

RESOLUTION R-4992

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE CROSS KIRKLAND CORRIDOR IMPROVEMENT AND USE AGREEMENT BETWEEN THE CITY OF KIRKLAND, SRMKII LLC AND SRMKJVD LLC.

WHEREAS, the City is the owner of the Cross Kirkland Corridor ("CKC"); and

WHEREAS, SRMKII LLC and SRMKJVD LLC (collectively, "SRM") own properties adjacent to and on either side of the CKC; and

WHEREAS, the SRMKJVD LLC property is an office complex on the east side of the CKC that is currently occupied by Google, Inc. ("Google"); and

WHEREAS, SRMKII LLC has proposed development of a new office complex on the west side of the Cross Kirkland Corridor ("CKC" or "Corridor") at the former Pace Chemical Site to be occupied by Google (the "Development"); and

WHEREAS, SRM has requested access across the CKC to link the current Google campus with the Development in exchange for the construction of certain public improvements including a paved pedestrian and bicycle trail and other public amenities on the portion of the CKC adjoining the current Google campus and the Development; and

WHEREAS, the expansion of the Google campus and construction of the Development will result in the creation of jobs and economic development that will benefit the City; and

WHEREAS, the installation of public improvements on this portion of the CKC represents an important first step towards development of the CKC; and

WHEREAS, the City is willing to grant SRM the rights to cross the CKC on the terms and conditions set forth in the attached Agreement.

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 of Kirkland an agreement substantially similar to that attached as Exhibit "A", which is entitled "Cross Kirkland Corridor Improvement and Use Agreement between the City of Kirkland, SRMKII LLC and SRMKJVD LLC.

Passed by majority vote of the Kirkland City Council in open meeting this 6th day of August, 2013.

Signed in authentication thereof this 6th day of August, 2013.

  
MAYOR

Attest:

  
City Clerk

*After recording, return to:*

Brent Carson  
Van Ness Feldman LLP  
719 Second Avenue, Suite 1150  
Seattle, Washington 98104-1728

**WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)**

<b>DOCUMENT TITLE(S) (or transactions contained therein):</b>  CROSS KIRKLAND CORRIDOR IMPROVEMENT AND USE AGREEMENT
<b>REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:</b>  n/a <input type="checkbox"/> Additional reference #s on page ___ of document(s)
<b>GRANTOR(S) (Last name first, then first name and initials)</b>  City of Kirkland, a non-charter, optional code Washington municipal corporation  <input type="checkbox"/> Additional names on page ___ of document
<b>GRANTEE(S) (Last name first, then first name and initials)</b>  SRMKII, LLC, a Washington limited liability company SRMKJVD, LLC, a Delaware limited liability company <input type="checkbox"/> Additional names on page ___ of document
<b>LEGAL DESCRIPTION (abbreviated: i.e., lot, block, plat or section, township, range)</b>  Section 8, Township 25 North, Range 5 East, WM, King County, Washington  <input checked="" type="checkbox"/> Additional legal is on pages 14-18 of document
<b>ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBERS</b>  788260-0120; 788260-01750; 788260-0180; 82505-9059  <input type="checkbox"/> Assessor Tax # not yet assigned

**CROSS KIRKLAND CORRIDOR IMPROVEMENT AND USE AGREEMENT  
BETWEEN THE CITY OF KIRKLAND, SRMKII LLC AND SRMKJVD LLC**

THIS CROSS KIRKLAND CORRIDOR IMPROVEMENT AND USE AGREEMENT (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2013 (the “Effective Date”), by and among the CITY OF KIRKLAND (“City”), a non-charter, optional code Washington municipal corporation, SRMKII, LLC, a Washington limited liability company (“SRM”) and SRMKJVD, LLC, a Delaware limited liability company (the “Phase I Owner”).

**I. RECITALS**

A. The Phase I Owner is the owner of that real property (the “Phase I Property”) legally described in Exhibit A attached hereto and incorporated herein by this reference, located immediately adjacent to and on the east side of the Cross Kirkland Corridor (“CKC”). The Phase I Property is currently occupied by office buildings currently leased to Google, Inc. (the “Phase I Buildings”).

B. SRM is the contract purchaser of that real property (the “Phase II Property”) legally described in Exhibit B attached hereto and incorporated herein by this reference, located immediately adjacent to and on the west side of the CKC across from the Phase I Property. SRM is developing a new office building on the Phase II Property at the former Pace Chemical Site on which to locate additional office buildings to lease to Google, Inc. (the “Development”).

C. The City owns the CKC. The CKC is legally described in Exhibit C attached hereto and incorporated herein by this reference.

D. SRM, the Phase I Owner and the City share the goal of developing the CKC in a way that serves the needs of SRM, the Phase I Owner and their tenants in the Phase I Buildings and in the proposed Development while preserving and enhancing the City’s vision and interests in developing the CKC for recreational and transportation uses.

E. As a part of the Development, SRM wishes to construct three crossings of the CKC to benefit the Phase I Property and the Phase II Property. One crossing would be at-grade to provide vehicular access across the CKC at a location near the south end of the Phase I Buildings. Another crossing would be an aerial bridge to provide pedestrian access, public and private utilities and other amenities over and across the CKC at a location near the separation of the Phase I Buildings. A third crossing would be at-grade for pedestrian access located under the aerial crossing. SRM is also seeking termination of a City-owned easement that burdens the Phase II Property.

D. In exchange for the right to construct the three crossings and the termination of the City-owned easement, SRM intends to develop the portion of the CKC adjacent to both the Phase I Property and Phase II Property (the "Adjacent CKC") with public improvements including a paved bicycle and pedestrian trail facility, lighting and other public improvements and other mutually agreed upon considerations for the City.

E. This Agreement must be approved by ordinance or resolution prior to the City entering into it.

NOW, THEREFORE, in consideration of the mutual promises set forth herein and the long-term benefit to the City, SRM and the Phase I Owner, the parties hereby agree as follows:

## II. AGREEMENT

1. **CKC Improvements.** SRM shall construct a thirty foot (30') wide trail corridor with a paved bicycle and pedestrian trail approximately seven hundred (700') feet in length through the Adjacent CKC. The trail corridor may meander onto the adjacent Phase II Property so long as the City is granted an easement upon mutually acceptable terms. The trail corridor shall cross the Road Crossing, as hereinafter described and defined, at the same grade as the Road Crossing and with specific safety measures installed, such as signage, striping, and lighting. SRM shall also construct a mutually agreed number of public improvements, such as sport courts, play areas and other public amenities on the Adjacent CKC. In addition, SRM shall design and install lighting improvements on the Adjacent CKC. The trail corridor, bicycle and pedestrian trail, sport courts, play areas, lighting and other public amenities are hereinafter collectively referred to as the "Public Improvements." SRM shall prepare a plan depicting all of the Public Improvements (the "Public Improvement Plan") for review and approval by the City. The design, installation and construction of the Public Improvements shall be consistent with the approved Public Improvement Plan, comply with all applicable City regulations and conform to City approved standards, guidelines and policies ("City Design Standards"). SRM shall obtain all required permits from the City for installation of the Public Improvements.

2. **CKC Crossings.** The City hereby grants a non-exclusive easement to SRM and to the Phase I Owner to construct, install, maintain, repair and replace three crossings of the CKC: (1) one at-grade road crossing across the Adjacent CKC at a location near the south end of the Phase I Buildings (the "Road Crossing"); (2) one aerial crossing of the CKC for pedestrians, public and private utilities, and other amenities over and across the Adjacent CKC at a location near the separation of the Phase I Buildings (the "Aerial Crossing"); and (3) one at-grade pedestrian crossing across the Adjacent CKC under the Aerial Crossing (the "Pedestrian Crossing"). In addition, the City hereby grants a non-exclusive easement to SRM and to the Phase I Owner to install, maintain, repair and replace supports and related infrastructure for the Aerial Crossing. The Road Crossing, Aerial Crossing, and Pedestrian Crossing are all collectively referred to herein as the "Crossing Improvements." If SRM elects to construct the Crossing Improvements, SRM shall prepare a plan depicting the

proposed Crossing Improvements (the "Crossing Plan") for review and approval by the City. The design, installation and construction of the Crossing Improvements shall be consistent with the approved Crossing Plan, comply with all applicable City regulations and conform to City approved standards, guidelines and policies ("City Design Standards"). SRM shall obtain all required permits from the City for installation of the Crossing Improvements. This Agreement does not obligate SRM to construct the Crossing Improvements.

3. **Use of CKC Crossings.** The parties agree that the Crossings Improvements shall be for the exclusive use of SRM and the Phase I Owner and their employees, agents, guests, and tenants; the employees, agents and guests of tenants occupying the Phase I Property and Phase II Property; and their successors and assigns, provided that City personnel may use the Crossing Improvements for emergency or public safety purposes; and provided further that exclusive use of the Crossing Improvements by SRM and the Phase I Owner shall not impair the public's right to use the Public Improvements.

4. **Railbanked Status of CKC.** The parties understand and acknowledge that the CKC is a railbanked rail corridor under federal law (16 U.S.C. 1247(d)) and subject to reactivation for freight rail use. In addition, the parties understand and acknowledge that the CKC is a potential transit corridor. SRM shall design and construct the Crossings Improvements to accommodate possible future use of the CKC for freight rail as follows. The Road Crossing shall be designed to accommodate crossing gates in the future. In the event the CKC is used for transit or freight rail purposes and it is determined by the City that crossing gates are necessary to protect public safety, SRM agrees to install crossing gates at the Road Crossing. The Aerial Crossing shall be designed to accommodate transit use. In the event that the CKC is used for freight rail purposes SRM agrees to remove all improvements associated with the Aerial Crossing or to construct the Aerial Crossing to accommodate freight rail use. In the event that the CKC is used for transit or freight rail purposes, SRM agrees to remove all improvements associated with the Pedestrian Crossing.

5. **Reservation of Transit Corridor.** The easternmost forty feet (40') of the Adjacent Corridor shall remain available for possible future transit use. This reservation shall not limit or prevent construction of the Public Improvements or the Crossing Improvements, but may result in the removal or modification of certain Public Improvements by the City in the future as it deems necessary to accommodate such transit use, and may result in removal or modification of certain Crossing Improvements as required by Paragraph 4.

6. **Termination of Existing Rail Easement.** Within 60 days of the execution of this Agreement, the City shall record a document terminating the existing 20 foot rail easement on the eastern portion of the Phase II Property (King County Recording No. 5034060).

7. **Trail Use during Construction of Improvements.** The Adjacent CKC shall remain open to the public for trail use at all times; provided that, to the extent reasonably necessary, SRM may limit public access during construction and maintenance of the Public

Improvements and Crossing Improvements. If restriction of public access is required, SRM shall to the extent reasonable, provide a detour route around the construction area.

8. **Public Access.** Upon completion of construction, all Public Improvements shall be open to the public subject to terms and conditions that may be established by the City. Access to the Crossing Improvements shall be limited as set forth in Paragraph 3.

9. **Maintenance of Public Improvements.** Unless otherwise agreed to by the City, SRM and the Phase I Owner, SRM shall maintain all Public Improvements in the Adjacent CKC, except for the bicycle and pedestrian trail, which shall be maintained by the City.

10. **Coordination with Existing Sound Transit Easement.** SRM and the City understand and acknowledge that Central Puget Sound Regional Transit Authority ("Sound Transit") holds a High Capacity Transportation Easement (King County Recording No. 20120411001174, "Sound Transit Easement") over the Eastside Rail Corridor, including the Adjacent CKC. Pursuant to the Sound Transit Easement and prior to installing the two crossings in the Adjacent CKC, SRM shall provide preliminary design plans and other information required under the Sound Transit Easement to Sound Transit and shall provide Sound Transit with a reasonable opportunity for review and comment. SRM shall satisfy all comments received from Sound Transit prior to commencing construction activities on the Adjacent CKC.

11. **Coordination with Existing PSE Easement.** SRM and the City understand and acknowledge that Puget Sound Energy, Inc. ("PSE") holds a South Rail Line Easement (King County Recording No. 20101221000998, "PSE Easement") over the Eastside Rail Corridor, including the Adjacent CKC. Pursuant to the PSE Easement, and prior to installing the two crossings in the Adjacent CKC, SRM shall notify PSE of its proposed construction, provide construction plans, survey data and other information to PSE, and shall provide PSE with a reasonable opportunity for review and comment. SRM shall satisfy all comments received from PSE prior to commencing construction activities on the Adjacent CKC.

12. **Indemnification.**

12.1. **Recreational Land Use.** The parties anticipate that public use of the Adjacent CKC will be subject to the Recreational Land Use Statute, RCW 4.24.200 and 4.24.210.

12.2. **Indemnification for Construction Activities.** SRM shall indemnify, defend and hold the City of Kirkland and its officers, agents and employees harmless from all costs, claims or liabilities of any nature, including attorney's fees, costs and expenses for or on account of injuries or damages sustained by any persons or property resulting from the Adjacent CKC construction activities of SRM, its agents, employees or contractors, or on account of any unpaid wages or other remuneration for services. If a suit arising out of or in any way relating to the Adjacent CKC construction activities is filed against the City of

Kirkland and its officers, agents or employees, SRM shall appear and defend the same at its own cost and expense, and if judgment be rendered or settlement be made requiring payment by the City, SRM shall pay the same. Notwithstanding anything to the contrary in this Agreement, SRM shall not be responsible for, or indemnify or defend the City against any claims, causes of action, losses, damages, liabilities, costs or expenses caused by or resulting from the City Design Standards or the negligence of the City, its agents, contractors or employees.

**12.3. Indemnification for Use of Adjacent CKC.** SRM shall indemnify, defend and hold the City of Kirkland and its officers, agents and employees harmless from all costs, claims or liabilities of any nature, including attorney's fees, costs and expenses for or on account of injuries or damages sustained by any persons or property resulting from SRM maintained Public Improvements or the Crossings Improvements. If a suit arising out of or in any way relating to use of the SRM maintained Public Improvements or the CKC crossings is filed against the City of Kirkland and its officers, agents or employees, SRM shall appear and defend the same at its own cost and expense, and if judgment be rendered or settlement be made requiring payment by the City, SRM shall pay the same. Notwithstanding anything to the contrary in this Agreement, SRM shall not be responsible for, or indemnify or defend the City against any claims, causes of action, losses, damages, liabilities, costs or expenses caused by the City Design Standards or the negligence of the City, its agents, contractors or employees.

The City shall indemnify, defend and hold SRM and its officers, agents and employees harmless from all costs, claims or liabilities of any nature, including attorney's fees, costs and expenses for or on account of injuries or damages sustained by any persons or property resulting from City Design Standards or the use of the City maintained Public Improvements. If a suit arising out of or in any way relating to the City Design Standards or use of City maintained Public Improvements is filed against SRM and its officers, agents or employees, the City shall appear and defend the same at its own cost and expense, and if judgment be rendered or settlement be made requiring payment by the SRM, the City shall pay the same. Notwithstanding anything to the contrary in this Agreement, the City shall not be responsible for, or indemnify or defend the SRM against any claims, causes of action, losses, damages, liabilities, costs or expenses caused by or resulting from the negligence of SRM, its agents, contractors or employees.

**13. Removal of Existing Rails.** The City shall remove the existing rails, ties and related equipment on the Adjacent CKC no later than June 30, 2014, provided it is legally able to do so. The parties acknowledge that the City is participating in proceedings before the federal Surface Transportation Board ("STB") in which Ballard Terminal Railroad Company, LLC ("Ballard") is seeking to reactivate the portion of the railbanked Eastside Rail Corridor extending from Woodinville south to Bellevue (and including the Adjacent CKC) for freight rail service (See STB Docket No. AB-6 (Sub-No. 465X) and STB Finance Docket No. 35731, collectively the "STB Action"). As part of the STB Action, Ballard is seeking a preliminary injunction to enjoin removal of the rails. The parties to this Agreement understand and acknowledge that the City's ability to remove the existing rails may be affected by the

pending STB action or other legal proceedings involving the rails. In the event the City is legally unable to remove the existing rails, ties and related equipment on the Adjacent CKC, SRM may proceed with construction of the Crossing Improvements, except that the City may require SRM to design the Crossing Improvements in accordance with Paragraph 4 for freight rail use of the CKC, and SRM may proceed with the Public Improvements except that the City may require SRM to defer installation of certain Public Improvements.

**14. Utility Relocation.** SRM shall pay all costs and obtain all required approvals for relocation of existing utilities in connection with SRM's construction and installation of the Public Improvements and the Crossings Improvements.

**15. Coordination of Trail Corridor Construction.** The parties acknowledge that the City will, at its cost, undertake construction of an interim trail along the length of the CKC. Under current City estimates, such construction would occur in 2014, with a permanent trail to be installed thereafter. The City and SRM agree to coordinate construction schedules with respect to the trail corridor in the Adjacent CKC to avoid duplication of efforts and maximize efficient use of resources by the City and SRM.

**16. Grading and Fill.** SRM may, with the prior approval of the City, place fill on the Adjacent CKC for the purpose of constructing the Public Improvements and for transitioning the final grade of the Phase II Property Development. SRM and the City anticipate that filling and grading activity will occur pursuant to a Land Surface Modification Permit issued by the City.

**17. Discharge of Stormwater.** SRM will be permitted to discharge stormwater from the Development into the City's storm drainage facilities. SRM and the City anticipate that connections to the City's storm drainage facilities will occur pursuant to a permit issued by the City's Public Works Department.

**18. Tie-Back Agreement.** The City and SRM shall enter a Tie-Back Agreement to allow temporary soil nails for the purpose of shoring on the western edge of the Adjacent CKC and the northern property line of the Development.

**19. Transportation Impact Fees.** To the extent permitted by Washington law, the City may use transportation impact fees from the Development for Public Improvements to the CKC, Improvements to Fifth Street and any signalization related to the Development.

**20. Default and Termination.** In the event SRM or the City fails to perform any obligation of this Agreement for a period of thirty (30) days after notice from the other, that party shall be in default; provided, however, that neither party will be default under this Agreement if it commences curing such default within such 30-day period and thereafter diligently prosecutes the cure to completion. In the event of default by either party, the other shall be entitled to terminate or to specifically enforce the terms of this Agreement.

This Agreement shall automatically terminate and no longer be in force and effect on the later of the following two events: 1) thirty (30) years from the Effective Date; or 2) one (1) year after the Development and the Phase I Buildings cease to be used as an integrated campus with a significant national tenant occupying portions of both the Development and Phase I Buildings.

21. **Dispute Resolution Process.** The parties shall use their best efforts to resolve disputes arising out of or related to this Agreement using good faith negotiations. If the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute through non-binding mediation before resorting to litigation. The fees for mediation will be borne equally by the parties.

22. **Modifications to Agreement.** This Agreement contains all terms, conditions and provisions agreed upon by the parties hereto, and shall not be modified except by written amendment executed by both parties. Amendments to this Agreement that materially modify the intent and policy of the Agreement must be approved by the City Council. Other amendments may be approved by the City Manager.

23. **Hazardous or Dangerous Waste.** In the event that SRM discovers Hazardous or Dangerous Water on the CKC during construction of Public Improvements or Crossing Improvements, SRM shall notify the City. SRM and the City agree to share equally any increased marginal costs associated with the management, testing, treatment and disposal of such waste.

24. **General Provisions.**

24.1 **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

24.2 **Recording.** A memorandum of this Agreement shall be recorded against the Development as a covenant running with the land and shall be binding on the parties, their heirs, successors and assigns.

24.3 **Agreement Binding on Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the heirs, successors and assigns of the City, SRM, and the Phase I Owner except as limited and conditioned in this Agreement.

24.4 **Severability.** If any provision of this Agreement is determined to be unenforceable or invalid in a final decree or judgment by a court of law, then the remainder of this Agreement not decreed or adjudged unenforceable or invalid shall remain unaffected and in full force and effect. In that event, this Agreement shall thereafter be modified, as provided immediately hereafter, to implement the intent of the parties to the maximum extent allowable under law. The parties shall diligently seek to agree to modify the Agreement consistent with the final court determination, and no party shall undertake any actions inconsistent with the intent of this Agreement until the modification to this Agreement has been completed. If the parties do not mutually agree to modifications within forty-five (45) days after the final court

determination, then either party may initiate the mediation process under Section 19 for determination of the modifications that will implement the intent of this Agreement and the final court decision.

**24.5 Authority.** Each party respectively represents and warrants that it has the power and authority, and is duly authorized, to enter into this Agreement on the terms and conditions herein stated, and to deliver and perform its obligations under this Agreement.

**24.6 Entire Agreement.** This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein and this Agreement supersedes all previous agreements, oral or written.

**24.7 Default and Remedies.** No party shall be in default under this Agreement unless it has failed to perform as required under this Agreement for a period of thirty (30) days after written notice of default from any other party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure. In any action to enforce or determine a party's rights under this Agreement, the prevailing party shall be entitled to attorney's fees and costs.

**24.8 No Third-Party Beneficiary.** This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

**24.9 Interpretation.** This Agreement has been reviewed and revised by legal counsel for all parties, and no presumption or rule construing ambiguity against the drafter of the document shall apply to the interpretation or enforcement of this Agreement.

**24.10 Notice.** All communications, notices, and demands of any kind that a party under this Agreement requires or desires to give to any other party shall be in writing and either (i) delivered personally, (ii) sent by facsimile transmission with an additional copy mailed first class, or (iii) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

If to the City:

City Manager  
City of Kirkland  
123 5th Ave.  
Kirkland WA, 98033

If to SRM:

SRMKII, LLC  
111 N. Post, Suite 200  
Spokane, WA 99201

If to Phase I Owner

SRMKJVD, LLC  
111 N. Post, Suite 200  
Spokane, WA 99201

Notice by hand delivery or facsimile shall be effective upon receipt, provided that notice by facsimile shall be accompanied by mailed notice as set forth herein and shall be evidenced by a machine-printed confirmation of successful transmission. If deposited in the mail, certified mail, return receipt requested, notice shall be deemed delivered forty-eight (48) hours after deposited. Any party at any time by notice to the other party may designate a different address or person to which such notice or communication shall be given.

**24.11 Delays.** If either party is delayed in the performance of its obligations under this Agreement due to Force Majeure, then performance of those obligations shall be excused for the period of delay. For purposes of this Agreement, economic downturns, loss in value of assets, inability to obtain or retain financing, do not constitute a force majeure event.

**24.12 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same Agreement, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.

In Witness Whereof, the parties have caused this Agreement to be executed, effective on the day and year set forth on the first page hereof.

CITY OF KIRKLAND, a Washington municipal corporation

By: \_\_\_\_\_  
Kurt Triplett, City Manager

Date: \_\_\_\_\_

State of Washington )

) ss.

County of King )

I certify that I know or have satisfactory evidence that Kurt Triplett is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the City Manager of the City of Kirkland to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Notary Public

My appointment expires \_\_\_\_\_





**Exhibit A**  
**Phase I Property Legal Description**

**PARCEL A:**

THAT PORTION OF TRACTS 18, 19, AND 20, SOUTH KIRKLAND ACREAGE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 11 OF PLATS, PAGE 94, IN KING COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 25 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;  
THENCE NORTH 0°35'10" EAST ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION A DISTANCE OF 2,611.93 FEET TO A POINT 0.23 FEET EAST OF AN EXISTING PUNCH MARK IN A LEAD PLUG IN THE NORTHEASTERLY RIM OF A SEWER MANHOLE;  
THENCE CONTINUING NORTH 0°35'10" EAST 179.47 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 0°35'10" EAST 300.00 FEET;  
THENCE NORTH 89°24'50" WEST 180.00 FEET;  
THENCE SOUTH 0°35'10" WEST 300.00 FEET;  
THENCE SOUTH 89°24'50" EAST 180.00 FEET TO THE TRUE POINT OF BEGINNING;  
EXCEPT THE EAST 30.00 FEET THEREOF; ALSO  
EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF KIRKLAND BY STATUTORY WARRANTY DEED RECORDED UNDER RECORDING NUMBER 20070330002629.

**PARCEL B:**

TRACTS 18, 19, 20, AND 21, SOUTH KIRKLAND ACREAGE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 11 OF PLATS, PAGE 94, IN KING COUNTY, WASHINGTON;  
EXCEPT THAT PORTION OF SAID TRACTS 18, 19, AND 20 INCLUDED WITHIN THE FOLLOWING DESCRIPTION:  
BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 25 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;  
THENCE NORTH 0°35'10" EAST ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION A DISTANCE OF 2,611.93 FEET TO A POINT 0.23 FEET EAST OF AN EXISTING PUNCH MARK IN A LEAD PLUG IN THE NORTHEASTERLY RIM OF A SEWER MANHOLE;  
THENCE CONTINUING NORTH 0°35'10" EAST 179.47 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 0°35'10" EAST 300.00 FEET;  
THENCE NORTH 89°24'50" WEST 180.00 FEET;  
THENCE SOUTH 0°35'10" WEST 300.00 FEET;  
THENCE SOUTH 89°24'50" EAST 180.00 FEET TO THE TRUE POINT OF BEGINNING; ALSO  
EXCEPT THAT PORTION OF SAID TRACT 18 LYING SOUTH OF A LINE DESCRIBED AS FOLLOWS:  
BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT;  
THENCE NORTH 88°54'50" WEST 397.88 FEET;  
THENCE NORTH 72°05'50" WEST 132 FEET TO THE EASTERLY MARGIN OF NORTHERN PACIFIC RAILWAY COMPANY RIGHT OF WAY AND THE END OF THE LINE DESCRIBED;  
ALSO EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF KIRKLAND BY STATUTORY WARRANTY DEED RECORDED UNDER RECORDING NUMBER 20070330002629.

**Exhibit B**  
**Phase II Property Legal Description**

THAT PORTION OF LOT 12, LYING WEST OF NORTHERN PACIFIC RAILROAD COMPANY RIGHT-OF-WAY AS CONVEYED BY DEED RECORDED UNDER RECORDING NO. 267075 AND THAT PORTION OF LOTS 15 AND 16, LYING EAST OF A LINE WHICH IS THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 12 AS EXTENDED SOUTHERLY TO THE SOUTH LINE OF SAID LOT 16 AND ALSO LYING WEST OF THE SAID NORTHERN PACIFIC RAILROAD COMPANY RIGHT-OF-WAY, ALL IN SOUTH KIRKLAND ACREAGE, AS PER PLAT RECORDED IN VOLUME 11 OF PLATS, PAGE 94, RECORDS OF KING COUNTY;

EXCEPT THE NORTH 15 FEET OF THE WESTERLY 325 FEET THEREOF CONVEYED TO THE CITY OF KIRKLAND BY DEED RECORDED UNDER RECORDING NO. 7104230470;

SITUATE IN THE CITY OF KIRKLAND, COUNTY OF KING, STATE OF WASHINGTON.

**Exhibit C**  
**Cross Kirkland Corridor Legal Description**

City Of Kirkland  
Legal Description – Railroad Corridor

Triad Job Number 11-128  
November 22, 2011  
Revised December 06, 2011

That portion of Sections 5, 8, 17 and 20, Township 25 North, Range 5 East, W.M. and Sections 28, 32 and 33, Township 26 North, Range 5 East, W.M., in King County, Washington, lying within the eight (8) tracts of land described as follows:

Tract 1

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed upon, over and across the S½,NE¼ and the NW¼,SE¼ and the SW¼ of Section 28, the W½,NW¼ and the NW¼,SW¼ of Section 33, the SE¼ of Section 32, all in Township 26 North, Range 5 East, W.M., bounded on the East by a line that is parallel with and 42.00 feet west of, when measured at right angles to, the centerline of 132<sup>nd</sup> Avenue NE (aka Slater Avenue NE or 132<sup>nd</sup> Place NE) as surveyed under King County Survey No. 28-26-5-19 and bounded on the South by South line of said SE¼ of Section 32, **EXCEPTING THEREFROM**, that certain tract of land described in Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 1998 as Document No. 9805260805, records of King County, Washington; **ALSO EXCEPTING THEREFROM**, that certain tract of land described in Special Warranty Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded July 30, 1998 as Document No. 9807301468, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that certain tract of land described in Special Warranty Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 1998 as Document No. 9805260791, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that certain tract of land described in Correction Quitclaim Deed dated January 6, 2000 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded February 11, 2000 as Document No. 20000211000454, records of King County, Washington;

Tract 2

That portion of that certain 100.0 foot wide Branch Line right of way in the City of Kirkland, Washington, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across Blocks 3, 4, 5, 6, 11, 12, 13, 14, 18, 19, 23, 24, 25 and 26, the vacated alley between Blocks 13 and 14, and vacated Arlington Avenue between Blocks 14 and 19, as said Blocks and Streets are shown on plat of Lake Avenue Addition to Kirkland as recorded in Volume 6 of Plats, Page 86, Records of said King County, together with any right title and interest, if any to those portions of Victoria Avenue, Harrison Avenue, Moreton Avenue, Jefferson Avenue, and Washington Avenue and Maple Street and alleys within said Blocks which lie within said 100.0 feet wide Branch Line right of way, **EXCEPTING THEREFROM**, that portion of Lot 3; Block 5, Lake Avenue Addition to Kirkland, according to the official plat thereof in the office of the Auditor of King County, Washington lying between two lines drawn parallel with and distant, respectively, 34.0 feet and 50.0 feet Westerly of, as measured at right angles from The Burlington Northern and Santa Fe Railway Company's (formerly Northern Pacific Railway) Main Track centerline as now located and constructed upon, over, and across said Block 5;

Tract 3

That portion of that certain 100.0 foot wide Branch Line right of way in the City of Kirkland, Washington, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across

Blocks 220, 223, 224, 232, 233, 238, and 241 as said Blocks are shown on the Supplementary Plat to Kirkland as filed in Volume 8 of Plats at Page 5, records of said King County, together with any right title and interest, if any to those portions of Massachusetts Avenue, Madison Avenue, Michigan Avenue, Olympia Avenue, Piccadilly Avenue, Cascade Avenue, Clarkson Avenue, Fir Street, and alleys within said Blocks which lie within said 100.0 foot wide Branch Line right of way;

Tract 4

That portion of Lots 1, 2, 4, 37, and all of Lots 3, 38, and 39, Block 227 as said Lots and Blocks are shown on the Supplementary Plat to Kirkland as filed in Volume 8 of Plats, at Page 5, records of said King County, which lie Northeasterly of a line parallel with and distant 50 feet Southwesterly from measured at right angles to said Railway Company's Main Track centerline as now located and constructed and Southwesterly of a line parallel with and distant 50 feet Northeasterly from, measured at right angle to said Railway Company's Main Track centerline as originally located and constructed;

Tract 5

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline; as now located and constructed upon, over and across the SE $\frac{1}{4}$ ,SE $\frac{1}{4}$  of Section 5, NW $\frac{1}{4}$ ,NE $\frac{1}{4}$  and the E $\frac{1}{2}$ ,NW $\frac{1}{4}$  and the E $\frac{1}{2}$ ,SW $\frac{1}{4}$  of Section 8, all in Township 25 North, Range 5 East, W. M., bounded on the North by the South right of way line of Clarkson Avenue, City of Kirkland, Washington, and bounded on the West by the West line of said E $\frac{1}{2}$ ,SW $\frac{1}{4}$  of Section 8, **EXCEPTING THEREFROM**, that certain tract of land described in Special Warranty Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 1998 as Document No. 9805260787, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that certain tract of land described in Correction Quitclaim Deed dated May 15, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded August 5, 1999 as Document No. 19990805001402, records of King County, Washington, **ALSO EXCEPTING THEREFROM** that certain tract of land described in Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded July 28, 1998 as Document No. 9807281544, records of King County, Washington,

Tract 6

That certain 0.23 acre tract of land described in deed dated July 15, 1903 from Samuel F. French to Northern Pacific Railway Company recorded August 8, 1903 in Book 361 of Deeds, Page 249, records of King County, Washington, said 0.23 acre tract being described in said deed for reference as follows:

"Commencing at a point in the east line of Lot four (4), Section eight (8), Township twenty-five (25) North, Range five (5) east, W.M., that is 395 feet north of the southeast corner of said lot, and running thence west parallel with the south line of said Lot four (4) 67 feet, more or less, to a point that is 50 feet distant from, when measured at right angles to, the center line of the proposed Seattle Belt Line Branch of the Northern Pacific Railway Company as the same is now located, staked out and to be constructed across said Section eight (8); thence running northeasterly parallel with said railway center line 200 feet; thence westerly at right angles to said railway center line 30 feet; thence northeasterly parallel with said railway center line, and 80 feet distant therefrom, 130 feet, more or less, to the east line of said Lot four (4); thence south along said east line of said lot four (4) 322 feet, more or less, to the point of beginning; containing 0.23 acres, more or less.";

Tract 7

That certain strip of land described in deed dated March 3, 1904 from Seattle and Shanghai Investment Company to Northern Pacific Railroad Company recorded March 9, 1904 in Book 387, Page 243, records of King County, Washington, said strip being described in said deed for reference as follows:

"A strip of land Two Hundred twenty-five (225) feet in width across that certain parcel of land designated as Tract "B" in deed from the Kirkland Land and Improvement Company to H.A. Noble, dated July 13, 1899 of record in the Auditor's office of King County, Washington in Volume 245 of Deeds, at page 41, reference thereto being had. Said strip of land hereby conveyed, having for its boundaries two lines that are parallel with and respectively distant One Hundred (100) feet easterly from, and One Hundred Twenty-Five (125) feet westerly from, when measured at right angles to, the center line of the Seattle Belt Line branch of the NORTHERN PACIFIC RAILWAY COMPANY, as the same is now constructed and located across said Tract "B", which said Tract "B" is located in Section 17, Township 25 North, Range 5 East, Willamette Meridian";

Tract 8

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across Government Lot 4 of Section 8, Government Lots 1, 2, and 3 and the E½,SW¼ of Section 17, and the NE¼,NW¼ and the NE¼ of Section 20, all in Township 25 North, Range 5 East, W.M., bounded on the North by the South line of that certain herein above described 0.23 acre tract of land described in deed dated July 15, 1903 from Samuel F. French to Northern Pacific Railway Company recorded August 8, 1903 in Book 361 of Deeds, Page 249, records of King County, Washington and the East line of said Government Lot 4 of Section 8, and bounded on the South by the westerly margin of 108<sup>th</sup> Avenue NE as described in the Quit Claim Deed from State of Washington to the City of Bellevue recorded under Recording Number 9303190367, records of said King County, together with such additional widths as may be necessary to catch the slope of the fill in N½ of said Government Lot 2, Section 17 as delineated in the 7th described parcel in deed dated June 20, 1903 from Kirkland Land and Improvement Company to Northern Pacific Railway Company recorded June 26, 1903 in Book 352, Page 582, records of King County, Washington. **EXCEPTING THEREFROM**, that portion of said 100.0 foot wide right of way lying within said hereinabove described parcel of land designated as Tract "B" in deed from the Kirkland Land and Improvement Company to H.A. Noble dated July 13, 1899 of record in the Auditor's office of King County, Washington in Volume 245 of Deeds, at page 41.

(Tracts 1 – 8 being a portion of the parcel of land conveyed by BNSF Railroad Company to the Port of Seattle by Quit Claim Deed recorded under Recording Number 20091218001535, records of said King County.)