avenue NE, and Bellevue Way north- and southbound on-ramps all occur within less than a mile. To put this in perspective, the current highway design guidelines state that interchanges should be spaced no closer than one mile intervals within urban areas. Closely spaced interchanges and ramps introduce more weaving activity as vehicles enter and exit the highway, which interrupts and degrades HOV lane traffic. This weaving activity affects about 310 daily westbound buses using the HOV lane between 108th Avenue NE and the Evergreen Point Freeway Transit Station.

General purpose traffic operations

General purpose traffic must cross the HOV lanes to enter and exit the freeway in the current configuration. When congestion is present, the general purpose lanes move at slower speeds than the HOV lanes; this speed difference can affect safety and operations for both lanes.

The outside HOV lanes offer a benefit to general purpose traffic by keeping transit vehicles in the outside lane. Buses accelerate slowly, take longer to make lane changes, and require longer stopping distances. When buses travel in and out of general purpose traffic, they increase the travel times for general purpose vehicles.

West of I-405, the general purpose lanes are congested during peak periods and traffic merging into the general purpose lanes adds to the delay experienced by general purpose traffic. The HOV lane allows vehicles to bypass the queues in the general purpose lanes, but it increases delays for general purpose traffic in the westbound lanes where it terminates and merges into the general purpose lanes.

Safety and design considerations

We evaluated historical accident data for SR 520 between the eastern shore of Lake Washington and SR 202 in Redmond. We used this data to identify locations where accidents have occurred at a higher than average rate in order to identify where safety concerns along the corridor might be affected by moving the HOV lane to the inside.

Between 2005 and 2007, there were approximately 230 westbound accidents, with nearly 60 of these accidents occurring in the HOV lane. Forty-two percent of HOV lane accidents occurred during either morning (6 to 9 a.m.) or afternoon (3:15 to 6:15 p.m.) peak travel hours.

The predominant accident types were rear-ends and sideswipes, which are typical for congested traffic conditions with frequent merging activity. Reasons for accidents occurring in the HOV lane include failing to grant right of way to other vehicles, following too closely, exceeding reasonable safe speed, and driving under the influence of alcohol. The majority of the accidents involved passenger cars and a larger vehicle, such as a truck or bus.

Through the SR 520/I-405 interchange

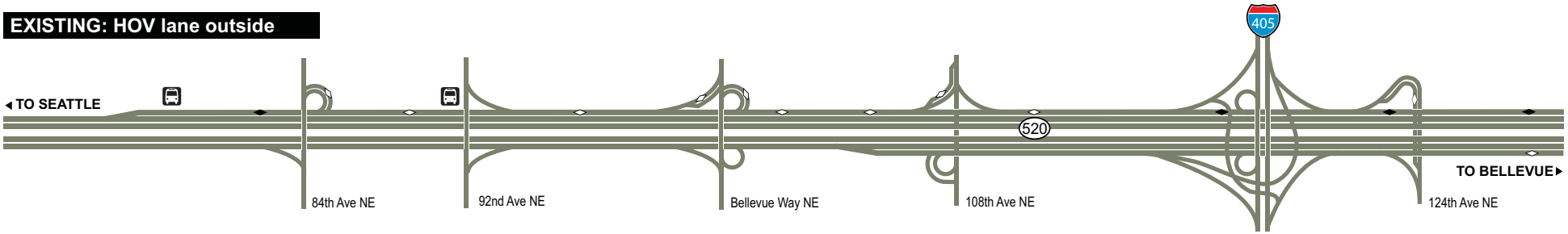
There are no HOV lanes through the I-405/SR 520 interchange in either direction. The eastbound HOV lane starts just west of 108th Avenue NE. It opens to general purpose traffic just east of 108th Avenue NE through the I-405 interchange to 124th Avenue NE. See Exhibit 4 on page 9: SR 520 lane diagram for existing and Option A and B - between Evergreen Point Road and 124th Avenue E.

The westbound SR 520 HOV lane designation stops just east of 124th Avenue NE and the lane opens to general purpose traffic and primarily serves the I-405 off-ramps. During the evening commute, westbound congestion approaching the SR 520/I-405 interchange can extend as far east as 148th Avenue NE, interfering with HOV lane operations. Traffic congestion is caused by closely spaced ramps, interchange capacity constraints, high traffic volumes and weaving between SR 520, I-405 and 108th Avenue NE. As a result, buses and carpools are delayed through the SR 520/I-405 interchange.

Exhibit 4: SR 520 lane diagram for existing and option A and B - Between Evergreen Point Road and 124th Avenue NE

VICINITY MAP

EXISTING: HOV lane outside



OPTIONS A and B: HOV lane inside

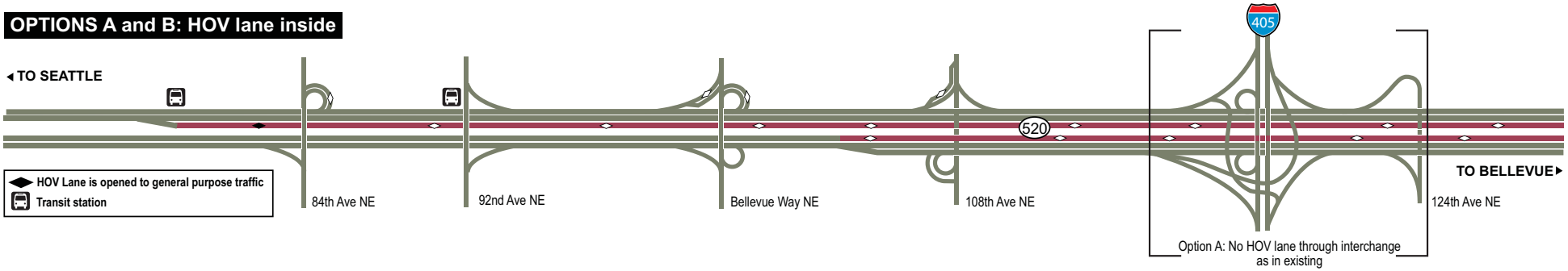
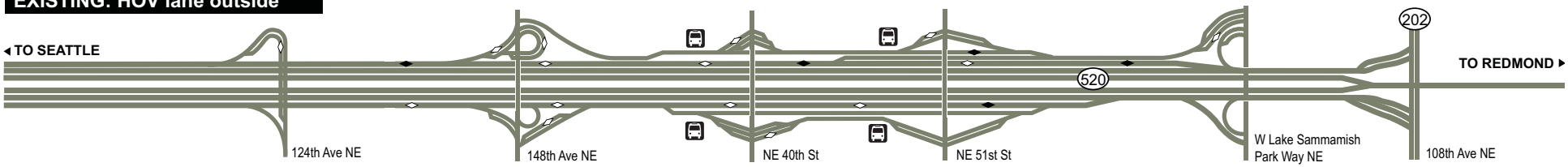
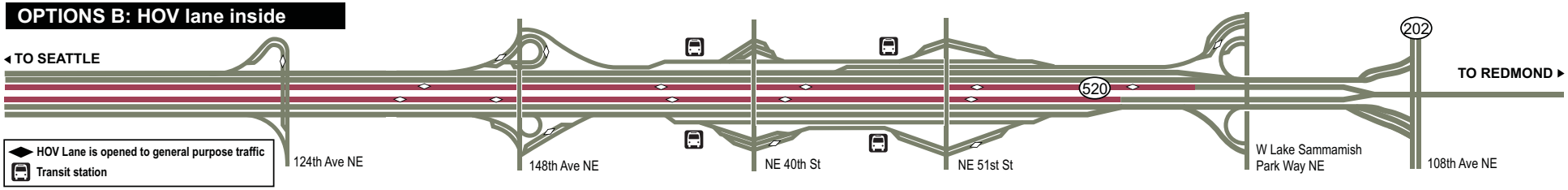


Exhibit 5: SR 520 lane diagram for Existing and Option B - Between 124th Avenue NE and SR 202

EXISTING: HOV lane outside



OPTIONS B: HOV lane inside



Because the outside lanes are most congested, many buses change lanes to travel in the inside general purpose lane through this interchange. Buses then weave back into the outside HOV lane after passing the I-405 on-ramp.

Safety and design considerations

Between 2005 and 2007, there were approximately 120 westbound accidents in this segment, with more than 40 of those accidents occurring in the outside lane. In the eastbound direction there were approximately 85 accidents, with more than 10 accidents occurring in the outside lane. The predominant accident types were rear-ends and sideswipes, which are typical for congested traffic conditions with frequent merging activity.

East of 124th Avenue NE

East of 124th Avenue NE the HOV lane has a two passengers or more designation. Like the westbound lane between 108th Avenue NE and Evergreen Point Road, the lanes are located on the outside of the corridor. Freeway transit stations are located on the NE 40th Street and NE 51st Street ramps. Both of these ramps are connected via a collector/distributor system in each direction.

During the evening commute period, eastbound congestion begins at the SR 520/SR 202/Avondale Road intersection and extends as far back as the NE 51st or NE 40th Street interchanges. The eastbound HOV lane begins just east of the 124th Avenue NE interchange and ends at the NE 40th Street/NE 51st Street collector-distributor, which means that buses and carpools must wait in stop-and-go congestion to reach the West Lake Sammamish Parkway exit and the end of the corridor. See Exhibit 5 on page 10: SR 520 lane diagram for existing and Option B – between 124th Avenue NE and SR 202.

General purpose traffic operations

Traffic demand east of I-405 is lower than in other sections of the corridor. Some congestion and slowing exists during the morning peak period between West Lake Sammamish Parkway and NE 51st Street due to the high volume of traffic entering and exiting the freeway. The auxiliary lane between the interchanges operates at capacity and traffic is slowed by weaving maneuvers related to the auxiliary lane and the westbound truck-climbing lane. The westbound general purpose lanes in this area experience slowing due to exiting vehicles attempting to cross the HOV lane and accelerating up the grade in this area, which is especially difficult for buses.

Safety and design considerations

Between 2005 and 2007, there were approximately 200 westbound accidents in this segment, with more than 30 of those accidents occurring in the HOV lane. In the eastbound direction there were approximately 370 accidents, with more than 50 accidents

occurring in the HOV lane. The predominant accident types were rear-ends and sideswipes, which are typical for congested traffic conditions with frequent merging activity.

How does transit service operate today in the Eastside SR 520 corridor?

There are 23 bus routes that currently use the Evergreen Point Bridge: 18 Metro routes, four Sound Transit Regional Express routes, and one route operated by Community Transit.

Today, Metro and Sound Transit provide approximately 570 daily bus trips across the Evergreen Point Bridge on an average weekday and carry almost 15,000 riders. During the morning peak period there are approximately 4,900 riders crossing the bridge in both directions in 175 buses (not including custom bus school routes and Community Transit service). See Exhibits 6 and 7 on page 13 and 14: Existing bus service during the morning and afternoon peak periods – West and East of I-405 for a summary of existing peak period bus service and freeway transit station activity in the SR 520 corridor.

The routes serving SR 520 reach frequencies as high as one bus every ten minutes during peak periods, with midday service provided at 30-minute frequencies. The combined frequency of all the routes using SR 520 to cross the lake provides a scheduled bus trip that serves the freeway stations west of I-405 every one to four minutes during the morning and afternoon peak periods. In addition to Metro and Sound Transit routes, Microsoft operates its Microsoft Connector service, which provides service for Microsoft employees between Microsoft and Seattle, Bothell, Mill Creek, Issaquah and Sammamish. Microsoft estimates that the service can currently accommodate up to 4,600 daily riders.

Recent travel time data collected by Metro indicates that actual bus travel times between NE 51st Street in Redmond and the Montlake freeway station can range from 10 to 40 minutes westbound in the morning and 10 to 35 minutes eastbound in the afternoon on a regular basis.

SR 520 freeway stations and current use

Having the SR 520 HOV lanes on the outside allows buses to serve the existing freeway transit stations located on the shoulders or alongside ramps throughout the corridor. These freeway transit stations serve approximately 3,100 riders per day and 1,800 people during the peak commute periods alone.

There are four freeway transit stations on the east side of the SR 520 corridor:

- Evergreen Point Road (shoulder station): Nearly 500 people use this station during the peak periods (westbound).

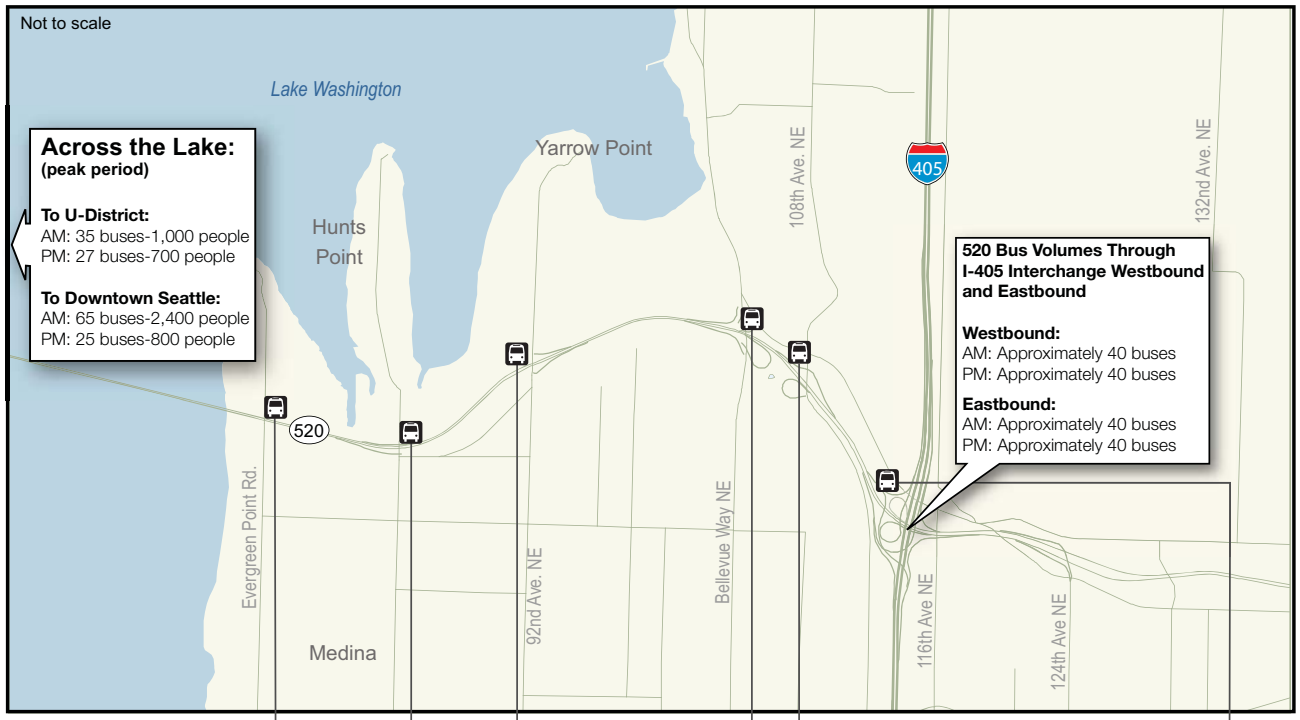
Exhibit 6: SR 520 Existing bus service during the AM and PM peak period - West of I-405

VICINITY MAP

In the west end of the corridor, the Evergreen Point freeway transit station is the busiest, with most of the on/off activity related to transfers between buses. The information in the exhibit illustrates two important factors to consider if the HOV lanes are moved to the inside of the corridor without providing inside median freeway transit stations:

1) the number of buses during the peak periods that would need to weave across the GP lanes in order to access the transit stations, which would affect travel times, reliability and GP traffic flow.

2) the number of people during peak periods that would need to find alternate routes or transfer points if the freeway transit stations were closed or had reduced transit service.

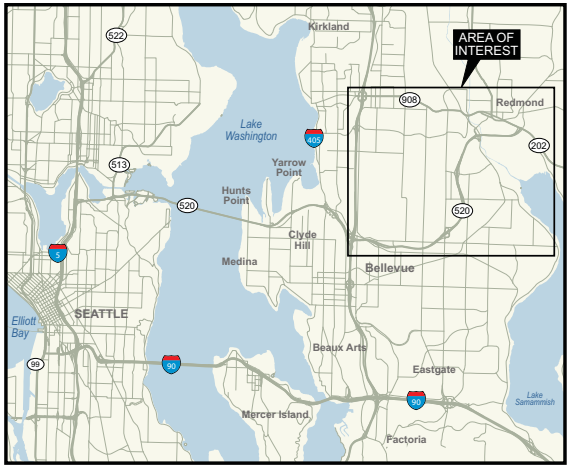


Evergreen Pt Transit Station	84th On-Ramp	92nd Transit Station	Bellevue Way On-Ramps	108th On-Ramps	I-405 Ramps
AM: 100 buses, 440 on/offs **PM**: 50 buses, 60 on/offs	**AM**: 14 buses **PM**: 10 buses	**AM**: 86 buses, 80 on/offs **PM**: 40 buses, 15 on/offs	AM: 0 buses **PM**: 3 buses	**AM**: 23 buses **PM**: 14 buses	**AM**: 48 buses **PM**: 4 buses
7 U-District Routes: 167, 243, **271**, 272, 277, **540**, 556 13 DT Seattle Routes: 250, 252, **255**, 256, 257,260, 261, 265, 266, 268, 311, **545**	Routes: 261, **271**	19 Routes: 167, 242, 243, 250, 252, **255**, 256, 257, 260, 261, 265, 266, 268, **271**, 272, 277, 311, 540, **545**, 555, 556	1 Route: 243	2 Routes: **255**, **540**	10 Routes: 167, 252, 257, 260, 265, 272, 277, 311, 555, 556,

Bus data collected from King County Metro website (July 2008) and Ridership data from KC Metro, Fall 2007 APC counts

AM and **PM** peak period data (from 6:00 to 9:00 AM or from 3:15 to 6:15 PM)
XXX = Indicates all day service, othewise routes only provide peak period service
Transit station

Exhibit 7: SR 520 Existing bus service during the AM and PM peak period - East of I-405



VICINITY MAP

In the east end of the corridor, the NE 40th (Overlake) transit station is the busiest as it serves the main Microsoft campus. Sound Transit route 545 is the only route that provides all day service between Seattle and Redmond. The information in the exhibit illustrates two important factors to consider if the HOV lanes are moved to the inside of the corridor without providing inside median freeway transit station:

1) the number of buses during the peak periods that would need to weave across the GP lanes in order to access the transit stations which would affect travel times, reliability and GP traffic flow.

2) the number of people during peak periods that would need to find alternate routes or transfer points if the freeway transit stations were closed or had reduced transit service.

However, because there is generally less congestion between 148th Avenue NE and the NE 40th/51st Street Interchange area, the effect on transit service would not be as great as it would be for the freeway transit stations west of I-405. It is likely that transit travel times and reliability would be similar to what they are today.

51st Transit Station - Westbound	40th/Overlake Transit Station-Westbound	40th/Overlake Transit Stationh - Eastbound	51st Transit Station - Eastbound
AM: 40 buses, 70 on/offs **PM**: 40 buses, 160 on/offs	**AM**: 32 buses, 210 on/offs **PM**: 36 buses, 130 on/offs	**AM**: 38 buses, 320 on/offs **PM**: 33 buses, 230 on/offs	**AM**: 23 buses, 120 on/offs **PM**: 27 buses, 70 on/offs
4 Routes: 230, 232, 233,268, 269, **545, 997**	4 Routes: 232, 268, **545**, 564, 565, 644	6 Routes: 232, 268, 644, **545**	6 Routes: 232, 233, 268, **545, 644, 977**

Bus data collected from King County Metro website (July 2008) and Ridership data from KC Metro, Fall 2007 APC counts

AM and **PM** peak period data (from 6:00 to 9:00 AM or from 3:15 to 6:15 PM)
XXX = Indicates all day service, othewise routes only provide peak period service
Transit station

- 92nd Avenue NE (shoulder station): Nearly 100 people use this station during the peak periods (westbound).
- NE 40th Street (Overlake) (ramp station): More than 1,000 people use this station during the peak periods (both directions).
- NE 51st Street (ramp station): More than 400 people use this station during the peak periods (both directions).

Exhibit 8 (SR 520 Transit Boardings/Exits by Freeway Station) illustrates the relative morning peak period, afternoon peak period, and daily passenger volumes at each of the freeway stations along the SR 520 corridor.

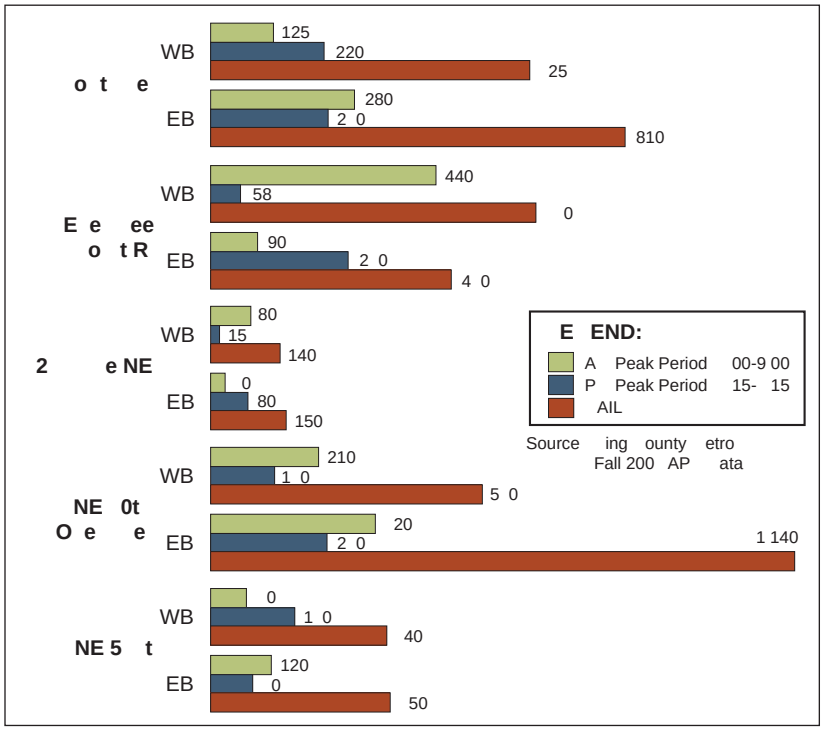


Exhibit 8

Evergreen Point Freeway Station

The Evergreen Point freeway station is located west of I-405 and near the east end of the Evergreen Point Bridge. Both eastbound and westbound bus platforms and shelters are located on the shoulders of SR 520. On the south side of SR 520, the Evergreen Point Park and Ride lot provides 51 parking stalls just south of the eastbound bus platform.

The majority of bus riders using the Evergreen Point freeway station transfer to and from bus routes serving the University of Washington (over 50 percent) or downtown Seattle (over 30 percent). Many of the connecting Eastside routes originate in Redmond, Kirkland, and Bellevue. Over 600 riders per day used this station in 2007. Many bicyclists use this stop because it is the last stop to put bikes on buses before crossing the floating bridge.

The westbound stop is served by 20 routes during the morning peak period. There are approximately 100 buses that serve the Evergreen Point freeway station. Among these 100 buses, approximately 440 people either board or exit. During the afternoon peak period, bus service is about half of the morning peak period with approximately 60 total people either boarding or exiting the approximately 50 buses that serve this stop.

92nd Avenue NE freeway station

The 92nd Avenue NE freeway station provides bus access for Hunts Point, Yarrow Point, and Clyde Hill to routes crossing the Evergreen Point Bridge. The westbound freeway stop is served by nine routes and, with 140 riders per day using the station in 2007, is the least used station in the corridor. During the morning peak period, approximately 85 buses serve this stop and approximately 80 people either board or exit. During the afternoon peak period, approximately 40 buses serve this stop and approximately 15 people either board or exit.

Most bus riders using this station transfer to and from bus routes serving the University of Washington or work locations in downtown Seattle. This freeway transit station is also used by students busing to private schools in Seattle on special Metro routes. Bicyclists also often use this stop to load bikes on buses to be able to cross the lake.

NE 40th Street freeway station at Overlake Transit Center

East of I-405, the NE 40th Street freeway station is the most used station in terms of passengers served, as it is adjacent to the Overlake Transit Center – a main transfer point for other Eastside routes and a hub for Microsoft campus shuttles. While only served by four routes, the eastbound stop has approximately 320 boardings/exits among 40 buses during the morning peak period and 230 boardings/exits among 33 buses during the afternoon peak period. The westbound stop is served by six routes and has 210 boardings/exits among 32 buses during the morning peak period and 130 boardings/exits among 36 buses during the afternoon peak period.

NE 51st Street freeway station

The NE 51st Street freeway station primarily serves the surrounding residential area and as a result has lower passenger volumes. The eastbound stop is served by six routes, with approximately 120 boardings/exits among 23 buses during the morning peak period and 75 boardings/exits among 27 buses during the afternoon peak period. The westbound stop is served by seven routes and has approximately 70 boardings/exits among 40 buses during the morning peak period and 160 boardings/exits among 40 buses during the afternoon peak period.

Other bus service on SR 520

I-405 Buses using SR 520

The bus routes that travel between I-405 and SR 520 are mentioned here because they would be affected by relocating the HOV lanes to the inside of the corridor. Currently, I-405 buses can merge directly into the outside HOV lanes from the I-405 on- and off-ramps.

There are 10 bus routes on I-405 (see Exhibit 6 on page 13: Existing bus service during the morning and afternoon peak period – West of I-405) that use SR 520 and provide only peak period service. There are no routes that provide all day service via I-405 between areas north and south of SR 520 and Seattle. However, the westbound bus volumes are substantial during the morning peak period, with approximately 50 buses traveling between I-405 and SR 520 westbound. During the afternoon peak period, most of the routes serve the return eastbound commute, resulting in only five buses originating from I-405 traveling westbound on SR 520 during the afternoon peak period.

South Kirkland Park and Ride buses using SR 520

The bus routes that travel between the South Kirkland Park and Ride and SR 520 are mentioned here because they would be affected by relocating the HOV lanes to the inside of the corridor. These buses currently use the 108th Avenue NE on-ramp to access SR 520 and they can merge directly into the outside HOV lanes.

There are two bus routes (see Exhibit 7 on page 14: Existing bus service during the morning and afternoon peak period – East of I-405) that serve the South Kirkland Park and Ride and then travel westbound on SR 520 using the 108th Avenue NE westbound on-ramp. Metro route 255 and Sound Transit route 540 provide all-day service between Kirkland and downtown Seattle (255) and the University District (540). During the morning peak period, approximately 23 buses use the 108th Avenue NE westbound on-ramp, and during the afternoon peak period, approximately 15 buses use this ramp.

Chapter 2:
Overview of near-term, low-cost options for HOV relocation

Introduction

In ESHB 2878, the Washington State Legislature directed us to examine possibilities for “near-term, low-cost enhancements which relocate the HOV lanes to the inside of the alignment.” When doing this evaluation, we assumed that the lanes would be relocated immediately (in 2009) without making any other changes to the transit facilities throughout the corridor, such as inside median freeway transit stations and direct access ramps.

Additionally, we assumed that the inside median freeway transit stations and direct access ramps would be constructed as a part of the full Eastside project rather than as part of near-term, low-cost HOV lane relocation.

Moving the HOV lane from the outside of the road to the inside has several potential benefits. Among them are:

- Buses and carpools could have more reliable travel time as they would no longer be delayed by general purpose traffic merging across the HOV lane. This would also improve safety for the outside lane.

- General purpose vehicles would have direct access to the general purpose lanes from on-ramps.

However, relocating the HOV lanes simply by restriping them without other infrastructure improvements in the corridor creates the following concerns:

- Carpools and buses will have to cross two lanes between ramps and the inside HOV lane. Delays will be considerable during peak periods when general purpose lanes are congested.

- It will be challenging to continue serving the 92nd Avenue NE and Evergreen Point Road freeway transit stations because buses would have to change two lanes from the inside HOV lane to the outside general purpose lane to pick up and drop off passengers.

- General purpose lane operations would likely degrade due to weaving across lanes to access the freeway stations.

- The shoulder, currently used as the outside HOV lane, is not designed to carry general purpose volumes.

- There would still be safety issues related to the speed differences between HOV and general purpose lanes.

- Westbound buses traveling from I-405 to SR 520 will have to cross three lanes to access inside HOV lanes or choose to not use HOV lanes.

What options were considered?

We identified four options for evaluating moving the HOV lane to the inside to meet the requirements of ESHB 2878. Since the current HOV lanes east of I-405 are on the outside of the corridor, we chose to evaluate improvements that extended beyond the 108th Avenue NE limit stated in the legislation. We developed a spreadsheet application to determine and evaluate the relative travel time differences between the existing outside HOV lane configuration and the various HOV lane configurations described below. The full evaluation can be found in Appendix D.

The options evaluated were:

Option A: Inside HOV lane between Evergreen Point Road and 108th Avenue NE

Purpose: This option was evaluated because it was specifically identified in ESHB 2878.

Option A is shown in Exhibit 4 on page 9: SR 520 lane diagram between Evergreen Point Road and 124th Avenue E. It moves the westbound outside HOV lane to the inside between 108th Avenue NE and Evergreen Point Road. East of I-405, the westbound and eastbound HOV lanes would remain outside lanes as they are today.

Option B: Inside HOV lane between Evergreen Point Road and SR 202

Purpose: This option was included to address westbound congestion through the SR 520/I-405 interchange.

Option B is shown in Exhibit 5 on page 10: SR 520 lane diagram for Existing and Option B – Between 124th Avenue NE and SR 202. West of 108th Avenue NE, it is the same as Option A. East of 108th Avenue NE, Option B would move the westbound and eastbound HOV lanes to the inside, with the westbound HOV lane extending through the I-405 interchange.

Option C: Outside HOV lane between 108th Avenue NE and Evergreen Point Road/Inside HOV lane between SR 202 and 108th Avenue NE

Purpose: This option was included to allow buses and carpools to bypass the congestion in the SR 520/I-405 interchange area while maintaining service at the 92nd Avenue NE and Evergreen Point Bridge Freeway stations.

The west end of Option C is not shown in an exhibit; the east end of Option C would be the same as Option B, which is shown in Exhibit 5 on page 10: SR lane diagram for Existing and Option B – Between 124th Avenue NE and SR 202. West of 108th Avenue NE, the westbound SR 520 lane would remain

the same as it is today: on the outside shoulder. East of 108th Avenue NE, the westbound and eastbound HOV lanes would be moved to the inside of the corridor.

Option D: Ramp management to improve traffic flow

Purpose: This option was added as an alternative to moving the HOV lane to the inside while still providing some traffic flow improvements.

Option D is not shown in an exhibit as there would be no changes to the SR 520 mainline as it is today: the HOV lanes would remain on the outside of the corridor. Instead, traffic volumes could be managed at the 108th Avenue NE, Bellevue Way and 84th Avenue NE westbound on-ramps. For example, the 108th Avenue NE on-ramp could be HOV only during certain time periods.

What are the key findings for each option?

Option A

- Today's outside HOV lane provides approximately an 11-minute travel time savings for carpools and buses compared with general purpose traffic between 108th Avenue NE and Evergreen Point Road.
- Relocating the HOV lanes to the inside, as analyzed in Option A, would not result in any additional travel time savings for carpools or buses and could increase bus travel times by up to eight minutes during the peak periods.
- Relocating the HOV lanes to the inside would make it difficult to provide the same level of bus service at the Yarrow Point and Evergreen Point Freeway Transit stations. Buses would need to cross two general purpose lanes to access these shoulder stations. Nearly 800 daily transit riders would be affected.

Option B

- Relocating the HOV lanes to the inside for the entire length of the corridor, including through the SR 520/I-405 interchange, could save an additional one minute in travel time for carpools.
- Similar to Option A, bus travel times would likely increase by up to eight minutes west of I-405 during the peak periods.
- Because there is less congestion between 148th Avenue NE and NE 51st Street during the peak periods, buses and carpools would likely not experience as much delay when crossing the general purpose lanes to access the inside HOV lane. It would be more feasible to maintain the same level of bus service at the NE 40th and 51st Street freeway transit stations.

Option C

- Carpools would be able to reliably bypass congestion through the I-405 interchange; however, there would be no additional travel time savings because of the delay caused by having to change lanes to access the outside HOV lane near 108th Avenue NE.

Option D

- Reducing traffic volumes entering the freeway would improve HOV lane operations because there would be fewer general purpose vehicles crossing the HOV lane.

- Traffic patterns would change on the local streets and could result in more congestion on local streets and at other on-ramp locations.

Chapter 3:
Accelerating Eastside improvements

Introduction

Improvements to SR 520 have been under consideration since 1997, when the Washington State Transportation Commission initiated the Trans-Lake Washington Study. In 2001, based on the Trans-Lake recommendations, a Notice of Intent was issued to prepare an environmental impact statement for the SR 520 Bridge Replacement and HOV Project, which covered the full length of SR 520 from I-5 in Seattle to SR 202 in Redmond. In 2003, the SR 520 Executive Committee changed the eastern project limit to 108th Avenue NE as a result of funding limitations imposed by Referendum 51.

In 2006, WSDOT published a draft environmental impact statement that evaluated No Build, 4-Lane, and 6-Lane alternatives for SR 520, as well as a number of design options to the 6-Lane Alternative. Based on findings in the draft, Gov. Gregoire identified the 6-Lane Alternative (also known as the "4+2" alternative) as the state's preference for moving forward. The Legislature created a statutory requirement for this bridge configuration in Engrossed Substitute Senate House Bill 6099. In March 2008, Gov. Gregoire highlighted the importance of the SR 520 project to the region and state by announcing an accelerated project schedule. A new floating bridge is now slated to open in 2014, with the full corridor complete in 2016.

Since we began studying SR 520 improvements in 1997, much has changed. The initial purpose of the Trans-Lake Washington Project was to "improve mobility across and around Lake Washington." Today, the SR 520 corridor faces a larger set of challenges:

- The need to prepare for potential catastrophic failure of the Evergreen Point Bridge in a windstorm – a need that becomes more urgent with each passing storm season.
- The need to respond to dramatic growth in jobs and housing on the Eastside, and to the demand for transit service that has accompanied this growth.
- The need to evaluate a new set of community-based design options that have arisen from the west side mediation process.
- The opportunity to partner with King County and the Puget Sound Regional Council to manage congestion on SR 520 in the near term through innovative use of transit, telecommuting, technology, and tolls.

To respond to this new set of challenges and opportunities, we have identified four distinct projects under a new SR 520 program. Each of these projects on its own provides substantial independent benefits to users of SR 520. The program approach provides WSDOT with an efficient way to plan and construct each project within a single team structure.

Why is an Eastside project needed now?

The Eastside Transit and HOV Project is one of the four projects in the SR 520 Program. Its purpose is to enhance travel time reliability, mobility, access, and safety for transit and carpools in the rapidly growing areas along the SR 520 corridor east of Lake Washington. Much of the need for this project is in response to the dramatic increase in economic growth on the Eastside in the eight years since the Notice of Intent for the bridge replacement project was issued.

This growth has substantially increased transit demand and spurred plans for service enhancements, but the existing Eastside infrastructure of SR 520 is inadequate to support either existing or future demand for transit. At the same time, transit agency planning is relying on SR 520 as a critical backbone to link east-west and north-south trips.

Key reasons that a separate project is needed now include:

- **To support current and planned growth on the Eastside.** The population of the three Eastside urban centers along SR 520 is expected to grow by over 45,000 people by 2030. Employment in the three cities (Bellevue, Redmond and Kirkland) is on an even faster growth curve, with a 40 percent increase in jobs projected between 2000 and 2022. Three major redevelopment projects in the works adjacent to SR 520 are slated to add up to 10,000 new households and 12.5 million square feet of office and retail space.

- **To support transit demand and planned service improvements.** In the last eight years, transit use on the Eastside has increased by 30 percent, and transit ridership on SR 520 has risen by almost 50 percent. Transit agencies throughout the region are either planning or implementing several programs that will increase the mode share of transit on the Eastside. These include King County Metro's Transit Now service expansion, transit and park and ride improvements funded under the Urban Partnership Agreement, and proposed future bus rapid transit service in the SR 520 corridor. Tolling proposed for SR 520 as part of the Urban Partnership Agreement is also expected to increase demand for transit by up to 35 percent starting in late 2009.

- **To facilitate transit reliability and safety**. The existing SR 520 Eastside HOV system is incomplete. Where HOV lanes exist, they are located on the outside of the roadway, requiring merging vehicles to weave through faster-moving HOV traffic. Between I-405 and the Evergreen Point transit stop, the HOV lane uses the old shoulder as a travel lane. In addition to creating congestion, these conditions have resulted in over 380 accidents during the last two years on westbound SR 520 between 124th Avenue NE and Evergreen Point. Buses are delayed up to 25 minutes in this congestion, affecting reliability throughout the transit system.

When can the accelerated improvements proceed?

In June 2008, we received concurrence from the Federal Highway Administration that the Eastside Transit and HOV Project meets the criteria for development of a new project as specified by Federal regulations (23 CFR 771.111(f)). This allows us to proceed with environmental review, design, and construction of the Eastside project independent of the Seattle and floating bridge portions of the corridor. We are planning to conduct environmental scoping in beginning in September 2008 and to issue an environmental assessment for the project in fall 2009, with a National Environmental Policy Act (NEPA) decision expected in December 2009. The environmental assessment will evaluate the project's effects on the natural and built environments.

Preliminary design for the Eastside project is planned for completion in early 2009. The design may then either be completed by WSDOT for bidding by contractors, or may be advanced by a contractor as a "design-build" project. We have not yet determined which contracting method will be used. Regardless of construction method, the improvements are planned to be open to drivers by late 2013.

What is included in the Eastside Transit and HOV Project?

With concurrence from the Federal Highway Administration, we are moving forward with the SR 520 Eastside Transit and HOV Project. The project includes the following transportation components:

1. Completing the eastbound SR 520 HOV lane from Lake Washington to the existing eastbound HOV lane west of the I-405 interchange. This improvement will complete the currently discontinuous HOV network on the Eastside and improve travel time reliability for buses and carpools.

2. Relocating the HOV lanes from the outside lanes to the inside lanes from Lake Washington to SR 202. This change will enhance safety by eliminating the existing need for merging vehicles to weave across the faster-moving HOV lanes to reach the general purpose lanes.

3. Constructing HOV direct access ramps at 108th Avenue NE. This improvement will connect SR 520 with 108th Avenue NE, eliminating the need to connect to the South Kirkland Park and Ride via local streets and saving as much as 15 minutes.

4. Building inside transit stops at 92nd Avenue NE and Evergreen Point Road. These transit stops will support the inside HOV lanes, and access will be integrated with the proposed lids over the highway.

5. Adding a bike/pedestrian path between 108th Avenue NE and Evergreen Point Road. This will facilitate non-motorized use of SR 520, provide transit connections for bikes and pedestrians, and complement the existing non-motorized transportation network on the Eastside.

6. Improving interchanges at 84th Avenue NE, 92nd Avenue NE, Bellevue Way, and 108th Avenue NE to ease traffic congestion.

In addition, the project will include:

- Providing sound walls between 108th Avenue NE and Evergreen Point Road to reduce current and future high levels of highway noise.

- Constructing a stormwater system for areas where new impervious surface is added to improve water quality and reduce peak flows.

- Building lids at 84th Avenue NE and 92nd Avenue NE to reconnect communities divided by the original construction of SR 520 in the 1960s.

- Realigning Yarrow Creek and making culverts passable for fish. This will improve and enhance the habitat of this salmon-bearing stream.

How were the project boundaries selected?

The proposed project encompasses the entire Eastside portion of the SR 520 corridor, which is 8.5 miles in length. The corridor serves the urban centers of Bellevue, Kirkland, and Redmond and the rapidly growing areas of east King County.

Eastside employment is on track to grow from about 225,000 jobs in 2000 to about 317,000 jobs in 2022 – an increase of over 40 percent. This employment growth, coupled with proposals for large mixed-use developments and supportive transit policies in Bellevue and Redmond, makes the Eastside an urban center in its own right. As its communities strive for greater balance between jobs and housing, the Eastside requires a greater level of transit service. Increasing gas prices and worsening congestion are also adding to transit demand, which has grown by 30 percent on the Eastside and by 50 percent in the SR 520 corridor over the last eight years. The proposed termini support much-needed transit service enhancements by providing a continuous HOV link between SR 520's major Eastside transit hub at Evergreen Point and the eastern end of the corridor.

Another important factor is the planned improvements in transit service on the Eastside, which require additional infrastructure on SR 520 to function effectively. These proposals have all been planned and funded

within the last five years, reflecting changing regional conditions. King County Metro's Transit Now program will substantially improve service on SR 520 as well as many connecting Eastside routes. The Urban Partnership Agreement is slated to add 45 buses to SR 520 service and to fund improvements to the South Kirkland Park and Ride, which require direct access to SR 520 to achieve travel time benefits for transit vehicles. A legislatively mandated high-capacity transit plan for SR 520 designates the highway as a corridor for bus rapid transit. Coupled with proposed tolling – which will create a disincentive to driving alone – these recent regional actions create the need for additional improvements on the Eastside.

The text below describes the proposed east and west termini for the project and the reasons for these project boundaries.

West Terminus

The Evergreen Point freeway transit stop is the primary transfer point for people changing from local and regional north-south bus routes to the regional east-west service that operates on SR 520. In this sense, it is the transit equivalent of a highway interchange. Twenty-three bus routes, operated by both King County and Sound Transit, use this stop as a time and transfer point. (In comparison, 15 routes transfer at the Montlake transit stop on the west side of Lake Washington.)
Buses that use the Evergreen Point stop serve the neighborhoods north and south of SR 520, neighboring cities, and destinations as distant as Totem Lake, Issaquah, and Renton. This makes it one of the key transit hubs of the Eastside, facilitating trips both across Lake Washington and to many points north, south, and east. For a project designed to enhance the operation of transit and HOVs, such a major regional linkage point is a logical terminus.

East Terminus

The SR 520/SR 202 interchange provides commuters from Redmond, the Sammamish Plateau, and east King County with access to SR 520 and is the easternmost interchange on the highway. The limited-access freeway terminates about a mile east of this interchange and connects with the local arterial network. The completed HOV system would link to ongoing improvements at the east end of the corridor to widen SR 520 and SR 202 and to add an HOV lane with SR 202.

Will these improvements bring benefits before the SR 520 corridor is completed?

The Eastside Transit and HOV Project provides independent benefit for the following reasons:

- The project would complete the Eastside transit and HOV system. The proposed transit improvements would create a complete and continuous Eastside transit and HOV system on SR 520. These improvements would also provide direct access ramps for transit vehicles traveling between SR 520 and the South Kirkland Park

and Ride at 108th Avenue NE. The project would provide the infrastructure and operational improvements to support planned population growth, economic expansion, and increases in transit service in the rapidly growing communities east of Lake Washington.

- The project would provide substantial travel time benefits to transit and carpools. Currently, buses and carpools on SR 520 experience substantial congestion-related delay during peak periods. Under free-flow conditions, the trip from the SR 202 interchange to Seattle takes about 36 minutes; during peak travel periods, the same trip takes over an hour. Much of this delay occurs in the Eastside portion of the corridor. Immediately upon completion of the Eastside Transit and HOV Project, transit vehicles would see their travel time reduced both eastbound and westbound between the Evergreen Point transit stop and SR 202, as compared to “no build” conditions. By 2030, these transit travel time savings are estimated at 15 minutes eastbound and 60 minutes westbound.

- The project would enhance public safety. As noted above, SR 520 experiences a large number of accidents in locations where the outside HOV lanes require drivers entering or exiting the highway to merge and weave. The project would result in safer and more efficient operation of SR 520 on the Eastside by 1) separating merge movements between buses and other vehicles at the 108th Avenue NE and 84th Avenue NE interchanges; 2) eliminating weaves caused by general purpose traffic needing to enter or exit via the outside HOV lanes; and 3) widening shoulders to current design standards.

- The project would support regional and local transit and land use plans and policies. Transit system and HOV improvements identified for this project are consistent with regional and local transit and multi-modal plans and policies, as well as policies geared specifically toward SR 520 that are identified in community comprehensive plans, bicycle and pedestrian plans, and the Urban Partnership Agreement. The project would also comply with ESHB 2878.

Are these changes compatible with other plans in the corridor?

The proposed improvements to the Eastside portion of SR 520 would not preclude any reasonably foreseeable improvements being considered for other portions of SR 520 or connecting transportation facilities. At the proposed west terminus, the HOV lanes would tie in near the transition span for the Evergreen Point Bridge. This configuration would be compatible with any of the bridge

replacement alternatives studied in the SR 520 Bridge Replacement and HOV Project draft EIS, including the No Build option. At the east end of the SR 520 corridor in Redmond, the proposed restriping of HOV lanes would be compatible with the current project to widen SR 520 and SR 202. The Eastside Transit and HOV Project also would not affect planned future improvements to I-405 in the area of the I-405/SR 520 interchange.

Chapter 4:

Analysis of near-term, low-cost options for HOV relocation

Introduction

We identified four options for evaluating moving the HOV lane to the inside that met requirements of ESHB 2878. Since the current HOV lanes east of I-405 are on the outside of the corridor, we chose to evaluate improvements that extended beyond the 108th Avenue NE limit stated in the bill.

We developed a spreadsheet application to determine and evaluate the relative travel time differences between the existing lane configuration and the lane configurations associated with each of the proposed options. Based on previous analyses associated with the project and the team's familiarity with the corridor, we determined that ESHB 2878 addressed only one of two areas of concern for buses and carpools in the corridor.

One area of concern is the termination of the westbound HOV lane at Evergreen Point Road and the second concern is the termination of the westbound HOV lane near 124th Avenue NE, approaching the SR 520/I-405 interchange. We wanted to determine what, if any, travel time benefits might be provided if HOV lane improvements were provided east of 108th Avenue NE, through the SR 520/I-405 interchange, and throughout the east end of the SR 520 corridor to SR 202.

In addition to the qualitative evaluation of the different options, we also performed a high-level quantitative evaluation in order to provide a relative comparison of the effects of the improvements on travel times. In order to provide a conservative estimate, we used existing traffic volumes. While the legislation states that these improvements could occur under a pre-construction tolling scenario, we did not adjust the traffic volumes for trip diversions that might occur when a toll is added to the SR 520 corridor. This choice further ensures a conservative travel time estimate. Similarly, we also chose not to include the 45 new buses allocated to SR 520 under the Urban Partnership Agreement in the bus volumes used for the quantitative evaluation.

The options evaluated to improve traffic flow were:

Option A: Inside HOV lane between Evergreen Point Road and 108th Avenue NE

Purpose: This option was evaluated because it was specifically identified in ESHB 2878.

Option A is shown in Exhibit 4 on page 9: SR 520 lane diagram between Evergreen Point Road and 124th Avenue E. It moves the westbound outside HOV lane to the inside between 108th Avenue NE and Evergreen Point Road. East of I-405, the westbound and eastbound HOV lanes would remain outside lanes as they are today.

Option B: Inside HOV lane between Evergreen Point Road and SR 202

Purpose: This option was included to address westbound congestion through SR 520/I-405 interchange.

Option B is shown in Exhibit 5 on page 10: SR 520 lane diagram for Existing and Option B – Between 124th Avenue NE and SR 202. West of 108th Avenue NE, it is the same as Option A. East of 108th Avenue NE, Option B would move the westbound and eastbound HOV lanes to the inside, with the westbound HOV lane extending through the I-405 interchange.

Option C: Outside HOV lane between 108th Avenue NE and Evergreen Point Road/Inside HOV lane between SR 202 and 108th Avenue NE

Purpose: This option was included to allow buses and carpools to bypass the congestion in the SR 520/I-405 interchange area while maintaining service at 92nd Avenue NE and Evergreen Point Bridge Freeway stations.

The west end of Option C is not shown in an exhibit; the east end of Option C would be the same as Option B, which is shown in Exhibit 5 on page 10: SR 520 lane diagram for Existing and Option B – Between 124th Avenue NE and SR 202. West of 108th Avenue NE, the westbound SR 520 lane would remain the same as it is today: on the outside shoulder. East of 108th Avenue NE, the westbound and eastbound HOV lanes would be moved to the inside of the corridor.

Option D: Ramp management to improve traffic flow

Purpose: This option was added as an alternative to moving the HOV lane to the inside.

Option D is not shown in an exhibit as there would be no changes to the SR 520 mainline as it is today: the HOV lanes would remain on the outside of the corridor.

How were the options evaluated?

We developed a spreadsheet application to determine and evaluate the relative travel time differences between the existing lane configuration and the lane configurations associated with each of the proposed options.

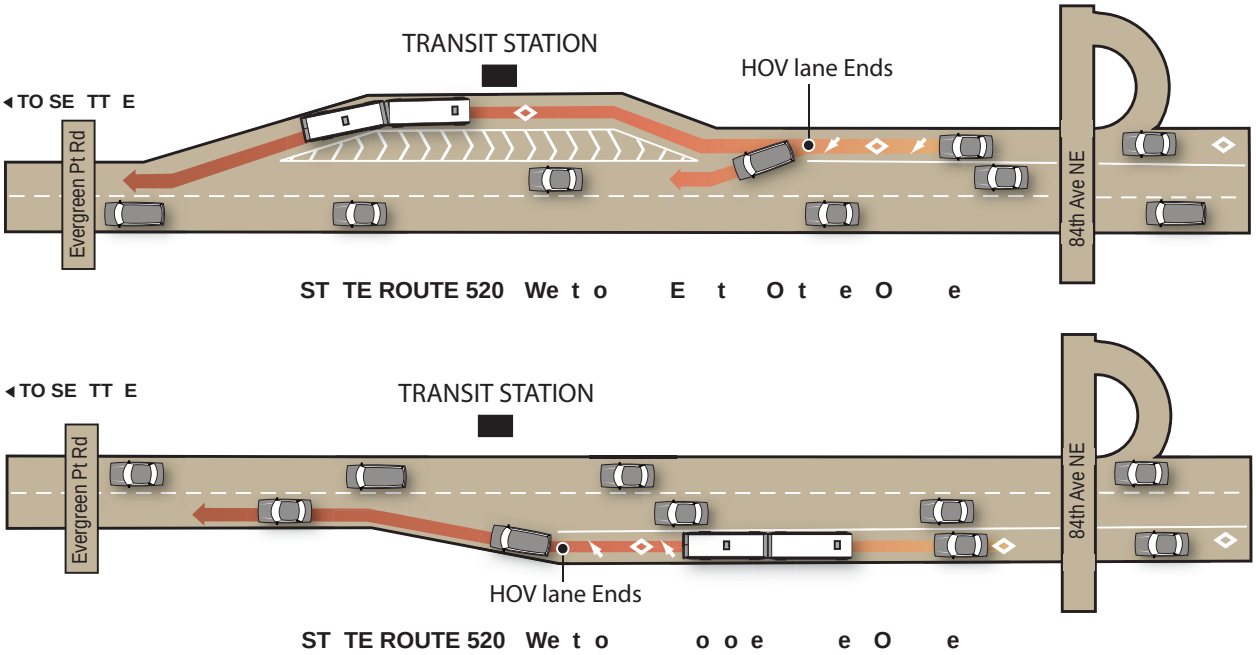
Existing speed and vehicle volume data were used to estimate travel times for the corridor by mode: general purpose, carpools and buses. Existing HOV occupancy data were used in the evaluation. We assumed no increases in transit ridership or HOV volumes/occupancy because of the temporary time span of these improvements. The evaluation also included geometric information, specifically the length

of the mainline segments between on- and off-ramps. Except for the speed data, all of the data inputs described above remained the same across the different options.

By holding the data described above constant and changing the HOV lane speeds to reflect their relocation to the inside of the corridor, we were able to determine the relative differences in travel times between the different options, except for Option D. Option D was only qualitatively evaluated as there was no change to the mainline lane configurations. The operational considerations and evaluation results for each option are discussed below.

Option A: Inside HOV lane between Evergreen Point Road and 108th Avenue NE

Under Option A, we assumed that the inside HOV lane would begin and end in approximately the same locations that it does now: beginning near 108th Avenue NE and terminating near 84th Avenue NE. See Exhibit 9: Westbound HOV lane terminations. Terminating the HOV lane in this way would likely affect traffic flow in the general purpose lanes as it does today. However, the lane merge could be improved. This possible improvement is discussed more in the general purpose traffic section below.



Note: traffic would merge into the general purpose lanes but the merge could happen over a longer and safer length of roadway to faciliate a safe operation

Exhibit 9

West of I-405

Traffic operations - buses

Buses would likely be able to travel at higher speeds because they would no longer be operating on a converted, substandard shoulder. This configuration would also reduce the number of higher speed conflicts at the ramp merge since general purpose vehicles would no longer be merging across the HOV lane.

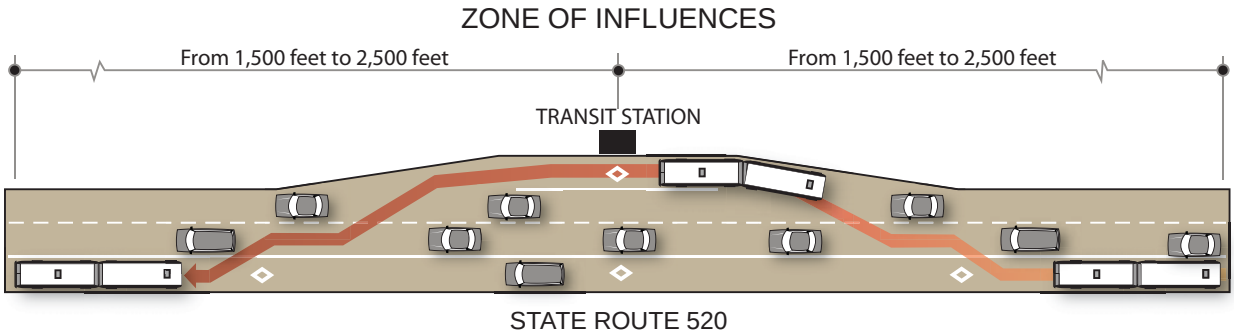
Moving the HOV lane to the inside in this segment would affect bus service along the corridor.

- **I-405 to SR 520 buses**
  For buses coming from east of the I-405 interchange, an inside HOV lane would allow them to bypass the weaving activity associated with traffic entering from I-405 and exiting to 108th Avenue NE. However, buses coming from I-405 would have to make three lane changes across the general purpose lanes to access the inside HOV lane. These lane changes would degrade general purpose lane operations throughout the peak period and would add travel time for buses. However, I-405/SR 520 westbound bus service is highest during the morning peak period, which is less congested than the afternoon peak period. Therefore, these buses would likely have minimal delays related to congestion when accessing the inside HOV lanes. These lane changes would degrade general purpose lane operations throughout the peak period.

- **South Kirkland Park and Ride buses**
  Buses leaving the South Kirkland Park and Ride lot and entering from the 108th Avenue NE westbound on-ramp would face similar conditions and make two lane changes to access the inside HOV lanes. Metro route 255 provides frequent all-day service with a bus approximately every 10 minutes during the peak periods and every 30 minutes during the mid-day. These lane changes would degrade general purpose lane operations throughout the peak period and it would add travel time for buses during stop-and-go congested conditions.

- **Evergreen Point Road and 92nd Avenue NE freeway stations**
  Under near-term, low-cost enhancements, the freeway stations would remain on the outside shoulders, requiring buses to again make two lane changes across the general purpose lanes to serve the freeway stations and they would have to do this four different times – approaching and departing the 92nd Avenue NE and Evergreen Point freeway stations. These lane changes could increase bus travel times between 108th Avenue NE and Evergreen Point Road by up to eight minutes, which would outweigh any benefit provided by moving the HOV lanes to the inside, especially when considered in person hours. For example, an average articulated bus carries 65 people, so an increase of eight minutes results in nearly a nine-hour increase in person travel time for every bus that is delayed. See Exhibit 12 for existing

and Option A travel times on page 46. This weaving activity would also affect traffic operations in the general purpose lanes, which is discussed in the general purpose section below. See Exhibit 12: Typical freeway station with inside HOV lane.



Note: it 0 to 0 uses er our t e enera ur ose anes wou d e ad erse a e ted near e er inute due to uses wea in a ross t e enera ur ose anes to a ess t e transit stations is wou d resu t in ost roadwa a a it a on t e orridor and in reased on estion

Exhibit 10

Additionally, when freeway transit stations are less than two miles apart, drivers are often instructed not to make lane changes, but to remain in the outside general purpose lane between the two stations. Therefore, during the peak periods, buses would be traveling in the congested general purpose lanes, which would be a substantial degradation in service over today's conditions with the outside HOV lane. When these lanes are congested, traveling between the 92nd Avenue NE and Evergreen Point freeway transit stations could take up to 14 minutes, which is longer than the 11 minutes it could take to travel between the inside HOV lane and the outside freeway transit stations. Either way, bus travel times would increase substantially over today's average bus travel time of approximately four minutes between 108th Avenue NE and Evergreen Point Road.

One option is to restructure the transit service at these stops so that not all routes would stop at the freeway transit stations, which would give bus riders less options than today for crossing the lake. Route restructuring can take up to two years to complete, at which time the Eastside Transit and HOV Project would already be under construction

Another option is to close the freeway stations. With the freeway transit stations closed, buses would experience travel time benefits similar to those for carpools. At the 92nd Avenue NE freeway station, most of the 140 daily riders using that stop come from the surrounding neighborhood (as opposed to transfers) and they would need to find an alternate route. They could use either the South Kirkland or Evergreen Point Road Park and Ride lots to access bus service on SR 520, which would increase their travel time.

At the Evergreen Point freeway station, most of the 640 daily riders using that stop are transferring between buses and those riders would either need to make that transfer at the Montlake freeway station, board their bus from another location, or find an alternate route. If riders transfered at the Montlake freeway station, riders transferring to downtown Seattle routes would likely not experience any additional delay from transferring at the Montlake freeway station. However, riders transferring to University District routes would experience some additional delay as they would need to walk from the Montlake freeway station to Montlake Boulevard to catch a connecting bus. See Exhibit 11: Accommodating University District transfer at Montlake freeway station.

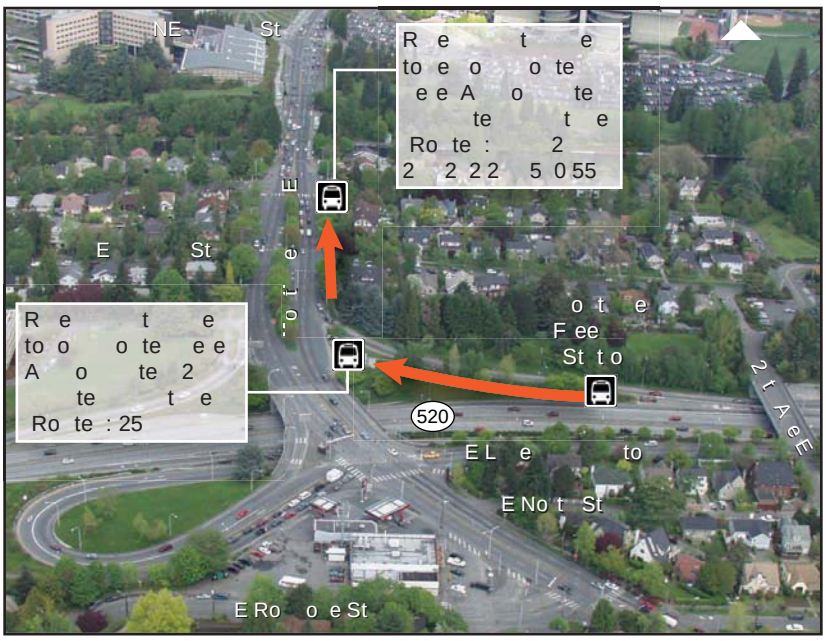


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Exhibit 11

Depending on their destination, some riders may be able to catch a local bus at the stop just south of the Montlake Boulevard/ SR 520 westbound off-ramp intersection, which would add approximately two minutes of walking time. The routes serving this stop operate all day and arrive frequently so additional wait time would likely be fewer than 15 minutes. Some riders may need to continue walking north to the bus stop just south of the Montlake Boulevard/Shelby Street intersection, which would add approximately four minutes of walking time. Because a number of the buses serving this stop operate during the peak periods only, buses arrive less frequently so riders could experience additional wait times of approximately 30 minutes.

Traffic operations - carpools

Moving the HOV lane to the inside at this location would provide the most benefit for carpools (up to one minute) as they would no longer be delayed by general purpose on-ramp traffic crossing the HOV lane to access the general purpose lanes.

Traffic operations - general purpose traffic

In the highly congested area west of I-405, moving the HOV lanes to the inside would not result in any traffic flow improvements for general purpose vehicles. Buses changing lanes across the general purpose lanes to access the ramps and freeway transit stations might negatively affect general purpose traffic flow over today's conditions. Because buses accelerate more slowly than passenger cars, a single bus can have the same operational effect as multiple passenger cars. This effect would be greatest during the shoulder periods and could result in increasing the peak periods when merging of slower traveling buses will trigger unstable traffic flow at lower volumes of general purpose traffic. Additionally, during off-peak periods, speed differences between buses and general purpose vehicles may be a safety concern.

Design considerations

Our engineering evaluation focused primarily on geometric design issues that would be related to the potential shifting of the HOV lanes to the inside. In the westbound direction, shifting the HOV lane to the center is feasible from a geometric perspective with two concerns:

- With the shift to the inside lane, many changes to the highway signage would be required. Much of the signage for the inside HOV lane should be mounted either adjacent to the HOV lane or above it. The median is 4 feet wide with 2 feet occupied by a concrete barrier, leaving 1-foot inside shoulders for the westbound and eastbound inside lanes. If HOV signage were to be placed in the median with such narrow shoulders, the likelihood of a vehicle striking the edge of the sign is very high. This would create a safety and maintenance issue. This could be resolved by mounting the signs on a sign bridge or on existing bridges that cross over SR 520. Mounting signs on bridges would have to be evaluated on a case-by-case basis to determine if the bridge has the strength to carry the load and if there would be sufficient clearance between the sign and the roadway below.

- The existing outside HOV lane is not designed to carry large volumes of traffic, which would introduce safety and roadway maintenance issues.

  The existing lanes in the westbound direction are very narrow. The original lane configuration was for two 12-foot lanes and an 8-foot shoulder. Today, in the same space there are three lanes (11-feet wide in each lane). The inside general purpose lane averages slightly less than 11 feet and the outside general purpose lane averages just over 11 feet. The inside shoulder between the east shore of Lake Washington and 108th Avenue NE ranges between 1.1 and 3.3 feet.

The state design manual states the design guidelines for an HOV lane are a minimum width of 12 feet with a minimum shoulder width of 10 feet. Currently, the SR 520 HOV lane between the east shore of Lake Washington and 108th Avenue NE ranges between 11.2 and 12.6 feet wide with the outside shoulder width ranging between 1 and 5 feet.

Safety considerations

If the freeway transit stations were to remain open, buses would be required to merge across two general purpose lanes, increasing the opportunity for accidents. During the peak periods when the general purpose lanes are operating under stop-and-go conditions, there would be a greater speed differential between the vehicles traveling in the general purpose and HOV lanes, which would increase the severity of accidents when they occur.

If HOV signage were to be placed in the median with such narrow shoulders, the likelihood of a vehicle striking the edge of the sign is very high. This would create a safety issue.

Through the SR 520/I-405 interchange

Traffic operations - buses and carpools

Under Option A, there would be no change compared to today's lane configuration through the SR 520/I-405 interchange: an inside HOV lane would not be added. Today, the outside HOV lane designation ends just east of 124th Avenue NE and opens to general purpose traffic to provide access to the I-405 ramps. Some buses merge to the inside general purpose lane to bypass congestion that originates from congestion on I-405, affecting the SR 520/I-405 interchange ramps and the outside lanes on the SR 520 mainline. With the inside HOV lane starting between 108th Avenue NE and the I-405 interchange, buses may receive some benefit by being able to enter directly into the inside HOV lane instead of having to weave back to an outside HOV lane.

Traffic operations - general purpose traffic

With no change to the SR 520/I-405 interchange, general purpose vehicles would experience the same operational challenges they do today. The conflicts between entering and exiting traffic between SR 520 and I-405 would remain and when combined with I-405 congestion, traffic flow in the outside lanes would be affected. Some benefit of the inside HOV lane downstream may be observed at the interchange as through traffic might be encouraged toward the inside lane in anticipation of the inside HOV lane. This could balance the traffic volumes across lanes through the interchange area.

East of 124th Avenue NE

Traffic operations - buses and carpools

Under Option A, the HOV lanes (both westbound and eastbound) would remain on the outside of the corridor as they are today. Westbound buses and carpools would need to change lanes between

east of 124th Avenue NE and the start of the inside HOV lane near 108th Avenue NE. However, many buses already move to the inside lane to bypass congestion through the SR 520/I-405 interchange.

Traffic operations - general purpose traffic

Under Option A, the existing general purpose traffic conditions would be similar to today. Where the outside HOV lanes open to general purpose traffic in advance of the I-405 interchange, carpools traveling through would likely begin to merge into the general purpose lanes and move left in anticipation of the inside HOV lane at 108th Avenue NE. This may moderately extend the queues exiting to I-405, but the conflicting volumes would remain the same as existing conditions. The HOV lane changes at the end of this segment would not substantially affect delays for general purpose traffic.

As shown in Exhibit 12, today's outside HOV lane provides an 11-minute travel time savings for carpools compared with general purpose vehicles. The results of the evaluation showed that relocating the HOV lane to the inside would likely not result in any noticeable travel time savings for carpools between 108th Avenue and Evergreen Point Bridge when the freeway transit stations are closed. However, buses serving the outside transit freeway stations would experience a substantial increase in travel time when the freeway stations are open.

Option A Key Findings

Under Option A, carpools would save one minute in travel time between 108th Avenue NE and Evergreen Point Road. Moving the HOV lane to the inside would eliminate the existing need for general purpose vehicles to merge across the HOV lane, which would increase safety. Carpools would still be affected by delays through the SR 520/I-405 interchange and the HOV lane termination near 84th Avenue NE. Buses would likely not receive any travel time benefits because of the need to continue serving the outside freeway transit stations at Evergreen Point Road and 92nd Avenue NE. If buses continued to serve these freeway stations, they could be delayed up to eight additional minutes over today's travel times between 108th Avenue NE and Evergreen Point Road. Buses would also still be affected by delays through the SR 520/I-405 interchange, delays associated with on- and off-ramp activity across the general purpose lanes, and the merge associated with the HOV lane termination near 84th Avenue NE.

In order to continue serving the outside shoulder freeway transit stations, buses could incur up to approximately eight additional minutes of travel time as a result of weaving across two general purpose lanes both approaching and departing from the station. These lane changes would affect both safety and traffic flow in the general purpose lanes as buses travel more slowly and have slower response times. The effects would be greatest during the shoulder periods when traffic volumes are building but have not quite slowed to stop-and-go conditions because any speed differences between vehicles affects more vehicles.

As discussed under Option A, with the freeway transit stations closed, buses would experience travel times similar to those for carpools.

Exhibit 12: Option A Vehicle Travel Time Comparison (in minutes)

Option	Westbound SR 520							
	Corridor Total		W Lake Sammamish Pkwy to 124th Avenue NE		124th Avenue NE to 108th Avenue NE		108th Avenue NE to Evergreen Point	
	General Purpose	HOV	General Purpose	HOV	General Purpose	HOV	General Purpose	HOV
Existing	22	11	6	6	2	1	14	4
Option A Freeway Station open	22	10 (carpools) 19 (buses)	6	6	2	1	14	3 (carpools) 12 (buses)*
Option A Freeway Station closed	22	10	6	6	2	1	14	3

**This travel time increase over existing would likely be limited to peak periods when general purpose traffic congestion is stop and go.*

Option B: Inside HOV lane between Evergreen Point Road and SR 202

West of I-405

Under Option B, the westbound HOV lane would be on the inside, as it is under Option A. Therefore, it would have the same effect on buses, carpools and general purpose traffic as described above.

Through the SR 520/I-405 interchange

Buses and carpools

Under Option B, the inside HOV lane would continue from 108th Avenue NE through the I-405 interchange, which would allow buses and carpools to reliably bypass the congestion associated with high general purpose traffic volumes and weaving activity associated with the I-405 ramps. Nearly half of the westbound traffic on SR 520 between 124th Avenue NE and I-405 is destined for the I-405 corridor. The travel time savings would be the greatest for westbound buses and carpools during the afternoon peak period, which is when the westbound lanes are congested as far east as 140th or 148th Avenue NE.

Traffic operations – general purpose traffic

With continuous HOV lanes through the interchange, the inside lane would be for carpools and buses only, which would increase general purpose volumes in the outside lanes and potentially increase the conflicts with traffic exiting and entering from I-405. General purpose traffic is likely to experience moderately increased delay under this configuration, but it would be an extension of the congestion that is already occurring west of I-405.

Safety considerations

The merge area associated with the eastbound SR 520 on-ramp from I-405 southbound has been designated a high accident location during the last three review periods: 2002, 2004, and 2006. Moving the HOV lane to the inside in this location would introduce higher levels of traffic in the outside merge lane. This would create a higher level of crossing traffic movements that could result in an increased number of accidents.

By continuing the inside HOV lane through the I-405 interchange, more general purpose traffic would be using the two outside lanes on the SR 520 mainline. With more volume in the outermost lane, there will be increased opportunity for conflicts between through traffic and I-405 traffic.

Design considerations

There are no substantial geometric concerns with shifting the HOV lane to the inside in the westbound direction through the SR 520/I-405 interchange.

The short merge area on eastbound SR 520 at the I-405 southbound to eastbound SR 520 ramp offers inadequate views and deficient acceleration distance for merging into the existing mainline.

East of 124th Avenue NE

Traffic operations – buses

Under Option B, the westbound HOV lane would be moved to the inside of the SR 520 corridor between near 124th Avenue NE and West Lake Sammamish Parkway. This would provide a one-minute travel time benefit for buses as they would be able to bypass the congestion approaching the SR 520/I-405 interchange. However, the one minute in travel time savings provided by an inside HOV lane may be offset by the time lost weaving between the inside HOV lanes and the outside transit freeway stations located at NE 40th and NE 51st Street. At the same time, these freeway stations are both served off of the collector-distributor system between the NE 40th and NE 51st interchanges, which means that buses would only have to exit and enter the SR 520 mainline once. Also, SR 520 is generally not as congested between the 148th Avenue NE and 40th/51st Street interchanges, meaning that the travel time effects of weaving between the inside HOV lane and the freeway transit stations may be negligible.

Buses traveling eastbound would need to exit the HOV lane near the 148th Avenue NE interchange to access the off-ramp to the NE 51st Street/NE 40th Street collector-distributor and freeway transit stops. These eastbound buses would rejoin the SR 520 corridor near the West Lake Sammamish Parkway off-ramp where some would exit the corridor. The buses destined for Union Hill Road would need to cross over congested traffic to enter the HOV lane and bypass the congestion.

Traffic operations – carpools

Moving the HOV lanes to the inside east of 124th Avenue NE would provide some travel time benefit to carpools as they would also be able to bypass the congestion approaching the SR 520/I-405 interchange. This benefit would be greatest for those carpools traveling the length of the corridor as drivers would need to make two to three lane changes between ramps and the inside HOV lane

Traffic operations - general purpose traffic

Moving the HOV lanes to the inside east of 124th Avenue NE would not affect general purpose traffic operations. The east end of the corridor – especially between 124th Avenue NE and NE 40th Street – generally has better traffic flow and is less congested than it is west of I-405. Therefore, weaving activity between the inside HOV lanes of the freeway transit stations is expected to have a negligible effect on general purpose traffic operations.

Safety considerations

If the freeway transit stations were to remain open, buses would be required to merge across two general purpose lanes, increasing the opportunity for accidents. Similarly, carpools would also have to merge across two general purpose lanes to enter and exit the SR 520 corridor.

During the peak periods when the general purpose lanes are operating under stop-and-go conditions, there would be a greater speed difference between the vehicles traveling in the general purpose and HOV lanes, which would increase the severity of accidents when they occur.

Design considerations

There are no substantial safety concerns or geometric constraints with shifting the HOV lanes to the center between 124th Avenue NE and West Lake Sammamish Parkway. We recommend terminating the eastbound HOV lane at the existing location, just west of the NW 60th Street undercrossing. The westbound HOV lane should start west of West Lake Samamish Parkway.

The SR 520 to West Lake Sammamish Parkway to State Route 202 project will widen SR 520 from two to four lanes by adding a merge lane and a carpool lane in both directions. Construction on this project will likely begin in late 2008 and finish in mid-2011. We recommend not making changes to the HOV lanes east of West Lake Sammamish Parkway until after construction is complete. The final roadway configuration will accommodate inside HOV lanes.

Option B Key Findings

Like Option A, bus travel time would increase from four to 12 minutes if the 92nd Avenue NE and Evergreen Point freeway stations remain open. Because there is minimal congestion between the 148th Avenue NE and 40th/51st Street interchanges, buses serving

the NE 40th and NE 51st Street freeway stations are not likely to incur the same increase in travel times they would serving the 92nd Avenue NE and Evergreen Point Road freeway stations. Travel times would be similar to what they are today.

Exhibit 13. Option B Vehicle Travel Time Comparison (in minutes)

Option	Westbound SR 520							
	Corridor Total		W Lake Sammamish Pkwy to 124th Avenue NE		124th Avenue NE to 108th Avenue NE		108th Avenue NE to Evergreen Point	
	General Purpose	HOV	General Purpose	HOV	General Purpose	HOV	General Purpose	HOV
Existing	22	11	6	6	2	1	14	4
Option B Freeway Station open	22	10 (carpools) 19 (buses)	6	6	2	1	14	3 (carpools) 12 (buses)*
Option B Freeway Station closed	22	9	6	6	2	1	14	3

**This travel time increase over existing would likely be limited to peak periods when general purpose traffic congestion is stop and go.*

Option C: Outside HOV lane between 108th Avenue NE and Evergreen Point Road/Inside HOV lane between SR 202 and 108th Avenue NE

This option was included in this evaluation because of safety concerns related to shifting general purpose traffic volumes to the outside shoulder lane on SR 520 west of I-405. As mentioned, the outside shoulder lane was not designed to carry a full lane of traffic volumes, which is why it currently has a three or more occupancy requirement. This option was also included in the evaluation to try and balance the operational requirements for transit in the corridor. With Option C, I-405 buses would not have to weave across three lanes of traffic to access the inside HOV lane and SR 520 buses would be able to continue serving the freeway stations at 92nd Avenue NE and Evergreen Point. At the same time, SR 520 buses and carpools could receive some benefits from having the HOV lane on the inside of the corridor between West Lake Sammamish Parkway and 124th Avenue NE.

West of I-405

Traffic operations – buses, carpools and general purpose traffic
Under Option C, the westbound HOV lane would remain where it is today in the outside shoulder lane between 108th Avenue NE and Evergreen Point. Operations would remain the same as they are today with the outside HOV lane providing an 11-minute travel time savings for buses and carpools compared to general purpose vehicle travel time.

Through the SR 520/I-405 interchange

Traffic operations - buses and carpools

Under Option C, the westbound HOV lane would continue through the I-405 interchange, ending just west of the I-405 exit ramp. With the HOV lane located on the inside through the interchange, westbound buses and carpools would be better positioned to bypass the weaving activity and congestion that occurs through the interchange. Once through the interchange, buses and carpools would need to make three lane changes to access the outside HOV lane that would begin near 108th Avenue NE, which is what many of the buses and carpools do today as they travel in the inside general purpose lane through the interchange. Under Option C, there would also be no change to the eastbound HOV lane; it would not begin until east of the interchange near 124th Avenue NE.

Traffic operations - general purpose traffic

Option C would be the same as Option B through the SR 520/I-405 interchange. The inside lane would be for HOV traffic only, which would increase general purpose volumes in the outside lanes and potentially increase the conflicts with traffic exiting and entering from I-405. General purpose traffic is likely to experience moderately increased delay under this configuration, but it would be an extension of the congestion that is already occurring west of I-405.

East of 124th Avenue NE

Traffic operations - buses and carpools

East of I-405, the HOV lanes (both eastbound and westbound) would be moved to the inside of the corridor, which would provide a one-minute travel time savings for buses and carpools. This savings would be a result of being able to bypass the congestion approaching the SR 520/I-405 interchange, which can often extend as far east as 140th or 148th Avenue NE.

Westbound, the inside HOV lane would begin as it does today near West Lake Sammamish Parkway and extend to near 108th Avenue NE. While buses and carpools would receive some travel time benefit from not being delayed by general purpose traffic weaving across the HOV lane, this benefit could be negated by the time required to weave across the general purpose lanes to the inside HOV lane. Buses would also have the additional delay of making these same lane changes to serve the transit flyer stations located on the NE 51st and NE 40th Street interchange ramps. However, as discussed under Option A, this effect would likely be negligible because this segment of SR 520 is typically not as congested as the west and east ends of the corridor.

Traffic operations - general purpose traffic

East of I-405, the general purpose lanes would operate the same as under Option B. Some delay may be expected due to the HOV traffic weaving across the general purpose lanes.

Option C Key Findings

As shown in Exhibit 14, the results of the quantitative evaluation show that relocating the HOV lane to the inside between 108th Avenue NE and West Lake Sammamish Parkway could result in approximately one minute of travel time savings for HOV vehicles as a result of being able to bypass congestion associated with the SR 520/I-405 interchange.

Exhibit 14. Option C Vehicle Travel Time Comparison (in minutes)

Option	Westbound SR 520							
	Corridor Total		W Lake Sammamish Pkwy to 124th Avenue NE		124th Avenue NE to 108th Avenue NE		108th Avenue NE to Evergreen Point	
	General Purpose	HOV	General Purpose	HOV	General Purpose	HOV	General Purpose	HOV
Existing	22	11	6	6	2	1	14	4
Option C	22	10	6	5	2	1	14	4

Option D: Ramp Management

West of I-405

Traffic operations - buses and carpools

Under Option D, the HOV lanes throughout the corridor would remain as they are today. Instead, the ramps west of I-405 would be managed in order to improve traffic flow in both the outside HOV lane and the general purpose lanes. With the 108th Avenue NE and Bellevue Way interchange on-ramps so closely spaced, there are many vehicles weaving across the outside HOV lane within a short distance.

There are three potential ramp management strategies:

- One ramp management strategy would be to restrict the 108th Avenue NE westbound on-ramp to HOV lane traffic only during the peak periods. This would decrease both the weaving activity in this lane and the entering volumes at this location.

- Another ramp management strategy would be to close the northbound Bellevue Way westbound on-ramp to all traffic and reroute traffic to the 108th Avenue NE on-ramp.

- A third ramp management strategy would be to restrict the 84th Avenue NE on-ramp to HOV-only during the peak periods to reduce the weaving activity and entering volumes at this location. This would benefit not only HOV lane operations but also general purpose lane operations.

Traffic operations - general purpose traffic

Ramp management would improve traffic flow on the freeway during the beginning and end of the peak periods. More restrictive ramp-metering can shorten the peak by reducing the amount of merging ramp traffic conflicting with the general purpose traffic. However, operations

on local roads may be affected by traffic queuing from the freeway on-ramp. This effect can be controlled with back-of-queue detectors on the freeway ramps. These detectors loosen the ramp-metering restrictions when a queue is detected.

The benefit of ramp management is limited during times of high congestion. In over-saturated conditions, or when the traffic demand is greater than the road capacity, the travel conditions become stop and go. In these conditions, the delay of mainline general purpose traffic due to merging vehicles is relatively much less substantial. This type of condition is common during the morning and afternoon peak periods on SR 520 west of I-405.

Under Option D, no changes are proposed for ramp operations or mainline lane configurations east of 108th Avenue NE. They would be the same as they are today.

Summary of findings

Relocating the HOV lane to the inside between 108th Avenue NE and Evergreen Point Road as described in ESHB 2878 would provide a one-minute travel time savings for carpools only, likely increase bus travel times by approximately eight minutes, and trade one set of safety improvements (eliminating general purpose vehicles weaving across the HOV lane) for another set of safety concerns (buses weaving across general purpose lanes). The increase in bus travel times would affect approximately 1,400 daily riders traveling westbound from the 92nd Avenue NE and Evergreen Point freeway stations. Any changes to bus service at these freeway transit stations could take up to two years to implement and would likely reduce transit service options for some or all of these riders.

If the 92nd Avenue NE and Evergreen Point Road westbound freeway transit stations were closed, the riders making transfers at these stations could make their transfers at the Montlake freeway station, but they would incur additional delays due to walking time between the different transit facilities. Riders that use these stations from the surrounding neighborhoods would have to find alternate routes, such as using the South Kirkland Park and Ride, which would likely increase their overall transit trip travel times. Options B and C did not offer any substantial improvements to the challenges associated with Option A.

Recommendation

None of the options evaluated provided the traffic flow improvements intended by the legislation. Without supporting infrastructure like inside median HOV lanes and direct access HOV ramps, relocating the HOV lane to the inside through restriping the corridor would not provide desired improvements and would negatively affect bus service and operations. The negative effect on bus service could also decrease general purpose traffic flow compared to today's conditions if they were to continue to serve the outside freeway transit stations at 92nd Avenue NE and Evergreen Point Road.

We recommend that the SR 520 HOV lanes continue to operate in the outside lanes of the corridor in the near term.

Exhibit 15. Vehicle Travel Time Summary by Option (in minutes)

Option	Westbound SR 520							
	Corridor Total		W Lake Sammamish Pkwy to 124th Avenue NE		124th Avenue NE to 108th Avenue NE		108th Avenue NE to Evergreen Point	
	General Purpose	HOV	General Purpose	HOV	General Purpose	HOV	General Purpose	HOV
Existing	22	11	6	6	2	1	14	4
Option A Freeway Station open	22	10 (carpools) 19 (buses)*	6	6	2	1	14	3 (carpools) 12 (buses)*
Freeway Station closed	22	10	6	6	2	1	14	3
Option B Freeway Station open	22	9 (carpools) 19 (buses)*	6	5	2	1	14	3 (carpools) 12 (buses)*
Freeway Station closed	22	9	6	5	2	1	14	3
Option C	22	10	6	5	2	1	14	4

******This travel time increase over existing would likely be limited to peak periods when general purpose traffic congestion is stop and go.*

Washington State
Department of Transportation

Urban Corridors Office

D R A F T

October 22, 2008

SR 520 Eastside Transit and HOV Project
Attn: Bill Blaylock
600 Stewart Street, Suite 520
Seattle, WA 98101

Dear Mr. Blaylock:

Thank you for the opportunity to comment on the scoping of the environmental assessment for the Eastside Transit and HOV project. We are pleased that the schedule for improvements to SR 520 on the Eastside is being accelerated.

We recognize most of the elements in the project as being those that were identified previously for the Eastside in the larger SR 520 Bridge Replacement and HOV project. These are the elements which Eastside Mayors worked on during the summer of 2007 and on which Council was briefed last fall. These include direct HOV access at 108th Avenue NE, construction of facilities for cyclists and pedestrians and, in the Points communities, short lids over SR 520.

While we are in general agreement with scope of the project and what's planned for the Environmental Assessment, we have two areas of concern. First, the extension of bicycle facilities beyond Points Drive is an important and valuable change to previous plans. However, bicycle facilities need to be extended to connect with the existing SR 520 trail. This is in keeping with the concept that we agreed to in 2007. If such an extension is not completed now, where in the SR 520 program will it be completed? It is very important that this link not get left out of the overall program.

Second, we want to make sure that the Environmental Assessment carefully considers how stormwater will be managed. It is important that local agencies not be expected to maintain new facilities and that only appropriate discharges to Lake Washington be proposed and that they be analyzed in detail.

It's exciting for us to see long awaited improvements to the SR 520 corridor coming closer to reality. Thank you once again for the opportunity to comment on this project.

Sincerely,

Kirkland City Council

By: James L. Lauinger, Mayor

Council Meeting: 10/21/2008
Agenda: Unfinished Business
Item #: 10. c.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: October 10, 2008

Subject: Transit Center 60% Status update

RECOMMENDATION:

It is recommended that the City Council review the information provided regarding elements of the Downtown Transit Center 60% design phase.

BACKGROUND AND DISCUSSION:

At their June 16, 2008 study session, the Council was presented with the results of the 30% design phase for the Downtown Transit Center. At that meeting a number of new elements of the project were introduced by the design team including the project artist, Carolyn Law, and the project lighting designer, Denise Simpson. New physical components included: a modified central Trellis design (Attachment A), a suggested Peter Kirk ball field/restroom quadrant interface (Attachment B), lighting standards that provide the Sound Transit required lighting and others. The design team was proceeding with the Environmental process that was required for the project and indicated that they would be returning this fall to update the Council on the 60% design progress. This memorandum and anticipated presentation to the Council on October 21 will serve as that update.

Specific elements of the 60% design included are:

- The project's art theme and direction have been identified
- The project's interface and potential upgrades/impacts to the Peter Kirk Restroom are known
- The alignment of the Third Street and Park Lane pedestrian crossing has been refined
- Project lights have been selected to provide the appropriate level of light while honoring Kirkland's concerns
- Impacts to traffic, pedestrians, and transit operations during construction have been more clearly developed
- Schedule and budget updates have been performed

Art

The concept that has been identified by the design team was introduced to the Kirkland Cultural Council earlier this summer and was received with very positive support. The art will supplement other elements of integrated art in the project which is still being developed. The main focus of the art will be situated at the base of the new library stairs and adjacent to the

south side of the Trellis. Various studies of the art are presented as attachments to this memo and will be further discussed by Boris Srdar of the Kirkland Cultural Council at the upcoming City Council meeting (Attachment C)

Park Berm

After the enthusiastic reception by the City Council of the proposed interface between the Transit Center and the Peter Kirk Ball field and restroom, Staff presented the concept to the community and to the Park Board. Minor refinements were suggested and the design team has now developed a more detailed approach to the interface. Concurrent with the work of the design team, the Parks and Community Services Department undertook an assessment of the existing restroom. City Council had authorized funding early this year to undertake a feasibility study of the restroom and the report has been reviewed and supported by the Kirkland Park Board. There are potential opportunities, and potential impacts to the restroom as the Transit Center is under construction. A copy of the restroom assessment is included as Attachment D.

Third Street and Park Lane pedestrian crossing

Originally conceived as a "skewed" crossing entering the Park from Park Lane, the previous presentations and concepts of this pedestrian crossing indicated that the width would go from approximately 15 feet on the west to nearly 25 feet on the east side of Third Street. Further study from a design approach and from a constructability/engineering approach are now proposing that the crossing remain the same width across Third Street, approximately 15 feet. Visually the consistent width is more compatible with the east-west running central Trellis axis and allows the theme to be conveyed across Third Street; this alignment is apparent in plan views of the project. From the constructability perspective, costs will be somewhat lower to construct the crossing in this manner in that materials that are being used in the crossing will be more durable without cutting and thin pieces that would be required in order to allow the earlier tapered crossing.

An equally and perhaps more important element of this crossing is that the volume of anticipated pedestrians crossing Third Street and the volume of anticipated vehicles using Third Street will warrant the installation of a pedestrian crossing signal. This location presents a number of potential conflicts that could be averted if a signal were to be installed. Operationally, however, the traffic queues that will form as a result of the activation of the pedestrian signal will likely impact the intersections of Third and Kirkland (new signal to be installed) and of Third and Central. Provisions such as empty conduit and locations for pole bases are being provided, however based on feedback from the City Council throughout the project development, a pedestrian signal will not be installed at the intersection of Third Street and Park Lane with the Transit Center. Good visibility, excellent lighting and traffic calming techniques are all be employed in the design of the crossing.

Project Lights

The project lighting approach that was briefly introduced by the design team at the previous study session has now been fully developed (Attachment E). Sound Transit and industry standard lighting levels must be attained by the Project. Additionally, the lighting solution must meet the acceptance of the surrounding neighbors and the community regarding glare, scale, and compatibility with the Transit Center. The color of the standards remains to be decide however will be consistent with the color of other elements of the Transit Center also not determined at this stage of the Project.

Construction Impacts

Coordination with the upcoming multiple projects in and around the Downtown Transit Center are ongoing. Currently it is anticipated that beginning this fall, public project construction will affect the vicinity for approximately four years. These projects in anticipated order of commencement are: the Kirkland Library expansion, Third and Kirkland traffic signal, a temporary Transit Center relocation to Central Way, the Transit Center and King County DNR piping along Third Street, the King County DNR Kirkland Avenue forcemain, and finally, the reconstruction of the King County DNR pump station. All told, the impacts to current and ongoing patterns of traffic, pedestrians, parking, business operations and transit in and around

the Transit Center will be disrupted significantly. All efforts of coordination and communication between the various agencies are being made, however the impact and the message to the community must be communicated. Various considerations to the project:

- Relocation of the Kirkland Library during Library construction
- No access to upper level Library parking during Library construction
- Drilling and removal of sidewalk during installation of the traffic signal
- Possible relocation of the traffic signal controller (see various options Attachment F)
- Loss of approximately 25 downtown parking stalls along Central Way when Transit stops are relocated temporarily
- Loss of approximately 15 additional parking stalls along Park Lane for construction staging
- Ingress/egress impacts to the Parking Garage during construction
- Arterial congestion during construction due to north bound only traffic on Third Street
- Transit reroutes and reconfiguration of 6th Street during construction

An extensive community outreach program continues to be developed with the combined cooperation of the participating agencies. The next phase of the outreach will be to begin meeting with various businesses to ascertain their operational needs for deliveries, garbage collection and other situations. Property acquisition for easements and in some cases property takes are underway and will continue through the beginning of construction. Property acquisition remains on the project critical path.

Schedule/Budget

Since the last update to the Council in June, project delays have been experienced primarily as a result of a challenge to the Project's environmental determination; that challenge has been withdrawn. The current anticipated schedule is as follows:

• Transit Center 90% design	November 2008
• Transit Center 100% design	Winter 2009
• Bid Package ready	April 2009
• Begin Construction	September 2009

The 60% design estimate indicates construction costs are currently approximately $1.6 above the $6.3 budget (Attachment G); the design team continues to refine this and will consider options that will allow the budget to be maintained.

Staff will be available to make a brief presentation on October 21 and answer any questions on the project.

Attachments:

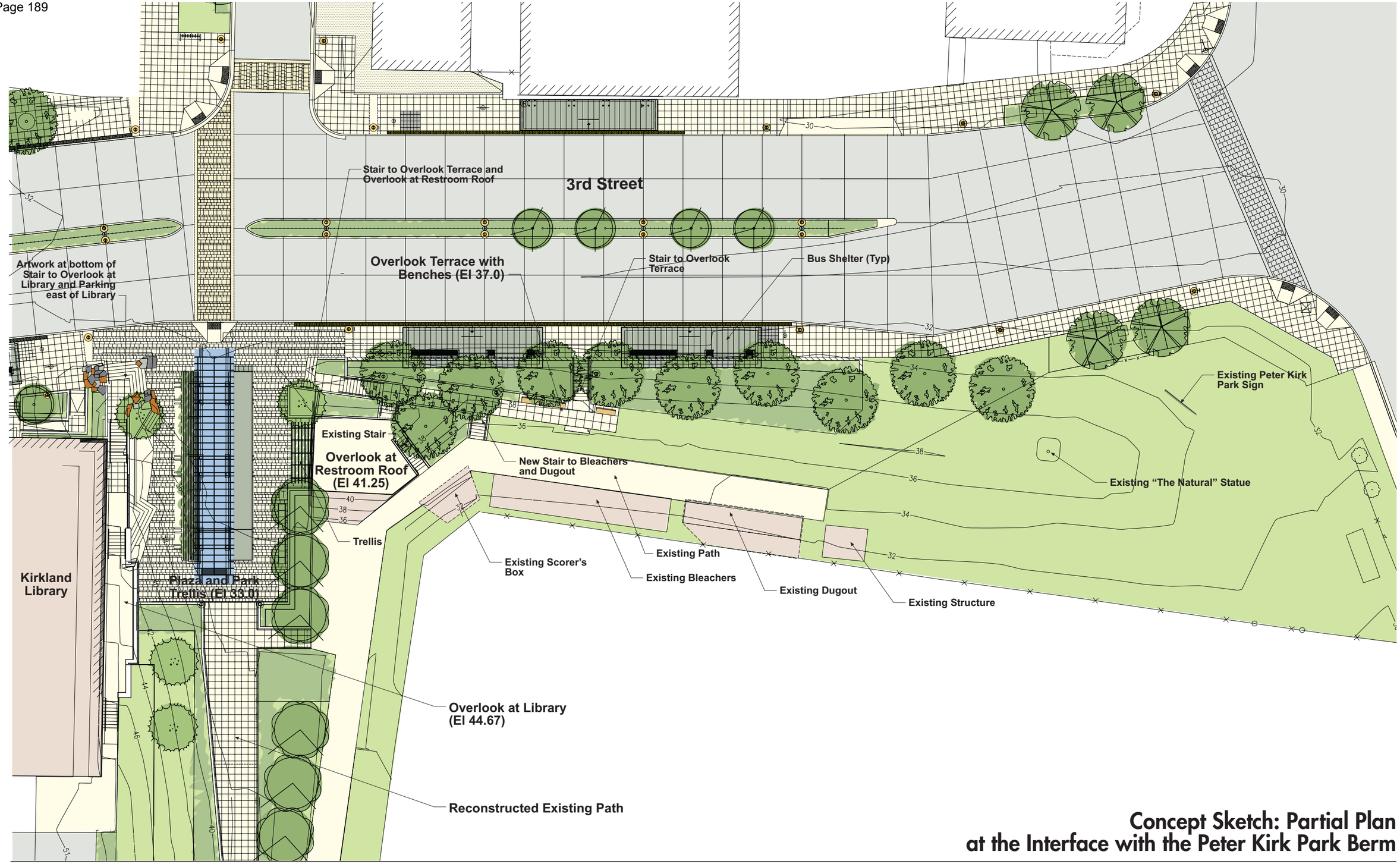
A. Trellis Concept
B. Peter Kirk Ball field/restroom interface
C. Project Art studies
D. Peter Kirk Restroom Analysis
E. Light standards and placement exhibit
F. Third and Kirkland controller options
G. Project Budget estimate (30% design)

Attachment A

View of (Revised) Park Trellis

Kirkland Transit Center
June 17, 2008

SoundTransit · City of Kirkland Washington · King County · INCA · HEWITT



Concept Sketch: Partial Plan at the Interface with the Peter Kirk Park Berm

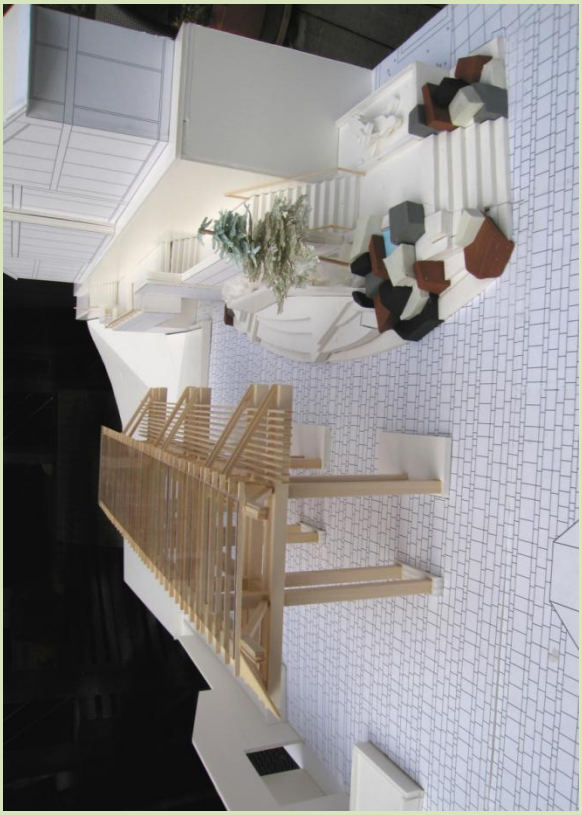
SOUNDTRANSIT · CITY OF KIRKLAND WASHINGTON · King County · INCA · HEWITT

Kirkland Transit Center

October 21, 2008

Transit Center Project Art Concept Study

Attachment C



CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Jennifer Schroder, Director
Michael Cogle, Park Planning Manager

Date: October 1, 2008

Subject: Peter Kirk Park Restroom and the Kirkland Transit Center

Earlier this year the City Council approved a request from the Park Board to fund an analysis of the restroom facility at Peter Kirk Park in anticipation of planned improvements to the Kirkland Transit Center. The Transit Center will provide a new gateway to Peter Kirk Park from the downtown core and will incorporate new civic amenities close to the existing restroom structure.

The restroom facility, constructed nearly 25 years ago, has a number of functional and aesthetic problems. Moisture problems are caused by leaking walls and ceiling slab (the building is built into a berm); in addition, plumbing fixtures, partitions, and interior lighting are generally substandard. Aesthetic improvements to the exterior façade would greatly enhance the "look and feel" of the facility and would help better integrate it with the anticipated Park Trellis and other civic plaza improvements planned for the new Transit Center.

Parks staff commissioned a $12,000 study by Lewis Architects to assess the facility and provide recommendations. A copy of their evaluation and recommendations is attached.

Renovation Recommendations:

The restroom facility itself is structurally sound, of adequate size, and appropriately located to serve the needs of park, ball field and other users. Demolishing the structure and building a new facility possibly elsewhere in the park is viewed by the Board and staff as unnecessary and not cost effective.

The restroom can be successfully improved by implementing a number of remedies:

- Moisture problems can be resolved by protecting and sealing the roof slab, re-grouting expansion joints, adding flashing, and other waterproofing techniques.

- The interior of the restrooms can be made more functional and attractive by replacing all fixtures, adding new partitions, improving floor drainage, re-painting, and adding new lighting. Ventilation will also be improved.

The consultant's renovation cost estimate for the restroom is $150,000. This estimate could be reduced if some of the work is done in-house by City staff.

Restroom Improvements funded as part of Transit Center project

The following improvements to the restroom will be implemented as part of the Transit Center project:

- Aesthetic improvements to the exterior of the building (facing the new trellis structure) will be made. Options under review include painting and/or brick veneer. In addition, a small entry trellis will be placed over the exterior of the restroom entry doors.

- Some of the moisture issues for the restroom will be resolved when a new stairway is constructed just west of the restroom building. During the stairway construction, the berm will be excavated and waterproofing techniques will be applied to the exterior of the exposed restroom wall. In addition, new paving treatment in the plaza area directly outside the restroom will ensure positive drainage away from the restroom doors.

Funding and Next Steps

Over the next several months, staff will continue to work on refining the restroom renovation plan and cost estimate, and will continue to coordinate planning activities with the Transit Center design team. **We will likely return to the Council during the 2009 mid-year budget review with more specific recommendations on funding strategies as well as a timeline for completion in line with the schedule for the new Transit Center.**

Attachment

cc: Park Board
Jason Filan, Park Maintenance and Operations Manager
Sandi Hines, Financial Planning Manager
Ray Steiger, Public Works Capital Projects Manager

Peter Kirk Park Restroom Facility

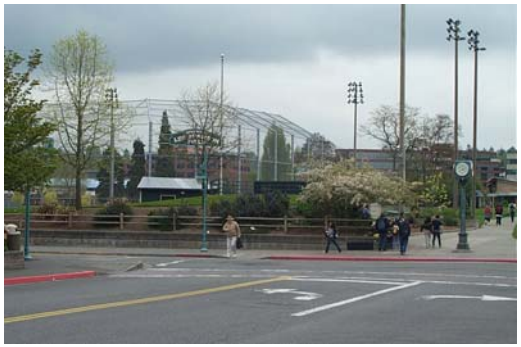
Evaluation of existing condition

Suggested basic improvements

Potential upgrades

LEWIS
Architecture + Interior Design

Evaluation of Existing Condition



View from transit

Concession stand

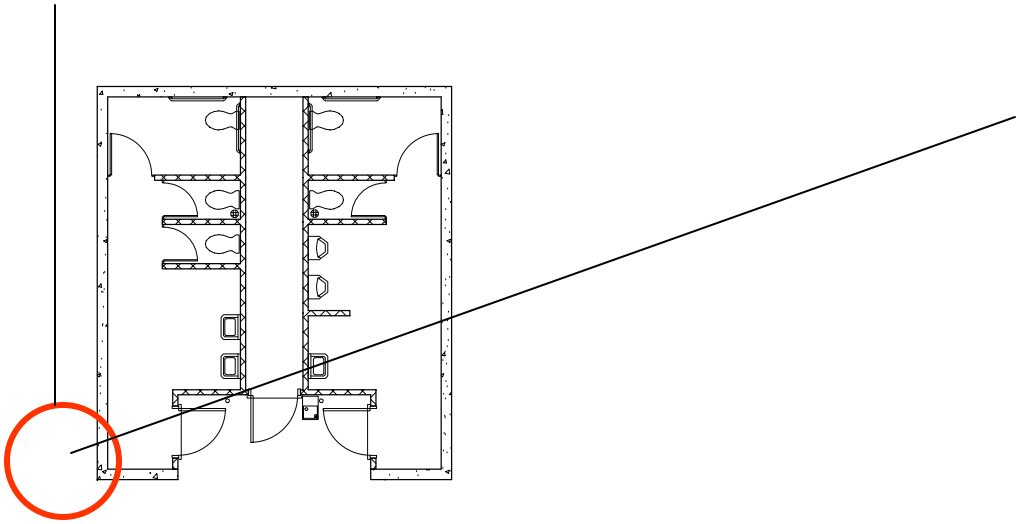
Berm and roof deck area

Drainage at
Front entry

LEWIS
Architecture + Interior Design

Evaluation of Existing Condition

The precast concrete panel to the southeast of the restroom, which butts into the concrete face of the structure, is settling. This has caused it to rotate away from the restrooms and has allowed running water to penetrate along the western edge of the restrooms. This movement of water may have caused the deterioration of the waterproofing membrane along that corner of the restroom.



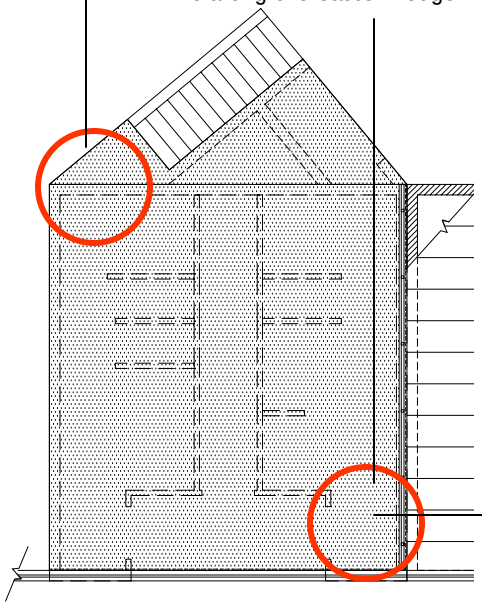
Wall movement along west

LEWIS
Architecture + Interior Design

Evaluation of Existing Condition

The northern edge of the roof deck butts against a slab that forms the lid for a small mechanical room. The caulk joint at the seam between the two slabs has deteriorated and may be aiding in the passing of moisture into the restroom. This is aiding in the passage of moisture into the void space between the restroom and the mechanical closet.

The roof deck of restrooms is formed by a 3 extruded concrete planks with a topping slab. The slab doesn't seem to have any sort of sealer or moisture barrier to slow or stop moisture penetration. There is a small amount of ponding around the perimeter of the roof deck. This is due to the slope of the deck having a valley roughly 18" from the edge. The worst condition is along the eastern edge.

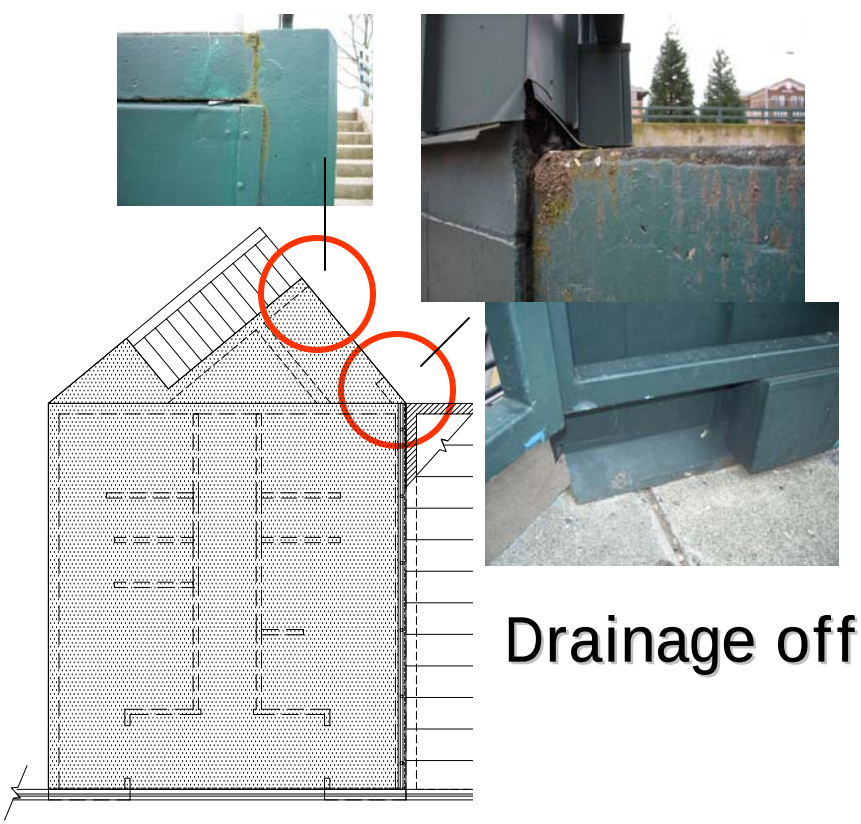


Drainage off roof and compromised joints.

LEWIS
Architecture + Interior Design

Evaluation of Existing Condition

A concession stand for the ball park was added along the eastern edge of the restrooms. This added structure now blocks runoff water which was originally designed to run directly off the edge. The concession stand causes water to pond along the edge of the slab. The flashing from the concession stand to the roof deck is not sloped to encourage the water to run in any direction. As a result, the water stands along that edge and passes through the slab into the restrooms below.
The concession stand seems to be free from the adjacent moisture, however, the structure may eventually be affected

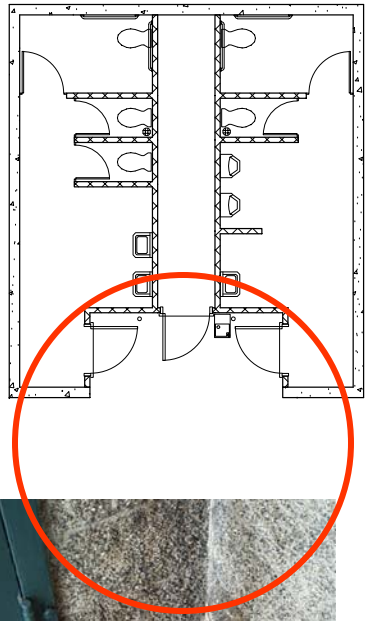


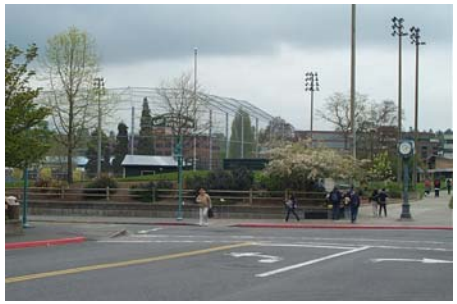
Drainage off roof and compromised joints.

LEWIS
Architecture + Interior Design

Evaluation of Existing Condition

The restrooms are accessed from a wide sidewalk along the south. This sidewalk slopes down towards the restroom doors. Water rolls down to pool in front of the restroom doors before flowing onward to a drain at the street beyond. Some of this runoff could be entering the restrooms directly under the doors. This was not directly observed but can be deduced by the water ring within the women's room and the mechanical space. This seems to be out of the scope of our work and may need to be addressed as part of the restroom façade improvement project associated with the street improvement project the City is undertaking.





Controlling runoff from adjacent surfaces

LEWIS
Architecture + Interior Design

Evaluation of Existing Condition

Interior-
There are signs of moisture penetration and efflorescent build up around the perimeter of the ceiling. This is all directly below the water ponding on the roof deck above. The worst seems to be along the eastern edge where the concession stand retains the runoff water.

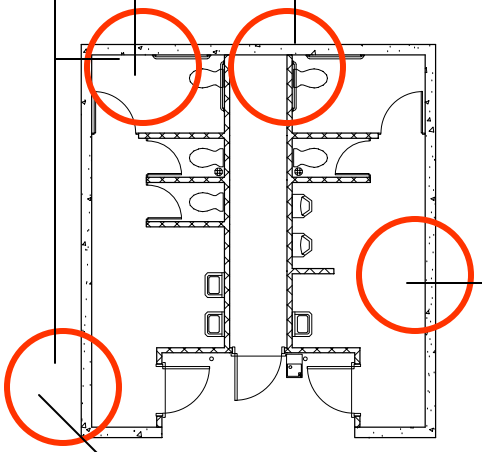
There are signs of penetrating moisture and efflorescence was observed along the walls.

Standing water was found in the women's room along the southwest wall. It could be coming from two locations - a crack in the corner where moisture could be leeching through and/ or the water coming in under the door from the sidewalk runoff.

There is a low spot in the slab along the exterior wall which causes the water to reach all the way to the north wall.

There is water leeching through the north wall of the mechanical space.

The urinals are tied to a constant flow system made from a toilet tank.



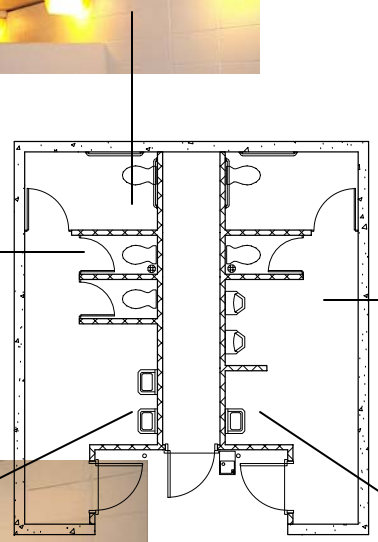
Interior effects from leakages

LEWIS
Architecture + Interior Design

Evaluation of Existing Condition

Interior Finishes-
The lights in the ceiling are looking dated, and in need of repair.
Due to the moisture issues the paint is in bad shape with layers of paint over other layers of paint without any sanding to smooth out the finish.
Plumbing fixtures seem workable though they could use updating.

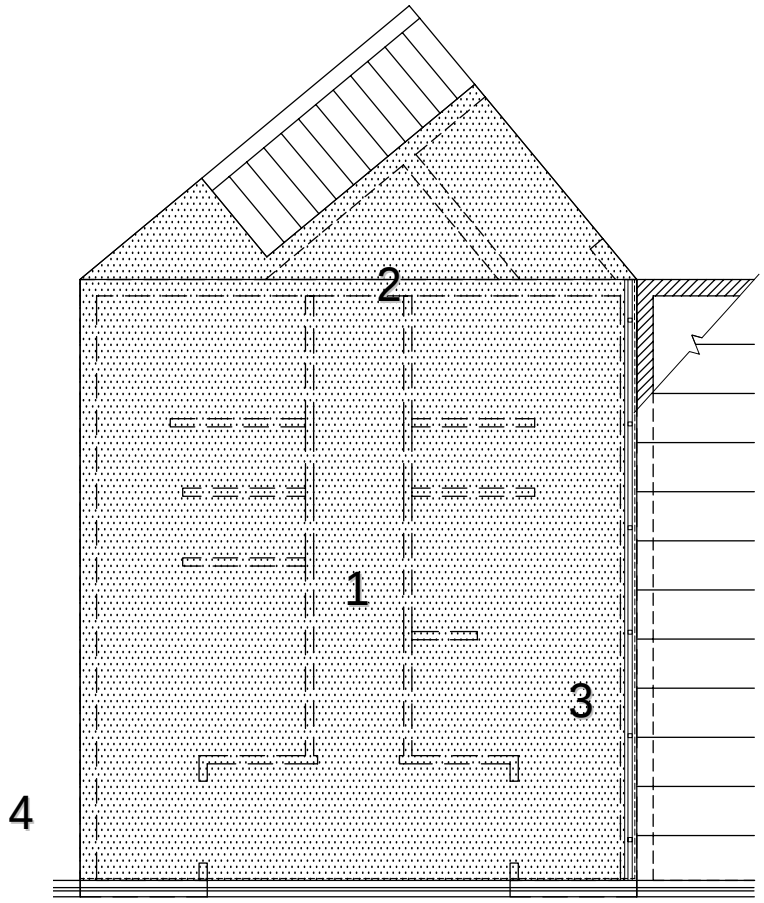
There really are no finishes to speak of. The interior structure of 4" CMU walls



Existing fixture conditions

LEWIS
Architecture + Interior Design

Suggested Basic Improvements



Building Envelope

1 Protect and seal roof slab

Sandblast exterior lid and apply Rainguard* Micro-seal.

2 Joints

Grand and clean expansion joints. Reseal with chemical grout

3 Flashing

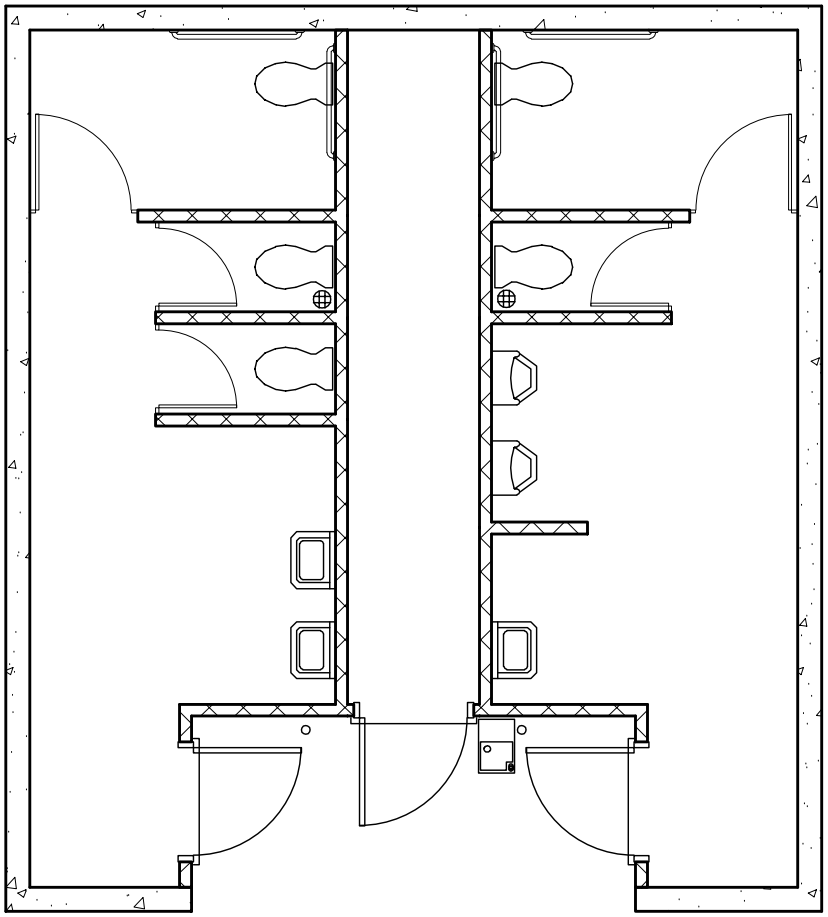
Apply sealant dam to underside of new wall flashing

4 Retaining wall separation

Grind and reseal the joint. Apply waterproofing to wall
And fill with chemical grout.

LEWIS
Architecture + Interior Design

Suggested Basic Improvements



Restroom Interior

Remove and replace all fixtures

Build up floor with epoxy grout Underlayment to drain. Apply Skid resistant epoxy finish.

Remove and install new Light fixtures surface mount on ceiling

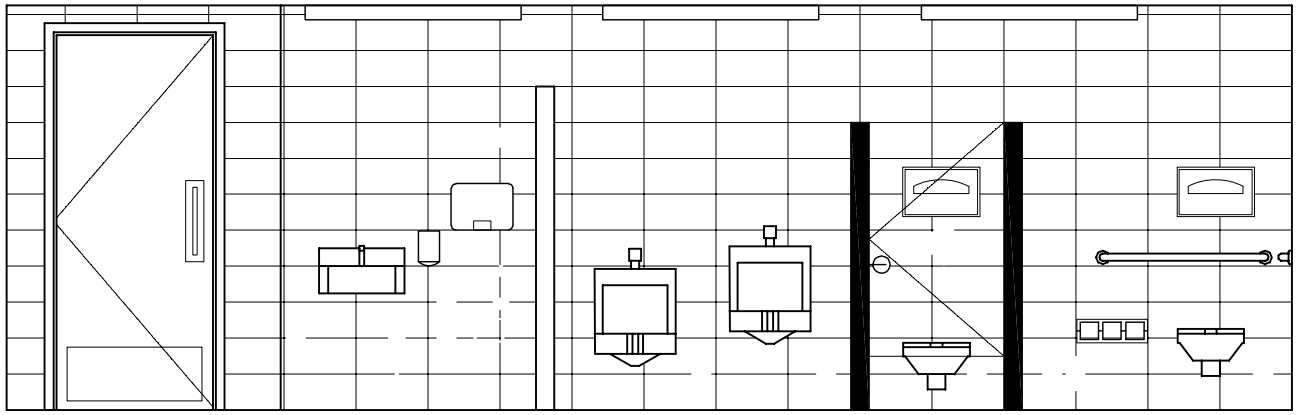
Sandblast concrete and CMU Surfaces, wash and prep. Apply 3 coats of anti-graffitti coating – "Vandlguard"

Install partitions and doors to Toilet stalls.

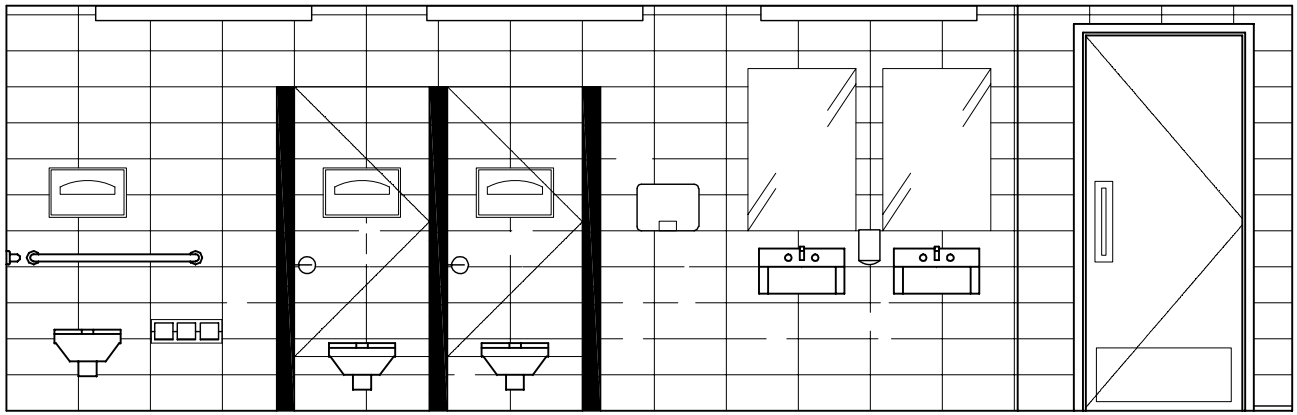
LEWIS
Architecture + Interior Design

Suggested Basic Improvements

Men's Restroom



Women's Restroom



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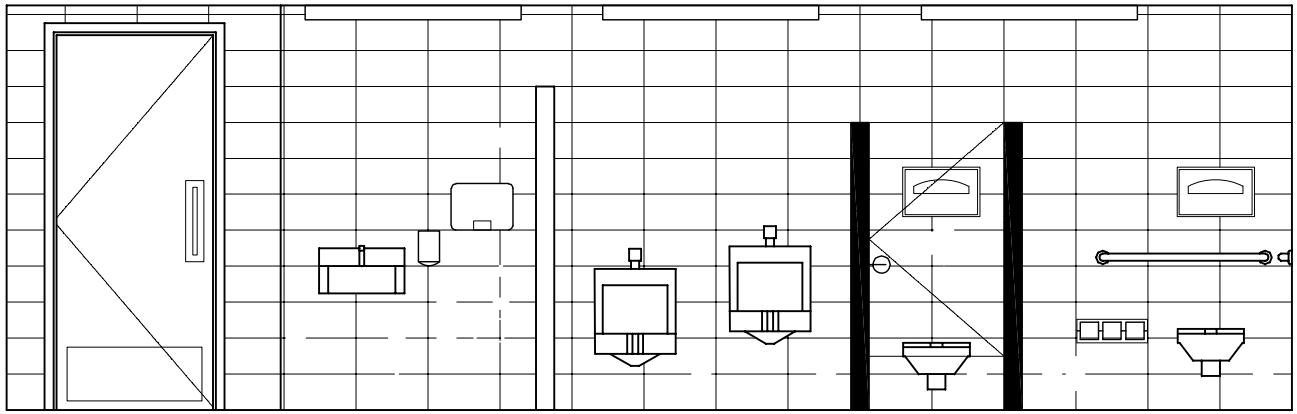
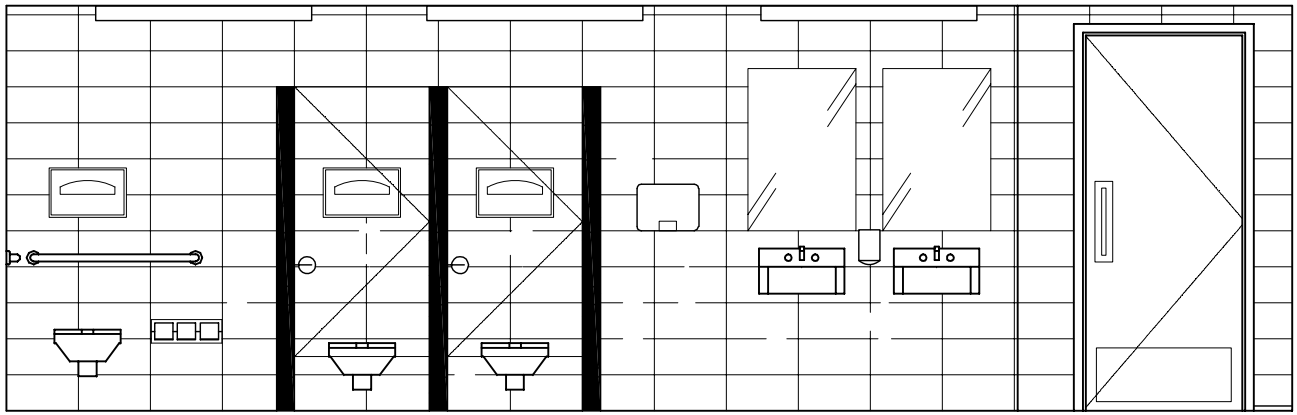
Potential Upgrade

Men's Restroom



Tile on walls
And partitions

Women's Restroom

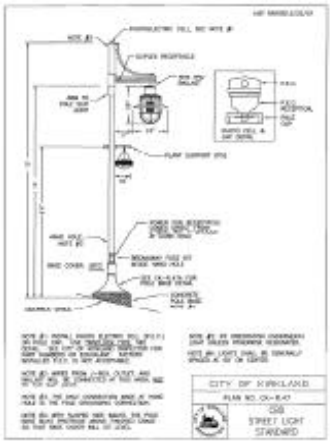


Tile on walls
And partitions

LEWIS
Architecture + Interior Design

Existing Street and Pedestrian Lighting at 3rd Street

City of Kirkland Standard Pedestrian Light



Recommended Option

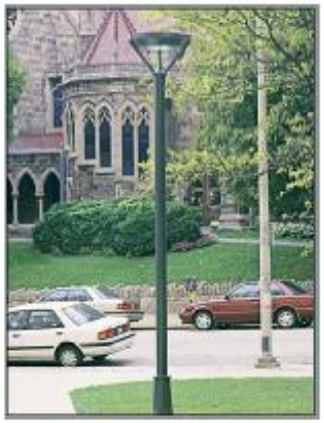
Pedestrian Light

Street Light

12' & 18'

18'

Potential Option #2



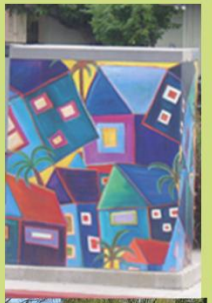
Pedestrian Light

Street Light

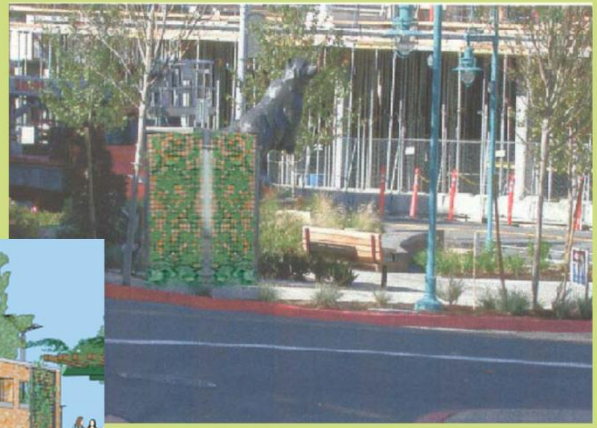
Attachment E

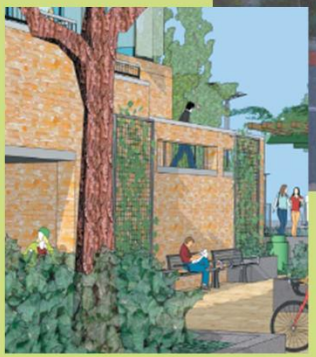
~~Potential Options for~~ Street and Pedestrian Lighting

Option A – Relocation



Option B – Applied Art





Option C – Trellis Screen

Option D – Faux Stone

Attachment F

KIRKLAND TRANSIT CENTER
PROJECT FUNDING

Phase	Task	Estimate	Budget (per 6/5/08 ST finance committee)	Commited to date	Balance
Agency Administration			$ 692,000	$ 692,000	$ -
Preliminary Engineering			$ 1,050,000	$ 1,107,000	$ (57,000)
Final Design			$ 2,070,000	$ 1,629,000	$ 441,000
Right of Way/Construction	*(based on INCA 30% estimate 11/07)*		$ 8,600,000	$ 10,000	$ 8,590,000
	right of way	$ 10,000			
	Mobilization (~12% construction)	$ 537,000			
	traffic control	$ 45,000			
	grading & drainage	$ 375,000			
	bus canopies	$ 610,000			
	replace garage stairs/landing	$ 282,000			
	Trellis structure	$ 277,000			
	Park retaining walls/seat wall	$ 188,000			
	misc. structures	$ 4,000			
	surfaces & paving	$ 420,000			
	concrete curb,gutter, sidewalk	$ 123,000			
	roadside development	$ 31,000			
	landscaping	$ 171,000			
	signals	$ 140,000			
	transit signal priority	$ 100,000			
	illumination	$ 315,000			
	signage and striping	$ 74,000			
	Public Art	$ 363,000			
	Miscellaneous	$ 477,000			
	Inflation factor (2008-2009 @ 12%)	$ 479,000			
	Design contingency (15% of construction)	$ 751,000			
	Sales Tax	$ 507,000			
	Agreements (Utility, etc.)	$ 25,000			
	Construction engineering/inspection	$ 944,000			
	Construction contingency (15% of construction)	$ 629,000			
	Sub-total	$ 7,877,000			
	Third Street & Kirkland Ave Signal	$ 588,000			
	NE 68th Street/108th Ave Signal	$ 140,000			
	Transit Center temporary relocation costs	$ 60,000			
	Current Construction Estimate	$ 8,665,000			
Project Contingency			$ 888,000		$ 888,000
Total			$ 13,300,000	$ 3,438,000	$ 9,862,000

Attachment G

Council Meeting: 10/21/2008
Agenda: Unfinished Business
Item #: 10. d.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: October 13, 2008

Subject: School Walk Route Status report and correspondence

RECOMMENDATION:

It is recommended that the City Council review the information provided regarding the status of School Walk Route completion within Kirkland, and authorize the Mayor to sign the attached letter to those providing feedback on the update of the City's non-motorized transportation plan.

BACKGROUND AND DISCUSSION:

Over the last few weeks, written correspondence has been received by the City in response to the 2008 update of the Non-motorized Transportation Plan. Currently, Staff and the Transportation Commission are holding a number of open houses and surveying the community for the NMTP update and soliciting feedback. School Walk Route support remains high in the Community, and the feedback emphasizes that the City should continue the current focus of improving elementary walk routes. At their October 7, 2008 meeting, Council asked staff to return with information regarding the status of the elementary school walk routes in the City.

The Lake Washington School District is required to identify suggested school walk routes within a one mile radius of all public elementary schools, and maps of these routes are distributed to parents and children of the respective school each fall. The City in cooperation with the LWSD now maps the routes in order to coordinate sidewalk improvement projects (Attachment B). The LWSD does not provide funding for the improvements; that responsibility is left to the local municipality. Kirkland has developed a prioritization process to address the many competing projects within the City, and School Walk Routes receive an increased priority. A chronologic summary of the development of the City's prioritization process is included as Attachment A, however a narrative follows.

In 1995, the Council adopted a set of 'ad-hoc' criteria which were developed by a citizen advisory committee for evaluating and prioritizing transportation projects. These ad-hoc criteria, also known as the Transportation Project Evaluation, were then used in the City's Capital Improvement Program for two years to prioritize all of the proposed transportation projects. After two full CIP prioritization processes, the Council reconvened the original committee to ascertain whether or not the resulting CIP projects reflected the desired outcome of the committee. After looking at the projects that were being funded in the CIP, the committee concluded that the projects did not provide enough recognition for a SWR. As a result, the committee recommended, and the Council approved, a modification to the criteria in May of 1998; the criteria would give additional points to sidewalk project proposals on identified SWR's.

These modifications were included in the Transportation Project Evaluation process and are used by staff to rate non-motorized projects for placement on the priority list and ultimately in the CIP. In addition, the Transportation Project Evaluation was included in the City of Kirkland's Non-Motorized Plan adopted in 2001 by the City Council and remains the City's published criteria (Attachment E).

In further support of the City's commitment to providing projects along SWR, in October of 2000 the Council created a School Walk Route Committee including residents, parents, the School District and others. In May of 2002 after numerous meetings, discussions, open houses and interaction with the various schools, the Council approved their recommendations. These recommendations included:

- Build $1 M worth of "priority" SWR projects identified by each school
- Allow other identified SWR's to compete in the CIP process using the rating process *(described earlier)*
- Explore possibility of a Sidewalk Bond
- Collect on concomitant agreements

The priority SWR projects were constructed at each of seven elementary schools by the Fall of 2002, and other routes continue to be evaluated in the CIP process using the Transportation Project Evaluation criteria. The Sidewalk Bond was not undertaken after further study, and the concomitant process was modified.

Including the priority improvements that were undertaken in 2002, approximately $2.2 M has been invested in improvements along school walk routes over the last few years. Total sidewalk and other non-motorized improvements (bike lanes, pathways, and other significant improvements) between 2002 and October of 2008 are nearly $7 M (approximately $1M per year); school walk route improvements constitute over 30% of those investments as summarized below in Table 1.

Between the time that the inventory of school walk routes that was done in preparation for the School Walk Route Advisory committee in 2001 and today, significant progress is being made in completing the walk routes around schools (Attachment C). Future funding and planned projects will continue to work toward completion of the walk routes (Attachment D).

Currently staff and the City's Transportation Commission are working through an update of the City's Non-Motorized Transportation plan (this is the first update since 2001). The updated NMT Plan will provide the framework for the next few years of the non-motorized network in the City of Kirkland. During the community outreach and update of the NTM Plan, staff and the Commission are looking at the prioritization of non-motorized improvements and are examining other approaches/evaluation criteria to consider. Other approaches, and or evaluation criteria, being looked at during this update process are being introduced at various open houses, on the City's web-site, and at the Transportation Commission meetings. Feedback and input received from the community is being considered in the final decision on the prioritization process.

The response letter attached is being sent to those that have provided input on the prioritization.

Attachments:

A. Genesis of non-motorized project prioritization criteria
B. Identified school walk routes in Kirkland
C. Status of completion of walk routes (2001 & 2008)
D. Current non-motorized prioritization ranking
E. Transportation Project Evaluation criteria
F. Feedback from community
G. Draft response letter from Mayor

2002-2008 Non-motorized CIP project expenditures

Non-motorized Project Description	walk route			
NE 95th St Sidewalk	Y	$	458,000	
School Walk Routes	Y	$	914,000	
13th Ave Sidewalk	Y	$	191,000	
116th Ave NE Non-motorized Facilities (Highlands)	Y	$	96,000	
112th Ave NE asphalt pathway	Y	$	36,000	
73rd Ave NE Low Impact Development project	Y	$	108,000	
NE 85th St/128th Ave NE Signal	Y	$	429,000	
		$	2,232,000	**32%**
116th Ave Non-motorized (south of 60th)		$	24,000	
Kirkland Ave Sidewalk		$	481,000	
Bike/Ped Overpass - NE 100th Street @ I-405		$	1,789,000	
Market Street/State Street bikelanes		$	3,000	
8th St S/9th Ave S Sidewalk		$	145,000	
116 Ave NE Non-Motorized Facilities (Bridle Trails)		$	1,295,000	
Rose Hill Business District Sidewalks		$	932,000	
122nd Low Impact Development		$	1,000	
100th Ave/99th Pl NE sidewalk		$	53,000	
Park Lane Corridor Enhancements		$	2,000	
		$	4,725,000	**68%**
		$	**6,957,000**	

Table 1 – CIP nonmotorized production

Sidewalk Evaluation Criteria Genesis

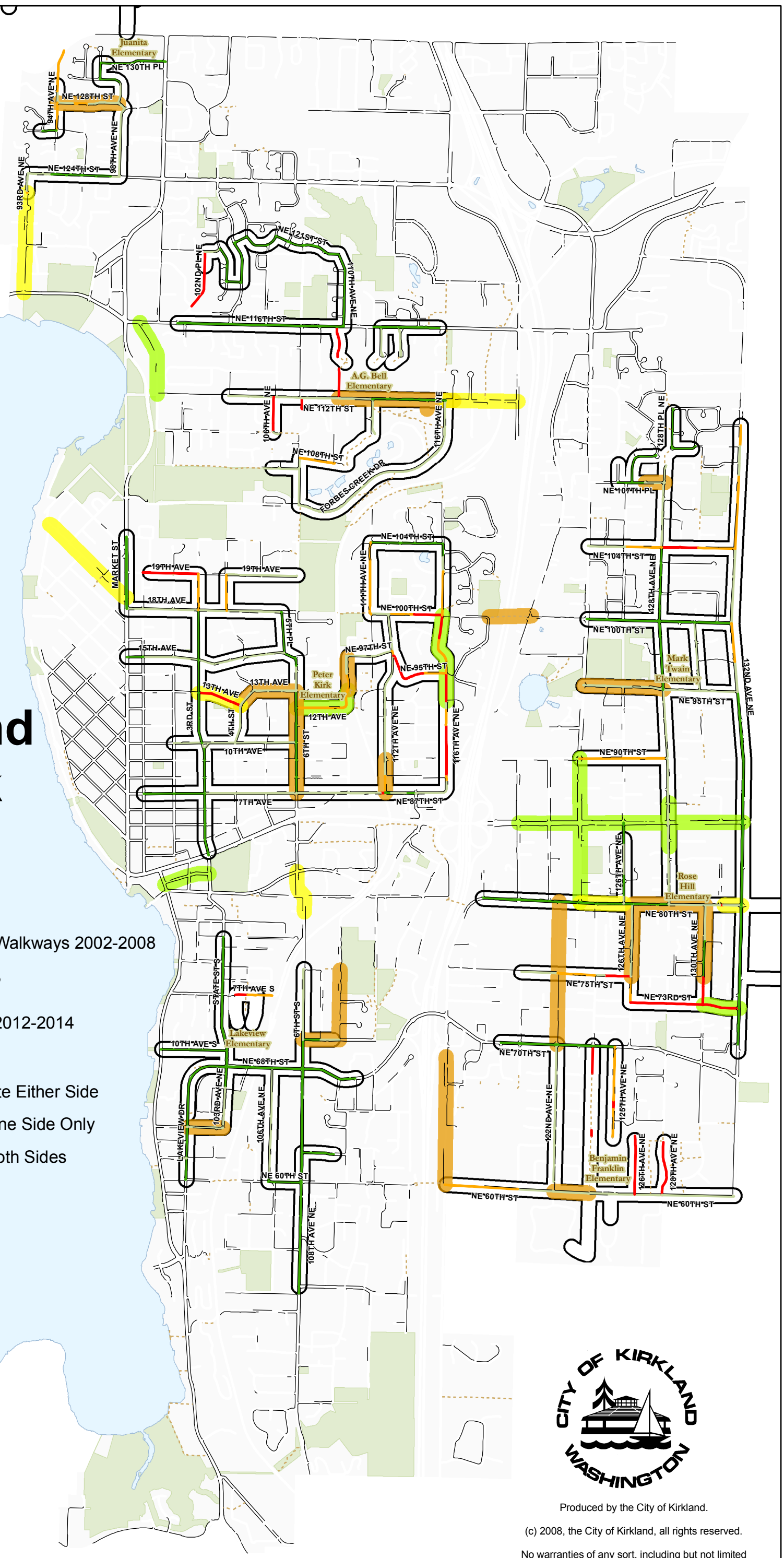
Attachment A

- **Mar 1995** – Council adopts "ad-hoc" criteria (aka Transportation Project Evaluation) developed by Ad-Hoc Committee
- **May 1998** – Council modifies criteria to give higher priority to School Walk Routes
- **Oct 2000** – Council creates school walk route group, should we focus on ¼?, use $1 M of CIP funding
- **Feb 2001** – First meeting of All 7 elementary + others; type of material, consensus process, bond feasible?
- **May 2002** – SWRC recommendations (Council approved):
  1) "quick strike" projects at $1M,
  2) keep priority of others through "ad-hoc",
  3) bond if needed,
  4) collect concomitants
- **Nov 2002** – completed construction of quick strikes at all seven schools, others added to the CIP
- **Jun 2004** – Sidewalk Bond Exploratory Committee convened
- **Jul 2005** – Based on Community feedback, four tiers developed:
  1) Elementary school routes ($6M) *(highest priority)*
  2) One side of arterials (+ $2M)
  3) Neighborhoods (+ $7M)
  4) Maintenance levy (+ $200K)
- **Aug 2006** – Council approved SBEC recommendation to wait on bond at that time
- **Feb 2007** – Transportation Commission begins update of the NMTP per work plan
- **Jun 2007** – Community surveys sent for pedestrian and bike comments/priorities
- **Sep 2007** – Based on survey feedback & mapping, the draft criteria are discussed with the TC
- **Feb 2008** – TC reviews refined criteria/prioritization results and mapping
- **Mar 2008** – Council reading file on the draft prioritization for the 2008 NMTP
- **May 2008** – Non-motorized projects are prioritized using "ad-hoc" criteria for the 2009-2014 CIP
- **Jun 2008** – Community open house held to review the draft prioritization criteria
- **Aug 2008** – 2009-2014 CIP Study Session
- **Sep 2008** – Draft results of NMTP prioritization posted on Kirkland website for public comment

School Walk Routes And Sidewalk Projects

Legend

- Completed Sidewalks/Walkways 2002-2008
- Funded 2009-2011 CIP
- Candidate (NM 8888) 2012-2014
- No Sidewalks
- Sidewalks Not Complete Either Side
- Sidewalks Complete One Side Only
- Sidewalks Complete Both Sides
- SchoolWalkRoutes
- Trails
- Sidewalks
- Parks



CITY OF KIRKLAND WASHINGTON

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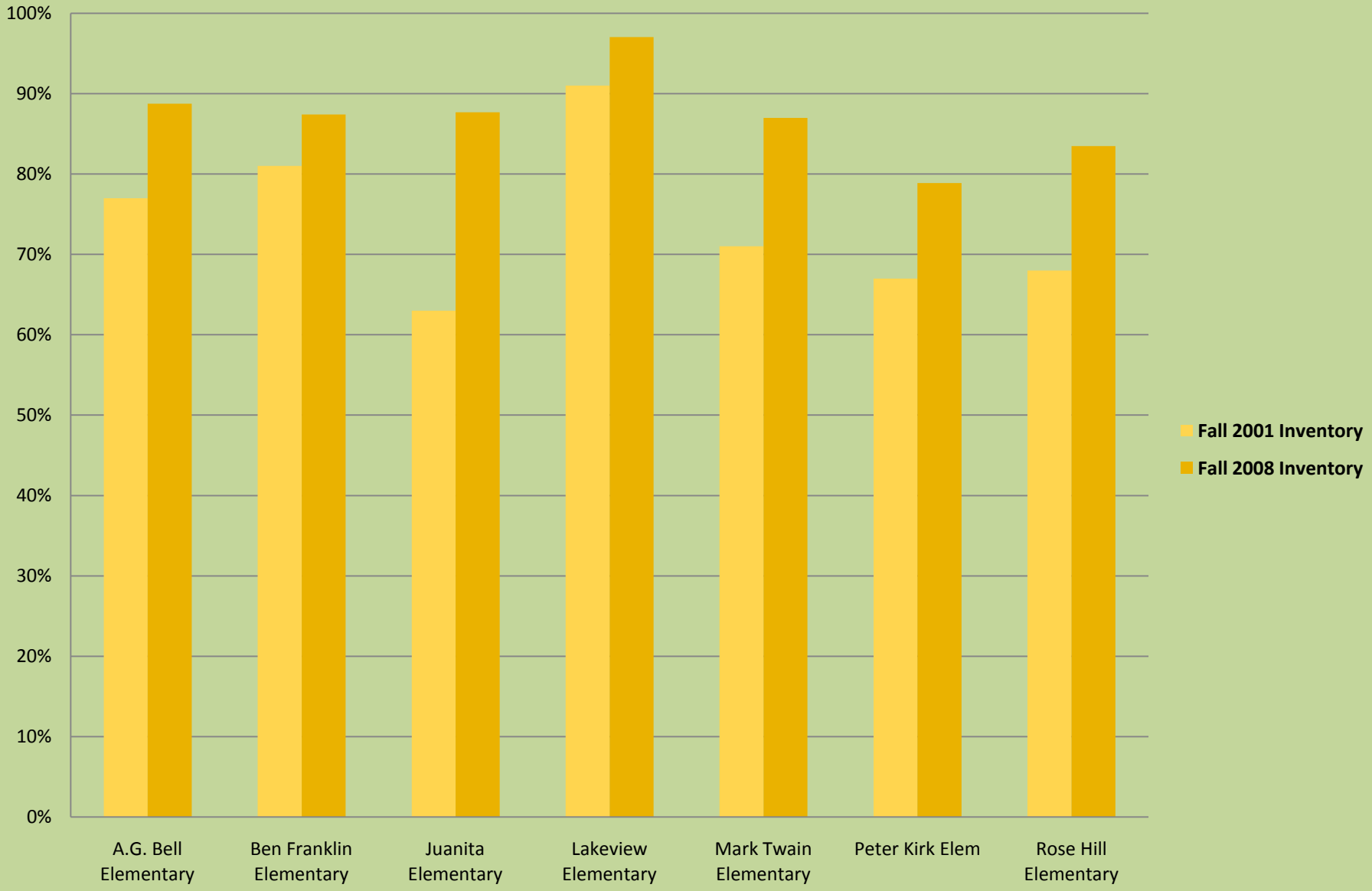
Printed October 14, 2008 - Public Works GIS

Inventory of Kirkland School Walk Routes

(percent completion of at least one side of identified routes)



2007 Non-Capacity Evaluation Summary

2008 RANK	TYPE	CIP #	ID # SCHOOL	CIP START YEAR	PROJECT	FROM AND TO	SCHOOL ROUTE	TOTAL EST 2007 $	SCORE 2007	SCORE 2005	SCORE 2003	SCORE 2001
	PREVIOUSLY STARTED PROJECTS	NM-0012		odd years	Crosswalk upgrade program	City-wide		$ 70,000				
		NM-0057		annual	Annual Sidewalk Maintenance Program	City-wide		$ 200,000				
		NM-0042		2004	116th Ave NE Non-motorized (north)	NE 60th St to NE 70th St		$ 1,425,000				
		NM-0051		2004	Rose Hill Business District Sidewalks	I - 405 to 132nd Ave NE		$ 3,500,000			55.95	55.95
		NM-0008		2004	124th Ave NE	NE 80th St to NE 85th St		w/ above	58.85	55.05	56.55	58.05
		NM-0001		2007	116th Ave NE Non-motorized (south) - PH II	Bellevue to NE 60th St		$ 5,900,000		65.20	70.20	70.20
		NM-0044	PK 9	2007	116th Ave NE (Highlands)	NE 94th St to NE 100th St	X	$ 641,000		57.45	62.45	55.35*
		NM-0052	RH 3a	2007	NE 73rd St SW	130th Ave to 132nd Ave	X	$ 490,000		59.35	59.35	50.35*
				will be constructed in by WSDOT (2007)	NE 116th St (north side)	120th to Slater Ave				52.75	52.75	57.85
		NM-0055		asphalt path constructed (2006)	122nd Ave NE	NE 70th to NE 80th		$ 1,489,000		56.35	51.55	46.20
1	Bicycle	NM-0024		unfunded	Cross-Kirkland Trail	S to N City Limits along BNSFRR		$ 5,000,000	71.75	68.75	68.75	68.75
2	Sidewalk	NM-0031		unfunded	Crestwood Park/BNSFRR	Crestwoods Park to 111th Ave NE		$ 2,563,000	67.25	55.75	60.75	61.75
3	Sidewalk	NM-0030		unfunded	NE 90th St Over Pass	116th Ave to Costco		$ 2,768,000	65.65	65.65	65.65	65.65
4	Intersection	TR-0067		unfunded	Kirkland Ave RR Bridge Abut/Widen	Ped safety element (see also NM project)		$ 1,360,000	62.90	60.65	60.65	60.65
5	Sidewalk	NM-0041		unfunded	Forbes Valley pedestrian facility	Crestwoods Park to Juanita Bay		$ 1,713,000	61.05	58.05	58.05	59.05
6	Sidewalk	NM-0059		candidate	6th St Sidewalk (east side)	1st Ave S to Kikrland Way		$ 414,000	59.25	60.15		
7	Sidewalk	NM-0043		candidate	NE 126th St non-motorized	120th Ave NE - NE 126th Pl		$ 4,274,000	58.95	55.65	68.25	68.25
8	Bicycle	NM-0036		candidate	NE 100th St Bike Ln	124th Ave to 132nd Ave		$ 1,006,000	58.25	57.35	60.35	59.60
9	Sidewalk	NM-0054	PK 10	candidate	13th Ave	3rd St to 4th St	X	$ 447,000	58.20	58.20	56.50	56.20
10	Sidewalk	NM-0063		unfunded	Kirkland Way	8th St S to Ohde (see also TR-0067)		$ 415,000	58.00	52.80	52.80	52.80
11	Sidewalk	NM-0032		candidate	93rd Ave NE SW	Juanita Drive to NE 124th St		$ 502,000	57.65	55.55	60.55	60.55
12	Sidewalk	NM-0050	RH 2	candidate	NE 80th St (south side)	125th Lane NE to 13nd Ave NE	X	$ 660,000	57.55	52.55	57.55	57.55
13	Sidewalk	NM-0053		candidate	NE 112th St (north side)	120th Ave to 117th Ave		$ 492,000	57.45	58.45	58.45	55.45
14	Sidewalk	NM-0046		candidate	18th Ave W.	Market St to Rose Point		$ 1,936,000	56.95	53.25	60.25	52.10
15	Sidewalk	NM-0049		candidate	112th Ave (II)	NE 87th St to approx NE 90th St		$ 528,000	56.95	56.95	51.95	52.95
16	Sidewalk	~~NM-0047~~		~~completed~~	~~116 Ave NE (east Side)~~	~~NE 70 - NE 75 St~~		~~$ 259,000~~	~~56.95~~	~~54.45~~	~~59.45~~	~~54.45~~
17	Sidewalk	NM-0034	PK 6	2009	NE 100th St at Spinney Homestead	111th Ave NE to 116th Ave NE	X	$ 244,000		56.90	61.90	58.00
18	Sidewalk	NM-0060		2008	100th Ave NE	NE 112th - 116th		$ 464,000	56.80	42.05	42.05	
19	Pathway	NM-0061	MT 3	unfunded	NE 104th St (south side)	132nd Ave NE to existing imps at west	X	$ 1,763,000	56.65	49.15	49.15	44.95
20	Sidewalk	NM-0062		unfunded	19th Ave (south side)	Market St to 4th St		$ 1,325,000	56.35	50.35	55.35	52.25
21	Bicycle				NE 87th St Bike Ln	6th Ave to 116th Ave NE		$ 672,000	55.55	57.55	56.65	56.65
22	Sidewalk				6 St S (west side)	68 St to BNSFRR		$ 860,000	55.50	50.90	50.90	48.40
23	Sidewalk	NM-0045	PK 8	unfunded	NE 95th St (south side)	116th Ave NE to 112th Ave NE	X	$ 424,000	55.00	55.00	62.00	59.90
24	Sidewalk				NE 118th St	Costco - 120th Ave NE		$ 225,000	54.65	52.85	52.85	
25	Sidewalk	NM-0066	PK 5	2010	12th Avenue (south side)	BNSFRR to 6th Street	X	$ 648,000	54.25	51.75	56.75	51.05
26	Bicycle				100th Ave NE Bike Ln	NE 116th St to 98th Ave NE		--	54.25	54.25	54.25	55.75
27	Sidewalk	NM-0048	BF 4a	unfunded	NE 60th St (north side)	116th Ave to 132nd Ave + Bike LN	X	$ 4,274,000	53.15	53.15	61.15	61.15
28	Sidewalk	NM-0026		unfunded	NE 90th St (Phase II)	120th Ave to 132nd Ave		$ 753,000	52.45	50.45	55.45	55.45
29	Sidewalk		PK 6		6th St	13th Ave - 15th Ave			52.10	50.00	50.00	
30	Sidewalk		AGB 2		108th Ave NE	NE 116th St to NE 112th St	X		51.95	49.55	54.55	54.55
31	Sidewalk	NM-0037	MT 4	unfunded	130 Ave NE	NE 95 St - NE 100 St	X	$ 313,000	51.95	53.25	58.25	59.25*
32	Sidewalk		J2		94th Ave/NE 128th St	124th - 128th	X		51.70	49.20	49.20	45.00
33	Sidewalk	NM-0056		unfunded	NE 90th St (Phase I)	124th Ave to 128th Ave		$ 722,000	51.55	53.55	58.55	54.25*
34	Sidewalk				Kiwanis Park Connect (west side)	10th St W - Rose Point LN			51.35	51.35	51.35	49.85
35	Sidewalk				NE 120 St	from 93 Ave NE - 97 Ave NE			50.65	47.45	47.45	47.45
36	Sidewalk				Waverly Way (west side)	Market St to Waverly Beach			49.25	47.55	49.55	43.35
37	Sidewalk				Kirkland Ave. (south side)	Salvation Army bldg to 6th St S			48.65	49.05	49.05	49.05
38	Sidewalk		LV 2		103rd Ave	NE 64th St to NE 68th St	X		48.60	47.50	47.50	47.50
39	Sidewalk		MT 6		126th Ave NE	NE 85th St to NE 95th St	X		48.15	47.55	43.75	43.75*
40	Sidewalk				15th Ave	2nd - 3rd St			48.15	48.18	48.15	
41	Sidewalk	NM-0064		2008	Park Lane Phase I	Lake St - Main St		$ 400,000	47.35	29.65	29.65	
42	Sidewalk				NE 60th St Sidewalk (south side)	116th Ave NE to 132nd Ave NE			46.55	43.45		
43	Sidewalk				4th St	13th Ave - 15th Ave			46.40	45.40	45.40	
44	Sidewalk	NM-0007		unfunded	NE 52nd St	Approx 106th to/over BNSFRR XING		$ 746,000	45.55	41.65	41.65	58.75
45	Sidewalk		PK 11		111th Ave NE	NE 104th St to NE 100th St			45.55	42.45	48.45	43.85
46	Sidewalk				98th Ave NE	Causway - Juanita Drive			44.95	47.95	47.95	
47	Sidewalk				120th Ave NE (west side)	NE 118th south to existing SW			43.85	43.85	43.85	
48	Sidewalk				106th Ave NE (east side)	N of 60th - NE 65th Pl			42.95	37.15	37.15	
49	Sidewalk				97th Ave NE	Juanita Drive to NE 120th St			42.95	42.25	42.25	
50	Sidewalk				3rd St	18th - 19th Ave			42.85	42.85	42.85	
51	Sidewalk				NE 112th St	132nd Ave NE to existing imps at west			42.80	40.10	40.10	40.10
52	Sidewalk				16th Ave W	Market St to 10th St W			42.45	42.45	47.45	40.45
53	Sidewalk				13th Ave W (south side)	Market - 6th St			41.95	44.45	49.45	
54	Pathway				130th Ave NE	NE 108 St - NE 109 St			39.75	37.05	40.05	40.05
55	Sidewalk	NM-0064		unfunded	Park Lane Phase II	Main St - 3rd St			37.85	29.65	29.65	
56	Sidewalk				NE 113th St (north side)	128th - 132nd Ave NE			36.55	35.20	35.20	
57	Sidewalk				128th Lane NE	at BNSF Railroad Crossing			35.95			
58	Pathway				116th Ave NE Trail/Stair Replacement	North of NE 107th Pl to BNSF RR Xing			31.75			

LEGEND:

NM-00XX	CIP number
	funded in preliminary CIP document (2009-2011)
	"candidate" project (2012 through 2014)

CITY OF KIRKLAND
TRANSPORTATION PROJECT EVALUATION FORM

PROJECT INFORMATION

Project:_____

Limits:_____

Description:_____

_____

Proposed By:_____Date: _____

Rated By:_____Date: _____

INITIAL PROJECT SCREENING

Does the project conflict with any specific policy provisions of the Comprehensive Plan?

Yes: project eliminated from consideration

No: project ranked using following criteria

PROJECT VALUES

	POSSIBLE	THIS PROJECT
• FISCAL	20	
• PLAN CONSISTENCY	10	
• NEIGHBORHOOD INTEGRITY	15	
• TRANSPORTATION CONNECTIONS	15	
• MULTIMODAL (NON-SOV)	20	
• SAFETY	20	
TOTAL	100	

(Note to Rater: Please address all of the following questions recording any assumptions or comments in the margin adjacent to the question. Record scores for each question and transfer each value total to this cover sheet.)

FISCAL

_____ (50) 1. What is the City's ability to leverage funds from all non-City sources (i.e. grants, private funds)?

(a) Chance to leverage		x	(b) Amount leveraged	
0%	0		0-25%	1
1-25%	1		26-49%	2
26-50%	2		50-74%	3
51-75%	3		75-100%	4
76-100%	4			

(Rater: Multiply (a) x (b) = leverage factor (LF))

LF	SCORE
0-1	0
2-3	15
4-6	25
7-11	35
12-16	50

_____ (30) 2. How does the project unit construction cost deviate from standard unit construction cost? (Compare like projects: i.e. paths to paths, and not paths to sidewalks.)

>25% Greater than standard unit costs	0	
0-25% Greater than standard unit costs	15	
Less than standard unit costs		30

_____ (10) 3. How will the maintenance costs for conceptual design of project compare with the maintenance costs for a standard project design? (Standard project design is defined as the current requirements as set forth in the street standards.)

Greater than standard maintenance cost	0	
Standard maintenance cost		5
Reduce costs of existing infrastructure or less than standard maintenance cost		10

FISCAL VALUES (Continued)

_____ (10) 4. How will the conceptual design of the project affect existing maintenance needs?

Greater than existing	0
Same	5
Less than existing	10

_____ VALUE SCORE
(100 max)

x .20 VALUE WEIGHT

_____ VALUE TOTAL

PLAN CONSISTENCY

_____ (50) 1. Is the project generally consistent with or generated from adopted regional plans, such as Eastside Transportation Plan, King County Transit Six-Year Plan?

No	0
Project is not inconsistent	25
Project is generated from a regional plan	50

_____ (50) 2. Is the project identified by the 20 year project list in the Capital Facilities Element of Kirkland's Comprehensive Plan or the Non-Motorized Transportation Plan (NMTP)?

Project is not in either plan	0
Project is identified as a priority 2 route in the NMTP	25
Project is in the Comprehensive Plan, listed as a priority 1 route in the NMTP or is an approved school safe walk route.	50

_____ VALUE SCORE
(100 max)

x .10 VALUE WEIGHT

VALUE TOTAL

NEIGHBORHOOD INTEGRITY

_____ (40) 1. Does the project have public support?

Clearly opposed by the public	0	
Support/opposition of the public unknown or balanced		20
Clearly supported by the public (i.e. Neighborhood Association, PTA letter)	40	

_____ (20) 2. Is the project generally consistent with the neighborhood in regards to street widths, landscaping, and appropriate buffers?

No		0
Neutral	5	
Yes		15
Yes & superior design		20

_____ (20) 3. How will the project impact through traffic on neighborhood access/collector streets?

Will significantly divert traffic onto neighborhood access/collector streets	0
Will have minimal impact on neighborhood access/ collector streets	10
Will divert traffic away from neighborhood access/ collector streets	20

_____ (20) 4. Is the project identified in a neighborhood plan or does the project support the goals of the neighborhood plan?

Does not support goals or conflicts		0
No impact on goals of the plan	10	
Identified in the plan or supports the goals of the plan	20	

_____ VALUE SCORE
(100 max)

x .15 VALUE WEIGHT

VALUE TOTAL

TRANSPORTATION CONNECTIONS

_____ (28) 1. Does the project provide a missing segment of an existing incomplete transportation network which is specifically identified in the Comprehensive Plan, the Non-Motorized Transportation Plan or is an approved school safe walk route?

No	0
Pedestrian Network	
Yes for a priority 2 network or a school safe walk route on a local street	14
Yes for a priority 1 network or a school safe walk route on a collector or arterial	28
Bicycle Network	
Yes for a priority 2 network	14
Yes for a priority 1 network	28
Transit/HOV Network	
Yes for a moderate improvement	14
Yes for a substantial improvement	28
Road Network	
Yes for a moderate improvement	14
Yes for a substantial improvement	28

_____ (72) 2. Does the project improve pedestrian, bicycle, transit/HOV or road connections near activity centers?

(72) Pedestrian:

Activity Centers	**Project Within 1/4 Mile of a Center**		**Project Within 1/2 Mile of a Center**	
School	18 points		12 points	
Community Facility[(1)]	12 points		6 points	
Business District[(2)]	12 points		6 points	
Transit/HOV Facility	Facility 12	Route 6	Facility 6	Route 3
Regional Center[(3)]	6 points		3 points	
Improves a Connection within a Business District			12 points	

TRANSPORTATION CONNECTIONS (Continued)

(72) Bicycle:

Activity Centers	Project Within 1/2 Mile of a Center		Project Within 1 Mile of a Center	
School	18 points		12 points	
Community Facility[1]	12 points		6 points	
Business District[2]	12 points		6 points	
Transit/HOV Facility	Facility 12	Route 6	Facility 6	Route 3
Regional Center[3]	6 points		3 points	
Improves a Connection within a Business District			12 points	

(72) Transit/ HOV:

Activity Centers	Project Within 1/4 Mile of a Center		Project Within 1/2 Mile of a Center	
School	18 points		12 points	
Community Facility[1]	12 points		6 points	
Business District[2]	12 points		6 points	
Transit/HOV Facility	Facility 12	Route 6	Facility 6	Route 3
Regional Center[3]	6 points		3 points	
Improves a Connection within a Business District			12 points	

Footnotes:
(1) Community Facility includes parks, libraries, hospitals, fire stations, city hall, community centers, the Boys and Girls club and similar facilities.
(2) Business District includes commercial or employment centers.
(3) Regional Center includes Totem Lake area and Downtown Kirkland.

(72) Roads:

Connects To	Connects From		
	Arterial Street	**Collector Street**	**Local Access Street**
Arterial Street	72 points	72 points	0 points
Collector Street	72 points	72 points	36 points
Local Access Street	0 points	36 points	72 points

For multi-modal projects, the project will receive the same number of points as the highest rated mode.

TRANSPORTATION CONNECTIONS (Continued)

(72) Signals:

Warrants	<75%	>75%	Meets
1. Minimum Volume	0	6	12
2. Interruption	0	6	12
3. Ped Volume	0	6	12
9. Four Hour Volume	0	6	12
10. Peak Hour Delay	0	6	12
11. Peak Hour Volume	0	6	12

_____ VALUE SCORE
(100 max)

x .15 VALUE WEIGHT

═══ VALUE TOTAL

MULTIMODAL (NON-SOV)

_____ (45) 1. Does the project provide non-SOV modes to the existing facility that currently do not exist?

Adds transit/HOV mode	15
Adds bicycle mode	15
Adds pedestrian mode	15

_____ (30) 2. Will the project impact the effectiveness of any existing non-SOV modes (minimum standard)?

Denigrates existing non-SOV mode(s)	0
No impact	15
Improves existing non-SOV mode(s)	30

_____ (25) 3. Does the project add one or more non-SOV modes to an existing regional corridor/facility or provide a new regional corridor/facility?

Pedestrian	5
Bike - one way	5
Bike - two way	10
Transit	10

_____ VALUE SCORE
(100 max)

x .20 VALUE WEIGHT

_____ VALUE TOTAL

SAFETY

_____ (10) 1. Does the conceptualized design of the project meet generally accepted practices?

No	0
Yes	10

_____ (25) 2. What are the existing conditions for each mode of the project?

_____ (25) Bicycle:

Traffic volume is low, wide vehicular lanes	0
Traffic volume is moderate, wide vehicular lanes which will allow cars to pass	5
Traffic volume is high, wide vehicular lanes which will allow cars to pass	10
Pavement is narrow, moderate volume of traffic	15
Pavement is narrow, high volume of traffic	20
Pavement is too narrow, to provide bicycle lane, traffic and parking demand are heavy	25

_____ (25) Pedestrian

_____ (25) **Pathway**:

High parking demand on shoulder, low traffic volume, sidewalk/pathway currently available on one side	0
High parking demand on shoulder, high traffic volume, sidewalk pathway available on one side	5
Moderate parking demand on shoulder, low traffic volume, no existing sidewalk/pathway available	10
Low parking demand on shoulder, high traffic volume, low turning movements, no existing sidewalk/pathway	15
Low parking demand on shoulder, high traffic volume, high turning movements, no existing facilities	20
Ability to prohibit or no parking demand on shoulder, high traffic volume/turning movements, no existing facilities	25

_____ (25) **Sidewalk**:

Sidewalk separated pathway available, low traffic volume	0
Wide paved shoulder or pathway both sides, low traffic volume	5
Wide gravel/dirt shoulder four to eight feet wide one	

side, moderate traffic volume	10

SAFETY (Continued)

Sidewalk: (Continued)

Paved shoulder one to four feet wide present both sides, moderate traffic volume	15
No shoulder present on one side (must walk in vehicle lane), one to four feet other side, high traffic volume	20
No shoulder either side (must walk in vehicle lane), high traffic volume	25

_____ (25) **Crosswalk**:

Low pedestrian/traffic volume	0
Moderate pedestrian/traffic volume	10
Vulnerable population in proximity, moderate pedestrian/traffic volume	20
Vulnerable population in proximity, high pedestrian/ traffic volume; high number of ped. accidents	25

_____ (25) Roadway: *(Note: Rater can substitute documented accidents along proposed project for relative ranking in this category).*

Roadway meets design standards (site distance, curves, travel lane widths, shoulders, etc.); saturated development (95 to 100% developed) feeding roadway	0
Roadway meets design standards; surrounding property mostly developed (50 to 95% developed)	5
Certain areas of the roadway below design standards, surrounding property mostly developed	10
Overall roadway is below design standards; surrounding property has significant undeveloped parcels with developable property (25 to 50% developed)	15
Certain areas of the roadway are potentially hazardous and substandard; surrounding property has significant undeveloped parcels	20
Overall roadway is potentially hazardous and substandard; high current or anticipated development (0 to 25% developed) will feed roadway	25

SAFETY (Continued)

_____ (25) Traffic Signal:

Accident Rate for Intersection

Not rated	0
0.25 accidents - 0.75 accidents/MEV	5
0.75-1.0 accidents/MEV	10
1.0 - 1.5 accidents/MEV	15
1.5 - 2.0 accidents/MEV	20
Greater than 2 accidents/MEV	25

_____ (25) Transit/HOV:

Not on an existing transit route, low need	0
Identified Transit route, high pedestrian/traffic volumes	25

_____ (15) 3. What is the degree of improvement proposed by the project compared to the existing condition(s). To determine, *After condition - Before condition = Number of points*; calculate total for all proposed project modes.

_____ (15) Bicycle:

No bike facilities available	0
Class III - no dedicated lane, but widened shoulder	5
Class II - on street, striped bike lane (5 feet wide)	10
Class I - separated trail	15

_____ (15) Pedestrian:

No pedestrian facilities available	0
Gravel shoulder (4 foot minimum)	5
Paved shoulder (4 foot minimum)	10
Sidewalk	12
Separated Trail	15

_____ (15) Crosswalk:

Unmarked crossing	0
Illuminated crossing/median island and warning signs	5
Traffic signal	10
Grade separation (under/overpass)	15

_____ (15) Roadway:

No existing roadway	0
Gravel/dirt roadway; no storm drainage	5
Existing paved roadway	10
Minimum roadway per zoning code	15

SAFETY (Continued)

_____ (15) Traffic Signal:

Stop sign controlled	0
No separate turn phases	5
Protected/permissive turns	10
Protected turns only	15

_____ (15) Transit/HOV:

No transit facilities available	0
Increases safety for transit	15

_____ (10) 4. Does the proposed project maintain or enhance the safety of the following modes?

	Positive impact enhances (2.5) (1)	No impact neutral (0)	Negative Impact inhibits/reduces	Total
Bicycle	_____	_____	_____	_____
Pedestrian	_____	_____	_____	_____
Vehicular	_____	_____	_____	_____
Transit/HOV	_____	_____	_____	_____

_____ (25) 5. Does the proposed project provide access for a vulnerable population (i.e. park, elementary school, mobility challenged, wheelchairs, retirement homes, hospital, Boys & Girls Club, Senior Center)?

No surrounding facilities will access	0
Facility within 8 to 15 blocks (½ to 1 mile)	5
Facility within 4 to 8 blocks (¼ to ½ mile)	10
Facility within 4 blocks (¼ mile)	15
One facility accessed directly	20
More than one facility accessed directly	25

_____ (15) 6. Does the proposed project maintain or enhance the emergency vehicle network?

Inhibits/reduces	0
Maintains or neutral	8
Enhances	15

SAFETY (Continued)

_____ VALUE SCORE
(100 max)

x .20 VALUE WEIGHT

_____ VALUE TOTAL

STEIGER\98TPE.DOC:RTS\ln

From: Jeff Trager [mailto:jtrager@comcast.net]
Sent: Sunday, September 21, 2008 2:14 PM
To: David Godfrey
Cc: KirklandCouncil
Subject: Sidewalks for school walk routes

I recently learned that the city staff has dropped School Walk Routes within ¼ mile of elementary schools in Kirkland as the top priority for sidewalks. This comes as a great shock and surprise because I know that residents and City Council have expressed again and again that School Walk Routes are the number one priority for sidewalks in Kirkland. A study commissioned by the city reported that survey participants agreed overwhelmingly that sidewalks around schools are the most important.

I want to express my support for reinstating the School Walk Routes within ¼ mile of elementary schools, as identified by the School Walk Route Advisory Committee, as the top priority for sidewalks in the City of Kirkland. We need to protect these most vulnerable residents of our city. As the days shorten and we begin the season of dark, wet mornings when our kids are walking side-by-side with cars on their way to school, we remember the accidents that have happened in these conditions and renew our efforts to prevent them from happening again!

Sincerely, Kaylee Nilan

-----Original Message-----
From: Margaret Carnegie [mailto:carnegiema@netzero.com]
Sent: Tuesday, September 23, 2008 9:59 AM
To: KirklandCouncil
Subject: sidewalks
Dear Council Members,

At the North Rose Hill Neighborhood Association meeting on September 15th, David Godfrey gave a presentation on sidewalks. We wanted information on sidewalks, as the lack of sidewalks was one of the major concerns expressed by the residents in a recent neighborhood survey. Mr. Godfrey made the statement, as I understood it, that sidewalks in school areas no longer have the top priority rating that they used to have.

Presuming that I did hear him correctly, I want to state that I strongly believe that safe walking routes to schools should have the highest priority. We need to care for the children in our city and one way to do that is to provide safety to and from school. I believe that should be all levels of schools, but I would put elementary schools at the top of the list as those children are the most vulnerable.

Thank you for your time and I'm trusting your dedication to the children of Kirkland in your decision making.

Sincerely,
Margaret Carnegie
11259 126th Ave. N.E.
Kirkland, WA 98033

From: TennysonKK@aol.com [mailto:TennysonKK@aol.com]
Sent: Wednesday, September 24, 2008 7:31 PM
To: David Godfrey; KirklandCouncil
Subject: Sidewalks
As one who has volunteered to serve on two sidewalk advisory committees, I'm disheartened to be informed through a neighborhood email that the City of Kirkland has removed from their priority list sidewalks within 1/4 mile of schools. It is especially discouraging to think that the city would take this action without talking with the neighborhood associations first.
Please reconsider this action, school walkways was the most popular item when the survey was done for the potential sidewalk bond. It would be great if we could not only restore the priority of 1/4 mile within schools, but increase it to 1/2 mile. This is an investment in our future.
Thanks,
Karen Tennyson
12617 N. E. 87th Place
Kirkland, WA 98033

From: James McElwee [mailto:jandlmcwee@msn.com]
Sent: Sunday, September 21, 2008 10:12 PM
To: jandlmcwee@msn.com
Cc: Kari Page
Subject: Sidewalks Near Schools--Urgent Message
To: KAN Reps and Neighborhood Activists
If you see merit in my message, please forward it or your own version of it to your neighborhood people and especially to folks you know who are active in the PTSAs in your neighborhood.
This message has not been reviewed by any KAN committee. I am doing this of my own volition because there is nothing higher in my priorities than our children. I hope you agree and will pass on your comments to the City Staff and City Council.
Jim McElwee

Sidewalks Near Schools
I learned earlier in the week that the City staff have dropped sidewalks around elementary schools as the top priority for sidewalks. It appears that the staff is not using “within 1/4 mile of schools” as a top priority for sidewalks. To my knowledge the change was made without consulting the Neighborhoods and possibly without consulting the City Council.
If sidewalks close to schools are a top priority for our Neighborhoods and our City, we need to press the City staff hard on the issue of sidewalks around elementary schools. For our most vulnerable population, we have let school kids slip back into the multi-page prioritization list that we determined several years ago was not working adequately.
The City is seeking public input on a revision to the non-motorized transportation plan. I would like to see out residents, and maybe our Neighborhood Associations, send a strong message that sidewalks around elementary schools must be the City's top priority. Our expressions can go a long way to raising the issue that the policy appears to have changed without notice. To get the most responses, it is often best to draft a message that expresses the issues and encourage the writer to personalize their message.
Some talking points that I just pulled out of my head. Personalize your message by using these points or others that are relevant—
Dark mornings and rainy evenings are already upon us.
Even the best drivers sometimes suffer from unclear windshields and headlight glare.
A child wearing non-reflective clothing is very difficult to see, even within the headlight cone.
Drivers are more distracted than ever as they rush to jobs or school drop-offs.
Our children are not safe walking on the edge of the street. Sidewalks are where they belong.

It's the right thing to do.
Our children don't have a choice in this situation, but we do as residents, parents, citizens. We need to make the safety of our children the highest priority we can achieve.

From: Kristin Stone [mailto:kristin_stone@hotmail.com]
Sent: Thursday, October 09, 2008 9:58 AM
To: KirklandCouncil; David Godfrey
Subject: sidewalks on NE 80th Street (Rose Hill)

Kirkland City Council,

I am a resident of Redmond, but our local elementary school, Rose Hill Elementary, is just across the Kirkland-Redmond border. Every weekday, we walk our 1st grader to school, and enjoy the safety of the recently completed Redmond sidewalks all the way up 80th Street. Once we cross into Kirkland, however, there is a marked difference in the sidewalk situation. On the South side of NE 80th Street, there is no continuous sidewalk. Only houses that have been built very recently include a sidewalk, which are nice looking, but not useful when there is no continuity. (The North side of the street has a sidewalk, but it is blocked in one section with a giant mailbox in that protrudes nearly to the bushes, and people often walk into the street to get around it.)

Kids walk on this street on their way to and from Rose Hill Elementary, Lake Washington High School, and Rose Hill Junior High. It is currently a very unsafe situation for pedestrians, as 80th is a major route to and from I-405. Not to mention all the teenage drivers from the high school.

I really appreciate Kirkland's dedication to safe crosswalks at frequent intervals, which we could use more of in Redmond. The Kirkland police also does a good job of ticketing speeding cars on NE 80th. But the Kirkland sidewalks are not up to par in Rose Hill. With all the schools in the vicinity, it ought to be a priority to improve them.

Thanks,

Kristin Stone

From: Kim Lowe [mailto:Kim.Lowe@microsoft.com]
Sent: Monday, October 06, 2008 10:44 PM
To: David Godfrey
Cc: KirklandCouncil
Subject: Sidewalks Around Schools

Dear Mr. Godfrey:
I recently heard that the City has dropped sidewalks around elementary schools as a top priority for sidewalk projects. I write to strongly encourage a reconsideration. I'm particularly concerned about the corner of 12th Street and 110th Ave, which is right behind Peter Kirk Elementary school. This is a terribly narrow and blind corner, and on more than one occasion I've nearly been struck by cars speeding around it. Since I moved to Kirkland three years ago, I have pleaded with the school and the city to install a sidewalk around this corner, and I've been told it's on the plan for 2010. Not soon enough in my mind, but I'd be troubled and outraged to know it's now been removed from the plan.

Please, for the kids in our community, make sidewalks around schools a top priority.

Regards, Kim Lowe

From: Mari Bercaw [mailto:maribercaw@hotmail.com]
Sent: Monday, October 06, 2008 10:30 AM
To: David Godfrey
Cc: KirklandCouncil; hyer_bercaw@hotmail.com
Subject: sidewalks

Hi!

I emailed a few weeks ago and just wanted to be sure you got my input regarding sidewalks in Kirkland. Plus I would like to urge the City Council and Parks department to keep sidewalks near schools a priority.

I looked over the sidewalk map and it appeared to me that the map shows sidewalks for both sides of the street along 7th Ave between 3rd St and 112th Ave NE. There is a sidewalk on parts of 7th Ave, but many place on both sides of the street do not have a sidewalk or maybe there was a sidewalk, but now it is just rubble (near the lot with lots of trucks, east of the car wash). I think 7th Ave should be a priority because it is a much nicer street to walk on than 85th and does have a lot of sidewalks completed, but definitely not entirely.

Let me know if you've received this or if you have any questions.

Sincerely,
Mari Bercaw
425-803-0285

From: Megan Hayton [mailto:mhayton@msn.com]
Sent: Sunday, October 05, 2008 10:27 PM
To: David Godfrey; KirklandCouncil
Subject: Sidewalks

Hi there

My name is Megan Hayton, and I am a resident of the City of Kirkland.
The Rosehill PTSA sent a notice to us, on how "the City of Kirkland is moving away from giving priority to sidewalks projects around elementary schools – without asking for public comment".
Is this true? I hope not.
I am a parent of three small children. On the non-rainy days I walk my kindergartner to/from school, and push my 2 year old twins in a double jog stroller.
We wish that there were more sidewalks along 130th Avenue, between 71st and 80th, to make this journey safer.

These are not great economic times, and I am sure there are many tough choices to be made regarding sidewalks & safety.

It was awesome to see a sidewalk installed on 116th (between 60th and Old Red) where I run!
Hopefully over time, there will be opportunity for more sidewalks near Rose Hill Elementary.

Thanks
Megan Hayton

From: cynthia smith [mailto:c.l.smith@comcast.net]
Sent: Sunday, October 05, 2008 2:19 PM
To: David Godfrey; KirklandCouncil
Subject: Sidewalks and elementary schools

I understand that the city staff has removed as a priority the installation of sidewalks near to elementary schools - is this correct?

If so, this is a foolish move that puts the lives of children at risk, and will do nothing to decrease the number of cars carrying parents who drive a very short distance to ensure that their children arrive home safely.

Cindy Smith

October 21, 2008 **D R A F T**

Dear Concerned Citizen

Thank you for your interest and recent input regarding School Walk Routes in the City of Kirkland. We want to assure you that the City continues to operate under the same prioritization criteria that were developed as a part of a community process and approved by Council in 1998. In other words, all things equal, a higher priority continues to be given to an identified school walk route (SWR). This emphasis has been supported by citizens, various committees, PTSA's, and the City Council over the years and remains an essential part of the rating criteria.

In 1995, the Council adopted a set of 'ad-hoc' criteria which were developed by a citizen advisory committee for evaluating and prioritizing transportation projects. These ad-hoc criteria, also known as the Transportation Project Evaluation, were then used in the City's Capital Improvement Program for two years to prioritize all of the proposed transportation projects. After two full CIP prioritization processes, the Council reconvened the original committee to ascertain whether or not the resulting CIP projects reflected the desired outcome of the committee. After looking at the projects that were being funded in the CIP, the committee concluded that the projects did not provide enough recognition for a SWR. As a result, the committee recommended, and the Council approved, a modification to the criteria in May of 1998; the criteria would give additional points to sidewalk project proposals on identified SWR's.

These modifications were included in the Transportation Project Evaluation process and are used by staff to rate non-motorized projects for placement on the priority list and ultimately in the CIP. In addition, the Transportation Project Evaluation was included in the City of Kirkland's Non-Motorized Plan adopted in 2001 by the City Council and remains the City's published criteria.

In further support of the City's continued commitment to providing projects along SWR, in October of 2000 the Council created a School Walk Route Committee including residents, parents, the School District and others. In May of 2002 after numerous meetings, discussions, open houses and interaction with the various schools, the Council approved their recommendations. These recommendations included:

- Build $1 M worth of priority SWR projects identified by each school
- Allow other identified SWR's to compete in the CIP process using the rating process *(described earlier)*
- Explore possibility of a Sidewalk Bond
- Collect on concomitant agreements

The priority SWR projects were constructed at each of seven elementary schools by the Fall of 2002, and other routes continue to be evaluated in the CIP process. The Sidewalk Bond was not undertaken after a further study.

Currently staff and the City's Transportation Commission are working through an update of the City's Non-Motorized Transportation plan (this is the first update since 2001). The updated NMT Plan will provide the framework for the next few years of the non-motorized network in the City of Kirkland. During the community outreach and update of the NTM Plan, staff and the Commission are looking at the

prioritization of non-motorized improvements and are examining other approaches/evaluation criteria to consider. Other approaches, and or evaluation criteria, being looked at during this update process are being introduced at various open houses, on the City's web-site, and at the Transportation Commission meetings. Feedback and input received from the community is being considered in the final decision on the prioritization process.

Your input on the current or any future approaches is valued and appreciated. The update process will continue through this year, and we welcome your comments and assure you that staff will consider your input as they develop the criteria, project lists, network, and programmatic elements of the Plan.

If you have other thoughts or ideas, please contact David Godfrey, Public Works Department at 425.587.3865 or dgodfrey@ci.kirkland.wa.us. Information regarding the status of the NMT Plan and information on the existing 2001 Plan is located on the City of Kirkland Public Works Department website at www.ci.kirkland.wa.us.

Sincerely,

Kirkland City Council

By: James L. Lauinger, Mayor

Cc: David Godfrey, P.E., Transportation Engineering Manager
Ray Steiger, P.E., Capital Projects Manager

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Tracey Dunlap, Director of Finance and Administration

Date: October 7, 2008

Subject: Kirkland Tax Burden Study Update

At the August 5, 2008 City Council meeting, the Council directed staff to update the Tax Burden Study with the assumed tax rate increases that will occur in 2009 and 2010 and show the impact of alternate business tax amounts. The attached memorandum from Berk and Associates summarizes the results. The full draft of the Tax Burden study report can be found as part of the August 5 packet on the City's website at: http://www.ci.kirkland.wa.us/__shared/assets/10a_NewBusiness9454.pdf .

The consultants will be in attendance at the October 21 City Council meeting to discuss the Tax Burden Study and this supplemental information.

BERK & ASSOCIATES

Strategic and financial planning • Public finance
Policy development • Facilitation

ATTACHMENT A

MEMORANDUM

DATE: October 13, 2008

TO: Tracey Dunlap, City of Kirkland

FROM: Michael Hodgins

RE: **Tax Burden Implications of Proposed New Taxes**
Addendum to Tax Burden Study

The following memorandum provides an assessment of how the proposed changes in City tax policy would likely affect the distribution of tax burden. The analysis was conducted using the updated City Tax Burden Study as a baseline estimate of the tax burden for a number of representative taxpayers in the City of Kirkland. The following proposed tax policy changes were evaluated:

- Increase the utility taxes on public utilities from 7.5% to 10.5%.
- Increase the utility taxes on private utilities from 6% to 7.5% (would require a public vote to implement)
- Increase the property tax levy by using the remaining banked levy capacity (would add approximately $145,000 to the City property tax collections)
- Replace the current business license surcharge with a per employee fee structure:
    - Current structure includes a $100 License fee plus:
        - $125 – businesses with a single employee
        - $225 – businesses with 2-5 employees
        - $750 – businesses with 6-20 employees
        - $1,500 – businesses with 21-100 employees
        - $2,500 – businesses with more than 100 employees
    - New structure would combine the current $100 License fee with a surcharge of $90 per employee

To analyze the impact of these proposed changes, we used the estimate of the current tax burden (2008) for the each of the representative taxpayers and estimate how these tax burdens would change assuming the new policies were in effect in 2008.

The results of this analysis are presented in **Exhibit 1**. The table shows, for 2008, the total tax burden for each of the representative taxpayers, the City of Kirkland burden, City share of total tax burden and the per capita City burden, where per capita is per resident for residential taxpayers and per job for commercial taxpayers. The impacts are shown in terms of what the City tax burden would have been if the new taxes were in place in 2008, both in terms of total City burden and per capita. The final portion of the table shows the change in estimated City taxes resulting from the change in tax policy and how these changes compare with the total tax burden (taxes to all jurisdictions).

Exhibit 1
Impact of Proposed City Tax Policy Changes
Comparison of 2008 Estimated Tax Burden with and without Proposed Changes

	2008 Actual Tax Budens				Impact of Proposed Tax Changes			
	Total Tax Burden	City Tax Burden	City Share of Total Burden	City Burden per Capita	City Tax Burden, new taxes	City per Capita, new taxes	Change in City Taxes	% Change in Total Burden
Single Family HH	12,433	1,869	15%	**692**	2,048	**758**	179	1.4%
Condo HH	7,625	1,120	15%	**747**	1,227	**818**	107	1.4%
Apartment HH	3,865	648	17%	**499**	733	**564**	85	2.2%
Home Business	1,213	347	29%	**347**	323	**323**	-24	-2.0%
Grocery	123,803	14,079	11%	**217**	21,377	**329**	7,298	5.9%
Auto Dealer	323,648	18,448	6%	**246**	27,196	**363**	8,749	2.7%
Furniture Store	14,476	2,926	20%	**418**	3,233	**462**	307	2.1%
Electronics Store	25,055	3,223	13%	**403**	3,680	**460**	458	1.8%
Restaurant	55,630	12,296	22%	**216**	18,079	**317**	5,783	10.4%
Big Box Retailer	287,333	55,705	19%	**338**	80,988	**491**	25,283	8.8%
Engineering Firm	196,241	11,346	6%	**258**	15,208	**346**	3,861	2.0%
Office, Large	411,744	35,826	9%	**239**	51,603	**344**	15,777	3.8%
Office, Medium	182,545	11,346	6%	**258**	15,208	**346**	3,861	2.1%
Office, Small	36,974	3,065	8%	**307**	3,534	**353**	468	1.3%

The following are some general observations regarding this analysis:

- Not surprisingly, the impacts of the proposed changes would be disproportionally felt by the commercial taxpayers in the City. This is a function of two key factors:
  - All of the proposed changes will affect commercial taxpayers
  - The residential taxpayers would be unaffected by the proposed changes in the business license fee structure
- The impacts on the residential taxpayers would come from the utility and property tax changes and would result in an overall tax burden increase of between 1.4% and 2.2%.
- In dollar terms, the impacts to the residential taxpayers would be largest to the single family household; however the total increase in tax burden would be less than 2%. This is a result of the fact that the utility tax is the primary source of new tax burden, while the property tax is the largest portion of the single family tax burden.
- Earlier this year, City staff estimated that the proposed changes would result in an increase of $9.65 per month for the average Kirkland household. The tax burden study is based on an updated set of assumptions for the household characteristics in the 2001 Tax Burden Study, which breaks representative households down into different types (single family, condos and

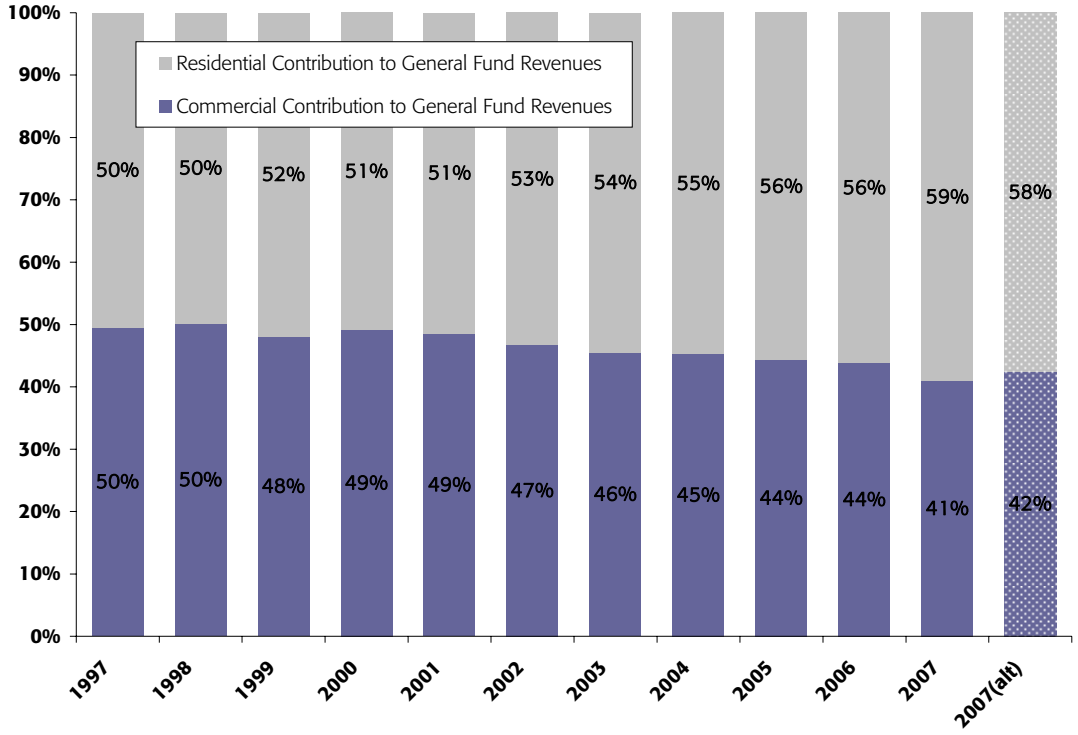
apartments). Based on these household types, the average monthly impact would vary from $7.07 per month to $14.91 per month. This range is attributable to variations in assessed values and utility purchases by household types, which can vary widely based on household incomes, household size and the size of the housing unit.

- The impacts are not uniformly distributed among the representative commercial taxpayers, with larger businesses experiencing the larger dollar increases in taxes. This is a function of the much more progressive business fee structure that is proposed. The impact on total tax burden of these changes on commercial taxpayers would range from -2% to 10%.
- The analysis suggests that one impact of the proposed changes is to reduce the variation among commercial taxpayers when you consider the local tax burden on a per employee basis. Currently the range is quite wide with the highest almost twice as high as the lowest (a low of $216 per employee to a high of $418 per employee). The result of the proposed changes is to reduce that gap almost in half, with the highest now only about 50% higher than the lowest ($317 per employee versus $491 per employee). Having a smaller range in this tax burden metric can be viewed as improving the equity of the local tax code, since the number of employees is one of the factors in the relative demand for local government services.
- The overall impact on tax burdens would vary widely from a net decrease in burden for a home based business to an increase of approximately 10% for a restaurant. This is a function of adding a per employee tax into an overall business tax structure in this state which is focused primarily on purchases (sales tax of which over 90% goes to other state and local agencies) and gross revenues (the state's B&O). As a result, businesses with relatively low gross sales per employee will see relatively higher percent changes in their overall tax burden.
- The analysis above focuses on a single option for the business license surcharge ($100 fee plus $90 per employee). A variant of this proposal has been discussed which would increase the per employee charge to $100. The effect of this change on the tax burden assessment would be to increase the total tax burden for all commercial taxpayers an additional 0.2% to 1.0%.

Another area of interest regarding the proposed tax policy changes is the effect these changes might have on the overall tax contribution shares for residential and commercial. In the 2008 Tax Burden Study update, there was an assessment of the relative contributions of the residential and commercial components of the City's tax base. This analysis was added to more fully flesh out the issue of where the City's taxes come from, since it is possible for a group of taxpayers to have a relatively low tax burden individually, while at the same time these taxpayers cumulatively make a very large contribution to City revenues (assuming that there are many of these types of taxpayers).

The implications on the overall contribution shares for residential and commercial were evaluated using the last year of actual tax collections (2007) and comparing how total tax revenues might be affected if the new policies had been in place at that time. **Exhibit 2** presents the results of this analysis. The chart is an updated version of the contribution assessment chart used in the 2008 Tax Burden Study with one more "year" added. The last column shows the how the estimate of shares for 2007 collections would have changed under the proposed policies.

Exhibit 2
Impact of Proposed City Tax Policy Changes
Estimated Impact on Total Contribution Shares for Residential and Commercial



The analysis suggests that the resulting contribution shares would be shifted slightly toward the commercial tax base. Importantly, however, even with this shift, the commercial share would still have been lower than all previous years studied. This is largely consistent with the finding above, which noted that the commercial taxpayers would be affected by all of the proposed changes, while the residential tax payers would experience three of the four proposed changes. The following are some general observations regarding the potential impact on the contribution shares:

- The overall impact of the proposed changes on the contribution shares is relatively balanced due to the fact that 65% of the new revenues are coming from the utility and property tax changes. Because of the size of the City's residential tax base, it contributes 70% of the utility taxes and 83% of the property taxes. So increases in these taxes will result in higher relative contributions from the residential base.
- The proposed changes to the business surcharge would obviously fall exclusively on the commercial base. So when the overall effects of the proposed changes are evaluated together, the contribution shares of the net increase in taxes would be 54% residential and 46% commercial.
- Since the proposal is somewhat more balanced than the overall contribution shares in 2007 (54%-46% versus 59%-41%) the analysis suggests that the changes would have had the effect of marginally making the overall shares more balanced.

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Marilynne Beard, Assistant City Manager

Date: October 8, 2008

Subject: INTERLOCAL AGREEMENT FOR JAIL SITING ENVIRONMENTAL IMPACT STATEMENT

RECOMMENDATION:

City Council approve the attached resolution authorizing the City Manager to sign an agreement between the cities of Kirkland, Seattle, Bellevue, Redmond and Shoreline for the purpose of conducting an environmental impact study for potential regional jail sites.

BACKGROUND:

The City of Kirkland has been participating in regional jail planning activities through JAG (the Jail Advisory Group). The JAG was first formed after the 2002 renegotiation of the King County Jail Services contract which calls for a phased reduction in cities' misdemeanant prisoners. The current agreement ends on December 31, 2012 which is the date that all city misdemeanants must be housed in alternate facilities. The JAG provided an organizational structure for coordinating the contract for alternate jail beds with Yakima County and to plan for new local jail beds that would be needed when the King County contract expired.

The full JAG represents thirty seven King County cities and includes an oversight committee composed of elected officials from each city (the Jail Oversight Assembly). A jail needs study was completed in 2006 which identified a total projected 20-year bed need of 1,450 for all JAG cities. In 2007, the cities split into two groups for jail planning purposes. The south county cities formed "SCORE" to plan for and construct a jail facility to serve their needs. The remaining north and east cities formed the NECC group to plan for and construct a jail facility to serve their needs estimated at 640 beds. The five principle cities that represent over 90% of the bed needs include Seattle, Bellevue, Kirkland, Redmond and Shoreline. These five cities have taken the lead on planning for a jail facility to serve the twenty three north and east cities. Phase one of a feasibility study was completed that compared the cost/benefit of constructing two separate facilities (440 beds for Seattle and 200 beds for the remaining cities) versus one 640-bed facility. The study concluded that significant cost efficiencies could be achieved by constructing one facility. The study also identified site evaluation criteria and provided estimated per diem (daily bed) rates. The primary cities agreed to move forward with one 640-bed facility.

The next step is to identify potential sites and to conduct environmental impact statements (EIS) for each site. A number of potential sites in the NECC area are in the process of being screened based on the criteria provided in the phase one feasibility study (including four sites previously announced by the City of Seattle). Finalist sites will be announced in early November and will become the focus for the EIS study.

The attached agreement provides the structure and guidelines for the joint project:

- Designates Seattle as the nominal lead agency for the EIS and identifies the cities of Bellevue, Kirkland, Redmond and Shoreline as co-lead agencies. The ILA includes a provision for other NECC cities to join as co-lead agencies and provides procedures for cities to withdraw from the ILA.

- Sets forth Seattle's responsibility as nominal lead agency including responsibility for public noticing, coordination of contracts for the EIS, pre-design work and public outreach.

- Establishes a time frame, budget, and cost allocation formula for the project and billing procedures.

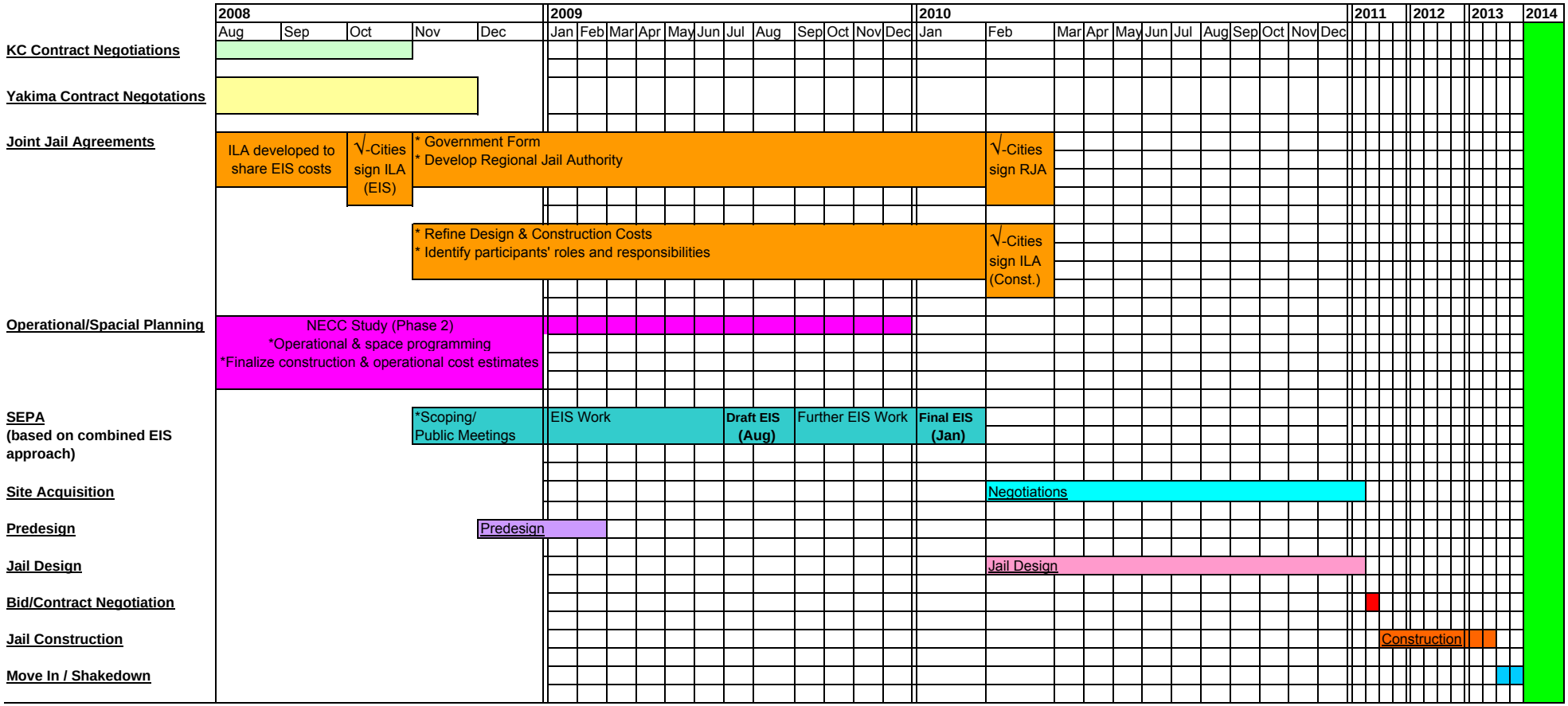
- Defines the decision-making structure for jail site selection, contractor selection and amendments to the ILA.

At this point, Kirkland's share of the EIS and related work is estimated at $192,687 with the expectation that the costs will be paid from the proceeds of the JAG property sale which is scheduled to close in January. The JAG property was transferred from King County to the cities as part of the 2002 King County jail contract. The formula for distributing the proceeds was previously determined by the Jail Oversight Assembly. Kirkland's share of the property proceeds is estimated at $344,000. If for any reason the property does not close by the time the first payment is due (end of the first quarter of 2009), then the cities will need to use other available resources which could be later reimbursed from the property proceeds.

Time has become a critical issue in the jail planning process. The pre-design and EIS work must begin now in order to have a facility operational by the end of 2013. The cities are currently negotiating with King County for a contract extension that will provide beds through 2013 to allow adequate time to complete the new jail project. A timeline is included as Attachment A that shows the general timeline and critical path for assuring that local misdemeanant jail beds are available in the future. Approval of the resolution by the each of five principle cities is needed at this time so that the EIS work can proceed.

NECC JAIL PLANNING TIMELINE (Assuming 1 Year Contract Extension with King County)

Attachment A



RESOLUTION R-4729

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO SIGN THE SEPA NOMINAL LEAD AGENCY AGREEMENT BETWEEN THE CITY OF KIRKLAND AND THE CITIES OF BELLEVUE, REDMOND, SEATTLE, AND SHORELINE.

WHEREAS, the Cities of Kirkland, Bellevue, Redmond, Seattle, and Shoreline (Principal Cities) have determined that they will collectively study a new misdemeanant jail with a capacity of approximately 640 beds, which is estimated to be sufficient to serve their anticipated needs along with the needs of 18 other cities in northeast King County (Northeast Cities); and

WHEREAS, the Principal Cities believe that the reasonable alternatives for construction of a new jail may include sites in several different jurisdictions; and

WHEREAS, the Principal Cities have conducted a preliminary review and analysis of their respective needs and of the general feasibility of a regional jail serving the Northeast Cities compared to other options; and

WHEREAS, the Principal Cities desire to provide a mechanism for interlocal cooperation with respect to environmental review of the reasonable alternatives for the actions necessary to establish a new jail under the State Environmental Policy Act (SEPA) and its implementing regulations;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City the SEPA Lead Agency Agreement between the City of Kirkland and the cities of Bellevue, Redmond, Seattle, and Shoreline substantially similar to the Agreement attached hereto as Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2008.

Signed in authentication thereof this _____ day of _____, 2008.

_____
MAYOR

Attest:

_____
City Clerk

R-4729
Exhibit A

SEPA NOMINAL LEAD AGENCY AGREEMENT

This Agreement is made initially among The City of Bellevue; The City of Kirkland; The City of Redmond; The City of Seattle; and The City of Shoreline (each of which is referred to as a "Principal City"). Other cities may become Parties by amendment as provided in this Agreement.

Recitals:

The Principal Cities have determined that they will collectively study a new misdemeanant jail with a capacity of approximately 640 beds, which is estimated to be sufficient to serve their anticipated needs and the anticipated needs of the other Northeast Cities, listed on Exhibit A.

The Principal Cities believe that the reasonable alternatives for construction of a new jail may include sites in several different jurisdictions.

The Principal Cities have conducted a preliminary review and analysis of their respective needs and of the general feasibility of a regional jail serving the Northeast Cities compared to other options.

The Principal Cities desire to establish their respective roles and obligations, and to provide a mechanism for interlocal cooperation, with respect to environmental review of the Proposal (as defined below) under the Washington State Environmental Policy Act and its implementing regulations, and certain related activities.

Agreement

In consideration of the mutual promises herein, it is mutually agreed as follows:

1. Definitions.

The following capitalized terms used in this Agreement have the meanings set forth in this Section:

Co-Lead City: Each Principal City except Seattle.

DEIS: Draft Environmental Impact Statement for the Proposal under SEPA.

FEIS: Final Environmental Impact Statement for the Proposal under SEPA.

Northeast Cities: All of the cities listed on Exhibit A to this Agreement, which is incorporated herein by this reference.

Participating City: Any Northeast City that is added to this Agreement by amendment, so long as it remains a Party.

Parties: As of any time, the "Parties" include all Principal Cities and any other Northeast Cities that then shall have become Participating Cities by amendment as set forth in this Agreement, except that "Parties" shall not include any Northeast Cities that then shall have withdrawn from this Agreement.

Principal Cities: The City of Bellevue; The City of Kirkland; The City of Redmond; The City of Seattle; and The City of Shoreline, in each case so long as it remains a Party.

Proposal: The reasonable alternatives for the actions necessary to establish a new jail with capacity to serve the Northeast Cities, within the range of alternatives identified by the Principal Cities for study in accordance with this Agreement.

SEPA: The Washington State Environmental Policy Act and its implementing regulations.

Site: A potential location for a regional jail to serve the Northeast Cities.

Working Day: A day that is not a Saturday, Sunday, or City of Seattle holiday.

2. Co-Lead Agencies.

Each Principal City is a co-lead agency for the Proposal as permitted pursuant to WAC 197-11-944. Seattle is designated the nominal lead agency for the Proposal. Each Principal City shall have responsibility, in reliance on the work of consultants and experts retained by Seattle under this Agreement, for content of environmental documents. Seattle's "responsible official" shall have the duty to determine the adequacy of the FEIS under SEPA.

3. Designated Representatives; Committees; Proposal; Sites.

A. Each Principal City has designated, below its signature on this Agreement, the name, title, address and electronic contact information for: (i) a staff representative who will serve as the primary contact person for purposes of this Agreement; and (ii) the official(s) authorized to approve matters under this Agreement for that city, subject to any limitations on that authority imposed by the official's city. A Principal City may designate, by written notice to all Parties, an alternate staff representative or official to act instead of the designated person if that person is unavailable. A Principal City may designate the same person for both of the purposes identified in this subsection. A Principal City may change the designated person for either of these purposes by written notice to all Parties.

B. The Proposal to be analyzed in a Draft Environmental Impact Statement ("DEIS") shall include alternative Sites for constructing a jail with up to 640 beds. The Principal Cities shall cooperate to identify a reasonable number and range of reasonable alternatives. The list of alternatives to be analyzed shall include those unanimously agreed to by the Principal Cities.

C. After publication of the DEIS and the opportunity for public comment, the Parties shall consult as to identification of a preferred alternative and as to the alternatives to be included in the FEIS. Consensus shall be the preferred method to select a preferred alternative. Designation of a preferred alternative shall require approval of at least three Principal Cities, which must include (i) Seattle, and (ii) any Principal City where the preferred alternative would be located. If no proposed preferred alternative obtains such approval, the FEIS may be issued without a preferred alternative.

4. Seattle Responsibilities.

A. Seattle shall designate a single staff person who will serve as the primary point of contact between Seattle and the other cities. Seattle will also designate a back-up staff person who will serve as the point of contact if primary lead staff is unavailable.

B. As the nominal lead agency, Seattle shall be responsible for the following SEPA activities with respect to the Proposal:

(i) providing all notices required by SEPA and Seattle ordinances and regulations, and any additional notice requirements under ordinances and regulations of the Co-Lead Cities that are identified by Co-Lead Cities by written notice to Seattle;

(ii) holding public meetings required by SEPA;

(iii) providing required opportunities to comment on SEPA documents;

(iv) causing the preparation of environmental documents required by SEPA;

(v) making all filings and publications required by SEPA;

(vi) defending any administrative and/or court challenge to the adequacy of the environmental documents, subject to the terms of this Agreement; and

(vii) identifying the actions, as defined in SEPA, that would be necessary to establish a jail at each Site, except for actions under the planning documents, ordinances or regulations of local jurisdictions other than Seattle.

C. Seattle shall contract with consultants, architects, and others for the preparation of the DEIS, FEIS and related technical reports and for the other work contemplated by the estimated budget attached hereto as Exhibit B. The Parties acknowledge that Seattle, in accordance with its authorized contracting procedures, has entered into a contract with Blumen Consulting dated 6/18/08, and a contract with Keller Group dated 4/9/08, copies of which have been made available to the Parties, and that the costs of these contracts, as they may be amended, are included in the costs allocable under this Agreement. Seattle shall solicit, consistent with State law, the services of an architectural firm for predesign work on alternative Sites to be studied under this Agreement, and after approval of the selection under Section 6 of this Agreement shall contract with a selected firm for the performance of such work consistent with the determinations as to the scope and coverage of the DEIS and FEIS pursuant to Section 6.

D. Seattle further agrees, with respect to circulation of drafts of SEPA documents, to:

(i) provide each Co-Lead City a draft of the scoping notice 15 working days prior to issuance;

(ii) issue the scoping notice only with the approval required in Section 6;

(iii) provide the Parties with a draft of the proposed DEIS and supporting technical memoranda and discipline reports prior to issuance of the DEIS;

(iv) coordinate any comments or requested changes to the proposed DEIS from the Parties that are received within 15 Working Days after the proposed DEIS was sent to the Parties, and bring the comments and requested changes to the Co-Lead Cities for discussion and recommendation;

(iv) issue the DEIS only after approval as required under Section 6, except that the published DEIS may include corrections and changes not so approved and not previously provided to the Parties if they do not fundamentally alter conclusions in the DEIS and do not materially change information with respect to any Site;

(v) provide the Parties with copies of comments received on the DEIS;

(vi) provide the Parties a draft of the proposed FEIS, including its technical memoranda and discipline reports and response to DEIS comments;

(vii) coordinate any comments or requested changes to the proposed FEIS from the Parties that are received within 10 Working Days after the proposed FEIS was sent to the Parties, and bring the comments and requested changes to the Co-Lead Cities for discussion and recommendation;

and

(viii) issue the FEIS, and any supplement or addendum to the FEIS, only after approval under Section 6, provided that the published FEIS and any supplement or addendum may include corrections and changes not so approved and not previously provided to the Parties if they do not fundamentally alter conclusions in the FEIS and do not materially change information with respect to any Site.

E. Seattle shall provide the Parties with an estimated schedule consistent with the time periods in subsection D of this Section.

F. Any other provision notwithstanding, if the Principal Cities determine that the FEIS shall be part of a phased review, then Seattle shall not have any obligations under this Agreement for any phase after the FEIS.

5. Co-Lead City Responsibilities.

Each Co-Lead City agrees that it shall:

A. Review the draft scoping notice and provide comments or notify Seattle of its approval within 5 Working Days of receipt of the draft;

B. Review preliminary draft discipline reports and technical memoranda and provide comments to Seattle within 15 Working Days;

C. Review preliminary drafts of a DEIS or portions thereof, and any supplement or addendum thereto, and provide comments or approval within 15 Working Days;

D. Review drafts of a FEIS or portions thereof, and any supplement or addendum thereto, and provide comments or approval within 10 Working Days;

E. Promptly provide access to data and studies reasonably available to the Co-Lead City with respect to any Site within its boundaries, and promptly provide the cooperation of experts on the staff of relevant city departments, to Seattle and to consultants; and

F. Identify, and consult with Seattle and consultants with respect to, (i) all actions, within the meaning of SEPA, that would be required of the Co-Lead City for purposes of participating in a regional jail project or for purposes of permitting the construction of a jail on any Site within that city that is included in the DEIS, and (ii) all notice requirements under the ordinances and regulations of that city.

Any other provision notwithstanding, if the Principal Cities determine that the FEIS shall be part of a phased review, then the Co-lead Cities shall not have any obligations under this Agreement for any phase after the FEIS.

6. Approvals.

A. Except as otherwise stated in this Section, the approval of at least three Principal Cities, one of which must be Seattle, is required and is sufficient for any of the following:

(i) issuance of the determination of significance and scoping notice;

(ii) determination of whether and to what extent SEPA review for the Proposal will be phased, and of the types of impacts to be analyzed in detail in the DEIS and FEIS;

(iii) issuance of the DEIS, and any supplement or addendum to the DEIS;

(iv) issuance of the FEIS, and any supplement or addendum to the FEIS;

(v) any decision with respect to the settlement of any appeal or with respect to action to be taken upon any adverse decision or remand resulting from any appeal;

(vi) amendments adding Participating Cities as Parties to the Agreement; and

(vii) selection of an architectural firm for predesign work.

B. If at any time there shall be three or fewer Principal Cities that remain Parties to this Agreement, the approval of two Principal Cities, one of which must be Seattle, shall be necessary and sufficient for any of the actions listed in subsection A of this Section.

C. Approval for designation of a preferred alternative in the FEIS is governed by subsection 3C of this Agreement.

7. Budget; Costs and Reimbursements.

A. Each Party agrees to contribute to the costs incurred by Seattle for SEPA analysis, review and compliance for the Proposal, and the related predesign and planning work, including the costs for consultants, architects and others as listed in the estimated budget attached as Exhibit B, and including the costs of appeals to the extent provided in Section 8 of this Agreement. The fractional share the total costs allocated to each Party shall be the average of (i) the ratio of that Party's city population to the total city populations of all Parties (as determined by the estimates available from the State Office of Financial Management), and (ii) the ratio of that Party's average daily city misdemeanor jail population in 2005 through 2007 to the average daily city misdemeanor jail population in 2005 through 2007 of all Parties. City population estimates for April 2008 shall be used. The Parties' percentage shares and estimated costs are shown in the following table, subject to modification under subsection B of this Section:

	Cost share based on Combined City Pop. & Jail ADP	
Cities	%	$
Bellevue	11.9%	$395,436
Kirkland	5.8%	$192,687
Redmond	5.9%	$196,284
Seattle	69.4%	$2,299,827
Shoreline	6.9%	$229,586
Total[1]	100%	$3,313,821

B. If any Participating City is added to this Agreement by amendment, then Seattle shall prepare and distribute to the Parties a new schedule of percentages, with the Participating City added and the percentages revised consistent with subsection A of this Section. Each Participating City shall be obligated for its share of cumulative costs, including those incurred before it becomes a Party, unless otherwise expressly agreed by all Parties at the time such Participating City is added to the Agreement.

C. The Parties agree to the initial budget attached as Exhibit B to this Agreement and incorporated by this reference. Seattle may make reallocations among budget line items in Exhibit B and may allocate the contingency line item to any other line items, without approval from other Parties, but any increase in the total budget shall require unanimous approval of the Principal Cities. The attached budget is based on the assumption that sufficient work would be done to identify and analyze any probable significant adverse environmental impacts of all of the agency "actions," within the meaning of SEPA, that would likely be required in order to construct a regional jail at any one of multiple Sites, so that the FEIS would not contemplate a

[1] (Percentages do not foot due to rounding.)

further phase of review after final selection of a Site. If, instead, the Principal Cities approve a phased review with a more limited scope of the FEIS, it is expected that actual costs allocated under this Agreement in some line items would be lower, but this Agreement would not cover any later phase of SEPA review or its costs.

D. Within 30 days after the end of each calendar quarter beginning with the first quarter of 2009, Seattle shall provide to each other Party a reasonably detailed invoice with an accounting of the costs that Seattle has incurred for the purposes set forth in this Agreement within the last quarter and cumulatively, together with any revised budget and a calculation of the payments needed from other Parties to allocate the total costs incurred for such purposes according to this Section. The first such invoice shall include costs incurred in 2008. Each other Party owing money according to that calculation shall make payment to Seattle no later than 45 days after receiving the invoice.

E. Within 90 days after termination of this Agreement, Seattle shall distribute a final accounting to the Parties. Each other Party owing money according to that calculation shall make payment to Seattle no later than 45 days after receipt of the final accounting, and to the extent any Party is entitled to reimbursement for any overpayment, Seattle shall make payment to the Party no later than 60 days after the date of the final accounting, provided that Seattle shall not be required to advance funds owed by another Party.

8. Appeals.

A. Unless otherwise provided by applicable law then in effect, any timely appeals of the adequacy of the FEIS and compliance with applicable SEPA procedural requirements shall be heard by the Seattle Hearing Examiner pursuant to Seattle Municipal Code Section 25.05.680. Seattle shall have sole responsibility to defend the adequacy of the FEIS, as to the actions covered by the FEIS, in any administrative appeal to the Seattle Hearing Examiner, or if for any reason the Hearing Examiner does not have jurisdiction of an initial appeal, then in any initial appeal before a court or other administrative tribunal with jurisdiction, to the extent such appeal relates to the adequacy of the FEIS or compliance with the applicable SEPA procedural requirements. The costs of such defense, including without limitation costs of in-house attorneys, outside counsel if deemed necessary by Seattle, staff support and costs of experts, shall be considered costs allocable hereunder. Any further appeal of a decision by a hearing examiner, other administrative body or trial court on the adequacy of the FEIS is outside the scope of this Agreement. Subject to the execution of a satisfactory common interests and confidentiality agreement, Seattle shall keep the Co-lead Cities reasonably informed of the status of the appeal and shall consult with them regarding any major decisions.

B. Any administrative appeal or court challenge to a substantive action, including without limitation a change in development regulations or project permit decision, whether or not joined with a challenge to be defended under subsection A and whether or not involving issues of SEPA compliance or exercise of SEPA authority, is outside the scope of this Agreement.

9. Effectiveness; Additional Parties; Termination; Withdrawal of a Party.

A. This Agreement will become effective upon signing and delivery of the Agreement by all Principal Cities, as set forth in Section 13 of this Agreement.

B. Any Northeast City may become a Participating City under this Agreement by amendment approved under Section 6, without need for action of the legislative bodies of the existing Parties. Participating Cities will not have authority over decisions under this Agreement, but will have the same rights and responsibilities for review and comment on draft documents as Co-Lead Cities.

C. This Agreement shall remain in effect until the FEIS, and any supplements or addenda to the FEIS that may be required as a result of any proceeding before the Seattle Hearing Examiner, have been issued, and either the time for any appeal of Seattle's decision on the adequacy of the FEIS shall have expired or a final decision on an appeal of that determination, in which Seattle has responsibility for defense under Section 8A of this Agreement, shall have been issued by the Hearing Examiner or by a court or other administrative tribunal with jurisdiction to hear an initial appeal on the adequacy of the FEIS. The provisions of Section 7 of this Agreement for final accounting and reimbursements shall remain in effect until fully performed.

D. Any Party, may, upon thirty (30) days written notice to the other Parties, withdraw from this Agreement, without cause.

E. If a Co-Lead City or Participating City withdraws from this Agreement, then it shall remain in effect among the remaining Parties.

F. The withdrawing Party, as of the date of termination, shall not have any rights of a Party, or of a Principal City or Co-lead Agency, under this Agreement, and no consent of that Party shall be required for any purpose under this Agreement. The withdrawing Party is released from any obligation to perform its obligations pursuant to the Agreement, except as set forth in this Section 9.

G. Any Party that withdraws from this Agreement shall remain obligated for its share of costs allocable under this Agreement that are incurred through the date of termination of this Agreement.

H. If a Co-Lead City withdraws from the Agreement, any Site in that city shall remain among the alternatives for the Proposal unless and until the remaining Parties unanimously agree otherwise, and the withdrawing Party shall remain obligated to cooperate in providing information required for environmental review with regard to that Site.

I. If Seattle withdraws from this Agreement, then this Agreement shall terminate on the effective date of withdrawal.

10. Remedies.

Except as provided in Sections 7 and 8 above, this Agreement shall not result in any monetary liability, in damages or otherwise, from any Party to another. No Party shall be liable for any damages to, or costs incurred by, other Parties resulting from any actual or alleged error, misstatement or omission in any SEPA document or related to any SEPA process, or any ruling regarding failure to comply with SEPA, whether or not the result of the negligence of a Party. Except for monetary obligations under Sections 7 and 8 of this Agreement, any suit to enforce the terms of this Agreement or any obligation under this Agreement shall be limited to equitable remedies not involving payment of money.

11. Dispute Resolution.

A. Except for matters resolved under Section 6, in the event of a dispute between the Parties regarding this Agreement, the Parties shall attempt to resolve the dispute informally.

B. If the dispute involves a claimed breach of this Agreement and the Parties are not able to resolve the dispute informally, then the Party may bring suit against the other Party in King County Superior Court.

C. As an alternative to the above, the Parties may agree in writing to mediation, or some other alternative dispute resolution process.

12. Notices.

The Parties' addresses for notices under this Agreement shall be the physical and electronic addresses of the primary contacts as set forth below the signature of each Party on this Agreement or on the amendment adding that Party, as the case may be, in each case until a Party shall have provided written notice of substitute primary contact information to the other Parties hereunder.

Notice and copies of documents may be provided by email, and if so provided shall be effective on the day received if received on a Working Day by 5:00 PM Pacific time, and if later then effective on the next Working Day. If provided by U.S. mail, any notice or other communication shall be effective on the second Working Day after deposit in the U.S. mail, postage prepaid, addressed in accordance with this Section.

13. Counterparts.

This Agreement may be executed in counterparts, each of which shall constitute an original and which together shall constitute a single agreement, and shall be binding and effective when each Principal City has signed at least one counterpart that has been delivered to the Seattle Department of Fleets and Facilities, regardless whether all Principal Cities shall have signed the same counterpart. Any amendment adding a Participating City may be executed in counterparts, each of which shall constitute an original and which together shall constitute a single

amendment, and shall be binding and effective when each Principal City and the Participating City being added each has signed at least one counterpart that has been delivered to the Seattle Department of Fleets and Facilities, regardless whether all of them shall have signed the same counterpart.

14. Severability.

If any provision of this Agreement shall be held by a court to be invalid or unenforceable, or if this Agreement or a provision hereof shall be held by a court not to be binding or enforceable against a particular Party, then the remaining provisions, or the provisions hereof as applied to all other Parties, as the case may be, shall remain in full force and effect. To the extent that the obligation of any Party to contribute to costs as described herein shall be finally determined by a court to be invalid or unenforceable, that Party's share of costs shall be reallocated among the remaining Parties in proportion to their respective shares under this Agreement.

15. Entire Agreement, Modification.

This Agreement is the entire agreement of the Parties with respect to SEPA matters involving the Proposal. This Agreement does not supersede, and unless expressly so agreed in writing shall not be affected by, any other agreement among any of the Parties regarding any aspects of the Proposal other than SEPA matters. This Agreement may be modified only by written agreement of all Parties, but any written agreement affecting only the rights and obligations as among two or more Principal Cities shall be valid without agreement of any other Parties.

16. No Partnership.

This Agreement does not establish any partnership or joint venture, nor authorize any Party to incur a liability or obligation binding on another Party or Parties.

17. Miscellaneous.

A. This Agreement is for the benefit only of the Parties, and shall not give rise to any claim or remedy for any other person.

B. Nothing in this Agreement shall delegate, diminish or modify the statutory or regulatory authority of the Parties.

C. Time is of the essence of the terms of this Agreement.

[signature pages follow]

THE CITY OF BELLEVUE, a
Washington municipal corporation

By: _____ Date: _____, 2008

Name: _____

Title:_____

Primary contact (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate contact (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____
Authorized official (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate authorized official (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____

R-4729
Exhibit A

THE CITY OF KIRKLAND, a
Washington municipal corporation

By: _____ Date: _____, 2008

Name: _____

Title:_____

Primary contact (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate contact (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____
Authorized official (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate authorized official (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____

THE CITY OF REDMOND, a
Washington municipal corporation

By: _____ Date: _____, 2008

Name: _____

Title:_____

Primary contact (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate contact (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____
Authorized official (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate authorized official (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____

THE CITY OF SEATTLE, a
Washington municipal corporation

By: _____ Date:_____, 2008

Name: _____

Title:_____

Primary contact (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate contact (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____
Authorized official (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate authorized official (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____

THE CITY OF SHORELINE, a
Washington municipal corporation

By: _____ Date: _____, 2008

Name: _____

Title:_____

Primary contact (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate contact (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____
Authorized official (required): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____	Alternate authorized official (optional): Name:_____ Title:_____ Address:_____ _____ phone:_____ fax:_____ email:_____

Exhibit A

The Northeast Cities for purposes of this Agreement are:

- Beaux Arts
- Bellevue
- Bothell
- Carnation
- Clyde Hill
- Duvall
- Hunts Point
- Issaquah
- Kenmore
- Kirkland
- Lake Forest Park
- Medina
- Mercer Island
- Newcastle
- North Bend
- Redmond
- Sammamish
- Seattle
- Shoreline
- Skykomish
- Snoqualmie
- Woodinville
- Yarrow Point

Exhibit B

Estimated Budget

Work	Total
Environmental Site Assessment (Phase 1 & II)	$120,000
Geotechnical Site Consultation (Phase I & II)	$275,500
Wetlands Survey	$20,000
SEPA/EIS	$375,000
Traffic Study	$125,000
Predesign (Architect - for EIS analysis)	$1,000,000
Architectural (spatial) Programming	$250,000
Phase II of the NECC Study (Jail Program Plan)	$114,792
Communications & Public Outreach	$350,000
Jail Operations Expert	$75,000
Capital Project Manager	$116,000
Staff Coordinator	$22,000
Legal Review	$200,000
CONTINGENCY (@ 10% of consultant costs)	$270,529
Total Costs under the EIS ILA:	**$3,313,821**

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Eric R. Shields, AICP, Planning Director
Lauri Anderson, AICP, Consultant

Date: October 6, 2008

Subject: STATE ENVIRONMENTAL POLICY ACT (SEPA), LAND SURFACE MODIFICATION (LSM), AND COTTAGE HOUSING CODE AMENDMENTS, FILE NO. ZON08-00007

RECOMMENDATION

Adopt three ordinances reflecting the recommendations from the Planning Commission regarding the SEPA, LSM and Cottage Housing Code Amendments project, File No. ZON08-00007.

BACKGROUND DISCUSSION

File No. ZON08-00007 contains three sets of amendments:

1. Amendments to the Municipal Code to reorganize and update the City's State Environmental Policy Act (SEPA) rules.
2. Amendments to both the Zoning and Municipal codes to consolidate a number of City regulations that address land surface modification (LSM), or grading and clearing. Currently, rules are found in the Zoning Code, Building Code and Public Works standards. A new Municipal Code title, Title 29, is recommended to clarify these rules, eliminate inconsistencies, and put all standards in a single place to be used by multiple departments.
3. Amendments to both the Zoning and Municipal codes to clarify parts of the Cottage Housing rules adopted last year. Ordinance 4120 allowing for "cottage, carriage and two/three unit homes" was adopted in December of 2007. Over the past six months, staff has become aware of the need for a number of minor edits to the regulations, including language to ensure that development on sites with sensitive areas is consistent with Zoning Code Chapter 90 (Drainage Basins).

The Planning Commission held a public hearing on these changes on July 31 and their recommendation memo is enclosed as Exhibit 1. Their meeting packet can be found at http://www.ci.kirkland.wa.us/depart/Planning/Planning_Commission.htm. The minutes and audio-recordings of the public hearing are available at

http://www.ci.kirkland.wa.us/depart/Planning/Planning_Commission/Planning_Commission_Meetings_Online.htm.

The Houghton Community Council reviewed the changes in a study session on June 23, 2008 and decided not to hold a public hearing on them. Minor changes suggested by the Houghton Community Council were incorporated into the amendments prior to the Planning Commission hearing. The Houghton Community Council's meeting packet can be found at http://www.ci.kirkland.wa.us/depart/Planning/Houghton_Community_Council_Meeting_Information.htm and the minutes and audio-recordings of their meeting can be reviewed at http://kirkland.granicus.com/ViewPublisher.php?view_id=16.

Information about the amendments was provided to the neighborhood associations, the Chamber of Commerce, and the Kirkland Developers Partnership Forum. The City's web page included a description of the project along with links to the proposed amendments. One person spoke at the public hearing, expressing concerns about cottage housing and two/three-unit homes in general.

Highlights of the amendments include:

SEPA

- Eliminate SEPA review for many minor projects in seismic, erosion and landslide hazard areas. (See Section 24.02.070.)
- Broaden public notice of SEPA determinations. (See Section 24.02.160.)
- Clarify who may participate in the SEPA appeals process. (See Section 24.02.230.)

As the proposed ordinance would adopt the revised SEPA chapter in its entirety, it is difficult to determine actual changes to existing text using only Attachment A to the ordinance. The best source for viewing these changes is Attachment 1 to the July 31 Planning Commission packet (see http://www.ci.kirkland.wa.us/depart/Planning/Planning_Commission.htm). In this version, the underline/strike-out format is used to show additions and deletions to existing text, and explanatory notes are added.

LSM

- Add new purpose and intent language (See Section 29.04.010.)
- Revise permit exemptions. (See Section 29.12.010.)
- Add new criterion for the minor landscaping LSM exemption stating that such work may not result in an increase or decrease in topography at any point of more than 4'. (See Section 29.12.010.c.)
- Add new requirement for land surface modification using the emergency exemption so that it is brought to the City's attention within 7 days after the action at which time the City may require an after-the-fact permit and/or mitigation. Adjoining property-owners and residents also would be notified of the action as requested by the Planning Commission. (See Section 29.12.020.)

- Add new ability for City staff to require a geotechnical report for any LSM permit and/or require third party review of a geotechnical report. (See Sections 29.16.020 and 29.16.030.)
- Add new approval criteria about maintaining stability of structures and landforms either on-site or on adjacent properties, and compliance with the Public Works standards. (See Sections 29.20.050.b and 29.20.050.d.)
- Revise permit appeal and code enforcement processes. (See Sections 29.36.020 and 29.36.030.)

Cottage Housing

- Allow for inclusion of land area used for vehicular access easements in the lot area for cottage housing—the same way the City handles this issue for property not being subdivided (condominium divisions, for example). Without this change, subdivisions of property for cottage housing development might be discouraged.

SEPA review of the LSM and Cottage Housing portions of the proposal has been conducted. An Addendum to the 2004 Kirkland Comprehensive Plan Draft and Final Environmental Impact Statement was issued on July 14, 2008. The SEPA amendments, themselves, are categorically exempt from SEPA review, per Washington Administrative Code (WAC) Section 197-11-800(19). All SEPA materials are available in the official file, ZON08-00007, and copies are attached (see Exhibit 2).

Enclosures
Exhibit 1: Planning Commission Recommendation Transmittal Memo
Exhibit 2: Environmental Review Documents
Ordinance – SEPA, and Publication Summary
Ordinance – LSM, and Publication Summary
Ordinance – Cottage Housing, and Publication Summary

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Kirkland City Council

From: Kirkland Planning Commission Chair, Byron Katsuyama

Date: October 7, 2008

Subject: PLANNING COMMISSION RECOMMENDATION ON STATE ENVIRONMENTAL POLICY ACT (SEPA), LAND SURFACE MODIFICATION (LSM) AND COTTAGE HOUSING CODE AMENDMENTS, FILE NO. ZON08-00007

On behalf of the Planning Commission, I am pleased to forward to the City Council for your consideration a package of amendments to the Kirkland Zoning and Municipal Codes. The amendments cover three general areas: SEPA rule changes, consolidated land surface modification regulations, and minor amendments to the Cottage Housing regulations adopted last year.

The Planning Commission held a public hearing on the proposed amendments on July 31, 2008. The draft regulations we considered included changes recommended by the Houghton Community Council. The proposed amendments generated only one public comment and little controversy. Beyond minor changes to the proposed language, our discussion focused on the following two more significant topics:

1. Public notice of emergency exemptions to the Land Surface Modification rules (see Section 29.12.020). Staff's recommendation was that the City be notified in the event an emergency land surface modification action was taken so that an after-the-fact permit or mitigation could be required. The Planning Commission recommends that adjacent property-owners (including those who might be absent) and residents also be notified of the emergency action.

2. Clarification of "buildable area" for purposes of floor area ratio (FAR) calculations in the Cottage Housing rules (see Section 113.25 and revised FAR footnote). The staff recommendation stated that the "buildable area" of a site to be used for FAR calculations was to exclude sensitive areas and their buffers as described in Zoning Code Chapter 90, Drainage Basins. A second clause (subsection "b." of the footnote) stated that any time native growth protection easements (NGPEs) were present on the property, the "buildable area" could be limited to keep the FAR compatible with surrounding development. The Planning Commission was concerned that this language needed

clarification and, after discussion, recommends that subsection "b." be changed to state that only the area of NGPEs *for slopes* can be excluded.

Minor language changes made by the Planning Commission include:

- Make stylistic changes and define acronyms in the SEPA amendments;
- Rework the "fire hazard" discussion in Municipal Code Section 9.12.010 to simplify the reference to vegetation and to clarify that tree removal and/or pruning require a separate City authorization;
- Revise Section 29.12.010.c.1 in the LSM revisions relating to permit exemptions to reflect the minimum requirements for stormwater specified under the permit approval criteria set forth in Section 29.20.030; and
- Revise the minimum lot size language in Section 113.25 of the Cottage Housing rules to clarify that there is no required minimum lot size for cottage housing lots created through the subdivision process. Instead, the number of allowed units is determined by the density provisions.

At the conclusion of the public hearing, the Planning Commission gave staff direction on changes to the proposed regulations, and the amendments forwarded to you for consideration reflect our direction. Therefore, we recommend that the City Council adopt the proposed amendments.

Fact Sheet

Action Sponsor and Lead Agency	City of Kirkland Department of Planning and Community Development
Proposed Action	Legislative adoption of Miscellaneous Amendments to the Kirkland Zoning and Municipal Codes, pursuant to Chapter 160 KZC (Process IV).
Responsible Official	(Signed)_____ **Eric R. Shields, AICP** **Planning Director**
Contact Person	Nancy Cox, Development Review Manager, City of Kirkland (425) 587-3228 or Lauri Anderson, Planning Consultant, (206) 525-5240.
Required Approvals	Adoption by Kirkland City Council. Approval by Houghton Community Council for amendments within its jurisdiction.
Location of Background Data	File ZON08-00007 City of Kirkland Department of Planning and Community Development 123 Fifth Avenue Kirkland, WA 98033
Date of Issuance	7/14/08_____

City of Kirkland

Process IV Zoning and Municipal Code Amendments

EIS Addendum dated July 14, 2008

File No. ZON08-00007

I. Background

The City of Kirkland proposes to amend several provisions of the Kirkland Zoning Code (KZC) and Municipal Code (KMC) related to land surface modification (or clearing and grading) standards and Cottage Housing regulations. These amendments will be reviewed under Process IV, pursuant to Chapter 160 KZC, with adoption by City Council and final approval by the Houghton Community Council as the amendments are within their jurisdiction.

This Environmental Impact Statement (EIS) Addendum is intended to fulfill the environmental requirements pursuant to the State Environmental Policy Act (SEPA) for the proposed Zoning Code and Municipal Code amendments.

II. EIS Addendum

According to the SEPA Rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document (WAC 197-11-600(2). An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document (WAC 197-11-600(4)(c), -625 and –706).

The City published the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. This EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). Elements of the environment addressed in this EIS include population and employment growth, earth resources, air quality, water resources, plants and animals, energy, environmental health (noise, hazardous materials), land use, socioeconomics, aesthetics, parks/recreation, transportation, and public services/utilities.

This addendum to the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* is being issued pursuant to WAC 197-11-625 to meet the City's SEPA responsibilities. The EIS evaluated plan alternatives and impacts that encompass the same general policy direction, land use pattern, and environmental impacts that are expected to be associated with the proposed miscellaneous Zoning and Municipal Code amendments discussed herein. While the specific location, precise magnitude, or timing of some impacts may vary from those estimated in the *City of Kirkland 2004 Draft and*

Final Comprehensive Plan 10-year Update, they are still within the range of what was evaluated and disclosed there. No new significant impacts have been identified.

III. Non-Project Action

Decisions on the adoption or amendment of zoning ordinances are referred to in the SEPA rules as "non-project actions" (WAC 197-11-704(2)(b)). The purpose of an EIS in analyzing a non-project action is to help the public and decision-makers identify and evaluate the environmental effects of alternative policies, implementation approaches, and similar choices related to future growth. While plans and regulations do not directly result in alteration of the physical environment, they do provide a framework within which future growth and development – and resulting environmental impacts – will occur. Both the adoption of the Comprehensive Plan evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* and eventual action on the Zoning and Municipal Code amendments are "non-project actions".

IV. Environmental Analysis

The *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* evaluated the environmental impacts associated with adoption of proposed policies and land use designations. The plan's policies are intended to accomplish responsibilities mandated by the Washington State Growth Management Act (GMA), and to mitigate the impacts of future growth. In general, environmental impacts associated with the proposed Zoning and Municipal Code amendments are similar in magnitude to the potential impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. As this proposal is consistent with the policies and designations of the Comprehensive Plan and the environmental impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*, no additional or new significant impacts beyond those identified in the EIS for the Comprehensive Plan are anticipated.

V. Description of the Proposed Zoning and Municipal Code Amendments

The proposal would modify, add, and delete several provisions of the Zoning Code and Municipal Code related to land surface modification and cottage housing. The following Zoning and Municipal Code chapters would be affected:

<u>Zoning Code</u>

Ch. 1 – User Guide
Ch. 5 – Definitions
Ch. 30 – Waterfront District (WD) Zones
Ch. 50 – Central Business District (CBD) Zones
Ch. 52 – Juanita Business District (JBD) Zones
Ch. 60 – Planned Areas (PLA) Zones
Ch. 113—Cottage, Carriage and Two/Three-Unit Homes

Ch. 115 – Miscellaneous Use Development and Performance Standards

Municipal Code

Title 9 – Health and Sanitation
Title 21 – Buildings and Construction
Title 22 – Subdivisions
New Title 29 – Land Surface Modification

A summary of the proposed amendments is enclosed with this memo. As a result of the upcoming public hearing process, it is possible that some of the proposed amendments will not be adopted, and others may change slightly due to public input.

VI. Public Involvement

A study session was held with the Houghton Community Council on June 23, 2008. At that time, they decided not to hold a courtesy hearing on the amendments.

The Planning Commission will hold a hold public hearing on July 31, 2008 and will forward a recommendation to the City Council. The City Council likely will consider the recommendation in September 2008 and may take final action at that time. Houghton Community Council action would follow for amendments within their jurisdiction. Public notice of the amendments and the public hearings has been provided in accordance with State law. All dates are subject to change.

In addition, notice has been provided to Kirkland neighborhood associations, the Kirkland Chamber of Commerce, the Kirkland Developers' Partnership, and the general public. Information concerning the amendments has been posted on the City's website.

VII. Conclusion

This EIS Addendum fulfills the environmental review requirements for the proposed Zoning and Municipal Code Amendments contained in File No. ZON08-00007. The impacts of the proposal are within the range of impacts disclosed and evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*; no new significant impacts have been identified. Therefore, issuance of this EIS Addendum is the appropriate course of action.

Enclosure 1: Summary of Proposed Amendments

Enclosure 1

City of Kirkland
Summary of Zoning and Municipal Code Amendments
File No. ZON08-00007

ZONING CODE

Code Section(s)	Purpose of Amendment
1.10	Change reference to location of land surface modification standards.
5.10	Amend definition of land surface modification to exclude tree removal that is regulated by KZC Chapter 95.
30.17 30.27 and 30.37	Change reference to location of land surface modification standards.
50.20	Change reference to location of land surface modification standards.
52.35	Change reference to location of land surface modification standards.
60.18 60.28 and 60.173	Change reference to location of land surface modification standards.
Chapter 113	Revise chapter to provide greater clarity in the regulations, ensure that development on sites with sensitive areas is consistent with KZC Chapter 90 (Drainage Basins), ensure that common open space functions adequately, and clarify lapse of approval and subdivision standards.
115.75	Eliminate existing land surface modification standards.

MUNICIPAL CODE

Code Section(s)	Purpose of Amendment
9.12.010	Revise standards for removal of overhanging vegetation and fire hazards.
21.08.105 21.08.110 and 21.08.115	Eliminate existing land surface modification standards.
22.28.080	Allow inclusion of land area used for vehicular access easements in lot area for cottage housing.
Title 29	Add new title consolidating and revising land surface modification standards. Title includes definitions, permit exemptions, application requirements, approval criteria, development standards, and information on bonds and restoration, permit expiration, and appeals and enforcement.

ORDINANCE NO. 4150

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO STATE ENVIRONMENTAL POLICY ACT PROCEDURES AND POLICIES; REPEALING AND RE-ENACTING SECTION 24.02 OF THE KIRKLAND MUNICIPAL CODE (KMC); AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

WHEREAS, the City Council has received recommendations from the Kirkland Planning Commission and Houghton Community Council to amend certain sections of the text of the KMC, all as set forth in that certain report and recommendation of the Planning Commission dated October 7, 2008 and bearing Kirkland Department of Planning and Community Development File No. ZON08-00007; and

WHEREAS, prior to making its recommendation, the Kirkland Planning Commission on July 31, 2008 held a public hearing on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), adoption of agency SEPA procedures is categorically exempt from SEPA review pursuant to WAC 197-11- 800(19); and

WHEREAS, in regular public meeting the City Council considered the reports and recommendations of the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Municipal Code text repealed: Chapter 24.02 of the Kirkland Municipal Code is hereby repealed.

Section 2. Municipal Code text adopted: A new Chapter 24.02 of the Kirkland Municipal Code is hereby adopted to read as follows:

As set forth in Attachment A attached to this ordinance and incorporated herein by this reference.

Section 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. This ordinance shall be in full force and effect 90 days from and after its passage by the Kirkland City Council and publication pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 5. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 20__.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

ATTACHMENT A

Title 24

Chapter 24.02
SEPA PROCEDURES AND POLICIES

Sections:

Article I. Purpose—Authority

24.02.005 User guide.

Article II. General Requirements

24.02.010 SEPA process.
24.02.020 Designation of responsible official.
24.02.025 Environmental coordinator.
24.02.030 Use of environmental documents.
24.02.035 SEPA timing.
24.02.038 SEPA policies.

Article III. Definitions and Abbreviations

24.02.040 General—Definitions.
24.02.045 Definitions and abbreviations.

Article IV. Lead Agency

24.02.050 General—Lead agency.

Article V. Categorical Exemptions

24.02.060 General—Categorical exemptions.
24.02.065 Threshold levels for categorical exemptions.
24.02.070 Categorical exemptions in critical areas.
24.02.080 Critical areas maps adopted by reference.
24.02.090 Use of exemptions.

Article VI. Threshold Determinations

24.02.100 General—Threshold determinations.
24.02.110 Environmental checklist.
24.02.120 Mitigated DNS.

Article VII. Environmental Impact Statement

24.02.130 General—Environmental impact statement.
24.02.140 Preparation of EIS—Additional considerations.

Article VIII. Public Notice and Commenting

24.02.150 General—Public notice and commenting.
24.02.160 Public notice.
24.02.170 Optional DNS process.

Article IX. Planned Actions

24.02.180 General—Planned actions.

Article X. SEPA/Growth Management Act Integration

24.02.190 General—SEPA/GMA integration.

Article XI. SEPA/Model Toxics Control Act Integration

24.02.200 General—SEPA/MTCA integration.

XII. Using Existing Environmental Documents

24.02.210 General—Using existing environmental documents.

Article XIII. Appeals

24.02.220 General—Appeals.
24.02.230 Administrative appeals.
24.02.240 Judicial review.

Article XIV. Fees

24.02.250 General—Fees.
24.02.260 Fees.

Article XV. Forms

24.02.270 General—Forms.

Article I. Purpose—Authority

24.02.005 User guide.

This chapter contains the city's laws that implement the State Environmental Policy Act (RCW 43.21C). This chapter contains several references to Chapter 197-11 of the Washington

Administrative Code, which also implements the State Environmental Policy Act. At the beginning of each part of this chapter is a list of sections of the Washington Administrative Code, Chapter 197-11, that are adopted by reference. These WAC sections, as well as RCW 43.21C, should be consulted for complete information regarding SEPA.

Article II. General Requirements

24.02.010 SEPA process.

This article, Section 24.02.010 through Section 24.02.038, contains information on the basic requirements that apply to the SEPA process. The city adopts by reference the following sections of the WAC which contain related information:

197-11-055 Timing of the SEPA process;
197-11-060 Content of environmental review;
197-11-070 Limitations on action during SEPA process;
197-11-080 Incomplete or unavailable information;
197-11-090 Supporting documents;
197-11-100 Information required of applicants;
197-11-158 GMA project review—reliance on existing plans, laws and regulations;
197-11-238 Monitoring;
197-11-300 Purpose of this part;
197-11-650 Purpose of this part;
197-11-655 Implementation;
197-11-900 Purpose of this part;
197-11-902 Agency SEPA policies;
197-11-904 Agency SEPA procedures;
197-11-906 Content and consistency of agency procedures;
197-11-910 Designation of responsible official;
197-11-912 Procedures of consulted agencies;
197-11-916 Application to ongoing actions;
197-11-920 Agencies with environmental expertise.

24.02.020 Designation of responsible official.

For all proposals for which the city is the lead agency, the responsible official shall be the director of the department of planning and community development, or his/her designee. For these proposals, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the “lead agency” or “responsible official” by this chapter.

24.02.025 Environmental coordinator.

(a) The director of the Department of Planning and Community Development shall designate an employee of the city to act as

environmental coordinator. It shall be the responsibility of the environmental coordinator to:

(1) Assure that all SEPA-related city ordinances and policies are in compliance with corresponding regulations and policies at the state level;

(2) Assist all city departments in the interpretation and implementation of this chapter;

(3) Coordinate the review of and response to impact statements submitted to the city as a consulted agency by other governmental agencies;

(4) Be responsible for the city's compliance with WAC 197-11-550 whenever the city is a consulted agency. The environmental coordinator is authorized to develop operating procedures that will insure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city;

(b) In addition, the director of the department of planning and community development may designate one or more employees of the city to:

(1) Maintain all public information on SEPA;

(2) Assist the public with inquiries concerning environmental policy and other SEPA-related information;

(3) Determine whether or not a proposal is an exempt action, make certain the proposal is properly defined and identify the governmental licenses required (WAC 197-11-060);

(4) Review each environmental checklist submitted to the city and make a recommendation to the responsible official on each action or proposal;

(5) Coordinate the processing of appeals pursuant to Section 24.02.230 of this chapter;

(6) Coordinate the preparation and distribution of EIS's and SEIS's undertaken by the city or its consultant;

(7) Be responsible for preparation of written comments for the city in response to consultation requests prior to a threshold determination, scoping, and review of a draft EIS;

(8) Perform all other activities required to implement SEPA in the city except those performed by the responsible official or environmental coordinator.

24.02.030 Use of environmental documents.

For nonexempt proposals, the DNS or final EIS and SEIS for the proposal shall accompany the city's staff recommendation to the appropriate decision maker.

24.02.035 SEPA timing.

(a) If the city's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the city conduct environmental review prior to submission of detailed plans and specifications. A decision as to whether or not to do early environmental review, prior to receiving a complete application, shall be at the discretion of the responsible official.

(b) The responsible official may elect to do early environmental review if adequate information is available to determine the size and scope of the proposed action, including dimensions and use of all proposed improvements, project timing, and the extent of clearing and grading.

(c) The city may initiate preliminary environmental review and have informal conferences with applicants prior to receipt of a complete application. However, this review shall not be binding on the city or the applicant.

(d) Any request for early notice of whether or not a DS is likely under WAC 197-11-350 shall be in writing.

24.02.038 SEPA policies.

The city designates and adopts by reference the following policies as the basis for the city's exercise of authority pursuant to this chapter:

(1) The policies of the State Environmental Policy Act—RCW 43.21C;

(2) The most recent version of the Comprehensive Plan;

(3) The most recent version of the Zoning Code;

(4) The most recent version of the Zoning Map;

(5) The Kirkland Municipal Code (KMC), including but not limited to Title 15 (Water and Sewage), (Title 19 (Streets and Sidewalks), Title 21 (Buildings and Construction), Title 22 (Subdivisions), Title 24 (Environmental Procedures, including the Shoreline Master Program), Title 25 (Concurrency Management), and Title 28 (Landmarks);

(6) The design guidelines documents adopted under KMC Section 3.30.040.

(7) The perpetual six-year transportation improvement program established by KMC Section 19.08.051, including annual amendments;

(8) The City of Kirkland Natural Resources Management Plan 2003, as amended;

(9) The City of Kirkland Surface Water Master Plan 2005, as amended;

(10) The Lake Washington/Cedar/Sammamish Watershed (WRIA8) Chinook Salmon Conservation Plan;

(11) The most recent version of the City of Kirkland Sewer Comprehensive Plan;

(12) The most recent version of the Water Comprehensive Plan;

(13) The most recent version of the Non-Motorized Transportation Plan;

(14) The most recent version of the Park and Open Space Plan.

Article III. Definitions and Abbreviations

24.02.040 General—Definitions.

This article, Section 24.02.040 through Section 24.02.045, contains information on the usage and definition of terms under SEPA. The city adopts by reference the following sections of the WAC which contain related information:

197-11-040 Definitions;
197-11-220 SEPA/GMA definitions;
197-11-700 Definitions;
197-11-702 Act;
197-11-704 Action;
197-11-706 Addendum;
197-11-708 Adoption;
197-11-710 Affected tribe;
197-11-712 Affecting;
197-11-714 Agency;
197-11-716 Applicant;
197-11-718 Built environment;
197-11-720 Categorical exemption;
197-11-721 Closed record appeal;
197-11-722 Consolidated appeal;
197-11-724 Consulted agency;
197-11-726 Cost-benefit analysis;
197-11-728 County/city;
197-11-730 Decision maker;
197-11-732 Department;
197-11-734 Determination of nonsignificance (DNS);
197-11-736 Determination of significance (DS);
197-11-738 EIS;
197-11-740 Environment;
197-11-742 Environmental checklist;
197-11-744 Environmental document;
197-11-746 Environmental review;
197-11-750 Expanded scoping;
197-11-752 Impacts;
197-11-754 Incorporation by reference;
197-11-756 Lands covered by water;
197-11-758 Lead agency;
197-11-760 License;

197-11-762 Local agency;
197-11-764 Major action;
197-11-766 Mitigated DNS;
197-11-768 Mitigation;
197-11-770 Natural environment;
197-11-772 NEPA;
197-11-774 Nonproject;
197-11-775 Open record hearing;
197-11-776 Phased review;
197-11-778 Preparation;
197-11-780 Private project;
197-11-782 Probable;
197-11-784 Proposal;
197-11-786 Reasonable alternative;
197-11-788 Responsible official;
197-11-790 SEPA;
197-11-792 Scope;
197-11-793 Scoping;
197-11-794 Significant;
197-11-796 State agency;
197-11-797 Threshold determination;
197-11-799 Underlying governmental action.

24.02.045 Definitions and abbreviations.

(a) In addition to those definitions contained within WAC 197-11-220 and WAC 197-11-700 through 197-11-799, when used in this chapter, the following terms shall have the following meanings unless the context indicates otherwise:

(1) “City department” means any department of the city established by Chapter 3.16, Kirkland Municipal Code.

(2) “SEPA rules” means Chapter 197-11 WAC adopted by the Department of Ecology.

(3) “Complete application,” for the purposes of this chapter, means an application and supporting documentation which have been reviewed by the SEPA responsible official and other appropriate department(s) of the city and found to contain all information reasonably sufficient to evaluate the environmental impact of a proposal, based on standards developed by the city consistent with SEPA rules.

(4) “City” means the city of Kirkland.

(5) “Improvement” means any structure or manmade feature.

(6) “Recognized historical significance” means listed in the state or national register of historic places, designation as an historic landmark overlay zone, inclusion in the list of Historic Resources and Community Landmarks, Table CC-1 in the Comprehensive Plan.

(b) The following abbreviations are used in this chapter:
(1) “DEIS” means draft environmental impact statement.
(2) “DNS” means determination of nonsignificance.
(3) “DOE” means Washington Department of Ecology.
(4) “DS” means determination of significance.
(5) “EIS” means environmental impact statement.
(6) “FEIS” means final environmental impact statement.
(7) “GMA” means Growth Management Act.
(8) “KMC” means Kirkland Municipal Code.
(9) “LSM” means land surface modification.
(10) “MTCA” means Model Toxics Control Act.
(11) “NEPA” means National Environmental Policy Act.
(12) “RCW” means Revised Code of Washington.
(13) “SEIS” means supplemental environmental impact statement.
(14) “SEPA” means State Environmental Policy Act.
(15) “WAC” means Washington Administrative Code.

Article IV. Lead Agency

24.02.050 General—Lead agency.

This article, Section 24.02.050, contains information about determining lead agency for SEPA review. The city adopts by reference the following sections of the WAC which contain related information:

197-11-050 Lead agency
197-11-900 Purpose of this part;
197-11-922 Lead agency rules;
197-11-924 Determining lead agency;
197-11-926 Lead agency for governmental proposals;
197-11-928 Lead agency for public and private proposals;
197-11-930 Lead agency for private projects with one agency with jurisdiction;
197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city;
197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city; and one or more state agencies;
197-11-936 Lead agency for private projects requiring licenses from more than one state agency;
197-11-938 Lead agencies for specific proposals;
197-11-940 Transfer lead agency status to a state agency;
197-11-942 Agreements on lead agency status;
197-11-944 Agreements on division of lead agency duties;
197-11-946 DOE resolution of lead agency disputes;
197-11-948 Assumption of lead agency status.

Article V. Categorical Exemptions

24.02.060 General—Categorical exemptions.

This article, Section 24.02.060 through Section 24.02.090, contains information on the rules for categorical exemptions. The city adopts by reference the following sections of the WAC which contain related information:

197-11-305 Categorical exemptions;
197-11-800 Categorical exemptions;
197-11-880 Emergencies;
197-11-890 Petitioning DOE to change exemptions;
197-11-908 Critical areas.

24.02.065 Threshold levels for categorical exemptions.

WAC 197-11-800 establishes certain actions as exempt from SEPA. Under (1)(c) of that section, the city establishes raised levels of exemptions for the following types of actions as exempt from SEPA except as provided in WAC 197-11-305 and WAC 197-11-800(1)(a):

(a) The construction or location of any residential structures of nine or fewer dwelling units (WAC 197-11-800(1)(b)(i));

(b) Any landfill or excavation of five hundred or fewer cubic yards throughout the total lifetime of the fill or excavation, and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder (WAC 197-11-800(1)(b)(v)).

24.02.070 Categorical exemptions in critical areas.

WAC 197-11-908 establishes that the city may select certain categorical exemptions that do not apply in one or more critical areas. WAC 197-11-800 establishes that certain actions are not exempt if undertaken wholly or in part on lands covered by water. The following is a supplementary list of actions that while potentially categorically exempt, are not exempt if proposed in streams, lakes or wetlands:

(1) All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations. WAC 197-11-800(13)(c)

(2) The following natural resources management activities:

(a) Development of recreational sites, including campsites. WAC 197-11-800(24)(g)

(b) Periodic use of chemical or mechanical means to maintain a public park and recreational land. WAC 197-11-800(24)(h)

24.02.080 Critical areas maps adopted by reference.

The maps identifying the City's critical areas, as maintained and updated by the City's Department of Planning and Community Development, are adopted by reference as though fully set forth herein. The exemptions from SEPA that do not apply in streams, lakes or wetlands are stated in KMC 24.02.070.

24.02.090 Use of exemptions.

Each city department receiving an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the license and/or the proposal is exempt. The department's determination that a proposal is exempt shall be subject to review by the environmental coordinator or an individual designated under KMC 24.02.025(b). If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal.

Article VI. Threshold Determinations

24.02.100 General—Threshold determinations.

This article, Section 24.02.100 through Section 24.02.120, contains information for deciding whether or not a proposal has a "probable significant, adverse, environmental impact," and for evaluating the impact of proposals not requiring an EIS. The city adopts by reference the following sections of the WAC which contain related information:

197-11-310 Threshold determination required;
197-11-315 Environmental checklist;
197-11-330 Threshold determination process;
197-11-335 Additional information;
197-11-340 Determination of nonsignificance (DNS);
197-11-350 Mitigated DNS;
197-11-360 Determination of significance (DS)/initiation of scoping;
197-11-390 Effect of threshold determination;
197-11-660 Substantive authority and mitigation.

24.02.110 Environmental checklist.

For private proposals, the city will require the applicant to complete the environmental checklist, providing assistance as necessary. For city-initiated proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

24.02.120 Mitigated DNS.

(a) For a mitigated DNS, the applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibels" or "construct a 200-foot storm water retention pond at Y location" are adequate.

(b) Mitigation measures incorporated in the mitigated DNS are deemed conditions of approval of the permit decision and shall be enforced in the same manner as any term or condition of the permit, or enforced in any manner available to the city.

(c) If the city's final decision on a proposed action does not include the mitigation measures that were incorporated in a mitigated DNS for the proposal, the city shall reevaluate the threshold determination to insure that the DNS is still valid or determine if it should be withdrawn under WAC 197-11-340(3)(a).

Article VII. Environmental Impact Statement

24.02.130 General—Environmental impact statement.

This article, Section 24.02.130 through Section 24.02.140, contains information on the rules for preparing EIS's. The city adopts by reference the following sections of the WAC which contain related information:

197-11-400 Purpose of EIS;
197-11-402 General requirements;
197-11-405 EIS types;
197-11-406 EIS timing;
197-11-408 Scoping;
197-11-410 Expanded scoping;
197-11-420 EIS preparation;
197-11-425 Style and size;
197-11-430 Format;
197-11-435 Cover letter or memo;
197-11-440 EIS contents;
197-11-442 Contents of EIS on Nonproject Proposals;
197-11-443 EIS contents when prior Nonproject EIS;
197-11-444 Elements of the environment;
197-11-448 Relationship of EIS to other considerations;
197-11-450 Cost-benefit analysis;
197-11-455 Issuance of DEIS;
197-11-460 Issuance of FEIS.

24.02.140 Preparation of EIS—Additional considerations.

(a) The responsible official shall determine whether the draft, or final EIS, or SEIS will be prepared by the city or by a private consultant. If the action for which the EIS or SEIS is being prepared

is one proposed by a private applicant, and if the responsible official determines that the draft and final EIS or SEIS will be prepared by a private consultant, that consultant shall be selected in the manner prescribed by subsection (c) of this section.

(b) Regardless of who prepares the EIS, the responsible official shall insure that the EIS or SEIS is prepared in accordance with all applicable laws, regulations, and ordinances. The responsible official shall determine the elements of the environment to be included in the document through the scoping process described in this section.

(1) Whenever the city issues a DS under WAC 197-11-360(3), the city shall provide notice as prescribed in subsection (b) of Section 24.02.160 of this chapter and shall circulate copies of the DS to the applicant; agencies with jurisdiction and expertise, if any; affected tribes and the public.

(2) All comments on a DS and scoping notices must be in writing and received within twenty-one days from the date of issuance of the DS, except where a public meeting on EIS scoping occurs, pursuant to WAC 197-11-410(1)(b).

(c) If the responsible official determines that the EIS or SEIS is to be prepared by a consultant, the city shall enter into any necessary agreements with the applicant and the consultant in conformance with this chapter. The responsible official shall review the consultants recommended by the applicant and, if the responsible official finds one of the consultants suitable to prepare the EIS or SEIS, shall select that consultant for the preparation of the EIS or SEIS. In the event the responsible official does not find one of the consultants suitable to prepare the EIS or SEIS, he/she shall request the applicant to provide the names of additional consultants and/or interview additional consultants of the city's choosing.

(d) A consultant who prepares an EIS or SEIS for a proposal by a private applicant shall have no involvement in the proposed project other than the preparation of the EIS or SEIS.

(e) Cost of preparation of EIS:

(1) The applicant shall deposit with the city, the entire estimated cost of preparation of a draft and final EIS determined by the selected consultant within ten days of signing the agreement for preparation of those documents with the city and the consultant.

(2) If the city requires additional work beyond the terms of the agreement in order to complete the draft or final EIS or SEIS, the applicant shall deposit, with the city, the entire estimated cost of the additional work within ten days of signing an addendum to the agreement.

(3) The city will not authorize work on the draft or final EIS or SEIS until the applicant has made the required deposits.

(f) City review and processing:

(1) The applicant shall deposit with the city an amount for review and processing of the Environmental Impact Statement or SEIS as required by KMC 5.74.070.

(2) The city will not begin to review and process any EIS or SEIS until this deposit is received by the city.

(3) The city will send the applicant a monthly itemized billing for costs incurred in review and processing of an EIS or SEIS.

(4) If the amount deposited exceeds the cost of review and processing, the city will refund the excess to the applicant following issuance of the final EIS or SEIS.

(5) If the cost of review and processing exceeds the amount deposited, the applicant shall pay the full amount due within 30 days of receipt of an itemized billing by the city.

(6) The city will cease all work on the proposal, including review and processing of the EIS or SEIS, if the amounts due to the city have not been paid in full in the manner specified in this section.

(g) Before the city issues an EIS or SEIS, the responsible official shall be satisfied that it complies with this chapter and Chapter 197-11 WAC.

Article VIII. Public Notice and Commenting

24.02.150 General—Public notice and commenting.

This article, Section 24.02.150 through Section 24.02.170, contains rules for consulting, commenting and responding to environmental documents including rules for public notices and hearings. The city adopts by reference the following sections of the WAC which contain related information:

197-11-355 Optional DNS process;
197-11-500 Purpose of this part;
197-11-502 Inviting comment;
197-11-504 Availability and cost of environmental documents;
197-11-508 SEPA register;
197-11-510 Public notice;
197-11-535 Public hearings and meetings;
197-11-545 Effect of no comment;
197-11-550 Specificity of comments;
197-11-560 FEIS response to comments;
197-11-570 Consultant agency costs to assist lead agency.

24.02.160 Public notice.

(a) Whenever the city issues a DNS under WAC 197-11-340(2), or DS under WAC 197-11-360(3), the city shall give public notice by publishing notice in a newspaper of general circulation in the city where the proposal is located.

(b) Whenever the city issues a mitigated DNS for a site-specific proposal requiring installation of a public notice sign for the

underlying permit, the city shall give public notice by publishing notice in a newspaper of general circulation in the city where the proposal is located, by posting notice on the public notice sign for the underlying permit, and by mailing notice to those receiving mailed notice of the underlying permit.

(c) The responsible official may require notice by alternative methods, as specified in WAC 197-11-510, if deemed necessary to provide public notice of impending action.

(d) Whenever the city issues a draft EIS or SEIS under WAC 197-11-455(5) or WAC 197-11-620, notice of availability of those documents shall be given by:

(1) Posting the property for site-specific proposals, pursuant to the guidelines in (b) above; and

(2) Publishing notice in a newspaper of general circulation in the city; and

(3) Mailing notice for site specific proposals, pursuant to the guidelines in (b) above.

24.02.170 Optional DNS process.

The city may, pursuant to WAC 197-11-355, use a single, integrated comment period to obtain comments on a notice of application and the likely threshold determination for the proposal if the responsible official has a reasonable basis for determining that significant environmental impacts are unlikely. In the event that SEPA mitigation measures are proposed after the close of the integrated comment period, notice shall be given as required in KMC 24.02.160.

Article IX. Planned Actions

24.02.180 General—Planned actions.

This article, Section 24.02.180, contains information on planned actions. The city adopts by reference the following sections of the WAC which contain related information:

197-11-164 Planned actions—definition and criteria;

197-11-168 Ordinances or resolutions designating planned actions—procedures for adoption;

197-11-172 Planned actions—project review.

Article X. SEPA/Growth Management Act Integration

24.02.190 General—SEPA/GMA integration.

This article, Section 24.02.190, contains information on integrating SEPA and GMA actions. The city adopts by reference the following sections of the WAC which contain related information:

197-11-210 SEPA/GMA integration;

197-11-228 Overall SEPA/GMA integration procedures;
197-11-230 Timing of an integrated SEPA/GMA process;
197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping;
197-11-235 Documents.

Article XI. SEPA/Model Toxics Control Act Integration

24.02.200 General—SEPA/MTCA integration.

This article, Section 24.02.200, contains information on integrating SEPA and actions under the Model Toxics Control Act. The city adopts by reference the following sections of the WAC which contain related information:
197-11-250 SEPA/Model Toxics Control Act integration;
197-11-253 SEPA lead agency for MTCA actions;
197-11-256 Preliminary evaluation;
197-11-259 Determination of nonsignificance for MTCA remedial action;
197-11-262 Determination of significance and EIS for MTCA remedial actions;
197-11-265 Early scoping for MTCA remedial actions;
197-11-268 MTCA interim actions.

Article XII. Using Existing Environmental Documents

24.02.210 General—Using existing environmental documents.

This article, Section 24.02.210 contains information on using and supplementing the existing environmental documents prepared under SEPA or NEPA for the city's own environmental compliance. The city adopts by reference the following sections of the WAC which contain related information:
197-11-600 When to use existing environmental documents;
197-11-610 Use of NEPA documents;
197-11-620 Supplemental Environmental Impact Statement—Procedures;
197-11-625 Addenda procedures;
197-11-630 Adoption procedures;
197-11-635 Incorporation by reference procedures;
197-11-640 Combining documents.

Article XIII. Appeals

24.02.220 General—Appeals.

This article, Section 24.02.220 through Section 24.02.240, contains procedures for appealing SEPA determinations to

agencies or the courts. The city adopts by reference the following sections of the WAC which contain related information:
197-11-680 Appeals.

24.02.230 Administrative appeals.

(a) Appealable Decisions. Only the following decisions of the city are appealable under this section:

(1) The issuance of a determination of nonsignificance, including mitigation measures and conditions that are required as part of that determination of nonsignificance;

(2) The issuance of a determination of significance.

(b) Who May Appeal. Only the following may appeal:

(1) The applicant or proponent;

(2) Any agency with jurisdiction;

(3) Any individual or other entity who is specifically and directly affected by the proposed action.

(c) Time to Appeal.

(1) An appeal of a DNS must be filed with the environmental coordinator within fourteen days of the date the determination is issued by the responsible official.

(2) An appeal of a DS must be filed within seven days of the date it is published under Section 24.02.160 of this chapter.

(d) How to Appeal. The appeal must be in the form of a written notice of appeal, and must contain a brief and concise statement of the matter being appealed, the specific components or aspects that are being appealed, the appellant's basic rationale or contentions on appeal, and a statement demonstrating standing to appeal. The appeal may also contain whatever supplemental information the appellant wishes to include.

(e) Fees. The person filing the appeal shall include with the letter of appeal the fee as established by ordinance.

(f) Who Will Hear and Decide Upon the Appeal. Appeals of DNS's and DS's will be heard at the open record hearing for the underlying project permit and decided upon by the hearing body hearing the underlying project permit using the provisions of subsections (g), (h) and (i) of this section. In the event that a project permit does not include an open record public hearing, the SEPA appeal will be heard and decided upon by the hearing examiner using the provisions of subsections (g), (h) and (i) of this section unless the underlying project permit is a short subdivision that has been appealed to the city council pursuant to Section 22.20.245 of the Kirkland Municipal Code, in which case, the city council shall hear both the SEPA appeal and the appeal of the underlying project permit.

(g) Procedures for the Appeal.

(1) Notice of the Appeal Hearing.

(A) Content. The planning official shall prepare a notice of the appeal containing the following:

(i) The file number and a brief written description of the matter being appealed.

(ii) A statement of the scope of the appeal including a summary of the specific factual findings and conclusions disputed in the letter of appeal.

(iii) The time and place of the public hearing on the appeal.

(iv) A statement of who may participate in the appeal.

(v) A statement of how to participate in the appeal.

(B) Distribution. At least fourteen calendar days before the hearing on the appeal, the planning official shall send a copy of this notice to each person who received a copy of the threshold determination and any person who appealed the threshold determination.

(C) The notice of appeal may be combined with the hearing notice for the underlying project permit, if applicable.

(2) Participation in the Appeal. Only the applicant or proponent, City staff and persons who have appealed the threshold determination under subsection (b) of this section may participate in the appeal. These persons may participate in the appeal in either or both of the following ways:

(A) By submitting written testimony to the planning department within the timeline established by subsection (c) above.

(B) By appearing at the hearing and submitting oral or written testimony directly to the hearing body. The hearing body may reasonably limit the extent of the oral testimony to facilitate the orderly and timely conduct of the hearing.

(3) Staff Report on the Appeal.

(A) Content. The planning official shall prepare a staff report containing the following:

(i) The SEPA threshold determination.

(ii) All written comments submitted to the responsible official.

(iii) The letter of appeal.

(iv) All written comments on the appeal received by the planning department from persons entitled to participate in the appeal and within the scope of the appeal.

(v) An analysis of the specific factual findings and conclusions disputed in the letter of appeal.

(B) This report may be combined with the staff report on the underlying project permit, if applicable.

(C) Distribution. At least seven calendar days before the hearing, the planning official shall distribute copies of the staff report as follows:

(i) A copy will be sent to the hearing body hearing the appeal as specified under subsection (f) above.

(ii) A copy will be sent to the applicant.

(iii) Copies will be sent to the persons who filed appeals.

(4) Hearing on the Appeal.

(A) Hearing in General. The hearing body shall hold a public hearing on the appeal.

(B) Hearing Declared Open. The hearing of the hearing body is open to the public.

(5) Electronic Sound Recordings. The hearing body shall make a complete electronic sound recording of each hearing.

(6) Continuation of the Hearing. The hearing body may continue the hearing if, for any reason, it is unable to hear all of the public comments on the appeal or if it determines that it needs more information within the scope of the appeal. If, during the hearing, the hearing body announces the time and place of the next hearing on the matter, no further notice of that hearing need be given.

(h) Decision on the Appeal.

(1) General. The hearing body shall consider all information and material within the scope of the appeal submitted by persons entitled to participate in the appeal. The hearing body shall either affirm or change the findings and conclusions of the responsible official that were appealed. Based on the hearing body's findings and conclusions, it shall either:

(A) Affirm the decision being appealed; or

(B) Reverse the decision being appealed; or

(C) Modify the decision being appealed.

(2) Issuance of Written Decision. Within eight calendar days after the public hearing, the hearing body shall issue a written decision on the appeal. Within four business days after it is issued, the hearing body shall distribute the decision as follows:

(A) A copy will be mailed to the applicant.

(B) A copy will be mailed to the person who filed the appeal.

(C) A copy will be mailed to all other persons or agencies who participated in the appeal.

(i) Additional Appeal Procedures.

(1) The matters to be considered and decided upon in the appeal are limited to the matters raised in the notice of appeal.

(2) The decision of the responsible official shall be accorded substantial weight.

(3) All testimony will be taken under oath.

(4) The decision of the hearing body hearing the appeal shall be the final decision on any appeal of a threshold determination including a mitigated determination of nonsignificance.

24.02.240 Judicial review.

Judicial review of SEPA determinations are by RCW 43.21C.075 required to be heard only at the time of judicial review of the

underlying action, i.e. approval or disapproval of the proposal for which SEPA review was required. For rules on perfecting and timing of the SEPA determination and judicial appeal, see RCW 43.21C.075 and WAC 197-11-680(4). The notice required by WAC 197-11-680(5) shall be appended to the permit or “notice of appeal” at the time of final city action.

Article XIV. Fees

24.02.250 General—Fees.

This article, Section 24.02.250 through Section 24.02.260, contains information on rules for charging fees under the SEPA process. The city adopts by reference the following sections of the WAC which contain related information:
197-11-914 Fees.

24.02.260 Fees.

The city shall require fees as set forth in KMC Section 5.74.080 for its activities in accordance with provisions of this chapter.

Article XV. Forms

24.02.270 General—Forms.

This article, Section 24.02.270, contains information on forms. The city adopts by reference the following sections of the WAC which contain related information:
197-11-960 Environmental checklist;
197-11-965 Adoption notice;
197-11-970 Determination of nonsignificance (DNS);
197-11-980 Determination of significance and scoping notice (DS);
197-11-985 Notice of assumption of lead agency status;
197-11-990 Notice of action.

ORDINANCE NO. 4150
PUBLICATION SUMMARY

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO STATE ENVIRONMENTAL POLICY ACT PROCEDURES AND POLICIES; REPEALING AND RE-ENACTING SECTION 24.02 OF THE KIRKLAND MUNICIPAL CODE (KMC); AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

Section 1. Repeals existing Chapter 24.02 of the Kirkland Municipal Code.

Section 2. Adopts the specific text of a new Chapter 24.02 of the Kirkland Municipal Code.

Section 3. Addresses severability.

Section 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as ninety days after publication of said summary.

Section 5. Directs the City Clerk to certify and forward a complete certified copy of this ordinance to the King County Department of Assessments.

The full text of this ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The ordinance was passed by the Kirkland City Council at its regular meeting on the _____ day of _____, 2008.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

Attest:

_____
City Clerk

ORDINANCE NO. 4151

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND SURFACE MODIFICATIONS; AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 1—USER GUIDE; CHAPTER 5—DEFINITIONS; CHAPTER 30—WD ZONES; CHAPTER 50—CBD ZONES; CHAPTER 52—JBD ZONES; CHAPTER 60—PLA ZONES; AND CHAPTER 115—MISCELLANEOUS STANDARDS; AMENDING PORTIONS OF THE FOLLOWING TITLES OF THE MUNICIPAL CODE: TITLE 9—HEALTH AND SANITATION AND TITLE 21—BUILDINGS AND CONSTRUCTION; ADOPTING A NEW TITLE 29 ENTITLED "LAND SURFACE MODIFICATION" IN THE KIRKLAND MUNICIPAL CODE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

WHEREAS, the City Council has received recommendations from the Kirkland Planning Commission and Houghton Community Council to amend certain sections of the text of the Kirkland Zoning and Municipal codes, all as set forth in that certain report and recommendation of the Planning Commission dated October 7, 2008 and bearing Kirkland Department of Planning and Community Development File No. ZON08-00007; and

WHEREAS, prior to making its recommendation, the Kirkland Planning Commission on July 31, 2008, held a public hearing on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-600; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the reports and recommendations of the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, are hereby amended to read as follows:

As set forth in Attachment A attached to this ordinance and incorporated herein by this reference.

Section 2 Municipal Code text amended: The following specified sections of the text of the Municipal Code are hereby amended to read as follows:

As set forth in Attachment B attached to this ordinance and incorporated herein by this reference.

Section 3 Municipal Code text adopted: A new Title 29 of the Kirkland Municipal Code entitled "Land Surface Modification" is hereby adopted to read as follows:

As set forth in Attachment C attached to this ordinance and incorporated herein by this reference.

Section 4. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation on the effective date of this ordinance only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 6. This ordinance shall be in full force and effect 90 days from and after its passage by the Kirkland City Council and publication pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 7. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 20__.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

ATTACHMENT A

HOW TO READ THIS:

- Text that is covered by a strike-through (~~strike-through~~) is existing text currently contained in the Zoning Code that is to be deleted.
- Text that is underlined (underlined) is new text that is to be added.

Section 1.10

12. Land Surface Modification – Do you want to do any clearing, grading or engage in any land surface modifications including removing vegetation other than trees on the subject property? If so, you should read ~~KZC 115.75~~KMC Title 29, Land Surface Modification.

Section 5.10

.455 Land Surface Modification – The clearing or removal of ~~trees,~~ shrubs, groundcover and other vegetation, excluding trees, and all grading, excavation and filling of materials. ~~The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 KMC shall not be deemed to be land surface modification.~~

Sections 30.17, 30.27, 30.37, 50.20, 52.35, 60.28, 60.173

4. Land Surface Modification Landward of the High Waterline Yard – Land surface modification landward of the high waterline yard is regulated like land surface modifications throughout the City. See KMC Title 29 ~~Chapter 115 KZC~~ for those regulations.

Section 60.18

4. Land Surface Modification Other than Waterward of the High Waterline or the Regulated Wetland or Wetland Buffer – See KMC Title 29 ~~Chapter 115 KZC~~ for regulations regarding land surface modifications other than waterward of the high waterline or within the regulated wetland or wetland buffer.

Table of Contents for Chapter 115 – Miscellaneous Use Development and Performance Standards

~~115.75 Land Surface Modification~~

Section 115.75

~~115.75 Land Surface Modification~~

~~1. General – The applicant shall comply with this section with respect to all land surface modifications.~~

~~2. Nature of Fill Materials – All materials used as fill must be nondissolving and nondecomposing. Fill material must not contain organic or inorganic material that would be detrimental to the water quality, or existing habitat, or create any other significant adverse impacts to the environment.~~

~~3. A land surface modification is permitted, only if it:~~

~~a. Has been approved as part of a valid development permit, subdivision, or substantial development permit; or~~

~~b. Is for cemetery graves; or~~

~~c. Is in a right-of-way authorized in writing by the Director of the Department of Public Works; or~~

~~d. Is for mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where a permit has been issued by the state of Washington, Department of Natural Resources; or~~

~~e. Is for exploratory excavations under the direction of a professional engineer licensed in the state of Washington, as long as the extent of the land surface modification does not exceed the minimum necessary to obtain the desired information; or~~

~~f. Is for normal maintenance and repair of the facilities of a common carrier by rail in interstate commerce within its existing right-of-way; or~~

~~g. Is for excavations for utility service connections to serve existing and/or new structures; or~~

~~h. Is for actions which must be undertaken immediately, or within a time too short to allow full compliance with the permit requirements of subsection (4) of this section, to avoid an imminent threat to public health or safety; to prevent an imminent danger to public or private property; or to prevent an imminent threat of serious environmental degradation. This determination will be made by the Planning Official; or~~

~~i. Is for the removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 KMC, and the removal of blackberry vines or dead, dangerous, or diseased trees, when authorized by the Building Official; or~~

~~j. Is for placement of fill on land owned or controlled by the City; or~~

~~k. Complies with all of the following criteria:~~

~~1) The subject property contains a permanent building or an active use; and~~

~~2) The land surface modification will not change the points where the storm water or groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of storm water or groundwater; and~~

~~3) The land surface modification is not in a stream, lake, wetland, or required setback therefrom; is not on or within 25 feet of a geologically hazardous area; and is not in an area with soft compressible soils; and~~

~~4) The land surface modification is not located on a site for which a development permit, subdivision, or substantial development permit has been submitted or is under review but has not yet been approved; and~~

~~5) In any one-year period, not more than 500 cubic yards of fill material is deposited on, excavated and removed from or moved from place to place on the subject property and will not result in more than a two-foot increase or one-foot decrease in average slope. If the subject property is larger than one acre, the limit is 500 cubic yards within each acre; and~~

~~6) If the land surface modification is between 100 and 500 cubic yards, the City may require a soils report. If a soils report is required, it shall contain a description of any on- or off-site impacts of the proposed land surface modification on each of the following elements:~~

~~a) Slope stability – if the site has an average slope 15 percent or greater;~~

~~b) Landslide hazard, sloughing or mud flows;~~

~~c) Seismic hazards (based on subclassifications within the Class III risk zone);~~

~~d) Erosion hazards;~~

~~e) Drainage;~~

~~f) Springs or seeps or any other surface water;~~

~~g) Groundwater;~~

~~h) Flood hazard;~~

~~i) Existing vegetation;~~

~~The soils report also must contain recommended methods for mitigating identified impacts and a description of how these mitigating measures impact adjacent properties. The City may require implementation of recommendations in the soils report to mitigate identified impacts.~~

~~4. The Planning Official may approve a land surface modification which does not comply with subsection (3) of this section if the land surface modification:~~

~~a. Except as allowed by Chapter 90 KZC, does not alter or adversely affect streams, lakes, wetlands, or significant trees, either on the subject property or on any other property; and~~

~~b. Does not violate any expressed policy of the City; and~~

~~c. Either:~~

~~1) Is proposed to correct an erosion or drainage problem on an undeveloped site; or~~

~~2) Is proposed to create new utility or access corridors; or~~

~~3) The subject property contains a permanent building or an active use and in any one-year period more than 500 cubic yards of fill material is deposited on, excavated and removed from, or moved from place to place on the subject property and will not result in more than a two-foot increase or one-foot decrease in average slope. If the subject property is larger than one acre, the threshold is 500 cubic yards within each acre; or~~

~~4) The subject property contains a permanent building or an active use and is on or within 25 feet of a regulated slope or is within an area of soft compressible soils; or~~

~~5) Is proposed to ensure grading is done to avoid erosion, landslides, or other environmental hazards for a development activity for which a complete building permit application is being processed and a bond for restoration has been submitted. All land surface modification authorized by the Planning Official must be completed no later than October 1st, unless extended by the Building Official. The bond shall be held until all site work associated with the approved building permit is completed.~~

~~5. Prior to approving a land surface modification under subsection (4) of this section, the applicant shall submit to the Planning Official:~~

~~a. Survey of the subject property;~~

~~b. Limits of proposed grading;~~

~~c. Tree retention plan;~~

~~d. Utility locations;~~

~~e. Easement and right-of-way improvement locations;~~

~~f. Erosion control/construction phase storm water control plan; and~~

~~g. A soils report which contains all elements described in subsection (3)(k)(7) of this section.~~

~~6. In approving the LSM, the Planning Official may require measures to mitigate the impacts of the LSM, including but not limited to the following:~~

~~a. The limit of grading line shall be clearly marked in the field with the installation of a six-foot-high temporary chain link fence and signage and flagging of trees to be retained.~~

~~b. An erosion control siltation fence shall be erected along required setbacks from streams, wetlands, and steep-sloped areas.~~

~~7. Appeals – The decision of the Planning Official in approving or denying a land surface modification may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.~~

~~8. Bonds – The City may require the following bonds, per Chapter~~ 175 ~~KZC:~~

~~a. A performance bond to guarantee that the land surface modification will conform to City standards; and/or~~

~~b. A maintenance bond after the land surface modification is completed.~~

~~9. Tree and Plant Restoration~~

~~If any tree required to be retained or planted is damaged or destroyed, the applicant shall plant a tree of the same species at least three to five inches in diameter, if deciduous, as measured one foot above grade or at least 16 feet high, if coniferous, in the immediate vicinity of the damaged or destroyed tree. The City may require the applicant to remove the damaged or destroyed tree.~~

~~In addition, if grading or clearing destroys groundcover or shrubbery, the applicant shall hydroseed the bare soil and plant shrubs at least 24 inches in height in the immediate vicinity of the damaged or destroyed vegetation.~~

ATTACHMENT B

HOW TO READ THIS:

- Text that is covered by a strike-through (~~strike-through~~) is existing text currently contained in the Municipal Code that is to be deleted.
- Text that is underlined (underlined) is new text that is to be added.

Title 9:

9.12.010 Removal of overhanging vegetation and fire hazards.

(a) The owner of any property in the city shall remove or destroy, in a manner permitted by law, all ~~trees, plants, shrubs or~~ vegetation or parts thereof that ~~which~~ overhangs or is growing on any sidewalk or street~~, or which are growing thereon~~ in ~~such~~ a manner ~~as to~~ that obstructs or impairs the free and full use of the sidewalk or street by the public~~; and~~. Prior authorization is required from the City to the extent pruning or removal of trees is required.

(b) The owner of any property in the city shall ~~also~~ remove or destroy ~~(~~, in a manner permitted by law~~)~~, all ~~grass, weeds, shrubs, bushes, trees or~~ vegetation growing or which ha~~ve~~s grown and died ~~and to remove or destroy (in a manner permitted by law) all~~ or debris upon property owned or occupied by them ~~and which are~~ that is a fire hazard or a menace to public health, safety or welfare. Such work, when proposed in a critical area or its buffer, requires prior approval from the Department of Planning and Community Development. Prior authorization also is required from the City to the extent pruning or removal of trees is required. ~~(Ord. 2149 § 1, 1971)~~

From Municipal Code Title 21:

Chapter 21.08
INTERNATIONAL BUILDING CODE

Sections:

21.08.010 International Building Code adopted.
21.08.020 IBC Section 403.10.2 amended.
21.08.025 IBC Section 403.15 amended.
21.08.030 IBC Section 405.9 amended.
21.08.035 IBC Section 501.2 amended.
21.08.040 IBC Section 707.2 Exception 2.1 amended.
21.08.055 IBC Section 1608.1 amended.

21.08.060 IBC Section 1704.12 amended.
21.08.075 IBC Chapter 31 amended.
~~**21.08.105** IBC Section J102 amended.~~
~~**21.08.110** IBC Section J103 amended.~~
~~**21.08.115** IBC Appendix Section J103.3 added.~~

~~21.08.105 IBC Section J102 amended.~~

~~Section J102 of the International Building Code is amended and supplemented by the addition of the following definition:~~

~~LAND SURFACE MODIFICATION shall include clearing or removal of trees, shrubs, ground cover and other vegetation, and all grading, excavation and filling of materials. The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 of the Kirkland Municipal Code and the removal of dead, dangerous, or diseased trees or blackberry vines when authorized by the Building Official shall not be deemed to be a Land Surface Modification.~~

~~(Ord. 4099 § 3 (part), 2007: Ord. 3946 § 1 (part), 2004)~~

~~21.08.110 IBC Section J103 amended.~~

~~Section J103 of the International Building Code is amended and supplemented to read:~~

~~Section J103. PERMITS REQUIRED. Except as exempted in Section J103.2, no land surface modification shall be performed without first having obtained a permit from the building official.~~

~~Section J103.2. Exemptions. A land surface modification permit shall not be required for the following:~~

~~1. Land surface modification performed in the normal course of maintaining existing landscaping on a lot associated with an existing building or buildings, provided such work does not modify any drainage course and does not involve more than 50 cubic yards of material in an 12 month period.~~

~~2. Any excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid Building Permit. This shall not exempt any fill made with the material from such excavation when the material is removed from the lot or any fill material which is placed on the lot.~~

~~3. Cemetery graves.~~

~~4. Fill deposited on previously approved disposal sites under the control of other City Administrative Departments.~~

~~5. Excavations for wells or tunnels, or utilities or other work supervised by the City of Kirkland.~~

~~6. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where a permit has been issued by the State of Washington, Department of Natural Resources.~~

~~7. Exploratory excavations under the direction of soil engineers or engineering geologists.~~

~~8. Normal maintenance and repair of the facilities of a common carrier by rail in interstate commerce within its existing right-of-way.~~

~~9. Excavations for utility service connections to serve existing and/or new structures.~~

~~10. Correction of drainage problems when supervised by the Department of Public Works; and the installation of approved preliminary plat and short plat improvements as permitted by Section J103.3.~~

~~Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction.~~

~~(Ord. 4099 § 3 (part), 2007: Ord. 4017 § 7, 2005: Ord. 3946 § 1 (part), 2004)~~

~~21.08.115 IBC Appendix Section J103.3 added.~~

~~Appendix Section J103.3 of the International Building Code is amended by the addition of a new subsection:~~

~~Section J103.3. Permit Issuance. No land surface modification or grading permit shall be issued in the following circumstances:~~

~~1. Prior to the approval of a preliminary plat or short plat.~~

~~Exception: After the approval of a preliminary plat or short plat, a land surface modification or grading permit may be issued for land surface modification or grading work to be done within rights-of-way, utility easements or access easements as designated on the approved preliminary plat drawings. A limited amount of grading may be permitted and stockpiling of materials on individual lots with the concurrence of the departments that normally review development permit applications. Permits to be issued for activities covered by this subparagraph shall be issued by the department of public works who shall with respect to such activities, have full authority to administer and enforce the provisions of Appendix Chapter J of the International Building Code as herein amended and supplemented.~~

~~2. Prior to the issuance of a building permit.~~

~~Exception: After the receipt of a complete application for a building permit, a land surface modification or grading permit may be issued only for the minimum land surface modification or grading necessary~~

~~to locate structures or other associated improvements designated on the submitted building permit plans.~~

~~3. In areas served by inadequate water, sewer, storm drainage or transportation systems as determined by the Public Works Department.~~

~~Exception: When such action proposes the improvement of any deficient system to minimum city standards and at the expense of the private sponsor and such improvements are associated with the issuance of a valid building permit.~~

~~4. Prior to the approval specified in Section 115.75, Kirkland Zoning Code, where no Building Permit is required.~~

~~5. Prior to the approval of a preliminary Planned Unit Development.~~

~~Exception: After the approval of a preliminary Planned Unit Development, a Land Surface Modification or Grading Permit may be issued for land surface modification or grading work to be done within rights-of-way, utility easements, access easements or other major components of the internal vehicular circulation system so designated in the approved Preliminary Planned Unit Development.~~

~~(Ord. 4099 § 3 (part), 2007: Ord. 3946 § 1 (part), 2004)~~

ATTACHMENT C

Add new listing to Municipal Code Table of Contents:

Title 29 Land Surface Modification

Title 29

LAND SURFACE MODIFICATION

Chapters:

29.04 General Provisions
29.08 Definitions
29.12 Permit Exemptions
29.16 Permit Application
29.20 Permit Approval Criteria
29.24 Development Standards
29.28 Bonds and Restoration
29.32 Expiration
29.36 Suspension or Revocation, Appeals and Enforcement

Chapter 29.04
GENERAL PROVISIONS

Sections:

29.04.010 Purpose and Intent
29.04.020 Applicability
29.04.030 Right of Entry.
29.04.040 Inspections.

29.04.010 Purpose and Intent

The purpose of this title is to provide for and promote the health, safety and welfare of the general public by minimizing risks to life and property and ensuring that land surface modification occurs in a manner compatible with City goals for environmental protection. To preserve natural features and functions of the land until a development plan is reviewed and approved, speculative grading is discouraged.

29.04.020 Applicability.

The provisions of this title apply to all land surface modifications conducted after the effective date of the ordinance codified in this title. Except as exempted in

Chapter 29.12, no land surface modification shall be performed without first having obtained a permit from the City of Kirkland.

29.04.030 Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or where the City has reasonable cause to believe that there exists upon a site a condition which is contrary to or in violation of this chapter, the City is authorized to enter the site at reasonable times to inspect or to perform the duties imposed by this chapter.

29.04.040 Inspections.

Land surface modifications for which a permit is required shall be subject to inspection by the City to ascertain compliance with the provisions of this chapter and other City laws and regulations. It shall be the duty of the applicant to cause the work to remain accessible for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or of other codes or ordinances of the City.

Chapter 29.08
DEFINITIONS

Sections:

29.08.010 General
29.08.020 Definitions

29.08.010 General.

The definitions in this Chapter apply throughout this title.

29.08.020 Definitions.

a. "Development Permit" means any permit or approval under the Zoning Code or the Building Code that must be issued before initiating a use or development activity.

b. "Land Surface Modification" means the clearing or removal of ~~trees,~~ shrubs, groundcover and other vegetation, excluding trees, and all grading, excavation and filling of materials.

Chapter 29.12
PERMIT EXEMPTIONS

Sections:

29.12.010 Permit Exemptions.
29.12.020 Emergency Exemption.
29.12.030 Relationship to Other Regulations.

29.12.010 Permit Exemptions

Except in (1) critical areas and their buffers, (2) areas waterward of the high waterline, (3) high waterline required yards, or (4) areas with an historic overlay designation, a land surface modification permit shall not be required for the following:

a. The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 of the Kirkland Municipal Code.

b. The removal of prohibited vegetation.

c. Land surface modification performed in the normal course of maintaining existing landscaping on a lot associated with an existing building or buildings, provided such work:

   1) does not substantially change the points where the stormwater or groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of stormwater or groundwater;

   2) does not result in an increase or decrease in topography at any point of more than 4'; and

   3) does not involve more than 50 cubic yards of material in any 12 month period.

d. Any excavation authorized by a valid Building Permit. This shall not exempt any fill made with the material from such excavation when the material is removed from the lot or any fill material which is placed on the lot.

e. Utilities or other work in a right-of-way supervised by the City of Kirkland, authorized in writing by the Director of the Department of Public Works, or as allowed by a right-of-way permit approved under KMC 19.12.

f. Excavations for franchise utility service connections (power, telephone, cable, gas, etc.) to serve existing and/or new structures.

g. Correction of storm drainage problems when supervised by the Department of Public Works.

h. Exploratory excavations under the direction of a professional engineer licensed in the state of Washington, as long as the extent of the land surface modification does not exceed the minimum necessary to obtain the desired information.

i. Normal maintenance and repair of the facilities of a common carrier by rail in interstate commerce within its existing right-of-way.

j. Cemetary graves.

29.12.020 Emergency Exemption.

A land surface modification permit shall not be required for actions which must be undertaken immediately or within a time too short to allow full compliance with the permit requirements of this title to avoid an imminent threat to public health or

safety; to prevent an imminent danger to public or private property; or to prevent an imminent threat of serious environmental degradation. The party conducting the land surface modification shall contact the City within seven days of the land surface modification to provide evidence of threat or imminent danger. Within this same seven-day period, the party conducting the land surface modification shall be solely responsible for notifying adjacent property owners and residents of any actions taken that may affect their property. The City may require that the party obtain a permit after-the-fact, and/or require other mitigation as necessary.

29.12.030 Relationship to Other Regulations.

Exemption from the permit requirements of this title shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this title or any other laws or ordinances of this jurisdiction. In particular, requests for pruning or removal of trees shall follow the procedures and comply with the standards outlined in KZC Chapter 95.

Chapter 29.16
PERMIT APPLICATION

Sections:

29.16.010 Application--Contents
29.16.020 Geotechnical Report
29.16.030 Third Party Review Authorized

29.16.010 Application—Contents.

The applicant shall apply for a land surface modification permit by submitting information to the City. The City is hereby authorized to maintain a list of the application requirements that may include, but is not limited to, the following:

a. Permit application form;

b. Fees as established in KMC Titles 5 and 21, as applicable;

c. Survey of the subject property;

d. Any additional pertinent information.

29.16.020 Geotechnical Report

The City may require a geotechnical report as part of any land surface modication permit application. If a geotechnical report is required, it shall be prepared by a qualified geotechnical engineer or engineering geologist and must contain a description of any on- or off-site impacts of the proposed land surface modification on each of the following elements:

a. Geologically hazardous areas, including landslide hazard areas, erosion hazard areas and seismic hazard areas;

b. Storm drainage;

c. Groundwater;

d. Springs or seeps or other surface expressions of groundwater;

e. Surface water, including streams, seasonal runoff and wetlands.

f. Flood hazards;

g. Existing vegetation, including trees; and

h. Stability of existing or proposed structures or landforms.

The geotechnical report also must contain recommended methods for mitigating identified impacts and a description of how these mitigating measures impact adjacent properties.

If the land surface modification proposal is subject to the requirements of KZC Chapter 85, additional geotechnical information may be required.

29.16.030 Third Party Review Authorized

At the City's option, funding for a qualified geotechnical engineer or engineering geologist to review the geotechnical report and recommendations may be required of the applicant. The geotechnical engineer or engineering geologist will be selected and retained by the City subject to a three-party contract.

Chapter 29.20
PERMIT APPROVAL CRITERIA

Sections:

29.20.010 For projects with a valid development permit, subdivision or substantial development permit.
29.20.020 For projects without a valid development permit, subdivision or substantial development permit, but with a submitted building permit application.
29.20.030 For projects without a valid development permit, subdivision or substantial development permit, on a site with an existing building or an active use and involving up to 500 cubic yards of material.
29.20.040 For projects without a valid development permit, subdivision or substantial development permit, on a vacant site or involving more than 500 cubic yards of material.
29.20.050 General criteria

29.20.010 For projects with a valid development permit, subdivision or substantial development permit.

A land surface modification permit may be approved as part of a valid development permit, substantial development permit or subdivision.

After approval of a zoning or substantial development permit, a land surface modification permit may be issued for land surface modification to be done within rights-of-way, utility easements, access easements, the internal vehicular circulation system, or other portions of the site pursuant to the approved zoning or substantial development permit.

After approval of a preliminary subdivision or short plat, a land surface modification permit may be issued for land surface modification to be done within rights-of-way, utility easements or access easements as designated on the approved engineering plans. A limited amount of grading, as well as stockpiling of materials, on individual lots may be permitted with City approval.

29.20.020 For projects without a valid development permit, subdivision or substantial development permit, but with a submitted building permit application.

A land surface modification may be approved for a project on a site without a valid development permit, subdivision or substantial development permit, but with a submitted building permit application, if the land surface modification complies with all of the following criteria:

a. A complete building permit application for the site has been submitted.

b. The land surface modification is not located on a site for which a zoning permit, subdivision, or substantial development permit has been submitted or is under review but has not yet been approved.

c. The land surface modification is the minimum necessary to locate structures or other associated improvements designated on the submitted building permit plans.

d. The land surface modification will not substantially change the points where the stormwater or groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of stormwater or groundwater.

e. The land surface modification complies with the criteria in Section 29.20.050.

f. A bond is submitted prior to issuance of the land surface modification permit for restoration of the site in the event the building permit is not approved.

29.20.030 For projects without a valid development permit, subdivision or substantial development permit, on a site with an existing building or an active use and involving up to 500 cubic yards of material.

A land surface modification may be approved for a project on a site without a valid development permit, subdivision or substantial development permit, but with an existing building or an active use, if the land surface modification complies with all of the following criteria:

a. The land surface modification is not located on a site for which a development permit, subdivision, or substantial development permit has been submitted or is under review but has not yet been approved.

b. The land surface modification will not substantially change the points where the stormwater or groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of stormwater or groundwater.

c. In any one-year period, not more than 500 cubic yards of fill material is deposited on, excavated and removed from, or moved from place to place on, the subject property. If the subject property is larger than one acre, the limit is 500 cubic yards within each acre.

d. The land surface modification complies with the criteria in Section 29.20.050.

29.20.040 For projects without a valid development permit, subdivision or substantial development permit, on a vacant site or involving more than 500 cubic yards of material.

On a vacant site involving any amount of material, or on a site with an existing building or an active use involving more than 500 cubic yards of material (or 500 cubic yards of material within each acre, if the subject property is larger than one acre), the land surface modification may be approved if all of the following criteria are met:

a. The land surface modification is proposed to do at least one of the following:

   1) Correct an erosion or storm drainage problem under the supervision of the Department of Public Works; or

   2) Create new utility or access corridors required by the City of Kirkland; or

   3) Improve to minimum standards, at the expense of the applicant, a deficient water, sewer, storm drainage or transportation system, as determined by the Public Works Department; or

   4) Avoid erosion, landslides, or other environmental hazards.

b. The land surface modification is not located on a site for which a development permit, subdivision, or substantial development permit has been submitted or is under review but has not yet been approved.

c. The land surface modification will not substantially change the points where the groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of groundwater.

d. The land surface modification complies with the criteria in Section 29.20.050.

29.20.050 General criteria.

The following criteria must be met for any land surface modification approved under Sections 29.20.020, 29.20.030 or 29.20.040:

a. The land surface modification is consistent with the provisions of the Kirkland Zoning Code, including, but not limited to, regulations regarding streams, lakes, and wetlands and their buffers; geologically hazardous areas; shorelines; and trees.

b. The land surface modification will not adversely affect the stability of structures or landforms on-site or on adjacent properties.

c. The land surface modification is consistent with the provisions of the Kirkland Municipal Code, including, but not limited to, the Shoreline Master Program.

d. The land surface modification is consistent with the provisions of the most current edition of the Public Works Department's Pre-Approved Plans and Policies.

e. The land surface modification does not violate any policy of the City.

Chapter 29.24
DEVELOPMENT STANDARDS

Sections:

29.24.010 Conditions of Permit Approval

29.24.010 Conditions of Permit Approval.

Prior to approving a land surface modification permit, the City may require measures to mitigate impacts, including but not limited to the following:

a. Implementation of recommendations in the geotechnical report.

b. Restrictions on the nature of fill materials. All materials used as fill shall be nondissolving and nondecomposing. Fill material shall not contain organic or inorganic material that would be detrimental to water quality or existing habitat, or create any other significant adverse impacts to the environment.

c. Compliance with the City's rodent abatement standards.

d. Marking the limit of grading line in the field with a temporary fence and signage as approved by the City.

e. Installation of temporary protective tree fencing and signage as described in KZC Chapter 95.

f. Implementation of erosion control measures, including installation of an erosion control siltation fence along required setbacks from streams, wetlands, and steep-sloped areas.

g. Implementation of measures to control dust.

h. Maintenance of streets and storm drains so that they are kept clean of debris resulting from the land surface modification.

i. Limitation on timing of the land surface modification. The land surface modification should be completed between April 1 and October 1st, unless a wet weather erosion control plan has been approved by the Public Works Department.

Chapter 29.28
BONDS AND RESTORATION

Sections:
29.28.010 Bonds
29.28.020 Restoration

29.28.010 Bonds.

The City may require or permit a bond in accordance with KZC Chapter 175 to ensure compliance with any of the requirements of this chapter.

29.28.020 Restoration.

If any tree required to be retained or planted as a condition of the land surface modification permit is damaged or destroyed, the applicant shall comply with the restoration requirements of KZC Chapter 95.

The applicant shall stabilize any exposed areas left after the land surface modification with approved vegetation.

Chapter 29.32
EXPIRATION

Sections:
29.32.010 Time Limitation for Application
29.32.020 Permit Expiration

29.32.010 Time Limitation for Application.

An application for a land surface modification permit shall expire as described in KMC Section 21.06.

29.32.020 Permit Expiration.

A land surface modification permit shall expire as described in KMC Section 21.06.

Chapter 29.36
SUSPENSION OR REVOCATION, APPEALS AND ENFORCEMENT

Sections:
29.36.010 Suspension or Revocation
29.36.020 Appeals
29.36.030 Enforcement

29.36.010 Suspension or Revocation.

The City is authorized to suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

29.36.020 Appeals.

The decision of the City in approving or denying a land surface modification may be appealed using the appeal provisions, as applicable, of Article XII of KMC Chapter 21.06

29.36.030 Enforcement.

Violations of the requirements of this title shall be enforced through the provisions, as applicable, of KZC Chapter 170.

ORDINANCE NO. 4151
PUBLICATION SUMMARY

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND SURFACE MODIFICATIONS; AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 1—USER GUIDE; CHAPTER 5—DEFINITIONS; CHAPTER 30—WD ZONES; CHAPTER 50—CBD ZONES; CHAPTER 52—JBD ZONES; CHAPTER 60—PLA ZONES; AND CHAPTER 115—MISCELLANEOUS STANDARDS; AMENDING PORTIONS OF THE FOLLOWING TITLES OF THE MUNICIPAL CODE: TITLE 9—HEALTH AND SANITATION AND TITLE 21—BUILDINGS AND CONSTRUCTION; ADOPTING A NEW TITLE 29 ENTITLED "LAND SURFACE MODIFICATION" IN THE KIRKLAND MUNICIPAL CODE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

Section 1. Identifies the specific amendments to Ordinance 3719, as amended, the Kirkland Zoning Ordinance.

Section 2. Identifies the specific amendments to the Municipal Code;

Section 3. Adopts the specific text of a new Title 29 of the Kirkland Municipal Code entitled "Land Surface Modification."

Section 4. Addresses severability.

Section 5. Establishes that this ordinance will be effective within the disapproval jurisdiction of the Houghton Community Council Municipal Corporation on the effective date only upon approval by the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 6. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as ninety days after publication of said summary for all amendments.

Section 7. Directs the City Clerk to certify and forward a complete certified copy of this ordinance to the King County Department of Assessments.

The full text of this ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The ordinance was passed by the Kirkland City Council at its regular meeting on the _____ day of _____, 2008.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

Attest:

_____
City Clerk

ORDINANCE NO. 4152

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES; AMENDING PORTIONS OF THE FOLLOWING CHAPTER OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 113—COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES; AMENDING PORTIONS OF THE FOLLOWING TITLE OF THE MUNICIPAL CODE: TITLE 22—SUBDIVISIONS; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

WHEREAS, the City Council has received recommendations from the Kirkland Planning Commission and Houghton Community Council to amend certain sections of the text of the Kirkland Zoning and Municipal codes, all as set forth in that certain report and recommendation of the Planning Commission dated October 7, 2008 and bearing Kirkland Department of Planning and Community Development File No. ZON08-00007; and

WHEREAS, prior to making its recommendation, the Kirkland Planning Commission on July 31, 2008 held a public hearing on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-600; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the reports and recommendations of the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, are hereby amended to read as follows:

As set forth in Attachment A attached to this ordinance and incorporated herein by this reference.

Section 2 Municipal Code text amended: The following specified sections of the text of the Municipal Code are hereby amended to read as follows:

As set forth in Attachment B attached to this ordinance and incorporated herein by this reference.

Section 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation on the effective date of this ordinance only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 5. This ordinance shall be in full force and effect 90 days from and after its passage by the Kirkland City Council and publication pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 6. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 20__.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

ATTACHMENT A

HOW TO READ THIS:

- Text that is covered by a strike-through (~~strike-through~~) is existing text currently contained in the Zoning Code that is to be deleted.
- Text that is underlined (underlined), with the exception of section headings, is new text that is to be added.

Chapter 113 – COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES

Sections:
113.05 User Guide
113.10 Voluntary Provisions and Intent
113.15 Housing Types Defined
113.20 Applicable Use Zones
113.25 Parameters for Cottages, Carriage Units and Two/Three-Unit Homes
113.30 Community Buildings and Community Space in Cottage Developments
113.35 Design Standards and Guidelines
113.40 Median Income Housing
113.45 Review Process
113.50 Additional Standards

113.05 User Guide

This chapter provides standards for alternative types of housing in single-family zones. If you are interested in proposing cottage, carriage or two/three-unit homes or you wish to participate in the City's decision on a project including these types of housing units, you should read this chapter.

113.10 Voluntary Provisions and Intent

The provisions of this chapter are available as alternatives to the development of typical detached single-family homes. In the event of a conflict between the standards in this Chapter and the standards in Chapter 15 or Chapter 17 of this Code, the standards in this Chapter shall control. These standards are intended to address the changing composition of households, and the need for smaller, more diverse, and often, more affordable housing choices. Providing for a variety of housing types also encourages innovation and diversity in housing design and site development, while ensuring compatibility with surrounding single-family residential development.

113.15 Housing Types Defined

The following definitions apply to the housing types allowed through the provisions in this chapter:

1. Cottage – A detached, single-family dwelling unit containing 1,500 square feet or less of gross floor area.

2. Carriage Unit – A single-family dwelling unit, not to exceed 800 square feet in gross floor area, located above a garage structure in a cottage housing development.

3. Two/Three-Unit Home – A structure containing two dwelling units or three dwelling units, designed to look like a detached single-family home.

113.20 Applicable Use Zones

The housing types described in this chapter may be used only in the following low density zones: RS 7.2, RSX 7.2, RS 8.5, RSX 8.5, RS 12.5 and RSX 12.5 (see KZC 113.25 for further standards regarding location of these housing types).

113.25 Parameters for Cottages, Carriage Units and Two/Three-Unit Homes

Please refer to KZC 113.30, 113.35 and 113.40 for additional requirements related to these standards.

	Cottage	**Carriage**	**Two/Three-Unit Home[1]**
Max Unit Size[2]	1,500 square feet[3]	800 square feet	1,000 square feet average unit size
			Structure total[4]:
			Two-Unit: 2,000 s.f.
			Three-Unit: 3,000 s.f.
Density	2 times the maximum number of detached dwelling units allowed in the underlying zone [5, 6, 7, 8]		
Max Floor Area Ratio (FAR)[9~~8~~]	.35		
Development Size	Min. 4 units Max. 24 units	Allowed when included in a cottage project.	Must be limited to either one two-unit home or one three-unit home, or be part of a cottage development, unless approved through Process IIA, Chapter 150 KZC.
	Maximum cluster[10~~9~~]: 12 units		
Review Process	Process I		Single two-unit home or single three-unit home: Process I[10~~11~~] Development containing more than one two-unit or one three-unit home (other than a cottage project): Process IIA[11~~12~~]
Location	Developments containing cottage, carriage and/or two/three-unit homes may not be located closer than the distance noted below to another development approved under the provisions of this chapter or under Ordinance 3856:		
	1 to 9 Units: 500'		
	10 – 19 Units: 1,000'		
	20 – 24 Units: 1,500'		

Minimum Lot Size	Beyond density restrictions, there is no required minimum lot size for lots created through the subdivision process. (The number of allowed units on the subject property is determined by the density provision of this chart.)		
Parking Requirements[13]	Units under 700 square feet: 1 space per unit Units between 700 – 1,000 square feet: 1.5 spaces per unit Units over 1,000 square feet: 2 spaces per unit. Must be provided on the subject property.		
Minimum Required Yards (from exterior property lines of subject property)	Front: 20' Other: 10'	Allowed when included in a cottage project.	Front: 20' Other: 10'
Lot coverage (all impervious surfaces)[~~12~~14]	50%	Allowed when included in a cottage project.	50%
Height			
Dwelling Units	25' (RS Zones) and 27' (RSX Zones) maximum above A.B.E., (where minimum roof slope of 6:12 for all parts of the roof above 18' are provided). Otherwise, 18' above A.B.E.		
Accessory Structures	One story, not to exceed 18' above A.B.E.		
Tree Retention	Standards contained in KZC 95.35 for Tree Plan III shall apply to development approved under this chapter.		
Common Open Space	400 square feet per unit. Private open space is also encouraged (see KZC 113.35).		
Community Buildings	Community buildings are encouraged. See KZC 113.30 for further regulations.		
Attached Covered Porches[~~13~~15]	Each unit must have a covered porch with a minimum area of 64 square feet per unit and a minimum dimension of 7' on all sides.		
Development Options	Subdivision ~~Binding Site Plan~~ Condominium Rental or Ownership		
Accessory Dwelling Units (ADUs)	Not permitted as part of a cottage, carriage or two/three-unit home development.		

[1] Within the jurisdiction of the Houghton Community Council, this housing type is only allowed where it is included in a cottage project.

[2] A covenant restricting any increases in unit size after initial construction shall be recorded against the property. Vaulted space may not be converted to habitable space.

[3] Maximum size for a cottage is 1,500 square feet. A cottage may include an attached garage, not to exceed an additional 250 square feet.

[4] Maximum size for a two-unit home is 2,000 square feet. A two-unit home may include an attached garage, not to exceed an additional 500 square feet. The maximum size for a three-unit home is 3,000 square feet. A three-unit home may include an attached garage, not to exceed an additional 750 square feet.

[5] Existing detached dwelling units may remain on the subject property and will be counted as units.

[6] When the conversion from detached dwelling units to equivalent units results in a fraction, the equivalent units shall be limited to the whole number below the fraction.

[7.] See Section 90.135 for density calculation on a site which contains a wetland, stream, minor lake, or their buffers.

[8] ~~Median income units, and any attached garages for the median income units provided under KZC 113.40, shall not be included in the FAR calculation for the development.~~

[8.] To determine equivalent units for a two or three-unit home, the following formula will be used: Lot area/min. lot size per unit in underlying zone x 2 = maximum units (always round down to nearest whole number). *Example (RS 7.2 zone): 10,800/7200 = 1.5 x 2 = 3 units*

[~~7~~9] FAR Regulations:

a. FAR regulations are calculated using the "buildable area" of the site, ~~entire development site~~ as defined in Section 90.135. Where no sensitive areas regulated under Chapter 90 exist on the site, FAR regulations shall be calculated using the entire subject property, except as provided in subsection b of this footnote.

b. Where Native Growth Protective Easements (NGPEs) for slopes result in a restricted area for development, density may be limited to ensure that the FAR on the developed portion of the site remains compatible with surrounding development and generally consistent with the FAR limitation of this Chapter.

c. FAR for individual lots may vary. All structures on site, other than median income units and any attached garages for the median income units provided under KZC 113.40, shall be included in the FAR calculation for the development.

[~~9~~10] Cluster size is intended to encourage a sense of community among residents. A development site may contain more than one cluster, with a clear separation between clusters.

[~~10~~11] Stand-alone two/three-unit homes are not allowed within the jurisdiction of the Houghton Community Council.

[~~11~~12] See KZC 113.45. Carriage units and two/three-unit homes may be included within a cottage housing proposal to be reviewed through Process I; provided, that the number of two/three-unit homes and carriage units does not exceed 20 percent of the total number of units in the project.

[13.] See Section 105.20 for requirements related to guest parking.

[~~12~~14] Lot coverage is calculated using the entire development site. Lot coverage for individual lots may vary.

[~~13~~15] Requirements for porches do not apply to carriage or two/three-unit homes.

113.30 Community Buildings and Community Space in Cottage Developments

Community buildings and community space are encouraged in cottage developments.

1. Community buildings or space shall be clearly incidental in use and size to the dwelling units.

2. Building height for community buildings shall be no more than one story. Where the community space is located above another common structure, such as a detached garage or storage building, standard building heights apply.

3. Community buildings must be located on the same site as the cottage housing development, and be commonly owned by the residents.

113.35 Design Standards and Guidelines

1. Cottage Projects

a. Orientation of Dwelling Units

Dwellings within a cottage housing development should be oriented to promote a sense of community, both within the development, and with respect to the larger community, outside of the cottage project. A cottage development should not be designed to “turn its back” on the surrounding neighborhood.

1) Where feasible, each dwelling unit that abuts a common open space shall have a primary entry and/or covered porch oriented to the common open space.

2) Each dwelling unit abutting a public right-of-way (not including alleys) shall have an inviting facade, such as a primary or secondary entrance or porch, oriented to the public right-of-way. If a dwelling unit abuts more than one public right-of way, the City shall determine to which right-of-way the inviting facade shall be oriented.

b. Required Common Open Space

Common open space should provide a sense of openness, visual relief, and community for cottage developments. The space must be outside of wetlands, streams and their buffers, and developed and maintained to provide for passive and/or active recreational activities for the residents of the development.

1) Each area of common open space shall be in one contiguous and usable piece with a minimum dimension of 20 feet on all sides.

2) Land located between dwelling units and an abutting right-of-way or access easement greater than 21’ in width may not serve as required common open space, unless the area is reserved as a separate tract, and does not contain pathways leading to individual units or other

elements that detract from its appearance and function as a shared space for all residents.

3~~2~~) Required common open space may be divided into no more than two separate areas per cluster of dwelling units.

4~~3~~) Common open space shall be located in a centrally located area and be easily accessible to all dwellings within the development.

5~~4~~) Fences may not be located within required open space areas.

6~~5~~) Landscaping located in common open space areas shall be designed to allow for easy access and use of the space by all residents, and to facilitate maintenance needs. Where feasible, existing mature trees should be retained.

7~~6~~) Unless the shape or topography of the site precludes the ability to locate units adjacent to the common open space, the following standards must be met:

a) The open space shall be located so that it will be surrounded by cottages or two/three-unit homes on at least two sides;

b) At least 50 percent of the units in the development shall abut a common open space. A cottage is considered to “abut” an area of open space if there is no structure between the unit and the open space.

8~~7~~) Surface water management facilities shall be limited within common open space areas. Low Impact Development (LID) features are permitted, provided they do not adversely impact access to or use of the common open space for a variety of activities. Conventional stormwater collection and conveyance tools, such as flow control and/or water quality vaults are permitted if located underground.

c. Shared Detached Garages and Surface Parking Design

Parking areas should be located so their visual presence is minimized, and associated noise or other impacts do not intrude into public spaces. These areas should also maintain the single-family character along public streets.

1) Shared detached garage structures may not exceed four garage doors per building, and a total of 1,200 square feet.

2) For shared detached garages, the design of the structure must be similar and compatible to that of the dwelling units within the development.

3) Shared detached garage structures and surface parking areas must be screened from public streets and adjacent residential uses by landscaping or architectural screening.

4) Shared detached garage structures shall be reserved for the parking of vehicles owned by the residents of the development. Storage of items which preclude the use of the parking spaces for vehicles is prohibited.

5) Surface parking areas may not be located in clusters of more than four spaces. Clusters must be separated by a distance of at least 20 feet.

6) The design of carports must include roof lines similar and compatible to that of the dwelling units within the development.

d. Low Impact Development

The proposed site design shall incorporate the use of low impact development (LID) strategies to meet stormwater management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water, which allows water to soak into the ground closer to its source. The design should seek to meet the following objectives:

1) Preservation of natural hydrology.

2) Reduced impervious surfaces.

3) Treatment of stormwater in numerous small, decentralized structures.

4) Use of natural topography for drainageways and storage areas.

5) Preservation of portions of the site in undisturbed, natural conditions.

6) Reduction of the use of piped systems. Whenever possible, site design should use multifunctional open drainage systems such as vegetated swales or filter strips which also help to fulfill landscaping and open space requirements.

e. Two/Three-Unit Homes and Carriage Units within Cottage Projects

Two/three-unit homes and carriage units may be included within a cottage housing development. Design of these units should be compatible with that of the cottages included in the project.

f. Variation in Unit Sizes, Building and Site Design

Cottage projects should establish building and site design that promotes variety and visual interest that is compatible with the character of the surrounding neighborhood.

1) Projects should include a mix of unit sizes within a single development.

2) Proposals are encouraged to provide a variety of building styles, features and site design elements within cottage housing communities. Dwellings with the same combination of features and treatments should not be located adjacent to each other.

g. Private Open Space

Open space around individual dwellings should be provided to contribute to the visual appearance of the development, and to promote diversity in landscape design.

h. Pedestrian Flow through Development

Pedestrian connections should link all buildings to the public right-of-way, common open space and parking areas.

2. Two/Three-Unit Homes Not Included in Cottage Developments

Two and three-unit homes are an allowed use on individual lots in the zones listed in KZC 113.20. These homes should be consistent in height, bulk, scale and style with surrounding single-family residential uses.

a. Entries

Two and three-unit homes shall maintain the traditional character and quality of detached single-family dwelling units by using design elements such as the appearance of single points of entry addressing the street, pitched roofs, substantial trim around windows, porches and chimneys. Ideally, the multiple-unit home will have no more than one entry on each side of the structure.

b. Low Impact Development (LID)

Projects containing two or more two/three-unit homes shall follow the LID standards set forth in this section.

c. Garages and Surface Parking Design

1) Garages and driveways for two/three-unit homes shall meet the standards established in KZC 115.43 and 115.115(5). In addition, no more than three garage doors may be visible on any facade of the structure.

2) Surface parking shall be limited to groups of no more than three stalls. Parking areas with more than two stalls must be visually separated from the street, perimeter property lines and common areas through site planning, landscaping or natural screening.

113.40 Median Income Housing

1. Requirement to Provide Median Income Housing – Projects including 10 or more housing units shall be required to provide 10 percent of the units as affordable to median income households. The level of affordability shall be determined according to the following schedule:

	10-unit project:	1 unit affordable to households earning 100% of King County median income

	11-unit project:	1 unit affordable to households earning 98% of King County median income
	12-unit project:	1 unit affordable to households earning 96% of King County median income
	13-unit project:	1 unit affordable to households earning 94% of King County median income
	14-unit project:	1 unit affordable to households earning 92% of King County median income
	15-unit project:	1 unit affordable to households earning 90% of King County median income
	16-unit project:	1 unit affordable to households earning 88% of King County median income
	17-unit project:	1 unit affordable to households earning 86% of King County median income
	18-unit project:	1 unit affordable to households earning 84% of King County median income
	19-unit project:	1 unit affordable to households earning 82% of King County median income

For projects with 20 units or more, the following schedule will apply:

	20-unit project:	2 units affordable to households earning 100% of King County median income
	21-unit project:	2 units affordable to households earning 98% of King County median income
	22-unit project:	2 units affordable to households earning 96% of King County median income
	23-unit project:	2 units affordable to households earning 94% of King County median income
	24-unit project:	2 units affordable to households earning 92% of King County median income

Median income dwelling units shall have the same general appearance and use the same exterior materials as the market rate dwelling units, and shall be dispersed throughout the development.

The type of ownership of the median income housing units shall be the same as the type of ownership for the rest of the housing units in the development.

As noted in KZC 113.25, any median income units, and any attached garages for the median income units, provided under this section shall not be included in the floor area ratio (FAR) calculation for the development.

2. Agreement for Median Income Housing Units – Prior to issuance of a certificate of occupancy, an agreement in a form acceptable to the City Attorney shall be recorded with King County Department of Records and Elections. The agreement shall address price restrictions, homebuyer or tenant qualifications, long-term affordability, and any other applicable topics of the median income housing units. The agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant.

   Median income housing units that are provided under this section shall remain as median income housing for a minimum of 50 years from the date of initial owner occupancy for ownership median income housing units and for the life of the project for rental median income housing units.

113.45 Review Process

1. Approval Process – Cottage Housing Development

a. The City will process an application for cottage development through Process I, Chapter 145 KZC.

b. Public notice for developments proposed through this section shall be as set forth under the provisions of Chapter 150 KZC (Process IIA).

c. Lapse of Approval: Unless otherwise specified in the decision granting Process I approval, the applicant must begin construction or submit to the City a complete building permit application for development of the subject property consistent with the Process I approval within one year after the final decision granting the Process I approval or that decision becomes void. The applicant must substantially complete construction consistent with the Process I approval and complete all conditions listed in the Process I approval decision within three years after the final decision on the Process I approval or the decision becomes void. "Final decision" means the final decision of the Planning Director.

d. Extensions: The applicant may apply for a one-time extension, of up to one year, of the time limits under subsection (c) of this section. The application for the extension must be submitted by letter prior to the expiration of the applicable time limit under subsection (c) of this section. The letter of application must be submitted to the Planning Department and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the Process I approval and that circumstances beyond his/her control prevent compliance with the applicable time limit under subsection (c) of this section.

2. Approval Process – Carriage Unit and Two/Three-Unit Home Development

a. Single t~~T~~wo/three-unit homes shall be reviewed through Process I. Developments containing two/three-unit homes and carriage units that are part of a cottage project shall also be reviewed through Process I; provided, that the number of two/three-unit homes and carriage units does not exceed 20 percent of the total number of units in the project. Noticing requirements shall be as described in subsection (1)(b) of this section.

b. All other developments containing carriage and two/three-unit homes shall be reviewed using Process IIA.

c. The lapse of approval and extension provisions in subsections 1.c. and 1.d of this section also apply to carriage unit and two/three-unit home development approved under either Process I or Process IIA.

3. Approval Process – Requests for Modifications to Standards

a. Minor Modifications: Applicants may request minor modifications to the general parameters and design standards set forth in this chapter. The Planning Director or Hearing Examiner may modify the requirements if all of the following criteria are met:

1) The site is constrained due to unusual shape, topography, easements or sensitive areas.

2) The modification is consistent with the objectives of this chapter.

3) The modification will not result in a development that is less compatible with neighboring land uses.

4. Review Criteria

a. In addition to the criteria established for review of development proposals in Chapters 145 and 150 KZC, the applicant must demonstrate that:

1) The proposal is compatible with and is not larger in scale than surrounding development with respect to size of units, building heights, roof forms, setbacks between adjacent buildings and between buildings and perimeter property lines, number of parking spaces, parking location and screening, access and lot coverage.

2) Any proposed modifications to provisions of this chapter are important to the success of the proposal as an alternative housing project and are necessary to meet the intent of these regulations.

113.50 Additional Standards

1. Application fees for the Process I or IIA review of the proposed project shall be based on the number of single-family units that would be allowed by the underlying zoning, regardless of the number of units proposed under this chapter.

2. Impact fees under Kirkland Municipal Code Chapters 27.04 and 27.06 for the proposed project shall be assessed at the rates for multifamily dwelling units, as identified in Appendix A of Kirkland Municipal Code Chapters 27.04 and 27.06.

3. The City's approval of a cottage housing or two/three-unit home development does not constitute approval of a subdivision or~~, a~~ short plat~~, or a binding site plan~~. An applicant wishing to subdivide in connection with a development under this Chapter shall seek approval to do so concurrently with the approval process under this Chapter. To the extent there is a conflict between the standards set forth in the Chapter and Title 22 of the Kirkland Municipal Code, the standards set forth in this Chapter shall control. A lot that has existing cottage, carriage or two/three-unit homes may not be subdivided unless all of the requirements of the Zoning Code and Title 22 of the Kirkland Municipal Code are met. A lot containing a two/three-unit home may not be subdivided in a manner that results in the dwelling units being located on separate lots.

ATTACHMENT B

HOW TO READ THIS:

- Text that is covered by a strike-through (~~strike-through~~) is existing text currently contained in the Municipal Code that is to be deleted.
- Text that is underlined (underlined), with the exception of section headings, is new text that is to be added.

22.28.080 Access—Required.

(a) All lots must have direct legal access as required by the zoning code, including Section 115.80, Legal Building Site, and Section 105.10, Vehicular Access Easement or Tract Standards, of Title 23 of this code. The city will determine whether access will be by right-of-way or vehicular-access easement or tract on a case-by-case basis.

(b) The area of a vehicular-access easement or tract shall not be included in the computation of the lot area for the servient lot. However:~~,~~

1. ~~I~~If the vehicular easement serves only one lot which does not abut a public right-of-way, the easement shall be included in the lot area for the servient lot; provided, that the servient lot abuts a public right-of-way and is not a flag lot~~.~~; and

2. The area of a vehicular-access easement shall be included in the lot area for cottage housing development approved pursuant to Chapter 113 of the Kirkland Zoning Code.

ORDINANCE NO. 4152
PUBLICATION SUMMARY

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES; AMENDING PORTIONS OF THE FOLLOWING CHAPTER OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 113—COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES; AMENDING PORTIONS OF THE FOLLOWING TITLE OF THE MUNICIPAL CODE: TITLE 22—SUBDIVISIONS; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

Section 1. Identifies the specific amendments to the Kirkland Zoning Ordinance.

Section 2. Identifies the specific amendments to the Municipal Code.

Section 3. Addresses severability.

Section 4. Establishes that this ordinance will be effective within the disapproval jurisdiction of the Houghton Community Council Municipal Corporation on the effective date only upon approval by the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 5. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as ninety days after publication of said summary.

Section 6. Directs the City Clerk to certify and forward a complete certified copy of this ordinance to the King County Department of Assessments.

The full text of this ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The ordinance was passed by the Kirkland City Council at its regular meeting on the _____ day of _____, 2008.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

Attest:

_____
City Clerk

CITY OF KIRKLAND
Finance and Administration Department – City Clerk Division
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Kathi Anderson, City Clerk
Tracey Dunlap, Director, Finance and Administration

Date: October 9, 2008

Subject: Voting Delegates – National League of Cities Annual Business Meeting

RECOMMENDATION

City Council designate one voting delegate and one alternate to represent the City of Kirkland at the National League of Cities' Annual Business Meeting.

BACKGROUND DISCUSSION

The City of Kirkland is eligible to designate one voting delegate and one alternate. The delegate or alternate must pick up credentials before the meeting and be present at the meeting to cast a vote. The NLC annual business meeting will be held on Saturday, November 15, 2008 in Orlando, Florida. Should the City Council wish to participate in the meeting, the voting delegate and alternate will need to be designated and their names must be filed with the NLC on or before October 31, 2008.